OP 6B Federal Skilled Workers- Applications received on or after June 26, 2010

Updates to chapter

Listing by date:

2012-03-22

Section 1- updated to specify that this chapter is for applications received by the CIO on or after June 26, 2010

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

Section 3.1- added note on new forms that are requested

(Previously) Section 5.1- removed text on Ministerial Instructions- effective February 27, 2008

Section 5.1- revised wording

Section 5.2- added text on Ministerial Instructions- effective July 1, 2011

Section 5.3- added text on Ministerial Instructions- effective November 5, 2011

Section 5.4- removed section on applications received before February 27, 2008 and on or after February 27, 2008 and before June 26, 2010

Section 5.4- updated text with respect to returning files to applicants. Missions should transfer files to an appropriate office.

Section 5.4- updated to state that once a file has entered processing, the applicant is no longer eligible for a refund of the processing fee

Section 5.5- revised wording on processing offices and updated note

Section 5.6- 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 title to state “CIO Procedures” and removed “Applications received on or after June 26, 2010”

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

Section 7.3- updated text in this section

Section 7.4- updated table

(previously) Section 8- removed Procedure: applications received at the CIO on or after February 28, 2008 and before June 26, 2010

Section 8.2- added text on Minimal Requirements and the MI

Section 9.5- updated with the new name of the division

Section 9.5- updated note to specify instructions on language test results received before or after December 23 , 2010

Section 9.6- updated text

Section 9.7- updated with the new name of the division

Section 9.8, 9.9, 9.10- re-formatted tables

Section 9.11- updated text to specify that only processing offices may have concerns during an interview

Section 9.13- removed less than 1 year from the table

Section 9.13- updated note to state that officers should make a decision based on what was submitted

Section 9.13- updated text with guidance on unauthorized workexperience

Section 9.14- updated text in this section

Section10.1- added tables for the procedures at the CIO and the processing offices

Section 11.1- added text on substituted evaluation at the CIO

Section 11.2- added title “Substituted evaluation at the processing offce”

Section 12- updated text

Section 13- added processing office procedures

Section 13.4- added text on admissibility

Section 13.5- updated note to say offices

Section 15- updated text in this section to reflect changes in the printer of the permanent resident visa for certain passport holders

(Previously) Section 16- removed text on CAIPS instructions

Appendix D- updated to reflect MI-3 and MI-4

Appendices E and F- removed letters

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

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 refusal 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

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.

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."

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 6B Federal Skilled Workers- Applications received on or after 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 by the Centralized Intake Office (CIO) on or after 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 A - 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 A: 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

Note: After November 14, 2011, the principal applicant must submit the Supplementary Information: Your Travels (IMM 5562).

After March 31st, 2012, the principal applicant, spouse or common-law partner, and each dependent child over the age of 18 must submit the Generic Application Form for Canada (IMM 008) and Schedule A- Background Declaration (IMM 5569). The Application for Permanent Residence in Canada (IMM 008EGEN) and Schedule 1- Background/Declaration will no longer be accepted.

4. Instruments and delegations

Nil.

5. Departmental policy

5.1. Ministerial Instructions – effective June 26, 2010

The second set of Ministerial Instructions (MI), came into force on June 26, 2010, introduced a number of changes, including a new list of eligible occupations, annual limits to the number of applications to be considered for processing in the FSW class, as well as revised eligibility criteria with respect to evidence of official language proficiency and work experience.

FSW applications received by the Centralized Intake Office (CIO) on or after June 26, 2010, accompanied by the results of the principal applicant's English or French language proficiency assessment from a designated language testing organization, not exceeding the identified caps **and** that meet **either** of the following criteria shall be placed into processing:

- Applications from skilled workers with evidence of at least one year of continuous full-time (or equivalent part-time) paid work experience in the last ten years under one or more of the National Occupation Classification (NOC) codes specified in the MI up to a maximum of 20,000 new, complete applications per year with no more than 1,000 applications of this maximum in any one NOC category;

  or

- Applications submitted with an Arranged Employment Offer (AEO) consistent with requirements of subsection R82(2) of the *Immigration and Refugee Protection Regulations* (IRPR).

Limit on the number of applications to be processed per year

A maximum of 20,000 FSW applications, without an AEO, will be considered for processing each year by the CIO. Applications with an AEO will not be counted against the 20,000 cap.

