



Citizenship and  
Immigration Canada

Citoyenneté et  
Immigration Canada

Canada

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# **Intracompany Transfers**

## **Entry to Canada**

### ***Guide For Employers***

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## Contents

<b>CONTENTS .....</b>	<b>2</b>
<b>1. INTRODUCTION.....</b>	<b>6</b>
<b>2. KEY DEFINITIONS.....</b>	<b>7</b>
<b>2.1 General.....</b>	<b>7</b>
<b>2.2 General Criteria.....</b>	<b>7</b>
<b>2.3 Qualifying Relationship Between the Canadian and Foreign Employer.....</b>	<b>7</b>
2.3.1 Affiliate .....	8
2.3.2 Branch.....	8
2.3.3 Parent.....	8
2.3.4 Subsidiary.....	8
<b>2.4 Qualifying Relationship Between the Employer and Foreign Worker .....</b>	<b>8</b>
<b>2.5 Services Provided by the Foreign Worker.....</b>	<b>9</b>
2.5.1 Executive Capacity.....	9
2.5.2 Managerial Capacity.....	10
2.5.3 Specialized Knowledge .....	10
<b>3. THE GENERAL PROVISION.....</b>	<b>12</b>
<b>3.1 General.....</b>	<b>12</b>
<b>3.2 Requirements.....</b>	<b>12</b>
<b>3.3 Where An Application May Be Made.....</b>	<b>12</b>
<b>3.4 Documentation Required by the Foreign Worker .....</b>	<b>13</b>
<b>3.5 Immigration Documentation on First Entry .....</b>	<b>13</b>
<b>3.6 Extensions .....</b>	<b>13</b>
<b>3.7 Best Use of the General Provision.....</b>	<b>14</b>
3.7.1 Executives and Senior Managers.....	14
3.7.2 Specialized Knowledge Workers.....	14
<b>4. INTERNATIONAL AGREEMENTS.....</b>	<b>15</b>
<b>4.1 International Agreements: General.....</b>	<b>15</b>
<b>4.2 North American Free Trade Agreement:.....</b>	<b>15</b>

4.2.1	General .....	15
4.2.2	Executives and Senior Managers.....	15
4.2.3	Specialized Knowledge Workers.....	15
4.2.4	Requirements for the Company .....	15
4.2.5	Where An Application May Be Made.....	16
4.2.6	Documentation Required by the Specialized Knowledge Worker.....	16
4.2.7	Documentation From Immigration.....	17
<b>4.3</b>	<b>Canada Chile Free Trade Agreement .....</b>	<b>17</b>
<b>5.</b>	<b>COMPARISON: GENERAL PROVISION AND INTERNATIONAL AGREEMENTS .....</b>	<b>18</b>
<b>5.1</b>	<b>General.....</b>	<b>18</b>
<b>5.2</b>	<b>Executives and Managers .....</b>	<b>18</b>
<b>5.3</b>	<b>Specialized Knowledge Workers.....</b>	<b>18</b>
<b>5.4</b>	<b>Citizenship Factor .....</b>	<b>18</b>
<b>5.5</b>	<b>Duration of Employment in Canada.....</b>	<b>18</b>
<b>5.6</b>	<b>EXECUTIVES.....</b>	<b>19</b>
	Confirmation Exempt Code C12.....	19
	Confirmation Exempt Code T24.....	19
<b>5.7</b>	<b>MANAGERS.....</b>	<b>20</b>
<b>5.8</b>	<b>SPECIALIZED KNOWLEDGE WORKERS .....</b>	<b>21</b>
	Confirmation Exempt Code C12.....	21
<b>6.</b>	<b>MISCELLANEOUS CATEGORIES OF FOREIGN WORKERS.....</b>	<b>22</b>
<b>6.1</b>	<b>General.....</b>	<b>22</b>
<b>6.2</b>	<b>Business Visitors.....</b>	<b>22</b>
<b>6.3</b>	<b>Company Purchasers of Goods or Services.....</b>	<b>22</b>
<b>6.4</b>	<b>Company Trainers.....</b>	<b>23</b>
<b>6.5</b>	<b>Company Trainees.....</b>	<b>23</b>
<b>6.6</b>	<b>Company Sellers.....</b>	<b>24</b>
<b>6.7</b>	<b>Company Employees for Consultation.....</b>	<b>24</b>
<b>6.8</b>	<b>Reciprocal Employment Opportunities for Canadians .....</b>	<b>25</b>
<b>6.9</b>	<b>International Student and Young Worker Progrms .....</b>	<b>25</b>

<b>7.</b>	<b>HRSDC CONFIRMATIONS .....</b>	<b>27</b>
<b>7.1</b>	<b>Introduction .....</b>	<b>27</b>
7.1.1	General .....	27
7.1.2	Skilled Worker Class of Immigrants .....	28
7.1.3	Skilled Worker Selection Criteria.....	28
7.1.4	Arranged Employment Criteria.....	29
<b>7.2</b>	<b>Permanent Position: No interim Work Permit.....</b>	<b>29</b>
7.2.1	Employer's Role.....	29
7.2.2	Determination: Genuine Offers .....	29
7.2.3	Determination: Not part-time or Seasonal.....	29
7.2.4	Determination: Wages and Working Conditions Attractive to Canadians .....	29
7.2.5	After HRSDC Approval.....	30
<b>7.3</b>	<b>Permanent Position: Interim Work Permit .....</b>	<b>31</b>
7.3.1	Labour Market Opinion.....	31
7.3.2	Employers Role.....	32
7.3.3	After HRSDC Approval.....	32
7.3.4	Extension of the CIC Work Permit .....	33
<b>7.4</b>	<b>Temporary Position: Work Permit .....</b>	<b>33</b>
7.4.1	Labour Market Opinion.....	33
7.4.2	Employers Role.....	33
7.4.3	After HRSDC Approval.....	34
7.4.4	Extension/Renewal of the CIC Work Permit.....	34
<b>7.5</b>	<b>HRSDC Miscellaneous.....</b>	<b>35</b>
7.5.1	Reasons for Refusal of Confirmations.....	35
7.5.2	Time Standards for Processing Confirmations.....	35
7.5.3	Employers Represented by Third Parties.....	35
<b>8.</b>	<b>APPLYING FOR WORK PERMITS AT PORTS OF ENTRY .....</b>	<b>37</b>
<b>9.</b>	<b>APPLYING FOR WORK PERMITS AT CANADIAN VISA POSTS.....</b>	<b>38</b>
<b>10.</b>	<b>APPLYING FOR EXTENSIONS OF WORK PERMITS IN CANADA.....</b>	<b>39</b>
<b>10.1</b>	<b>General.....</b>	<b>39</b>
<b>10.2</b>	<b>How to Apply.....</b>	<b>39</b>
<b>10.3</b>	<b>Documentation That Should Accompany The Application.....</b>	<b>39</b>
<b>10.4</b>	<b>Cost Recovery.....</b>	<b>40</b>
<b>10.5</b>	<b>Time Standards for Processing Extension Requests .....</b>	<b>40</b>
<b>10.6</b>	<b>Leaving Canada Before an Extension Request Is Finalized .....</b>	<b>40</b>

<b>11. MEDICAL EXAMINATIONS.....</b>	<b>41</b>
<b>12. TEMPORARY RESIDENT VISAS AND TRAVEL DOCUMENTS .....</b>	<b>42</b>
12.1 Temporary Resident Visas .....	42
12.2 Travel Documents .....	42
12.3 U.S. Citizens and Alien Residents .....	42
<b>13. COST RECOVERY.....</b>	<b>43</b>
<b>14. RELATED ISSUES .....</b>	<b>44</b>
14.1 Spousal Employment .....	44
14.2 Processing Time Standards for Work Permits.....	44
14.3 Social Insurance Numbers.....	45
14.4 Health Coverage in Ontario for Holders of Work Permits.....	45

## 1. Introduction

This Handbook is a guide to Immigration procedures to be followed when transferring foreign workers of multinational companies from outside Canada to a Canadian parent or subsidiary.

In Canada, regulation of the entry of foreign workers is a federal responsibility. The authority to grant entry to foreign workers on either a temporary or permanent basis rests with the Department of Citizenship and Immigration Canada (CIC). In many instances, CIC must first request a labour market opinion from Human Resources Skills Development Canada (HRSDC) before allowing a foreign worker to commence work in Canada.

The Handbook is structured to provide the user with an understanding of the general rules and the procedures set down by CIC and HRSDC.

Each Section contains:

- detailed instructions on requirements that must be met
- documentation that must be provided.

Human Resources personnel who follow these guidelines should be confident that border crossings for their key personnel will be trouble free.

