



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada

IP 6

Processing Temporary Resident Extensions

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Updates to chapter

Listing by date:

Date: 2006-03-29

Section 5.7 of this chapter has been updated to provide further detail on the restoration of status.

2003-02-27

IP 6 has been updated to further clarify issues around the maintenance of temporary status and restoration.

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1. What this chapter is about

This chapter explains CIC's policy regarding the processing of applications from temporary residents who wish to vary or cancel conditions imposed upon their entry or to extend their stay in Canada. Temporary residents (TR) include workers, students, visitors and temporary resident permit holders. However, this chapter only deals with visitors, workers and students who do not require work or study permits.

Specific procedures for assessing and referring applications to local CICs (including local CIC procedures) are not provided in this chapter. Procedures are provided by the Case Processing Centre in Vegreville and the CIC Regions.

2. Program objectives

The goals of the *Immigration and Refugee Protection Act* with respect to foreign nationals as temporary residents are:

- to facilitate the entry of visitors, students and temporary workers for the purpose of fostering trade, commerce, tourism, international understanding and cultural, educational and scientific activities;
- to protect the health and safety of Canadians and to maintain the security of Canadian society; and
- to promote international justice and security by fostering respect for human rights and by denying access to Canadian territory to persons who are criminals or security risks.

3. The Act and Regulations

Immigration objectives	A3(1)(g)
Application before entering Canada	A11(1)
Obligation—answer truthfully	A16(1)
Obligation—relevant evidence (includes requirement to submit to medical examination)	A16(2)
Examination by officer	A18(1)
Obligation on entry (includes requirement for TR to leave by end of authorized period)	A20(1)(b)
Temporary resident	A22(1)
Dual intent	A22(2)
Right of temporary residents	A29(1)
Obligation temporary resident	A29(2)
Report on inadmissibility	A44
Loss of temporary resident status	A47
Medical examination required	R30
Documents required	R52
Issuance of temporary resident visa	R179
Authorization to enter Canada, TRV holders	R180
Application for extension of authorization to remain in Canada as a temporary resident	R181
Restoration of temporary resident status	R182
General conditions	R183
Specific conditions	R185
Work without a permit	R186

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Business visitors	R187
Study without a permit	R188
Visitor Class	R191
Who is a visitor	R192
Conditions	R193

3.1. Forms

Nil.

4. Instruments and delegations

Nil.

5. Departmental policy

5.1. Eligibility

Upon application, a person may extend their status as a temporary resident in Canada beyond the initial period granted for their stay by the officer at the port of entry. They must apply before their status expires and have complied with all the conditions that were imposed on entry (R181). They must also meet the requirements of R179, regardless of whether they initially required a temporary resident visa (TRV) or not.

Many of the questions to consider in determining whether an applicant meets the eligibility criteria noted in R179 and R181 are outlined in OP 11, Section 9.

Additional questions that may help an officer determine eligibility follow:

- Consider the intentions of the client: What is the client doing in Canada? How long has the applicant been here? How long is the request for?
- Officers must consider the reason given by the client for applying for the extension. Are the plans well thought out or merely frivolous? Taking the applicant's situation in their home country into consideration, is a prolonged stay in Canada reasonable?
- Determine whether the client has the means to support themselves or whether someone else is willing to provide adequate support.
- Assess the client's ability to leave Canada. Officers should consider whether the applicant has the means to either return to their home country or to proceed onward to a third country.
- What was the original purpose of the visit to Canada? Has it been fulfilled? If no, was sufficient time originally granted to fulfil the purpose?
- What family, employment or other responsibilities and obligations has the person left behind and how have they been discharged? Is the proposed extension logical, reasonable and feasible in light of these circumstances?

Also relevant in the determination of whether to extend the authorization to remain in Canada of temporary residents who are working or studying without permits are the following chapters:

Chapter, OP 12 – Students

Chapter FW 1 – Temporary Foreign Workers Guidelines

Note: If a person who is of normal working age wishes to extend their visitor status in Canada, the officer must satisfy themselves that the applicant is not working or studying without authorization before granting an extension.

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5.2. Dual intent

An intention by a foreign national to become a permanent resident does not preclude them from becoming or remaining a temporary resident if the officer is satisfied that they will leave Canada by the end of the period authorized for their stay (A22(2), R183). The person's desire to work, study or visit in Canada before or during the processing of an application for permanent residence may be legitimate. An officer should distinguish between such a person and an applicant who has no intention of leaving Canada if the application is refused.

