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Beyond the Border

A Year End Immigration Wrap-Up



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Introduction

We are pleased to present *Beyond the border: A year end immigration wrap-up*. Compiled by Lawyers from our Immigration team, this 2023 update covers topics including the Government of Canada's ambitious immigration plans for the future; an overview of the year's category-based Express Entry selection rounds; various temporary policies related to individuals studying in Canada; and Nova Scotia's new Critical Construction Worker Pilot, among other developments.

If you have any questions or wish to learn more about the topics in this publication, please contact one of the Lawyers listed below.

The information in this publication is current as of December 21, 2023 and is intended for general information purposes only. This document should not be relied upon as legal advice.



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This update is intended for general information only. If you have further questions about any information in this update or are an employer seeking to support your workers, please contact a member of our [Immigration Group](#).

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A look forward at Canada's immigration plans

This year, the Government released its [2024-2026 Immigration Levels Plan](#) and announced an overview of the new direction it plans to take to modernize Canada's immigration system. [An Immigration System for Canada's Future: A plan to get us there](#) (the "Plan") is a set of ambitious action items developed in recognition that our immigration system must become more flexible and responsive to the needs and realities of both the country and its newcomers. You can read our summary of the Government's Plan in our recent Thought Leadership piece, [Forward focus: Canada's ambitious immigration plan](#).

The three main objectives that overlay the more specific action items include the:

- Creation of a more welcoming experience for newcomers;
- Alignment of immigration with labour market needs; and
- Development of a comprehensive and coordinated growth plan.

The Plan outlines an intention to incorporate more strategic consideration of the existing pressures on housing, our healthcare system, and Canada's broader infrastructure that can be exacerbated as our population grows and to target workers in construction and health care occupations who can directly contribute to a solution to these issues.

In terms of numbers, Canada intends to welcome 485,000 immigrants in 2024 and an additional 500,000 in each of 2025 and 2026. The Levels Plan incrementally increases the targets for French-speaking permanent residents outside of Quebec from 6% in 2024 up to 8% in 2026. For Economic permanent residence programs specifically, the target will increase from 281,135 in 2024 to 301,250 in both 2025 and 2026. The Express Entry programs (Federal Skilled Worker, Federal Skilled Trades, and Canadian Experience Class) and Provincial Nominee Program account for the vast majority of planned permanent resident admissions under the Economic immigrant category.

Canada's Tech Talent Strategy

In June 2023, the [Government launched the Tech Talent Strategy](#), which included various efforts to increase Canada's competitive edge in the international competition for skilled tech workers. One of the components of the strategy was a new open work permit stream for individuals who already held a US H1-B specialty occupation visa. The program opened July 6, 2023 and was to remain open for one year or until *Immigration, Refugees and Citizenship Canada* ("IRCC") received 10,000 applications. The stream ended up closing in a matter of days due to a quick flood of applicants.

Another component of the strategy, and one with the potential to have more significant impact towards the stated objective, is the creation of a new Innovation Stream under the existing International Mobility Program. IRCC has stated that they are considering both an employer-specific work permit option as well as an open work permit option for high skilled workers in certain in-demand jobs as part of this stream. While the launch of this stream was slated for the end of this year, the Government has yet to release any further details as of December 21, 2024.

Other efforts include a return to prior service standards under the Global Skills Strategy; the promotion of Canada as a destination for "digital nomads"; STEM-specific draws under Express Entry (see more below); and improvements to the existing Start-Up Visa Program.

We discussed all pillars of the Tech Talent Strategy in a prior Thought Leadership piece, [Canada's first-ever Tech Talent Strategy announced](#).

Express Entry category-based selections

Under Canada's Express Entry System, the Government has historically determined who to issue Invitations to Apply for permanent residence to based solely on who obtained the most points for the given selection round. Points are awarded for various human capital factors, including for age, language ability, education, and work experience.

On May 31, 2023, the Government officially announced changes to the Express Entry process to allow for category-based selection. This announcement followed Bill C-19, which received Royal Assent back on June 23, 2022 and amended the *Immigration and Refugee Protection Act* to provide the Minister with powers to set more specific criteria for Express Entry draws. This shift allows IRCC to issue invitations to applicants who meet more specific criteria than a point score alone – for example those with certain work experience, education, or language ability – and was intended to allow the Government to better align our immigration strategy with our country's needs. The Minister establishes the categories to meet certain economic goals, including to address existing labour shortages. For 2023, the categories selected and invitations issued to-date for each category are as follows:

- French-language proficiency (8,700 invitations issued)
- Healthcare occupations (5,600 invitations issued)
- Science, Technology, Engineering and Math (“STEM”) occupations (6,400 invitations issued)
- Trade occupations (2,500 invitations issued)
- Transport occupations (1,000 invitations issued)
- Agriculture and agri-food occupations (600 invitations issued)

There are Ministerial Instructions for each category-based round of invitations that provide further details on the criteria an applicant must meet to be considered a member of that category. For example, the last STEM draw was for those with at least six months of full-time work experience in the past three years in certain listed occupations, including, but not limited to, Engineering Managers, Software Engineers and Designer, Architects, Civil Engineers, Data Scientists, Land Surveyors, and Cyber Security Specialists.