Within the 20,000 cap, a maximum of 1,000 FSW applications per NOC code will be considered for processing each year.

In calculating the caps, the CIO will consider applications in the order of the date they are received. Applications received on the same date will be considered for processing having regard to routine office procedures.

For the unique purpose of calculating the caps, the first year will begin on June 26, 2010, and end on June 30, 2011. Subsequent years will be calculated from July 1st to June 30th, unless otherwise indicated in a future set of MI.

5.2. Ministerial Instructions- effective July 1, 2011

The third set of MI, that came into force on July 1, 2011 are very similar to the MI of June 26, 2010, however the number of applications that are considered for processing changed.

FSW applications received by the Centralized Intake Office (CIO) on or after July 1, 2011, not exceeding the identified caps **and** that meet **either** of the following criteria shall be placed into processing:

- Applications from skilled workers with evidence of at least one year of continuous full-time (or equivalent part-time) paid work experience in the last ten years under one or more of the National Occupation Classification (NOC) codes specified in the MI up to a maximum of **10,000** new, complete applications per year with no more than **500** applications of this maximum in any one NOC category;

  or

- Applications submitted with an Arranged Employment Offer (AEO) consistent with requirements of subsection R82(2) of the *Immigration and Refugee Protection Regulations* (IRPR).

5.3. Ministerial Instructions- effective November 5, 2011

The fourth set of MI came info force on November 5, 2011. This set of instructions introduced a new eligiblity stream that enabled international students pursuing doctoral (PhD) studies at a Canadian institution and foreign nationals who have graduated from a Canadian PhD program within the past 12 months to apply if they meet certain conditions.

A maximum of 1,000 applications submitted under this PhD stream will be considered for processing each year by the CIO. In calculating the caps, the CIO will consider applications in the order of the date they are received. Applications received on the same date will be considered for processing having regard to routine office procedures. Note that the cap of 1,000 applications is over and above what other caps may be in effect for the FSW Program

The first year will begin on November 5, 2011, and end on October 31st, 2012. Subsequent years will be calculated from November 1st to October 31st, unless otherwise indicated in a future set of MI.

5.4. Applying the Ministerial Instructions

Applications received on or after June 26, 2010

FSW applications received on or after June 26, 2010, must meet the requirements of the MI that are in place at the time the application is received in order to be considered eligible for processing. The CIO will assess complete applications against the MI to determine whether applicants are eligible for processing. Applications that receive a positive eligibility determination will be placed into processing and are not eligible for a refund. Applications that receive a negative determination of eligibility will not be processed and will receive a full refund. 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.

5.5. 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 the CIO. This rule also applies to applications that are not eligible for processing according to the Ministerial Instructions. Once processing has begun at the CIO, 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.

The processing office that receives the RPRF is responsible for issuing the refund to unsucessful applicants. In the case of files transferred from one visa office to another, the visa office that finalizes the case is responsible for processing any RPRF refund.

Note: Please refer to Operational Bulletins 120 (Appendix C), 121, 266 and 376 for cost recovery and refund procedures at visa offices and at the CIO.

5.6. 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.

5.7. 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 by the CIO(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 visa 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

All FSW applications must be sent by applicants to the CIO. This section outlines how final determinations of eligibility for processing are to be 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 the applications against the MI – section 7.3
- Applications that meet the MI – section 7.4

Note: Applications received prior to June 26, 2010, are to be processed pursuant to Ministerial Instructions in effect at the time of application. For information on procedures for processing Federal Skilled Worker applications received prior to June 26, 2010, please see OP 6 and OP 6A,

7.1. Receiving the application at the CIO

Applicants are required to submit their complete application, including **all required supporting documents**, to the CIO. As of November 14, 2011, applicants must use the one document checklist found on the CIC website.

Applications received will first be reviewed for completeness according to the application kit requirements in place at the time the application is received by the CIO. This includes 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;
- the results of the principal applicant's English or French language test from a designated testing agency (see section 9.6)
- evidence of payment of the applicable fees (please see Section 5.5 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 that may be required by the Act and Regulations.

Note: Applications that are not complete or over the global or NOC code specifc cap will be returned to the applicant.

7.2 R 11: Identification of visa office for processing of the application

The CIO is designated as the point of intake for all FSW applications.

