
New Developments in Immigration Law for Skilled Trades

By: Jessica Young

On January 2, 2013, Citizenship and Immigration Canada launched its new Federal Skilled Trades Program (“FSTP”), which was developed in response to the growing demand in Canada for skilled tradespersons.

The program was created in part to address the deficiencies in the Federal Skilled Worker Program. The Federal Skilled Worker Program provides entrance to Canada of persons in specified occupations within the broad categories of professional, managerial and skilled trades. Under the Federal Skilled Worker Program, workers are selected for permanent residency based on six factors: education, abilities in English and/or French, work experience, age, whether employment has been pre-arranged, and adaptability. Some of these factors, like years of education, have favoured applicants applying as managers and professionals rather than skilled tradespersons. The Canadian Government found that only around three percent of workers coming to Canada through the Federal Skilled Worker Program were in the skilled trades.

The FSTP has been developed to facilitate the entrance of skilled tradespersons to Canada in areas where there is a high demand. The main requirements for a successful application are detailed below.

Eligible Skilled Trades

Under the FSTP, workers in the following National Occupation Classification (“NOC”) Groups can apply. Note that these NOC groups are subdivided into specific occupations. In total, workers in 43 different jobs are eligible.

- Industrial, electrical and construction trades,
- Maintenance and equipment operation trades,
- Supervisors and technical jobs in natural resources, agriculture and related production, and
- Processing, manufacturing and utilities supervisors and central control operators.

The jobs are further divided into two groups, Group A and Group B depending on labour market needs. Jobs classified in Group A have a cap of 100 applicants in the first year. The jobs classified in Group B do not have a limit on the number of applications that will be processed. However, in total the program will only be accepting 3,000 applications in the first year.

[Click here](#) to see what jobs fall under what group classification.

Language Requirements

All applicants must take a language test through an agency that has been approved by Citizenship and Immigration Canada before applying ([click here](#) for more information). Applicants must prove their abilities in English or French in the following areas: listening, speaking, reading and writing. The results of the test must be included with the application.

In order to pass, applicants must meet the following levels as specified in the Canadian Language Benchmark (CLB): CLB 5 for speaking and listening, and CLB 4 for reading and writing. Language tests completed over two years before submitting the application will not be accepted.

Offer of Employment

In order to qualify, the applicant must have either a certificate of qualification issued by a provincial or territorial authority or a valid job offer from a Canadian employer. In order for an offer of employment to be valid, it must be for a duration of at least one year and must be a full time position (at least 30 hours of work per week). The offer can be made from up to two employers.

Requirements for workers currently working in Canada:

- Must be currently working full time for the employer that is listed on the work permit.
- The offer of employment in connection with the FSTP application must be from the same employer for the same position (or in a position within the same minor NOC group).
- Must be authorized to work in Canada on the day that the application for a permanent resident visa is made.
- Must currently be working on the basis of a positive labour market opinion or through an exemption to the labour market opinion requirement, under an international agreement like NAFTA or the significant benefit to Canada category.
- If the offer of employment is made from an employer not listed on the workers work permit, the prospective employer must get a labour market opinion.

Requirements for workers who are not currently working in Canada:

- An offer of employment has been made for a full-time job for at least 1 year, and
- The employer has obtained a positive labour market opinion.

Work Experience and Qualifications

Applicants must be able to show that they have at least two years of experience in the past five years working as a journeyman (not an apprentice) in a designated skilled trade. In addition, it is necessary that the applicant's skills and experience match those as set out in the NOC for the specific occupation. It is important that the applicant can show that they have performed the essential duties of the occupation for which they are applying. This can be provided through letters of reference from former employers or other documentation sufficient to satisfy the Immigration Officer that the applicant has the required work experience.

Depending on the province, there may also be designation and certification requirements that must be completed. If the worker is applying in an occupation with compulsory certification, arrangements must be made with the appropriate regulatory body with respect to certification, registration or licensing. More information can be found at Canada's Foreign Credentials Referral Office. [Click here](#) for Ontario specific information.

Processing Times

In a news release, the government projected that applications will be processed within 12 months. However, since the program is new there is no past data upon which to base an estimation of time. Citizenship and Immigration Canada indicated in its online resources that processing times will vary depending on which visa office processes the application and would not give an indication of the expected time frame.

Implications for Employers

Employers looking for long term solutions to labour shortages in the skilled trades should consider taking advantage of this new program. For employers who currently employ skilled workers under the Temporary Foreign Worker Program, there is no need to go through the time consuming labour market opinion process before applying under the FSTP. However, considering it is unknown how long the processing times will take, it is advisable to commence an application as soon as possible as the worker must be authorized to work in Canada at the time the permanent resident visa is issued. Depending on the length of time it takes to process the application, this could make it very difficult for temporary foreign workers to gain approval before their work permits expire.

All employers considering using the FSTP as an avenue to attract and employ foreign workers should act quickly. The program is only accepting 3,000 applications across the entire country in the first year and depending on the occupation there may be further limitations to the number of applications that will be processed. This means that in order to have an application processed, the earlier the better.

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