Canada's Immigration law, its regulations, and their application can be complex. As such, this document cannot be considered to be a legal document and is meant as a guide only. *For precise legal information, consult the Immigration and Refugee Protection Act; the Immigration and Refugee Protection Regulations; Chapter 16 of the North American Free Trade Agreement; Chapter K of the Canada Chile Free Trade Agreement; and the General Agreement on Trades in Services.*

## 2. Key Definitions

### 2.1 General

*Work* is defined in the *IRPA Regulations* as any activity:

- for which wages or commission is earned, or,
- that competes directly with activities of Canadians in the labour market.

Any person who is not a Canadian and who wants to work in Canada requires a Work Permit.

The movement into Canada of a company's Executives, Senior Managers, and Specialized Knowledge Workers will be guided by either:

- the *General Provision* contained in the *IRPA Regulations*.
- the provisions for temporary entry contained in various international trade agreements to which Canada is a signatory.

The *General Provision* is applicable to citizens of all countries.

The provisions in the international agreements are applicable only to citizens of signatory countries. Canada has made commitments to establish procedures to facilitate the temporary entry of foreign workers under several agreements, most notably:

- the North American Free Trade Agreement (NAFTA),
- the Canada Chile Free Trade Agreement (CCFTA), and,
- the General Agreement on Trade in Services (GATS).

Provisions governing the entry of Executives, Senior Managers, and Specialized Knowledge Workers that are contained in these agreements merely augment the existing provisions contained in *General Provision*.

### 2.2 General Criteria

There are certain general criteria applicable to all of the intracompany transferee provisions. These fall into the following categories:

- there must be a qualifying relationship between the Canadian and the foreign employer,
- there must be a qualifying relationship between the between the employer and the foreign worker, and,
- the nature of services to be performed by the foreign worker.

### 2.3 Qualifying Relationship Between the Canadian and Foreign Employer

The Canadian and foreign enterprises must be legal entities that have an *affiliate*, *branch*, *parent* or *subsidiary* business relationship. Both the Canadian and foreign companies must be regularly, systematically, and continuously providing goods or services.

Evidence that a company is a legal entity can be:

- articles of incorporation
- partnership agreements
- license to do business
- business tax returns
- evidence of registration with Canada Customs and Revenue Agency as an employer

Non-qualifying business relationships are:

- those based on contractual, licensing, and franchise agreements,
- less than 50-50 joint ventures.

### **2.3.1 Affiliate**

An Affiliate is:

- one of two subsidiaries, both of which are owned and controlled by the same parent or individual; or,
- one of two legal entities, owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each company.

### **2.3.2 Branch**

A *Branch* is an operating division or office of the same organization housed in a different location.

### **2.3.3 Parent**

A *Parent* is a firm, corporation, or other legal entity which has subsidiaries.

### **2.3.4 Subsidiary**

A *Subsidiary* refers to a firm, corporation, or other legal entity of which a parent:

- owns directly or indirectly, half or more than half of the entity and controls the entity; or,
- owns directly or indirectly, fifty per cent of a fifty-fifty joint venture and has equal control and veto power over the entity; or,
- owns directly or indirectly, less than half of the entity, but in fact controls the entity.

## **2.4 Qualifying Relationship Between the Employer and Foreign Worker**

There must be a clear employer-employee relationship between the employer and the foreign worker.

The employer should:

- have the right to order and control the work of the employee,
- possess authority to engage or discharge the employee.

Only those foreign workers who are permanent and continuing employees of a company would qualify for consideration under the intracompany transfer provisions.

The source of the foreign worker's salary and benefits is not a factor that is taken into consideration.

## **2.5 Services Provided by the Foreign Worker**

Only the following categories of employees qualify for work permits as intracompany transferees:

- Executives
- Senior Managers
- Specialized Knowledge workers

### **2.5.1 Executive Capacity**

*Executive capacity* means that the employee primarily:

- directs the management of the organization or a major component or function of the organization;
- establishes the goals and policies of the organization, component, or function;
- exercises wide latitude in discretionary decision-making; and,
- receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

An executive does not generally perform duties necessary in the production of a product or in the delivery of a service.

In smaller businesses, the title of the position may not be sufficient to establish that a position is managerial or executive. For example, an architect who incorporates a business and hires a secretary and a draughtsman is not automatically considered to be holding an executive or managerial position. In order to qualify as a manager or executive, the architect must be engaging in managerial or executive duties rather than purely architectural ones.

### 2.5.2 Managerial Capacity

*Managerial capacity* means that the employee primarily:

- manages the organization, or a department, subdivision, function, or component of the organization;
- supervises and controls the work of:
  - ◆ other managers or supervisors,
  - ◆ professional employees, or
  - ◆ manages an essential function within the organization, or a department or subdivision of the organization;
- has the authority to hire and fire, or recommend these and other personnel actions, such as promotion and leave authorization; if no other employee is directly supervised, functions at a *senior* level within the organization hierarchy or with respect to the function managed; and,
- exercises discretion over the day to day operations of the activity or function for which the employee has the authority.

In general, executives and managers plan, organize, direct, or control the activities of a business, or a division of a business (e.g. Vice President of Marketing), either independently or through middle managers. They are frequently responsible for the implementation of the policies of a business. More senior persons, either alone or in conjunction with a board of directors, may formulate policies which establish the direction to be taken by the business.

Excluded will be persons who are in positions that are more accurately defined as junior management. Positions defined as managing supervisor, supervisor, or foreman, or persons with managerial sounding titles only would not qualify.

A first line supervisor is not considered to be acting in a managerial capacity unless the employees who are being supervised are professionals.

A manager does not primarily perform tasks required in the production of a product or in the delivery of a service.

### 2.5.3 Specialized Knowledge

*Specialized knowledge* means:

- *special* knowledge of the company's product or service and its application in international markets; or,
- *advanced* level of knowledge or expertise of the organization's processes and procedures.

Product, process, and service can include research, equipment, techniques, management, or other interests.

*Special knowledge* is unusual and different from that found in a particular industry. The knowledge need not be proprietary or unique, but uncommon. As a general rule, special knowledge may involve a person's familiarity with a product or service which no other company makes, or that other companies make, but differently. For example, knowledge of a company's costing system may be sufficiently sophisticated that the services of a particular individual are required. As well, an applicant's special knowledge in combination with their understanding of the organizations procedures may make it difficult to train another employee.

*Advanced knowledge* is complex. It is not necessarily unique or proprietary, i.e. known only by a few individuals, but advanced. An assessment of whether such knowledge exists in Canada is not relevant since the test is whether the applicant possesses such knowledge.

Knowledge which is widely held or related to common practices is not considered to be specialized knowledge.

Some characteristics of a worker who has specialized knowledge are:

- possesses knowledge that is valuable to the employer's competitiveness in the market place;
- uniquely qualified to contribute to the Canadian employer's knowledge of foreign operating conditions;
- knowledge has been gained through extensive prior experience with the employer;
- has been utilized as a key employee abroad in significant assignments which have enhanced the employer's productivity, competitiveness, image, or financial position.

### 3. The General Provision

#### 3.1 General

The *General Provision* contained in the *IRPA Regulations* allows an Immigration Officer to issue a Work Permit to a person in the interests of Canada. Included in this category are *Executives, Senior Managers, and Specialized Knowledge Workers* of multi-national corporations.

Provisions for the facilitated entry of intracompany transferees also exist in the following international agreements to which Canada is a signatory:

- the North American Free Trade Agreement (NAFTA),
- the Canada Chile Free Trade Agreement (CCFTA), and,
- the General Agreement on Trades in Services (GATS).

The *General Provision* is applicable to citizens of all countries and is therefore universal in nature. Provisions contained in the international agreements are limited to nationals of countries which are signatories to the agreements. **Section 4** contains details of provisions in these agreements where they are more generous than those in the *General Provision*.

The provisions for *Specialized Knowledge Workers* contained in the NAFTA and the CCFTA are more generous than those in the *General Provision*. Therefore, Human Resources managers are advised to consider the provisions contained in those agreements when considering the transfer of citizens of the United States, Mexico, or Chile. These are outlined in **Section 4**.

#### 3.2 Requirements

Intracompany transferees may apply for Work Permits under the General Provision if they:

- are seeking entry to work in a *parent, subsidiary, branch, or affiliate* of a multi-national company;
- will be undertaking employment at a *permanent and continuing* establishment of that company;
- are seeking employment in a *Executive, Senior Managerial, or Specialized Knowledge* capacity;
- have been employed by the company in a similar position for one year in the previous three years prior to coming to Canada;
- are coming to Canada for a *temporary* period only;
- comply with all of the *existing* Immigration requirements for temporary entry.

#### 3.3 Where An Application May Be Made

An intracompany transferee who seeks consideration under the *General Provision* may make an application for a Work Permit at a Port of Entry. An application can also be made at a Visa Post before departing for Canada. Please refer to **Sections 8 and 9**.

