

March 10, 2023

SENT VIA EMAIL - Minister.TED@gov.sk.ca

Honourable Jeremy Harrison
Minister of Immigration and Career Training
346 – 2405 Legislative Drive
Regina SK S4S 0B3

Dear Honourable Jeremy Harrison,

RE: Newly Proposed Saskatchewan Immigration Accord

This letter is on behalf of the Immigration Law section of the CBA Saskatchewan branch (the “CBA Immigration Section”) concerning the proposed Canada-Saskatchewan Immigration Accord (the “Accord”). The comments in this letter are supported by the Board of Directors of CBA Saskatchewan. The CBA Saskatchewan membership was invited to provide feedback and comment to these submissions and no feedback in opposition was received from any CBA Saskatchewan member.

Feedback in support of this letter was specifically received from other members of the CBA Immigration Section. These lawyers who are in support of this letter practice immigration and refugee law in Saskatchewan. As lawyers whose daily practice is working within the federal and provincial immigration programs, we provide the following comments, support and concerns regarding the proposed accord.

Remove substitute evaluation for provincial nominees

The CBA Immigration Section is in support of section 2.9 of the Accord which states *Canada shall admit any immigrant destined to Saskatchewan who meets Saskatchewan’s selection criteria if that immigrant is not in an inadmissible class under the law of Canada.*

Currently, according to section 87(3) of the *Immigration and Refugee Protection Regulations*, an Immigration Refugee and Citizenship Canada (“IRCC”) Officer may substitute their evaluation of a provincial nominee applicant for the evaluation of a Saskatchewan Immigrant Nominee (“SINP”) Officer:

Substitution of evaluation

(3) If the fact that the foreign national is named in a certificate referred to in paragraph (2)(a) is not a sufficient indicator of whether they may become economically established in Canada and an officer has consulted the government that issued the certificate, the officer may substitute for the criteria set out in subsection (2) their evaluation of the likelihood of the ability of the foreign national to become economically established in Canada.

This means that a SINP applicant, who has applied to SINP and been assessed as meeting eligibility requirements or the program, can later be refused by an IRCC Officer on the finding that the applicant

is unlikely to become economically established in Canada. Frequently, the IRCC Officer comes to this decision based on the English proficiency of the applicant – even though the applicant meets the language proficiency required by the SINP category, which has been approved by the federal government. More so, the SINP Officer has a better understanding of the labour market demands and requirements that the applicant is filling compared to the IRCC Officer.

This substituted evaluation leads to uncertainty, lack of trust and delay in the SINP. Our members consider it unfair to applicants to have their applications rejected based on stricter language criteria at the federal level than is acceptable at the provincial level. For these reasons, the CBA Immigration Section supports section 2.9 of the Accord removing the substitution of evaluation for provincial nominees.

Meeting economic needs and addressing labour market gaps

As indicated in the Government of Saskatchewan’s press release dated July 28, 2022, the Accord would give Saskatchewan “similar authorities over immigration that have long been guaranteed to the Province of Quebec”. The press release also quotes the Honourable Jeremy Harrison as saying, “Saskatchewan requires more autonomy and flexibility over immigration to meet its economic needs and address gaps in the labour market”. It is not clear to us how the Accord would meet these goals.

Currently, through the federal Labour Market Impact Assessment (LMIA) and the majority of the SINP categories, an employer can recruit foreign national(s) and through the application process, facilitate the issuance of a closed work permit so that the foreign national works for that specific employer. Additionally, SINP has introduced dynamic pilot programs to address labour market needs, for example, the current Hard-to-Fill Skills Pilot. In our view, innovative categories like the Hard-to-Fills Skills pilot should be leveraged and advanced as opposed to a full overhaul of the immigration system and transfer of authority to Saskatchewan.

Growing the population

The CBA Immigration Section doubts the proposed Accord will increase Saskatchewan’s population as is a stated objective by the Government of Saskatchewan. Saskatchewan indeed struggles with keeping immigrants, and non-immigrants, in Saskatchewan. Data held by Statistics Canada reveals that Saskatchewan’s retention of immigrants over five years, specifically from 2014 to 2019 was 62.7%, well below the Canadian average of 85.5%.¹ As well, the *Express Entry Year-End Report 2019* indicates that of the 67,649 applications for permanent residence received through Express Entry, 44,224 applicants expressed planning to reside in Ontario. Only 1,524 expressed planning to reside in Saskatchewan.² Moreso, in 2020 and 2021, Saskatchewan experienced a net interprovincial loss of 10,301 and 9,996 respectively.³

As is well-known, once an immigrant is a permanent resident, they have the right of mobility as guaranteed by the *Canadian Charter of Rights and Freedoms* section 6(2) and 6(3). As such, the transfer of authority from Canada to Saskatchewan, as proposed in the Accord, would not keep permanent residents in Saskatchewan. The CBA Immigration Section suggests efforts should be taken to address why immigrants choose not to come to, or remain in, Saskatchewan, and address those concerns. Any attempt to *force* immigrants to stay in Saskatchewan, or make it difficult for immigrants to leave Saskatchewan, may lead to them deciding not to try Saskatchewan in the first place.

