



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada

IP 4

Processing Live-in Caregivers in Canada

IP 04 Processing Live-in Caregivers in Canada

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Updates to chapter

Listing by date:

Date: 2011-01-19

Changes have been made throughout the chapter to reflect regulatory amendments to the Live-in Caregiver Program which came into force on April 1, 2010, and to reflect a series of administrative changes which were implemented in the period of April – August 2010.

Specifically, the following updates have been made:

- Section 1 – Updated this section to clarify purpose of this chapter and include a cross reference to the related overseas processing manual.
- Section 2 – Updated this section to reflect regulatory amendments.
- Section 3 – Updated regulatory and form references in this section.
- Section 4 – Updated this section to reduce level of detail in favour of a cross reference to the authoritative manual chapter on designations and delegation of authority.
- Section 5 – Updated this section to reflect regulatory amendments, new employment contract requirements, and to generally enhance the level of detail with respect to key elements of departmental policy.
- Section 6 – Updated this section to ensure definitions accurately reflect wording of current Regulations.
- Section 7 – Updated this section to reflect new contract requirements and outline roles and responsibilities in processing employment contracts.
- Section 8 – Updated this section to clarify general procedures for the issuance or renewal of work permits and to incorporate new instructions regarding the issuance of “emergency” work permits to live-in caregivers in abusive workplace situations.
- Section 9 – Updated this section to reflect regulatory amendments, generally enhance the level of detail throughout, and to incorporate new instructions regarding medical examinations in accordance with administrative changes.
- Section 10 – Updated this section to reflect CPC-V responsibilities towards the applicant for the permanent residence
- Appendix A – Update to “approved-in-principle” sample letter.
- Appendix B – Update to sample procedural fairness letters reflecting regulatory changes.
- Appendix C – Update to sample refusal letters reflecting regulatory changes.
- Appendix D – Update to fact sheet on employment standards legislation with updated links to provincial/territorial websites.
- Appendix E – Update to provincial and territorial employment standards contact information.
- Appendix F – Update to counselling fact sheet reflecting regulatory amendments.

Date: 2009-06-25

Changes have been made to reflect instructions previously published in OB 025 of January 3, 2007, concerning non-accompanying family members who wish to become accompanying. They affect in particular the following sections of the chapter:

- Section 9.2 – Applications

- Section 9.13 – Processing of family members

Date: 2008-04-24

- [Section 6.3](#) was amended to provide an accurate link to the definition of a “Family Member.”

Date: 2007-11-30

- Section 9.5 was updated to clarify that acceptable evidence of two year’s employment **MUST** include ALL documents listed. As well, a new document requirement was added: a letter from the current employer showing the start date and confirming the applicant’s status as currently being employed.
- The “Updates to chapter” section was created.

1. What this chapter is about

This chapter describes the processing in Canada of applications for renewal of work permits (same employer), applications for new work permits (new employer/employer move to a new province/territory), applications for study permits and applications for permanent residence, under the Live-in Caregiver Program (LCP).

Procedures related to overseas processing of initial work permit applications under the LCP, and the overseas processing of applications for permanent residence from live-in caregivers' family members living outside Canada, are described in the OP 14 – Processing Applicants for the Live-in Caregiver Program chapter.

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 certain individuals to work and eventually apply for permanent residence from within Canada.

The LCP brings qualified temporary workers to Canada to provide in-home child care, senior home support care or care of the disabled. The LCP allows applicants to apply for permanent residence from within Canada after being employed full-time as a live-in caregiver for at least 24 months or a total of 3,900 hours in a minimum of 22 months within the four years immediately following their entry into Canada under the LCP.

3. The Act and Regulations and Forms

References in the *Immigration and Refugee Protection Regulations (IRPR)* to the Live-in Caregiver Program:

For more information about	Refer to
Authorization for application for permanent residence in Canada	R72
Definition of live-in caregiver	R2
Medical examination requirements for live-in caregivers in Canada	R30(2.1)
Live-in caregiver class	R113
Requirements for work permit	R111, R112
Application for permanent residence in Canada	R113
Requirements for family members	R114
Conformity - applicable times	R115
Study without a work permit: short-term courses	R188
Application in Canada for work permit	R207
Application in Canada for study permit	R215

Note: With respect to R115, it is important to note that not all requirements set out in sections 112 to 114.1 of the *Regulations* will apply to each situation or point in time.

Forms:

Form Title	Form Number
In-Canada Application for Permanent Resident Status	IMM 5002E
Document Checklist – Live-in Caregiver	IMM 5282E

Live-in Caregiver – Employer Declaration of Hours Worked	IMM 5634E
Application to Change Conditions, Extend My Stay, or Remain in Canada	IMM 1249E

4. Instruments and delegations

Section 6 of the *Immigration and Refugee Protection Act* (IRPA) 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.

Under IRPA, the Minister of Citizenship, Immigration and Multiculturalism has delegated powers and designated those officials authorized to carry out any purpose of any provisions legislative or regulatory in instrument [IL 3 – Designation of Officers and Delegation of Authority](#).

5. Departmental policy

5.1. Responsibility for processing outside Canada

To participate in the LCP, a foreign national must make an application for an initial live-in caregiver work permit at a Canadian visa office abroad.

Visa offices are responsible for the initial selection process and issuance of initial work permits to live-in caregivers under the LCP. Visa offices are also responsible for processing permanent residence applications overseas for family members of live-in caregivers who have applied for permanent residence from within Canada.

Visa officers overseas generally issue the initial work permit under the LCP for a duration of four years plus three months when consistent with other considerations, such as employer need and passport validity. This general practice serves to minimize subsequent in Canada work permit applications.

5.2. Responsibility for processing in Canada

The Case Processing Centre in Vegreville (CPC-V), Alberta is responsible for processing applications in Canada under the LCP for:

- new work permits (new employer/employer move to a new province/territory);
- work permit renewals (same employer);
- study permits; and
- permanent residence.

Role of CIC inland offices

Local CIC offices play a role in processing complex or exceptional LCP cases. CPC-V will refer cases to a CIC inland office if an interview is warranted or if there is suspected misrepresentation, serious criminality or security concerns, as described in A34, A35, A36(1), A37 or A40.

CPC-V issues all correspondence to applicants with respect to LCP applications which they process. Cases referred to CIC inland offices by CPC-V for processing are concluded, and the appropriate correspondence is issued to applicants, by the responsible inland office.

Given that the vast majority of LCP applications made from within Canada are processed by the CPC-V, this chapter focuses on standard processing procedures as they generally apply to CPC-

V and does not detail processing procedures which may apply to, and deviate between, CIC inland offices.

Humanitarian and Compassionate (H&C) applications

All requests for consideration on humanitarian and compassionate (H&C) grounds accompanying an application for permanent residence under the LCP should be examined. All in Canada requests for H&C consideration, including those from applicants for permanent residence under the LCP, are reviewed by CPC-V officers. If a positive decision on H&C grounds can be made, then the application is processed at CPC-V. If, for any reason, further assessment is required, the application is referred to a CIC inland office where officers will assess the referred application on a case by case basis. In both instances, the application will be processed as an application for permanent residence under the LCP.

For more information regarding general procedures for in Canada processing of H&C applications, refer to the IP 5 – Immigrant Applications in Canada made on Humanitarian or Compassionate Grounds chapter.