### **3.4 Documentation Required by the Foreign Worker**

In order to facilitate entry applicants should be in possession of:

- 1) proof of their citizenship, which would normally be a passport;
- 2) a letter or affidavit from their foreign **employer** providing the following information:
  - confirmation that they are employed in a Executive, Senior Managerial, or Specialized Knowledge capacity by the enterprise outside of Canada for at least 1 year in the previous 3 years preceding the date of application;
  - an outline of the applicant's position in a Executive, Senior Managerial, or Specialized Knowledge capacity which should contain the position, title, place in the organization, job description, and duties performed by the foreign worker;
  - an outline of the foreign worker's qualifications and employment history to support the claim that they are qualified for the position in Canada;
  - an outline of the intended position in Canada, including the title, place in the organization, and job description;
  - documents indicating the arrangements for remuneration, the anticipated length of stay, and a clear description of the legal relationship between the enterprise in Canada and the foreign enterprise; and,
  - details of the business activities of the enterprise outside of and within Canada to demonstrate that the Canadian entity is *permanent* and *continuing*.

In situations where companies are not commonly known or well established it would be prudent to provide copies of one or more of the following documents to support the fact that they are *permanent* and *continuing* entities:

- annual reports
- financial statements
- agreements with customers and/or suppliers
- client lists

### **3.5 Immigration Documentation on First Entry**

An Immigration Officer will issue a Work Permit to the foreign worker. The duration of an initial Work Permit provided for under the *General Provision* may be:

- up to 3 years an Executive or Senior Manager;
- 1 year for a Specialized Knowledge Worker.

### **3.6 Extensions**

There is no specified limit on the number of extensions that will be granted for Executives or Senior Managers under the *General Provision*. However, the foreign national must establish that the purpose of entry or continued stay is temporary. A *temporary stay* is one that has a reasonable and finite end.

The *General Provision* does not allow for open ended temporary entry and cannot be used as a mechanism to circumvent procedures applicable to permanent employment nor as a

means to establish *de facto* permanent residence. The onus is on the individual to satisfy an Immigration Officer of temporary intent. It is less likely that a person's intent would be determined to be temporary when requesting numerous, long term extensions of status.

Specialized Knowledge Workers are limited to a maximum of 3 years total under the *General Provision*.

### **3.7 Best Use of the General Provision**

#### **3.7.1 Executives and Senior Managers**

The *General Provision* is more beneficial to Executives and Senior Managers since there is:

- no restriction on the citizenship of the foreign worker, and
- no cap on the length of time that the foreign worker may continue with the Canadian employer.

#### **3.7.2 Specialized Knowledge Workers**

The *General Provision* is most beneficial to Specialized Knowledge Workers who are citizens of countries other than the United States, Mexico, or Chile. Human Resources Managers are advised to consider the provisions in the NAFTA and CCFTA when transferring Specialized Knowledge Workers who are citizens of the United States, Mexico, and Chile.

## 4. International Agreements

### 4.1 International Agreements: General

Canada is a signatory to the following international agreements that contain provisions for intracompany transferees:

- the North American Free Trade Agreement (NAFTA),
- the Canada Chile Free Trade Agreement (CCFTA), and,
- the General Agreement on Trades in Services (GATS).

### 4.2 North American Free Trade Agreement:

#### 4.2.1 General

The NAFTA is restricted to citizens of the United States and Mexico. It allows for the transfer of *executive* and *management* personnel, and persons with *specialized knowledge*, to an enterprise's operations which are located in the territory of another NAFTA party.

*IRPA Regulations* allows for the issuance of a Work Permit to an *Intracompany transferee* who meets the requirements under the NAFTA and exempts the applicant from the HRSDC job Confirmation process.

#### 4.2.2 Executives and Senior Managers

Provisions for the entry of Executives and Senior Managers under the General Provision are outlined in **Section 3**. Since those provisions are more generous than those under the NAFTA discussion here will be limited to Specialized Knowledge Workers.

#### 4.2.3 Specialized Knowledge Workers

Specialized Knowledge Workers may apply for Work Permits as *Intracompany transferees* under the NAFTA if:

- they are *citizens* of the United States or Mexico;
- they are seeking employment in a position requiring *specialized knowledge*;
- they meet the definition of *specialized knowledge*
- they are seeking *temporary* entry;
- they have been employed in a similar position continuously for *one year* in the previous *three* year period for the enterprise;
- they can comply with *existing* Immigration requirements for temporary entry.

#### 4.2.4 Requirements for the Company

In order to qualify in the Intracompany transferee category, there is a requirement that The Specialized Knowledge Worker be taking a *temporary* position in a *parent, subsidiary, affiliate, or branch* of a company that meets the definitions outlined in **Section 2**.

There is also a requirement that the business enterprise is or will be *doing business* in both Canada and the United States or Mexico.

*Doing business* means regularly, systematically, and continuously providing goods and/or services by a parent, branch, subsidiary, or affiliate in Canada and the United States or Mexico. It does not include the mere presence of an agent or office in Canada or in the United States or Mexico. A company with no employees which exists in name only and is established merely for the express purpose of facilitating the entry of an Intracompany transferee would not qualify.

An applicant seeking entry to work in a new office as a Specialized Knowledge Worker on behalf of the American or Mexican employer may also qualify if it is established that the enterprise in Canada, is expected to be doing business.

#### 4.2.5 Where An Application May Be Made

*IRPA Regulations* allow an Intracompany transferee seeking consideration under the NAFTA to make an application for a Work Permit at a Port of Entry. An application can also be made at a Visa Post before departing for Canada. Please see **Sections 8 and 9**.

#### 4.2.6 Documentation Required by the Specialized Knowledge Worker

A Specialized Knowledge Worker seeking entry as an *Intracompany transferee* should be able to provide:

- 1) Proof of American or Mexican *citizenship*: ideally, proof of citizenship is a passport or a certificate of naturalization;
- 2) A letter or affidavit from the American or Mexican **employer** which provides the following information:
  - a clear and comprehensive description of the *relationship* between the enterprise in Canada and the employer in the United States or Mexico;
  - confirmation that the person has been employed continuously in a similar position by the enterprise for *1 year* within the *3 year* period immediately preceding the date of application;
  - outline of the applicant's position in a capacity involving *specialized knowledge*. This should include position, title, place in the organization, and a description of the duties performed by the applicant;
  - evidence that the person has such knowledge *and* that the position in Canada requires such knowledge;
  - outline of the intended position in Canada, including job description, title, place in the organization;
  - the applicant's anticipated length of stay;
  - arrangements for remuneration; and,
  - details of the business activities of the business in Canada to demonstrate that the enterprise is *doing business*.

In situations where a company is not commonly known or well established it would be prudent to provide copies of one or more of the following documents to support the fact that the entity is *doing business*:

- annual reports

- financial statements
- agreements with customers and/or suppliers
- client lists

#### **4.2.7 Documentation From Immigration**

A person who qualifies as an Intracompany transferee in the Specialized Knowledge category under the NAFTA will be issued with a Work Permit.

An initial Work Permit can have a maximum validity of 3 years. Extensions may be granted in increments of up to 2 years at the discretion of an Immigration Officer. The total period of stay for a person employed in a specialized knowledge capacity may not exceed 5 years

An individual admitted to Canada to open an office, or to be employed in a new office, will be issued with an initial Work Permit with a maximum validity of *one* year.

#### **4.3 Canada Chile Free Trade Agreement**

The Canada Chile Free Trade Agreement (CCFTA) is modeled on the NAFTA. Like the NAFTA, this agreement contains provisions for the temporary entry of business persons into Canada.

The CCFTA is restricted to citizens of Chile and Canada. The differences between the CCFTA and the NAFTA are not significant. The user of this Handbook can rely for the most part on the information in the preceding paragraphs of this Section when considering the transfer of Chilean citizens to Canada in as Specialized Knowledge Workers. The user can likewise rely on the information in the previous Section when considering the transfer of Chilean citizens to Canada as Executives or Senior Managers.

## 5. Comparison: General Provision and International Agreements

### 5.1 General

The differences between the *General Provision* and the provisions contained in the international agreements to which Canada is a signatory are reflected in:

- the *citizenship* requirements for the foreign worker;
- limits on the length of time that a person may *continue* in employment in Canada.

Both the *General Provision* and provisions contained in the international agreements outlined in the previous Section permit temporary entry into Canada of intracompany transferees without going through the HRSDC job confirmation process.

### 5.2 Executives and Managers

When considering the temporary appointment of *Executives* and *Senior Managers* to their Canadian operations, companies are advised to consider the advantages offered by *General Provision* since there are no restrictions on:

- the citizenship of the applicant,
- the length of time that an applicant may continue in the same position with a Canadian employer.

