

Mobility: immigration alert

January 2019

Canada

New facilitated entry and work permit processing comes into force with CPTPP trade agreement; wave 2 biometrics collection rolled out

Key points:

- ▶ A new free trade agreement between Canada and 10 other Pacific countries came into effect on December 30, 2018
- ▶ CPTPP creates business visitor and work permit categories for qualifying nationals (and in some cases permanent residents) of Australia, Japan, Mexico and New Zealand
- ▶ Wave 2 for biometrics: collection of biometric data rolled out for citizens of countries in Asia, Asia-Pacific and the Americas (with the exception of the United States)

Executive summary

The Comprehensive and Progressive Trans Pacific Partnership (CPTPP) trade agreement came into force on December 30, 2018. As a result, the Canadian government has implemented new work permit categories that are exempt from labour market testing (i.e., LMIA-exempt). This will open up opportunities for Canadian businesses to employ certain foreign nationals in high skilled occupations and get those resources working in Canada faster.

Background

The CPTPP is a multilateral free trade agreement signed between Canada and 10 other countries in the Pacific region. Article 12.4 of the CPTPP deals with the mobility of business persons. At this point, only certain countries are included in the mobility provisions.

Three main categories of business persons will benefit from the CPTPP provisions for temporary foreign workers in Canada:

- 1) Intra-corporate transferees (ICTs)
- 2) Investors
- 3) Professionals and technicians

ICTs, including management trainees

This category in the CPTPP is only applicable to citizens of Australia, Japan, Mexico and New Zealand at this time. Foreign nationals from these countries can enter and work in Canada as ICTs in a manner 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). Foreign nationals who have been working with a qualifying employer outside Canada for at least one year in the three-year period immediately preceding the date of application, and who are coming to work for an enterprise's parent, subsidiary or affiliate, may qualify for a work permit under this provision.

A benefit to the CPTPP ICT category is the addition of a work permit category for ICT management trainees. This is in addition to processing categories for executives, managers, and specialists. CPTPP ICTs are eligible for an initial work permit of three years, which can be renewed indefinitely as long as the foreign national continues to qualify.

Investors

Business persons from Australia, Japan and Mexico traveling to Canada to establish, develop or administer an investment with a substantial amount of capital may be eligible for a Canadian work permit under the CPTPP's Investors category. They will be eligible for a maximum one year work permit, and may apply for extensions.

Professionals and technicians

Available to citizens of Australia, Japan or Mexico who are entering Canada to work in a specialty occupation that requires both theoretical and practical application of a body of specialized knowledge. These foreign nationals must possess a post-secondary degree of three or four years (for professionals) or two or more years (for technicians). Additionally, applicants must possess at least two years (for professionals) or at least four years (for technicians) of paid, relevant work experience. Applicants in this category are



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eligible for an initial work permit of up to one year, with the possibility of extensions.

However, unlike other free trade agreements, such as NAFTA, the CPTPP requires professionals and technicians to be offered a wage that meets or exceeds the median prevailing wage rate for the occupation in the region where the work will be performed.

The list of qualifying professional and technician occupations will vary based on the applicant's country of citizenship, with the list of occupations of professionals being nearly unlimited, save for some enumerated restricted occupations. On the other hand, the list of permissible occupations for technicians is limited to a predetermined list that varies by citizenship.

Positive impact

CPTPP provides new temporary entry options for business persons from nations who have ratified the agreement, and continues the current government's trend toward enhancing opportunities for mobility to Canada for business and work. Likewise, as the CPTPP is based on reciprocity, Canadians are afforded similar opportunities to work in other countries that have implemented the agreement.

Expansion of biometrics to Asia, Asia-Pacific and Americas

Unrelated to the CPTPP, wave 2 of the biometrics expansion has now come into force and will add additional steps for many applicants for entry to Canada. In 2018, the Canadian government announced the expansion of the biometric data collection to all foreign nationals except US citizens. Individuals applying for a Canadian status document, such as a work or study permit, or visa will need to provide their fingerprints and photograph as part of the application process.

The biometrics expansion rolled out in two phases. On July 31, 2018, citizens of countries in Europe, the Middle East and Africa needed to provide biometrics as part of their applications. The rest of the world, namely citizens of countries in Asia, Asia-Pacific and the Americas (with the exception of the United States), now also need to provide biometrics as of December 31, 2018. Note that short-term visitors for pleasure or business who do not require a visa for travel to Canada are not required to provide their biometrics travelling to Canada.

As a result of this biometrics expansion, foreign national from Asia, Asia-Pacific and the Americas should budget additional time in their application processes. Biometrics can be provided at designated visa application centres around the world for visa-requiring individuals, or at the major ports of entry for visa-exempt foreign nationals.

For additional information about the biometrics expansion, please refer to our April 2018 Alert with more details or contact one of our professionals.

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