OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

Updates to chapter

Listing by date:

2012-03-22

Section 1- updated to specify that this chapter is for applications received on or after February 27. 2008 and before June 26, 2010

Section 1- removed note on OP 7a, OP 7b and OP 25

(Previously) Section 5.2- removed text on Ministerial Instructions- effective June 26, 2010

Section 5.2- Removed text on applications received before February 27, 2008 and on or after June 26, 2010

Section 5.3- updated “visa” office to “processing” office

Section 5.3- removed “visa” from “visa office” on transfering files text

Section 5.3- updated note to include OB 266

Section 5.4- updated text to state that processing offices must construct direct links to the CIC website

Section 6.1- updated text to state that processing offices should have paper copies of the NOC 2006.

Section 6.4- updated text to indicate that dependency is locked in at the time the application is received by CIC and not when the application is made.

Section 6.4- updated text to state that applicant must notify the processing office for any changes in family composition

Section 7- updated text to state CIO Procedures and removed applications received on or after February 27, 2008 and before June 26, 2010

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

Section 7.1- updated note to state that applications are reviewed for completeness according to the kit requirements in place the time the application is received

Section 7.2- added new text on identifying a visa office on the application

Section 7.3- updated text with table of what documents are required from AEO applicants

Section 7.3- updated text in the procedures section

Section 8 - updated to state state Processing office procedures and removed reference to applications made on or after February 27, 2008 and before June 26, 2010

Section 8.1- updated text to state the athe mission will forward the application ot the appropriate mission (instead of returning to the applicant)

Section 8.2- updated text with GCMS instructions

Section 8.2- replaced “visa” offices with “processing” offices

Section 8.3- added note that the date entered by the CIO should not be changed by the mission

Section 8.3- updated with GCMS instructions

Section 8.3- replaced “visa office” with “office”

Section 8.4- added “withdraws prior to processing” to the subtitle

Section 8.4- updated with GCMS instructions

Section 8.5- updated text to indicate that applications should be processed using the same file number assigned by the CIO

Section 8.6- updated text

Section 8.7- updated this section to include processing capacities

Section 10.1- updated text on settlement funds

Section 10.1- removed table

Section 10.4- removed note for applications received on or after June 26 2010

Section 10.5- updated with the new name of the division

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

Section 10.5- updated note to specify instructions on language test results received before or after December 23 , 2010

Section 10.6- updated text

Section 10.7- updated with the new name of the division

Section 10.8, 10.9, 10.10- re-formatted tables for ease of reference

Section 10.11- updated text and removed note from table for applications received on or after April 10, 2010 and June 26, 2010

Section 10.13- removed less than 1 year from the table

Section 10.13- updated note to state that officers should make a decision based on what was submitted

Section 10.13- updated text with guidance on unauthorized workexperience

Section 10.15- updated text in this section

Section11.1- removed tables for applicaitons received on or after June 26, 2010

Section 12- updated text in this section to reflect changes in the printer of the permanent resident visa for certain passport holders

Appendix D- removed text on global and NOC sub caps

Appendix F- removed letter

2011-06-17

Section 5.2 – updated text in this section on Ministerial Instructions – effective June 26, 2010; removed note in this section stating that any applications received by CIO that are not FSW applications are to be returned to the applicant.

Section 6.4 – updated text in this section

Section 7.1 - updated text in this section

Section 7.2 - updated text to clarify that processing fees will be refunded

Section 8.3 – added subtitle titled ‘Procedure’

Section 9.3 – added note in this section stating the instructions for GCMS are forthcoming

Section 12.1 – added text in this section with respect to settlement funds; updated LICO table

Section 12.5 – updated text in this section with respect to availability of language tests; updated note in this section to reflect that language test results must not be older than two years at time of application

Section 12.6 – updated note in this section with respect to CELPIP testing

2010-12-14

Renumbering of sections have occurred due to updates.

Section 5.2 – Added text under “Limit on number of applications to be processed per year”.

Section 5.4 – Updated this section to reflect that processing may begin at either the visa office or at the CIO.

Section 7.2 – Updated note in this section to state that the CIO will not reject applications that do not include police certificates provided it is complete in all other respects.

Section 7.3 – Updated table in this section.

Section 8.4 – Updated this section to include GCMS.

Section 12.2 – Amended wording in the first example.

Section 12.4 – Amended note in this section.

Section 12.11 – Updated If/Then table in this section.

Section 13.1 – Removed the word final from 2nd table and added a note to this section to state that visa officers will review file and make the selection decision.

Section 16 – Updated title of this section.

Appendix B – Corrected reference to subsection 2(2) of the *Immigration and Refugee Protection Act.*

Appendix C – Corrected reference to subsection 2(2) of the *Immigration and Refugee Protection Act.*

Appendix D – Added sample text for when the global or NOC sub-cap is reached for negative final determination of eligibility; amended wording under “IF APPLYING UNDER OCCUPATION LIST”.

2010-08-04

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

Section 5.1 – Updated this section to include second set of Ministerial Instructions of June 26, 2010, which describe the new criteria for FSW applications, including the limit on the number of applications to be processed per year.

Section 7 – Added this new section and subsections (7.1, 7.2, 7.3) on procedures for applications received at the Centralized Intake Office (CIO) on or after June 26, 2010.

Section 8 – Updated this section to make distinction for procedures at the CIO related to applications received on or after February 27, 2008, and before June 26, 2010.

Section 9 – Updated this section for visa office procedures to make distinction related to applications received on or after February 27, 2008, and before June 26, 2010.

Section 12.11 – Updated this section to state that for applications received at the CIO on or after June 26, 2010, other written evidence of language proficiency will not be accepted.

Section 13.1 – Updated this section to distinguish between selection decision procedures for applications received on or after February 27, 2008, and before June 26, 2010, versus those received on or after June 26, 2010.

2010-07-26

Section 7.3 – Updated the note in this section on assessing Temporary Foreign Worker or International Student applications against the Ministerial Instructions.

Section 11.4 – Moved reference to the requirement that language test results be no older than one year at the time of application to this section from section 11.6.

Section 11.5 – Updated the note regarding acceptable language testing results to clarify that, for the IELTS reading and writing tests, only the results of the “General Training” tests are accepted for CIC purposes and updated the reference to the organization responsible for administering the CELPIP.

Appendix A – Updated sample refusual letter to reflect correct International Region template.

Appendix B – Updated reference to subsection 11(1) of the Act in the sample refusal letter.

Appendix C – Updated reference to subsection 11(1) of the Act in the sample refusal letter.

Date: 2010-04-01

Section 3.1 – Updated table in this section to include Federal Skilled Worker Class fee payment form IMM 5620E

Section 5.1 – Updated this section on Ministerial Instructions

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

Section 5.2 – Renamed and updated this section on fees

Section 6.4 – Changed reference on definition of family members to R1(3)

Section 7 – Updated this section on procedures for applications made at the CIO

Section 7.1 – Updated this section on receiving the application at the CIO to include R10 completeness check

Section 7.2 – Added this section on identification of visa office for processing of the application

Section 7.3 – Updated this section on assessing applications against the Ministerial Instructions

Section 7.4 – Updated section on applications that correspond to Ministerial Instructions

Section 8 – Updated this section on visa office procedures- Federal Skilled Worker applications made on or after February 27, 2008

Section 8.1 – Added this section on R10, R11 and R12

Section 8.2 – Added this section called Procedures

Section 8.3 – Added this section on documenting applicant's submissions to the visa office

Section 8.4 – Added this section on procedures when the applicant submits nothing within the 120 day deadline

Section 8.5 – Added this section called Procedure: Final determination of eligibility for processing

Section 8.6 – Added this section on distinction between making a final determination of eligibility for processing and processing

Section 8.7 – Added this section on File transfers

Section 9 – Added this section: Visa office procedures – Applications made before February 27, 2008

Section 10 – Updated this section on minimal requirements

Section 11 – Updates made throughout this section on selection factors and criteria

Section 11.2 – Updated this section on Education

Section 11.5 – Updated note on IELTS that both Academic and General Training tests are acceptable

Section 11.9 – Updated the table in this section on other written evidence

Section 11.12 – Updated description of full-time work experience

Section11.13 – Updated the table this section on arranged employment

Section 12 – Renamed and updated this section Procedure: Selection decision

Section 15 – Updated this section to include CAIPS PSDEC coding table

Appendix D – Renamed sample letter "Negative final determination of eligibility for processing – Ministerial Instructions"

Appendix E – Added this sample letter for negative final determination of eligibility for processing for incomplete applications

Appendix F – Added this sample letter for file transfers due to R11

Updates to this chapter include the information found in Operational Bulletin 120. OB 120 revokes ALL previous instruction to use PSDEC 3 when an applicant does not submit a complete application kit (including supporting documents) within 120 days. This includes the instructions in OB 121. All negative final determinations should be coded as PSDEC 2. Only use PSDEC 3 when an applicant withdraws their application.

Updates made to numbering of sections due to addition of different sections.

Date: 2010-01-04

Section 9.2 – Settlement funds: The content with respect to the LICO amounts has been updated. The amounts reflected in the table are valid from January 1st to December 31st, 2010.

Date: 2009-05-08

Section 10.12 – Added this section on Experience.

Date: 2009-04-01

Section 5.1 – Updated section on Ministerial Instructions and requests for Humanitarian and Compassionate (H&C) considerations

Section 5.2 – Updated the cost recovery fee and Right of Permanent Residence Fee (RPRF)

Section 6.4 – Added information on non-accompanying family members.

Section 7.2 – Updated information on assessing applications against Ministerial Instructions.

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

Section 8.1 – Added information on receiving the application at the visa office.

Section 8.2 – Added this section on assessing eligibility under the Ministerial Instructions and included information from OB 101, question 7.

Section 14 – Added this section on CAIPS coding instructions.

Appendices A, B and C – Section added to template letters concerning RPRF refunds issued by CIO in cases of transferred files.

Updates throughout this chapter reflect the centralized intake of all Federal Skilled Worker (FSW) applications going to the Centralized Intake Office in Sydney, NS effective April 1, 2009. Application forms and guides are also updated to reflect this change.

Date: 2009-02-02

Section 9.2 – Updated minimum settlement fund requirements.

Date: 2008-11-28

Section 5.1 – Added section on Ministerial Instructions.

Section 5.2– Updated information on cost recovery fees.

Section 5.3– Added information on NOC codes.

Section 6.1 – Updated reference to 2006 NOC codes.

Section 6.2 – Added information on family members.

Sections 7-7.3 –Added sections on Centralized Intake Office procedures.

Section 8 – Added section on visa office procedures.

Section 8.3 – Added section on procedures for Ministerial Instructions.

Section 9.2 – Updated minimum settlement fund requirements.

Section 10.6 – Added an English language testing organization.

Section 10.7 – Added section on CELPIP scores.

Section 10.8 – Added another chart and updated IELTS test score equivalencies.

Appendix D – Added sample letter for refusals based on Ministerial Instructions.

Date: 2008-04-24

Section 9.2 – Settlement Funds - The table on minimum settlement funds has been updated to reflect Statistics Canada's publication of the most recent low income cutoffs (LICO).

Appendix C – Refusal on points - Minimum points have been updated to reflect the correct minimum of 67 points.

Date: 2008-03-27

Section 10.8 – Canadian English Language Proficiency Index Program - This section has been removed along with any references to it, as this program is no longer in existence.

All sections – Replaced references to the web address www.cic.gc.ca/skilled with the correct functioning URL: http://www.cic.gc.ca/english/immigrate/skilled/index.asp

Date: 2006-07-17

Section 9.2 – Settlement funds: - The table on minimum settlement funds has been updated to reflect Statistics Canada's publication of the most recent low income cutoffs (LICO).

Section 10.11 – Experience - This section has been amended to clarify what is meant by "one year continuous full-time work experience", which is the basic qualification needed to be eligible to apply for points.

Date: 2005-08-31

Section 9.2 – Settlement Funds - The table on minimum settlement funds has been updated to reflect Statistics Canada's publication of the most recent low income cutoffs (LICO).

