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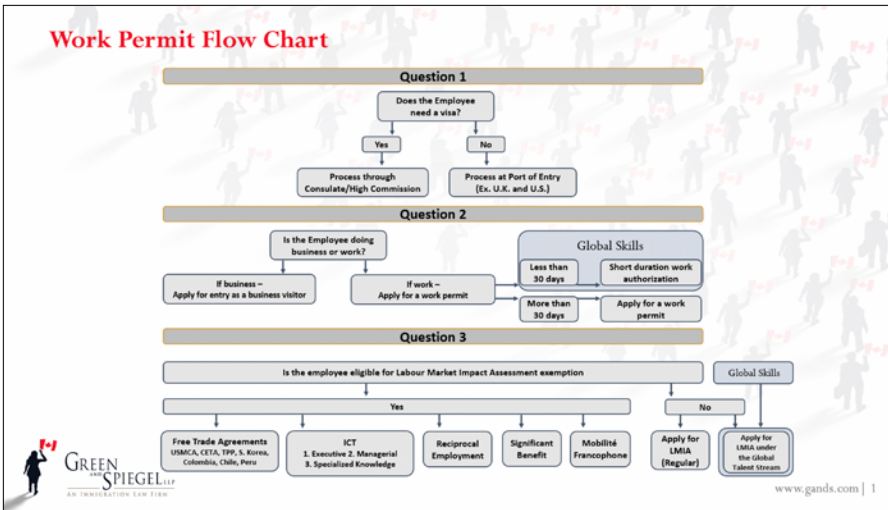
# Applications for Work Authorization

I. Introduction .....	14
II. General Requirements .....	14
III. Application Compilation and Submission .....	23
IV. Renewal Applications and Validity of Status .....	42
V. Reasons for Refusal .....	46
VI. Accompanying Dependent Family Members .....	53
VII. Related Requirements .....	57
Appendix 2.1 .....	66
Appendix 2.2 .....	73

## I. Introduction

The work authorization process chart in Figure 2.1 is provided as a reference tool that readers are encouraged to refer to as a visual representation of the process.

FIGURE 2.1 Work Authorization Process Chart



As noted in Chapter 1, a foreign national who wishes to work in Canada must either obtain a work permit approval *before* entering Canada (*Immigration and Refugee Protection Act*,<sup>1</sup> s 197), submit an application for a work permit *upon entry* to Canada (at the port of entry) (*Immigration and Refugee Protection Regulations*,<sup>2</sup> s 198), or apply *after entry* to Canada (IRPR, s 199). An individual’s country of nationality is the most common deciding factor of which method of application they will be required to use when seeking an initial work permit. The type of work permit category can also be determinative of the required application method.

## II. General Requirements

According to section 200(1) of the IRPR, a foreign national may be issued a work permit if it is established that they meet the basic criteria applicable to all temporary resident applicants as well as the criteria specific to workers. The process to submit an application for a work permit and the associated documents that will be included in such an application will vary by method of application. However, there are some

1 SC 2001, c 27 [IRPA].  
2 SOR/2002-227 [IRPR].

requirements that must be met for all applicants regardless of the method by which they submit the application.

When a foreign national's application demonstrates that they meet the criteria for work permit issuance under section 200(1) of the IRPR and for the issuance of a temporary resident visa (TRV) pursuant to section 179 of the IRPR, the foreign national's application for a work permit will be approved, and a TRV will be issued to the foreign national simultaneously.

Section 179 of the IRPR provides that an officer shall issue a TRV to a foreign national provided the application has been examined and it has been established that the foreign national:

1. applied for a TRV in accordance with the regulations as a member of the visitor, worker, or student class and meets the requirements applicable to that class;
2. will leave Canada by the end of the period authorized for their stay (IRPA, s 20(1)(b));
3. holds a passport or other valid travel document; and
4. is not inadmissible to Canada or the subject of a declaration by the minister and justified by public policy considerations that they may not become a temporary resident.

When an officer is assessing an application that has been submitted to the consulate by a visa-required foreign national, the officer is assessing two things: (1) whether to grant the TRV so that the foreign national can travel to Canada to request entry as a temporary foreign worker (TFW), and (2) whether the foreign national meets the specific requirements of the worker category under which they applied.

Recall that 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. It is a general condition imposed on all temporary residents that they are required to leave Canada by the end of the period authorized for their stay (IRPR, s 183(1)(a)). Section 20(1)(b) of the IRPA specifies that it is the *obligation* of any foreign national who is seeking to enter or remain in Canada as a temporary resident to establish that they will leave Canada by the end of the period authorized for their stay. This requirement is again noted in section 200(1)(b) of the IRPR, which requires that an officer be satisfied that the foreign national will leave Canada by the end of the period authorized for their stay before the officer may issue the work permit, among other requirements. In other words, the officer must be convinced that the foreign national will abide by the terms and conditions of the work permit and leave Canada on or before the expiry date indicated on the work permit document. Of course, where a temporary resident submits an application to renew their temporary status prior to the expiry date and successfully extends the authorized period of stay in Canada, the foreign national will not be required to leave Canada by the date initially authorized for their stay.<sup>3</sup> Also note, this requirement found

<sup>3</sup> See Section IV, "Renewal Applications and Validity of Status," of this chapter.

in section 200(1)(b) of the IRPR *does not* apply to a foreign national who has no other means of support in Canada, including foreign nationals who have made a claim for refugee protection that has been referred to the Refugee Protection Division (RPD) but has not been determined or are subject to an unenforceable removal order, and foreign nationals who have applied for a work permit under section 207(c) or (d) of the IRPR. Sections 207(c) and (d) of the IRPR include foreign nationals who are protected persons within the meaning of section 95(2) of the IRPA and those who have applied to become a permanent resident and the minister has granted the foreign national an exemption under section 25(1), 25.1(1), or 25.2(1) of the IRPA.<sup>4</sup>

An officer considers a variety of factors in determining an applicant's intention, including, but not limited to, the following:

1. whether the applicant has family or economic ties in their country of residence,
2. whether the applicant has sufficient funds for their stay in Canada,
3. the applicant's immigration status in their country of residence,
4. the economic and political conditions in the applicant's country of residence,
5. the applicant's obligations or responsibilities in their country of residence,
6. the applicant's travel history, and
7. whether the applicant has family ties in Canada.<sup>5</sup>

Although these factors are considered for both visa-required applicants who have submitted an application to the Canadian visa office and visa-exempt applicants who are submitting an application at the port of entry, they are more likely to be scrutinized in greater detail when the application is being processed at a Canadian visa office. This is in part because an officer at the Canadian visa office has more time to review the application and typically will not have the opportunity to speak directly with the applicant when coming to a decision. By comparison, an officer at the port of entry is making a decision on the spot while the foreign national is present in person. The officer at the port of entry is afforded significantly less time to assess the application and make a decision than an officer at a Canadian visa office. However, the port of entry officer has the benefit of speaking to and observing the applicant in person while engaging in an assessment of the application documents that the foreign national has presented. It should be noted that an officer at a Canadian visa office can request an interview with a foreign national who has made an application; however, this is typically done only where the officer has specific concerns that require an in-person assessment of credibility or require a procedural fairness opportunity for the applicant to respond to concerns that they could not have been anticipated.

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4 See Chapter 3.

5 IRCC, "Temporary Residents: Eligibility and Admissibility Considerations" (1 April 2019), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/visitors/eligibility-admissibility-considerations.html>>.

## A. Family and Economic Ties

The officer will consider whether the applicant has any family members living in their country of residence, the degree of the relationship (e.g., sibling or cousin; parent or aunt/uncle), and whether the applicant has family in Canada. If the applicant does not have family in their country of residence, it may be more of a challenge for the applicant to demonstrate that they will return to their “home” country.

