

Exploring Legal Migration Pathways From Nigeria to Canada



Overview

- **Why Immigrate to Canada?**
- **About Topmarke Attorneys LLP**
- **Areas of immigration**
- **Inadmissibility**
- **Permanent Resident to Citizenship**
- **Dealing with rejected applications/claims**
- **Consultation**
- **Questions**

Why immigrate to Canada?



- Canada is a highly developed country with excellent working conditions, an outstanding education system, a very high standard of living and one of the world's top health care systems.
- It is a country composed of immigrants from every country in the world. Multiculturalism is promoted to help the unique nature of the diversified backgrounds and cultures.

“Canada is a nation of immigrants. We’ve always had immigration as a key tool for economic growth and nation building...There’s an understanding in Canada that immigration is a net positive for our society and that we should continue to have a very robust immigration system that welcomes those in need of protection but also those that want to come and give us their skills and talents...There are very substantial contributions to our economic growth, our prosperity, to our social and cultural mosaic that come from immigration”



Hussen
Minister of Citizenship and Immigration



Importance Of Immigration To A Nation



Immigrants and Canadian Economy

Immigrants

Supporting ageing population
(admission of people under 45 years)

Temporary foreign workers.
400,000 in 2019

Health Care & Social Services. As of 2016
335,000 immigrants work in the health sector

International students = \$21 billion (yearly)

Economic immigrants match average Canadian earning within 1 year

Immigration and Economic Growth



Immigration targets by numbers

2022-2024 Immigration Levels Plan

Immigrant Category		2022	2023 ¹⁰			2024 ¹⁰				
		Target	Low Range ¹¹	High Range ¹¹	Target	Low Range ¹¹	High Range ¹¹	Target	Low Range ¹¹	High Range ¹¹
Overall Planned Permanent Resident Admissions		431,645	360,000	445,000	447,055	380,000	465,000	451,000	390,000	475,000
Economic	Federal High Skilled ¹	55,900	52,000	64,000	75,750	63,000	84,000	111,500	91,000	118,000
	Federal Economic Public Policies ²	40,000	30,000	48,000	32,000	25,000	42,000	-	-	-
	Federal Business ³	1,000	800	1,500	1,000	800	1,500	1,500	1,000	2,000
	Economic Pilots ⁴ : Caregivers ⁵ ; Agri-Food Pilot; Rural and Northern Immigration Pilot; Economic Mobility Pathways Project	10,250	4,000	10,500	11,250	7,000	18,000	12,750	8,000	20,000
	Atlantic Immigration Program	6,250	4,000	8,000	6,500	4,000	10,000	6,500	4,000	12,000
	Provincial Nominee Program	83,500	80,000	95,000	86,000	82,000	95,000	93,000	88,000	98,000
	Quebec Skilled Workers and Business ⁶	See the Quebec immigration plan			To be determined			To be determined		
	Total Economic	241,850	210,000	248,000	253,000	222,000	259,000	267,750	235,000	273,000
Family	Spouses, Partners and Children	80,000	68,000	81,000	81,000	70,000	84,000	81,000	70,000	84,000
	Parents and Grandparents	25,000	19,000	31,000	28,500	22,000	38,000	32,000	27,000	43,000
	Total Family	105,000	90,000	109,000	109,500	94,000	113,000	113,000	99,000	117,000

Immigration targets by numbers

Family	Spouses, Partners and Children	80,000	68,000	81,000	81,000	70,000	84,000	81,000	70,000	84,000
	Parents and Grandparents	25,000	19,000	31,000	28,500	22,000	38,000	32,000	27,000	43,000
	Total Family	105,000	90,000	109,000	109,500	94,000	113,000	113,000	99,000	117,000
Refugees and Protected Persons	Protected Persons in Canada and Dependents Abroad	24,500	20,000	27,500	25,000	20,500	28,000	25,500	21,000	28,500
	Resettled Refugees - Government-Assisted ⁷	19,790	15,500	24,000	17,260	13,500	26,000	13,000	10,000	19,500
	Resettled Refugees - Privately Sponsored	31,255	19,000	34,000	30,795	19,400	34,000	23,000	15,500	28,000
	Resettled Refugees - Blended Visa Office-Referral	1,000	100	1,100	1,000	100	1,100	1,000	100	1,100
	Total Refugees ⁸ and Protected Persons	76,545	55,000	79,500	74,055	57,000	82,000	62,500	50,000	75,500
Humanitarian and Other	Total Humanitarian & Compassionate and Other ⁹	8,250	5,000	8,500	10,500	7,000	11,000	7,750	6,000	9,500
French-speaking immigration admissions necessary to meet 2023 objective in Francophone Immigration Strategy (PDF, 582 KB) ¹²						14,014	17,886			