Section 10.4 – Evidence of language proficiency - The note at the end of this section has been amended to clarify that the most recent group of designated language tests submitted are used to allocate points. Visa officers will not select the highest score for each ability from different test score submissions.

Date: 2004-10-28

This chapter has been updated to reflect changes to the federal skilled worker provisions as per the recent regulatory amendment package. The following sections have been revised:

Section 6.2 – Family members of skilled workers:

Clarifications have been made in keeping with procedures outlined in OP 2, Processing members of the family class - age of accompanying dependent children is locked in on date of application, but dependence is not. At the time of application, children over the age of 22 who are deemed dependent due to full-time study or mental/physical condition must still meet these requirements at the time of visa issuance;

advice to the applicant that non-accompanying children in the legal custody of the spouse, ex-spouse or common-law partner should be examined if the applicant wants to sponsor them in the future, otherwise they will be excluded from the family class.

Section 9 – Minimum requirements of a skilled worker - As with full-time work experience, part-time work experience must be continuous for the one-year eligibility requirement of the class [R75(2)]

Section 9.2 – Settlement funds - funds required include both accompanying and non-accompanying dependants;

LICO levels updated.

Section 10.2 – Education - guidance is provided on how medical degrees should be considered; essentially medical doctor degrees are generally considered first-level degrees in the same way as a Bachelor of Law or a Bachelor in Pharmacology. Officers should be guided by how the local authorities responsible for educational or training institutions recognize the credential.

Sections 10.4 to 10.10 - Language - relevant sections have been updated to reflect RIM messages 04-002 and 04-016 sent to visa offices earlier this year regarding clarifications on "Language Proficiency Guidelines."

Section 10.6 – Approved testing organizations:

test results must not be older than one year on the date of application;

test results from a testing organization that has not been designated by the Department are not "conclusive evidence" of language ability and may only be considered as part of an overall written submission.

Section 10.10 – Integrity concerns on language proficiency during an interview:

This is a new section which outlines instructions presented in RIM message 04-016.

Section 10.13 – Arranged employment

arranged employment must be in National Occupational Classification (NOC) Skill Type 0 or Skill Level A or B [R82(2)];

in the case of applicants holding a work permit for a job for which they have a permanent offer, the work permit must be valid on the date of application and at the time the visa is issued. This replaces the requirement that the work permit be valid for 12 months from date of application [R82(2)(a)(iii)];

temporary work permit holders under R205(c)(ii), such as post-graduates and spouses/common-law partners of temporary skilled workers/foreign students, are now eligible to apply for arranged employment points under R82(2)(b);

eligible temporary work permit holders not currently covered may now apply for arranged employment with an arranged employment opinion (AEO) from HRSDC [new R82(2)(d)].

instructions are provided on how to process applications with arranged employment under R82(2)(c) in keeping with RIM message 04-033 on "Post resumption protocol AEO guidelines."

Section 11.3– Substituted evaluation

this section has been updated to reflect instructions outlined in RIM message 04-011 "Substituted Evaluation for the Federal Skilled Worker Class."

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

Date: 2003-07-09

Skilled Worker applicants are awarded points for language ability based on either language test results from a designated organization, or other evidence provided in a written submission. The Paris Chamber of Commerce has been designated as a Third Party Language Testing (TPLT) organization, and offers the Test d'Évaluation de Français (TEF). There are test score equivalency charts for the alignment of TEF scores for all four abilities (reading, listening, writing and speaking) to the Canadian Language Benchmarks (CLB)/Standards Linguistiques Canadiens (SLC) in Section 10.8 of the OP 6, as well as on the website and in the Skilled Worker application guide.

The number of points required to attain a certain level on the TEF test has changed. The Paris Chamber of Commerce has made small changes to the number of points required for each level in reading and listening in order to ensure the reliability of their results. Points equivalencies for writing and speaking have also been added. In the previous version of the OP 6, writing and speaking equivalencies for the TEF were given as levels only. This change in points could affect the number of points some applicants are awarded for language. Visa officers should ensure that they use the new, updated grid on the website when determining the equivalent Benchmark/Standard for a given TEF points score.

Date: 2003-04-11

Clarifications/changes have been made to Manual chapter OP 6 (Federal Skilled Workers) regarding the following:

proof of language ability, see Section 8.1;

substituted evaluation, see Section 9.1 and Section 11.3;

revised figures for settlement funds regarding Low Income Cut-off (LICO), see Section 9.2; and

distance learning credentials for "Education" points, see Section 10.2.

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

1. What this chapter is about

This chapter describes the processing of applications for permanent residence submitted by applicants in the Federal Skilled Worker (FSW) Class and received on or after February 27, 2008, and before June 26, 2010.

2. Program objectives

Section 3 of the *Immigration and Refugee Protection Act* lists several objectives with respect to foreign nationals. Among those related to the skilled worker program are:

- to permit Canada to pursue the maximum social, cultural and economic benefits of immigration;
- to support the development of a strong and prosperous Canadian economy, in which the benefits of immigration are shared across all regions of Canada;
- to support, by means of consistent standards and prompt processing, the attainment of immigration goals established by the Government of Canada in consultation with the provinces;
- to enrich and strengthen the cultural and social fabric of Canadian society, while respecting the federal, bilingual and multicultural character of Canada.

3. The Act and Regulations

Provision	Act and Regulations
Attainment of immigration goals	A87.3(2)
Application, form and content	A11, R10
Place of application for visa	R11
Return of an application	R12
Production of supporting documents	R13
Visa issuance by an officer	R70(1)
Economic class	A12(2)
Inadmissibility	A33 to A43
Obtaining status (skilled worker)	R71.1
Minimal requirements of a skilled worker	R75(2)
Minimum number of points required	R76(2)
Selection grid:	
• Education	R78
• Language proficiency	R79
• Work experience	R80
• Age	R81

• Arranged employment	R82
• Adaptability	R83
Settlement funds requirement	R76(1)(*b*)(i)
Substituted evaluation	R76(3) and (4)
Transition rules	R361

3.1. Forms

The forms required are shown in the following table.

Form title	Form number
Application for Permanent Residence in Canada	IMM 0008EGEN
Schedule 1 - Background/Declaration	IMM 0008Esch1 Schedule 1
Schedule 3 - Economic Classes - Federal Skilled Workers	IMM 0008Esch3 Schedule 3
Additional Family Information	IMM 5406E
Fee payment form – Application for Permanent Residence Federal Skilled Worker Class	IMM 5620E

IMM 0008EGEN Completed by principal applicant

Schedule 1: Completed by principal applicant, spouse or common-law partner, and each dependent child over the age of 18

Schedule 3: Completed by principal applicant

IMM 5406E: Completed by principal applicant, spouse or common-law partner, and each dependent child over the age of 18

IMM 5620E: Completed by principal applicant

4. Instruments and delegations

Nil.

5. Departmental policy

5.1. Ministerial Instructions – effective February 27, 2008

On November 28, 2008, the Minister of Citizenship, Immigration and Multiculturalism issued Ministerial Instructions which applied only to applications or requests made on or after February 27, 2008. The Instructions provide for the following Federal Skilled Worker applications to be placed into processing immediately upon receipt:

- Federal Skilled Workers with an Arranged Employment Offer (AEO);
- Federal Skilled Workers residing legally in Canada for at least one year as temporary foreign workers or international students; or
- Federal Skilled Workers with **at least one year** of continuous full-time (or equivalent part-time) paid work experience in the last ten years in one or more of the occupations listed in the Ministerial Instructions effective February 27, 2008.

5.2. Applying the Ministerial Instructions

Applications received on or after February 27, 2008 and before June 26, 2010

Federal Skilled Worker applications received on or after February 27, 2008 and before June 26, 2010, must meet the requirements in the first set of Ministerial Instructions in order to be eligible for processing. All FSW applications are to be submitted directly to the Centralized Intake Office (CIO) in CPC-Sydney. At the CIO, an initial assessment of whether the application corresponds to the Ministerial Instructions is made. If the CIO refers the application to a visa office, the visa office is responsible for making a final determination of eligibility for processing. For CIO procedures, please see Section 7.

Requests for humanitarian and compassionate consideration – Ministerial Instructions

The Ministerial Instructions state "Requests made on the basis of Humanitarian and Compassionate grounds that accompany a Federal Skilled Worker application not identified for processing under Ministerial Instructions will **not** be processed."

The Ministerial Instructions allow examination of Humanitarian and Compassionate (H&C) considerations within the Federal Skilled Worker class only if a FSW class application is eligible for processing.

The Instructions prevent the use of requests for H&C considerations to overcome the eligibility requirements for processing under the FSW class.

5.3. Fees

Applicants are required to pay two fees:

- the cost recovery fee;
- the right of permanent residence fee (RPRF).

Cost recovery fee

R295 specifies who must pay the cost-recovery fees and the fees for processing an application for a permanent resident visa. The cost recovery fee is payable at the time the application is made to the CIO.

The cost recovery fee must be paid only for persons who intend to immigrate to Canada. This includes the principal applicant and any accompanying family members.

An applicant may withdraw an application and receive a refund of the cost recovery fee any time before processing of the application begins at a processing office. This rule also applies to applications that are not eligible for processing according to the Ministerial Instructions. Once processing has begun at a processing office, the cost recovery fee is not refundable.

Right of Permanent Residence Fee (RPRF)

R303 specifies that RPRF fees are payable for the principal applicant and their spouse or common- law partner.

Payment of the right of permanent residence fee (RPRF) is required before issuance of permanent resident visas.

Applicants may make their RPRF payment any time before permanent resident visas are issued.

Successful applicants who decide not to use their visas must return them to the issuing visa office in order to obtain a RPRF refund.

Unsuccessful applicants who have paid the RPRF should be informed as part of the refusal letter that they are entitled to a refund, and be given an approximate time frame for its receipt.

In the case of files transferred from one office to another, the visa office that finalizes the case is responsible for processing any RPRF refund. This instruction does not apply to applications received by or transferred to the CIO. In these cases, the CIO is responsible for the RPRF refund.

Note: Please refer to Operational Bulletins 120 (Appendix C), OB 121 and OB 266 for cost recovery and refund procedures at visa offices and at the CIO.

5.4. Self-assessment tools

The Department's Web site (http://www.cic.gc.ca/english/immigrate/skilled/index.asp) contains links to a number of on-line self-assessment tools, which enable prospective applicants to:

- obtain all necessary information regarding the skilled worker selection system;
- obtain information about their NOC category and skill level; and
- make an informal assessment of their own ability to qualify before expending the money and the effort on the submission of a formal application.

Processing offices with their own web sites must construct direct links to the departmental Skilled Worker page, which includes the on-line self-assessment tool.

Prospective applicants should be instructed to access and download the instruction guide [IMM EG7000] themselves.

5.5. Procedural fairness

See OP 1 for details on procedural fairness.

6. Definitions

6.1. National Occupation Classification (NOC)

The NOC is the official governmental classification system of occupations in the Canadian economy. It describes duties, skills, aptitudes, and work settings for occupations in the Canadian labour market.

Note: For the purposes of skilled worker applications, the "Employment Requirements" listed in the description of each occupation are not applicable [refer to R80(3)].

Processing offices should have paper copies of the NOC . The NOC can also be accessed on-line at http://www5.hrsdc.gc.ca/NOC/

6.2. Restricted occupations

R73 defines restricted occupations as those so designated by the Minister following a review of labour market activity and consultations with other stakeholders.

- R75(2)(a) stipulates that experience in a restricted occupation cannot be used to satisfy the minimal requirements of a skilled worker.
- R80(2) stipulates that no points can be given under the experience factor of the skilled worker selection criteria for experience in a restricted occupation.

At the time of printing, there were no occupations designated as restricted. However, for the most up-to-date listing, refer to the skilled worker Web site at http://www.cic.gc.ca/english/immigrate/skilled/index.asp.

6.3. Education

- "Educational credential" is defined in R73 as any diploma, degree or trade or apprenticeship credential issued on the completion of a program of study or training at an educational or training institution recognized by the authorities responsible for registering, accrediting, supervising and regulating such institutions in the country of issue.