The officer will also consider the applicant’s employment status and economic ties in their country of residence. The officer will review the applicant’s employment history and will consider factors such as salary/wage received in the “home” country, longevity with current employer, and type of employment the applicant holds. These considerations can assist the officer in assessing whether the applicant has sufficient employability in their home country to have an incentive to return at the end of their authorized stay in Canada. The officer will engage in a weighing exercise and must consider the various factors in a reasonable way. Take, for instance, the consideration of an applicant’s salary. The salary being offered for a position in Canada may be significantly higher than what the foreign national is earning in their current position abroad. This financial incentive should not be held against an applicant as it is understandable that the foreign national has chosen to accept a better job offer in Canada and apply for the work authorization. The officer must have other objective reasons to explain why they are not satisfied a foreign national will leave Canada at the end of the period authorized.<sup>6</sup>

Examples of economic ties that an officer may positively consider include ownership and value of property or business assets in the country of residence and ownership of securities or financial resources such as stocks, bonds, and retirement plans/pensions. Significant holdings may, in the officer’s opinion, suggest ties strong enough to indicate an intention to return, but it is only one factor among many to be considered.

## B. Financial Self-Sufficiency

The applicant must prove that they have sufficient funds to support themselves as well as any accompanying family members while in Canada. The amount of money an officer believes is necessary for the temporary stay in Canada will vary according to the proposed occupation and wage that the TFW will be receiving for the assignment in Canada, as well as the length of the stay and whether the applicant will need to pay for accommodations.

The following are examples of the kind of supporting documents that could be included as evidence of an applicant’s financial resources:

- bank statements or deposit books that show accumulated savings;
- recent pay slips from current employer;

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<sup>6</sup> *Cao v Canada (Citizenship and Immigration)*, 2010 FC 941.

- income tax documents from recent tax years;
- evidence of assets in the country of residence, such as property deeds and car ownership;
- documentation pertaining to retirement savings, pension plans, stocks, bonds, and so on; and
- evidence of income from any rental properties.

### C. Immigration Status

The officer will take into consideration the applicant's immigration status in the country of residence. Where a foreign national is not residing in their country of nationality, and holds only temporary status in their country of residence, it may be more of a challenge for them to demonstrate that they will leave Canada at the end of the authorized period.

For instance, in *Singh v Canada (Minister of Citizenship and Immigration)*,<sup>7</sup> the Federal Court reviewed a decision of an officer to reject a foreign national's application for a work permit and TRV. The officer in that case was not satisfied that the applicant would leave Canada at the end of the temporary period requested. The officer relied in part on the applicant's lengthy absence from his family in his home country of India while he had been working in Singapore, as well as the belief that the applicant held poor employment prospects in India. Further, the officer was concerned that the applicant's current work status in Singapore was in the construction industry, whereas the applicant's Canadian work permit application was for employment as a general farm labourer. In *Singh*, the Federal Court allowed the application for judicial review and ordered that the application be reconsidered by another officer as a result. The Federal Court found that the officer appeared to give no significant consideration or weight to a number of other relevant factors and failed to explain why these factors did not give rise to a significant degree of establishment in India, making the decision insufficiently justified. See Chapter 7 for an overview of the Federal Court process.

Prior compliance, or lack of compliance, with another country's immigration laws may also be considered by the officer. For example, consider a citizen of South Africa who enters the United States legally but then stays beyond the period authorized for entry. The foreign national's prior failure to abide by the rules of another country may make it more difficult to satisfy a Canadian officer that they will abide by Canada's rules and thereby could undermine their application for entry to Canada.

### D. Economic and Political Conditions

The officer holds the discretion to consider all of the applicant's circumstances, including the economic and political situation in the applicant's country of residence.

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7 [2017 FC 894](#).

Even if the applicant's ties to the home country are strong, unstable economic or political conditions may affect the outcome of the application.

In *Zuo v Canada (Citizenship and Immigration)*,<sup>8</sup> the Federal Court reviewed a decision of an officer to reject a foreign national's application for a study permit and TRV. The officer in *Zuo* was not satisfied that the applicant would leave Canada before the end of the period authorized for his stay and based this determination on the economic conditions and high standard of living in Canada. The Federal Court found that the officer's decision was unreasonable, in part because the officer failed to consider the applicant's ties to his country of nationality, China. There was evidence submitted with the applicant's application that demonstrated his family was well-off in China and that he enjoyed a high standard of living as a result. The applicant did not lack support or opportunities in China. The Court found that the officer should have considered the status of the applicant and his family in assessing whether the applicant would leave Canada before the end of the period authorized for his stay. It is reasonable to assume that an applicant who has a high standard of living in their country of nationality would be less likely to remain in Canada beyond the period authorized for their stay.<sup>9</sup> Although *Zuo* pertains to a decision made on a study permit application, the same reasoning may be applied to a work permit application. This is based on the assumption that there is less incentive for applicants with a high standard of living in their home countries to seek to establish themselves in Canada.

## E. Dual Intent

Section 22(2) of the IRPA states that an intention by a foreign national to become a permanent resident in the future does not preclude the foreign national from becoming a genuine temporary resident in the meantime if the officer is satisfied that they will leave Canada by the end of the period authorized for their temporary stay.<sup>10</sup>

This concept of "dual intent" is important to consider for a foreign national who has submitted an application for permanent resident status and subsequently wishes to request entry to Canada as a temporary resident, or intends to become a permanent resident at some point in the future after being granted temporary resident status. As noted, the obligation of the foreign national to establish that they will leave Canada by the end of the period authorized for their temporary stay is emphasized in the IRPR and IRPA. Without the concept of dual intent, it would be impossible for a foreign national who has applied to become a permanent resident or who intends to do so to satisfy this requirement and be granted temporary entry to Canada. Section 22(2) of

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8 [2007 FC 88](#).

9 See also *Guo v Minister of Citizenship and Immigration*, 2001 FCJ No 1851 (QL), 110 ACWS (3d) 724; *Zhang v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1493.

10 See *Onyeka v Canada (Citizenship and Immigration)*, 2009 FC 336 at para 48.

the IRPA legitimizes having both intents and recognizes that the concepts of immediate temporary intention and future permanent intention are not mutually exclusive.

It is important to note that dual intent does not mean a foreign national is exempted from establishing the criteria of IRPR section 183(1)(a) and IRPA section 20(1)(b), and section 200(1) of the IRPR in the case where the foreign national is making a work permit application. Immigration, Refugees and Citizenship Canada's (IRCC) Operational Bulletin 131 (July 6, 2009) provides the following helpful explanation of dual intent:

As stated in the *Immigration and Refugee Protection Act and Regulations* (IRPA/R), having both intents—one for temporary residence and one for permanent residence—is legitimate. ...

An officer should distinguish between an applicant whose intentions are *bona fide* and an applicant who has no intention of leaving Canada at the end of their authorized stay if the application for permanent residence is refused.

In assessing *bona fides*, the individual circumstances of the temporary resident applicant must be examined; refusals of non-*bona fide* temporary residents may only withstand legal challenge when the refusal is based on the information related to the specific case before an officer.<sup>11</sup>

In other words, although the applicant would like to live in Canada permanently, they will nonetheless abide by the rules of temporary residents. As with all entry to Canada, a foreign national must satisfy the officer that they have the ability and willingness to depart Canada at the end of the temporary period for which they have been authorized.

