

# Mobility: immigration alert

September 2017

## Canada

### Temporary Entry provisions of the Canada-EU Comprehensive Economic and Trade Agreement effective on 21 September 2017

#### Executive Summary

Immigration, Refugees and Citizenship Canada (IRCC) is expected to implement the CETA temporary entry provisions on 21 September 2017 when the agreement is scheduled to be provisionally come into effect. EU citizens who are travelling to Canada as key personnel, contractual service providers or short term business visitors will be able to rely on CETA for a Work Permit or entry as a business visitor.

#### Background

The Canada - European Union (EU) Comprehensive Economic and Trade Agreement (CETA) is a trade agreement between Canada and the EU's 28 member states ("Member Country"). Similar to other free trade agreements, CETA contains provisions to facilitate the temporary entry of foreign nationals for work and business purposes.

Three main categories of business persons will benefit from the CETA temporary entry provisions:

- 1) Key personnel
- 2) Contractual service providers and independent professionals
- 3) Short-term business visitors

#### Key Personnel

CETA defines key personnel as individuals travelling to Canada as business visitors for investment purposes, investors and intra-corporate transferees. The latter two will be eligible for Canadian Work Permits.

The intra-corporate transferees (ICT) sub-group is very similar to the Intra-Company Transfer provisions found in the North American Free Trade Agreement (NAFTA) and the General Agreement on Trade in Services (GATS). Individuals from a member nation who have been working with a qualifying employer outside Canada for at least one year and are coming to work for an affiliate of their employer in Canada may qualify as an ICT.

In addition to the one year of experience, ICTs must also work in Canada as a senior personnel or specialist. The criteria for these two classes are very similar to the Intra-Company Transfer Senior Manager/Executive and Specialized Knowledge categories, respectively. ICTs are eligible for an initial Work Permit for a maximum of three years, with the possibility of an extension of up to 18 months. However, unlike NAFTA or GATS, CETA provides for graduate trainees to qualify for a Work Permit as an ICT key personnel.

Individuals travelling to Canada to establish or manage an investment may qualify under the key personnel investor category. They will be eligible for a maximum one year Work Permit.

A similar but distinct key personnel category is the business visitor for investment purposes. Individuals who are managers or specialists coming to Canada to set up an enterprise, but who are not engaging in any direct business transactions with the Canadian public or receiving Canadian remuneration, may qualify under this



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category. Business visitors for investment purpose will be eligible to work in Canada without a Work Permit for up to 90 days within any six month period.

#### **Contractual service providers and independent professionals**

This category is for individuals travelling to Canada to fulfil a service contract in an allowable industry sector. They will be eligible for an initial Work Permit of up to 12 months, with the possibility of an extension up to 24 months.

Contractual service providers are individuals working for a non-Canadian company who hold a Canadian contract. They must have at least one year of work experience with their employer outside Canada and possess a minimum three years of industry experience. Qualifying individuals must also hold a university or equivalent degree and any necessary professional qualifications. While in Canada, contractual service providers should not be paid by any Canadian entity.

As the name suggests, independent professionals are not employees of a foreign company. Rather, they must be a third party contractor to a Canadian company. To be eligible, they must have at least six years of professional industry experience, possess a bachelor's degree and any relevant professional qualifications.

#### **Short-term business visitors**

Individuals travelling to Canada from a Member Country to conduct permissible business visitor activities can seek entry for up to 90 days in any six month period. CETA sets out a list of qualifying business visitor activities, including meetings, research, training, trade shows, purchasing, sales and after-sales activities. Short-term business visitors are not permitted to sell goods to the general public, provide services to consumers or receive any payments from a Canadian source while in Canada.

CETA provides new options for business travellers from EU member nations travelling to Canada. In particular, individuals coming to deliver contractual services in Canada, who currently need a Labour Market Impact Assessment in order to qualify for a Work Permit, will have a much simpler immigration process with CETA. The implementation of CETA continues the current government's trend towards opening doors for business and work travel.

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