

Parental Sponsorship on Hold; 'Amnesty' for Construction Workers

For the start of 2020, Immigration, Refugees and Citizenship Canada (IRCC) released the following updates on a couple of its immigration programs which had been much awaited by many and which could potentially have a significant impact on the lives of migrants in Canada.

IRCC Postpones Reopening of Parent-Grandparent Sponsorship Program

Many prospective sponsors of parents and grandparents were very disappointed to learn that IRCC has put on hold the parent-grandparent sponsorship program for 2020 until the new ministerial instructions had been released. No specific date had been provided for their release.

In the past years, IRCC had been launching the online interest to sponsor forms at the start of each year to allow prospective sponsors to initiate the sponsorship application process. Due to various issues which arose from the previous attempts to revise the parental sponsorship application process, IRCC is once again reviewing the program in the hope of addressing the inadequacies of the past systems that have caused disappointment and frustration to families affected.

Meanwhile, it must be noted that the super visa program is still an option that will enable parents and grandparents to come to Canada as visitors and which will allow them to stay for an extended period of up to two years for every visit. Although understandably less desirable than permanent residency, this will at least allow temporary reunification of family members for those who will meet the requirements.

If the super visa option is not possible for any reason, there may be other immigration options available, such as the temporary resident permit and humanitarian and compassionate route. Since these applications are not commonly-used and are highly discretionary, it will be best to seek legal advice before submitting these types of immigration application.

Permanent Residency for Out-of-Status Construction Workers in the GTA

In July 2019, the former IRCC Minister Ahmed Hussen introduced a temporary public policy that will grant permanent residency to out of status construction workers in the Greater Toronto Area (GTA). This is a rare opportunity for out of status residents in the GTA to obtain permanent residency for themselves and their families.

This temporary public policy took effect on 2 January 2020 and will end on 1 January 2022, or when 500 principal applicants (and their qualified dependents) have been granted permanent residence, whichever comes first.

As published in the IRCC website, those who will qualify under this temporary public policy are:

- Foreign Nationals who either:
 - Legally entered Canada as a temporary resident; and, previously received authorization to work in the construction industry; and,

- Can provide proof of filing Canadian income tax returns or declaring income in Canada (400 principal applicants); or,
- Legally entered Canada as a temporary resident (100 principal applicants);
- Have continuously resided in Canada for at least five years on the date of their application;
- Are currently working without authorization in the construction industry in the Greater Toronto Area (GTA) and have accumulated, and be able to provide evidence of, three years full-time work experience within the past five years in construction in the GTA in the following occupations:
 - Major Group 72 industrial, electrical and construction trades
 - Major Group 73 maintenance and equipment operation trades
 - NOC 7441 - residential and commercial installers and servicers
 - NOC 7521 - heavy equipment operators (except crane)
 - NOC 7611 - construction trades helpers and labourers
- Provide evidence of language ability at Canadian Language Benchmark speaking 4, listening 4, reading 4 and writing 4;
- Have family (mother, father, brother, sister, grandmother, grandfather, grandchild, aunt, uncle, niece, nephew or cousin) living in Canada who is a Canadian citizen or permanent resident, or have a spouse, common-law partner or child in Canada;
- Have a referral letter signed by the Canadian Labour Congress attesting that the applicant meets the above conditions; and,
- The foreign national (and family members) are not inadmissible other than pursuant to any of the following: paragraph 40(1)(a) and sections 41, 42 of the Act and for no other reasons than overstaying their temporary resident status and working without authorization.

It must be noted however, that "individuals who have made a refugee claim in Canada and failed refugee claimants are not eligible under this public policy."

The temporary public policy also requires that, "A Memorandum of Understanding between Immigration, Refugees and Citizenship Canada and the Canadian Labour Congress must be valid for this temporary public policy to be in effect. If the Memorandum of Understanding is terminated, Immigration, Refugees and Citizenship Canada will return applications to the Canadian Labour Congress and processing will cease."

If there are more than 500 applicants, IRCC will require the CLC to prioritize applicants in the following order: 1. Applicants with children in Canada (regardless of status) and 2. Applicants with a spouse or common-law partner in Canada (regardless of status)

The Greater Toronto Area (GTA) will be as defined by Statistics Canada – Toronto Economic Region, i.e. City of Toronto, Durham Region, Halton Region, Peel Region and York Region.

As always, this article is meant for information purposes only and not as specific legal advice.

The author is a Filipino-Canadian immigration lawyer and may be reached at deanna@santoslaw.ca or tel. nos. 416-901-8497 and 905-554-7529.