

IMMIGRATION PROGRAMS FOR CANADIAN EMPLOYERS AUDIO TRANSCRIPT

Andrea: My name is Andrea Raso and I am the Chair of the Employment & Labour group at Clark Wilson LLP. Today we're talking with John Soden, a Canadian Immigration and employment lawyer in our Immigration Law practice. We're going to focus on how immigration programs can help employers across Canada meet their skills needs in fast, efficient and effective ways. Good morning John, so who is this information aimed at and why?

John: Good morning Andrea, thanks. Well, it's for every employer who can't efficiently and effectively meet their skills needs from within the Canadian labour market. So, employers that have been trying to recruit for some time and are just not finding the right people with the right experience and the right skills. Essentially, if you're an employer that has positions that have been open for longer than a few weeks, this is for you.

Andrea: So how do you exactly help these employers?

John: So our corporate clients have usually identified the persons they want to employ. They've been through the process of trying to employ Canadians and, for whatever reason, they just haven't found them. So, they've identified non-Canadians, and they come to us to find the best way to bring those people to Canada and get them work permits in the shortest possible time. Whether it's one or a number of foreign workers, we always focus on the employer's short and medium-term objectives, and looking for potential options. This is important because there could be more than one potential option and having options is a good thing because it provides choices and fallback options.

Andrea: Right that makes sense John. Essentially, you don't want to put all of your immigration eggs in one basket.

John: Exactly. So once we've identified the potential options, we evaluate them against the employer's specific objectives, and the facts, to determine which option will give the employer the highest chance of success, with the fastest processing time and the least amount of complexity. So, to do that, our starting point is to look at what are known as International Mobility Programs—IMP for short.

Andrea: What are IMP programs and what is the reasoning for starting with IMP programs John?

John: So IMP programs essentially fall under two main categories. The first being International Trade Agreements and the second being Canadian Interests. Now, the reason we choose IMP-international Mobility Programs- is that they don't require what's known as a Labour Market Impact Assessment.

So that means that the employer is not required to personally prove that they've tried to recruit Canadians for the position. IMP applications are also a single-stage process. So you're applying for a work permit, visa, all in one go, whether that be a visa office outside Canada or a port of entry upon entry to Canada.

And IMP programs have a high rate of success. Some incomplete data for 2023, seven months of 2023, there were 725 IMP work permits approved at an approval rate, success rate, of 95%. That's a high success rate. And the processing times are the shortest. It can often be a matter of weeks depending on where the application has been made.

Andrea: As I understand it, there are several IMP streams. Which do you utilize most often with your clients?

John: Right, so there are the two headline categories. International Agreements, so under that headline category we use Canada U.S. Mexico free trade agreement. That's known as CUSMA, the successor to NAFTA— I should apologise for the acronyms here, there are plenty of them. Canada EU Trade Agreement- CETA, Canada UK trade agreement- CUKTCA. Comprehensive and progressive Pacific trade partnerships- CPPTP. So, there are quite a number there under International Agreements.

And then under Canadian Interests, we use Significant Social, Cultural and Economic Benefit, Francophone Mobility and that's for French speakers being employed outside the province of Quebec, Self-Employed Business Owners, Rural and Northern Immigration Pilot and Reciprocal Agreements.

Andrea: So from what you've said, the IMP seems to cover many situations, but what do you do if the IMP doesn't provide a solution?

John: The Temporary Foreign Worker Program may be an option, but you should bear in mind that it is described by Immigration Refugees and Citizenship Canada as a program of last resort, and we always urge employers to treat it as such. Being a program of last resort means that an employer must prove that they've exhausted all reasonable efforts to hire a Canadian in the position that they wish to hire for. Now, we rarely need to use the Temporary Foreign Worker Program because we usually find an IMP program that will work. But, there are some occasions where it can't be avoided, and if that's the case and it's feasible, then we would use the Temporary Foreign Worker Program.

Andrea: So can you summarize the Temporary Foreign Worker Program?

John: The Temporary Foreign Worker Program is really a three-stage process. The first part of that is the employer needs to conduct what are known as LMIA- Labour Market Impact Assessment compliant recruitment activities. That's for a minimum of four weeks and there is other criteria around where the advertising takes place.

The second part is the preparation of a submission of an LMIA application to Employment and Social Development Canada. The process of putting together that application and the process of approval requires significant interaction by the employer with Employment and Social Development Canada.

And then the third part, if the LMIA is approved, a work permit application then has to be made. So that's entirely separate to that first part. So, if you get an LMIA approved, you've still got to make an application, whereas with the IMP program, you're doing everything all at once, and with IMP programs you don't have to prove that you've tried to find Canadians. And employers should bear in mind the following factors.

1. For an LMIA it's a \$1,000 fee for every position that you want to hire for. So one position, \$1,000. Ten positions, \$10,000. That fee is non-refundable if the LMIA is processed, whether it's approved or not. And, it's not refundable if you don't get the person a work permit.
2. It's very time-consuming.

So, there are quite a few factors there that suggest it is a program of last resort.

Andrea: Right. So thanks John, from the summaries, yes it does appear that the IMP streams are an employer's best option.

John: Yep, and that's what we see in practice every day. Our client profile means that we rarely need to use the Temporary Foreign Worker program because we can find solutions from within an IMP stream. And those IMP streams and the solutions within them provide the highest success rate in the shortest possible time, which adds up for the employer to the best value for money. If we can't find a solution through IMP then we will look at the Temporary Foreign Worker Program, but it's fair to say that if we don't think that it's feasible or a good investment for an employer to make, then we would certainly advise against and we may decline to act for them.

Andrea: What should employers that are considering hiring foreign workers do now that they have this information?

John: They should contact us for a free, initial conversation to find out more about what they need and what the possibilities and the options might be for them. Finding out about the options is crucial. If you know what options you have then you can move forward from there.

Andrea: So it does sound that no matter the industry an employer is in, you will be able to help.

John: Yep, that's right. We can do that, that's definitely the case. These programs work across all industries and for most occupations, most skilled occupations. So, if you feel like you're spinning your wheels with hiring initiatives and getting the people that you need to fill crucial positions, there really is nothing to lose by reaching out to us and having a conversation.

Andrea: That's great John. I guess the last question is, how can listeners get in touch with you?

John: Well, my contact details and links for more information will be provided alongside this audio recording, and wherever and whenever you're listening to it, I'm looking forward to hearing from you.