

We understand that it requires a lot of study to understand Canadian immigration laws.

Our experts at the Canadian Immigration Consultancy are well adept in interpreting these laws to make it simple and easy for you to comprehend. We have outlined some questions that every prospective immigrant would want to know before they undergo the complicated process of Canadian immigration.

How can I apply for a permanent resident visa?

The Canadian government offers four ways on how to migrate to Canada. An individual may migrate as a skilled worker, an investor, and a nominee of a Canadian Province. He may also be sponsored by a family member, in which case, the sponsor promises to support his relative for a period of 3-10 years while settling in Canada.

What does Canadian permanent resident status confer?

Pursuant to the provisions of Canada's constitutional laws, the holder of a Canadian permanent resident visa and his/her accompanying dependants are permitted to permanently reside in Canada and earn a livelihood in any one of the ten provinces or three territories within Canada. In addition, individuals with Canadian permanent residence may attend primary and secondary education institutions in the various provincially administered public school systems, tuition exempt. Permanent residents also qualify for provincially administered universal health care coverage.

What benefits do I have if I am a permanent resident of Canada?

Canadian permanent residents/landed immigrants and citizens enjoy all of the same rights and privileges (i.e. free health care, free elementary and secondary education, etc.) with two (2) exceptions:

- * Permanent residents cannot vote;
- * Permanent residents can be deported for certain criminal convictions.

Who qualifies for permanent residence under the Economic class?

(Skilled worker class, Quebec skilled worker class, provincial nominee class, entrepreneur class, investor class, self-employed persons class)

The Federal skilled worker class is primarily point based and confers permanent resident status upon applicants who are able to demonstrate an ability to become economically established in Canada. Applicants are assessed under 6 factors and numerous sub factors of assessment providing for 100 points. Individuals with at least one year of continuous full-time employment experience, or the equivalent in part-time employment in one or more "open" occupations, within the 10 years preceding the date of their application and who possess the required settlement

funding, may qualify for assessment. Applicants who do not meet the applicable pass mark may be accepted under the positive discretion provisions of the regulations. This mechanism is used to accept a number of applicants who will be able to successfully settle in Canada yet who do not meet the applicable pass mark.

Under the Quebec skilled worker class and the Provincial nominee class, applicants may become permanent residents on the basis of their proven ability to become economically established in Canada, in accordance with immigration programs and selection criteria administered by Quebec or the provinces.

The Investor class is point based and confers permanent residence to applicants who demonstrate an ability to become economically established in Canada on the basis of their business or management experience and high personal net worth. Approval is contingent upon the investor undertaking to commit an irrevocable, passive, non-interest bearing investment of \$400,000 in a government guaranteed investment fund.

A successful applicant is one who has a) managed a qualifying business and has controlled a percentage of equity of the qualifying business for at least two years in the period beginning five years preceding the application or managed at least five full-time job equivalents per year for at least two years in the period beginning five years preceding the application; b) possesses a personal net worth of \$800,000 and c) undertakes to invest \$400,000 in a government approved investment fund.

The Entrepreneur class is point based and confers permanent residence to applicants who demonstrate an ability to become economically established in Canada on the basis of their business experience and personal net worth. Approval is contingent upon the entrepreneur undertaking to invest and become active in the management of a qualifying business operated in Canada that will contribute to the economy and create employment.

A successful applicant is one who has a) managed a qualifying business and has controlled a percentage of equity of the qualifying business for at least two years in the period beginning five years preceding the application; b) possesses a personal net worth of \$300,000 and c) undertakes to control a percentage of the equity of a qualifying Canadian business and provide active and ongoing management of the qualifying Canadian business that will create at least one incremental full-time job for Canadian citizens or permanent residents, other than the entrepreneur and their family members. This condition must be fulfilled for a period of one year within the period of three years after the day on which the entrepreneur becomes a permanent resident.

