

LATEST ISSUES ON CANADIAN IMMIGRATION LAW

APRIL 2012 EDITION

The department of immigration had a very busy first two weeks of APRIL, 2012. Many changes have occurred which deal with processing of federal skilled worker cases, funding of the Manitoba settlement services program to name a few.

The CIC Minister Kenny made an astounding number of announcements like this one:

<http://www.cic.gc.ca/english/department/media/speeches/2012/2012-04-11.asp>

In essence Minister Kenny discusses how the nominee program has been effective in bringing skilled workers and spreading that talent and welcome mat across Canada. The Minister also discussed in a controversial manner, at least from the perspective of Premier Selinger and his department, the funding of settlement services. Apparently the federal government wants to take over not only funding but operations of settlement services in Manitoba.

More alarming news came a couple of weeks ago with federal skilled worker applicants (FSW) who have applied under that program in various visa offices around the world. If the person is an applicant who had applied and their applications were received at a Consulate office abroad under the FSW prior to FEBRUARY 28TH, 2008. Please see the following web link where you will find Operations Bulletin 400 which discusses the changes to the FSW.

<http://www.cic.gc.ca/english/resources/manuals/bulletins/2012/ob400.asp> This development raises many interesting legal issues such as whether or not it is fair to say to an applicant who has been waiting patiently for over 4 years: "Sorry here is your application fee back, thanks for applying but we cannot process your application now or you no longer are eligible to apply based on new criteria that we are now going to retroactively apply to your case over four years ago." It is important to raise with your client possibility of legal action in the federal court to determine whether it is sufficient or not to return funds to an applicant when there are other considerations at play here in terms of the applicant possibly arguing Legitimate Expectation, an administrative legal principle where the applicant clearly was eligible under criteria that was in place at time of receipt of their application, only to turn around years later and say that same person is no longer qualified.

Please see: <http://www.cic.gc.ca/english/department/media/releases/2012/2012-04-17.asp> This news announcement discusses the Ministers' intent to change the federal skilled worker program in order to fast track high demand occupations and ensure that the applicants the program is targeting are persons who are really required in a priority manner to fill important labour shortages that are real and are at the heart of the economic fabric across Canada.

The following media release by the Minister discusses how the CANADA EXPERIENCE CLASS of applicants who are inside Canada will be allowed and eligible to apply for PR status with only having one year of work experience instead of the requirement of today which is 24 months of work experience. This is a very significant change. The missing information of course is when this regulatory change will take legal effect. It should be noted that the only type of applicants it will apply to are international students and temporary foreign workers who have highly skilled work experience.

The following media statement discusses the regulatory change as of July 1st, 2012 that all provincial nominee applicants in semi or low skilled occupations will have to undergo mandatory English language testing in order to be eligible for processing for their PR status application. This is quite significant because for the last 14 years since the inception of the first nominee program in Manitoba, it was left to the discretion of the Program officer with that nominee program to assess the ability in language proficiency. That discretion left to the PNP officer has now been taken away at least for the low and semi skilled occupations. If the applicant is in a skilled occupation, then language proficiency does NOT have to be tested.

http://www.cic.gc.ca/english/department/media/releases/2012/2012-04-11.asp?utm_source=media-centre-email&utm_medium=email-eng&utm_campaign=generic

The following operational bulletin makes it possible for a person with only one single conviction for a minor or less serious criminal offence to have the fee to gain entrance into Canada be waived and it also strongly suggests that the officer with Canada border services agency at a port of entry of a visa officer at a Consulate abroad to issue the waiver for entry. The waiver is known as a Temporary Resident Permit or TRP.

<http://www.cic.gc.ca/english/resources/manuals/bulletins/2012/ob389.asp> The fee is \$200.00 normally but as of March 1st, 2012 it is possible for certain applicants to have that fee waived.

There are other Ministerial announcements that were made since mid March, 2012 but review of those will have to wait for the next issue of this newsletter.

If you wish to try to stay on top of all changes in Immigration Laws or announcements you should visit the web site of the department at: www.cic.gc.ca/

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