- "Full-time" is defined in R78(1) as requiring at least 15 hours of instruction per week during the academic year, including any period of training in the workplace that forms part of the course of instruction.
- "Full-time equivalent" means, in respect of part-time or accelerated studies, the period of time that would have been required to complete those studies on a full-time basis.

6.4. Family members of skilled workers

Please refer to R1(3) of the *Immigration and Refugee Protection Regulations* (IRPR) for the definition of family members.

Note: The age of accompanying dependent children is locked in on the date the application is received (OP1, section 5.24), but dependence is not. If a child is under the age of 22 on that date but 22 years of age or older when the visa is issued, they may still be included as part of the parent's application as an accompanying dependent, **if they are still not married or not in a common-law relationship or, if they are financially dependent due to full-time study (R2(b)(ii)) or due to a physical or mental condition (R2(b)(iii))**. If a child over the age of 22 is considered a dependant child on the date of application by virtue of R2(b)(ii) or R2(b)(iii), then the child must still meet the requirements of these provisions at the time of visa issuance in order to be included in the parent's application. See OP 2, section 5.23 for more information on who qualifies as a dependent child.

All family members, accompanying or not, are required to be examined during processing of an application unless a properly delegated officer has determined that they were not required by the Act or the former Act, as applicable, to be examined. Normally, any inadmissible family member would render the principal applicant inadmissible as well [A42; R23]. There are, however, two exceptions to this rule. The first is the separated spouse of the applicant. The second is the child of an applicant in the legal custody of someone other than applicant or an accompanying family member or where someone other than the applicant or an accompanying family member 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 the applicant's children who are in the custody of someone else are inadmissible, their inadmissibility would not render the applicant inadmissible. However, as separated spouses can reconcile and custody arrangements for children can change, examination is required in order to safeguard the future right to sponsor them in the family class. If these family members are not examined, they are excluded from the Family Class in the future under R117(9)(*d*). Please see OP 2, section 5.10, 5.11 and 5.12 for more information on examination of non-accompanying family members.

Family members can be added to the application at any time during the process, including after the visa is issued but prior to obtaining permanent resident status. Applicants should be counselled to inform the processing office immediately if their family composition has changed. Please see OP 2, Section 7.7 for more information on adding a family member during processing.

Pursuant to subsection 4(1) of the Regulations, the principal applicant may not include a spouse or common-law partner in their application if their relationship was entered into primarily to acquire any status or privilege under the Act or is not genuine. Similarly, in accordance with subsection 4(2) of the Regulations, the principal applicant may not include an adopted child if the adoption was entered into primarily to obtain any status or privilege under the Act or it did not create a genuine parent-child relationship. Refer to section 12, 12.1 and 12.2 of OP2 for further information on assessing the relationship between the sponsor and a spouse or common-law partner and section 5.8 of OP3 on assessing the relationship between adoptive parents and an adopted child.

If family members are added to the application during processing, they must be screened for inadmissibility before any permanent resident visa is issued.

7. CIO Procedure

This section outlines how initial assessments of eligibility for processing are made at the CIO. Please see the following areas for specific procedural instructions:

- Receiving the application at the CIO – Section 7.1
- Identification of visa office for processing of the application – Section 7.2
- Assessing applications against the Ministerial Instructions - Section 7.3
- Applications that meet the Ministerial Instructions - Section 7.4

7.1. Receiving the application at the CIO

Applications received at the CIO will first be reviewed for completeness pursuant to R10, including the following required forms, fees, information and documents:

- required forms, including a signed and completed IMM 0008E GEN containing the name, birth date, address, nationality, marital status and current immigration status of the applicant and all family members (whether accompanying or not), and identifying the principal applicant, properly completed Schedule 1's for the principal applicant, his or her spouse or common-law partner and all dependent children aged 18 and older listed on the IMM 0008, as well as a properly completed Schedule 3 for the principal applicant;
- evidence of payment of the applicable fees (please see Section 5.2 for more information on fees);
- the visa, permit or authorization being applied for;
- the class in which the application is made;
- the Use of a Representative form, if appropriate;
- a signed statement to the effect that the information provided is complete and accurate;
- any information and documents required by the Regulations, as well as any other evidence required by the Act.

Note: Applications received will be reviewed for completeness according to the application kit requirements in place at the time the application is received by the CIO. Files are created for applications that are complete. If the application is referred to a visa office, the electronic file is transferred to the visa office. The applicant must submit the complete application with supporting documents to the visa office.

7.2. Identification of visa office for processing of the application

The CIO is designated as the point of intake for FSW applications. Pursuant to paragraph 10(1)(*c*) of the IRPR, applicants are required to, among other things, request on their IMM 0008 (10-2008) that a specific visa office process their application for permanent residence.

The visa office requested must be one that will be able to process the application in complicance with R11. Applicants who do not complete this part of the IMM 0008 correctly, e.g. leave it blank or specify any office that is not a visa office, have not complied with paragraph R10(1)(*c*).

If the requirements of either R10 or R11 are not met, section 12 of the IRPR requires CIC to return the application and all documents submitted in support of the application to the applicant

Procedure

When an applicant does not specify on the IMM 0008 which **visa office** they are requesting to process their application, the CIO will return the application to the applicant pursuant to R12.

The CIO will accept the visa office identified by the applicant as is and will not do any in-depth checks for R11 compliance. The CIO is not responsible for assessing whether applicants are R11

compliant at the visa office specified on their IMM 0008. The onus is on the applicant to correctly identify the visa office for processing.

7.3. Assessing applications against the Ministerial Instructions

The CIO will make an initial assessment to determine whether the application should be referred to a visa office for a final determination of eligibility for processing under one of the categories described in the Ministerial Instructions.

Evidence to consider when making the initial assessment of eligibility:

Review the application and determine whether it meets the criteria in the Ministerial Instructions. To be eligible for processing under these Instructions, the applicant, on the date of application , must:

- have one year of continuous full-time (or equivalent part-time) paid work experience in the last ten years in one or more of the occupations listed in the Ministerial Instructions effective February 27, 2008; or
- have an Arranged Employment Offer; or
- be residing legally in Canada for at least one year as a temporary foreign worker or as an international student.

One year continuous full-time experience - Applicants may present evidence of a combination of full-time or part-time work experience in more than one eligible NOC category in the last 10 years for the purpose of meeting the one year of continuous work experience requirement, as long as their experience adds up to at least one year.

Anticipated short breaks between jobs are acceptable. For example, if an applicant is employed in one occupation for a 4 month contract and before the end of that contract, has secured other employment that will begin shortly after the end of the first contract, this break in continuity would be acceptable. The occupations must be listed in the MI.

Arranged Employment Offer - It may or may not be evident that an applicant has an arranged employment offer.

Officers should refer to the following table to determine which documents (at a minimum) should be provided by the applicant:

R82(2)(a)	Applicants are in Canada and should provide a copy of their work permit (approved LMO from HRSDC) with a letter of offer.
R82(2)(b)	Applicants are in Canada and should provide a copy of their work permit (LMO excempt) with a letter of offer.
R82(2)(c)	Applicants do not hold a work permit in Canada and do not intend to work in Canada before their PR visa is issued. Applicants should provide a copy of the HRSDC approved arranged employment opinion.
R82(2)(d)	Applicants are in Canada and should provide a copy of their work permit and HRSDC approved arranged employment opinion.

Temporary Foreign Worker (TFW) or International Student - Applicants can meet the above eligibility requirement simply with evidence that their authorized period of stay has been at least one year immediately preceding the date of the application and, that throughout this period they have been either temporary foreign workers or international students, and that they are still in Canada with valid temporary resident status as either a worker or student.

When the Ministerial Instructions state that applicants who have been residing legally in Canada for at least one year as a temporary foreign worker or as an international student are eligible for processing, this means that applicants must be that which they claim to be and have been so for at least the twelve months immediately prior to applying. To meet the first condition as temporary foreign worker, the applicant needs to be employed at the time of application. To meet the second condition, the applicant must have been employed for at least the twelve months immediately prior to applying. The applicant must therefore be employed and in status at the time that the application is submitted in order to be eligible for processing as a temporary foreign worker. To meet the first condition as an international student, the applicant needs to be studying at the time of application. To meet the second condition, the applicant must have been studying for at least the twelve months immediately prior to applying. The applicant must therefore be studying and in status at the time that the application is submitted in order to be eligible for processing as an international student.

For international students, it is sufficient to have studied for one academic year (i.e. two terms or semesters) during one year of legal residence. For TFWs, anticipated short breaks between jobs are acceptable. For example, if an applicant is employed in one occupation for a 4-month contract and before the end of that contract, has secured other employment that will begin shortly after the end of the first contract, this break in continuity would be acceptable.

Eligibility as a TFW or international student is not limited to holders of work or study permits. Evidence of their authorized stay may include: an entry stamp in their passport, a temporary resident record, temporary resident permit, a work permit, or a study permit. Evidence of being a temporary foreign worker or international student may include: letters from employers or schools, records of pay, attendance, report cards, transcripts, etc. Evidence of being in Canada may include a residential address and correspondence sent to that address. These examples of evidence are neither exhaustive nor exclusive.

Persons in Canada who have been studying or working here throughout a one-year period, during which they were also subject to an unenforced removal order, are **not** legally residing in Canada. Their applications are **not eligible** for placement into processing under Ministerial Instructions.

Procedure

Applications that do not correspond to the Ministerial Instructions are not eligible for processing. In these cases, applicants will be sent a letter indicating that they are not eligible for processing and that a refund will be issued.

Substituted evaluation cannot be used to overcome failure to meet the Ministerial Instructions.

If …	Then …
the application corresponds to	• proceed to Section 7.4

the Instructions	
the application does not correspond to the Instructions	• record outcome and reasons inCAIPS or GCMS; • send a letter to inform the client (see Appendix D for sample letter); • initiate a refund.

7.4. Applications that correspond to the Ministerial Instructions

If the application is referred to a visa office, the CIO will record notes in CAIPS or GCMS, transfer the electronic file to the visa office and notify them by email. The CIO will also:

- notify the applicant that their application is being referred to a visa office for a final determination of elgibility for processing;
- require the applicant to submit a copy of their complete application and other forms, together with all supporting documents to the visa office within 120 days;
- inform the applicant on how to contact the visa office.

8. Processing Office Procedures

FSW applications received **on or after February 27, 2008 and before June 26, 2010** are referred from the CIO to the visa office for a final determination of eligibility for processing. After a positive final determination at a visa office of eligibility for processing, applications are processed according to the instructions in sections 11 to 15.

8.1. R10, R11 and R12

To comply with subsection R11(1), FSW applicants must submit their applications to the CIO. If they are subsequently instructed to submit a complete application and supporting documents to a visa office, they must also comply with subsection R11(1) in respect of the visa office.

As stated above, pursuant to paragraph R10(1)(c), applicants are required to, among other things, request on their IMM 0008 that a specific visa office process their application. Applicants who do not complete this part of the IMM 0008 correctly, e.g. leave it blank or specify any office that is not a visa office, have not complied with paragraph R10(1)(*c*). In this case, section R12 obliges the CIO to return the application to the applicant.

If an applicant complies with R10, the visa office requested must be one that will be able to process the application in compliance with subsection R11(1). The CIO is not responsible for assessing whether applicants are subsection R11(1) compliant at the visa office specified on their IMM 0008. The onus is on the applicant to correctly identify the visa office for processing.

If, when a complete application is received at the visa office, there is insufficient evidence that the applicant is subsection R11(1) compliant as of the date the application was received at the CIO, the visa office will forward the application to the appropriate office following existing file transfer procedures. The visa office **will not** return the application to the CIO.

8.2. Procedures

Applicants are required to submit their complete application and other forms, together with all supporting documents to a visa office within a deadline set out in the notification they receive from the CIO. This notification specifies that applicants must submit everything in a single package. It also informs the applicant that the visa office will complete the final determination of eligibility on the basis of the information on file once the deadline has elapsed. Visa offices are not required to remind applicants of this deadline.

The CIO enters A87 in the BFTO field and a BFDATE of T+120 days when it transfers a file to a visa office. This date should not be altered at visa offices.