The Self-Employed class refers to applicants who have the intention and the ability to create their own employment and make a significant contribution to the cultural, artistic or athletic life of Canada, or to create their own employment by purchasing and managing a farm in Canada.

A successful applicant is one who has at least two years of experience in the period beginning five years before the date of the application and ending on the day a determination is made on the application, in self-employment in cultural activities or in athletics; participation at a

world-class level in cultural activities or athletics; or farm management experience.

To qualify, the applicant must demonstrate a sufficient financial net worth which, although less than an entrepreneur and not specified in the regulations, should enable the applicant to be self-employed in Canada and make a significant contribution to specified economic activities in Canada and to meet the initial settlement requirements for the applicant and accompanying dependants.

How long does it take to obtain a permanent resident visa?

Depending upon the time of year, the immigration office in question and other factors, the processing time for an application for permanent residence filed under the economic class can vary from between 6 months and 40 months. This is the time generally needed to demonstrate compliance under one of the applicable categories; a clean bill of health for the applicant and accompanying dependants; sufficient assets to successfully establish the family in Canada; and a confirmation of no criminal inadmissibility's for the applicant and the overage accompanying dependants. (The immigration offices in New Delhi, Islamabad, Singapore and Beijing currently attract the most applications and therefore have the longest processing times).

Who is included in the application for permanent residence?

The application for permanent residence generally includes the applicant, spouse or common-law partner or conjugal partner 16 years of age or older and any unmarried children under the age of 22 years. Children over the age of 22 may in prescribed circumstances, be included as accompanying family members.

Where are applications submitted?

Applications for Canadian permanent residence are generally filed with an appropriate immigration office outside of Canada that serves the country where the applicant has lawfully resided during the previous 12 months or the application must be filed at the immigration office that serves the applicant's country of nationality.

Certain permit holders inside Canada may submit an application for permanent residence to the appropriate Case Processing Centre in Canada that serves the applicant's place of habitual residence.

Applications under the Business Immigration program should be submitted with one of nine Business Immigrant Coordination Centres outside Canada that are designed to offer a specialised service staffed with officers knowledgeable in the procedures that are particular to the business immigration program and the area from where the applicant resides.

Readers are advised however that as of the date of this writing, applicants under the Economic Class will not be prevented from submitting their applications to any full service immigration office outside of Canada.

What are the applicable processing fees to process an application for permanent residence?

Applications for permanent residence must include the appropriate non-refundable processing fees for applicants and their accompanying dependants. For applicants applying under the skilled worker program the application fee is currently set at \$550 CAD for each applicant as well as each family member of the principle applicant who is 22 years of age or older. A fee of \$150 shall apply to each family member under the age of 22 years. As well, a Right Of Permanent Residence Fee of \$975 CAD is levied, prior to visa issuance, for each person who is at least 22 years of age applying for permanent residence.

Processing fees must be filed with the application. Right Of Permanent Residence fees are submitted upon request by the visa office, prior to visa issuance. Applicants are encouraged to verify with local missions for applicable immigration office specific payment procedures.

Must the applicant travel to Canada as part of the immigration process? (Not applicable for persons studying or working in Canada)

The applicant need not visit Canada as part of the immigration process. However in some cases, familiarity with the Canadian landscape and particularly with the area of intended destination can impact positively on the assessment.

Applicants applying under the Investor or the Entrepreneur class are encouraged to undertake exploratory visits to Canada and participate in information sessions sponsored by the provinces. For Entrepreneur Class applicants, such efforts may relate to an indication of an applicant's ability to meet the universal terms and conditions of admission.

Once I am a permanent resident of Canada, do I have to stay in Canada?

Within any five (5) year period, a permanent resident must be:

physically present in Canada for at least 730 days (two (2) years) in that five (5) year period

OR

outside of Canada, accompanying a Canadian citizen, who is his or her spouse or common-law partner or a child accompanying a parent

OR

outside of Canada, employed on a full-time basis by a Canadian business

OR

an accompanying spouse, common-law partner or child of a permanent resident, who is outside Canada and is employed as a full-time basis by a Canadian business.

