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# Temporary Resident Status and the Worker Class

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## 1. Introduction: Canada's Immigration System in Brief

Immigration, Refugees and Citizenship Canada (IRCC) is the department of the Canadian government responsible for matters related to temporary entry to Canada, permanent immigration to Canada, Canadian citizenship, and refugees. Since 2013, IRCC has also been responsible for Passport Canada, a responsibility that previously fell under the mandate of Global Affairs Canada (formerly called the Department of Foreign Affairs and International Trade).<sup>1</sup> IRCC also collaborates with other agencies such as the Canada Border Services Agency (CBSA) to carry out certain responsibilities.

The *Immigration and Refugee Protection Act*<sup>2</sup> (previously the *Immigration Act*<sup>3</sup>) is the primary federal legislation regulating temporary entry, immigration to Canada, and refugees. Although the IRPA is federal legislation, jurisdiction over immigration is shared between the federal and the provincial and territorial governments. A provincial or territorial government may enter into an agreement with the federal government under the IRPA for the creation and administration of certain immigration programs. Thus, some immigration programs will have both a federal and a provincial component with distinct requirements for immigration.<sup>4</sup> The minister of IRCC is responsible for the administration of the *Citizenship Act*<sup>5</sup> and shares responsibility with the minister of public safety and emergency preparedness for the administration of the IRPA and its regulations, the *Immigration and Refugee Protection Regulations*.<sup>6</sup>

The CBSA is a federal law enforcement agency created by the government on December 12, 2003 by bringing together

the Customs function of the former Canada Customs and Revenue Agency (CCRA), the Enforcement function of Immigration, Refugees and Citizenship Canada (IRCC), and the Import Inspection at Ports of Entry function of the Canadian Food Inspection Agency.<sup>7</sup>

Thus, the CBSA shares responsibility with IRCC for immigration and customs enforcement and facilitation in Canada. The CBSA's border services officers enforce more than 90 acts and regulations in their role of border protection and surveillance

1 IRCC, "Immigration and Refugees and Citizenship Canada—Mandate" (last modified 27 March 2018), online: <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate.html>>.

2 SC 2001, c 27 [IRPA].

3 SC 1976-77, c 52, s 1.

4 See e.g. Chapter 7, Section VI, "Provincial Nominee Programs (PNP)."

5 RSC 1985, c C-29.

6 SOR/2002-227 [IRPR].

7 CBSA, "Information About Programs and Information Holdings (formerly Info Source)" (last modified 5 February 2025), online: <<https://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/pia-efvp/atip-airpr/infosource-eng.html>>.

while facilitating the legitimate flow of goods and people through Canada's borders. The CBSA's mandate, powers, and authorities are defined in the *Canada Border Services Agency Act*.<sup>8</sup> Under the minister of IRCC's authority,<sup>9</sup> border services officers are also authorized to carry out functions under the IRPA and the IRPR, such as proceeding with an examination of a foreign national at the port of entry or determining whether or not a foreign national should be granted entry and become a temporary resident.<sup>10</sup> The CBSA holds the exclusive authority to carry out these functions at the port of entry. It should be noted that ports of entry include airports, marine ports, and land border crossings.

For applications that are not processed at the port of entry, IRCC has established offices inside and outside Canada that process various applications submitted to the department. IRCC offices in Canada are located across the country and are referred to as case processing centres, the centralized intake office, and the Operations Support Centre. The majority of applications submitted to IRCC from outside and inside Canada are filed online and are electronically directed through the Global Case Management System to the appropriate office for processing. IRCC offices outside Canada are located in Canadian embassies, high commissions, and consulates around the globe. Collectively, we will refer to these IRCC offices outside Canada as "Canadian visa offices."

