

Changes to permanent residency selection create anxiety for applicants

By **Sergio R. Karas**

Law360 Canada (January 13, 2025, 1:30 PM EST) -- On Dec. 17, 2024, Immigration Minister Marc Miller announced that Express Entry candidates would no longer receive additional points in the Comprehensive Ranking System (CRS) for holding a Labour Market Impact Assessment (LMIA) based job offer. This change will come into effect in the spring of 2025 but is already causing anxiety among permanent residency applicants.

The CRS is a points-based method used to rank candidates for permanent residency under the Express Entry program. They are awarded points based on age, education, work experience and language proficiency. Before this change, candidates with an LMIA-supported job offer could receive 50 or 200 additional CRS points, depending on the job tier in the National Occupational Classification, greatly enhancing their chances of receiving an Invitation to Apply (ITA) for permanent residency.



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This new measure aims to reduce fraud by eliminating the incentive to illegally buy or sell LMIA to boost a candidate's chances of being selected for permanent residency. The change shifts the focus from arranged employment to prioritizing factors such as skills, education and adaptability. According to IRCC, this new approach is designed to create a fairer and merit-based immigration process, but the change has created challenges for legitimate candidates. Once they take effect, the changes will impact candidates pursuing permanent residence through the Express Entry system, including those currently working in Canada temporarily.

A spokesperson for Employment Minister Randy Boissonnault had previously denounced LMIA fraudsters for targeting "vulnerable people," and that selling LMIA tries to undermine a fair immigration system and anyone who charges an individual for an LMIA is breaking the law and taking advantage of vulnerable people like in this situation. The Canada Border Services Agency confirmed that it has charged 153 individuals within Canada for fraudulent immigration crimes in the last five years.

Fraudulent activities in the LMIA process often involve the falsification of job offers, misrepresentation of labour market needs and exploitation of vulnerable workers. As an example of outrageous LMIA fraud, the *Times of India* reported that a 41-year-old man had been fined \$20,000 for causing immigration fraud by misrepresenting the documents to help get a work permit in Canada. Another example reported by Radio Canada International news noted that an Indian national arrived in Canada in late 2022 with a work permit facilitated by an immigration consultant, who helped secure a job offer at a restaurant and confirmed the employer's approval to a hire foreign worker. However, once in Canada, the worker was told he would not be given work hours and was instead instructed to make \$3,000 bi-weekly cash payments to be added to the restaurant's payroll. In return, he would receive paystubs to support his permanent residency application.

Such fraudulent schemes involve multiple parties, including the employer, the worker and unscrupulous immigration consultants. The employer exploits the worker by demanding payments for a non-existent position, while the consultant helps facilitate the fraud by assisting with the documentation. This not only undermines the LMIA process but also exploits vulnerable workers, making it essential to strengthen oversight and accountability to protect the integrity of Canada's immigration system.

A 2024 United Nations report characterized the temporary foreign workers program as a system that fosters conditions akin to slavery. According to industry experts, the demand for LMIAs has risen in recent years due to changes in Canada's points-based immigration system for skilled workers, which have made it more difficult for potential immigrants to meet the qualifications required for selection. Consequently, in 2024 LMIAs were sold at higher prices than ever before, ranging from \$10,000 to as much as \$70,000 in some instances.

Fraudsters are selling fake LMIAs that appear to be pieced together on Immigration, Refugees and Citizenship Canada letterhead, with several watermarks from various organizations, including the Canadian Labour Congress. Since LMIAs are issued by Employment and Social Development Canada, unsophisticated individuals have reportedly fallen victim to this scam.

The new measures reduce the risk of exploitation and unfair practices where some candidates may have been pressured into accepting suboptimal job conditions to secure additional CRS points. Employers found non-compliant with the Temporary Foreign Worker Program conditions could face significant penalties ranging from warning letters to Administrative Monetary Penalties (AMPs) of \$500 to \$100,000 per violation up to \$1 million each year. They could also face temporary or permanent bans for more serious violations.

Individuals who are persuaded to pay for a job opportunity in Canada must understand that LMIAs no longer provide additional points in the immigration system. Eliminating this incentive is anticipated to make the skilled worker selection process for permanent residency fairer and more transparent. The reforms aim to attract foreign talent, strengthen the labor market, and maintain the integrity of immigration programs. By removing additional CRS points for LMIA-based job offers, the system prioritizes candidates with strong human capital attributes such as education, language proficiency, and work experience. This shift is expected to benefit individuals with greater adaptability and long-term potential, promoting a merit-driven approach to immigration.

The policy change does not differentiate between job sectors; all candidates with job offers will see a reduction in their CRS score. Those who have already received an ITA for permanent residence, or who have submitted their applications and are currently being processed, will not be affected by this change. They retain the points they earned for job offers under the previous system.

It is not yet clear whether any existing Express Entry candidates will be able to continue to benefit from additional points for valid job offers for the period before this change takes effect, or whether IRCC will refrain from holding any general Express Entry draws before the implementation of the change.

While the elimination of additional CRS points for LMIA-based job offers creates a fairer, more merit-focused system, it introduces challenges for applicants. Candidates already in the Express Entry pool who relied on legitimate LMIA points may experience reduced chances of success, creating uncertainty and potentially discouraging skilled workers from continuing their pursuit of Canadian immigration. This shift might also lead to a reduction in the CRS cut-off scores for all future Express

Entry draws.

As of Dec. 16, 2024, there were 221,310 candidate profiles in the Express Entry pool. The removal of LMIA-based job offer points may alter the CRS score distribution, potentially lowering the minimum score required to receive an ITA. As a result, many candidates may shift their focus and put more pressure on Provincial Nominee Programs which remain alternative routes to permanent residency.

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