Pursuant to paragraph 10(1)(*c*) of the IRPR, applicants are required to, among other things, specify a visa office that is compliant with R11 on their IMM 0008 (07-2011).

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). As per section 12 of IRPR, the CIO will return the entire application including the cost recovery fee to the applicant.

7.3. Assessing applications against the Ministerial Instructions

The CIO will assess the applicant's submission as-is and make a final determination of eligibility under the MI in place at the time the application was received. To be eligible for processing, the applicant must meet all the criteria described in the MI. If the application is eligible for processing, the applicant will be informed. Once the CIO has made a positive eligibility determination, processing has begun and the cost recovery fee is no longer refundable.

If the applicant's submission is determined to be ineligible for processing, the applicant will be informed and will receive a refund of processing fees. The application will not be returned to the applicant.

Note: Missing admissibility documents, i.e., police certificates, should not hold up the final determination of eligibility for processing. Applicants have been strongly encouraged to send police certificates. If applicants cannot obtain them, they may still submit the application to the CIO without them. The CIO will not reject these applications provided it is complete in all other respects. However, if the application is placed into processing, the applicant must be ready to submit the police certificates to the visa office when requested.

Evidence to consider when making the final determination of eligibility for processing

Review the application and determine whether it meets all the criteria of the MI. For an application to be considered for processing under these Instructions, the applicant, on the date of application, must:

- have experience in the last ten years under one or more (see note below) of the National Occupation Classification (NOC) codes specified in the MI, and the application does not exceed the maximum of 20,000 (MI-2) or 10,000 (MI-3) new, complete applications per year with no more than 1,000(MI-2) or 500 (MI-3) applications of this maximum in any one NOC category;

  or

- have an Arranged Employment Offer (AEO) consistent with requirements of subsection R82(2) of the *Immigration and Refugee Protection Regulations* (IRPR);

or

- be an international student currently enrolled in PhD program in Canada for at least two years, be in good standing or have graduated from a Canadian PhD program within the

past 12 months, and the application does not exceed the maximum of 1,000 new, complete applications per year..

Eligible NOC Codes Stream: Applicants must have at least one year of continuous full-time or equivalent paid work experience in at least one of the listed NOCs and not combined partial year experience in multiple NOCs. 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 first contract, this break in continuity would be acceptable. The occupation must be listed in the MI.

Furthermore, an applicant's work experience should reflect the actions described in the lead statement for the occupation as set out in the occupational descriptions of the NOC, including the performance of a substantial number of the main duties and all of the essential duties described.The CIO will review the documents related to work experience. 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. 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.

Arranged Employment Offer Steam: 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.

PhD Stream:

In order to be eligible for processing under this stream (effective November 5, 2011), applicants must meet one of the following criteria:

1. Applications from international students who are currently enrolled in a doctoral (PhD) program, delivered by a provincially or territorially recognized private or public post-secondary educational institution located in Canada, **and** who have completed at least two years towards the completion of their PhD **and** who are in good academic standing **and** who are not participants in studies in Canada taken under an award which stipulates that the recipient return to their home country to apply their knowledge and skills.

OR

2. Applications from foreign nationals who have completed a doctoral (PhD) program from a provincially or territorially recognized private or public post-secondary educational institution located in Canada no more than 12 months prior to the date their application is received by the CIO in Sydney, Nova Scotia. Applicants must not have received a Government of Canada award that required them to return to their home country to apply their knowledge and skills; or if they were a recipient of such an award, that they have satisfied the terms of the award

In order to qualify under criterion 1, applicants must provide a letter of attestation from the recognized provincial or territorial post-secondary education institution where they are pursuing their PhD. The letter must state that the applicant:

- is currently enrolled in a PhD program and has completed at least two years towards its completion; and
- is deemed in good academic standing to the satisfaction of the institution.

The letter of attestation must be an official letter, on university letterhead, signed by an authority at the Office of the Dean of Graduate Studies that clearly addresses the above-noted two components.

Note: Part-time students are also eligible to apply.

In order to qualify under criterion 2, applicants must provide a copy of their official transcripts showing that they have completed their program and have been awarded their PhD no more than 12 months prior to the date their application is received at the CIO. The applicant does not need to physically be in Canada to submit their application.

