

UNLOCKING THE GLOBAL TALENT FIREWALL: IRCC ANNOUNCES NEW TECH TALENT STRATEGY

Posted on July 7, 2023

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The Government of Canada recognizes that there is still a significant labour shortage in the high-skill tech sector of the Canadian job market and that Canada remains an attractive destination for foreign workers. On June 27, 2023, the Minister of Immigration, Refugees, and Citizenship (“**IRCC**”), the Honourable Sean Fraser, unveiled a new four-pillar approach to attracting and retaining the skills and business talent to create the ‘jobs of tomorrow’. The strategy involves both improvements to existing programs, as well as new immigration pathways for those working in the tech industry.

1. New LMIA-Exempt Innovation Stream

The first pillar in the Tech Talent Strategy is the creation of a new Innovation Stream under the existing International Mobility Program aimed at attracting highly talented individuals. This program, which will be in place by the end of 2023 and which will be exempt from the labour market impact assessment process, will potentially offer two pathways that are not mutually exclusive to tech workers intending to work with high-growth employers in Canada. These include:

- a. five-year employer-specific work permits for workers destined to work for a company identified by the Government of Canada as contributing to Canadian industrial innovation goals; and
- b. open work permits for up to five years for highly skilled workers in select in-demand occupations.

2. Increased Flexibility for Foreign Remote Workers and New Programs Expected

The second arm of the Tech Talent Strategy targets digital nomads (individuals that can perform their jobs remotely from anywhere in the world) as a potential source of talent. While digital nomads currently only need a visitor visa if they are working remotely from Canada for up to six months, IRCC will be collaborating with both public and private partners to explore additional policies that can entice these set of high-skill foreign workers to seek opportunities with Canadian employers while they are here, including pathways to permanent residence when they secure job offers from Canadian employers.

3. Streamlined Work Permits for H-1B Specialty Occupation US-Visa Holders

To improve labor mobility and capitalize on the existing tech talent pool in North America, Canada will introduce a streamlined work permit process for H-1B specialty occupation visa holders in the United States working in high-tech fields. Effective July 16, 2023, these visa holders will be eligible to apply for an open work permit in Canada for up to three years. Their immediate family members will be eligible to apply for temporary resident visas with work or study permits. The measure will remain in effect for one year, or until IRCC receives 10,000 applications. Only principal applicants, and not their accompanying family members, will count toward the application cap.

4. Improving the Global Skills Strategy and Start-Up Visa Program

IRCC is working on improving two existing immigration programs that can benefit workers in high-skilled tech occupations, including by shortening the current lengthy wait times and backlog brought on by the COVID-19 pandemic. IRCC and Employment and Social Development Canada have made significant progress in meeting the two-week processing standards for work permit applications under the Global Talent Stream and Labor Market Impact Assessments. The Start-up Visa Program has also received a boost, with more spots allocated under the multi-year levels plan for 2023–2025. Notably, IRCC will be changing the temporary work permit option for applicants and allow for an open work permit of up to three years, rather than a one-year work permit that limits founders to work solely for their own start-up companies. Eligibility for work permit under this category will now be expanded and be made available to the entire entrepreneurial team. Lastly, IRCC will be prioritizing applications to ensure those supported by committed capital or endorsed by a business incubator that is also a member of Canada's Tech Network will move to the front of the line for processing.

Key Takeaway For Employers

Starting as early as July 16, 2023, employers in the tech industry will be able to take advantage of improved and entirely new immigration pathways to address their labour needs by attracting tech talents from the United States. Notably, holders of H-1B Specialty Occupation visas in the US do not need a job offer to apply to work in Canada. They can make their work permit applications while they search for jobs in Canada.

The tech industry is not the only sector in which IRCC is addressing the national labour shortage with new programs. For more information on which industry-specific pathways are available to your workforce, please contact a member of McMillan's Employment and Labour Relations Group.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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