



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada

OP 14

Processing Applicants for the Live-in Caregiver Program

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1 What this chapter is about

This chapter describes the overseas processing of applications under the Live-in Caregiver Program (LCP) and the overseas processing of live-in caregiver family members living outside Canada, once the live-in caregiver has applied for permanent residence.

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2 Program objectives

Citizenship and Immigration Canada (CIC) established this program to meet a labour market shortage of live-in caregivers in Canada, while providing an avenue for these individuals to work and eventually apply for permanent residence from within Canada.

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3 The Act and Regulations

Legislation regarding the Live-in Caregiver Program

For more information about	Refer to
Definition of live-in caregiver	R2
Live-in caregiver class	R113
Processing	R111
Work permits: requirements	R111, R112
Permanent Residence	R113
Family members: requirements	R114
Conformity: applicable times	R115

3.1 Forms required

The forms required are shown in the following table:

Form Title	Form Number
Application for a Work Permit	IMM 1295B
Application for a Temporary Resident Visa	IMM 5257B
Additional Family Information	IMM 5406E

4 Instruments and delegations

4.1 Instruments and delegations

Subsection A6(1) authorizes the Minister to designate officers to carry out specific powers, and to delegate authorities. It also states those ministerial authorities that may not be delegated, specifically those relating to security certificates or national interest.

Pursuant to subsection A6(2), the Minister of Citizenship and Immigration has delegated powers and designated those officials authorized to carry out any purpose of any provisions legislative or regulatory in instrument IL 3 - Delegation and Designation.

4.2 Delegated powers

IL 3 organizes delegated powers by modules. Each module is divided into columns including Column 1: provides an item number for the described powers, Column 2: provides a reference to the sections or subsections of the Act and Regulations covered by the described powers and Column 3: provides a description of the delegated powers. The duties and powers specific to this chapter are found in the modules listed below:

- Module 1 – Permanent residence and the sponsorship of foreign nationals
- Module 5 – Temporary Residents – before entering
- Module 6 – Entering Canada
- Module 9 – Inadmissibility – loss of status – removal

4.3 Delegates/designated officers

The delegates or designated officers, specified in Column 4 of Annexes A to H, are authorized to carry out the powers described in column three of each module. Annexes are organized by region and by module. Officers should verify the list below for the annex specific to their region.

Annex A	Atlantic Region
Annex B	Quebec Region
Annex C	Ontario Region
Annex D	Prairies/N.W.T. Region
Annex E	B.C. Region
Annex F	International Region
Annex G	Departmental Delivery Network
Annex H	NHQ

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5 Departmental policy

5.1 Where the process occurs

A live-in caregiver must be approved at a visa office outside Canada to participate in the live-in caregiver program.

5.2 Eligibility criteria

Applicants who apply for a work permit under the Live-in Caregiver Program must meet the requirements in R112 whether or not they intend to eventually seek permanent residence in Canada.

Officers may issue a work permit to persons who will be working in nanny-like jobs under the International Youth Exchange Program. Applicants should be assessed under the criteria of the specific program for which they are applying.

Applicants under the International Youth Exchange Program are not eligible to apply for permanent residence in Canada, and the work permit cannot be extended beyond the prescribed period. These individuals are not live-in caregivers under the Live-in Caregiver Program.

Note: It is theoretically possible for an individual to come to Canada as a live-in caregiver who does not have any intention of applying for permanent residence. Such an individual would not be in the Live-in Caregiver Program (and hence would be ineligible to apply for permanent residence), but would be in Canada as a temporary worker who would return home at the end of the job.

R200(3)(d) requires such an individual to meet the eligibility requirements in R112.

5.3 Education

Live-in caregivers must:

- have successfully completed the equivalent of Canadian secondary school;
- be able to compete in the Canadian labour market if they leave the caregiving field after they become permanent residents.

Given the variation in school systems across Canada, this requirement cannot be regarded as simply a matter of counting years of schooling until reaching number twelve. Equivalency of achievement is what is important.

5.4 Training and experience requirement

Candidates for the Live-in Caregiver Program must have completed training offered as part of a formal education program at an educational institution accredited by the appropriate local education

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authorities. However, accreditation is not necessarily an endorsement of quality. Officers should assess the quality of the program taken and whether it is adequate in equipping the applicant to perform the duties required by the proposed job. Where there are training programs established primarily to provide caregiver training to meet our requirements, it will be necessary to determine their legitimacy as well as the adequacy of the training.

The total number of hours of courses taken must equal or exceed the equivalent of six months full-time training. (see Full-time training, [Section 5.5](#))

Training and experience must be in a field or occupation related to the employment sought. Potential live-in caregivers may have training or experience in early childhood education, geriatric care, pediatric or geriatric nursing or first aid, for example. Care giving experience in an institutional setting (daycare, crèche, hospital, senior citizens home, etc.) should be considered in assessing whether the applicant meets the experience requirement.

Care giving experience in the applicant's own home would not normally qualify someone for the program as the applicant will not have been in a paid employment situation. However, there may be legitimate situations where the applicant was employed as a live-in caregiver by a relative. Applicants are responsible for satisfying the officer that they were actually paid for work performed.

5.5 Full-time training

Live-in caregiver training should be similar to the training offered by Canadian community colleges providing training in childcare or other related fields. The course load at Canadian community colleges averages 25 to 30 hours per week. This does not include activity assignments or practicum. Thus, a student in an educational institution offering live-in caregiver training should be attending classes at least 25 to 30 hours per week for six months.

There is no specific list of courses required by CIC, as CIC is not an education-regulating body. However, visa offices can assess the legitimacy, quality, adequacy and relevance of the training programs offered in their regions, including an assessment of whether the hours of classroom training are sufficient.

Correspondence courses and part-time studies, such as training taken on weekends, do not meet the full-time training requirement.

Note: Officers should request assistance from the visa office in the country where the training centre is situated in verifying the legitimacy of the centre and the substance of the training.

5.6 Language ability

Live-in caregivers must have a level of fluency in English or French that enables them to function independently in an unsupervised setting and to protect the persons in their care. They must be able to:

- respond to emergency situations by contacting a doctor, ambulance, police or fire department;
- answer the telephone and the door;
- read the labels on medication; and

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- may be required to communicate with others outside the home, such as schools, stores, or other institutions.

A proficiency in speaking, understanding and reading will also ensure that caregivers understand their rights and obligations and are not dependent on their employers to interpret provincial labour legislation and employment standards. They will also be better equipped to seek outside assistance in the event of personal difficulties or if they find themselves in an abusive employment situation.

5.7 Mandatory employment contract

The prospective employer in Canada is responsible to ensure that there is an employment contract with the prospective live-in caregiver. By law, terms and conditions of the contract must be consistent with provincial employment standards. The employer will send the proposed contract to the live-in caregiver for review and signature before the job offer is validated by Human Resources Development Canada (HRDC). The signed contract is part of the documentation sent by the caregiver to the visa post. (see Validation Process, [Section 7](#)).

Note: In British Columbia, as an HRDC pilot project, the application form filled out by the employer and sent to HRDC for job validation purposes becomes the employment contract once the employer and prospective employee sign it.

Note: In addition to a legislated requirement, the employment contract is also a tool that officers use in their assessment of the application. It also provides information that can be used in an interview.

5.8 Requirements for employers

The contract/position/accommodation	The employer must
The job offer must be bona fide.	have sufficient income to be able to pay the wages and benefits of a live-in caregiver, based on provincial wage rates.
The position offered must be full-time.	be residing in Canada.
The accommodation for the live-in caregiver should ensure privacy, such as a private room with a lock.	provide suitable accommodation for the live-in caregiver.