If the application is being processed in GCMS, the CIO should enter T+120 days under Application Assignment>Due Date.

Processing offices must produce BF reports based on the A87 BFTO code, at regular intervals. To establish the appropriate interval, visa offices must determine how many files have been transferred from the CIO. The visa office must also determine the range of BF dates. Based on this information the BF report must be produced as frequently as necessary to ensure that the final determination of eligibility can be completed within 2 weeks of the BF date, if the applicant has not submitted anything prior to the CIO entered BF date.

The FSW application kit [IMM EG7000] informed applicants that "visa offices are strictly enforcing the 120-day rule and will not provide extensions." In addition, applicants are informed clearly and unambiguously of the documentary requirements and the timeframes for submissions to the visa office. The FSW kit states *"Consult the Visa Office specific requirements now to determine what documents you will need to provide.* ***If you are not prepared to submit full documentation to the Visa Office within 120 days do not apply now****."* Applicants are given notice from the outset that if they are not prepared, they should not apply. Applicants who heed this notice should be able to meet the deadline.

Nevertheless, some applicants will request extensions. All requests must be documented in notes and answered. Visa officers must bear in mind the importance of the 120-day deadline in order to manage these cases efficiently and meet the processing time objectives of the *Action Plan for Faster Immigration*.

8.3. Documenting applicant's submissions to the visa office

The application received date in will remain as entered at the CIO and should not be changed by the mission. This date will also serve as the lock-in date.

On receipt of the applicant's submission to the visa office, visa office staff will:

- date stamp what was submitted and enter this date in CAIPS in the PS READY field or in the notes section of GCMS;
- review and record in notes what was submitted;
- send an acknowledgement of receipt letter with the visa office file number, information on processing times, basic instructions on how to contact their office, future steps and information on e-Client Application Status web page in order to follow progress of the file

Note: If an applicant submits some documents and states that outstanding documents required to make a final determination of eligibility will be submitted **within whatever remains of the deadline** set by the CIO, date stamp and attach the documents to the file. If no additional documents are received in the interim, review the file on the BRING FORWARD (BF) date set by the CIO and follow the remaining steps indicated above.

8.4. Applicant does not submit anything within the 120-day deadline or withdraws prior to processing

Once the deadline elapses, visa officers will make a final determination of eligibility for processing on the basis of the information on file. This may or may not include a submission from the applicant.

In the absence of any supporting documents, a visa officer cannot rely only on the notes entered by the CIO in order to make a positive final determination of eligibility for processing. The onus is

on the applicant to produce supporting documents to the visa office to substantiate the declarations made on the application submitted to the CIO. A positive determination of eligibility for processing must be based on the visa officer's review of a complete application and supporting documents.

With very few exceptions (possibly some SW3 applicants), in the absence of a submission from an applicant, there will be insufficient evidence to satisfy the visa officer that the applicant meets the requirements of the MI. Visa officers should be able to make final determinations quickly in the absence of any submission.

If the applicant does not submit anything, do not replace the CIO file number with a visa office file number.

For applications being processed in CAIPS, re-open the file to record the final determination according to the instructions in "Information about CAIPS release 40.2" Appendix B of OB 120.

It is essential to follow the instructions above in order to identify cases in which complete applications and supporting documents are not received. It is necessary to identify these cases for reporting and evaluation purposes.

For applications being processed in GCMS:

Scenario 1: Cases where a refund by Centralized Intake Office (CIO) in Sydney is required:

- In GCMS, under *Eligibility-Eligibility Assessment*, the MI field status has been previously set to "*Met*" (entered by CIO). This status is locked and cannot be changed.
- The applicant has submitted a request to withdraw their application (before a final eligibility determination is made); OR
- The applicant did not submit a complete application package within the 120 days and the visa office determines that the application is NOT eligible for processing; OR
- The visa office determines the application is NOT eligible for processing based on review of the applicant's submission.

The processing office will:

Step	***Action***
1	Change/set the *Selection* status to "*Cancelled***".**
2	**If the applicant is withdrawing their application**: In the *Eligibility – Eligibility Assessment* view, the officer must generate a new "Ministerial Instructions" activity and change status from "*Not Started"* to "*Cancelled"*. In the Final Assessment pop-down, select "*Withdrawn*". The system will create a "*Withdrawal letter*" in the *Correspondence - Outgoing* view.
3	**If the applicant is not eligible for processing:** In the *Eligibility – Eligibility Assessment* view, the officer must generate a new 'Ministerial Instructions" activity and change status from "*Not Started*" to "*Not Met*" or "*Not Met- Docs not submitted*". The system will create a "*MI – Not Eligible letter*" in the *Correspondence - Outgoing* view. (This

	letter is also called "*SW C50-Negative final determination of eligibility for processing- Ministerial Instructions*").
4	Assign the CIO as a Secondary Office (Office 6262).
5	Navigate to the Application Fees View within the application.
6	Highlight the payment transaction entry(ies) in the Fees applet you wish to refund. Note: More than one transaction can be selected for refund. Click the *Refund* button. **Note**: For payments made in local currency, please see section below **Procedures for cases where a refund at mission is required.** For further details on this step, please refer to the GCMS User Guide (Ctrl+H) – To Record a Fee Refund.
7	The system creates a refund record and populates the following fields: *Fee*, *Amount Required (CAD)*, and *Amount Paid.* Note: If the *Payment #* field was previously populated in the payment record, it will be populated in the refund record. *Receipt #* does not carry forward.
8	In the "*Refund Authorized By*" field, click on the icon, query for or type in the appropriate *"User ID"* and click OK. In the "*Code*" field, select "*RPC*". Note: If the payment was made in local currency and the mission will initiate the refund, select "*RPA*".
9	Suggested notes a. **Ineligible**: *File reviewed: does not meet MI - not eligible for processing.* *MI Eligibility entered and cost recovery code changed to RPC.* *Processing has not begun. Applicant is eligible for refund of processing fees.* *Refund request sent to CIO-Sydney.* b. **Withdrawal:** *Withdrawal request from applicant received. Application withdrawn this date.* *Processing has not begun. Applicant is eligible for refund of processing fees.* *Refund request sent to CIO-Sydney.* c. **120 days have elapsed. No submission from applicant:** *Reviewed: Applicant was provided with 120 days to submit complete application kit and supporting docs. The 120 days have elapsed and applicant has not submitted complete kit. Based on review of info available, not satisfied application is eligible for processing.* *Processing has not begun. Applicant is eligible for refund of processing fees.* *Refund request sent to CIO-Sydney.* The notes above are suggestions only. As in all cases, officers should accurately reflect the action taken on the file. Notes must indicate why a refund is warranted.
10	Go to the Correspondence > Outgoing view tab. The system should have created a "*MI – Not Eligible*" or "*Withdrawal*" letter (outlined in step 2 or 3). Generate and print the letter for the client. Once the Correspondence status has been set to "*Sent*", the system will automatically change

	the Application Status to "*Closed*" and the Application Status Reason to "*Not Eligible*" or "*Withdrawn*".
11	Notify CIO-Sydney by email at CPC-Sydney-CIO@cic.gc.ca to request that refund be initiated when payment was made in Canadian funds.

CIO-Sydney will:

Step	Action
1	Follow normal office refund procedures and notate the action taken in GCMS notes.

Scenario 2: Cases where a refund at mission is required:

- The applicant is entitled to a refund but payment was originally made at the mission in local currency or the person is unable to cash a cheque issued from the Receiver General for Canada.
- These applicants were unable to obtain Canadian funds in the country where they resided and therefore payment was made at mission in local currency.

Step	Action
1	The mission will follow normal refund procedures and notate action taken in GCMS. No messaging to CIO-Sydney is required.

8.5. Procedure - Final determination of eligibility for processing

If the applicant submits a complete application and supporting documents, replace the CIO file number with a visa office file number. Please refer to "Information about CAIPS release 40.2" Appendix B of OB 120.

If the file is being processed in GCMS, officers should continue processing the application with the file number assigned by the CIO.

It is essential to follow the instructions above in order to identify cases in which complete applications and supporting documents are received. It is necessary to identify these cases for reporting and evaluation purposes.

Before placing the application into processing, review the information on the file and determine whether it meets the criteria in the Ministerial Instructions. To be eligible for processing under these Instructions, the applicant must qualify under one of the categories described in the Ministerial Instructions (see section 7.3 for further details).

The visa office assesses the applicant's submission as is. Visa officers should proceed directly to a final determination against the MI. If the application is determined to be eligible for processing, the case should proceed directly to selection decision based on the information on file. No follow-up request for missing documents related to selection is required (please see section9.10 for information about the one exception to this instruction).

Any documents or information required to complete the admissibility review should be requested once SELDEC is passed. Missing admissibility documents should not hold up the final determination of eligibility or selection review.

If the applicant's submission is insufficient to determine that the application ***is*** eligible for processing, a negative determination of eligibility should be rendered. The sample letter in

Appendix D should be sent to applicants who receive a negative final determination of eligibility for processing based on what they submitted within the 120-day deadline.

After a negative final determination of eligibility, the file is closed. A negative determination is final as of the date of the letter informing the applicant of the negative final determination. Applicants who submit anything after such a letter has been sent should be informed that they may submit a new application to the CIO.

Note: Any documents received and added to the file prior to the date of the letter, regardless of whether or not the 120 days have elapsed, must be considered. Visa offices cannot refuse to consider submissions made after 120 days, if the letters in either Appendix D or E have not been sent. It is therefore important to produce the BF reports, make the final determination of eligibility and send the letters promptly.

8.6. Distinction between final determination of eligibility for processing and processing

Final determination of eligibility for processing

All visa offices should use the same approach when making a final determination of eligibility.

Where documents are reliable and information is clear, consistent and well-supported the final determination of eligibility can be made quickly. Where this is not the case, the final determination of eligibility will be more involved.

While visa officers must exercise diligence at the final determination stage, they should also complete this stage quickly, i.e. ideally less than two weeks after the deadline set by the CIO.

Exercising diligence while making a final determination within the ideal timeframe means the determination will be a paper review of the application and supporting documents. Visa officers must apply their local knowledge to the application and documents to determine eligibility.

The paper review is not just a confirmation of the preliminary determination made at the CIO. The CIO makes preliminary determinations without the benefit of supporting documents to substantiate an applicant's self-assessment of eligibility. The availability of documents permits a more robust assessment at the visa office.

For SW1 (one or more of the 38 occupations listed in the MI), review the documents related to work experience. These documents should include those listed in the Appendix A document checklist of the visa office specific forms. They should include sufficient detail to support the claim of at least one year of continuous work experience or equivalent paid work experience in one or more of the occupations in the last 10 years. Documents lacking sufficient information about the employer, or containing only vague descriptions of duties and periods of employment, should be given less weight. When presented with documents containing descriptions of duties taken verbatim from the NOC code, officers may question whether they accurately describe an applicant's experience. A document that lacks sufficient detail to permit eventual verification and a satisfactory description of the applicant's experience is unlikely to satisfy an officer of an applicant's eligibility.

For SW2 (arranged employment offer) proof of the arranged employment offer (AEO) must be included in the application. The AEO must still be valid at the time of final determination of eligibility and should be sufficiently detailed to support the claim that an offer of employment has been made to the applicant on an indeterminate basis. The AEO should include the employer's name, address, phone number and any other contact information. If the applicant has a permanent job offer confirmed by Human Resources and Skills Development Canada (HRSDC)/Service Canada, a photocopy of the confirmation which was sent to the employer should also be included. Visa officers should be able to use tools such as on-line directories or open source materials to confirm the existence of the employer. The visa officer should corroborate the information about the employer with any NESS employment validations that might exist in CAIPS.

Note: Not all AEOs will have corresponding NESS employment validations.

For SW3 (temporary foreign workers and international students legally in Canada for at least one year): supporting documents should be sufficiently detailed to establish that applicants have been working or studying for the required period with legal status. Documents may include work or study permits (neither are mandatory), a letter of employment or proof of enrolment at an educational institution. Letters from employers or schools should include the name of the employer or school, address and phone number. Visa officers should be able to use tools such as on-line directories or open source materials to confirm the existence of the employer or school. FOSS can also be checked to corroborate statements about legal residence in Canada.

