



August 22, 2008

Ms. Heidi Smith, Director  
Permanent Resident Policy and Program Development Division  
Immigration Branch  
Citizenship and Immigration Canada  
Jean Edmonds Tower South, 8<sup>th</sup> Floor  
365 Laurier Avenue West  
Ottawa, ON K1A 1L1

Dear Ms. Smith:

**Re: Regulations Amending the Immigration and Refugee Protection Regulations (Canadian Experience Class), Canada Gazette, Part I, August 9, 2008**

On behalf of the Citizenship and Immigration Section of the Canadian Bar Association (CBA Section), I am writing with regard to the proposed regulations to implement the Canada Experience Class (CEC). First of all, as we wrote in our February 11, 2008 letter in response to the CEC consultation, we applaud the Department for their efforts regarding this initiative. In reviewing the prepublished regulations, we wish to follow up on two of the issues addressed in our previous submission: language assessment and an in-Canada facility for interviewing and extending status.

### **Language Assessment**

The heart of our submission on the proposed language requirements in the CEC was that these requirements should not be mandatory, and should not be higher than reasonably required for the particular occupation class. We are pleased that the proposed regulations do not contain mandatory language testing. We are also pleased that the government intends, as stated in the Regulatory Impact Analysis Statement, that “applicants with qualifying Canadian work experience at NOC 0 or A will need to demonstrate moderate proficiency in French or English. Applicants with qualifying Canadian work experience at NOC B will need to demonstrate basic proficiency in French or English.” We agree that these are appropriate language thresholds for those in the worker stream.

However, the actual draft regulations appear to provide for language requirements in excess of these thresholds. The draft regulations state:

87.1(2) A foreign national is a member of the Canadian experience class if

...

- c) they have had their proficiency assessed in the English or French language by an organization or institution designated under subsection (4), or have provided other evidence in writing of their proficiency in either language, and have obtained for

their abilities to speak, listen, read and write proficiencies that correspond to benchmarks, as referred to in Canadian Language Benchmarks 2000 for the English language and Niveaux de compétence linguistique canadiens 2006 for the French language, that total

- (i) 28 or higher, in the case of a foreign national who has acquired work experience in one or more occupations that are listed in Skill Type 0 Management Occupations or Skill Level A of the National Occupational Classification matrix, or
- (ii) 20 or higher, in the case of a foreign national who has acquired work experience in one or more occupations that are listed in Skill Level B of the National Occupational Classification matrix. [emphasis added]

According to the information published by Citizenship and Immigration Canada,<sup>1</sup> the Canadian Language Benchmarks (CLB) for moderate proficiency is 6. Thus, obtaining **moderate levels** in each of the four areas of speaking, listening, reading, and writing would equate to **24** (not 28 as provided in the draft regulations). Similarly, the CLB for basic proficiency is 4; thus, obtaining **basic levels** in each of the four areas of speaking, listening, reading, and writing would equate to **16** (not 20 as currently cited in the draft regulations).

In requiring totals of 28 and 20, applicants with NOC 0 or A experience would need to obtain **high proficiency** in at least two of the four areas of language; applicants with NOC B experience would need to obtain **moderate proficiency** in at least two of the four areas or **high proficiency** in at least one of the four areas.

We support the government's intention to provide a moderate language proficiency requirement for occupations in NOC 0 or A and a basic language proficiency requirement for occupations in the NOC B category. To fulfil this intention, we suggest that the draft regulations be amended as follows:

1. The CLB for occupations in NOC 0 or A should be a total of 24, which equates to moderate proficiency in all four bands on the IELTS test.
2. The CLB for occupations in NOC B should be 16, which equates to basic proficiency in all four bands of the IETLS test.

If the government does not change the CLB for these occupations in the regulations, it could be confusing for the public to state that moderate or basic proficiency is required where in fact the wording of the regulations point to a higher standard.

### **In-Canada Facility for Interviewing and Extending Status**

In our February submission, we raised the concern that there would be no provision for in-Canada applicants to be interviewed in Canada. We noted that requiring applicants to travel to Buffalo for interviews is unnecessary and inconvenient. As well, some potential CEC applicants cannot obtain visas

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<sup>1</sup> See Citizenship and Immigration Canada, "Canadian Language Benchmark 6," online: <http://www.cic.gc.ca/english/immigrate/skilled/bench-m-s.asp>; and "Canadian Language Benchmark 4," online: <http://www.cic.gc.ca/english/immigrate/skilled/bench-b-s.asp>

to enter the US, thereby frustrating the true purpose of the CEC class. The government's response in the Regulatory Impact Analysis Statement is as follows:

Stakeholders requested alternative interview locations for foreign nationals required to attend interviews at the Buffalo visa office but unable to obtain U.S. visas. Some suggested CEC applications be processed at other visa offices in the United States, so that applicants from western Canada would not have to travel as far for interviews. It is the regular practice of the Buffalo visa office to refer files to other visa offices for interview in order to accommodate applicants who find themselves in the situations described above.

Referring files back to other US visa offices or to visa offices in the applicant's country of origin would unfortunately not address our concerns. There would still be issues of inconvenience and the impossibility of some applicants to qualify for visas to enter the US. It would be preferable if the regulations specifically permitted interviews to occur in Canada.

### **Conclusion**

We hope that our comments have been helpful to you, and would welcome any questions or clarifications from you or your staff about our submission. As well, we would be pleased to provide input in the CEC kit and Guidelines.

Yours truly,

*(Original signed by Kerri A. Froc for Alex Stojicevic)*

Alex Stojicevic  
Chair, National Citizenship and Immigration Section