5.3. Issuance or renewal of work permits in Canada

Work permits are generally issued to match the duration of the job offer and Labour Market Opinion (LMO) issued by Human Resources and Skills Development Canada/Service Canada (HRSDC/Service Canada), and the Certificat d'acceptation du Québec (CAQ) issued by the Ministère de l'Immigration et des Communautés culturelles (MICC) for live-in caregivers in Quebec, unless there are other factors which would restrict the duration for which a work permit may be issued (e.g., passport validity). The officer assessing the application retains discretionary power with respect to the validity period of LCP work permits and may set aside the general issuance policy where, in their opinion, circumstances warrant.

The total duration of all LCP work permits (added together) should not exceed four years and three months. The four-year period gives live-in caregivers sufficient time to meet the employment requirements of the LCP while allowing flexibility to compensate for periods of unemployment, illness, vacation or maternity leave. The additional three months affords caregivers a transition period during which they may apply for permanent residence.

Live-in caregivers must apply to CPC-V for a renewal of their work permit as required before it expires in order to ensure that their temporary status as a worker continues under the same conditions until their application is processed and they have been notified of the decision (implied status).

Live-in caregivers may change employers but must obtain a new work permit, with a validated job offer in the form of a positive/neutral LMO from HRSDC/Service Canada, a CAQ if applicable, and a new employment contract, *before* working for the new employer. For live-in caregivers in Quebec, HRSDC/Service Canada and the MICC jointly assess and render a decision on LMO applications.

If the live-in caregiver continues to work for the same employer, there is no need for a new LMO but a CAQ is required for live-in caregivers in Quebec. A letter from the employer stating that the live-in caregiver will continue to be employed on a full-time basis is sufficient. The employer and caregiver must also sign a new or extended employment contract.

If the live-in caregiver's employer moves to a new province/territory, they must obtain a new work permit, with a validated job offer in the form of a positive/neutral LMO from HRSDC/Service Canada, a CAQ if applicable, and a new employment contract, *before* working for their employer in the new location.

If the live-in caregiver's employers divorce and both employer's names are on the work permit, a new work permit is not required. The caregiver should simply send a letter to CPC-V to advise of the change. However, should the employer divorce, or one of the employers is deceased and only one name is listed on the work permit, the caregiver must obtain a new work permit and a new

LMO/CAQ would be required for the employer not listed *before* the caregiver could work for that person.

Live-in caregivers must continue to meet the requirements of the LCP in order to be eligible for a new work permit or a work permit extension under the LCP.

Live-in caregivers may not accept any other type of employment without a valid work permit. Any time that a live-in caregiver works outside the home of an employer under the LCP on a non-LCP work permit will not count towards the period of employment required to be eligible for permanent residence as a live-in caregiver. Officers will assess applications for non-LCP work permits (for example, to work part-time in a restaurant) from live-in caregivers who hold a valid LCP work permit on a case by case basis in the context of whether the officer is satisfied that the live-out employment will not compromise the caregiver's ability to continue to meet their full-time responsibilities as specified in their LCP employment contract.

Live-in caregivers can only work under the LCP for the employer(s) named on their work permit. They may not work in a caregiving capacity for anyone other than the person(s) identified on their LCP work permit at any one time. In doing so, a live-in caregiver risks losing their status in Canada and being disqualified from the program.

Note: For live-in caregivers in Quebec, the total duration of all work permits (added together) should not exceed four years as this is the maximum period for which the MICC will issue a CAQ for live-in caregivers.

5.4. Mandatory employment contract

An employment contract between employer and live-in caregiver, outlining the terms and conditions of employment, is a legal requirement of the LCP and must be provided to CPC-V as part of an application for a new work permit or a work permit renewal under the program. The employment contract must be signed by both the employer and the live-in caregiver.

The live-in caregiver position being offered must be full-time and all terms and conditions outlined in the employment contract must, by law, abide by provincial/territorial employment standards and labour laws. Housework, cleaning or other similar domestic duties, such as food preparation, may be allowable as a small proportion of the overall duties, and when clearly related to the duties of caring for the individual(s), however cannot be the primary duty.

For all LCP LMO applications received by HRSDC/Service Canada on or after April 1, 2010, and for all work permit applications received by CIC that are based on these LMOs, the signed written employment contract between live-in caregivers and their employers must demonstrate that LCP requirements are met by including a description of:

- Mandatory employer-paid benefits, including:
 - ◆ Transportation to the location of work in Canada
 - ◆ Medical insurance coverage provided from the date of the live-in caregiver's arrival until he or she is eligible for provincial health insurance
 - ◆ Workplace safety insurance coverage for the duration of employment
 - ◆ All recruitment fees, including any amounts payable to a third-party recruiter or agents hired by the employer that would otherwise have been charged to the live-in caregiver
- Job duties which clearly demonstrate that the employee's primary duty will be live-in caregiving
- Hours of work

- Wages
- Accommodation arrangements (including, where applicable, room and board)
- Holiday and sick leave entitlements
- Termination and resignation terms.

A LCP employment contract template is available on the [CIC website](#). Employers and live-in caregivers are encouraged to use this contract template but are not obliged to do so. However, all employment contracts must contain the information and clauses specified in the LCP employment contract template. Any additional provisions must not conflict with provincial/territorial labour laws and employment standards. The use of an alternate contract format may delay processing of the LMO application as HRSDC/Service Canada officers will have to do a thorough comparative assessment to determine if the contract is compliant with LCP requirements.

Note: For live-in caregivers in Quebec, the MICC has its own employment contract template reflecting Quebec provincial requirements under the LCP. The Quebec employment contract template is available on the [MICC website](#).

5.5. Validation of a job offer

Before a new work permit (change of employer/employer move to a new province/territory) may be issued to a live-in caregiver, the prospective new employer must apply to HRSDC/Service Canada to have his or her proposed job offer reviewed and validated.

HRSDC/Service Canada will assess the genuineness of the prospective employer's job offer and will review the employment contract to ensure that it includes all mandatory information and clauses. HRSDC/Service Canada will assess whether the job offer and employment contract meets the requirements for wages and working conditions, the applicable provincial/territorial labour laws and employment standards and that there are not enough Canadians or permanent residents available to work as live-in caregivers in Canada. If HRSDC/Service Canada finds the job offer acceptable, they will issue a positive or neutral LMO to the prospective new employer.

The live-in caregiver must include a copy of the positive/neutral LMO with their application to change employers and obtain a new work permit.

For more information about job offer validation and LMOs with respect to the LCP, please refer to [the HRSDC/Service Canada website](#).

5.6. Eligibility for permanent residence

Live-in caregivers may apply for permanent residence after they have worked full-time for at least 24 months or a total of 3,900 hours within the four years immediately following their entry into Canada under the LCP. The total of 3,900 hours of full-time employment may be completed in a minimum of 22 months and may include a maximum of 390 hours of overtime. As part of their application for permanent residence, live-in caregivers are required to select one of these two options (24 months or 3,900 hours) for determining whether they meet the LCP employment requirement.

Live-in caregivers must meet the requirements of the class as specified in R113 at the time of their application for permanent residence. The live-in requirement is an important element of the LCP, as there is no shortage of Canadians or permanent residents willing to work as caregivers on a live-out basis.

5.7. Quebec applicants

Under the *Canada-Quebec Accord*, the province of Quebec's consent, in the form of a Certificat de sélection du Québec (CSQ), is required in order to admit live-in caregivers in Quebec as permanent residents.