### 5.3 Specialized Knowledge Workers

Citizens of the United States and Mexico possessing specialized knowledge clearly have the best advantage when making application under provisions contained in the NAFTA.

Citizens of Chile possessing specialized knowledge have an equal advantage under the provisions contained in the CCFTA.

Citizens of other countries of the world possessing specialized knowledge are advised to make application under *General Provision*.

### 5.4 Citizenship Factor

- The *General Provision*: applies to citizens of all countries;
- NAFTA: applies only to citizens on the United States and Mexico;
- CCFTA: applies only to citizens of Chile;

### 5.5 Duration of Employment in Canada

- The *General Provision*: no stated maximum for Executives or Senior Managers; 3 years for Specialized Knowledge Workers;
- NAFTA and CCFTA: a maximum allowed stay of 7 years for Executives and Senior Managers; 5 years for Specialized Knowledge Workers.

## 5.6 EXECUTIVES

### Executives, Intracompany Transfers:

- direct the management of the company or a major component or function of the company
- establish the goals & policies of the company, component or function

**Doing Business:** regular, systematic, and continuous production of goods or delivery of services

### General Immigration Provision

#### Confirmation Exempt Code C12

**Citizenship:** no restrictions

**Employment Criteria:** continuous employment for 1 year in the previous 3 years in a similar position with the company

#### Other Criteria:

- Companies:
  1. must have a qualifying business relationship: parent, subsidiary, branch, or affiliate; (does not include franchise or license agreements)
  2. must both be doing business
- Employee:
  1. must be working in a similar position with the company in a foreign jurisdiction
  2. is taking employment at a permanent and continuing establishment of that company

#### Documents Required For Entry:

##### From *Executive*:

- proof of citizenship
- documentation from *Employer*.

##### From *Employer*:

- confirmation that the employee has been employed in a similar position by the company continuously for 1 year within the 3 year period immediately preceding the application
- outline of the employee's position outside of Canada: job title, place in the company, job description, duties
- outline of the employee's intended position in Canada
- arrangements for remuneration
- length of employee's intended stay in Canada
- description of the qualifying relationship between the Canadian and the foreign company
- evidence that both companies are doing business

**Duration of Stay:** no stated time limit; initial Work Permit may not exceed 3 years

**Application for Work Permits:** Ports of Entry or Visa Posts; renewals through CPC Vegreville

### North American Free Trade Agreement (NAFTA) Canada Chile Free Trade Agreement (CCFTA)

#### Confirmation Exempt Code T24

**Citizenship:** US or Mexican (NAFTA); Chile (CCFTA)

**Employment Criteria:** continuous employment for 1 year in the previous 3 years in a similar position with the company

#### Other Criteria:

- Companies:
  1. must have a qualifying business relationship: parent, subsidiary, branch, or affiliate; (does not include franchise or license agreements)
  2. must both be doing business
- Employee:
  1. must be working in a similar position with the company in US/Mexico (NAFTA) or Chile (CCFTA)
  2. is taking employment at a permanent and continuing establishment of that company

#### Documents Required For Entry:

##### From *Executive*:

- proof of US, Mexican, or Chilean citizenship
- documentation from *Employer*.

##### From *Employer*:

- confirmation that the employee has been employed in a similar position by the company continuously for 1 year within the 3 year period immediately preceding the application
- outline of the employee's position outside of Canada: job title, place in the company, job description, duties
- outline of the employee's intended position in Canada
- arrangements for remuneration
- length of employee's intended stay in Canada
- description of the qualifying relationship between the Canadian and the foreign company
- evidence that both companies are doing business

**Duration of Stay:** maximum 7 years; initial Work Permit may not exceed 3 years

**Application for Work Permits:** Ports of Entry or Visa Posts; renewals through CPC Vegreville

## 5.7 MANAGERS

### Senior Managers, Intracompany Transfers:

- manage the company, or a department, subdivision, function, or component of the company
- manage:
  1. other managers or supervisors
  2. professional employees, or
  3. an essential function

**Doing Business:** regular, systematic, and continuous production of goods or delivery of services

#### General Immigration

##### Provision

Confirmation Exempt Code C12

**Citizenship:** no restrictions

**Employment Criteria:** continuous employment for **1** year in the previous **3** years in a similar position with the company

##### Other Criteria:

- Companies:
  3. must have a qualifying business relationship: parent, subsidiary, branch, or affiliate; (does not include franchise or license agreements)
  4. must both be doing business
- Employee:
  1. must be working in a similar position with the company in a foreign jurisdiction
  2. is taking employment at a permanent and continuing establishment of that company

##### Documents Required For Entry:

###### From *Manager*:

- proof of citizenship
- documentation from *Employer*.

###### From *Employer*:

- confirmation that the employee has been employed in a similar position by the company continuously for **1** year within the **3** year period immediately preceding the application
- outline of the employee's position outside of Canada: job title, place in the company, job description duties
- outline of the employee's intended position in Canada
- arrangements for remuneration
- length of employee's intended stay in Canada
- description of the qualifying relationship between the Canadian and the foreign company
- evidence that both companies are doing business

**Duration of Stay:** no stated time limit; initial Work Permit may not exceed **3** years

**Application for Work Permits:** Ports of Entry or Visa Posts; renewals through CPC Vegreville

#### North American Free Trade Agreement (NAFTA)

#### Canada Chile Free Trade Agreement (CCFTA)

Confirmation Exempt Code T24

**Citizenship:** US or Mexican (NAFTA); Chile (CCFTA)

**Employment Criteria:** continuous employment for **1** year in the previous **3** years in a similar position with the company

##### Other Criteria:

- Companies:
  3. must have a qualifying business relationship: parent, subsidiary, branch, or affiliate; (does not include franchise or license agreements)
  4. must both be doing business
- Employee:
  1. must be working in a similar position with the company in US/Mexico (NAFTA) or Chile (CCFTA)
  2. is taking employment at a permanent and continuing establishment of that company

##### Documents Required For Entry:

###### From *Manager*:

- proof of US, Mexican, or Chilean citizenship
- documentation from *Employer*.

###### From *Employer*:

- confirmation that the employee has been employed in a similar position by the company continuously for **1** year within the **3** year period immediately preceding the application
- outline of the employee's position outside of Canada: job title, place in the company, job description duties
- outline of the employee's intended position in Canada
- arrangements for remuneration
- length of employee's intended stay in Canada
- description of the qualifying relationship between the Canadian and the foreign company
- evidence that both companies are doing business

**Duration of Stay:** maximum **7** years; initial Work Permit may not exceed **3** years

**Application for Work Permits:** Ports of Entry or Visa Posts; renewals through CPC Vegreville

## 5.8 SPECIALIZED KNOWLEDGE WORKERS

### Specialized Knowledge Workers, Intracompany Transfers:

- have **special knowledge** of the company's product or service and its application in international markets, or an **Advanced** level of knowledge of the company's processes and procedures;
- normally have knowledge related to the proprietary interests of the company.

**Doing Business:** regular, systematic, and continuous production of goods or delivery of services

#### General Immigration Provision

Confirmation Exempt Code C12

**Citizenship:** no restrictions

**Employment Criteria:** continuous employment for **1** year in the previous **3** years in a similar position with the company

#### Other Criteria:

- Companies:
  5. must have a qualifying business relationship: parent, subsidiary, branch, or affiliate; (does not include franchise or license agreements)
  6. must both be doing business
- Employee:
  3. must be working in a similar position with the company in a foreign jurisdiction
  4. is taking employment at a permanent and continuing establishment of that company

#### Documents Required For Entry:

##### From *Specialist*:

- proof of citizenship
- documentation from *Employer*.

##### From *Employer*:

- documentation establishing the employee's Specialized Knowledge
- confirmation that the position in Canada requires such knowledge
- confirmation that the employee has been employed in a similar position by the company continuously for **1** year within the **3** year period immediately preceding the application
- outline of the employee's position outside of Canada: job title, place in the company, job description, duties
- outline of the employee's intended position in Canada
- arrangements for remuneration
- length of employee's intended stay in Canada
- description of the qualifying relationship between the Canadian and the foreign company
- evidence that both companies are doing business

**Duration of Stay:** maximum **3** years; initial Work Permit may not exceed **1** year

**Application for Work Permits:** Ports of Entry or Visa Posts; renewals through CPC Vegreville

#### North American Free Trade Agreement (NAFTA) Canada Chile Free Trade Agreement (CCFTA)

Confirmation Exempt Code T24

**Citizenship:** US or Mexican (NAFTA); Chile (CCFTA)

**Employment Criteria:** continuous employment for **1** year in the previous **3** years in a similar position with the company

#### Other Criteria:

- Companies:
  5. must have a qualifying business relationship: parent, subsidiary, branch, or affiliate; (does not include franchise or license agreements)
  6. must both be doing business
- Employee:
  3. must be working in a similar position with the company in US/Mexico (NAFTA) or Chile (CCFTA)
  4. is taking employment at a permanent and continuing establishment of that company

#### Documents Required For Entry:

##### From *Specialist*:

- proof of US, Mexican, or Chilean citizenship
- documentation from *Employer*.