Note: If there is anything in the documentation provided by the applicant, or the employer, or anything said by the applicant at the interview, that leads the officer to believe there could

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be insufficient income, the officer may request the employer to provide evidence such as a Notice of Assessment from the Canada Customs and Revenue Agency (CCRA) or proof of employment.

5.9 Employment by diplomatic personnel

Diplomatic personnel may have their live-in caregiver enter and remain in Canada under the Live-in Caregiver Program, provided the individual is eligible under R112 to become a live-in caregiver and obtains a work permit. The caregiver will be able to apply for permanent residence once they have met the requirements of R113. Such an individual will not be considered to be a member of the diplomat's personal suite.

Note: Domestic staff who enter Canada as accredited members of a diplomat's suite are not live-in caregivers under the Live-in Caregiver Program and, as such, are not eligible for permanent residence. These persons are not live-in caregivers under the LCP.

For more information see [FW 1](#), Foreign Worker Manual.

5.10 Family members who wish to accompany

Family members should not accompany live-in caregivers. Even when an employer agrees that a family member may reside with the caregiver in the employer's residence, there are no guarantees that any subsequent employer would agree to the same terms. Live-in caregivers who wish to bring their children should be given the reasons why this is not possible. Visas should not be issued to family members, although the live-in caregiver applicant may be approved.

5.11 Family members of live-in caregivers who have applied for permanent residence

Members of the live-in caregiver class can apply for permanent residence after they have worked for two years in the Live-in Caregiver Program within three years of their arrival in Canada. They must meet the requirements as stated in R113.

All family members of live-in caregivers who have applied for permanent residence must be examined except for separated or former spouses/common-law partners and children in the sole custody of another person, including the separated or former spouse/common-law partner. Eligible family members must undergo and pass medical, criminal and security checks.

Note: Live-in caregivers cannot become permanent residents if any of their eligible family members are inadmissible. The ineligible family members are not members of the family class and cannot subsequently be sponsored. (See [IP 4](#), Inland Processing of Live-in Caregivers)

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Live-in caregivers accepted for permanent residence have a choice of requesting parallel processing for some or all of their family members residing in or outside Canada. Those who are processed concurrently at a visa office may be issued permanent resident visas.

Note: Family members who are not processed concurrently may be sponsored as members of the family class once the live-in caregiver is a permanent resident. (See [Section 9](#), Procedures for Processing Family Members Abroad)

5.12 Responding to representations

The *Privacy Act* requires that information concerning clients must be released only to the applicant or the applicant's designated representative who are Canadian citizens or permanent residents of Canada. Prior to responding to a representation, be sure that clients or their representative verify their identity. This applies whether the representation is made in person or by mail.

6 Definitions

6.1 Educational institution

An educational institution, as generally understood, requires the existence of a building or buildings devoted primarily to formal education, training and development.

6.2 International Youth Exchange Program

This program is managed by DFAIT and is a reciprocal exchange program that enables youth from countries with which Canada has an arrangement to engage in short-term work or study activities in Canada. There are four components:

- Working Holiday Program;
- Student Work Abroad Program;
- Young Workers Exchange Program;
- Co-op Education Program.

For further information, see [FW 1](#), Foreign Worker Manual.

6.3 Live-in caregiver

A live-in caregiver is a person who provides child care, senior home support care or care of the disabled without supervision in a private household in Canada in which the person resides.

7 Procedure: Validation process – Human Resources Development Canada (HRDC) roles and responsibilities

Employers in Canada interested in hiring live-in caregivers must contact their local Human Resources Centres of Canada (HRCCs). Employers must complete an EMP 5093, Application for Foreign Live-in Caregiver.

Note: In British Columbia, the employer completes an EMP 5198, Live-in Caregiver Employment Contract.

The local HRCC informs the employer that:

- there is a legal requirement to have an employment contract with their live-in caregiver;
- the live-in caregiver must submit a copy of the signed contract to the relevant visa office as part of the documentation required for the work permit application process.

The HRCC instructs the employer to:

- send a signed employment contract to their live-in caregiver who must sign it and return it to the prospective employer;
- send the signed contract and the application form to the local HRCC.

An HRCC officer reviews the completed application. The officer must be satisfied that:

- the job offer exists;
- there is a need established for live-in care;
- a reasonable search has been carried out to identify qualified and available Canadian citizens and/or permanent residents and unemployed foreign caregivers already in Canada.

If satisfied, the officer issues a validation.

Details of the validation are recorded in the HRDC National Employment Service System (NESS) computer system and available to officers through the FOSS/NESS link.

Note: Only one validation of offer of employment at a time is issued to an employer, valid for a specific period. The duration of the validation may vary, depending on the HRCC.

The HRCC officer then:

- provides the employer with a letter confirming the validation; and

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- instructs the employer to send a copy to the prospective live-in caregiver employee.

Note: If the offer of employment is rejected by HRDC, the office issues a refusal letter to the employer.

Anyone who employs a live-in caregiver under the LCP is required by federal law to:

- register as an employer with the Canada Customs and Revenue Agency (CCRA);
- obtain a Taxation Number in order to make the proper deductions for income tax, employment insurance and Canada Pension Plan;
- remit these deduction amounts to the proper federal authority ;
- provide their employees with a record of employment when the employee's job is finished.

Note: CCRA provides employers with an information kit containing the necessary forms and explaining how to comply with the law. They can only obtain the record of employment if they are properly registered as an employer.

7.1 New validation: required for change of employers

A validated offer of employment is employer and job specific.

A change of employer will require a new validation, a new employment contract and a new work permit. Officers should treat the new validation as a new application in the queue (cost recovery fees apply).

This measure is meant to deter abuse by those employment agencies who might try to use a list of fictitious employers in order to bring a “stable” of live-in caregivers to Canada. Once in Canada, these caregivers would be in a position of having entered into a contractual agreement with an employer who does not exist or for whom they will not work. These caregivers are thus in Canada illegally and are vulnerable to exploitation by the employment agency which brought them to Canada.

7.2 Expired validations: role of the officer

If the “valid to” date expires during processing, the officer should contact the HRCC to verify that the offer of employment is still valid.

8 Procedure: Selecting live-in caregivers

8.1 How the process begins

The process is designed to ensure that the prospective employer and employee take responsibility for obtaining all the necessary information and application forms so that the visa offices can focus on the selection process.

After the employer in Canada obtains the job validation from HRDC, HRDC notifies the employer in a letter that the job has been validated and provides the system file number. The letter:

- asks the employer to forward a copy of the validation letter and the signed employment contract to the prospective live-in caregiver;
- tells the employer to have the caregiver applicant check the visa post's Web site for information about the work permit application process. The Web site will instruct the applicant to download the application forms or, in a few cases, contact the visa post to obtain application forms;
- suggests that employers download forms from the visa post's Web site and send them to the applicant if they are concerned about the applicant's access to the Internet.

The employer is told to instruct the applicant to send the work permit application and related documentation as well as the signed mandatory employment contract and a copy of the validation letter to the visa office named in the validation letter.

Note: The selection process begins when the visa office receives the completed application form and other required documents from the applicant.

The officer checks NESS (through the FOSS/NESS link), using the system file number provided in the validation letter to confirm that HRDC has validated the offer of employment under the Live-in Caregiver Program.

