

OWNER OPERATED LMIA

This category is for foreign nationals who wish to establish or purchase a business or franchise in Canada, and want to work in that business in a high-skilled position, often with the aim of immigrating permanently. To qualify as an owner/operator, a foreign national must:

- Demonstrate a level of controlling interest in the business, i.e. a sole or majority shareholder;
- Demonstrate that his or her temporary entry to Canada will result in the creation or retention of employment opportunities for Canadians and permanent residents and/or skills transfer to Canadians and/or permanent residents; and
- Not be in a position to be dismissed, i.e. is not in an employment position where he or she is answerable to someone more senior.

For Owner/Operator LMIAs, no advertising or recruitment is required. The key requirement is that the foreign national owns a business in Canada in which he or she owns a controlling interest of more than 50%. Other requirements include:

1. A business plan that shows how the owner/operator will fund the business and create or maintain employment, and contains at least a rudimentary financial plan and timeline of events;
2. Active management of the business (i.e. it cannot be a passive investment) in a position that accords with the foreign national's qualifications and experience with a wage equal to or greater than the median wage requirements for the position; and
3. And employing at least one Canadian or permanent resident (ideally in the first year as described in the business plan).

This option is available anywhere in Canada.

Once an owner/operator receives a positive LMIA, he or she can obtain a work permit from Immigration, Refugees and Citizenship Canada equal to the validity of the LMIA (usually up to 2 years).

Once a work permit is obtained, the owner/operator will, in most cases, be in a position to apply for permanent residence through the Express Entry program.

It is worth noting that the Express Entry Comprehensive Ranking System (“**CRS**”) has been modified and since November 19, 2016, CRS points awarded for job offers (including those based on

Owner/Operator LMIAs) have been reduced from 600 points to either 200 points for senior managerial positions, or to 50 points. It also means that Owner/Operator LMIAs for senior management positions generate a substantially better chance for that person to permanently immigrate to Canada under the Federal Skilled Worker Program as they will get additional 200 points under the express entry. Also there is option to look at PNP program or Skilled trade category under this program.

Path to Permanent Residence

After the ruling of a positive LMIA, a work permit is granted (valid for 1-2 years) and in most cases the owner would be in a position to apply for a permanent resident visa through the Federal Skilled Express Entry or under the Provincial Nominee Program.

Other requirement before filing for owner operated LMIA.

1. For Franchises , execution of franchise agreement and payment of franchise fees
2. Transfer of balance funds required to complete the business as per business plan to the company account in Canada for franchises and new business.
3. For existing business, execution of purchase agreement and payment of advance and transfer of balance funds to complete the purchase and expansion as per business plan to the company account in Canada.
4. Formation of the company in Canada
5. Opening a bank account
6. Completion of the business plan for the new business or existing business
7. Fees for applying for LMIA to be paid to Govt.