

BUSINESS IMPACT CATEGORY ESCROW AGREEMENT POLICIES

Policy #1: 12 Months of Operations

The Principal Applicant must operate the business for 12 months from Commencement Date (see Policy #2) and is only able to apply for a refund of the Escrow Deposit after reaching the 12-month anniversary. The business must have \$75,000 in Eligible Expenses (see Policy #10) in order to be eligible for a refund of the Escrow Deposit, as well as meeting Residency Requirements (see Policy #14).

Policy #2: Commencement Date

The Escrow Agreement defines the Commencement Date of a business as the date that the Applicant makes the investment in the business. The Applicant must show the Office of Immigration proof of having deposited \$150,000 into a bank account or otherwise invested \$150,000 into a business.

Policy #3: 30-Day Reporting

Per the Escrow Agreement, Applicants must report to the Office of Immigration within 30 days of landing in Canada.

Policy #4: Bankruptcy

If an Applicant has incurred at least \$75,000 in operating expenses, as verified through financial statements prepared at a minimum Review Engagement level, and met Residency Requirements (see Policy #14), the Applicant would be eligible for a refund of the Escrow Deposit even if the business goes bankrupt and hasn't operated for 12 consecutive months. The Applicant is only eligible to apply to the Office of Immigration for the return of the escrow deposit 12 months after the Commencement Date (see Policy #1).

Policy #5: Business Concept Change

An Applicant is able to change his/her business concept at any point during the Immigration Process. However, the Applicant must apply to the Office of Immigration, using Form B19, for approval to ensure the new concept is eligible. Upon approval of the business concept, the Office of Immigration may ask for additional information to ensure the business is eligible and will meet the terms and conditions of the Escrow Agreement (see Policy #6).

If an Applicant is looking to purchase an existing business on PEI, he/she must provide the Office of Immigration with the following:

- Minimum 1 year of financial information (ie tax returns and/or financial statements);
- Proof of accounting and legal advice, or signed waiver (B-21);
- Purchase and Sale Agreement; and
- A detailed account of how the Applicant will meet the criteria of "active and ongoing management".

If an Applicant is requesting to change from the 100% Ownership Stream to the Partial Ownership Stream, the information per Policy #6 must be submitted to the Office of Immigration, as well as the following:

- Minimum 1 year of financial information (ie tax returns and/or financial statements)
- Shareholder Agreement
- Proof of accounting and legal advice, or signed waiver (B-21)

If the Applicant is proposing to purchase 100% or part of a business that, given the financial information provided, does not meet the terms of the Escrow Agreement, the Applicant must submit a plan on how he/she plans to meet the terms and conditions of the Escrow Agreement.

Any changes to a business plan should be submitted in writing. The assigned officer will make a recommendation to management, who will approve or decline the request.

Policy #6: Business Plans

After initial approval of a business concept change is given (see Policy #5), the Office of Immigration may ask for further information to grant final approval. Additional information requested must contain the following information:

- Company overview;
- Products/services offered, industry analysis and competitive landscape;
- Marketing Plan;
- Operational Plan;
- Management team and staffing;
- Description of Applicant's Role in the business;
- Financial information; and
- Any other information as requested by the Office of Immigration.

This information can be prepared by the Applicant (i.e. a formal business plan prepared by an accountant is not required) but there may be cases where the Office of Immigration may encourage that the Applicant seeks professional advice on the development of the new business idea.

Policy #7: Extensions

Applicants that have commenced their business and have not been able to incur \$75,000 in eligible operating expenses in the first year of operations may be granted an extension of one year to allow the business in to reach the \$75,000 threshold. The extension will only be considered if the Applicant has met the residency requirements. Any eligible operating expenses from year one and year two may be added together to allow the Applicant to reach the \$75,000 threshold.

Applicants will only be granted one 1-year extension and must sign a waiver that they understand that they are being granted a one year extension, no other extension will be granted and that the terms and conditions of the Escrow Agreement remain the same, including residency requirements.

Policy #8: Default of Escrow at 2-year mark (for Applicants who have complied with Policy #3)

Applicants have 2 years from the Landing Date (as defined in the Escrow Agreement) to meet the terms and conditions of the Agreement. If the Office has not had communication from the Applicant that the business has commenced, a reminder letter will be sent 30 days prior to the 2-year mark. At the 2-year mark, the Office of Immigration will send a request to the Applicant asking that documentation supporting the commencement of the business in PEI be provided to the Office of Immigration. The Applicant will be given 30 days to respond.

Policy #9: Partnerships

Applicants may invest in the same business, provided they meet all requirements of IRPA including minimum share ownership and are active in the day-to-day management of the business. Each Applicant is responsible to ensure they individually meet the terms and conditions of the Escrow Agreement, including residency requirements, investment requirements, and eligible operating expenses requirements. More specifically, the partnership is required to have a minimum investment of \$150,000 per Applicant and incur operating expenses of a minimum of \$75,000 per Applicant. Applicants wanting to form a partnership must submit a request for the change (see Policy #5).

Policy #10: Eligible Expenses

All operating expenses that are not ineligible (see Policy #11) are eligible expenses.

