

Proposed regulations signal shift in immigration policies

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For Law Times

Proposed regulations issued by Citizenship and Immigration Canada will create an additional class for foreigners seeking permanent-resident status in Canada, predicts an expert in the field.

The proposed Canadian Experience Class signals a shift in immigration policies toward a more market-based approach, says Sergio Karas of Karas & Associates, and chairman of the citizenship and immigration section of the Ontario Bar Association.

"There is a real disconnect between immigration and the labour market right now, and employers are unhappy because they cannot fill those jobs . . . and the immigrants are unhappy because they cannot find the jobs because they don't have the skills."

Karas says Canada moved to a human-capital model several years ago. It factors in whether a person meets language requirements, holds an educational degree of any kind, and has a social connection to determine approval for permanent resident status.

"That produced an enormous growth, exponentially-wise, because too many people qualified," says Karas.

It also failed the immigrants, he says, because they ended up without a job or underemployed because of market conditions.

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time we have vacant jobs."

A goal of the new Canadian Experience Class is improving the long-term outcomes of immigrants by focusing on applicants who can better integrate into the existing labour market.

Candidates who have Canadian education and Canadian work experience are seen to be in an ideal position to continue on successfully in the country.

The new class works to address this by making it easier for temporary residents working or studying in Canada to apply for permanent resident status.

The regulatory impact analysis statement prepared by the department cites a shift in employer choices when seeking skilled workers to fill positions that can't be filled by Canadian citizens.

They noted a move to selecting employees through the temporary foreign worker program.

The shift in preference to finding workers with temporary work permits can be correlated to permitting immigration policies based on the current market demand.

Temporary work permits are granted primarily on the basis of a need to fill certain worker shortages in the workforce. With a few exceptions, temporary work permits require a positive labour-market opinion from Human Resources and Social Development Canada, providing the link to a market-based decision-making process.

This is in contrast to selecting workers who have gone through



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the federal skilled worker program, which does not have the same market-based criteria.

The skilled worker program places a high emphasis on educational requirements. This can restrict the number of entries to skilled trades like plumbers and electricians.

Rather than operate on a points-based system, the Canadian Experience Class will be a pass/fail decision. Applications will be granted if the applicant meets set criteria, including workforce experience, along with a language proficiency test.

Approval will be limited to those who fall within levels 0, A, or B of the national occupation classifications published by HRSDC. This includes management positions and occupations typically re-

quiring at least a college education or apprenticeship training.

To qualify for the new stream, temporary foreign workers need 24 months of work experience during the past 36-month period.

Temporary foreign students qualify by obtaining a Canadian credential through at least two years of education in Canada, combined with 12 months of work experience within a 24-month period.

Karas can see the benefit for students with the time frames, but doesn't see how it will help temporary foreign workers.

"Why would anybody wait 24 months?" he asks, referring to temporary foreign workers who would likely qualify for the existing skilled worker stream. They receive additional points for holding a work permit and could request priority processing of their application. The Canadian Experience Class provides them no obvious advantage.

The time frames of the proposed regulations are likely to be popular with foreign students studying in Canada, says Karas, but he still has some concerns.

"My worries are for the employer. The employer is putting a large number of resources into this new employee, this new grad, so how do they know that they are not going to cross the street once they quickly get landed immigrant status for an extra \$50?"

The proposed regulations also aim to increase the geographic dispersion of immigrants to areas outside the major urban centres, Karas

questions whether this is possible. "I don't see that reflected in the regulations, and I don't see how that can be accomplished either. I think it's perhaps a pipe-dream because any applicant who gets permanent residence is going to go to live where the jobs are," he says. "You have to follow the money, you have to follow the jobs. People are living in Toronto, Vancouver, and Alberta for a reason — because the jobs are here."

The most common locations for immigrants to settle are Toronto, Montreal, and Vancouver. In 2007, the number of permanent residents for these three cities combined made up just over 67 per cent (158,766 individuals) of the total figures for the year.

There's also been a general trend for immigrants to land in Alberta. But people don't move to Alberta because it's freezing cold in the winter, says Karas. "People move to Alberta because that's where the jobs are."

The report seems to suggest that the wide choice of educational institutions across the country will lead to immigrants dispersing outside of the typical locations. But Karas points out that simply because a student graduates from a university in a small centre does not guarantee that they will stay there once they've completed their studies.

"I think in general terms it's a step in the right direction," says Karas, but there are concerns about the effectiveness and logistics behind the proposal. **LT**