An officer should also keep in mind the time required to process an application for permanent residence, because the length of time will affect the applicant's means of support in Canada.

5.3. Passport validity essential

With some exceptions, R52 requires that an applicant hold a passport or travel document that is valid for the entire period authorized for the person's stay. Officers may not, therefore, extend status beyond the validity date of the travel document. This requirement is new under *Immigration and Refugee Protection Act*.

5.4. Minors wishing to extend status

Minor children who are applying for an extension of temporary residence in Canada, even when studying without a permit (A30(2)) must satisfy the officer that they intend to reside only temporarily in Canada.

- Children of parents who are visitors in Canada require a study permit to engage in studies in Canada (A30(2)).
- Children of workers or students (or persons without status) may study without a permit, but must maintain their temporary resident status. Officers should grant this status for the same validity period as their parents' status (A30(2), A29).

Extend stay in Canada as student *without* a study permit or *with* a study permit?

A child who held a study permit on entry should be encouraged to apply to renew the study permit in Canada when the time comes. Once the child is in Canada, they do not legally require a study permit, but they may find it easier to obtain a new TRV and/or study permit in the event that they leave and then seek re-entry into Canada. This is because, while temporary resident status expires automatically upon leaving Canada, a valid study permit indicates that permission to study in Canada still exists (upon the re-authorization of TR status). It is evidence that an officer was satisfied that the child met the requirements of a temporary resident.

For more information see OP 12, Section 5.16.

5.5. Implied status

A temporary resident must apply to renew their status before it expires. If they have done so, their original temporary status (whether as a student, worker or visitor) continues until a decision is made and they are notified (R183(5)). If a visitor or any other class of TR leaves Canada, their status as a temporary resident expires upon leaving.

If a person applied for a renewal of a work or study permit and their status expired before a decision was made, R186(u) and R189 (the right to continue working or studying under the same conditions) apply as long as the person remains in Canada. If the person left Canada and, upon returning to a Canadian port of entry

- no decision had been made, the person must re-apply at the POE if they have the right to do so, or re-apply outside Canada if they do not.
- a renewal of the work or study permit had been issued, the person may be authorized to enter as a TR who does have the right to work or study in accordance with the conditions on the issued permit.

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Inland applications for permanent residence

In situations where an applicant who has visitor status submits an application for permanent residence to Vegreville and at the same time submits an application for a work permit (pursuant to R207(b)), the visitor may be considered to have requested an extension of their TR status (in accordance with R183(5)). They are considered to have implied status as a visitor, until a decision is made on their WP application.

When no application for a work or study permit is received with the application for permanent residence, the applicant is obliged to apply to extend their visitor status.

5.6. Work or study permit refusals

If a visitor in Canada applies for and is refused a work or study permit, their visitor status is not affected. Upon receiving notice of the WP or SP refusal, the visitor must submit a separate application to extend their TR status as a visitor, if they wish to remain in Canada.

If their status at the time of the WP or SP refusal was valid due to the application of R183(6), i.e., it was "implied status," then they will have to apply for a restoration of visitor status if they do not wish to leave Canada.

5.7. Restoration

If a visitor, worker or student has lost their status, they may apply to reinstate or restore their status in accordance with R182. This regulation only applies if the temporary resident has not been out of status for more than 90 days, and they have not failed to comply with the specified conditions.

If an applicant applies to renew their visitor status, work, or study permit after their temporary resident status has expired, but within the 90-day restoration period, CPC-Vegreville will clarify with the client that they must also apply for restoration of their status if they have not already done so. The applicant will then have 90 days from the date of notification to submit their restoration application and the corresponding fee.

Note: A person must still satisfy the officer that they are a genuine temporary resident, in order to qualify for restoration.

The application cost recovery fee is presently \$200 (R306).

If a person is already the subject of an A44 report, then they cannot be restored. However an officer may consider an application for restoration when an out-of-status client is before them, if they are of the opinion that the client meets conditions noted above.

5.8. Cost Recovery

The fee to be applied for an application for a temporary resident extension is presently \$75 (R305). There are a number of exceptions to this fee which are noted in R305(2).