8.2 Documents required with a work permit application

In addition to the regular documentation required for a work permit (See [FW 1](#), Foreign Worker Manual), applicants should provide:

- proof of the equivalent of Canadian secondary school graduation;
- proof of six months full-time training or twelve months experience within the last three years related to the job in question;
- a valid and subsisting passport;
- a police certificate from all areas where the applicant has resided (not mandatory until time of application for permanent residence, but easier to provide from home country than from Canada. If this is not provided, this is not a reason to refuse a work permit unless the officer believes the applicant would be inadmissible on criminal grounds.);

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- an original birth certificate, original marriage certificate and if separated or divorced, original certificates or written evidence of marital status if certificates are not available (this is particularly important in countries where legal separation or divorce is not possible);
- information on close family members (may not be required by all visa offices);
- letters of reference from previous employers;
- a copy of the employer's confirmation letter from HRDC which provides the system file number of the job validation in NESS;
- a copy of the employment contract which sets out the terms and conditions of employment signed by employer and applicant;
- the processing fee (See [IR 5](#), Immigration Cost Recovery Processing, for details).

Note: Other documents may be required because of legal requirements of the country in which the applicant resides or as a result of country conditions as determined by the visa post.

8.3 Assessing the application

Once the documentation has been reviewed, officers will need to determine the following:

- does the applicant meet the definition of a live-in caregiver, as described in the Regulations?. See R2
- does the applicant meet the eligibility criteria? See R112

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Criteria applicants must meet for the Live-in Caregiver Program

Criteria	Background information	How to evaluate
<p>1. Successful completion of the equivalent of Canadian secondary education.</p>		<ul style="list-style-type: none"> • Studies must be completed in a vocational, technical or academic stream, or any combination of these. • Studies at a community college or university may also qualify. <p>Using knowledge of host country's education and training system, officer must be satisfied that the:</p> <ol style="list-style-type: none"> a) institution is a legitimate establishment; b) purpose of institution is formal education; c) program has formal curriculum; d) examination results are successful; e) diploma and supporting documents are valid; f) if diplomas are not available, report cards and letters from the institution attesting to the applicant's educational achievement are genuine. <hr/> <p style="text-align: center;">Note: Applicants who provide false transcripts will be refused under A16(1).</p> <hr/>

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<p>2.a) Successful completion of six months full-time classroom training in a field or occupation related to job in question; OR</p>	<ul style="list-style-type: none">• Allows for applicants who are well qualified through their education, but may not have experience.• If a host government has sanctioned a training program for governesses, caregivers of the elderly or jobs of a similar nature, then it may satisfy the LCP criteria. Officers should screen training programs for legitimacy and adequacy.	<p>Officers must be satisfied that:</p> <ul style="list-style-type: none">a) the transcripts of individual courses within the degree/ diploma programme include six months related to care giving;b) training has been completed in a classroom setting and does not include activity assignments. The intent is that hours spent working cannot be credited as hours spent training;c) courses relate directly to the job being offered.
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<p>2 b) Completion of one year of full-time paid employment, including at least six months of continuous employment with one employer, in that field or occupation, within three years immediately prior to the day on which the person submits an application for a work permit to a visa office.</p> <hr/> <p>Note: Applicants must meet either 2a) or 2b).</p> <hr/>	<ul style="list-style-type: none"> This allows experienced applicants who have no formal training to apply. 	<ul style="list-style-type: none"> The applicant must have at least six months continuous experience with same employer to disqualify persons changing employers frequently due to poor performance or attitude. Experience must be within three years immediately prior to application. Experience in an institutional setting (day care, crèche, hospital, senior citizens home) may also be considered. Care giving experience must be related to Canadian job offer. <hr/> <p>Note: Applicants who submit forged employment references will be refused under A16(1).</p> <hr/>
<p>3. Ability to speak, read and understand either the English or French language at a level sufficient to communicate effectively in an unsupervised situation.</p>		<ul style="list-style-type: none"> If an officer has reason to doubt an applicant's language ability, then the officer should interview the applicant. Document carefully how language ability was assessed in refusal cases.

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<p>4. Have an employment contract with their future employer.</p>	<ul style="list-style-type: none"> • Employer will send contract to applicant. • Applicant will sign indicating agreement and return to employer. Signed contract sent to visa post with application form and other documents. 	<ul style="list-style-type: none"> • The officer should electronically receive validated job offers from Canada Employment Centres. • Contract should include information on: <ul style="list-style-type: none"> a) duties of caregiver – detailed job description; b) hours of work, schedule; c) wages, overtime rate; d) days off, vacation, sick leave; e) health insurance; f) cost of room and board; g) accommodation; h) terms of separation. • At interview, caregiver's understanding of job duties, working conditions, wages, etc., should be consistent with information in contract. • Terms and conditions must by law be consistent with provincial labour standards. • There is a sample contract in the booklet, <i>The Live-in Caregiver Program</i>, and on CIC's Web site. • In British Columbia, there is a standard contract form which all employers must use, obtainable from HRDC.
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8.4 Statutory requirements for admissibility

The applicant must undergo the following admissibility checks after the officer has determined that the applicant meets the LCP eligibility criteria:

- medical examination;
- security check for applicants in certain countries (see IC 1, Security and Criminal Screening of Immigrants);
- compliance with normal visitor requirements (For further information, see [OP 11](#), Visitors).

Note: Live-in caregivers are permitted by Regulation to apply for permanent residence after two years of employment within three years of their arrival in Canada. Thus, it is difficult to apply the normal requirement that temporary residents will leave Canada by the end of the period authorized for their stay. Insofar as possible, given the difficulty of establishing future intentions, officers should satisfy themselves that an applicant for the live-in caregiver program has the intention of leaving Canada should the application for permanent residence be refused. The question is not so much whether the applicant will seek permanent residence but whether the person will stay in Canada illegally.

8.5 Issuing the work permit

When all requirements are met, the work permit is issued valid for one year, for a specific job and a specific employer.

While HRDC uses NOC code 6474 to identify work permits under the Live-in Caregiver Program, CIC will continue to use 9998-961 (a 7 digit synthetic immigration code) on LCP work permits and permanent resident status documents, for policy analysis.

The code "LCP" should also be entered in the special program box of the work permit.

To complete the process, officers should:

- enter details concerning the applicant's marital status into CAIPS notes, especially if the applicant is separated or divorced (e.g., spouse's name, date of birth, date of divorce);
- enter details of the police certificate, if available. CPC Vegreville will access these details when the applicant applies for permanent residence;
- make decisions based on the requirements of the Act and Regulations and document them; .
- indicate in case notes how the assessment was conducted, what documents were considered, and which criteria the applicant failed to meet;
- send a refusal letter to the applicant ([Appendix A](#) – Refusal Letter).

Note: Live-in caregivers should be given the booklet, *The Live-in Caregiver Program* (IM-), a listing of employment standards contacts ([Appendix C](#)), live-in caregiver/domestic worker

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association contacts ([Appendix E](#)), and the counselling fact sheet, *Important Information for Live-in Caregivers* ([Appendix D](#)).

8.6 Quebec-bound applicants

Under the *Canada-Quebec Accord*, Quebec's consent is required in order to admit live-in caregivers as temporary workers. Therefore a Certificat d'acceptation du Québec (CAQ) is required before issuing a work permit. The Ministère des Relations avec les citoyens et de l'Immigration (MRCI) issues a CAQ only after both the employer and employee have signed the live-in caregiver work contract.