Who must attend the selection interview?

The applicant and spouse (where applicable), will generally be required to travel to the processing immigration office and attend a selection interview. In some cases, the requirement for a spouse to attend the selection interview can be waived.

As well, certain posts require that accompanying dependant children over the age of 22 years attend the immigration selection interview.

What about the interview process?

Generally, an interview would be conducted to ensure the accuracy of the information contained in the documentation submitted; to clarify issues relating to the applicant's background; to confirm an applicant possesses the necessary means to settle in Canada; to verify the absence of security inadmissibility's; to ensure the applicant is intending to enter the Canadian labour market; to verify whether there are sufficient grounds to exercise positive discretion; etc. The interview cannot be conducted to verify an applicant's language abilities.

Under the Business Class (Investor, Entrepreneur, Self-Employed), applicants are interviewed to ensure conformance with the statutory definitions and to review the general parameters of the business proposal in Canada.

Applicants are advised to bring to the interview, all original documentation supporting the application; certificates of non-criminal conviction; evidence of settlement funds.

What are the current prospects for employment in Canada?

Employers in the Canadian High Technology, Engineering and Financial Services sectors are now recruiting qualified individuals who are lawfully permitted to take up employment in Canada on a temporary or permanent basis. Many of these firms are currently advertising available positions in Canada's leading newspapers, trade journals and or through the Internet.

What about interview waivers?

Certain cases may substantiate the waiving of a selection interview. This is a highly discretionary aspect of the Regulations and is largely a function of the immigration office in question, the habitual residence of the applicant and the documentation in support of the applicant's qualifications.

Can foreign nationals who have applied for Canadian permanent residence under the Skilled Worker Class concurrently apply for a temporary non-immigrant work permit?

The issues raised above should be reiterated here as well. In addition, applicants who wish to procure a temporary work permit must generally initiate the process with the assistance of the prospective employer who must file an application with the Canada Employment authorities inside Canada. It is only after the employment authorities have confirmed that the hiring in question will have a neutral affect on the local labour market that the application would be approved and forwarded to the appropriate visa office outside Canada for immigration assessment and processing. This is known as "employment validation". As the average processing time for permanent residence applications currently exceeds 12 months at most immigration offices, it may be advantageous in many cases, for the applicant to apply for a temporary work permit either prior to or during the processing of an application for permanent residence.

What documents are submitted along with the application?

The submitted application must contain in prescribed format, the name, birth date, and address, nationality and immigration status of the applicant and of all family members of the applicant and the class of visa being requested. An application being submitted under the skilled worker class must also contain the four-digit codes from the National Occupational Classification that corresponds to each of the occupations engaged in by the applicant and that constitutes the skilled worker's work experience.

Business immigration applications must be supported by documentation, which corroborates an applicant's business/managerial, experience.

Certain documents can be submitted during the process. These include statutory documents such as birth certificates, marriage certificates and certificates of non criminal conviction from each place of residence where an applicant has permanently resided for more than 6 months since age 16 years. Although it is preferred that applicants submit documentation supporting education, employment experience and language proficiencies at the file submission stage, such documentation may be forwarded to the visa office after file submission.

Applicants are advised to avoid delaying submitting an application in proper format while gathering non essential documentation as applications are processed on a first come first served basis and the pass mark can be modified by the Minister without notification at any time during the process, which may prejudice an applicant's qualifications where an application has not been finalized

Is full-time employment experience a necessary requirement under the Skilled Worker Class?

At least one year of experience within the past 10 years in one of the occupations listed in either Skill Type 0 or Skill Level A or B of the National Occupational Classification (the "NOC") is a necessary preliminary requisite to qualifying for permanent resident status.