Note: It may not be possible to verify all temporary foreign workers and international students in FOSS.

Visa officers may also check previous applications to corroborate any information provided in the FSW application. Applications more than 12 months old, however, will not include the most recent information about work experience.

After a positive final determination of eligibility at the visa office processing begins and the applicant is no longer eligible for a refund.

Processing

Once processing begins, officers will review the application against the minimal requirements and the selection criteria for FSW. Visa officers are also required to approve or refuse FSW applications according to the requirements of the *Immigration and Refugee Protection Act* (IRPA) and the *Immigration and Refugee Protection Regulations* (IRPR).

In cases of refusals, this means an applicant fails to meet the minimal requirements, is not awarded sufficient points or is found to be inadmissible. As applicants may specify more than one NOC code in their application, failure to meet the minimal requirements for an occupation on the MI list will not necessarily result in refusal.

Interviews, verifications of the authenticity of documents, site visits, investigations or seeking clarification from applicants constitute processing. These activities may be undertaken to determine if applicants meet the minimal requirements, can be awarded points for the selection criteria or are inadmissible.

Finding inadmissibility for misrepresentation involves a relatively high standard of procedural fairness. In addition, only an operations manager, deputy program manager or immigration program manager may refuse for misrepresentation.

8.7. File Transfers

There is an existing file transfer policy. Please review OP 1 sections 5.19 and 5.20.

Visa offices **may** transfer files at any stage for reasons of **program integrity**.

Program integrity includes issues related to local knowledge such as ability to effectively evaluate documents: knowledge of local security and criminality environments; or familiarity with business practices and procedures.

Progam integrity also includes improving program efficiencies. For example missions may be asked by National Headquarters to transfer files in order to improve processing times where there are insufficient capacities to process the volume of applications at the mission or in the event of special circumstances (political instability, natural disaster, etc) . Other factors may be taken into account when evaluating the impact of a file transfer on program integrity. Other factors may be taken into account when evaluating the impact of a file transfer on program integrity.

The issues and factors connected with program integrity are not necessarily the same at all stages of application handling. Transferring a file to another visa office should be the exception rather than the rule.

After a positive final determination of eligibility, more is at stake for both the applicant and program integrity. The applicant is no longer eligible for a fee refund. If program integrity is compromised, a visa might be issued or refused contrary to program requirements. Consequently, greater latitude to transfer files for reasons of program integrity is desirable once an application is in process.

Visa offices are not required to transfer files for any other reasons. Such reasons include cases of applicants who comply with subsection R11(1) for the specified visa office, at the time the application is received at the CIO, but subsequently leave the territory of the specified visa office. In these cases, the original visa office should proceed with a final determination of eligibility and process the application if eligible. The visa office **should not** transfer the file to another visa office unless the transfer is warranted for program integrity reasons. Leaving a visa office's territory alone, may not warrant a file transfer. In this case, if an applicant requests a file transfer, the visa office should inform them that the application will not be transferred and that they are required to submit a complete application to the visa office originally specified within the 120-day deadline allotted by the CIO.

File transfers following an administrative error

In rare cases the CIO may electronically transfer the file to the wrong visa office. This error may come to light when:

- the applicant notifies either the visa office or the CIO; or
- the visa office (specified by the PA) receives a complete application but has not also received a file transfer from the CIO.

In these cases either the visa office or the CIO (the first to become aware of the error) should notify the other of the error. The CIO will coordinate a request to the IT International Helpdesk to apply the reverse transfer utility. In addition, the CIO will inform the applicant by email that an administrative error has occurred and that it is in the process of being corrected.

If a paper file exists, the visa office will send it to the new visa office and notify both the new visa office and the CIO by email that the file is being transferred and why.

A paper file is a complete application that has been received at a visa office within the 120-day deadline. The date the file was sent to the new visa office must be recorded in the CAIPS notes, before the file is electronically transferred back to the CIO (please see more detailed instructions below). It is not necessary for the CIO to reset the 120-day deadline.

In all cases after the transfer back to the CIO, the CIO should inform the applicant that the file is being re-transferred to the correct visa office. If there is no paper file, the CIO will also BF the file for 120 days and inform applicants of the new deadline for submitting the complete application to the new visa office.

Note: The CIO and visa offices do not bear any responsibility for errors caused by the applicant or their authorized representatives (e.g. the authorized representative specifies an incorrect visa office for processing; the applicant sends complete application to an incorrect visa office etc.). In cases of client or representative errors the visa office will follow the procedures outlined above or, if the applicant does not submit a complete application and supporting documents within the 120-day deadline, the existing instructions for final determinations of eligibility based on the evidence on the file (please see OB 120).

CAIPS instructions

Please refer to the following link for existing CAIPS instructions on file transfers: http://cicintranet.ci.gc.ca/cicexplore/english/systmguides/caips_stidi/fileman_gestiondoss/index-eng.aspx#ElectronicFileTransfer

With the exception of regional processing centres and satellites, visa offices **may not** electronically transfer files to another visa office.

There are two different sets of instructions that govern file transfers.

Files transferred from the CIO that have not been re-numbered by the visa office

In these cases, visa offices should contact the CIO (CPC-Sydney-FSW@cic.gc.ca). The CIO will ask the IT International Helpdesk to use the CAIPS reverse transfer utility (see below). After the IT International Helpdesk approves the use of the reverse transfer utility and the visa office electronically transfers the file back to the CIO, the visa office **must notify the CIO** that the

transfer has taken place. The CIO will then in turn, transfer the electronic file to the new visa office.

Note: In these cases where a file has not been re-numbered (whether or not a paper file exists) by the visa office, the PSDEC will remain at PSDEC4. If there is a paper file, the visa office will send it to the new visa office and notify them by email to this effect.

Files transferred from the CIO that have been re-numbered by the visa office

When a file has been renumbered by a visa office, it cannot be transferred back to the CIO and re-transferred electronically by the CIO to another visa office. As a result, renumbered files should simply be closed at the originating visa office. The CIO does not need to be contacted. In most renumbered cases the CAIPS file will already have passed paper screening (PSDEC1). After entering an explanation for the transfer and as many details as possible about the dispatch of the paper file to the other visa office in the CAIPS notes, the CAIPS file should be closed by SELDEC 7 – withdrawn or, if the transfer takes place post-selection, by FINDEC 5 - withdrawn. The paper file should be sent to the new visa office in accordance with the transmittal standards that apply to the contents of the file (at least Protected B).

Note: In these cases where a file has been renumbered **and** if the PSDEC was reset to PSDEC0 from PSDEC4, code as PSDEC3 before transferring the file.

Upon receipt of the paper file at the new visa office, a new CAIPS file will be created with a new B-file number. It is imperative that the new visa office enter in the following fields:

- **XREF** = original CIO file number
- **Pilot code** = M01

In addition, the receiving visa office should send an email message to NHQ-OMC-Stats@cic.gc.ca, identifying the file that has been transferred. This serves to validate the data, and gives CIC the ability to associate 2 separate B-file numbers to the transferred case.

Reverse transfer utility

The reverse transfer utility involves electronically transferring the CAIPS file from the visa office back to the CIO who in turn, will transfer it electronically to the new visa office. The utility allows the CIO to receive the electronic file back without it being rejected because a record with the same file number already exists in its database.

In all cases, the IT International Helpdesk must approve the use of the reverse transfer utility. The CIO will coordinate the request to the IT International Helpdesk to apply the reverse transfer utility.

After receiving approval from the IT International Helpdesk to transfer the file, the visa office **must notify the CIO** that the transfer has taken place. Once the CIO receives the notification from the visa office, it may transfer the file to the new visa office.

Note: It may take a few weeks for the IT International Helpdesk to complete the request. Files transferred in error and awaiting a reverse transfer to the CIO should not be rejected/closed once the 120 days have passed.

For files being transferred in GCMS, officers can transfer an electronic application along with its corresponding paper file to another office in GCMS. Once the transfer is received by the destination office, the paper file location will change to the destination office. The destination office becomes the primary office with responsibility for the electronic application.

1. Navigate to the File Management screen.
2. Click the File Transfer sub-tab.
3. Click New.

   The system displays a new record and generates a *Transfer ID* in the following format: 'TFR#########'.

4. a) In the *Transfer Type* drop-down, select 'Paper File & App' (The default value is 'Paper File & App').

   b) In the *Transfer Reason* drop-down, select the appropriate transfer reason.(Possible values include "Workload (re)distribution", "Lack of Jurisdiction (R11)").

5. In the *Destination Office* field, do one of the following:

   - If you know the new location for the file, type it in the text field.
   - If you do not know the location, click the icon in the field to query for the office. Selected the *Destination Office*.

6. In the applet below, click **Add**.

   The system displays a blank record.

7. In the *Paper File* # field, enter the paper file number or click the icon to query for the paper file #. You may scan in the *Paper File* # using a barcode scanner.

   The system will display the *Paper File* # & *Application* # on the record.

8. Repeat steps 6 & 7 for each paper file & electronic application to be transferred.

   The system adds the selected paper files & electronic application to the **File Transfer** list applet.

9. Select the records you want to transfer.

   Note: To select all records in the applet, click **Ctrl + A**.

   To select specific records only, press **Ctrl** and click on the records you want.

10. Click **Transfer Files**.

11. The system changes the *Transfer Outcome* field to 'Transferred.' AND the *Location* field to 'In Transit'.

9. Procedure: Minimal requirements of an FSW

Officers will review the application in detail, considering all the information and documentation provided, and assess it against the following minimal requirements and selection criteria for FSWs.

9.1. Minimal requirements

The officer reviews the applicant's work experience to determine if the applicant meets the minimal requirements to apply as a skilled worker, as stipulated in R75.

The applicant must have at least one year of continuous full-time paid work experience, or the continuous part-time equivalent, in the category of Skill Type 0, or Skill Level A or B, according to the Canadian National Occupational Classification (NOC).

The work experience which will be assessed for all skilled worker applicants must:

- have occurred within the 10 years preceding the date of application;
- not be in an occupation that is considered a restricted occupation. At the time of printing, there were no occupations designated as restricted. However, for the most up-to-date listing, refer to the Skilled Workers and Professionals Web page at http://www.cic.gc.ca/english/immigrate/skilled/index.asp.

The applicant must have:

- performed the actions described in the lead statement for the occupation (or occupations) as set out in the occupational description of the NOC (R75(2)(b));
- performed a substantial number of the main duties, including all of the essential duties, of the occupation as set out in the occupational description of the NOC (R75(2)(c)).

If …	Then the officer will …
the applicant meets the minimal requirements	• proceed to Section 10
the applicant does not meet the minimal requirements	• not assess the application against the selection criteria; • refuse the application (R75(3)) and proceed to Section 13
	Note: Substituted evaluation (Section 11.3), **cannot** be used to overcome a failure to meet the minimal requirements.

10. Procedure – Assessing the application against FSW selection criteria

10.1. Selection criteria – selection factors and settlement funds

Six selection factors are set forth in R76(1)(*a*). Officers will assess the applicant's points in each of the following areas, based on the information and documents provided in the application:

- education (Section 12.2);
- language proficiency (knowledge of official languages) (Section 12.3);
- experience (Section 12.13);
- age (Section 12.14);
- arranged employment (Section 12.15);
- adaptability (Section 12.16)

Selection criteria - Settlement funds

In addition to the selection factors stated in R76(1)(*a*), the applicant must also have sufficient funds available for settlement in Canada pursuant to R76(1)(*b*)(i). This requirement is waived if the applicant has an offer of arranged employment as defined in R82.

Conformity

Pursuant to R77, the requirements and criteria set out in R75 and R76 must be met at the time the application is made, as well as at the time the visa is issued.

The funds must be:

- available and transferable;
- unencumbered by debts or other obligations.

Visa officers must be satisfied that the applicant has at their disposal, with sufficient liquidity, and with the ability to transfer those assets, the necessary threshold of funds to support their establishment in Canada on arrival.

The amount of funds is assessed according to the applicant's family size using 50% of Statistics Canada's most current Low Income Cut-off (LICO) for urban areas with populations of 500,000 or more.