When an applicant has obtained a CAQ but does not meet federal requirements, the federal Regulations take precedence. These applicants should be refused. Issuance of a CAQ under the federal Live-in Caregiver Program does not automatically guarantee a work permit.

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9 Procedure: Processing family members abroad

This process takes place after the live-in caregiver has completed the Live-in Caregiver Program and applied for permanent residence.

9.1 Requirements for the visa office

Upon notification that a live-in caregiver applicant (principal applicant) has family members residing abroad, the visa office will:

- forward an IMM 0008, Application for Permanent Residence in Canada, to family members with a time limit by which they must respond;
- open an LC2 file in all cases, whether or not the family members are undergoing concurrent processing;
- confirm identity and determine relationship of family members;
- show the case as "passed" at the paper screening and selection stage, whether or not family members are being processed concurrently;
- show whether or not processing and right of permanent residence fee have been paid;

Note: The codes "FPC" and "LFC" should be entered if the principal applicant has paid the processing and right of permanent residence fees in Canada

- insert the exemption code "999" for family members who are not processed concurrently and "LFN" to show that they are exempt from paying the right of permanent residence fee. An explanation should also be included in the Remarks box (i.e., LC2 not applying for permanent residence);
- initiate medical and background examinations.

9.2 Quebec cases

A "certificat de sélection du Québec" (CSQ) is required for the live-in caregiver and all accompanying family members who are to reside in the province of Québec.

The officer requests issuance of a CSQ for accompanying family members by contacting the responsible SIQ office with a list of the accompanying family members abroad. The list should

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contain the name and date of birth of the accompanying family members and of the principal applicant including their CPC client ID number.

Note: The officer should inform NHQ/Selection Branch if there are any problems with issuance of the CSQ.

Note: The officer should not request non-accompanying dependants to complete a "demande de certificat de sélection" (DCS).

9.3 Contacting family members

The officer will try to contact family members residing abroad directly or by enlisting the live-in caregiver applicant's assistance. The inland officer's assistance in contacting overseas family members should be limited only to exceptional situations. A valid, complete and up-to-date mailing address for all family members is required. A telephone number is also very useful.

The CPC will inform the visa office whenever it receives a change of address for live-in caregivers whose family members are being processed abroad.

If dependants do not return a completed IMM 0008, or do not provide documentation as requested within the stated time limit, the officer has specific instructions to follow up with the dependants (see [IP 14, Section 9.13](#)). A copy should also be sent to the principal applicant in Canada (and a copy to CPC Vegreville if the visa office is not using CAIPS). The officer may try to contact the principal applicant at anytime during this process.

The letter will state that if documentation is not provided within a certain period of time (as appropriate), the file will be closed and the applicant in Canada could be refused (see [Section 8.5](#) for details).

9.4 Finalizing approved cases

After identity, relationship and statutory requirements have all been met, the officer provides the CPC with the results of statutory checks, their period of validity and the visa office file number for both accompanying and non-accompanying family members.

Note: The results can be communicated by facsimile, at (403) 632-8101.

Note: All e-mail messages are to be addressed to the attention of Client Services.

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9.5 Processing files for accompanying family members

The visa office file for accompanying family members will be left open until the inland CIC confirms that the live-in caregiver applicant has been granted permanent resident status.

Upon notification that the principal applicant has been granted permanent resident status in Canada, the visa office verifies that the family members underwent parallel processing as accompanying family members. The case is then shown as “approved” and the visa office issues permanent resident visas to accompanying family members provided medical and background checks are still valid.

9.6 Processing files for non-accompanying family members

If the family members are non-accompanying, the officer shows the case file disposition as “withdrawn”, inserts a note in CAIPS, e.g., “LC2 family member did not seek permanent residence”, and informs the CPC of examination results.

Note: Permanent resident visas are not to be issued to non-accompanying family members. These family members can be sponsored as members of the family class at a later date, provided they were examined at the time the caregiver applied for permanent residence. Family members must meet all requirements applicable at that time.

9.7 Finalizing refused cases

The visa office:

- informs the CPC of negative results for accompanying and non-accompanying family members;
- also informs the CPC if family members have not undergone examination within the allocated period of time or could not be located (see [Section 8.3](#));
- shows the final disposition of its LC 2 file as “refused” for accompanying family members and as “withdrawn” for non-accompanying family members.

Note: The visa office does not inform family members of the final disposition of the case.

The CPC:

- informs the applicant regarding the status of their case. Additional time may be allowed for response;

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- refuses the case. The refusal letter to the live-in caregiver applicant will state that both the applicant and all family members, in Canada or abroad, are refused.

Note: If a family member is inadmissible, the principal applicant and family members cannot be granted permanent resident status.

Applicants who still have valid status will be informed in writing, that their status and work permit may not be extended and that they should leave Canada.

In cases where the basis for refusal is that the applicant's spouse or common-law partner or dependent children did not undergo medical and background checks, the CPC must verify the application to ensure that:

- the applicant's spouse or common-law partner was indeed subject to examination, i.e., was not a separated spouse or child in the custody of the other parent; and
- the visa office did inform the applicant that the family member's lack of cooperation in undergoing medical and background checks could result in refusal of the live-in caregiver's application for permanent residence in Canada (see [Section 8.3](#)). The CPC can verify that reminder letters were sent by reviewing the case notes in CAIPS.

Note: Procedural fairness requires that the applicant be aware of factors which may contribute to a negative decision and be afforded the opportunity to respond.

9.8 Ineligible family members

When the visa office determines that listed family members are not family members, e.g., because they are not full-time students, or that they are family members, but not subject to examination, e.g., separated spouses or former common-law partners, the following must be done.

The officer will:

- inform the CPC of its findings;
- inform these ineligible or separated family members to ignore any previous requests from the visa office to undergo examination or provide documentation; and
- close the LC2 file by showing it as "withdrawn" and entering in CAIPS case notes the reason that the family member was found ineligible or not subject to examination.

The CPC will:

- inform live-in caregiver applicants that the ineligible or separated family member cannot be part of the application;
- finalize processing of the application minus the ineligible persons.

Note: When a visa office has informed the CPC that a family member is ineligible, the CPC should contact applicants, explain the situation, and allow the applicant an opportunity to either

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provide additional information within a stated pre-determined time or to apply for a refund of the RPRF, if the fee was paid for the ineligible family member.

The CPC should release the Confirmation of Permanent Residence Form for the applicant and eligible family members only. It is not necessary for applicants to delete ineligible family members from their application, only that they be given an opportunity to provide additional evidence that the ineligible family members are indeed eligible.

Note: A separated spouse, former common-law partner or child in the custody of another person, who was not examined, cannot later be sponsored as a member of the family class since they are excluded from the family class as per R117(9)(d).

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Appendix A Sample letters

Refusal letter – LCP

Does not meet program requirements

Insert letterhead

Our Ref.:

Insert address

Dear:

I have completed my assessment of your application for a work permit in Canada as a live-in caregiver. I have determined that you do not meet the requirements of the Live-in Caregiver Program.

The requirements for issuance of a work permit as a live-in caregiver are set out in Section R112, which states that:

112. A work permit shall not be issued to a foreign national who seeks to enter Canada as a live-in caregiver unless they

(a) applied for a work permit as a live-in caregiver before entering Canada;

(b) have successfully completed a course of study that is equivalent to the successful completion of secondary school in Canada;

(c) have the following training or experience, in a field or occupation related to the employment for which the work permit is sought, namely,

(i) successful completion of six months of full-time training in a classroom setting, or

(ii) completion of one year of full-time paid employment, including at least six months of continuous employment with one employer, in such a field or occupation within the three years immediately before the day on which they submit an application for a work permit;

(d) have the ability to speak, read and listen to English or French at a level sufficient to communicate effectively in a unsupervised setting; and

(e) have an employment contract with their future employer.

