

Work permit considerations for Foreign Tech Workers in BC (Craig Natsuhara, February 2017)

With the support from the federal and provincial governments and the new US federal government proposing immigration reforms, it is currently a great time for temporary foreign workers (“TFWs”) to consider working in the tech industry in British Columbia and for local tech companies to recruit such TFWs.

To be authorized to work in Canada, TFWs must qualify for a work permit under one of a number of categories. The following are the most popular categories:

1. Free Trade Agreement Professional - for US, Mexican, Chilean, Peruvian and Colombian citizens who qualify under one of the listed Professions, such as Engineers (includes software engineers and computer engineers), Computer System Analysts and Graphics Designers (includes digital artists). Most Professionals require demonstration of a related degree.
2. Open work permits, available to TFWs:
 - (a) with a spouse or common-law partner on certain work permits and study permits.
 - (b) with a pending Spouse or Common-law Partner in Canada permanent residence application.
 - (c) with a pending economic class permanent residence application.
 - (d) who will be graduating from a public or eligible private educational institution.
3. International Experience Canada (“IEC”) category:
 - (a) For young TFWs up to the ages of 29 / 30 / 35 from any of the 33 eligible countries.
 - (b) Applications must be made to a visa office so sufficient processing time must be budgeted.
 - (c) TFWs who held an IEC work permit issued before 2015 may be eligible for one more.
4. BC Provincial Nominee – if the start date is at least 1-2 months away and the TFW is willing to apply for permanent residence, the Canadian tech company may wish to pursue a nomination in support of the TFW applying for a work permit.
5. LMIA – prior to the TFW applying for a work permit, the Canadian tech company must advertise the position on popular recruitment media for one month then demonstrate that qualified Canadian candidates are not available. Once an LMIA is issued to the company, the TFW will qualify for the work permit if s/he can demonstrate that s/he meets the requirements for the position.

When making a work permit application, it is important to choose the proper location that fits with the anticipated start date for the job. Applying at the airport or border crossing is a great option since the work permit is issued right on the spot. Visa-exempt TFWs may apply at the border while visa-requiring TFWs may apply at the border if they are currently in Canada and hold valid temporary status (such as a work permit, study permit or visitor record / visitor stamp). Otherwise work permits applied for at a Canadian visa office (such as the Canadian Consulate General in New York) can take 1-3 months to process. And work permits applied for at the inland office (i.e., in Vegreville, Alberta) currently take one month to process.

As early as spring-2017, the tech industry is anticipated to enjoy the following immigration improvements:

- Two week processing at Canadian visa offices for positions under management occupations or occupations requiring a degree.
- Waiving the Canadian recruitment requirement for LMIA applications for specific tech occupations experiencing labour market shortages, and enjoying 10 business day LMIA application processing.

Spouses and common-law partners (including same gender partners) of most tech TFWs are eligible for open work permits that will allow them to look for work, or work for their own businesses, in Canada. Minor aged children of TFWs are eligible to attend public school in BC tuition free.