



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada



Citizenship & Immigration Canada Hiring Temporary Foreign Workers

Citizenship and Immigration Canada
BUILDING A STRONGER CANADA



Citoyenneté et Immigration Canada
BÂTIR UN CANADA PLUS FORT

Canada 

1. What is a Work Permit & Exemptions



Working in Canada

Legislative authority lies with Citizenship and Immigration Canada as governed by the Immigration and Refugee Protection Act (IRPA)

The Immigration and Refugee Protection Act stipulates

- who may work in Canada
- that foreign nationals can enter as temporary foreign workers or as permanent resident skilled workers
- IRPA designates certain authorities to the federal and provincial governments



What is Work?

Work is:

- An activity for which an individual is paid a wage or commission

OR

- One that competes with activities of Canadian citizens or permanent residents in the Canadian labour market

A foreign national may not work in Canada unless authorized.



What is a Work Permit?

- Documents that allows a foreign national to temporarily work in Canada
- Conditions are usually imposed:
 - type of work
 - the employer
 - duration of work
 - location of work

CANADA IMMIGRATION

PROTECTED WHEN COMPLETED - PROTÉGÉ UNE FOIS REMPLI - B

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WORK PERMIT

CASE TYPE : 24

TRAVEL DOC : PASSPORT
BONDED : NO
EMPLOYER : VANCOUVER RESEARCH
OCCUPATION : APPLIED CHEMICAL TECHNOLOGISTS
EMP. LOC : VANCOUVER
FEE STATUS : FEE PAID - CPC

CONDITIONS:

1. UNLESS AUTHORIZED, PROHIBITED FROM ATTENDING ANY EDUCATIONAL INSTITUTION AND TAKING ANY ACADEMIC, PROFESSIONAL OR VOCATIONAL TRAINING COURSE.
2. NOT AUTHORIZED TO WORK IN ANY OCCUPATION OTHER THAN STATED.
3. NOT AUTHORIZED TO WORK FOR ANY EMPLOYER OTHER THAN STATED.
4. NOT AUTHORIZED TO WORK IN ANY LOCATION OTHER THAN STATED.
5. MUST LEAVE CANADA BY 31 JUL 2003

SURNAME, GIVEN NAMES - NOM DE FAMILLE, PRÉNOMS		
[REDACTED]		
BIRTH DATE - DATE DE NAISSANCE	SEX - SEXE	
[REDACTED]	FEMALE	
COUNTRY OF BIRTH - PAYS DE NAISSANCE	COUNTRY OF CITIZENSHIP - CITOYEN DE	
BRAZIL	BRAZIL	
OFF. FILE NO. - N° DE RÉF. DU BUREAU	CLIENT ID. - ID DU CLIENT	
513352839428	[REDACTED]	
DATE SIGNED - SIGNÉ LE	VALID UNTIL - DATE D'EXPIRATION	EXT. NO. - CODE PRODIG.
01 AUG 2002	31 JUL 2003	01

REMARKS: /CX-513352839428



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Temporary Residence

- A Temporary Foreign Worker is first a Temporary Resident in Canada
- A reasonable, finite, and predictable end to a worker's assignment in Canada
- Circumstances surrounding an application should convincingly indicate that the worker will depart Canada upon completion of the assignment



Working in Canada

1. Work without a work permit
2. Work with a work permit, but no Labour Market Opinion (LMO)
3. Work with a work permit and a positive LMO



Work Without a Work Permit



Work Permit Exemptions

- Business Visitor
- Foreign representatives
- Family Members of Foreign Representatives
- Military Personnel
- Foreign Government Officers
- On-campus Employment
- Performing Artists
- Athletes and Coaches
- News Reporters
- Public Speakers
- Convention Organizers
- Clergy
- Judges and Referees
- Examiners and evaluators
- Expert Witness or Investigators
- Health Care Students
- Civil Aviation Inspector
- Aviation Accident or Incident Inspector
- Crew
- Emergency Service Providers
- Implied Status