##### From *Employer*:

- documentation establishing the employee's Specialized Knowledge
- confirmation that the position in Canada requires such knowledge
- confirmation that the employee has been employed in a similar position by the company continuously for **1** year within the **3** year period immediately preceding the application
- outline of the employee's position outside of Canada: job title, place in the company, job description, duties
- outline of the employee's intended position in Canada
- arrangements for remuneration
- length of employee's intended stay in Canada
- description of the qualifying relationship between the Canadian and the foreign company
- evidence that both companies are doing business

**Duration of Stay:** maximum **5** years; initial Work Permit may not exceed **3** years

**Application for Work Permits:** Ports of Entry or Visa Posts; renewals through CPC Vegreville

## 6. Miscellaneous Categories of Foreign Workers

### 6.1 General

In addition to senior *executives* and *managers*, and persons possessing *specialized knowledge*, there are policies which provide for the facilitated entry of other categories of foreign workers.

This Section will provide guidance on the following categories of these foreign workers:

- Business Visitors, **Section 6.2**
- Company Buyers, **Section 6.3**
- Company Trainers, **Section 6.4**
- Company Trainees, **Section 6.5**
- Company Sellers, **Section 6.6**
- Company Employees for Consultation, **Section 6.7**
- Reciprocal Employment Opportunities for Canadians, **Section 6.8**
- International Student and Young Worker Programs, **Section 6.9**

These categories fall into 2 general groupings:

- persons who are exempted from the need to apply for Work Permits and may be admitted as visitors.
- persons who need to obtain Work Permits but are exempted from the HRSDC Confirmation process

### 6.2 Business Visitors

The *IRPA Regulations* contains a definition of Business Visitor that applies to nationals of all countries.

A Business Visitor is a foreign national:

- who seeks to engage in international business activities in Canada without directly entering the Canadian labour market,
- whose principal place of business and accrual of profits must remain predominately outside of Canada, and,
- who is remunerated for their business activities outside of Canada.

The *IRPA Regulations* recognizes the following as Business Visitor activities:

- persons in Canada to purchase Canadian goods or services for a foreign business or to receiving training or familiarization in respect of such goods or services,
- persons receiving or giving training within a Canadian parent or subsidiary of the corporation that employs them outside of Canada, and,
- persons who are representatives of a foreign business coming to Canada to sell goods for that business where sales are not made to the general public.

### 6.3 Company Purchasers of Goods or Services

Company personnel who are coming to Canada to purchase goods or services for that company are considered to be business visitors.

This may include persons engaging in the following activities:

- purchasing goods or services;
- arranging for the export of goods or services;
- controlling or inspecting the quality of a product during and after manufacture; or,
- acquiring training or familiarization with a product that has been purchased providing they do not contribute to the production of goods or services.

It would be prudent for persons in this category to be carrying a letter from their home office clearly stating the purpose of their trip, the anticipated length of stay, and confirmation that their source of remuneration remains outside of Canada.

Such persons will be admitted as visitors to Canada subject to normal visitor requirements without the requirement for Work Permits. Entry will normally be granted for a length of time that is reasonable to fulfill the purpose of their trip to Canada.

#### **6.4 Company Trainers**

Company personnel who are coming to Canada to deliver training within the company framework are considered to be business visitors.

Training normally involves a structured program designed to impart information. It typically casts the recipient in the role of a student and usually involves some evaluation of the learning that has taken place.

Such persons will be admitted as visitors to Canada subject to normal visitor requirements without the requirement for Work Permits. Entry will normally be granted for a length of time that is reasonable to fulfill the purpose of their trip to Canada.

#### **6.5 Company Trainees**

Company personnel who are coming to Canada to receive training are considered to be business visitors. This includes persons coming for:

- skills upgrading;
- familiarization with corporate business practices; and/or,
- formal classroom training sessions.

The following conditions must be met:

- the employee must be employed by a multinational corporation and be coming to a parent or subsidiary of that corporation;
- there must be no displacement of Canadian workers; and,
- hands-on training activities must be primarily for the purpose of learning and not for the purpose of production.

It would be prudent for persons in this category to present evidence of their purpose of entry and anticipated length of stay in the form of a letter from the Canadian operation, the foreign parent or subsidiary. The letter should clearly outline:

- the proposed activities that the trainee will be engaging in
- confirmation that the trainee's source of income remains outside of Canada.

Such persons will be admitted as Visitors to Canada subject to normal visitor requirements without the requirement for Work Permits. Entry will normally be granted entry for a length of time that is reasonable to fulfill the purpose of their trip to Canada.

### **6.6 Company Sellers**

Company personnel coming to Canada for the purpose of selling goods or services for that company on a business to business basis are considered to be business visitors.

The following restrictions apply:

- they must not engage in sales to the general public;
- they are restricted to taking orders for goods or services;
- they must not deliver the goods or provide any services; and,
- they must not sell Canadian made goods.

It would be prudent for persons in this category to be carrying a letter from their home office clearly stating:

- the purpose of their trip,
- confirmation that the person will comply with the forgoing restrictions,
- the anticipated length of stay, and,
- confirmation that their source of remuneration remains outside of Canada.

Such persons will be admitted as visitors to Canada subject to normal visitor requirements without the requirement for Work Permits. Entry will normally be granted entry for a length of time that is reasonable to fulfill the purpose of their trip to Canada.

### **6.7 Company Employees for Consultation**

Company personnel coming to Canada for the following reasons are considered to be business visitors:

- consultation
- monitoring
- negotiating
- auditing
- inspection

This provision would also extend to most foreign company personnel coming to Canada to consult with other company employees about the day to day running of the business. This would include persons coming to a Canadian branch for business meetings.

This category does *not* include:

- foreign workers who are merely *under contract* to a company and who will be providing consulting, auditing, or other services;
- foreign company personnel, or persons under contract to a foreign company, coming to Canada to provide services to a client of the Canadian parent or subsidiary.

It would be prudent for persons in this category to be carrying a letter from their home office clearly stating:

- the purpose of their trip,
- the anticipated length of stay, and,
- confirmation that their source of remuneration remains outside of Canada.

Such persons will be admitted as visitors to Canada subject to normal visitor requirements without the requirement for Work Permits. Entry will normally be granted entry for a length of time that is reasonable to fulfill the purpose of their trip to Canada

### **6.8 Reciprocal Employment Opportunities for Canadians**

The *IRPA Regulations* allow for the issuance of a Work Permit where the presence of a foreign worker will result in reciprocal employment opportunities for Canadians abroad.

This provision may be used where it can be demonstrated that any type of reciprocal employment opportunities will be afforded to Canadians and could be used to justify the hiring of temporary foreign workers in situations where Canadian employees have been sent to work abroad.

All applications under this provision should be accompanied by written submissions supported by documentary evidence outlining the reciprocal employment opportunities for Canadians in the foreign jurisdiction. It would be helpful to include:

- supporting evidence from the foreign Immigration department attesting to the fact that Canadians have been allowed to engage in employment in the foreign jurisdiction;
- full details of appointments of Canadians who have been transferred abroad.

In addition, all applications should include a letter from the employer outlining the duties that the foreign worker will be performing in Canada. These should be consistent with the duties required of the Canadian in the foreign jurisdiction.

These types of applications should be made at the Canadian visa post responsible for the foreign jurisdiction since the Immigration officers stationed there would be in the best position to evaluate the degree of reciprocity afforded to Canadians.

Work Permits will normally be valid for a length of time that is reasonable to fulfill the purpose of the trip to Canada.

### **6.9 International Student and Young Worker Programs**

Canada is signatory to numerous exchange programs for young persons. These reciprocal programs are managed by the Department of Foreign Affairs and International Trade

(DFAIT). DFAIT negotiates the terms of the individual agreements and determines annual quotas.

There are specific multilateral and bilateral exchanges, as well as general programs such as the Student Work Abroad Program (SWAP) and Working Holiday Programs (WHP) which are aimed at providing university and college students and recent graduates with the opportunity to combine periods of employment with time for leisure and exploration of the host country.

SWAP is administered in Canada by the Canadian Federation of Students and its subsidiary, the Canadian Universities Travel Services (Travel Cuts),

[www.travelcuts.com](http://www.travelcuts.com).

Prospective SWAP participants must apply through SWAP affiliates in their home country. WHP participants may apply directly at a Canadian Visa Post. In all cases applications must be processed at Visa Posts because of visa and medical requirements, as well as for quota management reasons.