## II. Temporary Resident Status

A "foreign national" is defined in the IRPA as a person who is not a Canadian citizen or a permanent resident of Canada.<sup>11</sup> A temporary resident is a foreign national who is authorized to enter and remain in Canada for a limited and temporary period to visit, study, or work. IRCC refers to foreign nationals entering Canada to work as "temporary workers" or "temporary foreign workers" (TFWs). The duration of the temporary period a TFW is authorized to stay in Canada is determined by several factors including, for example, the duration of the offer of employment for the position in Canada, the category under which the person was granted entry to Canada, and the validity of the person's passport or other travel document. A TFW will usually be issued a document, either a work permit or visitor record, that delineates the authorized activity in Canada and the duration of the authorized period of temporary status in Canada. In some cases, where a foreign national is being examined at the port of entry, the border services officer may mark a page of the foreign national's passport or other travel document with a port of entry stamp to notate the date of arrival to Canada. The border services officer may also make a handwritten notation on or

8 SC 2005, c 38.

9 See s 6 of the IRPA for the minister's power to designate officers.

10 See IRPA, ss 15, 22, 40, 42.

11 IRPA, s 2(1).

below the stamp to demarcate the type of temporary residence that is being granted to the foreign national and the date that the foreign national's authorized period of stay will expire. However, depending on the nature of the activity in Canada and the country of citizenship of the temporary worker, a work permit, visitor record, and/or temporary resident visa (TRV) may not be necessary. For example, a temporary worker who is a foreign national of a visa-exempt country will not require a TRV to travel to Canada. All of these intricacies are governed by the IRPR.

### PRACTICE TIP

While a work permit will always be issued when the temporary worker requires that document for authorization to work in Canada, a visitor record will not always be issued to a temporary worker who falls within a work-permit-exempt category.<sup>12</sup> A border services officer is not obliged to issue a visitor record to a temporary worker who is authorized to work without a work permit. Typically, if a work-permit-exempt temporary worker wants to be issued a visitor record, this request should be specifically made to the border services officer at the time of seeking entry to Canada. The border services officer may choose to grant entry to the foreign national for the purposes of work but may not issue the visitor record.

It is important to understand that the decision not to issue a visitor record does not mean the temporary worker is not authorized to work in Canada. A foreign national who is not work permit exempt must hold a work permit to engage in the employment activity in Canada. By contrast, a visitor record is not required to authorize the work activity for a foreign national that falls within a work-permit-exempt category. If the foreign national provided supporting materials to demonstrate eligibility to work in Canada without a work permit, and the border services officer assessed the foreign national's request to enter Canada on that basis and granted entry, the foreign national is authorized to perform that stated work activity in Canada even if a visitor record was not issued to them.

The following are examples of situations in which a request for the issuance of a visitor record at the port of entry are most likely to be granted:

- a foreign national seeking entry to Canada under the 120-day work permit exemption for researchers or short duration (15 to 30 day) under the Global Skills Strategy;
- a foreign national seeking entry to Canada to work without a work permit for a period of more than 6 months;<sup>13</sup> or

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<sup>12</sup> See Chapter 6.

<sup>13</sup> *Ibid.*

- a foreign national seeking entry to Canada to work without a work permit and intending to intermittently enter Canada for the same purpose over the duration of the assignment. For instance, a foreign national may intend to enter Canada once per month for a few days at a time over the duration of one year. The issuance of a visitor record for a duration of one year should be requested to assist in facilitating the foreign national's intermittent future entries to Canada for the same purpose. It is important to note that for all nationalities, except United States (US) nationals, each time the foreign national re-enters Canada, their authorized period of stay will be six months, unless the border services officer specifically delineates a different duration by way of issuing a new visitor record or stamp. Even if the foreign national holds a previously issued visitor record valid for a longer duration, they will need to submit an extension of their visitor status from within Canada if they need to remain in the country longer than the six-month duration.

A border services officer may make a notation under the remarks section of the visitor record to indicate the type of activity the foreign national will be undertaking in Canada. For instance, if the foreign national is providing after-sales service, the remark might indicate “after-sales services for company A for equipment purchased from company B.”<sup>14</sup>

It should be noted, even if a visitor record is issued for the duration of the work assignment in Canada, the foreign national should always have supporting documentation to demonstrate eligibility for the applicable work-permit-exempt category in their possession when seeking entry to Canada on subsequent entries for the same purpose.