## PRACTICE TIP

If the circumstances of the applicant's case raise a concern about dual intention, the applicant or the applicant's representative can address this matter in a covering letter to emphasize the applicant's legitimate dual intention and supply supporting documentation and information to support that position.<sup>12</sup>

11 IRCC, "Application of Dual Intent" (10 December 2014), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/bulletins-2009/131-july-6-2009.html>>.

12 See *Loveridge v Canada (Citizenship and Immigration)*, 2011 FC 694 for an example of a supporting document which was insufficient to satisfy the officer that the applicant had a legitimate dual intent.



## F. Other Obligations, Responsibilities, and Material Factors

The officer may consider any other material factors or extrinsic information when reviewing an application. These factors may include familial or a personal relationship with a prospective employer, business obligations to partners or employees, and can include publicly available information from the Internet, such as an individual's social media profile, newspaper articles about the applicant, or the applicant's LinkedIn profile.

In addition to the requirement to demonstrate the applicant's temporary intention, section 200(1) of the IRPR provides that an officer shall issue a work permit to a foreign national if, following an examination, it is established that:

- the foreign national submitted the application in accordance with the requirements found in Division 2, Application for a Work Permit, of the IRPR (IRPR, ss 197-199);
- the foreign national meets the eligibility criteria of an enumerated work permit category, including required steps taken by the employer, where applicable, such as obtaining a labour market impact assessment (LMIA) or submitting the offer of employment in IRCC's Employer Portal (see Chapters 3 and 4);
- the employer is eligible to offer the employment to the foreign national (see Chapter 8);
- the foreign national has completed a medical examination, if required;
- the offer of employment is genuine based on an assessment of the following factors (IRPR, s 200(5)):
  - whether the prospective employer is actively engaged in the business in respect of which the offer is made; the exception to this requirement is where the offer of employment is made to an in-home caregiver as the employer in that case is a person, not an organization;
  - whether the offer is consistent with the reasonable employment needs of the employer;
  - whether the terms of the offer are terms that the employer is reasonably able to fulfill; and
  - the employer or a person who recruited the foreign national for the employer is not in breach of any federal or provincial laws that regulate employment or recruiting of employees in the province where the foreign national will be working.

These factors are not mutually exclusive. The officer should consider all of the pertinent information, and the decision should be reasonable in light of the evidence before them. Where an officer unreasonably considers a factor, or excludes pertinent information from the assessment without justification, an applicant may have recourse to have the decision reviewed and reopened.<sup>13</sup> However, it is important to remember

13 See Chapter 7. See also *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

that the onus to provide sufficient evidence that the applicant has met the general and specific requirements to be granted entry to Canada as a temporary resident rests on the applicant. A failure to provide supporting documentation demonstrating that the applicant will leave Canada by the end of the period authorized for their stay *and* that the applicant meets the other requirements of the IRPA and IRPR, including the eligibility criteria for the type of work authorization that is being applied for, may result in the application being refused (see Section V, “Reasons for Refusal,” in this chapter).

When an application is refused, an applicant may have access to options for recourse depending on the circumstances. This may include submitting a request to IRCC for reconsideration of the decision to refuse the application, submitting a new application to IRCC with additional supporting documentation or information to address the reason for refusal of the initial application, and/or filing a notice of application for leave and judicial review with the Federal Court of Canada (see Chapter 7).

## PRACTICE TIP

If an applicant decides to ask for reconsideration, it is important to keep in mind the limitation period for filing in the Federal Court. Reconsideration requests are regularly refused, and it often takes a long time to get a response, thereby raising a risk that an applicant might miss their limitation period for availing themselves of a judicial review.

Recall that some foreign nationals are exempt from the requirement to obtain a work permit; for example, a work permit is not required for a foreign national who is entering Canada under the Global Skills Strategy (GSS), Short-term (15 or 30 days) Work Permit Exemption, or under a category listed in section 186 of the IRPR (see Chapter 5). For these categories, although a work permit will not be issued to the foreign national, a TRV or electronic travel authorization (eTA) may be required, and Canada Border Services Agency (CBSA) or IRCC may issue the foreign national a visitor record.<sup>14</sup>

It is important to note that an applicant may require a medical examination in order to be permitted to work in Canada (e.g., if they resided in or are a foreign national of a particular country or the intended occupation in Canada is in the health/medical field), and they must complete this in advance of any work permit request. A quick reference tool for whether a foreign national requires a medical examination can be found on IRCC’s website at <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/medical-police/medical-exams/requirements-temporary-residents/country-requirements.html>. See also Section VII, “Related Requirements,” of this chapter for an overview of the medical examination requirement.

<sup>14</sup> See Chapter 1, Section II, “Temporary Resident Status.”

### III. Application Compilation and Submission

An application is approved and, where applicable, a work permit is issued or other authorization is granted, only when the officer is satisfied that the applicant meets the requirements of the IRPA and its regulations (IRPA, s 22; IRPR, s 200). Each application is decided on a case-by-case basis, so it is important to submit any pertinent documentation to demonstrate the applicant's temporary intention (or to declare the applicant's dual intention [IRPA, s 22(2)], if applicable), and for the foreign national to produce documentation confirming that they meet the requirements of the work permit category.

It is also important for the prospective employer to complete any required steps for the foreign national to be eligible for the work permit category, and to provide the foreign national with the requisite evidence of such prior to the application being submitted. For instance, for a work permit application under the International Mobility Program (IMP), the employer must submit the employment details and pay a compliance fee in the amount of \$230 in the company's Employer Portal, which is registered through the IRCC website, prior to the foreign national's submission of the work permit application (see Chapter 3, Section II, "Employer-Specific Work Permits," and Chapter 4). By comparison, a work permit application under the Temporary Foreign Worker Program (TFWP) requires the employer to obtain a positive or neutral LMIA prior to the foreign national's submission of the work permit application (see Chapter 3, Section II, "Employer-Specific Work Permits," and Chapter 4).

As noted, a foreign national who wishes to work in Canada must either obtain a work permit approval *before* entering Canada (IRPR, s 197), submit an application for a work permit *upon entry* to Canada (IRPR, s 198), or apply *after entry* (IRPR, s 199).

#### A. Application Prior to Entry to Canada

##### 1. Who Must Apply

Section 197 of the IRPR provides that a foreign national may apply for a work permit at any time before entering Canada. This means that any foreign national, whether from a visa-required or visa-exempt country, can submit an application for a work permit prior to entry.

While any foreign national can apply before entry, a foreign national who is a citizen of a visa-*exempt* country also has the option to submit a work permit application at the port of entry (see Section III.B, "Application Upon Entry to Canada"). Section 7 of the IRPR requires a foreign national who is a citizen from 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 (IRPR, s 190; see Section III.B, "Application Upon Entry to Canada," of this chapter). Thus, most visa-required foreign nationals are not permitted to submit an application for a work permit at the port of entry and therefore must do so prior to entry to Canada.

## 2. Process and Place of Application

A foreign national can submit the application online through IRCC's website or on paper through a visa application centre (VAC). Once IRCC has made a decision on the application, the foreign national will be issued a passport request letter (see Figure 2.2) and will be required to provide their original passport to the relevant Canadian visa office for visa stamping (placement of the visa counterfoil in the passport). Once the passport is sent to the visa office, IRCC will issue the decision letter. If approved, the foreign national will be issued an approval letter (see Figure 2.3) by IRCC and may then travel to Canada and request admission to Canada at the port of entry. The approval letter will notate the issue date of the approval and the expiry date of the work authorization. Therefore, the foreign national must request entry to Canada before the expiration of the date noted on the approval letter.

Any foreign national who seeks entry to Canada as a temporary resident must be examined by a border services officer at the port of entry (IRPA, s 18). A foreign national may travel to a Canadian port of entry to request admission to Canada as a TFW; however, admission depends on the border officer's final determination.