Citizens of the United States who have been accepted by SWAP may apply for Work Permits at ports of entry in Canada. They must be in possession of a Canadian Certificate of Participation issued by one of the following SWAP affiliates in the United States:

- Council of International Educational Exchange, [www.ciee.org](http://www.ciee.org)
- BUNAC, [www.bunac.org](http://www.bunac.org)
- Travelcuts USA, [www.travelcuts.com](http://www.travelcuts.com)

In general, Work Permits issued under these programs vary in duration from between one and eighteen months and are, for the most part, restricted to participants of between 18 and 30 years of age. Applicants must be *citizens* of the countries with which Canada holds these reciprocal arrangements, and must apply at the Canadian Visa Post responsible for their country.

Since quotas for most countries are quickly filled, it is essential for companies to have long range human resource plans in place if they wish to offer internships or other short term employment to foreign young persons. Normally, jobs offered to young persons under these arrangements will be junior in nature and would not normally qualify for a Work Permit without the necessity of an HRSDC confirmation.

## 7. HRSDC Confirmations

### 7.1 Introduction

#### 7.1.1 General

The previous sections in this Handbook outline situations whereby company personnel may be permitted to work in Canada temporarily without the employer first obtaining a confirmation (opinion) from Human Resources Skills Development Canada (HRSDC). In most other situations, employers who wish to move company personnel to Canada on either a temporary or permanent basis must request a confirmation from HRSDC.

The new Immigration and Refugee Protection Act regulations provide the legal authority for HRSDC to provide CIC with two distinctly different types of opinions:

- HRSDC Arranged Employment Opinion (AEO)
- Labour Market Opinion (LMO)

The HRSDC Arranged Employment Opinion (AEO) to CIC factors into the assessment of a Skilled Worker application for Permanent Residency. With this type of opinion there is:

- no consideration of the Canadian Labour Market, or
- whether there is an occupational shortage or surplus of skills in Canada.

HRSDC will determine if the applicant has a genuine offer of full-time, year round, indeterminate employment that provides wages and working conditions that are sufficient to attract and retain Canadian Citizens or Permanent Residents.

The Labour Market Opinion (LMO) allows for HRSDC to consider whether the job can be filled from within Canada or if the foreign worker's presence will help maintain or increase employment and training opportunities of Canadians.

Depending on the timing of your human resource needs there are three possible situations:

#### 1) Permanent Position: No interim Work Permit

- The foreign national will be assuming an indeterminate position but will not be applying for a work permit to cover the time the application for a Permanent Resident Visa will be in process.

#### 2) Permanent Position: Interim Work Permit

- The foreign national will be assuming an indeterminate position but applying for both a Permanent Resident Visa and an interim Work Permit in order to work in Canada while the application for Permanent Residence is being processed.

### 3) Temporary Position: Work Permit only

- The foreign national will be assuming a temporary position in Canada to perform a specified job for a specified period of time.

#### 7.1.2 Skilled Worker Class of Immigrants

The Immigration and Refugee Protection Act (IRPA) Regulations created a Skilled Worker class of immigrants which are chosen for their ability to become successfully established in Canada.

Skilled Workers must meet the following requirements:

- be assessed according to the selection criteria
- have at least 1 year of work experience within the past 10 years in a management occupation or in an occupation normally requiring university, college or technical training as set out under Skill Type 0 or Skill Level A or B of the National Occupational Classification (NOC).
- have enough money to support themselves and their dependants as they settle in Canada.

#### 7.1.3 Skilled Worker Selection Criteria

Skilled Workers are assessed against 6 selection criteria which evaluate their ability to successfully establish in Canada. Each of the criteria has a number of points assigned to it.

The following table lists the selection criteria and the maximum number of points assigned to each of the criteria:

<b>Selection Criteria</b>	<b>Maximum Points</b>
Education	25
Official languages	24
Employment experience	21
Age	10
Arranged Employment	10
Adaptability	10
<b>TOTAL</b>	<b>100</b>

Applicants must obtain a minimum of 75 points which may be derived from any or all of the criteria.

#### **7.1.4 Arranged Employment Criteria**

If an applicant determines that they are short points when doing a self-assessment on the 5 criteria that do not include the Arranged Employment factor they may have a potential employer pursue the Arranged Employment option with HRSDC.

The process with HRSDC will vary depending on whether the applicant will be taking:

- a permanent position with no interim Work Permit
- a permanent position and an interim Work Permit

### **7.2 Permanent Position: No interim Work Permit**

#### **7.2.1 Employer's Role**

The employer must submit an Arranged Employment application to HRSDC requesting the Arranged Employment option and must demonstrate the following:

- the offer is indeterminate
- the offer of employment is genuine,
- the employment is not seasonal or part-time
- the wages and working conditions would be sufficient to attract and retrain Canadians or Permanent Residents.

#### **7.2.2 Determination: Genuine Offers**

HRSDC must be satisfied that the employer is an enterprise that is doing business in Canada. Doing business is considered to be the regular, systematic, and continuous provision of goods or services in Canada.

The application must be accompanied by:

- a copy of the offer of employment to the applicant, on company letterhead, signed by the person responsible for hiring employees which includes the title of the position being offered, the salary to be paid, and the length of time the offer is open
- copies of CCRA remittance forms (PD7A) showing that the company paid source deductions for employees over the past 12 months
- evidence to support that the business has been in operation for over 1 year such as a business license, CCRA T4 Summary of Deductions for the previous year, or a commercial lease agreement for the business location.

#### **7.2.3 Determination: Not part-time or Seasonal**

The offer of employment to the applicant should outline the number of hours per standard work week and provide an explanation in the case of variable hours of work, including compressed work weeks and shift work.

#### **7.2.4 Determination: Wages and Working Conditions Attractive to Canadians**

Wages and working conditions must meet prevailing standards for the occupation and geographic area.

Positions that are unpaid, alternatively compensated, or commission based will not be confirmed.

### **7.2.5 After HRSDC Approval**

Once the job offer has been approved, the HRSDC officer will:

- send details of the confirmation to Citizenship and Immigration
- will send an approval letter to the employer advising them that the arranged employment confirmation request has been approved.

It is recommended that the employer send a copy of this approval letter to the prospective foreign worker. This letter is *not* a confirmation document, but merely notification to the employer that the request for a confirmation to fill a permanent position with a foreign national has been approved. The foreign national should then apply to Citizenship and Immigration (CIC) for Permanent Residency under the Skilled Worker Class. It is advisable for the foreign national to attach a copy of the HRSDC approval letter to their application.

The approval of an Arranged Employment offer is not an indication that the skilled worker applicant will be granted Permanent Residency.

### **7.3 Permanent Position: Interim Work Permit**

#### **7.3.1 Labour Market Opinion**

A Labour Market Opinion, or Confirmation, is a statement by HRSDC that there are no Canadians who are willing, available, or qualified to fill a position.

HRSDC takes the following factors into consideration when assessing a request for a Labour Market Opinion (LMO) confirmation:

- labour market effects of hiring a foreign worker; and,
- training of, and transfer of knowledge to, Canadians or Permanent Residents
- direct job creation or job retention for Canadians or Permanent Residents

Foreign nationals applying under the Skilled Worker class of Immigrants that are needed by the Canadian employer to work while their application for Permanent Residence is processed and finalized will require a work permit. In these cases CIC requires a labour market opinion (LMO) confirmation prior to issuing the work permit.

Even though a foreign national may have sufficient points to be deemed eligible for Permanent Residency as a Skilled Worker and may eventually assume this very same permanent position in Canada, the assessment done by HRSDC when the worker is needed prior to finalization of their Permanent Residency is based on labour market effects or benefits.

### 7.3.2 Employers Role

The employer must submit a Temporary Foreign Worker application to HRSDC requesting a foreign worker.

The following table outlines what must be demonstrated by the employer and how that may be accomplished:

What Must Be Demonstrated	How
<p>The foreign worker is needed to fill a labour shortage,</p> <p><b>Or,</b></p>	<p>Evidence that:</p> <ul style="list-style-type: none"> <li>• efforts were made to hire or train Canadians;</li> <li>• qualified and available Canadians were given first consideration;</li> <li>• the working conditions, salary, and benefits are sufficient to attract and retain Canadians or Permanent Residents; and,</li> <li>• an opinion was obtained from unions or professional associations or organizations</li> </ul>
<p>There are clear benefits to the Canadian labour market</p>	<p>Evidence that the work is likely:</p> <ul style="list-style-type: none"> <li>• to result in direct job creation or job retention for Canadians, or</li> <li>• to result in the creation or transfer of skills and knowledge for the benefit of Canadians</li> </ul>

### 7.3.3 After HRSDC Approval

Once the job offer has been approved, the HRSDC officer will send:

- details of the confirmation to CIC;
- an approval letter to the employer advising them that the confirmation request has been approved.

