

COVID-19 RESOURCE CENTER

Canadian Immigration Law Update

March 30, 2020

As with previous updates on Canadian Immigration law during the Canadian Government's response to the global COVID-19 pandemic response, you are reminded that the situation remains fluid and changes are announced and often enacted with limited lead time. If you are aware of a travel to come to Canada by a foreign national, permanent resident or even Canadian citizen, you are strongly encouraged to connect with our team prior to embarking on same.

Quarantine

Late last week the Federal Government, imposed self isolation requirements on all individuals entering Canada pursuant to the *Quarantine Act*. Prior to this, there had simply been a suggestion/request for individuals entering Canada to self-isolate for 14 days. Effective March 25, 2020, it is now a legal requirement for anyone, (foreign national, permanent resident or Canadian citizen) to self isolate for a period of 14 days. Failure to abide by this requirement is a contravention of the *Quarantine Act* and is punishable by fine (up to \$750,000) and/or imprisonment for up to a year. Essential workers entering Canada to provide "essential services", defined by each Province, are excluded from self isolation requirements under the Act.

Entry Ban

This is an area that continues to be marred with confusion between what the Federal Government is saying publically versus what is contained within the policy language and Orders in Council. There have been a number of competing statements made over the last week with respect to an entry ban to Canada generally and again so with respect to comments made about a closure of the US/Canada land border. As it now currently stands, we believe the following is applicable:

- Entry to Canada by land, sea or air for non-essential purposes is prohibited. Non-essential travel to Canada is generally determined to be travel for tourism, entertainment or recreation. The entry ban does not apply to the following individuals who, at the time they commence their travel and/or at the time they arrive in Canada, are not displaying any COVID-19 symptoms;
- Canadian citizens and their families (spouse or common-law partner, dependent children, parent or guardian);
- Canadian permanent residents and their families (spouse or common-law partner, dependent children, parent or guardian);

- Foreign nationals with a valid work permit in their possession, or those who have received work permit approvals through an overseas visa post issued prior to March 18, 2020;
- Spouse or common-law partner and dependent children of foreign nationals with a valid work permit in their possession, or those who have received work permit approvals through an overseas visa post issued prior to March 18, 2020. The family member must be travelling with the exempt foreign national;
- Foreign students with a valid study permit in their possession, or those who have received work permit approvals through an overseas visa post issued prior to March 18, 2020;
- Foreign nationals who have been approved for Permanent Residence and have received their Confirmation of Permanent Residence (and permanent resident visa if applicable) prior to March 16, 2020 but have not yet landed in Canada;
- Foreign nationals coming to Canada to work in critical industries such as health care, emergency services, agriculture (seasonal programs should remain unaffected), food processing, transportation of goods, technicians delivering, maintaining or repairing medically-necessary equipment or devices, and individuals invited by the Minister of Health to directly fight the COVID-19 pandemic in Canada;
- Foreign diplomats and their immediate family members; and
- Flight and marine crews, as defined under applicable legislation.

Domestic and Foreign Network Interruptions

There continues to be significant disruption in both the domestic and international network in terms of application processing within all streams. This includes, but is not limited to, all temporary visa applications, applications for permanent residence, grants of citizenship, travel documents and more. Additionally, the Visa Application Centres that act as the intermediary between applicants and the visa offices in the international network are for the most part closed or have severely curtailed services. In response to some of these significant interruptions, IRCC has issued a 90 day extension of time across the board with respect to the requirement to provide biometrics. As biometrics collections centres still remain closed, we anticipate these extensions will continue to be applied until the operations are back online. Finally, as previously noted, the processing times for domestic applications across the board will likely continue to grow as officers within Canada are working remotely.

Further the government has signaled that, due to the challenges of continued operation in the current environment, applications for permanent residence that would normally be returned due to incompleteness will be accepted into processing and applicants will be contacted by IRCC for follow up on missing documents at 90 day intervals. Further, fairness letters or other correspondences which require a response to IRCC within 30 day time limits are generally being afforded an extended response period if requested.

Additional Responses

There are a number of additional regulations and policies that have been enacted around international and domestic travel that you should be aware of, including:

- Flag-Poling for the purpose of processing a work permit application or seeking an extension or change to a current temporary status in Canada is prohibited and applicants are being directed to submit applications for processing through the domestic network inland. Further, attempts to flag-pole necessitate a visit to US soil, even if an applicant is not formally requesting entry to the US, no matter how brief and as such may trigger the requirement to self isolate for 14 days under the *Quarantine Act* upon return to Canada;
- All international incoming flights except those arriving from the US, Mexico and the Caribbean, are being re-directed to land at one of only four enhanced arrivals facilities in Vancouver, Calgary, Toronto or Montreal;
- ALL travellers to Canada will be medically screened at the time they seek to board their commercial carrier to Canada and also at the time of arrival at a Canadian Port of Entry. Any traveller showing any COVID-19 related symptoms will be denied boarding/entry to Canada. The only exception to this rule will be for Canadian citizens and permanent residents presenting at a land port of entry displaying symptoms. Such individuals can expect additional medical screening and immediate quarantine for a period no less than 14 days;
- Foreign nationals eligible to enter Canada directly from the US must have been physically present in the US for 14 consecutive days before entry; and
- Effective March 30, 2020 domestic air or rail travel will be restricted to those who are not displaying COVID-19 symptoms. This restriction is not applicable to local/commuter rail travel.

Discussion

We continue to see restrictions and directives enacted with respect to Canadian immigration and border policies at an accelerated rate in Canada in response to the need to protect Canadians. Unfortunately, one result is that the policies that are announced by government often look different by the time they are presented in writing in the form of Orders in Council. As a result we continue to see confusion and inconsistency in the application of these new directives when it comes to boarding Canada-bound flights, access to Canada for family members, admission to Canada for essential workers and other issues. Additionally, despite clarification offered from the federal government, there remains significant confusion on the issue of whether work permits can be issued at Ports of Entry for exempt workers listed above as well as other areas of inconsistent application of new policies and directives by CBSA officers depending on the Port of Entry a traveller may appear at.

FARRIS

As the government's response to the COVID-19 pandemic continues to evolve, it will be important to stay on top of border closures and travel restrictions. We encourage you to reach out to our team directly to determine how the above could affect you or your operations.



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