Even if a foreign national has obtained a decision from the Canadian visa office approving a work permit application and/or TRV, this does not guarantee admission to Canada.<sup>15</sup> In the case of a foreign national who applied for a work permit and/or TRV before travelling to Canada, a change in the foreign national's circumstances or additional information about the individual that has come to light could result in an officer's decision to refuse entry. Thus, the foreign national must meet the requirements for issuance of the work permit and/or TRV both at the time the application is approved and at the time the examination by the border services officer takes place (IRPR, s 180). A foreign national may thus be refused at the port of entry if the CBSA officer determines they do not comply with the requirements for issuance of the work permit, regardless of whether they obtained an approval letter authorizing the issuance of a work permit.

An application that is submitted to a VAC can be made in person or by courier. A VAC is an exclusive service provider for the Government of Canada and is authorized to receive applications for TRVs, study permits, work permits, and other types of applications. The VAC, which was implemented as a cost-savings measure, provides administrative assistance. VAC representatives review application forms and ensure that they are complete according to IRCC standards so that they can be transmitted to the Canadian visa office for processing and finalization. VAC representatives cannot offer legal advice, are not responsible for the content of any application, and cannot advise on whether a document request will be granted.

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15 As noted, when a foreign national from a visa-required country submits a work permit application, if approved, a TRV will also be granted. For a visa-exempt foreign national who submits a work permit application, if approved, a TRV is not issued because it is not required for the visa-exempt foreign national to travel to Canada. The visa-exempt foreign national is, however, required to hold a valid eTA.

FIGURE 2.2 Passport Request Letter

 Government of Canada / Gouvernement du Canada

Date: November 13, 2020

UCI: \_\_\_\_\_ Application no.: \_\_\_\_\_

*Please quote these reference numbers when referring to this application.*

Dear \_\_\_\_\_

This is in reference to your application for temporary residence. A decision has been made on your application. We require your passport to finalize processing your application.

**Passport requirements**

- Please provide your passport or travel document, with a copy of this letter.
- There must be at least one blank page in your passport.
- Your passport must be valid for the duration of your expected length of stay in Canada.
- *Please note that we cannot issue a visa beyond the expiry date on the passport.*

Your passport must be received by Immigration, Refugees and Citizenship Canada within 30 days from the date of this letter. Failure to do so could result in the refusal of your application. Please ensure that a copy of this letter is included with your passport.

To find out where to send your passport, visit our website: <https://www.canada.ca/content/canadasite/en/immigration-refugees-citizenship/services/application/account/where-submit-passport.html>.

Thank you for the interest you have shown in Canada.


**Attention:** The unique client identification (UCI) number in the upper left corner of this letter is your personal identification number. For your own protection, do not allow any person, other than an authorized representative, to use this number as it provides access to personal information on your file.

Immigration, Refugees and Citizenship Canada

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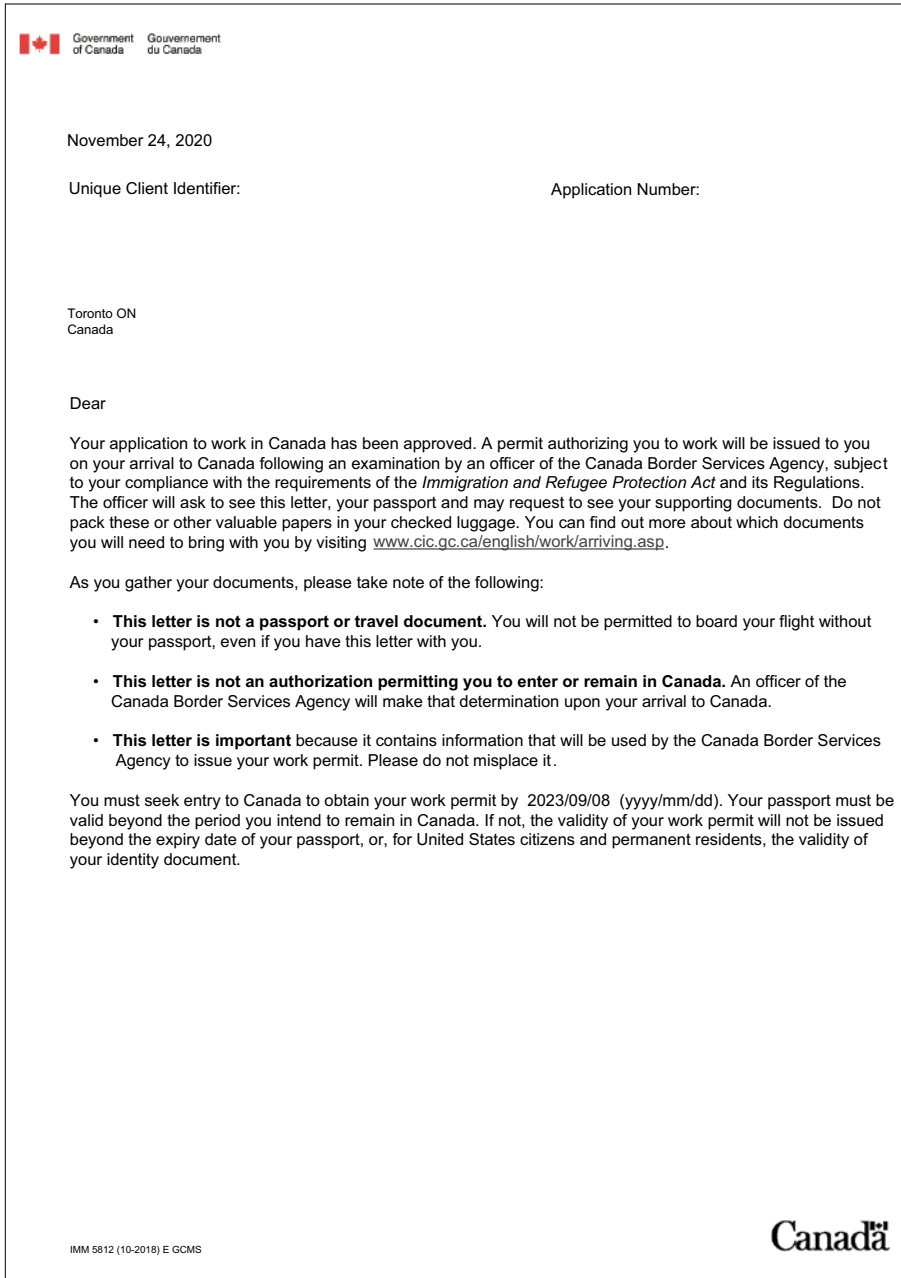
This message has been submitted to your account.

By submitting your application electronically, you have agreed to receive correspondence electronically.



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FIGURE 2.3 Work Permit Approval Letter



**FIGURE 2.3 Work Permit Approval Letter (concluded)**

-2-

**For officer use**

**Type:** Permit - WP / Permis - PT                      **Document number:** U

**Validity (YYYY/MM/DD):** 2023/09/08  
**Must enter Canada by (YYYY/MM/DD):** 2023/09/08

If you are from a country/territory which **requires** a temporary resident visa (TRV) (<http://www.cic.gc.ca/english/visit/visas.asp>), you have also been issued a visa. This visa has been affixed in your passport, and is valid for multiple visits to Canada until it expires. If you obtain a new passport before your visa expires, you will need to apply for a new visa. You may do so by visiting [www.cic.gc.ca/english/information/applications/visa.asp](http://www.cic.gc.ca/english/information/applications/visa.asp).