If an applicant has been found to meet the federal LCP requirements, but Quebec refuses to select the applicant and does not issue a CSQ, the applicant should be given the opportunity to select another province or territory from which they may be admitted as a permanent resident.

It would be unfair and legally unfounded to remove these applicants from Canada if they have been found to meet federal LCP requirements for permanent residence as specified in R113.

See section 9.9 for further details with respect to processing applications for live-in caregivers in Quebec.

5.8. Parallel processing of family members

Live-in caregivers applying for permanent residence may request parallel processing for some or all of their family members living in or outside Canada. Family members living abroad may be processed concurrently at a visa office. If all admissibility requirements are met, the responsible visa office will issue permanent resident visas to eligible family members of live-in caregivers granted permanent residence from within Canada.

Once a live-in caregiver is a permanent resident, family members who are not processed concurrently may be sponsored as members of the family class, provided they were examined at the time of the live-in caregiver's application for permanent residence from within Canada.

5.9. Responding to representations

The *Privacy Act* requires that information concerning clients must be released only to the client or a designated representative who is a Canadian citizen or permanent resident. Before responding to a representation made in person or in writing, the identity of clients or their representative must be confirmed.

6. Definitions

6.1. Family member

Per R1(3), the definition of "family member" in respect of a person means:

- the spouse or common-law partner of the person;
- a dependent child of the person or of the person's spouse or common-law partner; and
- a dependent child of a dependent child referred to above.

6.2. Live-in caregiver

Per R2, a live-in caregiver is a person who resides in and provides child care, senior home support care or care of the disabled without supervision in the private household in Canada where the person being cared for resides.

7. Processing an employment contract

HRSDC/Service Canada informs employers of the legal requirement to have an employment contract with their live-in caregiver.

Employers are required to:

- provide a signed employment contract to their prospective live-in caregiver;
- have the live-in caregiver sign the employment contract and return it to the employer; and
- provide a copy of the signed employment contract to HRSDC/Service Canada along with their LMO application.

HRSDC/Service Canada provides employers with information including, but not necessarily limited to, the following:

- acceptable wage standards;
- taxation;
- health insurance; and
- workers' compensation and other employment issues.

Once a complete LMO application and signed employment contract are submitted to HRSDC/Service Canada by the prospective employer, a HRSDC/Service Canada officer reviews the application and employment contract. In assessing the offer of employment, the officer confirms:

- the need for live-in care;
- that the job offer is genuine;
- the employer is offering wages and working conditions that meet provincial/territorial employment standards and labour laws;
- the job duties are those of a full-time live-in caregiver; and
- a reasonable search has been carried out by the prospective employer to identify qualified and available Canadian citizens or permanent residents and unemployed foreign caregivers already in Canada.

If satisfied that the offer of employment meets the assessment criteria, the HRSDC/Service Canada officer issues a letter confirming a positive/neutral LMO to the prospective employer. If the LMO application is rejected, the HRSDC/Service Canada officer issues a refusal letter to the prospective employer.

Employers are informed by HRSDC/Service Canada that their prospective live-in caregiver must submit a copy of the signed employment contract to the CPC-V as part of the documentation required for the work permit application. HRSDC/Service Canada also instructs the employer to send a copy of the LMO confirmation letter to the live-in caregiver.

Details of the LMO are recorded in the HRSDC Foreign Worker System (FWS) and job validation information is available to CPC-V through the FOSS-FWS link.

Note: For prospective employers in Quebec, HRSDC/Service Canada and the MICC jointly assess the LMO application against federal and Quebec LCP requirements. If satisfied that the offer of employment meets the assessment criteria, HRSDC/Service Canada will issue a letter to the prospective employer, jointly signed by the MICC, confirming a positive or neutral LMO. If HRSDC/Service Canada and the MICC jointly render a negative decision on the LMO application, HRSDC/Service Canada will issue a refusal letter to the prospective employer.

8. Procedures for issuance/renewal of work permits, study permits

8.1. Applications for work permits

Live-in caregivers already in Canada must apply for:

- a work permit renewal before the expiry of their current work permit;
- a new permit if they change employers or if their employer moves to another province/territory.

Applicants must submit a complete [Application to Change Conditions, Extend My Stay, or Remain in Canada](#) (IMM 1249) to CPC-V. Applicants may request the application kit by mail by contacting the CIC Call Centre or may download it from the CIC website.

Note: Proof of fee payment at a financial institution and a copy of the new or extended employment contract (signed by both the employer and live-in caregiver) must be submitted with the application.

8.2. Requirements for issuance of work permits

Scenario	Applicant must provide:	CPC-V must:
Live-in, full-time caregiver: <i>If same employer</i>	1. Letter from the current employer stating that the live-in caregiver will continue to be employed on a full-time basis. 2. Copy of a new or extended employment contract signed by the employer and live-in caregiver. There is no need for a new LMO. A CAQ is required for applicants in Quebec.	1. Assess whether applicant continues to meet the definition of a live-in caregiver, (i.e., full-time, live-in employment as a caregiver). 2. Verify that the employment contract contains required information (see section 5.4 for details). 3. Verify that the applicant has submitted a CAQ with their application, if applicable.
Live-in, full-time caregiver: <i>If change of employer or if current employer is moving to a different province/territory</i>	1. Copy of a new LMO and, for applicants in Quebec, a CAQ. 2. Copy of a new employment contract signed by the employer and live-in caregiver.	1. Check FOSS-FWS link for record of a positive/neutral LMO. 2. Verify that the employment contract contains required information (see section 5.4 for details).

		3. Verify that the applicant has submitted a CAQ with their application, if applicable.
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8.3. If all requirements are met

CPC-V issues a new/extended work permit and enters the “LCP” code in the special program box.

8.4. If all requirements are not met

CPC-V will refuse the application.

Note: If a more in-depth assessment is required in order to render a decision on a given application, the case should be referred to a CIC inland office.

8.5. Bridge extension: Live-in caregiver is between jobs

If a live-in caregiver’s work permit is about to expire and they are between jobs and have not yet found a new employer under the LCP, CPC-V may issue an interim work permit to bridge the gap. This interim work permit allows a caregiver to remain in Canada legally but does not authorize them to work for a new employer. Live-in caregivers may submit an application for a bridge extension using the [Application to Change Conditions, Extend My Stay or Remain in Canada](#) (IMM 1249). Cost recovery fees apply.

The bridge extension should:

- have a maximum duration of two months;
- show the most recent employer;
- include “bridge extension” in Remarks.

If the bridge extension expires before the applicant finds a new job/employer and is eligible to apply for a new work permit under the LCP, CPC-V should assess the reasons for the continued unemployment on a case by case basis and may decide to refer the case to a CIC inland office for a more in-depth examination.

Note: Bridge extensions are LMO and CAQ exempt.

8.6. Issuance of “urgent” or “emergency” work permits

“Urgent” work permits

Live-in caregivers who are changing employers and are urgently required to provide care to an elderly or disabled person may be eligible for urgent processing of their LCP work permit application provided all required documents are submitted with the application, including proof of the urgency in the form of a doctor’s note or a letter from the prospective employer explaining why urgent care is required.

Refer to [OB 195 – Emergency referrals to local offices](#) for further information regarding processing of LCP work permits on an urgent basis.

“Emergency” work permits

Live-in caregivers who are victims of abuse by their employer or someone in the employer’s home may be eligible for emergency processing of their LCP work permit application. In such cases, concurrent processing of the prospective new employer’s LMO application by HRSDC/Service

Canada, CAQ application by MICC where applicable, and the LCP work permit application by CIC on an emergency basis will facilitate the quickest possible transition to a new employer.

