



Pathway to Canadian Immigration

Why Purchasing an Existing Canadian Business May Be Right for You

I) Introduction

Canada offers many benefits for immigrants, including a high standard of living, an advanced economy and a culture that is generally very positive towards immigration. Canada's "owner-operator" policies provide an avenue for high net-worth individuals to come to Canada and seek permanent residency by buying or starting a business in Canada.

More importantly, nearly 75% of small business owners in Canada are expected to exit their businesses in the next 10 years, and finding a potential purchaser to take over their businesses will be a challenge. This is where individuals looking to come to Canada may be able to find attractive businesses to take over and advance their immigration process at the same time.

II) Who is Eligible?

One method by which an applicant may apply to work in Canada whilst owning a business is through the owner-operator program, which consists of an owner-operator based Labour Market Impact Assessment ("LMIA") and associated work permit. To be eligible for this program, the applicant must be a foreign investor with management experience that can be verified and will be transferable to the business being operated in Canada. The applicant must have sufficient assets to purchase an already operating business in Canada or start a business in Canada. Additionally, applicants must have sufficient skill at speaking either English or French to actively manage a Canadian business.

III) The Application Process

The investor seeking to come to Canada must first determine the target business. It is often easier to target a pre-existing business, as the documentation already exists and it will be easier to show the viability of the proposed business. Additionally, Canada currently has an aging population with many business owners reaching a point in their lives where they are ready to sell the business and retire. Foreign investors can often acquire a strong business for a reasonable price.

After selecting the business and negotiating the transaction to the extent necessary, investors must submit a suitable business plan along with a LMIA application. An LMIA is an application to Service Canada to show that there is no Canadian citizen or permanent resident who can fill the particular position. Its purpose is to show that it is necessary to bring in a foreign worker and that doing so will not affect Canadians' job prospects. In terms of processing times, a decision on the LMIA will generally take approximately 2-3 months.

Once the LMIA and business plan are approved, the investor can apply for a work permit to run the business in Canada. The work permit will typically have a validity period of 12-24 months. While the processing time for the work permit is dependent on an Applicant's nationality, a decision will typically be rendered within 2-3 months.



IV) Becoming a Permanent Resident

If the LMIA and work permit are approved, the investor is free to come to Canada, and usually investors are able to bring their families. Once in Canada, they may be able to apply for permanent residency, usually through either the Federal Skilled Express Entry or the Provincial Nominee program, provided they are eligible and they receive either a nomination or an invitation to apply. These programs are tailored to high-skill workers, such as owner-operators, especially those who are retaining or creating jobs in Canada.

Additional options available to entrepreneurs include Significant Benefit work permits and Provincial Nomination Programs. Note that as the above-mentioned programs are intricate and complex, it is recommended that you seek legal advice prior to determining which route to proceed with.

V) Legal Expertise – Purchasing the Business

When purchasing an existing business, it is important to have experienced legal counsel. Aird & Berlis has a leading mergers and acquisitions team that regularly acts on behalf of foreign purchasers. Our clients range from startups and entrepreneurs to Fortune 100 companies. Our corporate lawyers have helped our clients purchase and sell thousands of businesses. We specialize in small and medium size businesses and are extremely well positioned to advise on these transactions on a cost-efficient basis.

VI) Conclusion

Immigration can be a long and draining process, both financially and emotionally, given the stakes involved. However, the owner-operator rules in Canada's immigration system offer an expedited way for individuals with sufficient assets to come to Canada. As Canada's population continues to age, more Canadian businesses may be in a position to sell controlling stakes, opening the doors for more foreign investors to make the most of these useful immigration laws.

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This communication offers general comments on legal developments of concern to business organizations and individuals and is not intended to provide legal advice. Readers should seek professional legal advice on the particular issues that concern them.

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Fiona has extensive experience advising international businesses entering the Canadian market. To date, she has advised more than 100 companies expanding into Canada. Fiona advises clients in this space all day, every day. She has been practising for more than a decade and is a regular speaker and writer on market expansion matters. Fiona is proud to have been recognized by *The Best Lawyers in Canada*, *The Canadian Legal Expert Directory* and *Benchmark Canada*.

A proactive and comprehensive approach is required to succeed in a new market. Fiona manages teams of other lawyers and patent agents to provide her clients with a full range of legal services to help their businesses grow. She acts as project manager to ensure her clients receive seamless legal services in all relevant areas.

Fiona takes great care to understand her clients' businesses and deliver advice that is tailored to meeting their specific needs. Her responsiveness, dedication to clear communication and hands-on approach show that she is personally invested in the success of her clients.

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Founder and Managing Partner of Marani Law LLP, Zaynah Marani is the Business Immigration Practice Lead, providing practical legal solutions to her clients around the world.

Zaynah specializes in advising multinational companies with their global mobility needs, particularly in relation to relocating employees into Canada.