The targets over the next couple of years confirms that Canada is the choice destination for immigration through legal channels.

Topmarke Attorneys- legal matters |Top minds

At Topmarke our mission revolves on a three-pronged value proposition focused on our clients, our firm and our community.

We have a legacy of excellence as we make a difference daily and develop, assemble and nurture the strongest array of legal talent.

The firm is better prepared and equipped to handle immigration and refugee law matters as well as the firm's other areas of law practice.

Areas of immigration in Canada

- Express Entry- Skilled Program
- Immigrant Investor Program
- Provincial Nominee Program
- Quebec Programs
- Rural and Northern Immigration Pilot
- Caregiver Programs
- Study Permit
- Visiting Visa

Areas of immigration in Canada

- Super Visa- Parents and Grandparents
- Start Up Visa Program
- Family Sponsorship
- Refugee and Asylum
- In Canada without status
- Public Policy Pathways



Express Entry- Skilled Program

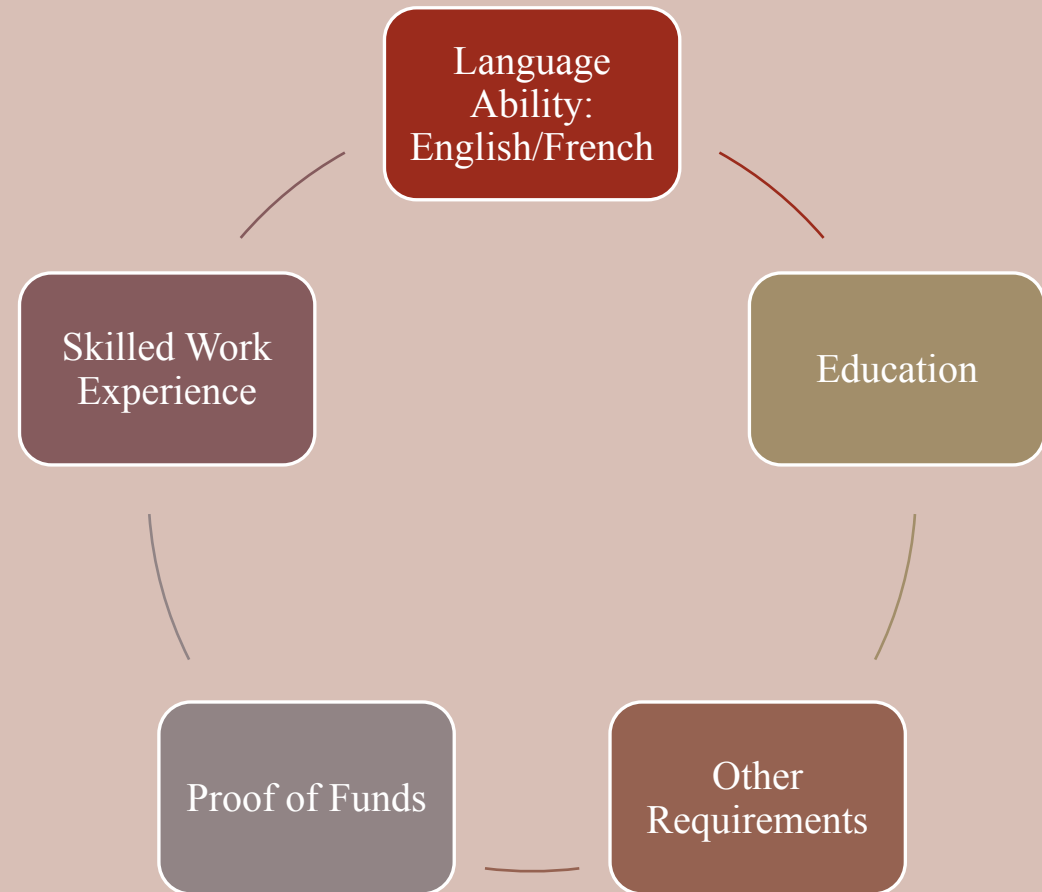
Express Entry is a type of selection system for Canadian immigration, designed to select skilled workers to migrate to Canada.