For either criterion, applicants will also be required to declare that they are not a recipient of a Government of Canada award requiring them to return to their home country to apply their knowledge and skills, or if they were such a recipient that they have satisfied the terms of the award, by completing the appropriate section in schedule 3. The schedule 3 must be the Oct-11 version or later.

7.4. Applications that meet the criteria of the Ministerial Instructions

If	Then
the application corresponds to the Instructions	• The application is now in processing and the cost recovery fee is no longer refundable. The CIO will proceed with processing the application against FSW minimal requirements and selection criteria. A final selection decision and an admissibility determination is made by the officer. (Section 8.
the application does not correspond to the Instructions	• CIO will make a final negative determination of eligibility for processing; • record outcome and reasons;

	• send a letter to inform the applicant (see Appendix D for sample letter); and • initiate a refund. • application is not returned to the applicant.

8. 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.

8.1. 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)).

8.2 Minimal Requirements and the MI

Applicants who were determined to meet the MI because their work experience was in an eligible NOC code should automatically meet minimal requirements pursuant to R75(2). This is because in order to be eligible under the MI they must have at least one year of continuous full-time or equivalent paid work experience in one of the listed NOC codes and this wording is very similar to R75(2). Since the CIO makes a final MI eligibility determination, a visa officer may only refuse an eligible NOC code application on minimal requirements if procedural fairness is followed. Please see OB 338 for more details.

Applicants who applied under the AEO or PhD stream are determined to meet the MI because they have an offer of arranged employment, or have two years completed towards their PhD and are in good standing or have completed their PhD in the past 12 months. The CIO does not verify that the applicant holds one year of continuous experience in a NOC 0, A or B when making a final **MI** eligibility determination. As such, for these applications, minimal requirements is assessed *after* a final eligibility determination has been made at the CIO.

If …	Then the officer will …

the applicant meets the minimal requirements	• proceed to Section 9
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 15
	Note: Substituted evaluation (Section 10.2), **cannot** be used to overcome a failure to meet the minimal requirements.

9. Procedure – Assessing the application against FSW selection criteria

9.1. 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 9.2);
- language proficiency (knowledge of official languages) (Section 9.3);
- experience (Section 9.13);
- age (Section 9.14);
- arranged employment (Section 9.15);
- adaptability (Section 9.16)

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.

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 10.

Note: Pursuant to R76(3), subsituted evaluation (Section 10.2) cannot be used to override a refusal due to insufficent funds.

9.2. 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 pursuant to R78(4).

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. The fact 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.

OP 6B Federal Skilled Workers- Applications received on or after June 26, 2010

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.

9.3. Knowledge of official languages

9.4. Evidence of language proficiency

9.5. Language test results

9.6. Designated testing organizations

9.7. French language testing organizations

9.8. Canadian English Language Proficiency Index Program (CELPIP)

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

9.10. Test d'évaluation de français (TEF)

9.11. Integrity concerns on language proficiency during an interview

9.12. 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 submitted by the applicant.

- take into account any years of experience that occur between application and assessment, and for which the applicant has submitted the necessary documentation (R77);
- 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.

9.13. 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

9.14. 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). To verify the HRSDC information, the user must ensure the HRSDC file # is entered in the HRSDC File # field under the Economic Column in the IMM screen. Officers should click on the HRSDC view tab and click on Refresh in order to obtain the latest HRSDC information. Alternatively, if the file number is not available, the user can search in the SEARCH>Employment Validation screen by entering the applicant's name and DOB information.
- 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	10

	opinion as outlined in R82(2)(*c*) • the officer is satisfied that the applicant is capable of performing the employment being offered to them.	
(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 the 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.

9.15. 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	3, 4 or 5

• 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	
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 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.)	5
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.

10. Procedure: Selection decision

10.1. 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.

At the CIO:

If …	Then the CIO officer will …
The applicant's total score is equal to or greater than the pass mark	• forward the entire application to the visa office identified by the applicant on the IMM 0008 for a selection decision.
The applicant's total score is less than the pass mark	• refuse the application (negative selection decision); • record outcome and reasons; and • send a letter to inform the applicant (see Appendix C for sample letter).

Note: CIO officers will only make negative selection decisions. Applications that meet the pass mark are forwarded to a visa office for decision on selection and admissibility. The visa officer will review the application and case analysis provided by the CIO and make the selection decision.