To receive consideration for experience, the applicant must perform the actions described in the lead statement for the occupation as set out in the NOC and at least a substantial number of the main duties of the occupation including all of the essential duties. There is no obligation to meet the occupational employment requirements described in the NOC.

Applicants must specify in their application the four-digit code of the NOC that corresponds to each of the occupations engaged in by the applicant and that constitutes the skilled worker's work experience.

A number of graduate students and post doctoral candidates may not possess so called "full time" employment experience within the traditional sense other than faculty related internships, teaching positions, etc. In many cases, such experience may prove sufficient.

The number of units of assessment awarded under the experience factor will depend upon

reasoned presentations on the part of the applicant demonstrating that the applicant meets the requirements of NOC and would ultimately be left to the discretion of the interviewing visa officer.

What if the intended occupation differs from past employment positions?

There is no requirement for an applicant to become employed in Canada in an occupation that is consistent with past employment experience.

Is there a requirement for the applicant to obtain a government approved offer of employment in order to qualify for permanent residence under the Skilled Worker Class?

The Canadian Citizenship & Immigration authorities do not require applicants to secure an approved offer of employment as a condition of selection. In essence, current Canadian immigration policy provides that if an applicant meets the skilled worker selection criteria, he/she is likely to become successfully established in Canada. However, "arranged employment", (approved by Human Resources Development Canada) will provide a prospective applicant with an additional 15 units of assessment and in most cases, is an important aspect of the selection process.

The current selection rules therefore favour applicants with government approved job offers in Canada.

The majority of unmarried applicants possessing a university bachelor degree and high proficiency in one of Canada's official languages will not be in a position to attain the current pass mark of 67 points, without an approved job offer in Canada.

What if the intended occupation requires registration/licensing?

There are a number of occupations in Canada requiring registration and/or licensing, a process that varies from province to province. However, occupational licensing is not a requirement to overcome as a condition of immigration.

Are assets/personal net worth determining factors in the selection process?

Under the skilled worker class, personal net worth is not a selection criterion of assessment. However, assets can impact positively upon an applicant's assessment under the positive discretion provisions of the regulations.

Applicants generally must provide evidence of sufficient funds for the family to travel and settle in Canada as measured against the current annual Low Income Cut-Off (LICO) published by Statistics Canada.

A sum of \$14,280 would satisfy LICO requirements for a family comprising of the applicant, spouse and one child. Such evidence may be furnished immediately prior to visa issuance.

Exempt from this financial requirement would be applicants who have received an approved job

offer in Canada.

Does it help to have a relative in Canada?

The principal applicant receives five points for adaptability if they or their accompanying spouse or common-law partner, have a close relative in Canada such as a parent, grandparent, child, grandchild, spouse, common-law partner, sister, brother, uncle, aunt, nephew or niece who is a Canadian citizen or permanent resident and is physically residing in Canada.

Must an individual reside in Canada in order to maintain permanent resident status?

Current legislation provides that permanent resident status is maintained if a person is physically resident in Canada for at least 730 days (2 years) within each period of 5 years, or if other circumstances are met.

If not physically present in Canada, permanent resident status can be maintained while abroad where the Canadian resident is abroad with a Canadian citizen spouse or parent; with a Canadian employer, or with a Canadian permanent resident who works for a Canadian employer.

It is sufficient for a permanent resident to demonstrate at examination, if they have been a permanent resident for less than five years, that they can potentially meet the 730-day residency obligation in respect of the five-year period immediately after their arrival in Canada. An officer is not permitted to exclude the possibility that an applicant who has resided abroad for three years, may still be able to comply with the residency obligation during the remaining two years of the five-year period.

Can foreign nationals who have applied for Canadian permanent residence under the skilled worker class obtain a temporary non-immigrant (visitor's) visa to Canada?

Traditionally, visa officers have viewed concurrent applications for permanent residence and temporary entry as being incompatible with each other.