- This system is classified under three programs;
 - Federal skilled worker program
 - Federal skilled trade program
 - Canadian experience class

Federal Skilled Worker Program

□ This program is for people who are selected to immigrate to Canada based on their work experience and skills

□ The minimum requirements needed to apply through this program include the following:



Federal Skilled Trade Program

This program is for people who want to migrate to Canada as permanent residents based on being qualified in skilled trade.

- The minimum requirements needed to apply through this program include the following:
 - **Certificate of qualification in that skilled trade**
 - **Language ability: English/ French**
 - **Other requirements**

Canadian Experience Class

This is a program is for individuals with skilled work experience in Canada that want to obtain permanent residency in the country.

- The minimum requirements needed to apply through this program include the following:
 - **Skilled work experience in Canada**
 - **Language ability: English/ French**
 - **Other requirements**

Investor Programs

The main aim of this program is to have experienced business individuals contribute to Canada's growth by investing in the economy.

- ❑ Investors must be able to show that they have business experience and have at least a net worth of \$ (CAD) 500,000 - \$2 million which was gained legally and be able to invest between \$ (CAD) 150,000-1.2 million.
- ❑ It is important to know that your investment is guaranteed and would be returned without interest after 5 years and three months of payment
- ❑ Once application is approved, Citizenship and Immigration Canada (CIC) would issue you permanent residence after investment has been made

Provincial Nominee Programs

This program varies from each province and territory as they have their own streams and criteria. There are two main streams common in all the programs.

This includes the non express entry and express entry stream.

✓ **If you are applying through the paper-based process**

You must meet the minimum requirements of one of the province or territory's non-Express Entry streams.

✓ **If you are applying through Express Entry**

You must meet the minimum requirements of a province or territory's Express Entry PNP stream.

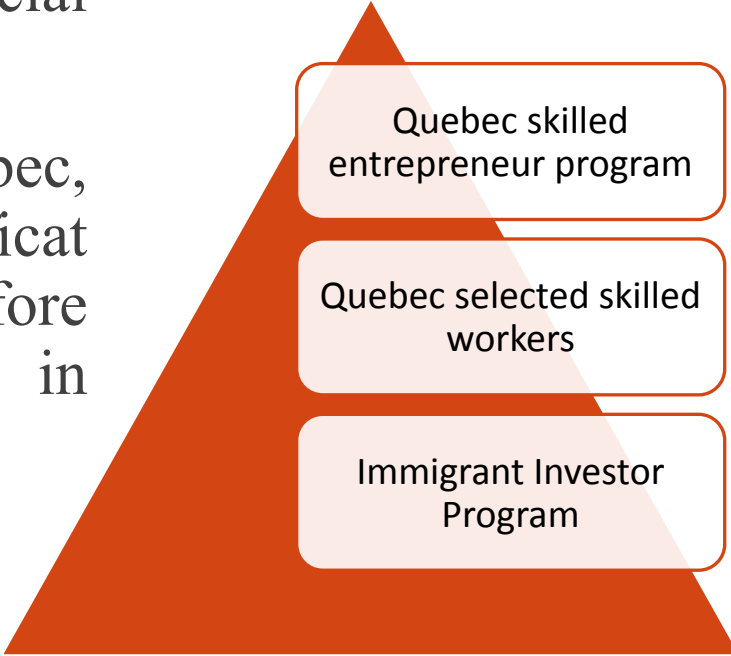
You must be nominated under that stream.