I have determined that you do not meet these requirement(s) because (set out reasons).

Subsection A11(1) states that: **11.** (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document shall be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.

Subsection A2(2) specifies that: **2.** (2) unless otherwise indicated, references in the Act to “this Act” include regulations made under it.

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Following an examination of your application, I am not satisfied that you meet the requirements of the Act and the Regulations for the reasons explained above. I am therefore refusing your application.

Please inform your employer in Canada of this decision. You should disregard any previous instructions that may have been sent to you from this office. Thank you for your interest in Canada.

Yours sincerely,

Officer

cc: HRCC: (include name of employer)

Refusal letter – LCP

Withdrawal of offer of employment

Insert letterhead

Our Ref.:

Insert address

Dear:

I refer to your application for a work permit as a live-in caregiver. I have been informed that your prospective employer in Canada has withdrawn the offer of employment made on your behalf.

One of the requirements for issuance of a work permit as a live-in caregiver set out in Section R112(e) is that an applicant must have an employment contract with their future employer. Because your future employer has withdrawn the offer of employment, your application does not meet this requirement.

Subsection A11(1) states that: **11. (1)** A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document shall be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.

Subsection A2(2) specifies that: **2. (2)** unless otherwise indicated, references in the Act to “this Act” include regulations made under it.

Following an examination of your application, I am not satisfied that you meet the requirements of the Act and the Regulations for the reasons explained above. I am therefore refusing your application.

If you have been requested to forward additional information, to undergo a medical examination, or to appear for an interview at this office, you should now disregard these requests and consider them cancelled. We can only consider a new application if you obtain another offer of employment that has been validated by a Human Resource Centre.

Thank you for your interest in Canada.

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Yours sincerely,

Officer

Appendix B Fact sheet on employment standards legislation

Applicable to live-in caregivers or domestic workers

This fact sheet briefly outlines employment standards provisions applicable to live-in caregivers in each province and territory.

Although the *Live-in Caregiver Program* is run by the federal government, employment standards legislation pertaining to caregivers and domestics falls within provincial and territorial jurisdiction. Federal legislation (namely the *Canada Labour Code* and Regulations) applies only to certain specific sectors such as banking, interprovincial and international transportation, telecommunications, broadcasting, grain handling and uranium mines.

It should be noted that the provisions in provincial and territorial employment standards legislation and their scope may vary from one jurisdiction to another. This means that minimum working conditions prescribed by law are not identical across Canada for live-in caregivers or domestic workers.¹

Under the *Immigration and Refugee Protection Act* and Regulations, employers and live-in caregivers must sign an employment contract that clearly defines the rights and responsibilities of both parties. The terms and conditions of the employment contract must by law be consistent with provincial employment standards. In some provinces and territories, employment standards legislation does not, in whole or in part, apply to live-in caregivers. Where there is no minimum wage applicable in a particular province or territory, Human Resources Development Canada (HRDC) determines the wage rate to be paid by employers. In some parts of the country, HRDC requires employers to pay wages higher than the minimum wage rate, based on the prevailing wage paid for this type of work.

Please note that the following information is subject to change.

ALBERTA

Most of the provisions in Alberta's *Employment Standards Code* apply to domestic workers including those concerning the recovery of unpaid wages, paid annual holidays, rest periods (usually 30 minutes per shift in excess of five consecutive hours – s. 18), days off (one day in each work week or two consecutive days per two-week period, three consecutive days per three-week period or four consecutive days per four-week period – s. 19), maternity leave, parental leave and notice of termination. The Code also stipulates that an employee cannot be held responsible for loss of property if another person also had access to it (s. 12(3)).

Since July 1, 2000 domestic workers have also been entitled to a monthly minimum salary of \$1,125 and to paid general holidays. However, the Code's provisions regarding hours of work and overtime pay do not apply to them (s. 6, *Employment Standards Regulation*).

Web-site: www.gov.ab.ca/hre/employmentstandards/

BRITISH COLUMBIA

Provisions regarding minimum employment standards apply to live-in caregivers, who are considered as domestics under the *Employment Standards Act*. These provisions include those pertaining to the recovery of wages, annual vacations with pay, paid general holidays, maternity

1. In several provinces, the law makes no distinction between live-in caregivers and the more general category of "domestic workers".

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leave, parental leave, family leave, hours of work and overtime pay (usually after eight hours' work in a day or 40 hours in a week), rest periods (normally eight hours between each shift and 32 consecutive hours per week) and notice of termination. In addition, an employer requiring that a uniform or special clothing be worn has to provide it free of charge to the employee and pay maintenance and cleaning costs (s. 25, *ESA*).

Live-in caregivers are normally entitled to a minimum wage of \$8.00 an hour. However, the minimum wage is \$6.00 an hour for inexperienced employees who had no paid employment experience prior to November 15, 2001 and fewer than 500 hours of paid employment with one or more employers (s. 15, *Employment Standards Regulation*). Moreover an employer cannot charge a domestic more than \$325 a month to cover the cost of room and board (s. 14, *ESR*).

The employer of a domestic has to register the latter with the Registry Office of the Employment Standards Branch. The name, address and telephone and fax numbers of the employer and the employee must be provided. An employer planning to hire a domestic worker from another country must notify the Employment Standards Branch before the actual hiring and before making an application to bring the employee into Canada (s. 15, *ESA*; s. 13, *ESR*)

Finally, on employing a domestic, the employer must provide them with a copy of the employment contract. This contract must clearly state the duties, hours of work, wage and cost of room and board. Any hours worked beyond those stated in the contract must be remunerated (s. 14, *ESA*).

Web-site: www.labour.gov.bc.ca/esb/domestics/

MANITOBA

Most of the provisions in the *Employment Standards Code* apply to live-in caregivers and domestics working more than 24 hours a week. These employees are covered by the minimum standards regarding the payment of wages, the minimum wage (\$6.50 an hour; 6.75 an hour as of April 1, 2003), paid general holidays, annual vacations with pay, maternity leave, parental leave and notice of termination. However a domestic worker or live-in caregiver working on a general holiday is not entitled to the overtime rate if the employer decides to give compensatory time off equal to the number of hours worked in lieu (s. 28(2), *Code*).

The *Home Care and Residential Care Workers Regulation* also contains provisions affecting live-in caregivers. Under this Regulation, residential care workers (i.e., employees hired to provide care and supervision for a child, teenager or adult requiring assistance to live independently, in a family home where they live during their work periods) must normally be paid an amount for each day of work equal to eight hours of wages at the regular rate plus four hours at the overtime rate. However, by agreement with their employer, they can work (and be paid for) fewer than 12 hours a day. They can also work more than 12 hours and be paid at the overtime rate for each additional hour of work—up to a four hour maximum—inasmuch as they record these hours in a register and provide this register to their employer within a specified period (s. 2 of the Regulation).

The employer of a domestic or residential care worker cannot charge more than \$1.25 a meal, to a maximum of \$20 per week, plus \$20 per week for lodging (s. 3 of the Regulation). Moreover, the employer must give at least 36 consecutive hours of leave per week with no reduction of regular wages. If the domestic or residential careworker works during this period at the employer's request, the number of hours worked must be added to one of the leave periods occurring in the following eight weeks or be paid at a rate at least equal to the overtime wage rate (s. 4 of the Regulation).