Other than United States citizens, if you are from a country/territory which does **NOT require** a temporary resident visa (<http://www.cic.gc.ca/english/visit/visas.asp>), or if you are a permanent resident of the United States, you have also been issued an Electronic Travel Authorization (eTA). Your eTA is valid for multiple visits to Canada, until (yyyy/mm/dd). Your eTA number is \_\_\_\_\_ and is linked to the passport you used when you applied to work in Canada. If you obtain a new passport before (yyyy/mm/dd), you will need to apply for a new eTA by visiting [www.canada.ca/eTA](http://www.canada.ca/eTA).

If you are a United States citizen, you are not required to obtain an eTA or a TRV. United States citizens who do not have a passport may show their United States birth certificate or certificate of naturalization. United States permanent residents entering Canada from the United States may present their alien resident "green" card, instead of a passport.

In some provinces or territories, workers are not eligible for public health insurance. You must ensure that you and any dependants have adequate health care insurance or financial resources to cover possible contingencies. Further information is available from the ministry of health of the province or territory in which you intend to work.


For information on Francophone minority communities outside Quebec, please visit: [www.canada.ca/francoimmigration](http://www.canada.ca/francoimmigration).

Please be aware that workers are protected by labour and employment laws. You are entitled to a safe workplace where your health is protected. If an employer does not pay the wages to which you are entitled, you can file a complaint with the federal department or provincial/territorial ministry responsible for employment standards. Contact information for these organizations can be found at [www.cic.gc.ca/english/work/labour-standards.asp](http://www.cic.gc.ca/english/work/labour-standards.asp). You can also report suspected misuse or abuse of the Temporary Foreign Worker Program to Service Canada's Confidential Tips Line at: **1-866-602-9448** or by following the steps online at: <http://www.canada.ca/en/employment-social-development/services/foreign-workers/fraud.html>.

For information on what to see and do while you are in Canada, visit [www.canada.ca/travel](http://www.canada.ca/travel).

Sincerely,

Embassy of Canada  
 Visa Section  
 P.O. Box 200  
 Kyiv, 01901  
 Ukraine  
 Application Enquiry: <https://secure.cic.gc.ca/enquiries-reseignements/case-cas-eng.aspx?mission=kyiv>  
[www.ukraine.gc.ca](http://www.ukraine.gc.ca)  
[www.cic.gc.ca](http://www.cic.gc.ca)



IMM 5812 (10-2018) E GCMS

An application that is submitted at the VAC will generally be processed at the Canadian visa office in the country where the VAC is located. By comparison, when an application is submitted online, it may be processed at any Canadian visa office around the globe as part of the Global Case Management System. When a Canadian visa office in one country has a significantly longer projected processing time than a Canadian visa office located in another country, the applicant may strategically submit the application to the VAC in the country with the shorter processing time. It is important to note that a foreign national cannot simply choose any Canadian visa office. The foreign national must either be a citizen of the country where the office is located or hold a valid immigration status in the country of residence (i.e., be a worker or hold other temporary resident status such as a visitor or student).<sup>16</sup>

As previously noted, IRCC has implemented the GSS, which created an expedited processing stream for work permits filed outside of Canada for highly skilled workers. If an application qualifies for processing under the GSS, the application will be processed within two weeks. Applicants should also expect an additional week of processing time on average for TRV stamping and biometrics, if required. It is important to note that the government has committed to processing approximately 80 percent of eligible applications under GSS within the two-week timeline. The remaining 20 percent of applications will be processed under standard processing times for the consulate, high commission, or embassy where the application is being processed. The processing times can be found on the IRCC website at <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/check-processing-times.html>.

### 3. Documentary Requirements

An applicant must provide documents and forms as required by the applicable document checklist provided by IRCC and also, where applicable, the document checklist for the particular Canadian visa office in the applicant's country of residence or origin. Due to regional differences in documentation, some visa offices will require additional supporting documents that are not on IRCC's document checklist. Thus, it is important to consult both checklists to ensure all required documents are included. The documents that will be included in such an application will vary based upon a number of factors including the foreign national's citizenship, country of residence, and worker class category under which the application is being submitted.

See Appendix 2.1 at the end of this chapter to view the current IRCC document checklist for a work permit (applied outside of Canada), and several examples of supplementary Canadian visa office checklists, for comparison.

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16 IRPR, s 11(1).



An applicant must provide the documents and forms specifically relevant to the work permit category under which she is applying, as well as general documentation including, but not limited to, the following:

- an Application for Work Permit Made Outside of Canada (IMM 1295) form, in addition to the following forms:
  - Family Information Form (IMM 5707);
  - country-specific forms, if applicable;
  - Statutory Declaration of Common-Law Union (IMM 5409), if applicable;
  - Use of a Representative (IMM 5476), if applicable; and
  - Document Checklist (IMM 5488);
- a copy of the job offer with the prospective employer, such as an employment contract from the prospective employer that is signed by both parties or a signed letter of offer confirming the employment details;<sup>17</sup>
- copy of valid passport or travel document;
- proof of current immigration status, if the foreign national is not a citizen of the country in which they are applying;
- recent passport-sized photos for each family member;
- evidence that a medical examination was completed, if required;
- evidence of language ability, if required;
- proof indicating the applicant meets the requirements of the job being offered such as copies of educational credentials and employer reference letters; and
- government processing fee(s).<sup>18</sup>

As previously noted, when a foreign national from a visa-required country submits a work permit application, if approved, a TRV will also be granted. Thus, where the applicant is from a visa-required country and is submitting an application under a worker class category that is *exempt* from the requirement for a work permit, the applicant will apply for a TRV only. The following are examples of the forms and documentation required for each person applying:

- Application for a Visitor Visa (Temporary Resident Visa) (IMM 5257) form, in addition to the following forms:
  - Family Information Form (IMM 5707);
  - Statutory Declaration of Common-Law Union (IMM 5409), if applicable;
  - Schedule 1: Application for Temporary Resident Visa (IMM 5257);

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17 If the applicant is submitting an LMIA-based work permit, the applicant should include a copy of the positive LMIA. For an LMIA-based work permit, the LMIA number will be listed on the Application for Work Permit form. For an LMIA-exempt work permit the Offer of Employment number (commonly referred to as an “A” number) will be listed on the Application for Work Permit form.

18 See Section VII, “Related Requirements” in this chapter.

- country-specific forms, if applicable;
- Document Checklist (IMM 5484); and
- Use of a Representative (IMM 5476), if applicable;
- valid passport or travel document;
- recent passport-sized photos for each family member;
- proof of current immigration status, if the foreign national is not a citizen of the country in which they are applying; and
- proof that the applicant meets the criteria for the work-permit-exempt category under which they are applying, similar to the documents required for a work permit application.

See Appendix 2.2 at the end of this chapter to view the current IRCC document checklist for a TRV, and several examples of supplementary Canadian visa office checklists, for comparison.

There are also biometric fees (for some foreign nationals) and processing fees that must be paid at the time of application. If the applicant is submitting the application by paper to the VAC, they must print out and include the fee receipt showing that the fee has been paid online through the IRCC portal/website<sup>19</sup> and may also be required to complete VAC-specific form(s). A quick access tool to find a VAC is available on IRCC’s website at <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/contact-ircc/offices/find-visa-application-centre.html>>. From here, an applicant can easily locate the VAC that is applicable to them and navigate to the VAC’s website to review the VAC-specific requirements.

It is important to note that the applicant is required to submit all of the supporting documentation necessary to demonstrate the bona fides of their request, whether or not they are on the IRCC checklist. The onus is on the applicant to demonstrate that they meet the requirements and, thus, should be issued a TRV, visitor record, and/or work permit.

