ABA Legal Sumit 2.0 Immigration in North American During COVID-19: A Canadian Immigration Perspective

Presented by
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Agenda

Update from the Minister of Immigration

• Levels Plan
• Parent and Grandparent sponsorship program
• Innovation #1: Students
• Innovation #2: Becoming a permanent resident by email
• Innovation #3: Changing employers before the new work permit arrives

The Travel Bans

• The Travel Ban from the US
• The Travel Ban from countries other than the US
Agenda (continued)

Foreign Nationals

• Reuniting Family Members of Canadians / Permanent Residents
• Foreign Workers: Who May Enter?
• The “Reuniting” Requirement for countries other than the US
• Overseas Visa Exempt Foreign Nationals: The Ministerial Instruction
• Quarantine Requirements: A Separate Order in Council
Minister of Citizenship and Immigration: What he said during our Q&A
Levels Plan

• Given Canada’s aging population and low birth rate, immigrants are necessary for population growth, labour force, and economic growth
• During the economic recession of 2008/2009, Immigration levels were increased to help fuel the recovery
• Canada’s demographic remains unchanged so immigration continues to be the solution for recovery during this pandemic
• The Minister said the government originally committed to having ~1 million entries over the next 3 years (but this may be lower due to operational pressures)
Parent and Grandparent Sponsorship Program

DELAYED
Innovation #1: Students

• May study online up to 50% outside Canada and still be eligible for the coveted Post Graduate Open Work Permit (Pathway to Permanent Residence)

• May work full-time while classes are still in session if providing an essential service (healthcare, critical infrastructure, supply of food of other critical goods etc.) until August 31, 2020. Announcement available here.
Innovation #2: Becoming a Permanent Resident by Email

• PR status is now being given through email
• Generally, must attend in-person “landing” interview to officially become a Permanent Resident
• Due to COVID-10, all in-Canada permanent residence applicants with approved application are being landed by Email
Innovation #3: Changing Employers Before the New Work Permit Arrives

• A person with a work permit or implied status (or work permit exempt visitor) in Canada who has secured a new job offer may get approval to start working in their new job even while their work permit application is being processed.

• Gets people working in new jobs in ~ 10 days as opposed to 89 days.

• Applies to pending applications and new applications submitted after May 12
The Travel Bans
Travel Ban from the U.S.

Based on the latest Order in Council (click to access) with respect to entries from the United States, one may enter Canada from the U.S. if:

1. The purpose is not “optional or discretionary” such as “tourism, recreation, or entertainment”
   - This requirement does NOT apply if:
     ▪ The foreign national is entering Canada to be with their immediate family who is a Canadian citizen or permanent resident, AND
     ▪ Can demonstrate intent to remain in Canada for at least 15 days

(This new family reunification exemption to the “optional or discretionary” test was added in the latest OIC dated June 8, 2020)
Travel Ban from the U.S.

2. There are no COVID-19 symptoms; and
3. One is able to meet requirement to Quarantine
Travel Ban from all Countries (except the U.S.)

Based on the Order in Council (click to access) with respect to all other countries, first, one must meet one of the below list of exemptions:

1. Immediate family members of Canadian citizens or permanent residents.

2. Workers:
   - Anyone who has a valid work permit or work permit approval (regardless of when it was issued).
   - Dependents of work permit holders must either have:
     1. A valid open work permit of their own;
     2. A valid study permit issue before March 18th; or
     3. Apply for special consular permission for “family reunification.” (exemption 3(1)(b)). An approval letter will be issued by consulate or by emailing: IRCC.COVID-TravelExemptions-Exemptionsdevoyage-COVID,IRCC@cic.gc.ca
Travel Ban from all Countries (except the U.S.)

3. Students:
   • Anyone who has a valid study permit or a study permit approval issued before March 18th.

4. COPR Holders:
   • Anyone whose application for permanent residence was approved before March 18th but has not landed.