Web-site: www.gov.mb.ca/labour/standards/index.html

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NEW BRUNSWICK

New Brunswick's *Employment Standards Act and Regulations* do not apply to persons working in private homes. Live-in caregivers therefore have no protection under provincial employment standards legislation, which makes it all the more important to clearly spell out the working conditions in the employment contract.

NEWFOUNDLAND AND LABRADOR

The *Labour Standards Act* of Newfoundland and Labrador applies to live-in caregivers. The Act and Regulations set out minimum working conditions, including the minimum wage (\$5.50 an hour; \$5.75 as of May 1, 2002 and \$6.00 as of November 1, 2002), hours of work (maximum 16 hours a day), paid public holidays, annual vacations with pay, notice of termination, maternity leave, parental leave, the payment of wages and overtime pay (payable after 40 hours a week at a minimum rate of \$8.25 an hour; beginning on April 1, 2003 overtime will have to be paid at the rate of 1.5% of the employee's regular wage).

Web-site: www.gov.nf.ca/labour/labour/labour_standards.asp

NOVA SCOTIA

Nova Scotia's *Labour Standards Code and Regulations* apply to workers providing domestic services, including live-in caregivers, if they work more than 24 hours a week and their employer is not a close relative. Persons hired under the *Live-in Caregiver Program* can therefore benefit from the Code's provisions pertaining to vacations with pay, paid general holidays, the minimum wage (\$5.35 an hour for inexperienced workers¹; \$5.80 an hour for other employees; these rates will rise, respectively, to \$5.55 and \$6.00 an hour on October 1, 2002), overtime (payable after 48 hours' work in a week at a rate of one and a half times the minimum wage), maternity and parental leave, bereavement leave, court leave, hours of work, rest periods (normally 24 consecutive hours per seven-day period), notice of termination and the payment of wages.

The employer can deduct an amount from a caregiver's wages to cover the cost of room and board. However these deductions cannot reduce the employee's wages to less than they would have earned at the minimum wage rate less \$53.15 per week (s. 8, *General Minimum Wage Order*). An employer requiring that a uniform be worn cannot reduce the wages of a caregiver for its purchase or laundering to an amount inferior to what they would have received at the minimum wage. However, the employee, regardless of their salary, remains responsible for the cost of dry cleaning (s. 14, *GMWO*).

Web-site: www.gov.ns.ca/enla/labstand/lstcode/

NORTHWEST TERRITORIES AND NUNAVUT²

The provisions of the *Labour Standards Act* in both of these territories apply to live-in caregivers in the same manner as to most other employees. This means they are covered by provisions concerning the minimum wage (\$6.50 an hour or \$7 an hour in areas distant from the highway system), hours of work and overtime (payable after 8 hours a day or 40 hours a week), the weekly

-
1. Inexperienced employees are persons who have been employed for fewer than three calendar months in total by their employer or another employer to perform the work for which they are employed and who have been in the service of their present employer for fewer than three calendar months.
 2. Since Nunavut's creation in 1999, the labour standards legislation of the two territories has remained virtually identical.

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day of rest, annual vacations with pay, paid general holidays, maternity and parental leave, and notice of termination. The employer can deduct the cost of room and board from the wages of a live-in caregiver; nevertheless, wages for each pay period cannot be reduced below the minimum wage by more than \$0.65 per meal and \$0.80 per day for accommodation. In addition, the employer cannot reduce an employee's wages below the minimum wage rate for providing, maintaining or laundering a uniform or apparel worn at the employer's request, or for accidental breakage by the employee of property belonging to the employer (ss. 2 and 3 of the *Labour Standards Wages Regulation*).

Web sites (Act): www.lex-nt.ca/loi/index.html

(Regs): www.lex-nt.ca/reg/index.html

ONTARIO

The provisions of Ontario's *Employment Standards Act, 2000* apply to domestic workers, which includes persons employed by a householder to provide care, supervision or personal assistance to children, senior or disabled members of the household.

Under the provisions regarding hours of work and rest periods (Part VII of the Act) domestic workers, as is the case for most other employees in the province, are normally entitled to minimum rest periods: 11 hours per day, eight hours between each shift and at least 24 consecutive hours every work week or at least 48 consecutive hours in every period of at least two consecutive work weeks. They are also entitled to an eating period of at least 30 minutes for every period of five consecutive hours of work. With the employee's consent, this break may be divided and taken at two different times. The employer must also pay a domestic worker at the overtime wage rate after 44 hours of work in a week or, if the employee and employer agree, on the basis of the average number of hours worked in a given period (generally not to exceed four weeks). If the employee consents, the employer may grant an hour and a half of compensatory time off for each overtime hour worked instead of payment in cash. This compensatory time off must be taken within the following three months or, if the employee agrees, during the following 12 months (s. 22). Lastly, the employer must provide the domestic worker with written particulars respecting the hours of work and hourly rate of pay (s. 19, Ont. Reg. 285/01 — *Exemptions, Special Rules and Establishment of Minimum Wage Regulation*).

Domestic workers are entitled to the minimum wage, currently \$6.85 an hour. With regard to deductions for room and board supplied by the employer, the wages of a domestic worker cannot be reduced to less than would have been received at the minimum wage rate less \$2.55 per meal—to a maximum of \$53.55 per week—and \$31.70 per week for a private room. (An employer cannot deduct any amount from the wages of a domestic worker for a shared room.) These amounts cannot be deducted unless the employee has taken the meals provided and occupied the room. Moreover, no amount can be required for a room unless it is reasonably furnished and suitable for human habitation, supplied with clean bed linen and towels, and affords the employee reasonable access to a bathroom (s. 19 of the Regulation).

The other working conditions set out in the Act also apply to domestics, including paid public holidays, vacations with pay, maternity and parental leave, the payment of wages, notice of termination and severance pay. Furthermore, an employer cannot withhold or deduct part of an employee's wages for lost property without written consent; in no case can an amount be withheld if persons other than the employee had access to the property (s. 13 of the Act).

Web-site: www.gov.on.ca/LAB/esa_e/fs_domestics_e.htm

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PRINCE EDWARD ISLAND

Prince Edward Island's *Employment Standards Act* covers most domestic workers. However, some of its provisions concerning the minimum wage (\$6.00 an hour¹), hours of work and overtime do not apply to persons employed for the sole purpose of protecting and caring for children, disabled or aged persons in a private home (s. 2(3) of the Act). Unless they perform other domestic duties (e.g., housekeeping, cooking or washing for other members of the household), live-in caregivers are not entitled to the minimum wage or overtime pay.

All other working conditions prescribed by the Act apply to caregivers. These include paid legal holidays, rest periods (24 consecutive hours per week; at least one 30-minute break after each five consecutive hours of work), vacations with pay, maternity leave, parental leave, notice of termination and the payment of wages.

Moreover, the *Minimum Wage Order* states that the maximum amount that can be deducted from the employee's wages for room and board, when these are included, is \$45.00 per week. No amount may be deducted for a meal the employee has not received (s. 2, *MWO*).