Fillable versions of forms are available on the IRCC website, and in many cases, may be submitted via IRCC’s online portal. It is advisable to consult the IRCC website for the most up-to-date application package because the forms are amended from time to time and the list of supporting documents can change. All applications being submitted to IRCC for processing should follow the checklist and can include additional supporting documentation not mentioned on the checklist, should the circumstances require it.

The instructions for a work permit application can be found on the IRCC website at <<https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/permit/temporary/work-permit.html>>. The instructions for a temporary resident visa can be found on the IRCC website at <<https://www.cic.gc.ca/english/visit/apply-how.asp>>.

19 See Section VII.C, “Government Processing Fees,” and Section VII.E, “Biometrics.”

## B. Application Upon Entry to Canada

### 1. Who Is Eligible to Apply

A foreign national who is submitting an application “upon entry” to Canada is doing so at the port of entry. Ports of entry include airports (e.g., Lester B Pearson International Airport in Toronto, Ontario) and land border crossings (i.e., entry into Canada from the United States at any office along the US–Canada border, such as the Peace Bridge border crossing between Fort Erie, Ontario and Buffalo, New York).

Section 198(1) of the IRPR provides that a foreign national may apply for a work permit upon entering Canada if the foreign national is exempt from the requirement to obtain a TRV. In general, a foreign national may be exempt from the requirement to obtain a TRV if:

1. they are a citizen of a visa-exempt country, or
2. they are from a visa-required country but fall within an exemption from the requirement to obtain a TRV.

The TRV exemptions are discussed in detail below.

Section 190 of the IRPR enumerates the visa-exempt countries. A list of the visa-exempt countries is also available on the IRCC website at <<https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/entry-requirements-country.html#visaExempt>>.

It should be noted that a foreign national from a visa-exempt country is also eligible to submit an application to IRCC for processing at a Canadian visa office (i.e., Canadian consulate, embassy, or high commission). Simply because they can apply directly at the port of entry does not mean that they are required to do so (see Section VI, “Accompanying Dependent Family Members,” of this chapter for an example of why a visa-exempt foreign national may apply at the consulate).

In addition to the list of visa-exempt countries enumerated in section 190, the IRPR also allows for certain TRV exemptions for work permit applicants from visa-required countries based upon the purpose of the visit to Canada. Thus, a person from a visa-required country may, in limited circumstances, be authorized to apply for a work permit upon entering Canada without first having submitted an application for processing at a Canadian visa office. Pursuant to section 190(3)(f) of the IRPR, foreign nationals who are re-entering Canada following a visit solely to the United States or St Pierre and Miquelon are exempt from the requirement to obtain a TRV and may therefore apply for a work permit upon entering Canada if they:

- held a study permit or work permit or were otherwise authorized to enter and remain in Canada as a temporary resident before they left Canada on a visit solely to the United States or St Pierre and Miquelon; and
- return to Canada by the end of the period initially authorized for their stay or any extension to it (i.e., before the expiry of a previously issued work permit, study permit, or temporary resident status they held before exiting Canada).

With reference to the bullet point immediately above, a foreign national's work permit may be expiring very soon. Instead of submitting an application for a new work permit from within Canada, which will carry with it a possibly lengthy processing time, that foreign national may choose to take advantage of the ability to apply for a new work permit upon entering Canada under section 190(3) of the IRPR. This can be useful if the foreign national has a new job offer for a new position or employer and would like to be able to start working in the new position as soon as possible.

Conversely, pursuant to section 198(2) of the IRPR, an individual from a visa-exempt country will not be authorized to apply for a work permit upon entering Canada, if they:

- require but do not hold a positive LMIA opinion from the Department of Employment and Social Development (now Employment and Social Development Canada [ESDC]) (see Chapter 4, Section II, "The Temporary Foreign Worker Program");
- require a medical certificate under section 30(3) of the IRPR but do not hold one (see Section VII, "Related Requirements," of this chapter); or
- are a participant in an international youth exchange program, unless they are a citizen or permanent resident of the United States or they submitted an application for a work permit to the Canadian consulate and this application was approved prior to their request for entry to Canada at the port of entry (see Chapter 4, Section I.E, "International Experience Canada Program").

It is important to note that simply being a citizen of a country is not sufficient to make a person visa-exempt. The foreign national must hold a valid passport issued by the country of nationality in order to be so considered. A dual citizen who holds citizenship of a visa-exempt country and a visa-required country, but only holds a passport issued by the visa-required country, will either need to obtain a passport from the visa-exempt country or will need to apply to IRCC for a TRV before travelling to Canada. In some cases, the type of passport that the person holds is also important:

- A citizen of Israel must hold a national Israeli passport to be visa-exempt. If the person holds a Travel Document in Lieu of a National Passport, the person requires a TRV.
- A citizen of Romania must hold a valid electronic passport to be visa-exempt. A citizen of Romania who holds a non-electronic passport must be seeking to enter Canada by air and have obtained an electronic travel authorization before December 1, 2017 that is still valid to be visa-exempt. If the person holds a non-electronic passport, and did not obtain an eTA before December 1, 2017, the person requires a TRV (IRPR, s 7(2)(d)).<sup>20</sup>

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20 A program delivery update with respect to the visa requirement for Romanian citizens is available on the IRCC website at <https://www.canada.ca/en/immigration-refugees-citizenship/news/notices/romania-valid-electronic-passport.html>.

- A citizen of Taiwan must hold an ordinary passport issued by the Ministry of Foreign Affairs in Taiwan that includes their personal identification number. If the person holds a passport other than an ordinary passport, the person requires a TRV.

Citizens of countries that would normally be visa-required do not require a visa for admission to Canada if they are lawful permanent residents or valid “Green Card” holders of the United States.

Citizens of Brazil typically require a TRV for entry to Canada; however, the government created a limited exception to this rule. Effective as of May 1, 2017, citizens of Brazil who are flying to or transiting through a Canadian airport and have a valid electronic travel authorization (see Section VII.B, “Electronic Travel Authorization,” in this chapter) do not require a TRV if they are coming to Canada for a short visit, business or tourist activity, and:

- the person has held a Canadian visitor TRV in the past ten years, or
- the person currently holds a valid United States non-immigrant visa.

However, citizens of Brazil who are travelling to Canada for a short visit, business or tourist activity, by car, bus, train, or boat require a visitor TRV. Citizens of Brazil who wish to apply for a work permit will require a TRV.

A quick reference tool which can assist in discerning if a person is visa-required or visa-exempt is available on the IRCC website at <https://www.cic.gc.ca/english/visit/visas.asp>.

## 2. Process

As previously noted, any foreign national who seeks entry to Canada as a temporary resident must be examined by a border services officer at the port of entry (IRPA, s 18). A foreign national may travel to a Canadian port of entry to request admission to Canada as a TFW; however, admission depends on the border officer’s final determination. Border services officers are employed by the CBSA and are authorized to carry out functions under the IRPA and IRPR, such as proceeding with an examination of a foreign national at the port of entry and determining whether or not a foreign national should be granted entry to Canada and become a temporary resident.

### *a. Primary Inspection Line*

Upon arriving at a port of entry, a foreign national is examined at an automated primary inspection kiosk and/or by a border services officer at the primary inspection line (PIL). The role of the primary examination is to determine the foreign national’s purpose of entry to Canada and determine if the foreign national is required to proceed to secondary examination, either for an immigration purpose (e.g., submitting an application for a work permit) or a customs purpose (e.g., payment of duties or taxes on goods).