Note that these category-based draws are in addition to regular draws focused on a certain point threshold.

Temporary public policies re: individuals studying in Canada

For temporary residents whose primary purpose in Canada is work: The Government issued a [temporary public policy](#) to allow qualifying foreign nationals with valid work permits to study without a study permit. This policy came in the wake of COVID-19 to provide temporary foreign workers improved flexibility to study. This was anticipated to allow these workers to enhance their skills, upgrade credentials and licensing, better fill jobs in essential occupations, and improve eligibility for permanent residence.

In particular, a foreign national has to meet one of the following requirements to be eligible:

- They hold a valid work permit and the associated work permit application was received by IRCC on or before June 7, 2023, or

- They applied to renew their work permit before June 7, 2023 and were on maintained status.

The exemption to study without a study permit lasts until the earliest of the following occurrences:

- the above-mentioned renewal application is refused,
- the relevant work permit expires,
- the policy expires (June 27, 2026), or
- the policy is revoked.

For temporary residents whose primary purpose in Canada is to study: The Government [extended](#) an existing temporary public policy from 2022 that was set to expire on December 31, 2023 and issued a [second temporary public policy](#), both of which waive the usual work limit of 20-hours per week during regular academic sessions for qualifying international students. Both policies expire on April 30, 2023. Eligibility under these policies depends on the date of the study permit application for current study permit holders or the date of the study permit renewal application for prior study permit holders. Advice should be sought to confirm whether a given student is eligible to work beyond 20 hours a week when school is in session under these policies.

The Government is also considering what work eligibility would look like beyond April 30, 2023 and has mentioned a possibility of permanently expanding off-campus work hours for study permit holders to 30 hours per week.

Francophone mobility expansion

The Francophone Mobility Program is a Labour Market Impact Assessment (“LMIA”)-exempt work permit category that was launched in 2016 under the International Mobility Program. This category is available for certain French-speaking foreign workers who are destined to work in Canada outside of Quebec. Initially, this category required French to be the applicant’s habitual language of daily use. However, on June 23, 2023, the Government [announced](#) an expansion of the program for a two-year period such that only a moderate French language proficiency is required for most workers.

In particular, only individuals in Training, Education, Experience and Responsibilities (“TEER”) levels 0, 1, 2, or 3 of the National Occupational Classification (“NOC”) with French language ability equivalent to a Canadian Language Benchmark (“CLC”) 7 or higher were previously eligible. Now, proficiency equivalent to a CLB level 5 is sufficient for all occupations with the exception of primary agriculture occupations under TEER levels 4 and 5.

Nova Scotia’s Critical Construction Worker Pilot

The Provincial Nominee Program (“PNP”) is available for individuals who want to apply for Permanent Residence and are destined for a particular Canadian province. Each province and territory has its own streams under the PNP that target different groups including students, entrepreneurs, and skilled and semi-skilled workers. Nova Scotia in particular has a number of PNP streams for physicians, entrepreneurs, international graduates, skilled workers, occupations in demand, and more.

The Province launched a new pilot stream in 2023 for Critical Construction Workers, presumably in response to the labour shortage of construction industry workers and housing crisis we are facing. This program is for workers who have a full-time, permanent job offer from a Nova Scotian

employer in certain NOCs, including as construction, home building and renovation managers; contractors and supervisors in electrical and construction trades; carpenters; bricklayers; roofers and shinglers; and other trades helpers and labourers.

Expanded work permit eligibility for family members of foreign workers

Near the end of 2022, the Government announced that it would take a phased approach to expand the eligibility of family members of foreign workers in Canada to obtain their own work authorization. Prior to this change, only spouses of foreign workers in high-skilled positions were eligible for a work permit. However, throughout 2023, Canada began allowing working-age children of higher skilled workers, as well as working-age children and spouses of lower skilled workers to apply for open work permits.

This shift is an important one if Canada wants to retain its foreign workers in the long term, as options for family members can significantly impact a worker's settlement decisions and their ability to successfully integrate into a new community. You can read more about the related temporary public policy, which is in place until January 2025, and related eligibility criteria in our prior Thought Leadership article, [Open work permits for dependent family members of foreign workers](#).

Other immigration program and policy updates

In addition to the program and policy updates addressed above, the Government of Canada has made a number of other immigration announcements this year. We have provided a brief overview of the most impactful announcements for foreign workers, international students, and employers below:

- **Extension of public policy allowing visitors to apply for work permits inside Canada**

Among the policies enacted by the Government of Canada during COVID-19 was the policy authorizing visitors to apply for their initial work permit from within Canada. Prior to this announcement, visitors who were inside Canada when applying for their initial work permit still needed to apply from overseas, with limited exceptions. [The Government of Canada extended this policy](#), initially slated to expire on February 28, 2023, for an additional two years – visitors who are in Canada can continue to apply for work permits from within Canada until February 28, 2025.

