MATRIXVISA INC.
www.matrixvisa.com
Immigration Law and International Recruitment

Ministry of Training Colleges and Universities
The Information and Privacy Coordinator
Attention: Laura Lowe
19th Floor, 900 Bay Street
Toronto, ON
M7A 1L2
Phone: 416-325-0070 Fax: 416-327-1912
E-Mail: laura.lowe@edu.gov.on.ca

Copy:
Ontario Ministry of Citizenship and Immigration
Access to Professions and Trades Unit
900 Bay Street, Mowat Block, 12th Floor
Toronto ON M7A 1L2
Tel: 416-326-2929 or
Toll-free: 1-800-387-5514
Fax: 416-325-6348

16 May 2007

REQUEST CLARIFICATION AND COPY OF POLICY ON CREDENTIAL ASSESSMENT OF FOREIGN TRAINED JOURNEYMAN

Dear Ms Rowe

Four Questions/Requests of Information

In terms of the Provincial Freedom of Information and Protection of Privacy Act it is respectfully requested that clarification is provided about the policy from the Ministry of Training Colleges and

Universities about the assessment (adjudication) of the credentials of foreign trained journeyman. The specific questions are:

a. May a foreign trained journeyman have his/her credentials assessed by an officer of the Workplace Training Branch of the Ontario Ministry of Education Colleges and Universities without being physically present at the office in Ontario, as is the case with all other occupations in Ontario and most other provinces?

b. If not, why not?

c. If a foreign trained journeyman can have his/her credentials assessed without being physically present in Ontario by an officer of the Workplace Training Branch of the Ontario Ministry of Education Colleges, what is the procedure? (Application forms, application fees, place of application, person responsible for assessment, etc). Please provide a copy of this procedure/policy if it is available.

d. Can an official result of the assessment on the letter head of the Ministry (without the journeyman being physically being physically present at the offices of the Ontario Workplace Training Branch) be provided as is the case with most other provinces?

(See Enclosure 1 for a list of questions on the official Ontario application form)

Background of Previous and Related Policy Issue

In 2005 officials of the Ministry of Training Colleges and Universities refused to assess the credentials of a foreign trained journeyman that was in Canada as a visitor. The reason that was given was that the person did not have a Social Insurance Number (SIN). A SIN could only be provided once the person had a study or work permit issued by the Citizenship and Immigration Canada (federal level). In this case the person could only obtain a work permit if he was found eligible to challenge the inter-provincial Red Seal examination as it was pre-requisite by the employer. I wrote to Ms Sandie Birkhead-Kirk, the Provincial Director of the Work Place Training Branch on 12 July 2005 (Letter attached in Enclosure 2). She intervened and clarified the policy and from that date foreign trained journeyman could have their credentials assessed without having work permit and a SIN within the Province of Ontario.

Comments about the Previous and Related Policy Issue

The intervention of Ms. Birkhead-Kirk is appreciated, but a few comments are valid:

a. During the process I was refused access to the contact details of the provincial head office by several officials/employees in the regional offices, which I needed to obtain clarification on this issue of policy. Although it was difficult to obtain the relevant contact details of Ms Burkhead-Kirk it was eventually obtained. It should be mentioned that some officers such as Mr Fred Diamante, Ms Darlene Coulson and Carol Olinksi was very helpful and should be commended for their excellent customer service.

b. The process to obtain the clarification on this issue was confusing; time consuming, frustrating and difficult.

c. After the problem was corrected by Ms. Sandy Burkhead-Kirk, a copy of this policy was verbally requested from an official working in the department, but a copy of this instruction/policy was not provided.

d. It was clear that the officials in provincial offices of the Work Place Training Branch where confused between:

i. Assessment of credentials to determine eligibility to work with a conditional license or challenge a professional examination

ii. Licensure or holder of a certificate within a specific occupation and

iii. Eligibility to work (requiring approval from a provincial regulatory authority and Federal Citizenship and Immigration)

As an immigration law practitioner and a member of the statutory body that allows me to practice immigration law (CSIC), I have experience in dealing with the federal and provincial governments and dealing with credential assessment in many provinces. This assisted me to determine the contact details of Ms Sandie Birkhead-Kirk and communication with her to resolve the problem. Employers and foreigners (not even in Canada) that do not have this experience will find this process even more difficult and confusing. The Ontario policy about this issue should be transparent and easy to understand for any foreign worker and local employer.