## PRIMARY INSPECTION KIOSK

Starting in March 2017, in collaboration with airport authorities, CBSA began introducing primary inspection kiosks, referred to as Automated Border Clearance (ABC) self-serve kiosks, at Canada’s major airports. The purpose of the kiosks was to reduce long wait times by assisting border services officers to verify customs and travel documentation. Most travellers can use the kiosks; exceptions include unaccompanied minors and travellers with non-machine-readable travel documents.

At the kiosk, a traveller will complete the following steps:

1. Scan passport/travel document.
2. Have photo taken.
3. Verify fingerprints (only for select foreign nationals and permanent residents).
4. Answer the questions to complete the declaration.
5. Obtain printed receipt and proceed to a border services officer for verification.

Up to five travellers with the same address of residence can use the kiosk together. Each traveller must however make their own declaration using the kiosk. Kiosk machines vary in appearance and are currently available at the following airports: Vancouver International Airport—YVR; Calgary International Airport—YYC; Edmonton International Airport—YEG; Winnipeg Richardson International Airport—YWG; Terminal 3 of Toronto Pearson International Airport—YYZ; Billy Bishop Toronto City Airport—YTZ; Ottawa International Airport—YOW; Montreal-Trudeau International Airport—YUL; Quebec City Jean Lesage International Airport—YQB; Halifax Stanfield International Airport—YHZ.<sup>21</sup>

The receipt printed by the kiosk and the questions required to be completed by the traveller mirror the Declaration Card form that travellers are often requested to complete on the airplane in advance of arriving at a Canadian airport.

In most cases, a foreign national who is seeking to enter Canada as a TFW will be directed to secondary examination for assessment of the application and issuance of a permit document where required.

### *b. Secondary Examination*

The primary inspection line works to triage foreign nationals to secondary examination, where required. Secondary examination is often required when a border ser-

21 See CBSA, “Primary Inspection Kiosks” (13 February 2020), online: *Government of Canada* <<https://www.cbsa-asfc.gc.ca/travel-voyage/pik-bip-eng.html>>; CBSA, “Automated Border Clearance Self-Serve Kiosks” (29 January 2019), online: *Government of Canada* <<https://www.cbsa-asfc.gc.ca/travel-voyage/abc-cfa-eng.html>>.

vices officer at the primary inspection line determines that further information is required from the foreign national to determine the foreign national's eligibility to enter Canada. An officer at the primary inspection line may not have sufficient time or sufficient information to make a decision on the foreign national's eligibility to enter Canada. For instance, if there is a large lineup of foreign nationals seeking entry to Canada at that port of entry, a PIL officer cannot be expected to spend a significant amount of time with each applicant that approaches the officer's booth. It should be noted, at most ports of entry a foreign national will be directed to secondary examination if a work permit is requested because further assessment may be necessary, and the equipment required to print the work permit is located in the secondary inspection office. By comparison, a temporary worker that is authorized to work without a work permit will not necessarily be directed to secondary examination because, as noted in Chapter 1, that foreign national does not require the issuance of a document. If, however, the foreign national is requesting a visitor record, the foreign national will likely be directed to secondary examination to have the visitor record document issued. Typically, this is a designated office area at the port of entry near the primary inspection line. An officer in the secondary examination office will examine the application presented by the foreign national, confirm that all requirements are met, and, if satisfied, will issue a work permit or otherwise grant the foreign national entry to Canada for a specified period of time for the approved purpose.

There is a superficial distinction between a visa-exempt foreign national who is submitting an application for a work permit or other authorization for determination at the border and a foreign national who has already submitted an application for processing at a consulate, received an approval letter, and is now presenting themselves at the port of entry for admission and to request authorization to work in Canada. While one is submitting an initial application, and one has already done so and received a decision from IRCC, the overall process at the border is the same.

As previously mentioned, it should be noted that some foreign nationals are exempt from the requirement to obtain a work permit altogether; for example, a work permit is not required for a foreign national who is entering Canada under the GSS, Short-term (15 or 30 days) Work Permit Exemption, or under a category listed in section 186 of the IRPR (see Chapter 5). For these categories, CBSA cannot issue a TRV to a foreign national as a TRV must be issued by a visa office to a foreign national prior to travel to Canada. A TRV may be required and CBSA or IRCC has the authority to issue the foreign national a visitor record.

It is important to note that a foreign national arriving at a Canadian airport, with a connecting flight to another airport within Canada, will need to submit the application for work authorization at the first point of entry to Canada. For example, a foreign national may be destined for Calgary, Alberta, where they will be working, but their flight pattern may be such that they will initially arrive in Canada at Lester B Pearson International Airport (LBPIA-YYZ) in Toronto, Ontario, where the foreign national

will catch a connecting flight to Calgary International Airport in Calgary, Alberta. The foreign national must present the work permit application at LBPIA YYZ and be granted admission to Canada under the requested category prior to catching their connecting flight to Calgary, Alberta. Because it is a domestic flight from Toronto to Calgary, there will be no opportunity to visit the secondary immigration examination office to have the application adjudicated upon arrival in Calgary.

## A NOTE ON “FLAGPOLING” AT THE PORT OF ENTRY

In 2018, the CBSA commenced a pilot project in the Southern Ontario Region, which involves Niagara Falls (Rainbow Bridge), Niagara-on-the-Lake (Queenston-Lewiston Bridge), and Fort Erie (Peace Bridge). Under this project, the CBSA implemented service hours for processing work permit applications made by foreign nationals who currently reside in Canada, possess a valid work permit or study permit, or hold temporary resident status as a visitor, and have travelled to the United States for the sole purpose of presenting their permit application at the Canadian port of entry upon return to Canada from the United States. This is colloquially referred to as “flagpoling.” Work permit applications submitted by foreign nationals who are “flagpoling” will only be processed by border services officers on certain days of the week—such applications are only processed from Tuesday to Thursday, between the hours of 8:00 a.m. and 12:00 a.m. The program was expanded to St-Bernard-de-Lacolle and St-Armand/Philipsburg ports of entry in Quebec, where such applications are now only processed from Monday to Thursday, between the hours of 12:00 p.m. and 7:00 p.m., and on Saturday between the hours of 9:00 a.m. and 5:00 p.m. The project does not bar a border services officer from processing such an application outside of the designated time frames; however, there is no guarantee that an application presented outside of these times will be processed.

It should be noted that even during scheduled hours, the CBSA may not process applications due to high volumes and excessive wait times. As a result, foreign nationals may be encouraged by the CBSA to submit the application online to IRCC as an alternative to making the application at the port of entry.

Cautionary note: A foreign national who has been granted initial entry to Canada as a visitor or student should approach the prospect of flagpoling to obtain a work permit with caution. If a border services officer believes that the foreign national's initial intention upon entering Canada was to work, and they did not declare this when requesting admission as a visitor or student, the border services officer may take an enforcement action against the foreign national. For instance, the officer may choose to issue a report against the foreign national under section 44 of the IRPA, alleging the foreign national misrepresented a material fact, namely, the intention to work, when seeking entry to Canada initially.

It should always be remembered that when a foreign national is flagpoling, the foreign national is presenting themselves for assessment and requesting entry not



only to the United States, but also re-entry to Canada at the port of entry. There is no guarantee that the foreign national will be granted re-entry to Canada, and upon examination the border service officer may discover information that can lead to enforcement action being taken against the foreign national—for instance, if the foreign national has documentation or information in their possession, including on a mobile phone or laptop, which suggests the foreign national is inadmissible or has not met the requirements of the IRPA. A common example is a situation where the foreign national is discovered to have worked without authorization in Canada. Email correspondence, text messages, or even pay statements are frequent examples of items that the CBSA discovers as evidence of unauthorized work. See Chapter 7, Section II, “Inadmissibility and Temporary Resident Permit,” for further details on the consequences of non-compliance with the IRPA. Information on the service hours is available on the CBSA website at <<https://www.cbsa-asfc.gc.ca/travel-voyage/settle-setablir-eng.html>>.