At the processing office:

If …	Then the officer will …
The applicant's total score is equal to or greater than the pass mark	• Make a final selection decision and proceed to admissibility,
The applicant's total score is less than the pass mark	• refuse the application (negative selection decision); • record outcome and reasons; and • send a letter to inform the applicant (see Appendix C for sample letter).

11. 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 by 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."

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 with brief reasons for refusal to use positive substituted evaluation. Officers do not need the concurrence of the designated officer to deny requests for the use of positive substituted evaluation.

11.1. Substituted Evaluation at the CIO

If an applicant has requested substituted evaluation, a CIO officer may consider such a request. If it is determined after an examination of the entire file by the officer that the use of substituted evaluation is not warranted, the application will be refused according to the points assigned against the FSW selection grid.

If the officer determines that the use of substituted evaluation is warranted, the CIO will transfer the entire application to the processing office for a final selection decision and admissibility processing.

An officer at the CIO may not use substituted evaluiation when the applicant met the pass mark (ie negative substituted evaluation).

11.2. Substituted Evaluation at the processing office

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.

12. File Transfers

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

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

Program integrity includes issues related to local knowledge, such as the 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) . This not only helps the department in reaching its objectives but the applicant also benefits from faster processing times. Other factors may be taken into account when evaluating the impact of a file transfer on program integrity.

Processing 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 and process the application as usual.. 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.

File transfers following an administrative error by the CIO

In rare cases the CIO may assign the wrong office as the primary file holder.

In these cases, the office that received the file should transfer the file to the correct office.

The new office and the CIO should be notified by email that the file is being transferred and why.

File transfers in cases where R11 is not met

The CIO is not responsible for assessing whether applicants are R11 compliant at the visa office specified on their IMM 0008. The CIO will accept the visa office identified by the applicant as is. The onus is on the applicant to correctly identify the visa office for processing.

If, when the 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 first submitted, the visa office will forward the application to an appropriate office following existing file transfer procedures. The visa office **will not** return the application to the CIO.

Note: The CIO and visa offices do not bear any responsibility for errors caused by the applicant or their authorized representatives when selecting their visa office for further processing.. In cases of client or representative errors the visa office will follow the procedures outlined in section 7.2

13. Processing Office Procedures

13.1. Once the file arrives at the processing office

Applications that have received a final positive eligibility determination and a point score that is equal or greater than the pass mark are transferred to the visa office for further processing.

Once the file arrives at a processing office from the CIO, the office should not change the "Application received date" in GCMS. This field must remain unchanged as it used for calculating processing times and for counting the global and specific caps.

The officer will proceed to make a final decision on an assessment of selection factors (R76) and admissibility (A34 to 42). This decision is separate from the CIO's eligibility determination.

13.2. Procedure – Assessing the application against FSW selection criteria

Please see sections 8 and 9 for assessing an application against minimal requirements and FSW selection criteria.

13.3. Concerns with the eligibility determination

For further details on how to proceed in these cases, please refer to OB 338.

13.4. Admisibility

Please refer to OP 18 for instructions on how to evaluate inadmissibility.

13.5. 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: 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.

13.6. Substituted Evaluation

Please see section 11 for information on substituted evaluation.

14. 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.

15. 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 Appendices.

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____

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:

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:

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 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 and came into force on [insert applicable date here – i.e. June 26, 2010, July 1, 2011, November 5, 2011. Only applicants who meet the criteria specified in these Ministerial Instructions are eligible to be processed in the Federal Skilled Worker class.

IF GLOBAL CAP OR NOC SUB-CAP IS REACHED:

A maximum of 20,000 OR 10,000 complete Federal Skilled Worker (FSW) applications, without an offer of arranged employment, a maximum of 1,000 OR 500 complete FSW applications per National Occupation Classification (NOC) code, or a maximum of 1,000 complete FSW- PhD applications will be considered for processing each year. Your application was received after this cap was reached.

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 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 June 26, 2010,July 1 2011, November 5, 2011]. 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 AND/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.

IF APPLYING UNDER THE PHD STREAM:

Although you have indicated that you have a PhD or are currently in good standing, CHOOSE you have not provided proof of this OR you do not meet minimal requirements OR OTHER REASONS.

FOR ALL:

Since you did not provide evidence that you CHOOSE APPROPRIATE have an Arranged Employment Offer 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_____