

## **New Permanent Residence System Punishes Canadian Businesses**

**CALGARY, AB – September 22, 2015** – “Express Entry, the electronic permanent residence application system for economic skilled immigrants launched by the Canadian federal government on January 1, 2015, and promoted as a way to fast-track the permanent residence process for highly skilled Temporary Foreign Workers (TFW) into Canada, is just not working,” says Evelyn Ackah, a lawyer practicing business immigration law exclusively since 2000.

She’s asking the federal government to fix and relaunch the faulty Express Entry online application portal and to streamline the process for highly skilled foreign workers who are already working in Canada.

The Express Entry Permanent Residence (PR) system was introduced by the federal government in January 2015 as a response to several high-profile scandals involving the temporary foreign worker program that erupted: The RBC case, the HD mining case in BC, and several others featured in the national news.

In the RBC TFW scandal, the CBC’s Kathy Tomlinson broadcast several stories in April 2013 about how [RBC was using its own staff to train temporary foreign workers](#) in her “Go Public” segment. RBC was accused of firing Canadian workers, and then hiring TFWs permanently, through a third-party firm, at lower wages.

The [HD mining scandal](#) was based on replacing experienced Canadians with more than 200 Chinese TFWs.

The series of scandals brought intense negative attention to the TFW program and widespread criticism of the Harper government’s overall immigration policies which led to a complete overhaul of the TFW program. Express Entry was launched as a way to reduce the reliance on the TFW program by moving skilled workers through the permanent residence process faster – thus negating the need for additional LMIA (Labour Market Impact Assessment) renewals.

“The problem is there are still many sectors of the Canadian economy where we have shortages of highly skilled employees. These include senior management, all sectors of technology, the oil industry, and health care,” says Ackah.

She adds that there are also shortages of low-skilled foreign workers in agriculture, food processing (meat processing) hospitality (hotels, restaurants), and more.

Since January 1, 2015, fewer than 7,500 highly skilled economic immigrants have made their way through the express entry portal and have been approved for permanent residence, says Ackah, calling the numbers “ridiculously low. And to-date, fewer than 500 have landed and been admitted to Canada as permanent residents,” she says.

Skilled workers are clearly struggling through this new express entry process. By comparison, 43,000 economic immigrants landed in 2014, prior to the overhaul of the system on January 1, 2015.

According to Ackah, “the Express Entry Permanent Residence program has two main problems that prevent Canadian businesses from getting the skilled workers they need:

1. Firstly, it is a purely electronic online portal that is full of software and technology glitches that cause considerable errors and endless frustration. Information already entered goes missing or causes inconsistencies with historic dates already entered. Because there is no human at the other end, any anomalies in an application are rejected outright without an opportunity for explanation or rectification.
2. Secondly, the Express Entry system is not transparent, meaning the cut-off score selected by the government every few weeks to invite those who have been selected from the pool of qualified applicants is both arbitrary and a moving target – there is no certainty for applicants in the pool.

In addition, an applicant can be selected for one of three classes: the Canadian Experience Class (meaning they have 12 months or more of skilled work in Canada already); the Federal Skilled Worker Class (which is based on previous skilled work experience and education not necessarily including their time working in Canada); or the Federal Skilled Trades Class (similar to the Federal Skilled Worker Class, but with a focus on certified trades) - there is no consistency as to what happens in the case of an applicant who meets more than one of the categories – the portal chooses and there is no rhyme or reason – therefore, no ability to predict which category an applicant will qualify for.

“Rather than deal appropriately with transgressors who abused Canada’s temporary foreign worker program, the government elected to overhaul the entire system. It is now punishing all businesses, even the ones following the previous rules,” says Ackah.

“There are shortages of highly skilled temporary foreign workers that businesses across Canada are trying to fill and their businesses are suffering. If we extrapolate this pattern, Canada’s overall competitiveness is plummeting,” says Ackah.

“No one knows from one week to another if they qualify for permanent residency status. It’s affecting the productivity of businesses and, of course, the workers and their families who are mired in uncertainty. People already here ask: Do we have to leave, or can we stay? It’s very stressful,” says Ackah.