Current Challenge

Foreign trained journeymen are now also being required to be physically present before the assessor of the Work Place Training Branch, for their credentials to be assessed, although they may request this assessment without a SIN number.

The website of the Ministry mentions the following:

Quote

Steps in Obtaining a Certificate of Qualification

1. Contact a Workplace Support Services office (see list of offices, on the reverse) to book an appointment with a training consultant.

2. Bring the following documents with you to your appointment:

- your Social Insurance Number card;
- letter(s) from current or past employers, written on company letterhead and dated, providing the company name and address, the exact dates of your employment, your job title, and a detailed description of your duties;

- letter(s) from the union(s) to which you have belonged (if applicable), with the same information as noted above;
- certificates, diplomas, or licenses;
- official school transcripts from your training, if available, that contain course descriptions.

If your documents are not in English, they must be translated and signed by an official translator who has seen the originals. For assistance, contact the Association of Interpreters and Translators of Ontario at 1-800-234-5030.

3. The training consultant will look at your documents and tell you whether you have the necessary skills and experience to write the Certificate of Qualification examination. If your trade is a compulsory trade, you will be given a Letter of Permission, which is a temporary license. The Letter of Permission, which is valid for 90 days, allows you to work until you write the exam. If you d0 not have the necessary skills and experience to write the examination, you will be advised to enter an apprenticeship training program.

4. Pass the written examination. Note that the passing mark is 70 per cent.

Toronto Office: 4 Robert Speck Parkway, Floor 15, Mississauga, Ontario, L4Z 1S1, 416-607-

Calgary Office: 403-441-2706, 403-206-7781 (F), Matrixvisa Inc, Macleod Place II, 5940 Macleod Trail SW, Suite 500, Calgary, Alberta, AB T2H 2G4

Vancouver Office: 22420 Dewdney Trunk Rd, Suite 300, Maple Ridge, Vancouver Metropolitan Area, British Columbia, V2X 3J5, 604-395-0801 604-648-8216 (F),
6625 X 101

Unquote

Benchmarking on Assessment Without Physical Presence at the Office of the Assessor

In most provinces credentials of foreign trained journeyman can be assessed without the physical presence of the foreign trained journeyman at the assessor to determine if they many challenge the inter-provincial or provincial examination of competency for a specific trade.

In Ontario a registered nurse, practical nurse, engineer and several other occupations may have their credentials assessed without being physically present in Ontario to determine whether they may challenge a relevant examinations or work under the authority of a conditional license.

In Manitoba a foreign trained journeyman can complete certain forms and present evidence of training, experience and education to a specific address and a specific person at the head office in Winnipeg without being physically present. The applicant/foreign trained journeyman then receive a formal statement of eligibility to challenge a specific examination in a specific trade. See Enclosure 3 for a copy of the application form and Enclosure 4 for a copy of the result of an assessment for a journeyman destined to Manitoba.

In Alberta a foreign trained journeyman can complete certain forms and present evidence of training, experience and education to a specific address and a specific

person at the head office in Edmonton without being physically present. The applicant/foreign trained journeyman then receive a formal statement of eligibility to challenge a specific examination in a specific trade. See Enclosure 5 for a copy of the application form and Enclosure 6 for a copy of the result of an assessment for a journeyman destined to Alberta.