Where a foreign national has an admissibility<sup>15</sup> issue that could prevent them from being granted entry to Canada, a temporary resident permit may be issued to the foreign national under section 24 of the IRPA to overcome the inadmissibility so that the foreign national may enter Canada for a temporary period, if the border services officer feels it is “justified in the circumstances.”<sup>16</sup>

Before a person can be granted admission to Canada and hold the status of a temporary resident, section 11 of the IRPA requires all foreign nationals to submit a request for admission under the temporary resident category (which is divided into the following processing streams: visitors, workers, and students) before entering Canada. Therefore, in order to gain admission to Canada as a temporary resident, a

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14 See Chapter 6, Section II, “IRPR, Section 186: Work Without a Work Permit” for an overview of after-sales services.

15 The person falls within the scope of inadmissibility, ss 34-42 of IRPA.

16 See Chapter 9.

foreign national first needs to submit an application to IRCC through a visa post or to a CBSA officer at the port of entry for processing. There are specific regulations governing who must apply through a visa post and who may apply at the port of entry.<sup>17</sup>

A foreign national who is a citizen from a visa-exempt country can submit a request for admission to Canada to a border services officer at the port of entry without first submitting the application at a Canadian visa office, although there are also exceptions to this general rule. For instance, an application for a work permit under the International Experience Canada program must be submitted prior to entry to Canada, even when the foreign national applicant is visa-exempt.<sup>18</sup> By comparison, a foreign national who is a citizen of a visa-required country will typically submit the application for processing at a Canadian visa office.<sup>19</sup> This is because section 7 of the IRPR requires a foreign national who is a citizen of a visa-required country to hold a valid TRV before they can submit a request for entry at the port of entry, with limited exceptions.<sup>20</sup>

A list of the entry requirements, including who needs a visa and who needs to complete biometrics, is broken down by country/territory and is available on IRCC's website.<sup>21</sup>

When a foreign national from a visa-required country submits a work permit application, if approved, a TRV will also be granted. A TRV (see Figure 1.1) is issued as a counterfoil document by an officer from a Canadian visa office. This counterfoil document is a sticker with special security features that is placed on the applicant's passport to identify the holder as the person who may become a temporary resident upon admission to Canada. It is important to note that a TRV does not guarantee admission to Canada, as the foreign national must still undergo an examination by the CBSA at the port of entry before being granted admission.<sup>22</sup>

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17 See IRPR, ss 190, 197-99.

18 See Chapter 4.

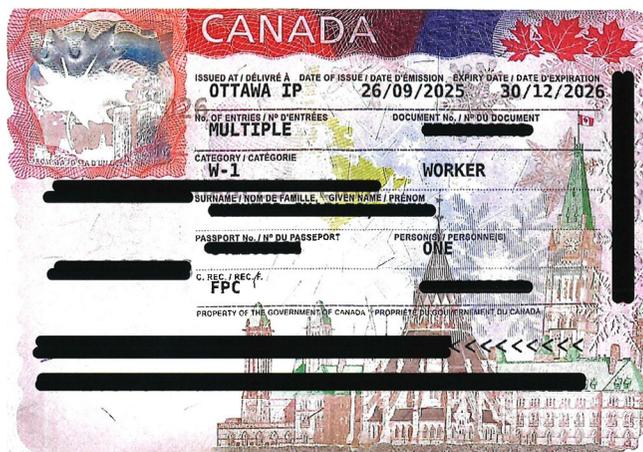
19 Applications that are submitted for processing at a Canadian visa office may be submitted by paper or online. See Chapter 2, Section III, "Application Compilation and Submission" for an overview of the process and requirements.

20 IRPR, s 190; see Chapter 2, Section III.B, "Application Upon Entry to Canada."

21 IRCC, "Entry Requirements by Country or Territory" (last modified 11 July 2025), online: <<https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/entry-requirements-country.html>>.