### **Express Entry portal full of bugs, glitches**

The heart of Express Entry is an online electronic portal that is fraught with bugs and glitches. Here are just some of the problems of the online system, where all applicants must submit their information:

- The system crashes regularly, thereby forcing applicants (or their lawyers) to re-do hours of work.
- The software is faulty and unstable - you'll fill out Portion A, and five days later, you'll get a confirmation that you filled out Portion B and that portion A still needs completion.
- Any technology problems require an email to the case specific enquiry department, but you only get an automated response back and it takes two to 4 weeks usually for a response.
- Information entered in one part of the application process doesn't necessarily transfer over and you are forced to retype all over again
- The portal will log you out after a certain amount of time; work is frequently lost.
- No user manual exists for the electronic system.
- There is no one to call with questions, or to report technology errors or glitches.

### **Current System Lacks Transparency**

Here's what a foreign-trained professional goes through, whether it is a geologist, a mining engineer, or a C-suite executive working in Canada as a temporary foreign worker.

Under the new Express Entry system, applicants are assessed in an electronic pool, like a lottery. They are awarded a certain number of points on factors such as age, education, experience, adaptability factors, language proficiency, Canadian experience, an approved job offer and given a score on a 1,200-point scale. Applicants with a Canadian job offer (called a Labour Market Impact Assessment) or those nominated by a provincial government have a significant advantage, as they automatically receive 600 points just because they possess a LMIA and this is before any of their education, age and other factors are calculated.

Every few weeks, the government selects a cut-off score and all those applicants above that score are invited to become permanent residents of Canada. This cut-off score is an arbitrary, moving target.

"It has happened a number of times that less experienced applicants rank higher than more experienced skilled workers simply because they have a Labour Market Impact Assessment that gives them the extra 600 points. Those in Canada as TFW under NAFTA categories or Intra-company transfers do not receive the benefit of the 600 LMIA points and therefore, even if they are the CEO of a multinational company headquartered in Canada, they rank lower in the pool," says Ackah.

### **What Express Entry Needs Now**

The express entry electronic portal needs further testing and improvements to its system stability, accuracy and dependability.

The express entry electronic portal needs a user manual and requirements guide, so that businesses, their lawyers, and individuals applying for permanent residence in Canada know what information will be needed from beginning to end. The express entry system needs full documentation of the entire process.

The express entry electronic portal needs a way to handle questions, within hours or days (not weeks), whether that is by email or by phone.

Further, we need to streamline the system. Highly skilled workers with valid work permits who have been working in Canada for over a year, should be deemed to have a qualifying job offer for Express Entry purposes and should automatically obtain the 600 points needed to put them at the top of the list, without the employer having to re-post the job they are currently in and doing an LMIA simply to try to get the 600 additional points – it is artificial and makes employers feel dishonest.

If workers came under NAFTA, under an intra-company transfer and have works permit for one year, they should have equivalent status to a new hire who has an LMIA.

“It’s been nine months already. It’s time for the government to fix a system that doesn’t work for Canadian businesses and that is putting off highly skilled candidates who no longer see Canada as a viable option. Foreign workers with sought-after skills are now going to other countries where the immigrant process is clearer and more certain,” says Ackah.

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## FACT SHEET

### Aggregate Data on Applications for Permanent Residence through Express Entry

as at July 6, 2015

<b>Principal Applicants</b>	<b>Description</b>	<b>Percentages</b>
112,701	Applied for Express Entry	
12,017	Given Invitation To Apply (ITA)	12,017/112,701 = <b>10.66%</b>  The percentage of people who applied for EE and received an ITA
7,528	Submitted the Electronic Application for Express Entry  (principal applicant only)	7,528/12,017 = <b>62.64%</b>  The number of people who used their ITAs  (principal applicant)
655	Applications approved  (principal applicant only)	655/7,528 = <b>8.7%</b>  The percentage of people who have been approved
5,835	Applications in progress – E-APR submitted but is in progress by CIC  (principal applicant only)	5,835/7,528 = <b>77.51%</b>  The percentage of applications been submitted but in progress
844	Visas issued  (principal applicant and dependants)	844/7,528 = <b>11.21%</b>  The percentage of applicants that have received Confirmation of Permanent Residence based on Principal applicants who have dependents
411	Admissions  (principal applicant and dependants)	411/7,528 = <b>5.46%</b>  The percentage of applicants and their dependents who have landed.

SOURCE: <http://www.cic.gc.ca/english/resources/reports/ee-midyear-2015.asp>