It is recommended that the employer send a copy of this approval letter to the prospective foreign worker. This letter is *not* a confirmation to fill a position with a foreign worker has been approved.

The foreign national must then apply for:

- a Work Permit from Citizenship and Immigration
- Permanent Residency.

The work permit will allow the foreign worker to commence employment in Canada while an application for permanent residency is being processed. It is advisable for the foreign worker to attach a copy of the HRSDC approval letter to their applications.

A Work Permit is valid only for a specified job and period of time.

#### **7.3.4 Extension of the CIC Work Permit**

Where a work permit was issued based on an opinion from HRSDC an application for extension must be made to HRSDC for a new HRSDC opinion before CIC will consider a new work permit.

HRSDC will reassess the labour market impact and if applicable determine that the terms and conditions of the original confirmation were met. HRSDC may require the employer to provide a training plan or a succession plan to replace the foreign worker at the end of the authorization period.

### **7.4 Temporary Position: Work Permit**

#### **7.4.1 Labour Market Opinion**

A Labour Market Opinion, or Confirmation, is a statement by HRSDC that there are no Canadians who are willing, available, or qualified to fill a position.

HRSDC takes the following factors into consideration when assessing a request for a Labour Market Opinion (LMO) confirmation:

- the labour market effects of hiring a foreign worker; and,
- the training of, and transfer of knowledge to, Canadians or Permanent Residents
- direct job creation or job retention for Canadians or Permanent Residents

A temporary foreign worker confirmation will be considered if the employment vacancy is:

- temporary
- permanent but a foreign worker is needed to bridge the gap until a Canadian can be recruited or trained.

#### **7.4.2 Employers Role**

The employer must submit a Temporary Foreign Worker application to HRSDC requesting a foreign worker.

The following table outlines what must be demonstrated by the employer and how that may be accomplished:

<b>What Must Be Demonstrated</b>	<b>How</b>
<p>The foreign worker is needed to fill a labour shortage,</p> <p><b>Or,</b></p>	<p>Evidence that:</p> <ul style="list-style-type: none"> <li>• efforts were made to hire or train Canadians;</li> <li>• qualified and available Canadians were given first consideration;</li> <li>• the working conditions, salary, and benefits are sufficient to attract and retain Canadians or Permanent Residents; and,</li> <li>• an opinion was obtained from unions or professional associations or organizations</li> </ul>
<p>there are clear benefits to the Canadian labour market</p>	<p>Evidence that the work is likely:</p> <ul style="list-style-type: none"> <li>• to result in direct job creation or job retention for Canadians, or</li> <li>• to result in the creation or transfer of skills and knowledge for the benefit of Canadians</li> </ul>

### 7.4.3 After HRSDC Approval

Once the job offer has been approved, the HRSDC officer will:

- Send details of the confirmation to CIC;
- Will send an approval letter to the employer advising them that the confirmation request has been approved.

It is recommended that the employer send a copy of this approval letter to the prospective foreign worker. This letter is *not* a confirmation to fill a position with a foreign worker has been approved. The worker must then apply for a Worker Permit from Citizenship and Immigration. This will allow the foreign worker to commence employment in Canada. It is advisable for the foreign worker to attach a copy of the HRSDC approval letter to their application.

A Work Permit is valid only for a specified job and period of time.

### 7.4.4 Extension/Renewal of the CIC Work Permit

Where a work permit was issued based on an opinion from HRSDC an application for extension must be made to HRSDC for a new HRSDC opinion before CIC will consider a new work permit.

HRSDC will reassess the labour market impact and if applicable determine that the terms and conditions of the original confirmation were met. HRSDC may require the employer to provide a training plan or a succession plan to replace the foreign worker at the end of the authorization period.

## **7.5 HRSDC Miscellaneous**

### **7.5.1 Reasons for Refusal of Confirmations**

HRSDC cannot approve an offer of employment to a foreign worker nor can CIC issue a Work Permit if any of the following factors apply:

- HRSDC found that the wages and working conditions were lower than the prevailing wage for the occupation.
- HRSDC determined that Canadians or Permanent Residents were qualified and available.
- HRSDC determined that the Employer had not conducted an adequate search for qualified Canadians and Permanent Residents.
- the employment of the foreign national is likely to adversely affect the settlement of a labour dispute or the employment of any person involved in the dispute.
- HRSDC and CIC determined that a Labour Market Opinion was not necessary because a CIC exemption applied.
- the employer has withdrawn their offer of employment.
- the employer has withdrawn their HRSDC foreign worker application.
- HRSDC has determined that there is another valid reason to refuse the employer's request.

### **7.5.2 Time Standards for Processing Confirmations**

The HRSDC time standard for processing either a temporary or permanent (arranged employment) application is normally 15 working days from the time all information and applications have been provided. Once a determination has been made by HRSDC the employer will be notified by letter. It will then be the foreign national's responsibility to make application for either Permanent Residency or Work Permit.

### **7.5.3 Employers Represented by Third Parties**

An employer has the right to be represented by a third party. The third party may be either a lawyer, a consultant, or any other individual or entity acting on their behalf.

Where an employer retains a third party to act on their behalf in obtaining a confirmed offer of employment, HRSDC will require the agent to produce a written authorization from the employer which must:

- be presented on the employer's original company letterhead and be signed by an officer of the company who has signing authority;
- contain the name and address of the employer;
- contain the name and address of the agent and the agent's corporate name;

- specifically authorize the agent to act on the employer's behalf in obtaining the confirmed offer of employment and to sign any and all relevant documents on the employer's behalf; and,
- specify the period of time the authorization will remain in force.

## 8. Applying For Work Permits at Ports of Entry

A Port of Entry (POE) is a Canadian Border Services Agency (CBSA) office located at any border crossing, airport, or seaport. This is where a person who arrives in Canada is examined by a CBSA Officer. That Officer is responsible for assessing the admissibility of any person who seeks entry to Canada.

A Work Permit will be issued if the Port of Entry officer determines that the activity is considered to be work. A Work Permit is a document that authorizes a person to whom it is issued to engage or continue in employment.

Workers may apply for Work Permits at Ports of Entry:

- for all categories of Confirmation Exempt Work Permits except for non U.S. participants in Youth Exchange Programs.
- if their jobs require HRSDC Confirmations and they do not require Temporary Resident Visas or medical examinations

Additional information regarding Immigration medical examinations is contained in **Section 11**.

Some jobs require the worker to complete an Immigration medical examination. And, workers who have resided in certain countries require Immigration medical examinations. See **Section 11** for clarification.

Foreign workers should be in possession of all the necessary documentation that is required to substantiate their application such as evidence of the employee's ability to meet the job requirements, meet educational background requirements and employment history. Failure to do so may result in a significant delay for the workers or possibly even a refusal of entry.

Cost recovery fees apply for processing applications for Work Permits and Temporary Resident Visas. Please see **Section 13**.

## 9. Applying for Work Permits at Canadian Visa Posts

A Visa Post is an office in a Canadian Embassy, Consulate, or High Commission that processes Immigration applications outside of Canada. A High Commission is a Canadian embassy in a Commonwealth country.

A current list of responsible missions abroad by country is available on the CIC Web Site: [www.cic.gc.ca](http://www.cic.gc.ca)

Foreign workers who apply at Visa Posts for Work Permits will be required to provide all appropriate documentation to substantiate their request. All necessary evidence concerning the employee's ability to meet the job requirements, including those related to educational background and employment history, should be provided. In addition, the applicant should submit the following:

- a completed application form which should be obtained from the processing Visa Post;
- copy of the biographical data pages of a valid passport. Citizens of the United States are exempt from the need for a passport if traveling to Canada from the United States, but must have proof of their citizenship, i.e., birth certificate or certificate of naturalization;
- two recent passport size photographs for each person proceeding to Canada;
- the Cost Recovery Fee; and,
- any required supporting documents outlined in this Handbook.

All necessary supporting documents that are not in English or French *must* be accompanied by a certified translation. Failure to supply translated documents will result in processing delays.

## 10. Applying for Extensions of Work Permits in Canada

### 10.1 General

Persons who are working temporarily in Canada are expected to leave the country on or before the expiry of their Work Permits. However, persons who want to stay beyond the authorized date may seek an extension of their status from within Canada providing their Work Permits are still valid.

### 10.2 How to Apply

Clients must contact their local Citizenship and Immigration Centre (CIC) or Call Centre to obtain an application kit entitled *Application to Change Terms and Conditions or Extend Your Stay in Canada*. A directory of CIC offices and Call Centres is provided on the CIC Website: [www.cic.gc.ca](http://www.cic.gc.ca).

The kit contains an application form, a fee schedule, and a self-addressed mailing envelope. Also included is a guidebook which provides information on how to complete the application as well as answers to common questions.