Abusive situations, for the purposes of emergency work permit processing under the LCP, would include any intentional physical contact that causes harm, physical violence such as assault or sexual assault and psychological abuse such as threats or intimidation.

Refer to [OB 208 - Emergency processing of in-Canada work permit applications under the LCP](#) for details regarding applicant eligibility and processing of LCP work permits on an emergency basis for live-in caregivers who must change employers urgently due to an abusive situation at their current or most recent workplace.

8.7. Refusal of an application for a work permit

Reasons for refusing a work permit application under the LCP must be well documented and provided to the applicant. Refusal of a work permit application from a live-in caregiver means that the person may be disqualified from applying for permanent residence in Canada under the LCP.

Should the refused applicant request an extension of their temporary resident status, the officer should assess carefully their *bona fides* as a temporary resident.

If it appears that the person may not leave Canada, or has no means of support, or in some other way no longer qualifies for temporary resident status (e.g., worked without authorization), the request for an extension should be refused. For more information, see the [IP 6 – Processing Temporary Resident Extensions](#) chapter.

8.8. Issuance of study permits

Per R188, live-in caregivers may study without a study permit if the course or program of studies is six months or less.

Live-in caregivers who wish to take a course or program of studies more than six months in duration require a study permit.

Per R215, CPC-V may issue study permits to live-in caregivers because they hold work permits. Officers should enter the “LCP” code in the special program box of any study permits issued to live-in caregivers.

9. Processing applications for permanent residence

9.1. General guidelines

- The officer determines if the applicant meets the requirements to become a member of the live-in caregiver class per R113.
- Once a member of the live-in caregiver class, the applicant is granted “approval-in-principle” and can apply for an open work permit. Many applicants will submit an application for an open work permit along with their application for permanent residence.
- Applicant and family members in Canada and abroad are referred for examination to determine admissibility, including medical, security and criminal checks. For family members abroad, these verifications are performed by the appropriate visa office.
- Once statutory requirements are met, permanent residence is granted to the live-in caregiver and any family members in Canada, and permanent resident visas are issued by the responsible visa office to accompanying family members abroad.

- If necessary, refusal letters are issued.

Note: Live-in caregivers must submit a complete [application for permanent residence](#) so that officers can determine whether they meet the requirements to become a member of the live-in caregiver class per R113.

9.2. Applications for permanent residence

Applicants complete the *In-Canada Application for Permanent Residence for Live-in Caregivers* (forms IMM 5002 and IMM 5282). Applicants can request the application kit through the CIC Call Centre or can download it from the CIC website.

Applicants must list all family members in Canada and abroad, whether accompanying or non-accompanying, and indicate which ones they wish to have processed concurrently for permanent residence.

Applicants submit the completed forms with fee receipts and all required supporting documents to CPC-V.

CPC-V staff screen the application for completeness and verify:

- that all required forms have been completed and signed as per the [Instruction Guide](#) (IMM 5290);
- that evidence of payment of applicable processing fees at a designated financial institution has been provided;
- that two passport-sized photographs of the applicant and of any family members in Canada have been included; and
- that all required documents have been included as per the [Document Checklist](#) (IMM 5282), including acceptable proof of having met the LCP employment requirement.

The application is considered made on the date the complete application, correct fees and supporting documentation are received by CPC-V.

Applications returned to the applicant are not considered to be applications

If the application is not complete, CPC-V enters the date of the incomplete application in FOSS and returns the package to the applicant, with a letter explaining the reason the application is being returned to the applicant.

9.3. Fees

Principal applicants in Canada pay processing and right of permanent residence fees (RPRF) for all family members included in the application for concurrent processing for permanent residence, whether in Canada or abroad. No RPRF is required for the principal applicant's dependent children per R303(2)(a). No processing or right of permanent residence fees are charged for family members not included for concurrent processing. CPC-V will indicate that fees have been paid in Canada when forwarding the forms to the responsible visa office.

The application kit includes instructions on how to pay fees at a financial institution and to submit the receipt with the application. If an application does not include the correct cost recovery fee, CPC-V must return the application to the applicant with a letter requesting payment.

See the [IR 5 – Immigration Cost Recovery](#) chapter for details on fees.

9.4. Assessing eligibility to become a member of the live-in caregiver class

CPC-V must determine whether an applicant meets the following requirements to become a member of the live-in caregiver class, as per R113:

- they have submitted an application to remain in Canada as a permanent resident;
- they are a temporary resident;
- they hold a valid work permit as a live-in caregiver;
- they entered Canada as a live-in caregiver and have provided acceptable proof of having worked full-time as a live-in caregiver for a total of 24 months *or* a total of 3,900 hours in a minimum of 22 months within the four years immediately following their entry into Canada under the LCP (see section 9.5 below);
- they have resided in a private household in Canada while working as a live-in caregiver;
- they have provided, without supervision, child care, senior home support care, or care of a disabled person in that household;
- they are not, and none of their family members are, the subject of an enforceable removal order or an admissibility hearing under the Act or an appeal or application for judicial review arising from from such a hearing;
- they did not enter Canada as a live-in caregiver as a result of a misrepresentation concerning their education, training or experience; and
- where they intend to reside in the province of Quebec, the competent authority of that province is of the opinion that they meet the selection criteria of the province (see section 9.9 below).

Officers should check:

- the statutory questions on the IMM 5002, and
- the FOSS for any record of A44(1) report, referral to a hearing or removal order or pending criminal charges.

A live-in caregiver is not eligible for permanent residence if their spouse or common-law partner is a refugee claimant, or has appealed or sought judicial review.

Misrepresentation of education, training or experience could include misrepresentation by another person as well as by the applicant. See the OP 14 chapter for requirements for the initial work permit issued by the visa office as information may have since come to light indicating misrepresentation in order to meet these requirements.

Note: Per R113(2), the 24 months or 3,900 hours of required employment may be in respect of more than one employer or household and need not be without interruption, but may not be in respect of more than one employer or household at a time.

9.5. Acceptable evidence of full-time employment as a live-in caregiver

Evidence of having worked full-time as a live-in caregiver for a total of 24 months *or* a total of 3,900 hours in a minimum of 22 months must include:

- a letter from the current employer showing the start date and confirming the applicant's status as being currently employed;
- contract(s) with the current and previous employers;
- record of employment (ROE) for all previous employers. Under the *Employment Insurance Regulations*, an employer must complete an ROE after every interruption of earnings due to termination of contract, illness or injury. Applicants should have ROEs for each previous job, but will not have one for their current job. HRSDC/Service Canada may assist in cases where a live-in caregiver has difficulty obtaining a ROE from their employer;
- a statement of earnings showing hours worked and deductions made by the employer(s);
- a record of wages and deductions sent to the Canada Revenue Agency (CRA) by the employer(s); and
- an "Option C Printout" from CRA from the applicant's date of entry in the LCP.

If the live-in caregiver is still employed with the same employer and any of the above documents are not available, they may provide a statutory declaration stating the terms and conditions of their most recent employment.

Live-in caregivers who select to have their application assessed against the hours-based calculation of the employment requirement (total of 3,900 hours within a minimum of 22 months) must also include timesheets signed by their current and previous employer(s) clearly indicating the date and number of hours worked for all overtime hours claimed (maximum of 390 overtime hours allowed) and the *Live-in Caregiver – Employer Declaration of Hours Worked* (IMM 5634) completed and signed by their current and previous employer(s).