Work with a work permit but no LMO



Jobs Requiring a Work Permit but no LMO

- Workers covered under international agreements
- Entrepreneurs and intra-company transferees
- Participants in exchange programs
- Co-op students
- Spouses of skilled workers
- Academics and students
- Religious workers
- Others



Intra-company Transfers

- Executives
- Managers
- Specialized knowledge

Two entry options for transferees:

1. General provision: Canadian interests – All countries
2. International agreements: Canada's commitments in international agreements (e.g., NAFTA **Chapter 16**)



Intra-company Transfer Considerations

- Qualifying business entities
- Qualifying workers
- Qualifying past employment with same employer
- Required documentation



Qualifying Business Entities

Companies:

- Must be legal entities
- Must have one of the following qualifying business relationships:
 - Affiliate
 - Branch
 - Parent
 - Subsidiary
- Must be doing business



Doing Business

- Regular, systematic and continuous production of goods or provision of services
- Must demonstrate ongoing international nature by continuing to do business in Canada and abroad

NB: Non-Qualifying Business Relationships:

- Contracts
- Licensees
- Franchises



Qualifying Workers & Past Employment

Only workers employed in the following capacities qualify:

- Executives
- Senior managers
- Specialized knowledge workers

The worker must have been employed:

- Continuously for 1 year in the previous 3 years by the company (F/T not accumulated part-time)



Executive

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



Manager

- Manages the organization, or a department, subdivision, function, or component of the organization;
- Supervises and controls
 - other managers or supervisors;
 - professional employees, or
 - manages an essential function (functional manager) within the organization, or a department or subdivision of the organization
- Has the authority to undertake personnel actions
- Exercises discretion over the day-to-day operations in the company.



Specialized Knowledge

- Special knowledge of a company's product or service and its application in international markets
- An advanced level of knowledge or expertise in the organization's processes and procedures
- Is unusual and different from that found in a particular industry
- The knowledge need not be proprietary or unique, but uncommon and complex



Characteristics : Special Knowledge

- Usually holds a position that is critical to the well-being of the enterprise.
- Has been utilized as a key employee abroad in significant assignments which have enhanced the employer's productivity, competitiveness, image, or financial position.
- It would be difficult to train another worker to assume such duties
- The knowledge is complex and cannot easily be transferred



TIPS : Specialized Knowledge

- If TFW only has one year of experience with the foreign company, they may demonstrate comprehensive knowledge of a specific facet of the company (which may have been acquired within that year or had worked on extensively) accompanied by studies in the appropriate field AND/OR years of experience in an associated industry.
- Responsibility of applicant to show what sort of specialized technical or managerial expertise they have that could not be sourced within a reasonable period of time or at a reasonable cost from within Canada.



TIPS : Specialized Knowledge (Cont'd)

- Each intra-company transferee application will be evaluated on its own merit and when assessing a specialized knowledge worker ICT, officers will consider a number of factors including the proposed salary to determine if it supports the claim.
- Given the extent and uniqueness of such knowledge, we would anticipate that specialized knowledge workers in Canada would normally be at or above the average wage for the stated occupation in the specified geographical location while working in Canada



Other LMO Exemptions

- FTA professionals (T23)
- Emergency repairs (C13)
- Reciprocal employment (C20)
- Spouses of skilled workers (C41)
- Post-grad employment (C43)



NAFTA Professionals

- Over sixty professions are listed
 - Requirements:
 - US or Mexican citizenship
 - Pre-arranged employment with Canadian employer
 - Profession on NAFTA list of professionals
 - Qualified to work in profession
 - Provision of professional services in field of qualification
 - Meet minimum educational qualifications



Documentation for NAFTA Professionals

- Proof of citizenship
- Evidence of pre-arranged employment with Canadian employer
- Details of position with Canadian employer
- Evidence of minimum educational qualifications

In instances where a baccalaureate degree is required, the degree must be in the specific field or in a closely related field. Baccalaureate degrees (or licenciatura) need not have been obtained in colleges or universities in the United States, Mexico or Canada, whereas post secondary diplomas or certificates should have been earned in one of the three NAFTA countries.