### 3. Documentary Requirements

It is important to note that the applicant is required to submit all of the supporting documentation necessary to demonstrate the bona fides of their request. The onus is on the applicant to demonstrate that they meet the requirements and, thus, should be granted admission to Canada and issued a visitor record or work permit, as applicable. Unlike an application that is submitted prior to entry to Canada, or after entry to Canada, an application that is submitted upon entry to Canada does not require application forms, and there is no document checklist available. The following are examples of the documents that may be required to demonstrate the bona fides of the request:

- a copy of the job offer with the prospective employer, such as an employment contract from the prospective employer that is signed by both parties or a signed letter or offer confirming the employment details;
- copy of valid passport or travel document;
- evidence that a medical examination was completed, if required;
- evidence of language ability, if required;
- proof indicating the applicant meets the requirements of the job being offered, such as a resumé, copies or originals of educational credentials, and employer reference letters;
- copy of LMIA, if submitting an LMIA-based work permit; and
- proof that the prospective employer submitted the offer of employment details in the Employer Portal and paid the \$230 employer compliance fee, if submitting an LMIA-exempt work permit.

It is important to present documentation that is not stale dated and is as up to date as possible confirming there is a genuine business need for the foreign national. Furthermore, an assessing officer at the port of entry may request additional information or verify the information presented upon entry. For example, the officer may contact the prospective employer or verify the foreign national's work history through open sources such as LinkedIn or Facebook.

## C. Application After Entry to Canada (from Within Canada)

### 1. Who Is Eligible to Apply

The following persons are eligible to apply for a work permit from *within* Canada (IRPR, s 199):

- holders of valid work or study permits and their family members;
- persons, other than business visitors under section 187 of the IRPR, who are working in Canada without a work permit under section 186 of the IRPR, and their family members;
- holders of temporary resident permits that are valid for a minimum of six months and their family members;
- refugee claimants and persons subject to an unenforceable removal order;
- in-Canada applicants and their family members who are deemed eligible for permanent resident status;
- persons who are applying as a trader or investor, intra-company transferee or professional under the Canada–United States–Mexico Agreement (CUSMA); and
- persons who will be working at a foreign mission in Canada and hold a written statement from the Department of Foreign Affairs and International Trade stating that it has no objection to the intended employment.

### 2. Process

It should be noted that prior to 2019, applicants could submit an application from inside Canada by uploading the required documents through IRCC's online portal, or could choose to do so by registered mail or courier to the Case Processing Centre (CPC) located in Vegreville, Alberta (the CPC is now located in Edmonton, Alberta). In 2019, IRCC made online submission of such applications mandatory and created a list of exemptions to this general rule. A list of the exemptions is available on the IRCC website at <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/visitors/place-application-visa-electronic-travel-authorization-study-permit-work-permit/exempt-electronic-applications.html>.

### 3. Documentary Requirements

An applicant must provide documents and forms as required by the applicable document checklist provided by IRCC. The documents that should be included in such an application will vary based upon a number of factors including the foreign national's citizenship, type of application being submitted (i.e., renewal of current work permit or change of conditions of current temporary resident status), and worker class category under which the application is being submitted.

Instructions for an application to extend or change the conditions on a work permit can be found on the IRCC website at <<https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/permit/temporary/extend.html>>.

See Section IV, “Renewal Applications and Validity of Status” below for a detailed review of the considerations relevant to an application to renew and/or change the conditions of a work permit from inside Canada.

### D. The International Mobility Workers Unit

The International Mobility Workers Unit (IMWU)<sup>22</sup> is a resource that can be used by employers who are unsure of a prospective candidate's eligibility for an LMIA-exemption, work permit exemption, or work permit category. When an employer submits a request to the IMWU, the IMWU will provide a written opinion on whether or not a prospective foreign worker candidate is exempt from:

1. obtaining an LMIA and thus eligible under an LMIA-exempt work permit category;<sup>23</sup> or
2. obtaining a work permit.

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22 IRCC, “International Mobility Workers Unit: Help for Employers” (19 February 2020), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/hire-foreign-worker/temporary/international-mobility-workers-unit.html>>.

23 A common scenario in which an employer or the employer's representative may decide to obtain an opinion from the IMWU is a situation where the employer wishes the foreign national to submit a work permit application at the port of entry under the LMIA-exempt Significant Benefit category pursuant to s 205(a) of the IRPR. For positions that would usually require an LMIA, the Significant Benefit category may be a good alternative if the eligibility criteria can be met. Since it is a discretionary work permit category used in exceptional circumstances, the IMWU opinion can assist the employer and foreign national to feel more comfortable in arriving at the port of entry and making the request for the issuance of a work permit under this category. A positive IMWU opinion can be enclosed in the port of entry work permit application package as a document in support of the foreign national's eligibility. Employers may also choose to use the IMWU where it is uncertain if the foreign national requires a work permit at all—for instance, if it appears that the foreign national's intended activities in Canada will qualify them as a business visitor under s 186 of the IRPR, but due to a unique set of circumstances or activities, it is unclear.

For an employer to be eligible to request an opinion from the IMWU, the prospective foreign national must be located outside of Canada and must be a citizen of a visa-exempt country. The request for an opinion is submitted by email to <[IRCC.DNIMWU-UMITRN.IRCC@cic.gc.ca](mailto:IRCC.DNIMWU-UMITRN.IRCC@cic.gc.ca)> and may include the following, as applicable:

- a copy of the bio-data photo page of the foreign national’s passport;
- the foreign national’s up-to-date resumé;
- the foreign national’s educational credential(s) or certification(s);
- letter of support from the company(ies) explaining the foreign national’s intended activities in Canada;
- any other pertinent document that relates to the LMIA-exemption code or work-permit-exempt category;
- the LMIA-exemption code or work-permit-exempt category the employer is requesting an opinion about;
- a complete Request for an Opinion on Work Permit or LMIA exemption form (IMM 5686);<sup>24</sup> and
- Use of a Representative (UOR) form,<sup>25</sup> if applicable.

The IMWU assesses the supporting documents and employment offer to give an opinion on whether or not an LMIA or work permit exemption applies to the situation at hand. See Figure 2.4, which illustrates a positive opinion issued by the IMWU on a foreign national’s eligibility for an LMIA exemption under the C10 Significant Benefit Work Permit category.<sup>26</sup>

At the time of writing, the typical processing time for an IMWU opinion is two weeks (14 calendar days). As such, the request should be submitted to the IMWU well in advance of the date that the foreign national intends to travel to Canada.

It is important to note that an IMWU opinion is not a decision on the foreign national’s eligibility for the LMIA exemption or work permit exemption. The border services officer at the port of entry will make the final decision on whether to approve the request. In the same way that a positive opinion from the IMWU does not guarantee that the border services officer will render a positive decision, a negative opinion from the IMWU should not preclude the foreign national from requesting consideration under that category at the port of entry.

24 IRCC, “Request for an Opinion on Work Permit or LMIA Exemption” (January 2020), online (pdf): *Government of Canada* <<https://www.canada.ca/content/dam/ircc/documents/pdf/english/kits/forms/imm5686e.pdf>>.

25 IRCC, “Use of a Representative” (13 May 2019), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/use-representative.html>>.

26 See Chapter 4, Section I, “International Mobility Program (IMP)” for an overview of this work permit category.