22 See Chapter 2, Section III.A, "Application Prior to Entry to Canada."

FIGURE 1.1 Temporary Resident Visa



Although a visa-exempt foreign national does not require a TRV to be granted admission to Canada, they do require a valid passport or travel document and, in most cases, a valid electronic travel authorization.<sup>23</sup> This is subject to limited exceptions.<sup>24</sup> By comparison, a visa-required foreign national will require both a valid passport or travel document and a valid TRV for admission.

There is a significant difference between a “permit” or “record” document (e.g., work permit or visitor record) and a “visa” (e.g., TRV). For visa-required foreign nationals, the TRV authorizes a border services officer to grant the person admission to Canada, and the permit authorizes the person to work in Canada *after* they have been granted admission (i.e., the person is “permitted” to work in Canada after they have been admitted). “Admission” is when a border services officer allows the person entry to Canada. As noted, a TRV will be granted to the foreign national when the work permit application is approved by the Canadian visa office; however, once the foreign national is inside Canada, an application to renew or extend the work permit must be submitted to IRCC independently of an application to renew or extend the TRV.<sup>25</sup>

### III. Worker Class

Reflected in the IRPA are the objectives “to permit Canada to pursue the maximum social, cultural and economic benefits of immigration; ... to support the development of a strong and prosperous Canadian economy, in which the benefits of immigration are shared across all regions of Canada;” and “to facilitate the entry of visitors,

23 See Chapter 2, Section VII.B, “Electronic Travel Authorization.”

24 See IRPR, ss 52(1) and (2).

25 See Chapter 2, Section VII.A, “Temporary Resident Visa.”

students and temporary workers for purposes such as trade, commerce, tourism, international understanding and cultural, educational and scientific activities.”<sup>26</sup> The government uses various work-permit and work-permit-exempt categories, policies, and tools to facilitate and control the number of TFWs entering the Canadian labour market, including but not limited to setting targets, applying labour market demand tests, and implementing bilateral agreements with other countries. The government seeks to balance the demand for entry of temporary workers to Canada with the realities of labour and skills shortages in Canada. The objective of the government is to protect the Canadian labour market by ensuring that the TFW has a neutral or positive impact on the supply and demand of labour and on the economy.

Statistics Canada has observed that in general “the number of individuals admitted annually on a temporary basis has been growing faster than the number of permanent immigrants.”<sup>27</sup> The number of TFWs has been steadily increasing over the years; the total number of work permit holders increased from 339,263 in 2018 to 604,382 in 2022, a more than 75 percent increase in only 4 years.<sup>28</sup>

The Global Skills Strategy (GSS), which was created by IRCC in 2017, is an example of a program that has been implemented to help attract and retain highly skilled global talent. The program reflects IRCC’s efforts to “get highly-skilled temporary workers [to Canada] faster, helping businesses to attract the talent they need to succeed in an increasingly competitive global market.”<sup>29</sup> The GSS has made it easier and faster for businesses to secure highly skilled foreign talent, in part by removing labour market tests for certain occupations in which there is an acknowledged skills shortage and offering a two-week expedited processing of select work permits.

The GSS is touted by IRCC’s *2023 Annual Report to Parliament on Immigration* to have supported Canada’s economy by helping Canadian businesses attract global talent. Between the launch of the GSS in 2017 and the end of 2022, there were more than 92,400 foreign nationals who held a work permit for highly skilled occupations such as computer programming, information system analysis, and software engineering.

26 IRPA, ss 3(1)(a)(c) and (g).

27 Statistics Canada, *Foreign Nationals Working Temporarily in Canada*, by Derrick Thomas, Catalogue No 11-008-X, no 90 (Ottawa: Statistics Canada, April 2014) at para 1, online: <<http://www.statcan.gc.ca/pub/11-008-x/2010002/article/11166-eng.htm>>.