Quebec Programs

Quebec administers its own immigration programs with selection criteria that are distinct and more predictable from those of federal and other provincial immigration programs.

If you decide to immigrate to Québec, you will first have to obtain a Certificat de sélection du Québec (CSQ) before applying for permanent residence in Canada.

□ The programs include:



Quebec skilled
entrepreneur program

Quebec selected skilled
workers

Immigrant Investor
Program

Rural and Northern Immigration pilot

This program is designed to spread the benefits of economic immigration to smaller communities by creating a path to permanent residence for skilled workers who want to live and work in one of the participating communities

□ The minimum requirements needed to apply through this program include the following:

- ✓ **Skilled work experience (1 year) or Graduation from a public post secondary institution in the community**
- ✓ **Job offer**
- ✓ **Language ability: English/ French**
- ✓ **Education**
- ✓ **Proof of funds**
- ✓ **Other requirements**



Caregiver Programs

This program provides a pathway for in-home caregivers to become permanent residents once they have obtained 2 years of eligible work experience in Canada. This replaced Live-in-care giver program for new applicants

- Care giver could be hired from overseas or within Canada
- The minimum requirements needed to apply through this program include the following:
 - **Genuine Job offer**
 - **Language ability**
 - **Education**
 - **Work experience in Canada as a home childcare provider or home support worker / ability to do the job based on past experience or training**

Caregiver Programs

Home childcare provider (NOC 4411)

- You must care for children under the age of 18 in your own home or in your employer's home
- You don't need to live in your employer's home to qualify
- Experience as a foster parent doesn't count

Home support worker (NOC 4412)

- You must care for someone who needs help from a home support worker either in your own home or in your employer's home
- You don't need to live in your employer's home to qualify
- Only home support workers are eligible under NOC 4412
- Experience as a housekeeper doesn't count

Study Permit

This is a document issued to foreign nationals that desire to study in Canada through a designated learning institution. (DLI). In order to study in Canada, you must obtain an acceptance letter from a DLI.

- The minimum requirements include;
 - **Proof of identity – Valid passport and travel documents**
 - **Proof of funds**
 - **Other documents**



*** Note: Your study permit is not a visa. It alone doesn't allow you to enter Canada. You may also need a temporary resident visa or electronic travel authorization (ETA) . If so, it will be issued it as part of your study permit application.**

Temporary Resident Visa – IMM 5256

This is also referred to as Visitor Visa. It is an official document issued by the Canadian visa office.

Persons who are not Canadian citizens or permanent residents of Canada may require a visa to enter Canada. The requirement for a visa also applies to temporary residents who are transiting through Canada.

□ **Useful tips when applying for visitors visa;**

- A travel itinerary with valid return tickets to convince an officer that you will return to your home country.
- Proof of employment, family ties and property in your home country
- Demonstrating your ties to your home country

Super Visa – Grandparents and Parents

The Super Visa is a multi-entry visa that provides multiple entries for a period up to 10 years.

- To be eligible for super visa applicants must be the parents or grandparents of Canadian citizens or permanent residents.
- The key difference between super visa and visitors visa is that the super visa allows an individual to stay for up to two years on initial entry into Canada, while a 10-year multiple entry visa would only have a status period for each entry of six months only.

Start- up visa program

This program targets immigrants and entrepreneurs with the skills and potential to build businesses in Canada.

- These businesses should have a framework that are; Innovative, create jobs for Canadians and compete in a global scale
- In order to be eligible for this program, you must the following:
 - **Prove that your business is supported by a designated organization**
 - **Show that your business meets the ownership requirement**
 - **Language requirement- English/ French**
 - **Proof of funds.**

Family sponsorship

- A Canadian citizen or a permanent resident living in Canada above the age of 18 has the discretion to sponsor a family member to Canada.
- You can sponsor your spouse, partner, children, parents, grandparents and other relatives under this program.