Advantages of Assessment of Credentials before arriving in Canada (without Physical Presence in Ontario at the Assessor/Adjudicator)

Most provinces allow foreign trained journeyman to have their credentials assessed before arriving (as explained above) and in some provinces it is even statutory requirement when coming to a specific province as a temporary foreign worker. The advantages of having credentials assessed before arrival in Canada as a visitor, foreign worker or permanent resident are as follows (but no limited to):

a. If a foreign trained journeyman can have his/her credentials assessed, it would indicate to the foreign person if he/she is eligible to challenge the examination in his/her trade prior to arriving. If a negative decision is made the foreign trained journeyman can take corrective action before leaving his/her country of residence.

b. Immigrants (arriving with a permanent residence visa) might be able to make a better choice between different provinces is he/she is aware of the eligibility to challenge a specific journeyman examination prior to arrival. For example, a pipe fitter in Alberta required 9000 hours but in Manitoba the requirement for a foreign trained steamfitter-pipe fitter is experience of 13 000 hours. For a foreign trained journeyman wit only 9000 hours it would be better to settle in Alberta as the person would be eligible to work in his/her occupation for at least 6 months, during which time the person can pass the examination for this trade. Similar situations might exist in Ontario.

c. Certain employers will not issue job offer letters if the foreign trained journeyman (outside Canada) can not demonstrate that he/she is eligible to challenge the inter provincial red-seal examination. This inability of foreign trained journeyman to have credentials assessed without being physically present in Ontario is contributing to a shortage in certain trades or contributing to the problem of employing foreign trained journeyman to alleviate a shortage in some occupations.

d. Certain employers are forces by union agreements to appoint foreign trained journeyman only if they are certified in their trade (complete the examination successfully). This is only possible if they have been found eligible to challenge the examination. Employers of foreign workers will be wasting a lot of scare resources by paying for potential employees to visit Canada just realize after arrival that they are not eligible to challenge their examination.

e. If foreign trained journeymen can arrive with their credentials already assessed by the regulatory authority (Work Place Training Branch) prior to their arrival, it will assist them to integrate quicker and become economically successful much quicker. Ms Cooke the Director of the Ministerial Inquiries Division of the Minister of Citizenship and Immigration in Ottawa replied to a question of my office on 4 Oct 2004 in which she rightfully mention on the second page of her letter: "...we do recommend that applicants prepare themselves to the extent possible before they immigrate. Completing as many steps as possible in foreign credential assessment/recognition process before immigration could ease the immigrant's integration into the Canadian labour market later on". See Enclosure 7 for a copy of this letter.

g. If a foreign trained journeyman arrives as a permanent resident without his/her credentials assessment being completed, the foreign trained journeyman will probably find it difficult to obtain

evidence of their experience, duties performed and hours worked from overseas while they are inside Canada, trying to survive doing odd jobs outside their trade. This might be nearly impossible or could take several months to obtain this evidence. During this time the person might be underpaid or in a job that is not related his/her occupation to the detriment of the applicant. This inability to have a credential assessed prior to arriving could contribute to the well known phenomena of “doctors driving taxis” or “electricians driving fork lifts”

h. Pursuant to the Immigration and Refugee Protection Act (IRPA) that has been in effect since 28 June 2004, an applicant for a permanent residence visa does not have to prove they would be able to practice once they arrive in Canada. The Regulatory Impact Assessment of the Immigration and Refugee Protection Regulations as published in the Government Gazette Part II, SOR 2002/227 Vol. 136, No 9, (page 214, 215,218,
220 and 227) do provide the intention of the law maker (no prior testing & regulation). The Regulatory Impact Assessment did mention that the "Australian System" of "pre- approval of each applicant by a regulated credential and licensing evaluating body" was considered but not approved. However for the reasons mentioned as supported by the Minister of Citizenship and Immigration in Ottawa, it is advised that the assessments are completed before arrival as a permanent resident or forced if the person is coming to Ontario as a foreign worker. Due to the above intention of IRPA the foreign immigrant’s evidence of experience does not have to be specific in terms of duties of hours worked. For example a letter could state that the foreigner worked as an electrician, but the Ministry of Training, Education and Universities will require a list of duties as well as hours worked. Therefore a permanent resident visa could be issued, but that experience evidence used for immigration, could be relatively useless to assess the credentials of a journeyman by the Ontario Ministry of Education, Training and Universities. If the foreign trained journeyman can have his/her credentials assessed prior to leaving his/her country of residence/citizenship these problems could be corrected and the person could arrive with the correct evidence or a completed credential assessment.