5. National Interest:
   • Anyone whose presence is in the “national interest” as determined by either the Minister of Foreign Affairs, Minister of Citizenship and Immigration, or Minister of Public Safety.
Travel Ban from all Countries (except the U.S.)

There are also numerous exemptions for those providing medical, emergency, and other essential services.

Despite the exemptions above, one may not enter if:

1. COVID-19 symptoms, or
2. The purpose is “optional or discretionary” (unless fall under new immediate family member exemption), or
3. Unable to meet requirement to quarantine
Travel Ban from all Countries (except the U.S.)

The latest OIC dated June 8, 2020 adds a new exemption to the “optional or discretionary” purpose prohibition for immediate family members.

A foreign national intending to enter Canada to be with an immediate family member may enter for an optional or discretionary purpose provided that:

• The immediate family is a Canadian citizen or permanent resident, AND
• Can demonstrate intent to remain in Canada for at least 15 days
Previously, the foreign national would have needed to show that the purpose of entry is for non-optional/non-discretionary purposes:

• If the couple ordinarily resided abroad and just intended to “ride out” the pandemic in Canada, this could have been a rationale for refusal.
• The couple would have needed to show that they intend to remain permanently in Canada

Now, the foreign national only needs to prove that he/she intends to remain in Canada for at least 15 days.
**Foreign Workers: So May They Enter or Not?**

- Generally, yes if coming from the U.S.
- If coming from overseas, despite the Deputy Prime Minister stating publicly that all foreign workers may enter, in reality, the issuance of work permits seems to be restricted to those coming for “essential purposes”
- Although Canada is accepting and processing work permit application from overseas, in reality, they are not actually being issued because of operational capacity issues at overseas offices and the unavailability of police clearances, biometrics, etc.
Foreign Workers: Reuniting with family members for Overseas Workers (not U.S.)

• IRCC has advised that family members of approved foreign workers may only apply to enter Canada after the foreign worker has entered Canada and that families cannot enter together but must be “reuniting”
• This is because the Order in Council was drafted when families were separated
• Yet visa offices are approving whole families which makes sense - if your work visa has been approved during COVID, you must be critical (e.g., a physician or researcher relating to COVID). Perhaps the Order in Council should be amended to specifically allow families to arrive together
Overseas Visa Exempt Foreign Nationals Face Additional Restrictions

As per the latest iteration of Ministerial Instructions (click to access):

• Visa exempt nationals from overseas may no longer apply for a work permit upon entry at the border
• They must already hold a previously issued work permit or work permit approval letter
• However, those entering from the U.S. may apply on entry at the border (yet many Canadians are more concerned about Americans entering given hot spots of New York, Michigan, etc.)
Quarantine Requirements
This is a special Order in Council (click to access most recent version) relating to self-isolation.

All entrants to Canada are required to quarantine for 14 days, subject to very limited exceptions. Accordingly, all entrants should have a detailed quarantine plan prepared to present the CBSA border services officer. In detail, the quarantine plan must include:

1. As required by s. 2.2 of the OIC, every traveler must wear a non-medical mask or face covering that the screening officer considers appropriate upon entry and while in transit to their quarantine location in Canada.

2. A quarantine location must be identified in advance (i.e. a residence or hotel booked for 14 days in which they will exclusively stay for 14 days).
   - A “Coronavirus Form” must be completed by each traveler, detailing the address and contact information at which they may be located.
3. The plan must detail how they will **reach the quarantine location** without the use of mass public transportation (personal or rental vehicle is preferred, followed by taxi or ride-share).

4. The plan must detail how the individuals have pre-arranged for **groceries and other necessities** delivered to them in a contact-less manner as they are not allowed to perform any shopping or other activity after arrival for 14 days.

5. The quarantine location must ideally be **separate from any “vulnerable persons”**, defined as a person who:
   - (a) has an underlying medical condition that makes the person susceptible to complications relating to COVID-19;
   - (b) has a compromised immune system from a medical condition or treatment; or
   - (c) is 65 years of age or older.

No individual will be allowed to enter Canada if they are exhibiting COVID-19 symptoms.
Questions?

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