

Federal Skilled Workers

1. INTRODUCTION

Under the Federal Skilled Worker Program (“**FSW**”), skilled workers are selected as permanent residents (i.e. persons who are entitled to live in Canada permanently) based on their education, work experience, knowledge of English and/or French, and other criteria that have been shown to help them become economically established in Canada. The following is an overview of the requirements of the FSW immigration category.

2. QUALIFICATION SYSTEM

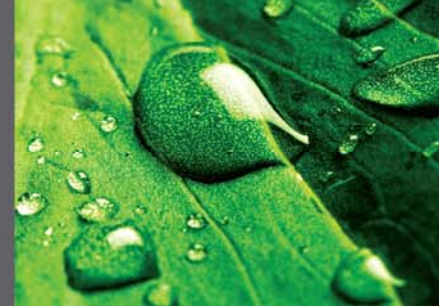
The eligibility of applicants is assessed on the basis of six selection factors (as more particularly described below). The applicant may be awarded points in each category and has to reach a minimum of 67 points to qualify as a skilled worker for the purpose of the FSW. However, obtaining or exceeding 67 points does not necessarily guarantee the granting of permanent residence as the final decision is still up to the discretion of the reviewing officer and is contingent on police clearances and a medical examination.

3. MINIMUM QUALIFYING REQUIREMENTS

(a) Selection Factors

Applicants are assessed and awarded points under the following six selection factors:

- (i) Education (Maximum of 25 points)
 - a. 5 points awarded for a secondary school educational credential.
 - b. 12 points awarded for a one-year post-secondary (non-university) educational credential and a minimum of 12 years of full-time study.
 - c. 15 points awarded for a one-year post-secondary (non-university) educational credential and a minimum of 13 years of full-time study OR a one-year university educational credential at the bachelor’s level and a minimum of 13 years of full-time study.
 - d. 20 points awarded for a two-year post-secondary (non-university) educational credential and a minimum of 14 years of full-time study OR a two-year university credential at the bachelor’s level and a minimum of 14 years of full-time study.



- e. 22 points awarded for a three-year post-secondary (non-university) educational credential and a minimum of 15 years of full-time study OR two or more university educational credentials at the bachelor's level and a minimum of 15 years of full-time study.
- f. 25 points for a university educational credential at the master's or doctoral level and a minimum of 17 years of full-time study.

(ii) Language ability in English and/or French (Maximum of 24 points)

You must specify in your FSW application which of English or French is to be considered your first official language in Canada. Furthermore, you must have your proficiency in English and/or French assessed by an organization or institution designated by Citizenship and Immigration Canada.

The amount of points awarded to you under language ability corresponds with your ability to read, write, listen and speak in English and/or French. These scores will be assessed by the testing center.

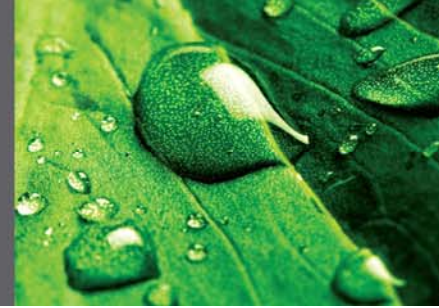
(iii) Work Experience (Maximum of 21 points)

In order to be awarded points under work experience, your work experience must have occurred within the last 10 years and fall within Skill Type 0 (managerial occupations) or Skill Level A (professional occupations) or Skill Level B (technical occupations and skilled trades) on the Canadian National Occupational Classification (“**NOC**”) list. The number of points awarded are based on the number of years of experience the applicant has in an eligible occupation, as follows:

- a. for one year of work experience – 15 points
- b. for two-years of work experience – 17 points
- c. for three-years of work experience – 19 points; and
- d. for four or more years of work experience – 21 points.

(iv) Age – (Maximum of 10 points)

Points are awarded depending on your age at the time your FSW application is submitted to Citizenship and Immigration Canada (“**CIC**”). Please note that once CIC has received your FSW application, your age will be “locked in”. Meaning that regardless of how long processing takes, you will be awarded points based on your age at the time the application was received.



- a. 10 points awarded for applicants 21 years of age or older but less than 50 years of age
- b. 8 points awarded for applicants 20 or 50 years of age
- c. 6 points awarded for applicants 19 or 51 years of age
- d. 4 points awarded for applicants 18 or 52 years of age
- e. 2 points awarded for applicants 17 or 54 years of age
- f. 0 points awarded for applicants under the age of 17 or older than 54 years of age.

(v) Arranged Employment – Maximum of 10 points

10 points are awarded if you have an offer of indeterminate employment in Canada. The employment offer must fall within Skill type 0 (management occupations) or Skill level A or B of the NOC. Furthermore, you must be able to perform, accept and carry out the employment in Canada.