Note: In terms of funds required, the number of the applicant's family members includes both accompanying and non-accompanying dependants.

Although the amount may change yearly, at time of publication the required funds are equal to or greater than the amount listed below for each family size:

Number of family members	Funds required
1	$11,115
2	$13,837
3	$17,011
4	$20,654
5	$23,425
6	$26,419
7 or more	$29,414

Exception: If the applicant has arranged employment as defined in R82, they do **not** have to meet these financial requirements (R76(*b*)(ii).

If the applicant is unable to demonstrate that they have sufficient available funds to meet the requirements, the officer should refuse the application and proceed to Section 13.

Note: Pursuant to R76(3), subsituted evaluation (Section 11.3) cannot be used to override a refusal due to insufficent funds.

10.2. Education

For definition of terms, see Section 6.3.

Officers should assess programs of study and award points based on the standards that exist in the country of study. The Regulations do not provide for comparisons to Canadian educational standards.

If the applicant has an educational credential referred to in a particular paragraph in R78(2) but not the total number of years of study required by that paragraph, officers should award the number of points set out in the paragraph that refers to the number of years of study completed by the applicant [R78(4)].

Example: 1. If an applicant has a master's degree, but only 16 years of education, the officer would compare the credential and years of study to the education points chart below and, in this case, award 22 points;

Example: 2. If an applicant has a four-year bachelor's degree and 16 years of education, an officer would award 20 points, as a single two, three, or four-year university credential at the bachelor's level, combined with at least 14 years of full-time study, is worth 20 points.

Note: Medical doctor degrees are generally first-level university credentials, in the same way that a Bachelor of Law or a Bachelor of Science in Pharmacology is a first level, albeit "professional" degree and should be awarded 20 points. If it is a second-level degree and if, for example, it belongs to a Faculty of Graduate Studies, 25 points may be awarded. If a bachelor's credential is a prerequisite to the credential, but the credential itself is still considered a first-level degree, then 22 points would be appropriate. It is important to refer to how the local authority responsible for educational institutions recognizes the credential: i.e., as a first-level or second-level or higher university credential.

Note: R 78(1) defines "full-time equivalent" in respect of part-time or accelerated studies, the period that would have been required to complete those studies on a full-time basis. In these cases, officers should award points for the credential and years of study that would have been required to complete the studies at the time the application is made.

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Pursuant to R77, officers should award points for the credential and years of study that the applicant has completed at the time the application is made. If further study is completed and documentation submitted between application and assessment, officers must award the points for the highest educational credential obtained at the time of assessment.

A distance learning credential is eligible for points as long as it meets the definition of a credential as outlined in R73. If the credential is not described in terms of number of years duration (i.e., three-year bachelor's degree), officers should apply the definition of full-time equivalent study and knowledge that the visa office has acquired on local education institutions and credentials.

There is a high incidence of fraud in this area. Verification checks should be conducted with issuing institutions to ensure that program integrity standards are respected.

Pursuant to R78, officers should assess the application and award the applicant up to a maximum of 25 points for education as follows:

Credential and number of years of education	Points
Secondary school has not been completed (i.e., no diploma obtained) and the applicant has no trade or apprenticeship educational credentials	0
Secondary school educational credential	5
One year post-secondary educational credential, other than a university credential, and at least 12 years of completed full-time or full-time equivalent studies	12
One year post-secondary educational credential, other than a university educational credential, and at least 13 years of completed full-time or full-time equivalent studies	15
One year university educational credential at the bachelor's level, and at least 13 years of completed full-time or full-time equivalent studies	15
Two year post-secondary educational credential, other than a university educational credential, and at least 14 years of completed full-time or full-time equivalent studies	20
A university educational credential of two years or more at the bachelor's level, and at least 14 years of completed full-time or full-time equivalent studies	20
Three year post-secondary educational credential, other than a university educational credential, and at least 15 years of completed full-time or full-time equivalent studies	22
Two or more university educational credentials at the bachelor's level and at least 15 years of completed full-time or full-time equivalent studies	22
University educational credential at the master's or doctoral level and at least 17 years of completed full-time or full-time equivalent studies	25

Note: Subsection 78(3) of the IRPR provides that points are to be awarded on the basis of the single educational credential that results in the highest number of points. For example, an applicant with a master's degree that was completed after 16 years of education, and who spends an additional year in school after obtaining it would be awarded 22 points. That the applicant spent an additional year in school does not turn a 16 year master's degree into a 17 year master's degree and would not result in being awarded 25 points.

The content of the following sections has been moved as part of our efforts to modernize operational guidance to staff. It can now be found in the Language requirements section.

10.3. Knowledge of official languages

10.4. Evidence of language proficiency

10.5. Language test results

10.6. Designated testing organizations

10.7. French language testing organizations

10.8. Canadian English Language Proficiency Index Program (CELPIP)

10.9. International English Language Testing System (IELTS) General Training

10.10. *Test d'évaluation de français* (TEF)

10.11. Other written evidence

10.12. Integrity concerns on language proficiency during an interview

10.13. Experience

Pursuant to R80, officers will assess and award up to 21 units of assessment for paid work experience, as follows:

Number of years		At least 1	At least 2	At least 3	4 or more
Points		15	17	19	21

To be eligible for points, the applicant's work experience must:

- have occurred during the 10 years immediately preceding the date of application;
- be in occupations listed in the National Occupational Classification (NOC) under Skill Type 0 or Skill Level A and B;
- not be in an occupation that has been designated by the Minister as a restricted occupation. At the time of printing, there were no occupations designated as restricted. However, for the most up-to-date listing, officers should refer to the Department's website at http://www.cic.gc.ca/english/immigrate/skilled/index.asp;
- be full-time work, which, according to R80(7), is equivalent to at least 37.5 hours of paid work per week. Full-time work experience requirement may be met by the equivalent in part-time paid work experience, e.g. more than one part-time job held simultaneously or one or more part-time jobs held over the equivalent of one year of full-time work. Experience can be calculated by adding up the number of weeks of full-time work, i.e. 37.5 hours per week in one

job or a total of at least 37.5 hours per week in more than one job, in one or more of the NOC categories. Periods of work of less than 12 months during the 10 years immediately preceding the date of the application may be added together and divided by 12 to calculate the number of years

Officers must:

- consider only those occupations which the applicant has specified and for which the applicant has provided the four-digit NOC code on their application form (R80(6));

Note: While the Regulations clearly place responsibility on applicants to undertake research of the NOC and provide the NOC coding for the occupations in which they claim qualifying experience, officers are expected to exercise discretion where applicants may have made minor errors or omissions in correlating work experience and NOC coding.

- **not** take into account whether the applicant meets the "Employment requirements" description set forth in the NOC for the occupation(s) listed (R80(3))*;*
- award points only if the applicant has performed the actions described in the lead statement of the particular NOC description and has performed at least a substantial number of the duties described in the "Main Duties" summary – including all the essential duties (R80(3));

Note: Neither the NOC nor the Regulations distinguish between "essential" and "non-essential" duties or provide guidance as to what constitutes a "substantial number". This is left as a matter for assessment on a case-by-case basis. Officers should make a decision based on the documentation that was submitted by the applicant. However, in cases where officers have concerns about whether or not the applicant has carried out "a substantial number of the main duties…including all of the essential duties," they should give the applicant an opportunity to respond to these concerns.

- take into account any years of experience that occur between application and assessment, and for which the applicant has submitted the necessary documentation (R77);
- should not award points for unauthorized work experience in Canada. A person who has worked in Canada without authorization has failed to comply with A30(1), and on that basis could be found inadmissible under A41.

10.14. Age

Pursuant to R81, up to 10 points are awarded to an applicant who is at least 21 and less than 50 years of age at the time the application is made. Two points are subtracted, to a maximum of 10 points, for each year the applicant is less than 21 or over the age of 49.

Points awarded:

Age	Points
21 to 49 years of age	10
20 or 50 years of age	8
19 or 51 years of age	6
18 or 52 years of age	4
17 or 53 years of age	2
Less than 17 or greater than 53 years of age	0

10.15. Arranged employment

Pursuant to R82, 10 points will be awarded if the applicant is in one of the situations described in the following table, and the applicant:

- has submitted the necessary documentation (note that in the third and fourth instances of arranged employment described below, Human Resources and Skills Development Canada—HRSDC will communicate the approved job offer to the visa office electronically);
- is able to perform and is likely to accept and carry out the employment. Officers may take into account the applicant's education and training, background, and prior work experience to determine if the applicant meets this requirement. If they have any concerns about the applicant's ability or likelihood to accept and carry out the employment, they will communicate these to the applicant and provide the opportunity to respond.

Note: Arranged employment points are only awarded for occupations listed in Skill Type 0 or Skill Level A or B of the NOC. If employment is arranged and the required documentation submitted between application and assessment, officers will award the points for arranged employment.

If …	And …	Points
(1) the applicant is currently working in Canada on an HRSDC- confirmed (labour market opinion) temporary work permit (including sectoral confirmations), pursuant to R82(2)(*a*)	• the work permit is valid at the time of the permanent resident visa application and at the time the visa is issued; and • the employer has made an offer to employ the applicant on an indeterminate basis if the permanent resident visa is issued.	10
(2) the applicant is currently working in Canada pursuant to R82(2)(b): • in a confirmation-exempt category under the North America Free Trade Agreement, the General Agreement on Trade and Services, or the Canada-Chile Free Trade Agreement; • in a significant-benefit category, such as an intra- company transferee • in the category where limited access to the labour market is granted for public policy reasons (i.e., post-graduate work, spouse/common-law partner of temporary skilled worker/foreign student, etc.).	• the work permit is valid at the time of the permanent resident visa application and at the time the visa is issued; and • the employer has made an offer to employ the applicant on an indeterminate basis if the permanent resident visa is issued.	10
(3) the applicant does not intend to work in Canada before being issued a permanent resident visa and does not hold a work permit [R82(2)(c)].	• the employer has made an offer to employ the applicant on an indeterminate basis if the permanent resident visa is issued and the job offer has been approved by an officer based on an HRSDC arranged employment opinion as outlined in R82(2)(*c*) • • the officer is satisfied that applicant is capable of performing the employment being offered to them	10

(4) the applicant holds a work permit pursuant to R82(2)(*d*): • the circumstances referred to in R82(2)(*a*) or (*b*) do not apply—for example the applicant has a job offer from an employer other than the one for whom they are currently working; or • the applicant's job is in a confirmation-exempt category other than those outlined in R82(2)(*b*).	• the employer has made an offer to employ the applicant on an indeterminate basis if the permanent resident visa is issued and the job offer has been approved by an officer based on an HRSDC arranged employment opinion as outlined in R82(2)(*c*) • • the officer is satisfied that applicant is capable of performing the employment being offered to them	10

Role of Service Canada

- HRSDC asks employers to submit certain supporting documentation with their AEO application. This documentation is listed on the AEO application form (EMP5275) found here: http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/poarremp.shtml

- Service Canada verifies the following when issuing an AEO:
    - the genuineness of the offer of employment and the history of the employer;
    - if the job offer is permanent, full-time and not seasonal; and
    - if the wages offered to the skilled worker are consistent with the prevailing wage rate for the occupation and the working conditions meet generally accepted Canadian standards.
- As part of the normal processing procedure, SC also contacts each employer by phone to confirm that the job offer is still valid, conditions and wages remain the same and to remind the employer of its commitment to hire the named applicant upon arrival in Canada should he/she be issued a PR visa.
- CIC officers must be satisfied that the job offer from the employer is genuine. Officers can verify in GCMS what verifications have already been performed by SC.
- Officers may wish to contact the employer for further information or clarification. Before contacting the employer, officers should first contact HRSDC at nc-cic_exchange-gd@hrsdc-rhdcc.gc.ca as there may be information, not found in GCMS, that may have been acquired by Service Canada during their assessment of the application. This will help eliminate the duplication of efforts by CIC and Service Canada.
- Following consultations with HRSDC, officers may contact the employer or the applicant for further information and clarification. This includes but is not limited to confirming that the job offer of permanent employment still exists or to address any concerns about the genuineness of the job offer.