Web-site: www.gov.pe.ca/infopei/Government/GovInfo/Employment/

[Workplace_Issues_and_Supports/Employment/Standards/](http://www.gov.pe.ca/infopei/Government/GovInfo/Employment/Workplace_Issues_and_Supports/Employment/Standards/)

QUEBEC

The *Live-in Caregiver Program* operates differently in Quebec compared to the other provinces and territories. Under the Canada-Quebec Accord, Quebec plays a role in the selection of foreign workers. In order to work in Quebec, caregivers have to obtain a *Certificat d'acceptation du Québec (CAQ)*, which is contingent, in part, on the signing of an employment contract between the employee and the employer. This contract must contain the job description, work schedule, days off, wage rate and residence qualifications. It must also describe the obligations of the employer. Beyond the requirement to comply with the provisions of the *Act respecting labour standards* as applicable, the employer is obliged to provide decent living conditions and facilitate access to French courses outside regular working hours. For further information, contact the *Ministère des Relations avec les citoyens et de l'Immigration*.

The *Act respecting labour standards* does not apply to an employee whose exclusive duty is to provide care, in a dwelling, to a child or to a sick, disabled or aged person (s. 3(2) of the Act). However, live-in caregivers may be covered by the provisions of the Act if they also do housework that is not directly related to the immediate needs of the care recipient. In such case, they are deemed to be domestics.

Domestics are entitled to annual leave with pay, statutory general holidays, overtime pay, notice of termination and various leaves for family events (leave for a wedding or death in the family, maternity leave, parental leave, absences for obligations to a minor child). Domestics living in their employer's residence are entitled to a minimum salary of \$280 per week (s. 5, *Regulations respecting labour standards*). (This minimum rate will increase to \$288 per week on October 1, 2002 and to \$292 per week on February 1, 2003.) Their employer may not require an amount for room and board (s. 51.0.1 of the Act). The regular work week for domestics is 49 hours. Every additional hour of work must be remunerated at the overtime rate of one and a half times the regular hourly wage; it may also be compensated, at the employee's request, by providing a paid leave equivalent to the overtime worked plus 50% (s. 8, *Regulations*).

1. The hourly minimum wage in Prince Edward Island will be increased to \$6.25 on January 1st, 2003, \$6.50 on January 1st, 2004 and \$6.80 on January 1st, 2005.

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Moreover, if an employer requires the wearing of a uniform, he must provide it free of charge to an employee who is paid at the minimum wage rate. He cannot require an amount of money for the purchase, use or maintenance of a uniform if this would reduce the employee's wages below what the latter would have earned at the minimum wage rate (s. 85 of the Act).

It should be noted that a labour commissioner cannot order the reinstatement of a domestic who has been the victim of an unlawful dismissal or a dismissal without good and sufficient cause; however, they can order the employer to pay compensation equal to the wages and other benefits the domestic would have received over a maximum period of three months (ss. 123 and 128 of the Act).

Web-site: www.cnt.gouv.qc.ca/en/lois/coup_doeil/qui.asp

SASKATCHEWAN

Saskatchewan's *Labour Standards Act and Regulations* do not apply in the same way to "care providers" as they do to domestic workers (these two categories have their own definitions).¹ The minimum employment standards also vary depending on whether or not the employee lives with the employer.

Live-in care providers are covered by most of the provisions of the Act including those regarding maternity leave, parental leave, adoption leave, bereavement leave, annual holidays with pay, paid public holidays, the recovery of unpaid wages, hours of work, overtime (employees are normally entitled to 1.5% of their regular wage for each hour worked after eight hours' work per day or 40 hours per week) and notice of termination. Under the *Labour Standards Regulations* they are also entitled to two consecutive days off per seven-day period, which can be taken at a time agreed with the employer (s. 12 of the Regulations).

Minimum wage provisions in the Act do not apply to live-in caregivers beyond the first eight hours worked in a day (i.e., \$6.35 an hour, up to \$50.80 per day; the hourly rate will be raised to \$6.65 on November 1, 2002) (s. 13 of the Regulations).

The employer cannot require more than \$250 a month from the employee to cover the cost of room and board (s. 14 of the Regulations). Moreover, an employee can refuse to live in a dwelling that they consider unsuitable, unsafe or unsanitary, unless it has been approved by the Director of the Employment Standards Branch (s. 33 of the Regulations). An employer who requires the wearing of a uniform or any other clothing must cover the purchase and maintenance costs (s. 9, *Minimum Wage Board Order, 1997*).

Web-site: <http://www.labour.gov.sk.ca/standards/guide/domestic.htm>

YUKON TERRITORY

Most provisions of the *Employment Standards Act* apply to domestics, including domestic homemakers. However, the Act does not cover sitters working in a private residence solely to attend to a child, or to a disabled, infirm or other person (*General Exemption Regulations*).

The Act applies to domestics, with the exception of provisions concerning hours of work, overtime pay and rest periods. Domestics are entitled to the minimum wage (\$7.20 an hour) multiplied by eight hours for each day of work (s. 3, *Minimum Wage Regulations*), annual vacations with pay, paid general holidays, maternity and parental leave, notice of termination and the recovery of unpaid wages. An employer cannot make a deduction from an employee's wages or require a payment to

1. A care provider provides services relating to the care and supervision of a person, whereas a domestic worker provides services relating to the management and operation of a residence. In both cases, these are employees working in the private residence of their employer or a close relative of the employer.

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cover the cost of room and board that would result in the employee being paid wages that are below what would have been earned at the minimum wage rate, minus \$5. An employee cannot be required to cover the meal and accommodation costs unless these have been supplied by the employer and the employee has signed a contract of employment providing for the deduction or payment (s. 6, *Minimum Wage Regulations*).

Web-sites (Act): www.lex-yuk.ca/cgi-bin/folioisa.dll/stats_en.

(Regs): www.lex-yuk.ca/cgi-bin/folioisa.dll/regs_en.

The information in this document is based on statutes and regulations in effect on June 25, 2002.

Labour Law Analysis

Strategic Policy and International Labour Affairs

Labour Program

Human Resources Development Canada

June 25, 2002

Appendix C Provincial and territorial employment standards

Contact list

If you have questions, difficulties or complaints regarding your employment as a live-in caregiver, you can call or visit the Labour or Employment Standards Branch for your province or territory. The counsellors at these offices will answer questions you may have about your rights, and help you if you are having any work-related difficulty with your employer. Sometimes you will hear a pre-recorded message when you call these numbers. Just stay on the line and follow the directions that you receive. If the recorded message does not answer your question, a counsellor will eventually come on the line. These numbers are used frequently, and it may take more than one try to get through. Be patient.

If you prefer, you can write to the office listed. Just write a letter indicating your question or concern and mail it to the address shown. Be sure to include your name and occupation (what you do) and how you can be reached (phone number and address). If it is important that you get assistance quickly, remember that calling is faster than writing. Do not hesitate to contact these people. They are here to help you.

Alberta

Department of Labour

Employment Standards Branch

Main Floor, Sterling Place

9940 – 106 Street

Edmonton, Alberta T5K 2N2

Toll free: 310-0000 then dial (780) 427-3731 Fax: (780) 427-8837

TDD/TDY: 1 800 232-7215

Web site: www.gov.ab.ca/hre/employmentstandards/

British Columbia

Ministry of Labour and Consumer Services

Employment Standards Branch

P.O. Box 9570

Stn. Prov. Govt.