Note: The 24 months or 3,900 hours of required employment does not include any absence from Canada (including any time worked for the employer outside of Canada), periods of unemployment, any periods of "live-out" employment on a non-LCP work permit, sickness or maternity leave. Live-in caregivers have the right to be covered under workers' compensation, but any such periods of unemployment cannot be counted towards meeting the LCP employment requirement. However, allowable vacation leave, as outlined in provincial/territorial employment standards legislation, will be counted towards meeting the LCP employment requirement.

9.6. Checking for pending criminal charges

If an officer has reason to believe the applicant or a family member of the applicant may have committed an offence in Canada that would make them inadmissible, processing may be delayed for a year, pending police investigation, or, if charges are laid, until the courts have disposed of the matter. If the police do not lay charges or the person is found not guilty, processing may continue. If the person is convicted, the person would be reported under A44(1) and would not be eligible for permanent residence.

If an officer has reason to believe the applicant or a family member may have committed or been convicted of a crime outside Canada, the application may be refused. Reliable and releasable information is necessary. Unsupported suspicion is not sufficient grounds for refusal.

<p>Example: Newspaper clippings, anonymous letters or oral comments may generate suspicion that will require more reliable substantiation, likely from a jurisdiction that has authority to conduct an investigation for the purpose of laying criminal charges. An official confirmation by authorities in the jurisdiction in which an individual is under investigation or a copy of the charges will provide "reasonable grounds" and would constitute reliable substantiation.</p>
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9.7. Granting “approval-in-principle” (eligible applicants)

For applicants determined to be members of the live-in caregiver class per R113, CPC-V sends a letter to eligible applicants informing them that they have been granted “approval-in-principle” and requesting any further information required to proceed with processing the application for permanent residence under the LCP. See sample letter in Appendix A.

Approved applicants and any family members in Canada at the time of “approval-in-principle” may apply for an open work permit and are exempt from HRSDC/Service Canada validation per R207.

To obtain an open work permit, applicants “approved-in-principle” must submit an *Application to Change Conditions, Extend My Stay, or Remain in Canada* (IMM 1249) to CPC-V. Many applicants will choose to submit an application for an open work permit at the same time as their application for permanent residence. If the applicant’s temporary resident status is valid at the time of their application for an open work permit, the caregiver’s status as a worker will continue under the same conditions until their application for an open work permit is finalized and they have been notified of a decision (“implied status”).

9.8. Refusing applicants determined not to be members of live-in caregiver class (ineligible applicants)

For applicants determined not to be members of the live-in caregiver class per R113, CPC-V sends a letter to ineligible applicants informing them that they have been refused and specifying on what basis they are being refused. See sample letter in Appendix C.

9.9. Applications from eligible live-in caregivers in Quebec

For applicants in Quebec who have been granted “approval-in-principle”, CPC-V sends a copy of the application for permanent residence with a covering letter to the MICC. If Quebec accepts the applicant, the MICC issues a CSQ.

If Quebec refuses the applicant and does not issue a CSQ, CPC-V informs the applicant that they have the option of being admitted in another province or territory, and will continue processing if the applicant selects another province or territory.

Should the applicant move to another province or territory, CPC-V will forward the application to the CIC inland office responsible for the applicant’s new place of residence. The responsible CIC inland office will finalize the case and will not revisit the initial “approval-in-principle” decision unless there is evidence of fraud or misrepresentation.

Should the applicant choose not to move to another province or territory, CPC-V will refuse the application as there is no CSQ and send a refusal letter to the applicant.

9.10. Assessing admissibility requirements

Once CPC-V has determined that the applicant is a member of the live-in caregiver class per R113, they must undergo and pass criminal and security checks and may be required to complete a medical examination (see section 9.12). All family members of LCP applicants for permanent residence, both in Canada and outside Canada, must undergo medical, criminal and security checks to determine admissibility. LCP applicants cannot be granted permanent residence if they or any of their family members are found to be inadmissible under Division 4 – Inadmissibility of the Act [A33 to A42].

See the OP 14 chapter for information regarding the overseas processing of family members outside Canada.

9.11. Criminal and security checks

Applicants and dependent children 18 years of age or over must provide police certificates for every country they have lived in for six months or more.

CPC-V should:

- check notes in the Computer-Assisted Immigration Processing System (CAIPS) or Global Case Management System (GCMS) for visa office comments;
- check FOSS and the Canadian Police Information Centre (CPIC) for any report on inadmissibility or criminal activity;
- refer cases involving suspected misrepresentation or serious criminality or security concerns, as described in A34, A35, A36(1), A37 or A40 to a CIC inland office.

Note: Applications will be refused if the applicant or any dependent child is deemed inadmissible.

For more information about	Refer to
Criminal and security requirements	OP 2, section 5.21
Evaluating inadmissibility	ENF 2

9.12. Medical examinations

Per R30(2.1), a foreign national who has applied for permanent residence status and is a member of the live-in caregiver class is not required to submit to a medical examination under R30(1).

Officers should only consider requesting that a live-in caregiver complete a medical examination as part of their application for permanent residence under the LCP should the officer have reason to believe that the live-in caregiver has a health condition that is likely to be a danger to public health or safety under A38(1)(a) or A38(1)(b). In such cases, officers are to consult with National Headquarters/Case Management Branch (NHQ/CMB) on the details of the case in question for consideration on whether an exemption may be warranted **prior** to requesting that the applicant complete a medical examination.

Family members of live-in caregivers, whether in Canada or abroad, must always complete and pass a medical examination as part of a live-in caregiver's application for permanent residence.

If...	Then...
the officer does not have reason to believe that the applicant has a health condition that is likely to be a danger to public health or safety...	<p>the officer should not request that the applicant complete a medical examination as part of their application for permanent residence and will record the medical requirement as "passed" in the Case Processing Centre (CPC) system.</p> <p>Note: In cases where the date of the initial overseas medical assessment is older than 5 years at the application for permanent residence stage, the CPC system will not allow the officer to proceed with a new application. In such cases, officers are to:</p> <ul style="list-style-type: none">• manually modify the validity date in order to extend the validity of the initial medical

	<p>assessment and allow the application for permanent residence to progress in the CPC system; and</p> <ul style="list-style-type: none"> record this manual change in the CPC system notes to ensure that the file narrative reflects the modification to the validity date of the initial medical assessment.
<p>The officer does have reason to believe that the applicant has a health condition that is likely to be a danger to public health or safety...</p>	<p>the officer will refer the relevant case details to NHQ/CMB (Case-Review-im-enquiry@cic.gc.ca) for consideration as to whether an exemption may be warranted on humanitarian and compassionate/public policy grounds prior to requesting that the applicant complete a medical examination as part of their application for permanent residence.</p> <p>the officer will proceed accordingly following consultation with NHQ/CMB and either request that the applicant complete a medical examination or exempt the applicant and record the medical requirement as “passed” in the CPC system.</p> <p>Note:</p> <p>In cases where an officer requests that an applicant complete a medical examination as part of their application for permanent residence following consultation with NHQ/CMB, the officer should record the request in the CPC system notes.</p>

In cases where a live-in caregiver has already completed a medical examination as part of their application for permanent residence, and is currently in the stages of procedural fairness correspondence based on a medical notification indicating inadmissibility due to excessive demand under paragraph 38(1)(c) of the IRPA, the officer should consider whether an exemption of the inadmissibility may be warranted on humanitarian and compassionate/public policy grounds in consultation with NHQ/CMB.