*** Note: You cannot sponsor someone if you are a permanent resident living outside Canada. If you are a Canadian citizen living outside Canada, you must show you plan to live in Canada when your sponsored relative becomes a permanent resident.**

Refugee and Asylum

Canada offers refugee protection to some people in Canada who fear persecution or who would be in danger if they had to leave the country.

- These dangers may include ;
 - **Torture**
 - **Risk to life**
 - **Risk of cruel and unusual treatment or punishment**
- If you feel you could face one of these risks if you go back to your home country or the country where you reside, you may be able to seek protection in Canada as a refugee.
- Individuals can make a claim for protection in Canada at a port of entry or at an inland CBSA or IRCC office.

How does Canada refugee system work?

A refugee is someone who has been forced to flee his or her country because of persecution, war, or violence.

Canada has different programs that assist refugees to feel protected in the country.

These include;

- **Canadian Refugee Protection Programs**
- **Refugee and Humanitarian Resettlement Program**
- **In Canada Asylum Program**
- **Integration Services**
- **Help for resettled refugees**



In Canada without status

You do not have status in Canada if you -

- have over stayed the period for which you were admitted to Canada as a temporary resident,
- have received a departure order but did not leave on the set date or failed to show up for removal on the set date.
- Entered Canada without a visa or other document required by law
- Entered Canada without a valid passport
- Eluded examination upon entry to Canada



In Canada without status (cont'd)

If you fit in to any of the above categories, you can acquire status through any of the following –

- ❑ Return to your country of nationality and apply the general way
- ❑ Temporary Resident Permit
- ❑ Humanitarian & Compassionate PR application
- ❑ In Canada Spousal Sponsorship
- ❑ Pre Removal Risk Assessment Application
- ❑ Making a claim for protection **if your life is in danger in home country**
- ❑ Exploring the construction workers without status program
- ❑ Restoration of status

Construction workers without status program

Program seeks to facilitate access to PR for 500 construction workers in the GTA and their family members to fill a labour market need and address the vulnerable position of qualified workers in this category.

- Limited to out of status construction workers in the GTA
- Applicant must have entered Canada legally, possessed authorization to work in the construction industry and provide proof of filing income tax returns in Canada (400 slots available); or
- There are 100 slots available for applicants who entered Canada legally but do not have the above
- Currently working without authorization in the construction industry in the GTA

Construction workers without status program

Other requirements include –

- ❑ Continuous resident in Canada for at least 5 years at the time you apply
- ❑ 3 years full time work experience with the past 5 years
- ❑ Language ability
- ❑ Be referred by the Canadian Labour Congress
- ❑ Have family in Canada who is a citizen, PR or have a spouse or CL partner or child in Canada



Public Policy Pathways

From time to time, public policy pathways are announced to address events and situations which advance Canada's international obligations and country objectives.

Public Policy has responded to situations such as –

- Covid-19 Pandemic
- Afghan Crisis
- Ukrainian War

Public Policy Pathways

Some relevant and ongoing public policy drives –

- Visitor's in Canada can apply for employer supported work permits up till February 28, 2023
- International students with expiring PGWP in 2022 can apply to extend from July 2022.
- Students who completed part of their programs overseas can still be eligible for PGWP.
- Accompanying family members in PR application may be able to apply for a work permit while awaiting PR decision

INADMISSIBILITY

This refers to people who are not allowed to come to Canada under Canada's immigration law.

An immigration officer will decide on admissibility when you

- Apply for a visa
- When you arrive at the port of entry

If you have a valid reason to travel to Canada that is justified in the circumstance, a temporary resident permit may be issued.