Additionally, language training expenses for the applicant in an approved program, to a maximum of \$4,000, may be included in the \$75,000 operating expenses for the purpose of the escrow refund. The applicant must submit proof of payment and completion of the program for the expense to be eligible.

Approved programs include: Business English Program - Study Abroad Canada

Policy #11: Ineligible Expenses

Any expenses that are not directly related to the business' activities to generate income, as defined in Canadian Generally Accepted Accounting Principles are considered an ineligible expense. This is verified through the financial statements, which must be prepared to a minimum Review Engagement level of assurance.

Further, the following expenses are considered ineligible:

- Amortization/depreciation
- Wages paid to non-arms length individuals
- Travel in excess of \$10,000
- Cost of goods sold

Policy #12.1: Residency (\$100,000 Deposit)

Residency is defined in the Escrow Agreement as living in Prince Edward Island for at least 183 over a 12-month period. An Applicant must meet this residency requirement during the 12 months of operations of his/her business in order to be eligible for a refund of the Escrow Deposit.

Policy #12.2: Residency (\$150,000 Deposit)

\$50,000 of the Escrow Deposit is tied to residency only. If the Applicant proves he/she has lived in PEI for at least 92 days over the six months since landing in PEI, the Applicant will be eligible to receive \$25,000. If the Applicant lives in PEI for 92 days over the 6-12 months after landing in PEI, he/she will be eligible to receive \$25,000. In order to be eligible to receive \$100,000, the terms outlined in Policy #12.1 and all other terms and conditions of the Escrow Agreement must be met.

Policy #12.3: Residency (\$200,000 Deposit)

\$50,000 of the Escrow Deposit is tied to residency only. If the Applicant proves he/she has lived in PEI for at least 92 days over the six months since landing in PEI, the Applicant will be eligible to receive \$25,000. If the Applicant lives in PEI for 92 days over the 6-12 months after landing in PEI, he/she will be eligible to receive \$25,000. In order to be eligible to receive \$150,000, the terms outlined in Policy #12.1 and all other terms and conditions of the Escrow Agreement must be met.

Policy #13: Seasonal Business

Businesses that are seasonal in nature are eligible. In order to be eligible for a refund of escrow, the Applicant must comply with Policy #1, i.e. the business must have been operating for 12 consecutive months, regardless of the length of time the business was physically open. The Applicant must continue to meet all terms and conditions of the Escrow Agreement, including minimum operating expenses of \$75,000 and Residency Requirements.

Policy # 14: Residency Requirements

The Applicant must provide proof to our office that he/she has resided in PEI during the operating period of the business, this includes being physically present in PEI for not less than 183 days in the year of operations.

Policy # 15: Partial Refund of Escrow Deposit

As applicants make eligible capital expenditures, up to 50% of the total cost of these expenditures can be refunded, up to a maximum of 50% of the business portion of their escrow deposit.

Policy # 16: Reinstatement of Escrow Deposit

Reinstatement of the Escrow Deposit would occur when the following conditions have been met:

- Applicant establishes a residence in PEI for a minimum of 30 days prior to applying for reinstatement,
- Applicant establishes their business, which includes investment of a minimum of \$150,000 and has incurred either \$15,000 of eligible operating expenses (per the Escrow Agreement) or \$50,000 of capital expenditures (excluding the purchase of a vehicle), and
- Applicant physically presents themselves to our office to sign a Reinstatement Agreement.

Policy # 17: Rental Space Criteria

The board of IIDI has recently approved the following criteria with respect to office rentals for BIC clients.

All rental units must meet the following criteria:

- Every business must have a dedicated office that has 4 walls and a door, and meets appropriate zoning approvals.
- Office space must be a minimum of 100 square feet and must be able to accommodate at least 2 people at one time.
- Professionally designed and printed signage visible to the public and at each office advertising the business.
- Must be open consistent hours of operation suitable for the type of business. Applicants must also be able to access their work space outside traditional business hours as needed, so they will need to have a key.
- Must be available for walk-in business.
- Businesses located in the space must be able to reasonably operate in that space. For example a retail store or restaurant cannot operate out of an office in a commercial building.
- Meet all local laws, regulations, zoning, and codes.
- Maximum rent of \$25/sq ft will be considered as an eligible expense towards meeting the expense requirements of the escrow agreement.

If the business is operating in a shared space or incubator the following criteria must be met (in addition to the above):

- Space must include a common reception area that is staffed during regular business hours (ie. 8am-5pm).
- The facility must have a minimum of 3 available offices.
- Space must include a dedicated boardroom/meeting space/breakout room that is able to be used/shared by all tenants.
- All utilities must be included in the rent. At a minimum, this must include heat, lights, WiFi, cleaning/janitorial costs, and security.
- Tenants must be given access to printer and photocopier/scanner.
- Offices to be fully furnished. At a minimum, this should include a desk, two office chairs, and cabinet or shelf for file storage.
- Maximum rental expense of \$10,000 annually (including base rental of \$25 per sq ft) will be considered as an eligible expense towards meeting the expense requirements of the escrow agreement.

Disclaimer – This document is for informational purposes only. All decisions will be governed by the signed Escrow Agreement between the Applicant and the Province.