Should NHQ/CMB indicate that a live-in caregiver should complete a medical examination as part of their application for permanent residence, and the caregiver is subsequently found to be inadmissible on health grounds under paragraphs 38(1)(a) or (b) of the IRPA, the applicant may choose to request consideration on humanitarian and compassionate/public policy grounds. Further consultation with NHQ/CMB should be undertaken prior to refusal of any such requests for consideration under humanitarian and compassionate/public policy provisions.

For more information regarding immigration medical examinations, see the [OP 15 - Medical Procedures](#) chapter.

9.13. Processing of family members

Live-in caregivers must name all their family members, whether in Canada or abroad, on their application for permanent residence under the LCP so that they can be assessed against requirements for permanent residence. Once a live-in caregiver is a permanent resident, family members who are not processed concurrently may be sponsored as members of the family class,

provided they were examined at the time of the live-in caregiver's application for permanent residence from within Canada.

Applicants must indicate which family members will be processed concurrently for purposes of obtaining their permanent resident visas and which family members are listed only for the purpose of examination.

For family members living abroad, CPC-V will inform the responsible visa office by forwarding:

- a copy of the *In-Canada Application for Permanent Residence (IMM 5002)*, which lists all family members and shows which ones are to be processed concurrently; and
- confirmation that fees have been paid for family members to be processed concurrently.

CPC-V should ensure that the responsible visa office has up-to-date contact information for family members, and advise the visa office of any change in the live-in caregiver's address and telephone number.

Non-accompanying family members who wish to become accompanying family members

If, during the processing of the live-in caregiver's application for permanent residence, the applicant wishes to change a family member who was initially listed as non-accompanying to accompanying, they may do so.

A non-accompanying family member may become an accompanying family member only if the principal applicant's request has been made **before** permanent residence has been granted.

The appropriate fees must be paid at the time the request is made in order for the non-accompanying family member to become an accompanying family member.

9.14. Inadmissibility and non-accompanying family members

All family members, whether accompanying or not, are required to be examined unless an officer decides otherwise. Normally, an inadmissible family member, whether accompanying or not, would render the principal applicant inadmissible. There are however two exceptions to this rule described in R23. The first is the separated spouse of the applicant. The second is where a child of the applicant is in the legal custody of someone other than the applicant or accompanying family member, or where someone other than the applicant or accompanying family member of the applicant is empowered to act on behalf of that child by virtue of a court order or written agreement or by operation of law.

If an applicant's separated spouse or their children who are legally in the custody of someone else are inadmissible, their admissibility would not render the applicant inadmissible. As separated spouses can reconcile and custody arrangements for children may change, examination is required in order to safeguard the future right to sponsor them as members of the family class. If these family members are not examined, they cannot be sponsored under the family class at a later date under R117(9)(d) unless R117(10) applies.

Officers will not issue a permanent resident visa to separated spouses, common-law partners or children in the legal custody of someone else, even if they are examined. This is because separated spouses and common-law partners are not members of the family class per R117(9)(c) and because children in the custody of someone else are non-accompanying family members.

Satisfactory written evidence of a separation and that a child is in the legal custody or guardianship or another individual (including the other parent) is required. Acceptable documentary proof may include the following:

- formal separation agreement;

- letter from a lawyer indicating that divorce proceedings are underway;
- court order in respect of children identifying the fact of the relationship breakdown;
- documents removing the spouse or common-law partner from insurance policies or will;
- statutory declaration in the case of countries where legal separation and divorce are not possible, for example, the Philippines. To be satisfied that the relationship has truly broken down, the officer may consider supporting evidence such as:
 - ◆ evidence that the separated spouse is living with or has children with another partner;
 - ◆ income tax returns showing status as separated.

CPC-V should review CAIPS or GCMS notes from the initial work permit application at the visa office to see if the visa officer confirmed the applicant's marital status at that time. CPC-V may ask the visa office to confirm or discredit the statutory declaration or other information provided by the live-in caregiver concerning their marital status at the time of their application for permanent residence.

For more information regarding processing of family members, see the OP 2 – Processing Members of the Family Class chapter.

9.15. Ineligible family members

If a visa office informs CPC-V that family members do not meet the definition of “family member” (e.g., over the age of 22 and not full-time students) or are not subject to examination, CPC-V should:

- inform the applicant that the ineligible family members cannot be part of the application;
- give the applicant the opportunity to provide additional information within a stated time period or to apply for a RPRF refund if they have paid for the ineligible family members.

At the end of a pre-determined period of time, CPC-V should release the Confirmation of Permanent Residence (IMM 5292) for the applicant and eligible family members in Canada only in order for the responsible CIC inland office and visa office overseas to proceed with finalizing the case per section 9.16.

Note: It is not necessary for applicants to delete ineligible family members from their application for permanent residence. However, in accordance with procedural fairness, applicants should be afforded the opportunity to provide evidence that the family members are in fact eligible.

9.16. Finalizing approved cases

CPC-V:

- enters information and confirms in FOSS that the applicant and family members in Canada are granted permanent residence;
- sends an electronic Confirmation of Permanent Residence (IMM 5292) to the appropriate CIC inland office;
- includes the names of family members living abroad, responsible visa office and file number; and

- includes the “LCP” program code and permanent resident category LC1.

CIC inland office:

- prints the Confirmation of Permanent Residence (IMM 5292);
- grants permanent residence to the applicant and family members in Canada; and
- informs the responsible visa office that permanent residence has been granted so that the visa office may issue permanent resident visas to family members abroad being processed concurrently, if medical and background checks are still valid.

9.17. Finalizing refused cases

If the visa office informs CPC-V that the family members did not meet requirements or could not be located, CPC-V must inform the applicant of the status of the case.

Procedural fairness requires that the applicant be aware of factors that may contribute to a negative decision and be given the opportunity to respond. See sample letter in Appendix B.

After allowing a reasonable period of time for the applicant to respond, CPC-V will refuse the application if any family member is inadmissible or if any family member cannot be located or is uncooperative in undergoing medical or background checks. The refusal letter to the applicant must state that the applicant **and** all family members are refused per R72(1).

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

If the reason for refusal was that the spouse, common-law partner and/or children were not medically examined, officers should confirm that they were indeed subject to examination, and not exempt because of a relationship breakdown.

Officers must also confirm that the visa office informed the applicant that the family member's lack of cooperation in undergoing medical and background checks could result in refusal of their application for permanent residence.

9.18. Documentation standards in FOSS

Once a decision on an application for permanent residence has been rendered it is important to ensure it has been documented properly on the physical file as well as in FOSS.

FOSS is the Department's permanent record of an inland immigration decision once the paper file is destroyed. The Department may need to refer back to a decision after the paper file has been destroyed according to the departmental file retention policy for several reasons (possible legal challenges, a subsequent sponsorship application or citizenship application). The physical file may no longer be available and the Department will have to rely on FOSS notes.

The FOSS notes should represent a complete record of all action taken in a given case. To the greatest extent possible, there should be no information that appears only on the paper file. Any notes that appear in FOSS should be accurate, complete and consistent with the documentation and decision in the paper file and should not undermine or contradict the written decision.

When accessing the record of decision in FOSS, the reader should be able to clearly understand the basis and reasons for how the officer made their decision, including whether the applicant met the eligibility criteria or the requirements of a class.