28 IRCC, *2019 Annual Report to Parliament on Immigration* (Ottawa: IRCC, 2019) at 14, online (pdf): <[https://publications.gc.ca/collections/collection\\_2020/ircc/Ci1-2019-eng.pdf](https://publications.gc.ca/collections/collection_2020/ircc/Ci1-2019-eng.pdf)> and IRCC, *2023 Annual Report to Parliament on Immigration* (Ottawa: IRCC, 2023) at 3, online (pdf): <<https://www.canada.ca/content/dam/ircc/documents/pdf/english/corporate/publications-manuals/annual-report-2023-en.pdf>>.

29 IRCC, *2017 Annual Report to Parliament on Immigration* (Ottawa: IRCC, 2017) at 1, online (pdf): <[https://publications.gc.ca/collections/collection\\_2017/ircc/Ci1-2017-eng.pdf](https://publications.gc.ca/collections/collection_2017/ircc/Ci1-2017-eng.pdf)>.

In that same time period, more than 24,500 work permit holders processed under the GSS had later transitioned to permanent residence.<sup>30</sup>

Generally, TFWs are engaged in paid work activity and are authorized to enter and to remain in Canada for a limited period with the purpose of filling temporary labour and skills shortages when qualified Canadian citizens or permanent residents are not available, or for other business reasons. In most instances, temporary residents who would like to work in Canada require a work permit; however, there are categories that allow a temporary resident to work in Canada without a work permit.<sup>31</sup>

The IRPR defines “work” as “an activity for which wages are paid or commission is earned, or that is in direct competition with the activities of Canadian citizens or permanent residents in the Canadian labour market.”<sup>32</sup> Under this definition, even if a foreign national is not being remunerated<sup>33</sup> for the activity, it could still be considered to be “work.” For instance, if the foreign national is volunteering in an activity that would usually be remunerated or would be considered valuable work experience for a Canadian citizen or permanent resident (e.g., unpaid internship), this is considered work as it is in direct competition with the activities of Canadian citizens or permanent residents.<sup>34</sup> Section 2 of the IRPR defines a work permit as “a written authorization

30 IRCC, *2023 Annual Report*, *supra* note 28 at 23.

31 See IRPR, ss 186, 187. See also Chapter 6.

32 IRPR, s 2.

33 “Remuneration” as it is used here refers to both monetary compensation and payment in kind (i.e. accepting goods or services in lieu of money).

34 In *Juneja v Canada (Citizenship and Immigration)*, 2007 FC 301, the Federal Court of Canada found that Mr Juneja, a temporary resident who did not hold authorization to work, had engaged in unauthorized work in Canada by providing services at an automobile dealership, notwithstanding that he was not receiving any remuneration for his services. The Court found that he was engaged in performance of an activity that was in direct competition with the activities of Canadians and permanent residents in the Canadian labour market. Mr Juneja’s position, in part, was that he was not engaged in work because he was not being remunerated and that the company would only remunerate him in the future for the services he was performing now once he had obtained a work permit. As stated by the Court at para 12:

Even if Mr. Juneja is correct that the definition of “work” sets an absolute standard which is not fulfilled by a conditional arrangement for payment, his conduct is still caught by the second part of the definition—that is, the performance of an activity in direct competition with the activities of Canadians and permanent residents in the Canadian labour market. The employment of Mr. Juneja directly competed with others who were legally entitled to work in Canada. That is so whether a wage was paid or not. I do not agree with Mr. Juneja’s counsel that this part of the definition applies only to self-employed persons. The definition contains no qualification of that sort. I also do not agree that only the employer could be in direct competition. The employer was not competing with potential Canadian employees but Mr. Juneja was.

This case underscores the broad definition of “work” that not only encompasses an activity for which wages are paid or commission is earned, but also an activity that competes with the activities of Canadians and permanent residents of Canada.

to work in Canada issued by an officer to a foreign national.” In other words, a work permit is written authorization issued by an officer that allows a foreign national to engage in work in Canada, and in most instances it is linked to a specific job, employer, and location. An *open* work permit is not linked to a specific job, location, or employer. A foreign national who holds an open work permit may work in almost any job, at any location, or for any employer, and may change occupations, locations of employment, or employers without having to apply to IRCC for approval. If there are restrictions on this, those restrictions will usually be noted on the work permit itself.