Current law attempts to clarify the issue and provides that immigration officer's must assess the present intention of the applicant when a person applies to visit Canada and verify the question of whether the applicant has the ability and the intention to enter Canada for a temporary purpose and thereafter leave Canada at the expiry of the visitor status, regardless if the long-term goal is to secure permanent residence in Canada. Visitor's (work, study or visit) with pending immigrant applications may be subject to the issue of Dual Intent if they cannot demonstrate that they will leave Canada by the end of the period authorized for their stay.

Under current immigration policy, applicants are encouraged to become familiar with Canada's landscape, which will augment the applicant's likelihood of successfully integrating into Canadian society. Applicants are discouraged however from "waiting" inside Canada during the permanent residence application process. Applicants who wish to procure temporary entry into Canada and who have a pending application for permanent residence will be required to demonstrate sufficient ties to their current country of residence prior to the issuing of a

temporary visitor's visa by the Canadian visa office.

Is it more advantageous to apply before or after an applicant has researched the Canadian labour market?

The Canadian immigration authorities are continuously revising its programs and policies to reflect Canada's changing labour market requirements. The current Regulations provide the Minister of Citizenship and Immigration with authority to set and amend the pass mark at any time during the process with no lock-in protection for an application under assessment. Qualified applicants who manifest a serious interest in obtaining permanent residence would be encouraged to proceed with the filing of the application(s) and the non refundable government filing fees in a timely fashion so as to initiate and conclude the processing at the earliest possible time.

As well, since the processing of a permanent resident visa application generally takes many months to complete, Canadian employers are often willing to consider sponsoring the candidacy of qualified foreign applicants under a temporary work visa. Applicants may therefore consider canvassing the Canadian labour market while simultaneously processing an application for permanent residence.

What are the general tax implications of acquiring Canadian permanent residence?

The Canadian Government imposes income tax on the basis of residency rather than citizenship. It is therefore possible to become a Canadian citizen and a non-resident for tax purposes. After becoming a permanent resident and prior to attaining citizenship, an individual would be required to pay Canadian taxes on worldwide income. However, the tax legislation allows for newly arriving permanent residents to establish an offshore trust into which may flow all of the non-Canadian sourced income, except employment income. The trust avails for a maximum period of five years and it is therefore possible to become a Canadian citizen and a non-resident within the life span of the trust.

What if a prospective applicant is destined to the Province of Quebec?

Pursuant to the provisions of the Quebec/Canada Accord, the Immigration and Refugee Protection Act and the Quebec Act Respecting the Selection of Foreign Nationals, the Quebec Government is currently the only provincial government in Canada to have concluded a comprehensive agreement for the purpose of facilitating the formulation, coordination and implementation of immigration policies and programs with respect to the admission of foreign nationals to the province.

However, the Canadian Citizenship & Immigration authorities maintain exclusive jurisdiction in the areas of visa issuance, and medical and criminal inadmissibility.

Applicants, who are intent on settling in Quebec after acquiring Canadian permanent residence, are encouraged to file their applications for a Quebec Certificate of Selection with the appropriate Quebec Delegation outside Canada. Once this undertaking is completed and

approved, the appropriate Canadian visa office would review the appropriate applications for Canadian permanent residence.

Applicants destined to Quebec or who attempt landing in Quebec without prior approval from the Quebec authorities will likely experience difficulties at a Port Of Entry. This is a sensitive issue and must be addressed by experienced counsel.

What if a prospective applicant is destined to a Province that administers a provincial nominee immigration program?

A number of provinces have concluded agreements with the Canadian government under the Provincial Nominee program, which provide for very limited selection of foreign nationals destined to one of those provinces.

Owing to the high volume of applications that are currently awaiting processing with the various provincial authorities, applicants are strongly encouraged to secure approved job offers, regardless of the point total received following a self-assessment, in order to increase their chances for approval under a provincial nominee program.