Completed applications are to be mailed directly to the Case Processing Centre in Vegreville in the self addressed envelope provided in the application kit. The address is:

Case Processing Centre  
Vegreville AB  
T9C 1W1

### 10.3 Documentation That Should Accompany The Application

Each application for an extension should be accompanied by documentation identical to that which was presented when applying for the initial Work Permit.

In addition to the required documentation, the applicant should provide the following documents:

- 1) photocopies of:
  - the foreign worker's existing Work Permit;
  - pages of the applicant's passport, travel document, or identity document that show the details of the person's identity, date and place of issue, and valid until date; or,
  - proof of citizenship, such as a certificate of citizenship or birth certificate where persons are exempt from the passport requirement;
- 2) documentation regarding the job in the form of:
  - an approval letter from HRSDC identifying when the extended job offer was confirmed, or,
  - evidence supporting the assertion that the job is exempt from the confirmation process; and,
- 3) the required cost recovery fee, **Section 13**.

Failure to provide sufficient documentation that will allow an Immigration Officer to properly assess the application will result in the entire package being returned to the applicant with a letter explaining the reason for the return.

Where an initial Work Permit was issued on the basis of a confirmation that was approved by HRSDC, any extension of the Work Permit will require a *new* confirmation to be issued by HRSDC. The employer should apply for a new confirmation from their local HRSDC office at least 8 weeks prior to the expiry of the foreign worker's current Work Permit. At the same time, the employer should advise HRSDC that the foreign worker is currently in Canada and will be applying for an extension through the Case Processing Centre in Vegreville.

#### **10.4 Cost Recovery**

With few exceptions, there are cost recovery fees for processing applications for Work Permits.

Detailed information on the methods of payment and where payment may be made are contained in **Section 13**.

#### **10.5 Time Standards for Processing Extension Requests**

The current time standard for processing a request to extend a Work Permit at Vegreville is 25 days as long as the application is complete and all supporting documents are provided.

#### **10.6 Leaving Canada Before an Extension Request Is Finalized**

If a foreign worker leaves Canada *without* a valid Work Permit, then they may not be able to return to Canada. It is the responsibility of the foreign worker to ensure that the request for an extension of their Work Permit has been approved. Otherwise, they will have to apply at a Visa Post for a new Work Permit and pay an additional cost recovery fee before returning to Canada.

## 11. Medical Examinations

Temporary foreign workers who have resided for 6 months or more in the preceding twelve months in certain areas of the world are required to undergo medical examinations if they plan to remain in Canada for longer than 6 months. Medical examinations must be completed and passed before Work Permits can be issued.

If a foreign worker who requires a medical arrives at a Port of Entry without having had it completed they could face a significant delay in obtaining a Work Permit, or be refused entry.

Temporary foreign workers in occupations where the protection of public health is essential require medical examinations regardless of the length of time that they will be remaining in Canada. Work Permits cannot be issued to them until they have passed the Immigration medical examinations. This requirement applies to occupations that bring workers into close contact with people, such as occupations in health services and teachers in primary or secondary schools.

All applicants for permanent residence are required to have medical examinations for Immigration purposes.

Should a medical examination be necessary, CIC will issue instructions regarding the medical examination procedures and a list of *Designated Medical Practitioners* in the applicant's area. A *Designated Medical* is a medical doctor recognized by CIC who may be contacted to arrange a medical examination for Immigration purposes. The medical examination must be arranged at the applicant's own expense.

## 12. Temporary Resident Visas and Travel Documents

### 12.1 Temporary Resident Visas

Certain persons may require Temporary Resident Visas in order to travel to Canada. A current list of countries whose citizens require visas can be found at the CIC Web site: [www.cic.gc.ca](http://www.cic.gc.ca).

A Temporary Resident Visa is a form issued by an Immigration Officer at a Visa Post that is placed in the passport of the applicant. It is an official way of showing that the applicant appeared to have met the requirements for admission to Canada. Temporary Resident Visas cannot be applied for at Ports of Entry. Persons who arrive at Ports of Entry without required visas are inadmissible to Canada and will be refused entry.

A Temporary Resident Visa is **not** a Work Permit. Should the Immigration Officer at the Visa Post determine that a Work Permit is required for an applicant, one will be issued along with the Temporary Resident Visa.

The applicant must satisfy the Visa Post that they meet the requirements of the *IPRA Act and Regulations* and that they will be in Canada for only a temporary period. Cost Recovery fees are applicable. See **Section 13**.

### 12.2 Travel Documents

Applicants from most countries will be required to be in possession of passports valid for the entire length of the person's stay in Canada.

### 12.3 U.S. Citizens and Alien Residents

Although persons who are citizens or alien residents of the United States will not be required to have passports, they will need proof of their citizenship such as a certificate of citizenship or birth certificate. Alien residents of the United States must also be in possession of their *Alien Registration Card*.

### 13. Cost Recovery

There are Cost Recovery fees for most Immigration services which are payable at the time an application is made. Where an application is submitted by mail, payment should accompany the written application.

Method of payment varies depending on where an application is processed. In general, acceptable forms of payment at Ports of Entry, and at Visa Posts in most Developed countries, are cash, money orders, bank drafts, certified cheques, traveler's cheques, Visa, and MasterCard. U.S. currency is accepted at most Ports of Entry. Personal cheques are *not* acceptable.

Some methods of payment that can be accepted at selected Visa Posts are restricted due to common banking practices in the host countries. Applicants are cautioned to enquire at the responsible Visa Post about acceptable forms of payment at that particular location.

When submitting applications for extension of stay within Canada to the Case Processing Centre in **Vegreville**, clients must use the **pink** Handling Public Money receipt included with the application and pay all fees at a financial institution in Canada. **No other form of payment is accepted at Vegreville.**

Currently, the Cost Recovery Fee for processing a request for a Work Permit is \$150 Canadian. There is a Cost Recovery Fee of \$75 Canadian to process a request for a Temporary Resident Visa. Where an applicant for a Work Permit also requires a Temporary Resident Visa, only \$150 is charged.

## 14. Related Issues

### 14.1 Spousal Employment

Canada's Immigration program allows for the issuance of Work Permits to spouses and common law partners of most Skilled Workers.

Skilled Workers are those whose occupations fall within the following categories:

- management occupations
- professional occupations (usually requiring university education)
- technical and skilled trades occupations (usually requiring college education or apprenticeship training)

This policy will provide for the issuance of Work Permits to most spouses of Executives, Senior Managers, and Specialized Knowledge Workers.

To be eligible to apply for consideration under the policy:

- the Work Permit of the Principal Applicant must have been issued for a duration of 6 months or more, and,
- the Principal Applicant must be a Skilled Worker.

Spouses may qualify for *open* Work Permits which will allow them to seek and accept any work in Canada as long as they undertake and pass an Immigration medical examination. If no medical is undertaken, spouses will be issued with employer specific Work Permits.

A Spousal Work permit will not exceed the validity of the Work Permit issued to the Skilled Worker.

### 14.2 Processing Time Standards for Work Permits

The length of time required to process an application for a Work Permit varies according to the individual circumstances of the request and the workload and processing procedures at the Visa Posts. It is recommended that the foreign worker apply as much in advance as possible. Requests may take up to a minimum of *3 or 4 weeks* to process. The requirement for a medical examination will add to the processing time.

Most Visa Posts will not commence processing until *all* of the required documentation is provided by the applicant.

Applications for Work Permits made at Ports of Entry will be assessed at the time of the foreign worker's arrival.

### **14.3 Social Insurance Numbers**

The SIN is a nine-digit identification number that is personal and confidential. A SIN may be applied for at any Human Resources Center in Canada. The application can be downloaded from the HRSDC Web site: <http://www.hrsdc.gc.ca/en/home.shtml>

Applications must be accompanied by an original or certified copy of a document proving identity and status in Canada. There is no fee for the initial application. HRSDC advises that it takes approximately *three* weeks to get the card to the client after the application is approved.

### **14.4 Health Coverage in Ontario for Holders of Work Permits**

Persons in Ontario are eligible to apply for coverage under the Ontario Health Insurance Plan (OHIP) providing the following conditions are met:

- the person is legally in Canada;
- their permanent and principal home is in Ontario;
- they are present in Ontario for at least 153 days in any 12 month period; and,
- their Work Permit must be valid for at least 6 months.

Application for coverage under OHIP must be made in person. The applicant must provide an **original** Immigration document. These must be accompanied by supporting documents such as a passport or a driver's license in order to establish identity and residence. Dependents are eligible for coverage if the expected period of employment will be a minimum of 3 years.

Further information is available by calling the Ministry of Health at 1.800.268.1154 or by visiting the Ministry's Web site at:

<http://www.health.gov.on.ca/english/public/pub/ohip/services.html>