¹ <https://www150.statcan.gc.ca/n1/daily-quotidien/211210/t001b-eng.htm>

² <https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/pub/2019-ee-report-pdfversion-eng.pdf>

³ <https://publications.saskatchewan.ca/api/v1/products/87174/formats/135603/download>

Processing time and capacity

The CBA Immigration Section is concerned that the selection of immigrants by the Government of Saskatchewan would not decrease processing times, or reduce confusion among new Canadians, as is stated in the July 28, 2022 press release. Currently, the SINP has lengthy wait times for processing certain applications, for example, it takes the SINP eight weeks to process a Job Approval Letter, 32 weeks for an Occupation In-Demand application and 24 weeks for an Express Entry Application.⁴ Additionally, when applications require a program integrity review SINP provides no estimated processing time, and these reviews can take upwards of a year.

If the Government of Saskatchewan is responsible for the selection of immigrants, it would add a layer of complexity and delay that could reduce the number of new immigrants coming to Saskatchewan – not increase it. We are also concerned that devolving more selection authority to the Province might lead to inefficient duplication of bureaucracies as Saskatchewan would be doing much the same role as the federal department.

The SINP should work to shorten the current wait times. This would aid in addressing labour market shortages by encouraging employers to fill their employment needs through the SINP program. The long wait times cause many employers to see the SINP as too slow to be a viable solution to their labour market needs.

Thank you for your time and consideration. If you have any further questions or concerns, please do not hesitate to contact me directly.

Sincerely,



On behalf of the CBASK Immigration Section,
Davida L Bentham, B.A., J.D.
Legislative & Law Reform Representative
CBASK Immigration Law section

CC:

Jana Linner, CBASK President - jlinner@mltaikins.com

Christopher Veeman, CBASK Immigration Law Section, Chair – chris@veemanlaw.com

James Steele, CBASK Legislation and Law Reform Director – j.steele@rslaw.com

⁴ <https://www.saskatchewan.ca/residents/moving-to-saskatchewan/live-in-saskatchewan/by-immigrating/saskatchewan-immigrant-nominee-program/check-application-processing-times-for-sinp>



Government
— of —
Saskatchewan

Minister of Immigration and
Career Training

Legislative Building
Regina, Canada S4S 0B3

Dauida Bentham
Legislative & Law Reform Representative
The Canadian Bar Association Saskatchewan Branch
dauida.bentham@pblsask.ca

Dear Dauida Bentham:

Thank you for your correspondence dated March 10, 2023, on behalf of the Canadian Bar Association Saskatchewan Branch (CBASK), regarding the proposed *Saskatchewan Immigration Accord (The Accord)*.

The Government of Saskatchewan's proposed *Accord* is part of a broader negotiation with the federal government to provide Saskatchewan with greater autonomy over immigration. The Government of Saskatchewan recognizes that both orders of government have a role to play in immigration and seeks to reduce duplication, clarify responsibilities, and ensure that immigration programs and policies are responsive to the province's needs.

I appreciate the CBASK's support for the removal of Immigration, Refugees and Citizenship Canada's (IRCC's) ability to substitute the evaluation of a provincial nominee's ability to economically establish. This is an unnecessary, duplicative step and, as you mention, the provincial government has a better understanding of the province's labour market demands than the federal government. I am pleased to let you know that the federal government has recently signaled that it would be open to amending legislation and bilateral immigration agreements to address this concern.

The Accord will assist Saskatchewan with growing its population and addressing labour market gaps to better meet economic need as Saskatchewan proposes to set its own economic immigration levels up to its per capita share of national immigration levels plus five per cent of national levels. In addition, *The Accord* proposes that the federal government devolve to Saskatchewan the funding and responsibility to design and deliver responsive and locally relevant settlement and integration services that better welcome and support newcomers, which will positively impact retention rates for our province.

In order to meet the increased immigration levels, the 2023 Saskatchewan Budget includes additional funding to the Ministry of Immigration and Career Training (ICT) to hire more front-line staff to process applications and support program integrity as well as increasing funds for settlement services by \$4.8 million.

Once again, thank you for taking the time to share comments, support and observations regarding *The Accord*.

Sincerely,



Jeremy Harrison
Minister of Immigration and Career Training

cc: Clint Repski, Deputy Minister, Immigration and Career Training
Jana Linner, CBASK President
Christopher Veeman, CBASK Immigration Law Section Chair
James Steele, CBASK Legislation and Law Reform Director