Validity of the AEO

- Prior to visa issuance,officers must verify in GCMS that the arranged employment opinion has not been cancelled and that no adverse information on the employer has come to light.
- Officers should be satisfied that the job offer is still valid. There may be instances where an opinion issued by HRSDC as outlined in R82(2)(c) has expired while the PR application was in process, In these cases, the officer may still issue a visa if they are satisfied that the offer of employment is still valid and if Service Canada has not cancelled the original opinion.
- In all cases, officers may contact employers if significant time has elapsed since the date of application to verify that the offer of permanent employment still exists.If the officer wishes to confirm other details about the offer, they should first contact HRSDC (see section above).

- Officers must also refer to the department's Temporary Foreign Worker Program Ineligible Employers and Employers of Concern lists before visa issuance. Please see OB 278B for further instructions and links to access the site.

Licensing and Certification

- The majority of licensing and certification requirements cannot be satisfied from outside of Canada. As such, officers should not penalize applicants for not meeting Canadian licensing or certification requirements. However, officers must be satisfied that the applicant is capable of performing the employment being offered to them and can with reasonable probability be expected to qualify for licencing/certification when in Canada..

Cases of Suspected Fraud or Concerns of Bona Fides

- In cases of suspected fraud, officers should contact applicants and employers for clarification.
- After contacting the applicant or employer, officers should contact HRSDC and Operational Management and Coordination- Program Integrity Division (PID) through the appropriate channels; nc-cic_exchange-gd@hrsdc-rhdcc.gc.ca and Fraud-Deterrence-Verifications@cic.gc.ca. This will help identify and address program integrity issues.
- Officers should indicate the following in their email:
- the CIC immigration file number;
- HRSDC System File number;
- name of the applicant;
- name of the employer;
- identity of the third party (if known);
- the reason(s) for their concerns;
- any additional information about the applicant or employer that HRSDC may not be aware of.

10.16. Adaptability

Pursuant to R83, the officer will assess the application and award a maximum of 10 adaptability points, as follows:

Adaptability criteria	Points
a) Educational credentials of the accompanying spouse or common-law partner: Evaluate credentials as if the spouse or common-law partner were the principal applicant then award points as follows: • Where the award under R78 would be 25 points - five points • Where the award under R78 would be 20 or 22 points - four points • Where the award under R78 would be 12 or 15 points - three points	3, 4 or 5
b) Previous study in Canada: • Award five points if the applicant or accompanying spouse or common- law partner completed a program of full-time study of at least two years' duration at a post-secondary institution in Canada, if this occurred after the age of	5

seventeen and with valid study permits. (The person is not required to have obtained an educational credential for these two years of study in Canada to earn the points, but simply to have completed at least two years of study.)	
c) Previous work in Canada: • Award five points for a minimum of one year of full-time work in Canada on a valid work permit for an applicant or accompanying spouse or common-law partner.	5
d) Relatives in Canada: • Award five points if the applicant or accompanying spouse or common- law partner has a relative (parent, grandparent, child, grandchild, child of a parent, child of a grandparent, or grandchild of a parent) who is residing in Canada and is a Canadian citizen or permanent resident.	5
e) Arranged employment: • Award five points if the applicant has earned points under the Arranged Employment in Canada factor (Factor 5) (R76(1)(*a*)).	5

Points for previous study in Canada, previous work in Canada, and relatives in Canada are awarded only once - either to the principal applicant or the spouse or common-law partner, but not to both.

Pursuant to R77, these requirements and criteria must be met at the time the application is made, as well as at the time the visa is issued. Therefore:

- if an applicant's spouse or common-law partner is no longer accompanying them, then any points that they may have received for their adaptability cannot be counted;
- if an applicant adds a spouse or common-law partner to their application between application and assessment, and submits the necessary documentation, points must be counted, if applicable, for that person under the adaptability criteria;
- if the applicant or their spouse or common-law partner completes further study, works in Canada, arranges employment in Canada, or gains relatives in Canada between application and assessment, and submits the necessary documentation, points must be awarded accordingly.

11. Procedure: Selection decision

11.1. The pass mark

R76(2) empowers the Minister to set the "minimum number of points required of a skilled worker" – or, as it is more commonly known, the "pass mark".

The pass mark was last set on September 18, 2003 at 67 points.

To determine the most up-to-date pass mark, consult the Web site at http://www.cic.gc.ca/english/immigrate/skilled/index.asp.

Total the applicant's points in the six selection factors.

For applications received on or after February 27, 2008, and before June 26, 2010:

If …	Then the visa officer may …
The applicant's total score is equal to or greater than the pass mark	• pass the application

The applicant's total score is less than the pass mark	• refuse the application
The officer is unable to make a decision due to lack of information or documentation or there are doubts as to the legitimacy of the documents submitted	• request in writing specific information or documentation to clarify, other than additional evidence of language proficiency for applications received on or after April 10, 2010; or • consider a personal interview (Section 11.2).

11.2. Use of interviews

Selection standards are objective, clearly defined and can be assessed in straightforward cases through the information provided on the application for permanent residence and the accompanying supporting documents.

In most cases, officers should be able to make selection decisions—either to approve or refuse applications—from the documentation provided. However, in some cases, an interview may be necessary.

Any concerns officers have regarding the accuracy or authenticity of information or documentation should be communicated to the applicant, whether these concerns are raised as the result of site visits, telephone checks or other means. Concerns can be communicated to the applicant in writing or at interview.

Officers may conduct interviews with applicants to:

- ensure that information submitted on the application is truthful and complete;
- detect and deter fraudulent information and documents;
- clarify specific information;
- conduct quality assurance.

Officers may not conduct interviews to:

- assess language abilities;
- determine personal suitability (as this factor no longer exists).

Note: Visa offices will be expected to undertake both targeted and random verifications to detect and deter fraud. The number and percentage of cases subjected to verification should be high enough to act as a meaningful disincentive to those who would attempt such practices. A40 makes material misrepresentation a grounds for inadmissibility in its own right and prescribes a two-year ban on those both directly and indirectly involved in such practices.

Interviews, site visits and telephone checks have proven to be the most effective ways to detect and to combat fraud. The information gained at interviews where fraud is detected will help officers to identify current trends and patterns and to refine their profiles for ongoing use.

11.3. Substituted evaluation

R76(3) makes possible substituted evaluation by an officer. This authority may be used if an officer believes the point total is not a sufficient indicator of whether or not the applicant may become economically established in Canada.

Substituted evaluation is to be considered on a case-by-case basis. The scope of what an officer might consider as relevant cannot be limited by a prescribed list of factors to be used in support of exercising substituted evaluation. There are any number and combination of considerations that an officer might cite as being pertinent to assessing, as per the wording of R76(3): ". . . the

likelihood of the ability of the skilled worker to become **economically established** in Canada. . . ." Frequency of use will vary from visa office to visa office, as some will find in their caseloads more situations of disconnect between the point total and establishment prospects than will others. The fact that the applicant "almost attained" a pass mark is not, in itself, grounds to recommend the use of substituted evaluation. Rather, the officer needs to identify and document the facts demonstrating that the points awarded are not a sufficient indicator of the applicant's ability to become economically established in Canada.

For legal clarity, officers should employ the terms used in legislation, such as "substituted evaluation" or "ability to become economically established."

If an officer decides to use substituted evaluation when …	**Then the officer will …**
the applicant did meet the pass mark (i.e., negative substituted evaluation)	• communicate their concerns to the applicant and provide sufficient opportunity to the applicant to respond to these concerns, through correspondence or an interview; • obtain written concurrence from a designated officer.
the applicant did not meet the pass mark (i.e., positive substituted evaluation)	• obtain written concurrence from a designated officer.

Substituted evaluation **is not to be confused with humanitarian and compassionate authority**, which enables the Minister or his/her delegates to grant permanent residence or an exemption from any applicable criteria or obligation of IRPA in a range of situations involving sufficiently compelling circumstances.

Substituted evaluation cannot be used to override:

- a refusal due to insufficient funds [R76(3)]
- a failure to meet the definition of a skilled worker as outlined in R75. R75(3) clearly states that a failure to meet the requirements of a skilled worker as outlined in R75(2) will result in an application being refused
- a failure to meet the Ministerial Instructions

Federal Court case law indicates that if an applicant or their representative requests orally or in writing that the officer consider exercising these powers in the applicant's favour, officers must examine the circumstances. There is no requirement that an interview be conducted in all cases when the applicant did not make a compelling case for substituted evaluation. If officers do not consider substituted evaluation appropriate in the circumstances, they should indicate this in file notes and in the refusal letter. Officers do not need the concurrence of the designated officer to deny requests for the use of positive substituted evaluation.

12. Procedure: Approving the application

If officers approve an applicant who is living outside of Canada, they should

- send the Confirmation of Permanent Residence (COPR) and permanent resident visa (if applicable) to their address. Officers should not issue a permanent resident visa to applicants whose passport was issued by the United States of America or or a country identified in the *Immigration and Refugee Protection Regulations* 190(1)(a) or (b) or 190(2)(b), (c), (d), (e) or (f), or 190(2.1).Officers may still request to see the original passport if needed. Please see OB 348 for more information.
- All approved applicants should be directed to present their COPR and permanent resident visa (if applicable) to an officer at a Canadian port of entry [R71.1(1)].

Pursuant to R71.1(2), if officers approve an application from a temporary resident in Canada who is a member of a class referred to in R70(2)(*a*) or (*b*), they will:

- send their COPR and permanent resident visa (if applicable) to their address in Canada; and
- inform the applicant that in order to become a permanent resident they have the option of presenting the COPR and permanent resident visa (if applicable) to an officer at a Canadian port of entry or contacting the Call Centre to request an appointment at a local CIC office, with their family members if applicable.

13. Procedure: Refusing the application

All refused skilled worker applicants, including those refused for non-compliance with processing requirements, must be sent or otherwise provided a formal refusal letter. The letter must:

- inform the applicant of the categories or circumstances under which the application was considered;
- provide a listing of the points awarded in respect of each selection factor;
- fully inform the applicant why the application has been refused.

Note: The refusal letter should not indicate that the applicant has been made a member of an inadmissible class as a result of their failure to qualify as a skilled worker.

Refer to sample refusal letters for examples in Appendix A, B, and C

14. Coding Instructions – Computer Assisted Immigration Processing System (CAIPS) for applications received before June 26, 2010

As of April 15, 2009, two additional immigrant categories are used for FSW applicants found eligible for processing. Please make the appropriate selection:

SW1	One year of continuous work experience in a NOC category listed in the Ministerial Instructions
SW2	Arranged employment offer (AEO)
SW3	Temporary foreign worker (TFW) or international student residing in Canada for one year and still in Canada

PSDEC coding

Note: All previous instructions to use PSDEC code 3, if no application is received within 120 days is revoked. Please use PSDEC code 2 for all negative eligibility determinations, i.e. for applicants who receive either the letter in Appendix D or E.

PSDEC 1	Eligible
PSDEC 2	Ineligible (negative final determination)
PSDEC 3	Withdrawn (applicant withdraws)
PSDEC 4	Administrative Withdrawal (recommended for further assessment at visa office, for the exclusive use of the CIO)

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Appendix A – Refusal - Minimal requirements for skilled worker - sample letter

INSERT LETTERHEAD

Our Ref.:

INSERT ADDRESS

INSERT DATE

Dear :

I have now completed the assessment of your application for a permanent resident visa as a skilled worker. I have determined that you do not meet the requirements for immigration to Canada.

Subsection 75(2) of the *Immigration and Refugee Protection Regulations* states that a foreign national is a skilled worker if:

(a) within the 10 years preceding the date of their application for a permanent resident visa, they have at least one year of continuous full-time (37.5 hours/week) employment experience, as described in subsection 80(7), or the equivalent in continuous part-time employment in one or more occupations, other than a restricted occupation, that are listed in Skill Type 0 Management Occupations or Skill Level A or B of the *National Occupational Classification* matrix;

(b) during that period of employment they performed the actions described in the lead statement for the occupation as set out in the occupational descriptions of the *National Occupational Classification*; and

(c) (c) during that period of employment they performed a substantial number of the main duties of the occupation as set out in the occupational descriptions of the *National Occupational Classification*, including all of the essential duties.