Victoria, B.C. V8W 9K1

Toll free: 1 800 663-3316 Fax: (604) 660-7047

Web site: www.labour.gov.bc.ca/esb/

Manitoba

Manitoba Labour

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Employment Standards Branch
604-401 York Avenue
Winnipeg, Manitoba R3C 0P8
Toll free (outside Winnipeg): 1 800 821-4307
Telephone (Winnipeg): (204) 945-3352 Fax: (204) 948-3046
Web site: www.gov.mb.ca/labour/standards/

New Brunswick

Department of Training and Employment Development
Employment Standards Branch
P.O. Box 6000
Fredericton, N.B. E3B 5H1
Toll free: 1 888 452-2687 Fax: (506) 453-3806
Web site: www.gnb.ca/0308/0001e.htm

Newfoundland

Department of Labour
Labour Standards Division
4th Floor, West Block
Confederation Bldg.
P.O. Box 8700
St. John's, Nfld. A1B 4J6
Toll free: 1 877 563-1063 Fax: (709) 729-5738
Web site: www.gov.nf.ca/labour/labour/labour_standards.asp

Northwest Territories

Department of Justice
Labour Services
Third Floor, Panda II Mall
P.O. Box 1320
Yellowknife, N.T. X1A 2L9
Toll free: 1 888 700-5707 Fax: (403) 873-0483
Web site: www.justice.gov.nt.ca/publicservices/labourboard.htm

Nova Scotia

Department of Environment and Labour

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Labour Standards Division
5151 Terminal Rd., 7th Floor
P.O. Box 697
Halifax, N.S. B3J 2T8
Toll free: 1 888 315-0110 Fax: (902) 424-0503
Web site: www.gov.ns.ca/enla/services.htm

Ontario

(Call either number below to ask for the mailing address of the local office closest to you)
Ministry of Labour
Employment Standards Branch
Toll free: 1 800 531-5551 Fax: (416) 326-6546
416-326-7160 (Greater Toronto area)
Web site: www.gov.on.ca/lab/es/ese.html

Prince Edward Island

Department of Community and Cultural Affairs
Labour and Industrial Relations
P.O. Box 2000
Charlottetown, Prince Edward Island C1A 7N8
Toll free: 1 800 333-4362 Fax: (902) 368-5526
Web site: www.gov.pe.ca/commcul/lair-info/index.php3

Quebec

Commission des normes du travail
Hall est, 7^e étage
400, boul. Jean-Lesage
Québec (Québec) G1K 8W1
Toll free: 7 800 265-1414 Fax: (418) 643-5132
Web site: www.cnt.gouv.qc.ca

Saskatchewan

Department of Labour
Labour Standards Branch
1870 Albert Street
Regina, Sask. S4P 3V7

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Telephone: (306) 787-9106 (Regina) or (306) 933-6587 (Saskatoon)

Web site: www.labour.gov.sk.ca

Yukon

Department of Community Services

Labour Services

Law Centre

2130 Second Ave., 3rd Fl.

Box 2703

Whitehorse, Yukon Y1A 2C6

Telephone: 867-667-5944 Toll free: 1-800-661-0408, local 5944

Fax: 867-393-6317

Web site: www.gov.yk.ca/depts/community/labour/index.html

Appendix D Counselling fact sheet

Important Information for live-in caregivers

You must have a written employment contract signed by both you and your future employer. The contract defines your job duties, hours of work, salary and benefits, such as overtime. The contract also reinforces your employer's legal responsibilities to you. This requirement helps provide a fair working arrangement between you and your employer and provides both of you with a clear understanding of what is expected of you.

You should ask for a "pay slip" with each pay cheque, that shows your deductions and net pay (pay after deductions).

If you are not happy with your job, you should tell your employer. A little flexibility on both sides is often enough to cause changes so that you are both happy. Some employers have waited a long time and may have paid agency fees to bring you to Canada. They will appreciate your honesty.

If you decide to change employers, you cannot begin work until you get a new work permit. Your new employer needs to get approval from a Human Resources Canada Centre before you can get your new work permit.

Even if you do not change employers, you need to renew your work permit every year. You should apply for an extension of your work permit in Canada at least two months in advance of the expiry date. This is your responsibility, not your employer's.

Under no circumstances can an employer have you deported from Canada. Your employer has no authority to hold your passport.

You are authorized to work in Canada as a live-in caregiver only. If you work in any other job, even part-time work, you could be disqualified from the program and from getting permanent residence.

The total duration of all work permits added together should not exceed three years.

If you or someone else lied about your education, training or experience when you first applied in the Live-in Caregiver Program outside Canada, you could be disqualified from the program in Canada.

If you want to apply for permanent residence in Canada, you must:

- work full-time as a live-in caregiver for two years within three years after you arrive in Canada;
- you, your spouse and your dependent children must pass medical, criminal and security checks and must not be going to an immigration inquiry (hearing) or be under an order to leave Canada. For example, if you marry a refugee claimant in Canada, the status of your spouse could prevent you from getting permanent resident status;
- you must live in your employer's home or you cannot continue to work in the Live-in Caregiver Program, and you cannot apply for permanent residence.

If you plan to apply for permanent residence, you may wish to get original documents that show, in as much detail as possible, all of your education, training and experience before you leave your country. These documents could help you when you apply for work in Canada, or help you get into a program of study, after you become a permanent resident. It is often easier to get these documents while you are still in your home country.

If you had to get a temporary resident visa to come to Canada, you may have to get a new one if you leave Canada temporarily, on holidays, for example, unless you are visiting the United States.

Appendix E Live-in caregiver/domestic worker associations

Contact list

You can contact any of the following groups to get more information about your rights as a live-in caregiver in Canada. These groups can answer your questions about working conditions, employee-employer relations, changing jobs, job loss or abuse. They can also help you learn more about your new community and how to meet people. You do not need your employer's permission to contact these groups.

West Coast Domestic Workers Association

119 Pender Street West, Suite 302
Vancouver, British Columbia V6B 1S5
Telephone: (604) 669-4482 Fax: (604) 669-6456
Web site: www.vcn.bc.ca/wcdwa
e-mail: wcdwa@vcn.bc.ca

Philippine Women's Centre

Kalayaan Centre
451 Powell Street
Vancouver, British Columbia V6A 1G7
Telephone: (604) 215-1103 Fax: (604) 215-1103
Web site: <http://pwc.bc.tripod.com>
e-mail: pwc@attcanada.ca

Committee for Domestic Workers' and Caregivers' Rights

789 14th Street East
Vancouver, British Columbia V5P 1H9
Telephone: (604) 874-0649 Fax: (604) 874-0649

Association des aides familiales du Quebec

5101 rue Saint Denis
Montreal, Quebec H2J 2M1
Telephone: (514) 272-2670 Fax: (514) 272-7156
e-mail: afg@cam.org

Canadian Coalition for In-Home Care

12 Irwin Avenue

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Toronto, Ontario M4Y 1K9

Telephone: (905) 849-6520 Fax: (905) 849-6921

Toronto Organization for Domestic Workers' Rights (Intercede)

234 Eglinton Avenue East, Suite 205

Toronto, Ontario M6G 1A5

Telephone: (416) 483-4554 Fax: (416) 483-9781

e-mail: cds@pofbwr.org

Immigrant Women of Saskatchewan, Regina Chapter

2248 Lorne Street

Regina, Saskatchewan S4P 2M7

Telephone: (306) 359-6514 Fax: (306) 522-9952

e-mail: ivsregina@accesscomm.ca

Calgary Immigrant Women's Association

750 - 11th Street South West, Suite 300

Calgary, Alberta T2P 3E9

Telephone: (403) 263-4414 Fax: (403) 264-3914

Web site: www.ciwa-online.com

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Appendix F Live-in caregivers, working conditions by region

[Link to pdf]