10. Tracking the application

FOSS tracks the processing of applications for permanent residence through the Case Processing Support (CPS) module.

CPC-V staff:

- enter applications in the CPS module when they arrive at the CPC;
- enter the names of family members residing abroad in the “Remarks” section and complete the Y (yes) or N (no) box when the visa office provides results of overseas examination;
- indicate if the principal applicant is provisionally approved in the “approved-in-principle” field when the eligibility decision is made;
- enter the results and date when eligibility requirements are met.

When all requirements are met, CPC-V officers:

- enter the granting of permanent resident status;
- enter the closest CIC inland office to the client’s residence as the office of issue for permanent residence documents.

The CIC inland office will, according to local procedures:

- print permanent residence documents as required;
- send a call-in notice or letter to the applicant.

Appendix A Sample letter – Live-in caregiver “approved-in-principle”

This letter acknowledges receipt of your application for permanent resident status in Canada.

It has been determined that you meet the eligibility requirements to apply for permanent resident status as a member of the live-in caregiver class. However, a final decision will not be made until all remaining requirements for becoming a permanent resident have been met. All of your family members, both in Canada and abroad, must pass medical and background checks. Even if your family members abroad are not applying to join you in Canada at this time, they must pass medical and background checks. You cannot become a permanent resident until you and your family members have met admissibility requirements, including medical examinations if required, criminal and security checks.

If you are not already in possession of an open work permit and you wish to work elsewhere, or do not possess a valid study permit and wish to attend school for more than six months, you may apply for either or both. If you wish to apply for a study permit, be sure to include a letter from the educational institution you plan to attend. The letter should outline the type of course or program you are registered for, the start date and the expected completion date.

The client number shown in the upper right corner of this letter is your personal identification number. This number provides access to information on your file and, as such, for your own protection, you should not allow any other person to use this number. When sending correspondence to Citizenship and Immigration Canada, please be sure to include your personal identification number. Failure to include this number could result in the return of your correspondence unanswered.

If you require further assistance, please contact the CIC Call Centre (1-888-242-2100 or TTY at 1-888-576-8502) and be prepared to quote your client number and answer several questions to confirm your identity. General information and application kits may also be obtained through our website at <http://www.cic.gc.ca>.

Appendix B Sample letter – Procedural fairness

This refers to your application for permanent resident status in Canada.

[Insert applicable secondary paragraph(s) here (see inserts below)]

[Provide specifics of the situation and state whether it is the applicant or family members who do not appear to meet the requirement]

Before a decision is made on this matter, you have the opportunity to provide any information you would like to be considered. Please write to this office **within thirty (30) days of the date of this letter**. If you do not reply within 30 days, the decision about your application for permanent residence will be made based upon the information on your file. This may result in your application being refused and no further consideration given to the request for permanent residence unless a new application, including fees, is submitted.

You have until ***(insert date plus 30 days)*** to send new information not previously on your immigration file. If the information is not in English or French, you must also include an adequate translation.

The client number shown in the upper right corner of this letter is your personal identification number. This number provides access to information on your file and, as such, for your own protection, you should not allow any other person to use this number. When sending correspondence to Citizenship and Immigration Canada, please be sure to include your personal identification number. Failure to include this number could result in the return of your correspondence unanswered.

If you require further assistance, please contact the CIC Call Centre (1-888-242-2100 or TTY at 1-888-576-8502) and be prepared to quote your client number and answer several questions to confirm your identity. General information and application kits may also be obtained through our website at <http://www.cic.gc.ca>

Procedural fairness letter — inserts

Worked less than 24 months or a total of 3,900 hours within a minimum of 22 months

In the course of reviewing your file, it appears that your application for permanent residence may have to be refused as you do not appear to meet immigration requirements.

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

. . .

(d) they entered Canada as a live-in caregiver and for at least two of the four years immediately following their entry or, alternatively, for at least 3,900 hours during a period of not less than 22 months in those four years,

(i) resided in a private household in Canada, and

(ii) provided child care, senior home support care or care of a disabled person in that household without supervision.

Under removal order

In the course of reviewing your file, it appears that your application for permanent residence may have to be refused as you and/or your family member(s) do not appear to meet immigration requirements.

In order to become a permanent resident under the live-in caregiver class, you and your family members, if any, must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

...

(e) they are not, and none of their family members are, the subject of an enforceable removal order or an admissibility hearing under the Act or an appeal or application for judicial review arising from such a hearing.

Did not reside with employer

In the course of reviewing your file, it appears that your application for permanent residence may have to be refused as you do not appear to meet immigration requirements.

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulation* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

...

(c) they hold a work permit as a live-in caregiver;
(d) they entered Canada as a live-in caregiver and for at least two of the four years immediately following their entry or, alternatively, for at least 3,900 hours during a period of not less than 22 months in those four years,
(i) resided in a private household in Canada, and
(ii) provided child care, senior home support care or care of a disabled person in that household without supervision.

Not in possession of a valid work permit as a live-in caregiver

In the course of reviewing your file, it appears that your application for permanent residence may have to be refused as you do not appear to meet immigration requirements.

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

...

(c) they hold a work permit as a live-in caregiver.

Inadmissible

In the course of reviewing your file, it appears that your application for permanent residence may have to be refused as you and/or your family member(s) do not appear to meet immigration requirements. It would appear that **(enter name(s) of subject(s) here)** is **(are)** inadmissible under **(specify applicable section(s) of the Act here)**.

In order to become a permanent resident as a member of the live-in caregiver class, you and your family members, if any, must comply with admissibility requirements as specified in the *Immigration and Refugee Protection Regulations*.

Regulation 72(1) states:

A foreign national in Canada becomes a permanent resident if, following an examination, it is established that

(e) . . .

(i) they and their family members, whether accompanying or not, are not inadmissible,

The sections of the *Immigration and Refugee Protection Act* that describe grounds for inadmissibility to Canada are in Division 4 – Inadmissibility. The text of this Division of the Act is attached to this letter.

Appendix C Sample letter – Refusals

This refers to your application for permanent resident status in Canada.

[Insert applicable secondary paragraph(s) here (see inserts below)]

[Provide specifics of the situation which is leading to refusal and state whether it is the applicant or family members who are not meeting the requirement]

The client number shown in the upper right corner of this letter is your personal identification number. This number provides access to information on your file and, as such, for your own protection, you should not allow any other person to use this number. When sending correspondence to Citizenship and Immigration Canada, please be sure to include your personal identification number. Failure to include this number could result in the return of your correspondence unanswered.

If you require further assistance, please contact the CIC Call Centre (1-888-242-2100 or TTY at 1-888-576-8502) and be prepared to quote your client number and answer several questions to confirm your identity. General information and application kits may also be obtained through our website at <http://www.cic.gc.ca>.

Refusal letter – inserts

Worked less than 24 months or a total of 3,900 hours within a minimum of 22 months

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

. . .

- (d) they entered Canada as a live-in caregiver and for at least two of the four years immediately following their entry or, alternatively, for at least 3,900 hours during a period of not less than 22 months in those four years,
- (i) they resided in a private household in Canada, and
- (ii) provided child care, senior home support care or care of a disabled person in that household without supervision.

Since you have not presented evidence that you are able to comply with this requirement, your application for permanent residence in Canada as a member of the live-in caregiver class is refused.

You and your family members, if any, are required to leave Canada on or before the expiry date of your work permit. Failure to leave Canada could result in removal action.