I am not satisfied that you meet the **(choose one or more:** first, second, third**)** part of these requirements because **(provide reasons.)**

Subsection 75(3) states that if a foreign national fails to meet these requirements, the application shall be refused and no further assessment is required. I am not satisfied that you meet these requirements.

For all cases, add:

Subsection 11(1) of the *Act* states that 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 may 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 2(2) specifies that unless otherwise indicated, references in the Act to "this Act" included 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 the applicant has paid the RPRF at mission, add:

The Right of Permanent Residence Fee that you have paid is refundable. **(Add as appropriate)** You will receive a cheque from the **(choose as appropriate)** Embassy/High Commission/Consulate within a few weeks. **(or)** Please contact the Canadian **(choose as appropriate)** Embassy/High Commission/ Consulate in …… for information concerning the method of reimbursement and the date at which you can obtain the refund.

If the applicant paid RPRF to the CIO, add:

The Right of Permanent Residence Fee that you have paid at the Centralized Intake Office (CIO) in Sydney, Nova Scotia, is refundable. You will receive a cheque from the CIO within 8-12 weeks.

Thank you for the interest you have shown in Canada.

Yours sincerely,

Officer

cc: fee____

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

Appendix B – Refusal - on discretion - sample letter

INSERT LETTERHEAD

Our Ref.:

INSERT ADDRESS

Dear :

I have now completed the assessment of your application for a permanent resident visa as a skilled worker and have determined that you do not meet the requirements for immigration to Canada.

Subsection 12(2) of the *Immigration and Refugee Protection Act* states that a foreign national may be selected as a member of the economic class on the basis of their ability to become economically established in Canada. Subsection 75(1) of the Regulations prescribes the Federal Skilled Worker class as a class of persons who are skilled workers and who may become permanent residents on the basis of their ability to become economically established in Canada.

Pursuant to the *Immigration and Refugee Protection Regulations*, 2002, skilled worker applicants are assessed on the basis of the definition set out in subsection 75(2) and the criteria set out in subsection 76(1). The assessment of these criteria determines whether a skilled worker will be able to become economically established in Canada. The criteria are age, education, knowledge of Canada's official languages, experience, arranged employment and adaptability.

Your application was assessed based on the occupation(s) in which you requested assessment (add title of the occupation and NOC code for each occupation in NOC skill type 0 or skill level A or B which the applicant has claimed experience). The table below sets out the points assessed for each of the selection criteria:

	Points assessed	**Maximum possible**
Age		10
Education		25
Official language proficiency		24
Experience		21
Arranged employment		10
Adaptability		10
Total		100

Subsection 76(3) of the Regulations permit an officer to substitute their evaluation of the likelihood to become economically established in Canada if the number of points awarded are not a sufficient indicator of whether the skilled worker may become economically established in Canada.

As discussed with you at your interview, I am not satisfied that the points that you have been awarded are an accurate reflection of the likelihood of your ability to become economically established in Canada. I have made this evaluation because **(provide reasons.)** You were given an opportunity to address these concerns at your interview. The information you have given me and your explanations have not satisfied me that you will be able to become economically established in Canada. A senior officer concurred in this evaluation.

Subsection 11(1) of the Act states that 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 may 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 2(2) specifies that 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 the applicant has paid the RPRF, add:

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

The Right of Permanent Residence Fee that you have paid is refundable. **(Add as appropriate)** You will receive a cheque from the **(choose as appropriate)** Embassy/High Commission/Consulate within a few weeks. **(or)** Please contact the Canadian **(choose as appropriate)** Embassy/High Commission/ Consulate in …… for information concerning the method of reimbursement and the date at which you can obtain the refund.

In the cases of transferred files from the CIO where RPRF was paid, add:

The Right of Permanent Residence Fee that you have paid at the Centralized Intake Office (CIO) in Sydney, Nova Scotia, is refundable. You will receive a cheque from the CIO within several weeks.

Thank you for the interest you have shown in Canada.

Yours sincerely,

Officer

cc: fee____

Appendix C – Refusal - points sample letter

INSERT LETTERHEAD

Our Ref.:

INSERT ADDRESS

Dear :

I have now completed the assessment of your application for a permanent resident visa as a skilled worker and have determined that you do not meet the requirements for immigration to Canada.

Subsection 12(2) of the *Immigration and Refugee Protection Act* states that a foreign national may be selected as a member of the economic class on the basis of their ability to become economically established in Canada. Subsection 75(1) of the Regulations prescribes the Federal Skilled Worker class as a class of persons who are skilled workers and who may become permanent residents on the basis of their ability to become economically established in Canada.

Pursuant to the *Immigration and Refugee Protection Regulations*, 2002, skilled worker applicants are assessed on the basis of the requirements set out in subsection 75(2) and the criteria set out in subsection 76(1). The assessment of these requirements determines whether a skilled worker will be able to become economically established in Canada. The criteria are age, education, knowledge of Canada's official languages, experience, arranged employment and adaptability.

Your application was assessed based on the occupation(s) in which you requested assessment (**add title of the occupation and NOC code for each occupation in NOC skill type 0 or skill level A or B which the applicant has claimed experience**). The table below sets out the points assessed for each of the selection criteria:

	Points assessed	**Maximum possible**
Age		10
Education		25
Official language proficiency		24
Experience		21
Arranged employment		10
Adaptability		10
Total		100

You have obtained insufficient points to qualify for immigration to Canada, the minimum requirement being 67 points. **Add reasons why applicant was unable to obtain sufficient points**. You have not obtained sufficient points to satisfy me that you will be able to become economically established in Canada.

Subsection 11(1) of the Act states that 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 may 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 2(2) specifies that 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 the applicant has paid the RPRF, add:

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

The Right of Permanent Residence Fee that you have paid is refundable. **(Add as appropriate)** You will receive a cheque from the **(choose as appropriate)** Embassy/High Commission/Consulate within a few weeks. **(or)** Please contact the Canadian **(choose as appropriate)** Embassy/High Commission/ Consulate in …… for information concerning the method of reimbursement and the date at which you can obtain the refund.

In the cases of transferred files from the CIO where RPRF was paid, add:

The Right of Permanent Residence Fee that you have paid at the Centralized Intake Office (CIO) in Sydney, Nova Scotia, is refundable. You will receive a cheque from the CIO within several weeks.

Thank you for the interest you have shown in Canada.

Yours sincerely,

Officer

cc: fee____

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

Appendix D – Negative final determination of eligibility for processing - Ministerial Instructions – sample letter

INSERT LETTERHEAD

Our Ref.:

INSERT ADDRESS

Dear :

This refers to your application for permanent residence in Canada as a Federal Skilled Worker. I have now completed the assessment of your application and have determined that you are not eligible for processing in this category for the following reason(s).

The Minister of Citizenship,Immigration and Multiculturalism issued instructions which were published in the Canada Gazette on November 28, 2008 Only applicants who meet the criteria specified in these Ministerial Instructions are eligible to be processed in the Federal Skilled Worker class.

IF APPLYING UNDER AEO:

Although you have indicated that you have an Arranged Employment Offer, CHOOSE you have not provided proof of your Arranged Employment Offer OR your Arranged Employment Offer is not valid OR OTHER REASONS.

IF APPLYING AS STUDENT OR TFW IN CANADA (BEFORE JUNE 26, 2010):

Although you have indicated that you are a student OR temporary foreign worker, CHOOSE you have not provided proof of your legal status in Canada OR you have not been legally residing in Canada at least one year OR you are no longer residing in Canada OR OTHER REASONS.

IF APPLYING UNDER OCCUPATION LIST:

We have assessed your declared occupations against the list of occupations identified by the Minister of Citizenship, Immigration and Multiculturalism and published in the *Canada Gazette* on November 28, 2008. Your occupation(s) do(es) not correspond to any of the eligible occupations.

OR

You have indicated that you have work experience in (an) occupation(s) with the following NOC (National Occupational Classification) code(s): LIST NOC CODES AND OCCUPATION TITLES. Although the NOC code(s) correspond(s) to the occupations specified in the Instructions, you have not provided sufficient evidence that you performed the actions described in the lead statement for the occupation, as set out in the occupational descriptions of the NOC OR that you performed all of the essential duties and a substantial number of the main duties, as set out in the occupational descriptions of the NOC. As such, I am not satisfied that you are a OCCUPATION TITLE and NOC CODE.

OR

You have indicated that you have work experience in (an) occupation(s) with the following NOC code(s): LIST NOC CODES AND OCCUPATION TITLES. Although the NOC code(s) correspond(s) to the occupations specified in the Instructions, you do not have a minimum of one year of continuous full-time, or equivalent part-time, paid work experience in the occupation(s) in the last ten years.

FOR ALL:

Since you did not provide evidence that you CHOOSE APPROPRIATE have an Arranged Employment Offer AND/OR are a Temporary Foreign Worker or an International Student AND/OR

have work experience in the listed occupations, you do not meet the requirements of the Ministerial Instructions and your application is not eligible for processing.

Subsections 87.3(2)-(3) are the pertinent sections of the *Immigration and Refugee Protection Act*:

> *The processing of applications and requests is to be conducted in a manner that, in the opinion of the Minister, will best support the attainment of the immigration goals established by the Government of Canada.*
>
> *…the Minister may give instructions with respect to the processing of applications and requests, including instructions*
>
> (a) establishing categories of applications or requests to which the instructions apply;
>
> (b) establishing an order, by category or otherwise, for the processing of applications or requests;
>
> (c) setting the number of applications or requests, by category or otherwise, to be processed in any year; and
>
> (d) providing for the disposition of applications and requests, including those made subsequent to the first application or request.

IF APPLICATION CONTAINS H & C REQUEST:

You had also requested that your application be considered on humanitarian and compassionate grounds. However, requests made on the basis of humanitarian and compassionate grounds accompanying a Federal Skilled Worker application cannot be processed unless the application is otherwise eligible for processing under the Ministerial Instructions.

Any original documents you submitted with your application are being returned to you.

IF ONLY PROCESSING FEE WAS SUBMITTED:

The processing fee that you have paid is refundable. You will receive a cheque within four to six weeks.

IF PROCESSING FEE AND RPRF WAS SUBMITTED:

The processing fee and the Right of Permanent Residence Fee that you paid are refundable. You will receive a cheque within four to six weeks.

There are many ways to immigrate to Canada. Although you have not satisfied the requirements to apply under the Federal Skilled Worker class, you may qualify under another category. To learn more about your options, visit http://www.cic.gc.ca/english/immigrate/index.asp.

Thank you for your interest in Canada.

Immigration Section

cc: fee_____

Appendix E – Negative final determination of eligibility for processing - incomplete application – Sample letter for applications received on or after February 27, 2008, and before June 26, 2010

Centralized Intake Office file number:

Dear Madam/Sir,

OP 6A Federal Skilled Workers- Applications received on or after February 27, 2008 and before June 26, 2010

This refers to your application for permanent residence in Canada in the Federal Skilled Worker Class.

The Centralized Intake Office (CIO) in Sydney, Nova Scotia, informed you on DATE that you had 120 days from that date to submit a complete application, with all required forms and supporting documents, to our office. You were also informed that if you did not do so within the 120-day deadline, we would complete the eligibility determination on the basis of the information on file.

To date, you have not provided a complete application with all required forms and supporting documents. I have determined your eligibility on the basis of the information on file. I am not satisfied that there is sufficient evidence you are eligible according to the Ministerial Instructions, to have your application placed into processing. This negative determination of eligibility for processing is final and your file has been closed.

The application fee you paid is refundable. The CIO has been notified and you will receive a cheque from Canada within 8 - 12 weeks.

If you are interested in immigrating to Canada in the federal skilled worker class in the future, a new application for permanent residence should be sent to the CIO along with a new application fee. Your application will be assessed against the requirements in effect at that time.

Thank you for your interest in Canada.

Immigration Section

Processing Office

[Include complete address of office, including fax number]

email

website