The rules for the worker class are many and complex, having been amended numerous times since 2002. Foreign nationals who have been approved to work temporarily in Canada are part of the worker class of temporary residents. An important distinction to keep in mind is the difference between activities requiring a work permit, activities that are considered “work” but do not require a work permit, and activities that do not cross the line into work and are thus categorized as business visitor activities where the foreign national would not be considered as part of the worker class. The key distinction between an activity that is considered “work” and one that is considered to be “business” is whether the foreign national is directly entering the Canadian labour market.<sup>35</sup>

Thus, the worker class is divided into the following categories:

1. Work Permit Required:

a. Temporary Foreign Worker Program: LMIA-Based Work Permits

Under section 203 of the IRPR, an employer is required to obtain a labour market impact assessment (LMIA) before a foreign national may submit an application for a work permit.

b. International Mobility Program: LMIA-Exempt Work Permits

- Agreements:<sup>36</sup>
  - International free trade agreements.
  - Canada–international non-trade agreements (generally, no work permit is issued, but authorization to work is required under this category).
  - Provincial or territorial agreements.
- Canadian interests:<sup>37</sup>
  - Significant benefit:
    - General category.
    - Intra-company transferees.

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35 See Chapter 6.

36 IRPR, s 204.

37 IRPR, s 205.

- Emergency repair personnel or repair personnel for out-of-warranty equipment.
  - Television and film workers.
  - Mobilité Francophone.
  - Reciprocal employment:
    - General category.
    - Commercial airline agreements.
    - International Experience Canada.
    - Academic exchanges.
    - Performing arts.
  - Designated by the minister:
    - Work related to research, educational, or training programs.
    - Public policy, competitiveness, and economy.
  - Charitable or religious work.
- c. Other
- Applicants with no other means of support.<sup>38</sup>
  - Applicants in Canada.<sup>39</sup>
  - Humanitarian reasons.<sup>40</sup>
2. Authorization to Work Required (No Work Permit Issued):
- a. Authorization to Work in Canada Without a Work Permit
- Section 186 of the IRPR:
 

It should be noted that many of the exceptions noted under this category of the regulations are a result of international non-trade agreements; thus, there is some overlap between these categories.
  - GSS public policy:
    - 15-day work-permit-exempt stay in Canada every 6 months or one 30-day work-permit-exempt stay every 12 months; or
    - 120-day work-permit-exempt stay in Canada once every 12 months for a researcher who will perform research at a Canadian, publicly funded, degree-granting institution or its affiliated research institution.

These categories are reviewed in detail in Chapters 3, 4, and 6.

A common thread running through the worker class categories is the desire to balance Canada's need to fill temporary labour and skills shortages while safeguarding jobs for Canadian citizens or permanent residents of Canada. The program promotes/

<sup>38</sup> IRPR, s 206.

<sup>39</sup> IRPR, s 207.

<sup>40</sup> IRPR, s 208.

supports a beneficial impact of TFWs on Canadians and permanent residents through an emphasis on the transfer of skills, training opportunities, and the creation of jobs, and by supporting reciprocity where Canadians and permanent residents are being offered similar opportunities to gain work experience abroad. What all of these categories have in common is that they are temporary; there is a time limit on the authorization of the temporary worker to stay in Canada as a temporary resident. Such authorization can often be extended upon application, but never indefinitely. However, in some cases the worker class category under which the temporary worker is employed in Canada may assist the foreign national in transitioning from holding temporary resident status in Canada to becoming a permanent resident of Canada.<sup>41</sup>

#### IV. The Importance of Keeping Informed

You can monitor the IRCC website for up-to-date information about work-permit-required and work-permit-exempt categories. The IRPR contains most of the finer details about temporary residents—categories under which foreign nationals can be granted admission to Canada as temporary residents for work purposes, eligibility criteria, and exemptions—all of which are subject to change. The minister releases operational bulletins and program delivery instructions with pertinent updates on existing and new categories and rules. These are also a crucial source of information about application processes and procedures.

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41 See Chapter 7.