INADMISSIBILITY

Reasons to be found inadmissible:

- ✓ Security reasons such as; espionage, subversion, violence or terrorism, membership in an organisation involved in any of these
- ✓ Human or international rights violation such as; war crimes, crimes against humanity, being a senior official in a government engaged in gross human rights violation or international sanctions
- ✓ Organised crime, or membership in such an organisation
- ✓ Criminality
- ✓ Medical reasons including: endanger public health, public safety, causes excessive demand on health or social services
- ✓ Financial inadmissibility for not having sufficient funds to support oneself as an economic immigrant

Permanent resident to Citizenship



Permanent resident to Citizenship

In order to apply for a citizenship, the following must be fulfilled;

- Time you have lived in Canada physically
- Income tax filing
- Language abilities: English/ French
- How well you know Canada
- Prohibitions

Dealing with rejected immigration applications / claims

- Every decision made by an immigration officer or decision maker is an administrative decision.
- Depending on the decision and the maker, the decision could be challenged as an appeal or a judicial review application.
- There is a time limit within which the process to initiate a challenge to an administrative decision.
- There is also a time limit within which arguments in support of the challenge must be made (30 or 40 days as the case may be)
- If such challenge is not taken within time, there must be cogent reasons for the delay to be able to exercise the right to challenge.
- Appeals or Judicial Reviews could either lie to the court or the body authorized by law to hear such appeal

Judicial Reviews

- Basically a process where by the court is invited to exercise its oversight function over an administrative body's decision to ensure that the rationale for the decision and the decision itself accord with existing laws and is also reasonable in light of evidence provided.
- Judicial Reviews are not done as a right and so the applicant must seek the permission of the court before the main issues can be considered by the court.
- If permission is granted then the court will proceed to assess the matter.



Judicial Reviews (cont'd)

- To get permission, the applicant must show that the issues are serious enough for the court to examine them.
- Judicial reviews usually do not grant applications. The court usually orders another decision maker to assess the application afresh.
- The time from commencement of a Judicial Review to conclusion could take anywhere between 3 to 9 months depending on each situation
- An applicant can self represent if they reside in Canada. Representation by qualified counsel is required for applicants outside Canada

Appeals

- The right to appeal is often provided for in the enabling legislation but must be exercised within set time limits.
- The appeal body could either be the court or a higher administrative decision maker.
- The appeal body can make the same decision as the original decision maker. i.e. grant the status the applicant seeks.
- Process takes at least 90 days or more.



Temporary Residence Refusals

- ❑ Refusal of temporary residence applications can be challenged by way of **judicial review** to the Federal Court of Canada
- ❑ Applications like Study Permits, Visiting Visas, Super Visas, Work Permit are types of temporary residence applications.
- ❑ A challenge must be commenced within 30 days if within Canada and 60 days where applicant is outside Canada.
- ❑ Ultimately the decision must be reasonable in light of the evidence provided.

Permanent Residence Refusals

- Can be challenged by way of **judicial review** to the Federal Court of Canada
- Applications like Express Entry Applications, Sponsorships, Humanitarian & Compassionate Applications, Protected Persons Application for PR are types of permanent residence applications.
- A challenge must be commenced within 30 days if within Canada and 60 days where applicant is outside Canada.
- Ultimately the decision must be reasonable in light of the evidence provided and existing legislation/regulations.

Loss of PR Status

PR status could be lost if a resident fails to comply with the conditions of PR.

- Can be challenged by **appeal** to the Immigration Appeal Division within 30 days if within Canada and 60 days from outside Canada
- Status can be maintained if successful. If unsuccessful here, PR status is lost
- Could take up to 2 years to conclude.

Appeal a Refugee Claim

An appeal comes up when the refugee claim has not been granted by the **Immigration and Refugee Board of Canada. (IRB)**

This process is reviewed by the **Refugee Appeal Division (RAD)** who has the discretion to allow or reject claims for refugee protection.

□ The following must be duly observed when appealing to the **RAD-**

- **15 days** is required to file a notice of appeal once written decision has been made available from the **RAD**
- File arguments in support of the appeal along with any new evidence within **30 days**
- Process could take at least **90 days**

Appeal a Refugee Claim

- If successful, claim for protection could either be granted or returned for the application to go through a fresh determination hearing.
- If unsuccessful, an applicant can seek a judicial review at the Federal Court.



Worthy of note

- Foreign workers who are being abused or at risk of being abused can take advantage of the open work permit for vulnerable workers to escape the abusive situation. It is for a limited time to enable foreign workers find a new job. A new work permit must be applied for thereafter.

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options with us at
Topmarké Attorneys**

Questions?



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