(vi) Adaptability – Maximum of 10 points

10 points are awarded based on your ability to adapt to life in Canada. In order to determine your adaptability to Canadian life, the following factors and corresponding points are assessed and awarded:

- a. Educational credential of spouse or common-law partner – Your spouse or common-law partner’s educational credentials will be assessed as if they were the principle applicant; however, the points awarded under the adaptability category differ than those from the principle applicant.
 - 5 points are awarded for a spouse or common-law partner who would be awarded 25 points as the principle applicant
 - 4 points are awarded for a spouse or common-law partner who would be awarded 20 or 22 points as the principle applicant
 - 3 points awarded for a spouse or common-law partner who would be awarded 12 or 15 points as the principle applicant
- b. Previous Study in Canada – 5 points are awarded if you or your spouse or common-law partner completed a program of full-time study of at least two years’ duration at a post-secondary institution in Canada



under a valid study permit. Please note that points may be awarded regardless of whether you or your spouse or common-law partner obtained an educational credential for completing the program of study.

- c. Previous Work in Canada – 5 points are awarded if you or your spouse or common-law partner engaged in at least one year of full-time work in Canada under a valid work permit.
- d. Family Relationships – 5 points are awarded if you or your spouse or common-law partner is related (i.e. parents, grandparents, children, grandchildren, siblings, aunts or uncles, nieces or nephews) to a Canadian citizen or permanent resident living in Canada.

Please note that you will be awarded 5 points if your spouse or common-law partner is a Canadian citizen or permanent resident living in Canada.

(b) **Additional Requirements**

In addition to meeting the prerequisite number of points, the applicant must also:

- (i) include the results of an official language proficiency test; and
- (ii) have a valid offer of arranged employment; or
- (iii) have one-year of full-time paid work experience in an occupation deemed eligible by Citizenship and Immigration Canada.

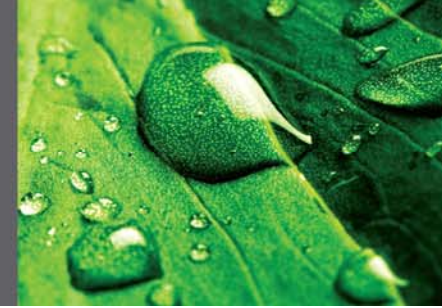
Language Proficiency Test

Applicants are required to undergo a language proficiency test in order to have their ability in either English or French assessed. Language testing must be conducted at a designated agency determined by Citizenship and Immigration Canada. A list of designated agencies can be downloaded at <http://www.cic.gc.ca/english/immigrate/skilled/language-testing.asp>. Please note that language test results must be submitted within one-year of filing an application under the FSW. Furthermore, test results are valid for two-years from the time the examination was conducted.

Each applicant is strongly advised to take the International English Language Testing System (“IELTS”) test as this examination is considered to be conclusive evidence of the individual’s English language abilities. If taking the IELTS test, the applicant must choose the General Training Test version

Arranged Employment

Depending on an applicant’s circumstances and location, the requirements for a valid offer of employment are different:



- (a) If you are currently working in Canada you must:
 - (i) Have a permanent job offer from the company you are working for; and
 - (ii) Hold a valid work permit both at the time an application for a permanent residence visa is filed, and when the permanent resident visa is issued.

Additionally:

- (iii) Have had your work permit confirmed by obtaining a positive Labour Market Opinion (“LMO”) from Service Canada; or
- (iv) Work in a category that is exempt from an Arranged Employment Opinion (“AEO”).

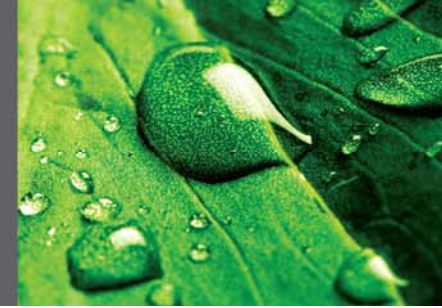
Categories that are exempt from having to obtain an AEO are those that are based on an international agreement (i.e. NAFTA or GATS), offer a significant economic benefit to Canada (i.e. intra-company transferees) or enhance Canada’s academic or economic competitiveness (i.e. post-graduate work).

- (b) In all other cases you must:
 - (i) Have a valid job offer from a prospective employer for permanent employment upon the issuance of permanent resident status;
 - (ii) Have obtained a positive AEO from Service Canada; and
 - (iii) Meet all required Canadian licensing or regulatory standards associated with the job being offered.

4. WORK EXPERIENCE REQUIREMENTS

To be eligible under the Federal Skilled Worker program an applicant’s work experience must be:

- (a) for at least one year (full-time or the equivalent in part-time), continuous, and paid, and
- (b) within the last 10 years, and
- (c) Skill Type 0 (managerial occupations) or Skill Level A (professional occupations) or Skill Level B (technical occupations and skilled trades) on the NOC list.
- (d) in one of the following eligible occupations:



- 0631 Restaurant and Food Service Managers
- 0811 Primary Production Managers (Except Agriculture)
- 1122 Professional Occupations in Business Services to Management
- 1233 Insurance Adjusters and Claims Examiners
- 2121 Biologists and Related Scientists
- 2151 Architects
- 3111 Specialist Physicians
- 3112 General Practitioners and Family Physicians
- 3113 Dentists
- 3131 Pharmacists
- 3142 Physiotherapists
- 3215 Medical Radiation Technologists
- 3222 Dental Hygienists & Dental Therapists
- 3233 Licensed Practical Nurses
- 4151 Psychologists
- 4152 Social Workers
- 6241 Chefs
- 6242 Cooks
- 7215 Contractors and Supervisors, Carpentry Trades
- 7216 Contractors and Supervisors, Mechanic Trades
- 7241 Electricians (Except Industrial & Power System)
- 7242 Industrial Electricians
- 7251 Plumbers
- 7265 Welders & Related Machine Operators
- 7312 Heavy-Duty Equipment Mechanics
- 7371 Crane Operators
- 7372 Drillers & Blasters - Surface Mining, Quarrying & Construction
- 8222 Supervisors, Oil and Gas Drilling and Service

As of June 26, 2010, the stream for temporary foreign workers and international students living in Canada for one year no longer exists. Students and temporary foreign workers applying in the Federal Skilled Worker class on or after June 26, 2010, must meet the above-referenced criteria in order to be eligible for processing.

Please note that a maximum of 20,000 Federal Skilled Worker applications will be considered for processing. Within the 20,000 cap, a maximum of 1,000 applications per eligible occupation will be considered for processing. Further note that these limits do not apply to applications with an offer of arranged employment.



5. FAMILY MEMBERS OF SKILLED WORKERS

An application made under the Federal Skilled Worker category can include the applicant's spouse or common-law partner and dependent children. The age of the accompanying dependent children is locked in on the date the application is made, but dependence is not. A child who is under the age of 22 on that date, but 23 when the visa is issued, may still be included as part of the parent's application as an accompanying dependent.

Please note that family members can be added to the application at any time during the application process, including after the visa is issued but **prior** to obtaining permanent resident status. However, if family members are added to the application during processing, they must be screened for inadmissibility before any permanent resident visa is issued.

6. WHERE TO APPLY

Applications must be submitted to the Centralized Intake Office ("CIO") for Federal Skilled Worker applications located in Sydney, Nova Scotia, Canada.

*For applicants who have acquired one-year of full-time work experience in an occupation deemed eligible by Citizenship & Immigration Canada, applications must be mailed to the following address:

Citizenship & Immigration Canada
Federal Skilled Worker Application
Centralized Intake Office
PO BOX 7500
Sydney, Nova Scotia, Canada B1P 0A9

*For applicants who have arranged employment in Canada, applications must be mailed to the following address:

Citizenship & Immigration Canada
Federal Skilled Worker
Centralized Intake Office
PO BOX 8500
Sydney, Nova Scotia, Canada B1P 0C4

7. APPLICATION

The application process under the skilled worker program is divided into two phases. The first phase requires the applicant to submit all required information and documentation to the CIO located in Sydney, Nova Scotia. Once received, the CIO will conduct an eligibility review to determine whether the applicant qualifies for a final determination of eligibility (phase two). The applicant will be notified whether their application is deemed eligible to proceed for final determination as a Federal Skilled



Worker. The final determination will be conducted at the visa office responsible for the applicant's current place of residence (if eligible to have it processed there) or at the visa office responsible for the applicant's country of citizenship.

Please note that once the CIO determines that an applicant qualifies for final determination the applicant will be required to submit their completed application to the appropriate visa office along with any further supporting information and documentation within **120 days** of receiving notice. Further note that the 120-day rule is being strictly enforced and extensions are not easily obtained.

8. PROCESSING TIMES

The current processing times range from 9 – 14 months from the date of application.

9. FEES

The applicant must pay the following fees, submitted in Canadian funds:

- A processing fee of \$550.00 must be paid at the time the application is submitted to the CIO.

A refund of the \$550.00 processing fee may be issued only if:

- The CIO determines that the applicant is not eligible under the Federal Skilled Worker class; OR
- The applicant fails to meet the 120-day deadline for submission of their application to the appropriate visa office.

Additionally:

- A fee of \$490.00 for the Right of Permanent Residence, which must be paid before CIC issues the permanent resident visa. Please note that payment of the Right of Permanent Residence fee is payable only after the applicant's application has been approved and the fee has been requested by CIC.

The applicant also has to pay fees to third parties for:

- a medical examination;
- a police clearance certificate; and
- language testing.



10. CONCLUSION

At Dale & Lessmann LLP, we strongly recommend that each situation be assessed well in advance to ensure that the most appropriate immigration strategy is adopted in light of the of the applicant's skill-set and any long term objectives.

Dale & Lessmann LLP's Immigration Practice Group offers a specialized range of immigration and international mobility services to ensure a seamless process for businesses, employees and any accompanying family members. We provide cost-effective immigration solutions to businesses from Canada, the United States, Europe and Australia on major projects, executive transfers, and in obtaining business visitor status, work permits, temporary resident visas and permanent resident status.

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For more information, we encourage you to contact a member of our Immigration Practice Group.

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