Under removal order

In order to become a permanent resident under the live-in caregiver class, you and your family members, if any, must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

. . .

- (e) they are not, and none of their family members are, the subject of an enforceable removal order or an admissibility hearing under the Act or an appeal or application for judicial review arising from such a hearing;

Since **(enter name(s) of subject(s) here)** has **(have)** not presented evidence that they are able to comply with this requirement, your application for permanent residence as a member of the live-in caregiver class is refused.

Your and your family members, if any, are required to leave Canada on or before the expiry date of your work permit. Failure to leave Canada could result in removal action.

Did not reside with employer

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

. . .

- (c) they hold a work permit as a live-in caregiver;
- (d) they entered Canada as a live-in caregiver and for at least two of the four years immediately following their entry or, alternatively, for at least 3,900 hours during a period of not less than 22 months in those four years
- (i) they resided in a private household in Canada, and
- (ii) provided child care, senior home support care or care of a disabled person in that household without supervision;

Since you have not presented evidence that you are able to comply with this requirement, your application for permanent residence as a member of the live-in caregiver class is refused.

Your and your family members, if any, are required to leave Canada on or before the expiry date of your work permit. Failure to leave could result in removal action.

Not in possession of a valid work permit as a live-in caregiver

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

. . .

- (c) they hold a work permit as a live-in caregiver.

Since you have not presented evidence that you are able to comply with this requirement, your application for permanent residence as a member of the live-in caregiver class is refused.

You and your family members, if any, are required to leave Canada on or before the expiry date of your work permit. Failure to leave could result in removal action.

Inadmissible

In order to become a permanent resident as a member of the live-in caregiver class, you and your family members, if any, must comply with admissibility requirements as specified in the *Immigration and Refugee Protection Regulations*.

Regulation 72(1) states:

A foreign national in Canada becomes a permanent resident if, following an examination, it is established that

(e) . . .

- (i) they and their family members, whether accompanying or not, are not inadmissible.

Since **(enter name(s) of subject(s) here)** has **(have)** been deemed inadmissible under **(specify applicable section(s) of the Act here)** and has **(have)** not presented evidence that they are able to comply with this requirement, your application for permanent residence as a member of the live-in caregiver class is refused.

The sections of the *Immigration and Refugee Protection Act* that describe grounds for inadmissibility to Canada are in Division 4 - Inadmissibility. The text of this Division of the Act is attached to this letter.

You and your family members, if any, are required to leave Canada on or before the expiry date of your work permit. Failure to leave Canada could result in removal action.

Inadmissibility Hearing, Appeal or Application for Judicial Review

In order to become a permanent resident under the live-in caregiver class, you and your family members, if any, must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

. . .

(e) they are not, and none of their family members are, the subject of an enforceable removal order or an admissibility hearing under the Act or an appeal or application for judicial review arising from such a hearing.

Since **(enter name(s) of subject(s) here)** is **(are)** the subject of an admissibility hearing/appeal/application for judicial review, you are not a member of the live-in caregiver class. Your application for permanent residence as a member of the live-in caregiver class will not be finalized until this matter is resolved.

Note: This is not a refusal letter as such, since refusal or acceptance cannot take place until the results of the hearing/appeal/judicial review are known.

Appendix D 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. (In several provinces, the law makes no distinction between live-in caregivers and the more general category of “domestic workers.”)

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/territorial employment standards and labour laws. 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 and Skills Development Canada (HRSDC) determines the wage rate to be paid by employers. In some parts of the country, HRSDC requires employers to pay wages higher than the minimum wage rate, based on the prevailing wage paid for this type of work.

For more information on employment standards and labour laws in provinces and territories, please consult the following websites. Please note that the following information is subject to change.

Also note that HRSDC’s website provides a table of Regional Wages, Working Conditions and Advertisement Requirements for the Live-in Caregiver Program:

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/advertReq/wageadreq.shtml#php

ALBERTA

Website: <http://www.employment.alberta.ca/SFW/1224.html>

BRITISH COLUMBIA

Website: <http://www.labour.gov.bc.ca/esb/>

MANITOBA

Website: <http://www.gov.mb.ca/labour/standards/>

NEW BRUNSWICK

New Brunswick’s *Employment Standards Act* and *Regulations* do not apply to persons working in private homes. Therefore, live-in caregivers 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.

Website: <http://www.gnb.ca/0308/index-e.asp>

NEWFOUNDLAND AND LABRADOR

Website: <http://www.hrle.gov.nl.ca/lra/labourstandards/faq.htm>

NORTHWEST TERRITORIES AND NUNAVUT

Website: <http://www.ece.gov.nt.ca/Divisions/Labour/>

NOVA SCOTIA

Website: <http://www.gov.ns.ca/lwd/employmentworkplaces/>

ONTARIO

Website: <http://www.labour.gov.on.ca/english/es/>

PRINCE EDWARD ISLAND

Website: <http://www.gov.pe.ca/sss/index.php3?number=1004723&lang=E>

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 Quebec (CAQ)*, which is contingent, in part, on the signing of an employment contract between the employee and the employer. 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 a small part of their overall duties and is indirectly related to the immediate needs of the care recipient. In such cases, they are deemed to be domestics.

Website: <http://www.cnt.gouv.qc.ca/en/home/index.html>

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). The minimum employment standards also vary depending on whether or not the employee lives with the employer.

Website: <http://www.aeel.gov.sk.ca/labour-standards>

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*).

Website: <http://www.community.gov.yk.ca/labour/index.html>

Appendix E Provincial and territorial employment standards – Contact information

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 be able to 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 responsible for labour or employment standards in your province or territory. Just write a letter clearly 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.

Please visit the CIC website for further details:

<http://www.cic.gc.ca/english/work/caregiver/arriving.asp#standards>

Appendix F Counselling fact sheet

Important Information for Live-in Caregivers

The CIC website provides information on the rights of temporary foreign workers and the law: <http://www.cic.gc.ca/english/work/tfw-rights.asp>.

You must have a written employment contract signed by both you and your 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 that names your new employer. Your new employer needs to get approval from Human Resources and Skills Development Canada/Service Canada before you can get your new work permit and begin working for them.

The work permit you receive when you enter Canada may allow you to work in Canada as a live-in caregiver for up to four years plus three months. The date when your work permit expires is on the work permit. Even if you do not change employers, you need to renew your work permit as required before it expires. You should apply for an extension of your work permit in Canada at least three months in advance of the expiry date. This is your responsibility, not your employer's.

It is your responsibility to keep your legal documents (such as your work permit and passport) safe. You should not give them to anyone, even your employer. Although you may be asked to show these documents for verification (e.g. your employer may ask to see your work permit), you should always keep them in your possession.

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

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 at least 24 months or a total of 3,900 hours in a minimum of 22 months within the four years immediately following your entry into Canada under the Live-in Caregiver Program;
- you, your spouse and your dependent children must meet admissibility requirements 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 obtaining permanent resident status;
- you must live in the home of the person(s) for whom you have been hired to provide care or you cannot continue to work in the Live-in Caregiver Program, and you cannot apply for permanent residence; and

- you must maintain your temporary resident status and have a valid work permit as a live-in caregiver at the time you apply for permanent residence.

When calculating your work experience as a live-in caregiver, you cannot include:

- any periods of unemployment;
- any extended time outside Canada (for example, if you leave Canada for longer than the period of vacation time allotted in your employment contract, that period does not count); or
- any period you work for your employer outside Canada (for example, time spent on a family vacation will not count).

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.