i. Pursuant to IRPA an applicant does not have to complete credential assessment by the regulatory authority (Work Place Training Branch) prior to arrival as a permanent resident (as explained above). Pursuant to IRPA and the Immigration Refugee Protection Regulations a Permanent Residence Visa may only be issued to a Federal Skilled Worker Class applicant can demonstrate to the visa officer that the person will be economically successful after arrival. Citizenship and immigration developed a point system as an instrument to measure whether an immigrant will be economically successful and to make the decision process more objective. A visa officer may also decide to issue a visa even when the applicant can not reach 67 points (so-called positive discretion) or refuse a visa even though the applicant has 67 points (so-called negative discretion). Therefore reaching the pass mark is not the ultimate objective, but arguing

whether a person will be economically successful is really the objective. If a foreign trained journeyman can provide a credential assessment by the regulatory authority (Workplace Training Branch) that indicate that a specific person is eligible to challenge a qualifying examination in his /her field, it will also assist the visa officer to make a more informed decision. It could also assist the applicant or his representative to motivate for the implementation of positive discretion or prevent and officer of choosing the option of negative discretion.

j. Under IRPA a Federal Skilled Worker Class applicant my obtained a Arranged Employment Opinion from Service Canada Foreign Worker Section (i.e. an approval of a permanent job offer). When a foreign trained journeyman apply to come to Canada as permanent resident with an Arranged Employment Opinion, the visa will only be issued if the applicant "meets the Canadian licensing or regulatory standards associated with the job" as described in Immigration Refugee Protection Regulation 82 2 (c) and Immigration Manual Chapter OP 6 par 10.14 page 2-26. In such a case the foreign trained journeyman must have his/her credentials assessed regulatory authority (Work Place Training Branch) prior to arrival with a permanent residence visa. The trades mention in the Apprenticeship and Certification Act of Ontario does not require compulsory certification, but the certain trades in the Trades Qualification and Apprenticeship Act of Ontario required certification. These seven trades are: Electrician Construction and Maintenance, Electrician Domestic and Rural, Hoisting Engineer Mobile Crane Operator Br 1, Hoisting Engineer Mobile Crane Operator Br 2, Refrigeration and Conditioning Mechanic, Sheet Metal Worker and Steamfitter.

k. When an urgent need exist an employer may request Service Canada Foreign Worker Program for a positive labour market opinion (LMO) which is used to apply for a work permit at the Canadian Visa Office abroad. The employer might ad a condition that the foreign worker's credentials must be assessed and that condition will be specified within the LMO. See Enclosure 8 for an example. If an Ontario employer lists such a condition in a LMO, the Ontario system of credential assessment regulatory authority (Work Place Training Branch) does not provide an opportunity for the credentials being assessed without that person being physically present in the offices of the Work Place Training Branch in front of the assessor/adjudicator/officer making the assessment.

l. The physical presence has very little inherent value as the foreign trained journeyman must provide evidence of his/her identity (photo ID: passport or driver's license) when the examination is being written.

It is important to mention that organizations such as World Education Services (see www.wes.org/ca) can complete an assessment on the equivalency of the credentials of a foreign

trained journeyman. The website of Wes mentions that the Ministry of Training Colleges and Universities "refer clients and recognize the WES reports" These reports only determine the equivalency of a foreign trained person to the equivalent Canadian qualification. It does not provide the foreign trained journeyman with a certification of eligibility to challenge a specific examination- that can only be provided by the Work Place Training Branch of the Ministry of Training Colleges and Universities.

Cobus (Jacobus) Kriek
cobus@matrixvisa.com
Regulated Canadian Immigration Consultant

Enclosures

1. Application form with 4 Questions/Requests for Access to Information

2. Letter to Ms Sandy Burkhead-Kirk

3. Manitoba Application form for credential assessment

4. Example of a Manitoba Credential Assessment of a foreign trained journeyman

5. Alberta Application form

6. Example of a Alberta Credential Assessment of a foreign trained journeyman

7. Letter from Director of Ministerial Inquiries Division from the Minister of CIC, 4 October 2004

8. Example of a Labour Market Opinion by Service Canada

9. Application fee of $5,00 payable to the Minister of Finance