- **Biometrics collection for temporary residence applications resumed for in-Canada applicants**

The Government of Canada temporarily suspended biometrics collection for in-Canada temporary residence applicants in July 2020 in response to COVID-19 related service disruptions. [The Government announced that this policy was repealed on February 23, 2023](#), and that moving forward all foreign nationals submitting a temporary residence application from inside Canada need to resume providing their biometrics as required.

- **Changes to temporary and permanent resident visas for Ukrainian nationals**

In response to the Russian invasion of Ukraine, the Government of Canada introduced the Canada-Ukraine Authorization for Emergency Travel (“CUAET”) on March 17, 2022, which provided Ukrainian nationals with an expedited visa process and work permit option. This policy expired on July 15, 2023.

In July 2023, the [Government of Canada announced a new public policy](#), valid until March 31, 2024, that helps facilitate entry for those Ukrainian nationals who applied for CUAET visas under the prior public policies, but who have not yet travelled to Canada. Additionally, it facilitates continued access to open work permits and study permits for those Ukrainian nationals in Canada until the policy expires on March 31, 2024.

Additionally, the Government announced a permanent residence pathway for Ukrainian nationals, which opened on October 23, 2023 and will remain open for one year. This permanent residence program is available to Ukrainian nationals who are in Canada and who have family members that are Canadian citizens or permanent residents.

- **Efforts to facilitate processing of visitor visas and super visas in application inventory**

On February 28, 2023, the Government of Canada announced public policies to streamline the eligibility requirements for [visitor visa applications](#) and [super visa applications](#) for those applications submitted on or before January 16, 2023. As part of this policy, qualifying applications can be granted exemptions from certain eligibility requirements such as establishing that the foreign national will leave Canada by the end of their period of authorized stay and that they are not inadmissible for financial reasons. This public policy is set to expire on December 31, 2023.

- **Post-graduation work permit extension**

The Government of Canada enacted a [new temporary public policy](#), beginning April 6, 2023, that allowed foreign nationals with post-graduation work permits that expired between September 20, 2021 and December 31, 2023 to apply to extend their post-graduation work permit for up to 18 months. This policy also allowed qualifying applicants to work without work permits until May 31, 2024 while awaiting the issuance of their new open work permits. This policy is set to expire on December 31, 2023.

- **Increase to inadmissibility fees**

Due to inflation, [the Government increased application fees](#) for foreign nationals applying to restore their status in Canada or return to Canada after being found inadmissible. These increased fees took effect on December 1, 2023 and will be adjusted annually for inflation moving forward.

- **Parents and grandparent sponsorship program re-opened**

[The Parents and Grandparents Sponsorship program was re-opened in 2023](#) with invitations to apply sent, beginning October 10, 2023, to those potential sponsors who submitted interest to sponsor forms in 2020. Immigration, Refugees and Citizenship Canada will accept up to 15,000 complete sponsorship applications for parents and grandparents as part of the invitations issued in 2023.

- **New permanent residence pathway for Colombian, Haitian and Venezuelan nationals**

[A new temporary permanent residence pathway opened on October 5, 2023](#) for qualifying nationals of Colombia, Haiti, and Venezuela who have family members in Canada. This

permanent residence program will remain open until October 5, 2024 or until 6,600 applications have been received and accepted for processing, whichever occurs first.

- **Launch and changes to the Economic Mobility Pathways Pilot (“EMPP”)**

On June 12, 2023, [the Government of Canada launched](#) two new economic streams under the EMPP, joining the existing regional EMPP economic pathways. These new streams – the EMPP Federal Skills Job Offer Stream and the EMPP Federal Skills Without a Job Offer Stream – allow Canadian employers to access a talent pool of skilled refugees and other displaced people around the world to fill in-demand jobs.

- **Expanded access to the Electronic Travel Authorization**

On June 6, 2023, [the Government of Canada expanded access to the Electronic Travel Authorization](#) to qualifying individuals from 13 additional countries. Foreign nationals from the following countries who held a Canadian visa in the last 10 years or who currently hold a valid USA non-immigrant visa can now apply for an Electronic Travel Authorization to travel to Canada instead of a temporary resident visa:

- Antigua and Barbuda
- Argentina
- Costa Rica
- Morocco
- Panama
- Philippines
- St. Kitts and Nevis
- St. Lucia
- St. Vincent and the Grenadines
- Seychelles
- Thailand
- Trinidad and Tobago
- Uruguay

- **Agri-Food Pilot extended**

In recognition of the importance of supporting the agri-food sector, the [Government announced an extension to the Agri-Food Pilot](#) permanent residence pathway. This program will now run until May 14, 2024. The Pilot, which initially launched in May 2020, provides a pathway to permanent residence for experienced workers in agricultural and food industries.

- **Changes to eligibility requirements for caregiver permanent residence program**

The Government of Canada is currently providing a pathway to permanent residence for caregivers through their Home Child Care Provider Pilot and Home Support Worker Pilot programs. There is a Canadian work experience requirement among the eligibility requirements to obtain permanent residence under these programs. It was [announced on February 10, 2023](#) that the Canadian work experience requirement to obtain permanent residence under these programs would be reduced from 24 months to 12 months.

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