Management Consultants

- Do not take part in the company's production but seeks to improve the client's goals, objectives, policies, strategies, administration, organization, and operation.
- They assist and advise in implementing recommendations but do not perform functional operational work for clients or take part in the company's production.
- Usually on a contract or employee of consulting firm
- Any training or familiarization must be incidental.



Emergency Repairs (C13)

- Workers whose admission is required to carry out repairs to industrial equipment
- Allowed entry to prevent disruption of employment
- Should be in possession of a letter, email or fax indicating why the nature of their work is an emergency
- Not preventive maintenance



Reciprocal Employment (C20)

- Reciprocal opportunities for Canadians must exist abroad
- Duties must be substantially the same as those of the Canadian in the foreign jurisdiction
- Advisable to apply for work permits abroad or through TFWU
- Review of a HR Global Mobility Policy



Spousal Exemption

- Must be spouse or common law partner of a skilled worker
- Skilled worker must have work permit valid for at least 6 months
- Skilled worker:
 - Skill Level 0 – Management Occupations
 - Skill Level A – Professional Occupations
 - Skill Level B – Skilled Trades Occupations



Work with a work permit and a positive LMO



2. Applying for a Work Permit



Step One: Employer makes job offer to foreign worker

→ **Job offer must include:** Job title, a concise description of the job, a list of required education, skills and experience, details of when the job will start and end, salary details, address where employee will be working

→ **Wages:** Wages and working conditions must be consistent with the Canadian labour market



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Step Two: Employer determines which scenario applies:

1. Work without a work permit
2. Work with a work permit, but no Labour Market Opinion (LMO)
3. Work with a work permit and a positive LMO



Step Three: If required employer applies for an **LMO from Service Canada**

Some types of work are LMO-exempt:

- Int'l Free Trade Agreements
 - NAFTA, CCFTA, GATS
- Reciprocal arrangements with other countries
 - Working Holiday Program, SWAP
- Public policy to give Canada a competitive advantage
 - Post grad, spouses of students/skilled workers
- Humanitarian & Compassionate situations
- Provincial Nominees
- Significant Benefit to Canada



Step Four: Foreign worker applies for a work permit

Apply for work permit prior to entry: Most foreign workers must apply for a work permit prior to their arrival in Canada either to CIC at a Visa Office or to CBSA at a port of entry (POE).

Conditions: Foreign worker must adhere to conditions listed on the work permit

WORK PERMIT
CIC/PERMIS DE TRAVAIL

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BRAZIL

COUNTRY OF CITIZENSHIP - CITOYEN DE
BRAZIL

OFF. FILE NO. - N° DE REF. DU BUREAU
5133852389423

CLIENT ID. - ID DU CLIENT

DATE BORN - DATE DE NAISSANCE
01 AUG 2002

VALID UNTIL - DATE D'EXPIRATION
31 JUL 2003

EXT. NO. - CODE PRIOR.
01


REMARKS: 1205133894



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Step Five: CBSA POE examination – Foreign worker must meet requirements of IRPA



If foreign worker provides **documentation to support reason for entry** and is admissible to Canada, CBSA may issue work permit.



Important

In addition to submitting all necessary documents in support of the work permit application the applicant must satisfy the immigration, visa or port of entry officer that they:

- will leave Canada at the end of the work permit
- show they are not a risk to the security of Canada
- be in good health
- show they have enough money to support themselves (and family if necessary)
- complete medicals if required
- have no criminal record



Where to Apply for Work Permits

- At a Canadian Embassy or Consulate
 - www.cic.gc.ca
 - “Find a CIC Office”
 - “Where to Send Your Application”
- At the border: if eligible
- Renewals: in Canada
 - Case Processing Centre (CPC) – Vegreville (Alberta)



3. Temporary Foreign Worker Units



Temporary Foreign Worker Units (TFWU)

Created by CIC to:

- Educate employers and their representatives on the process of hiring a temporary foreign worker;
- Act as a resource for employers and service delivery partners;
- Determine, upon request, if a foreign worker position appears to be exempt the requirement for a Labour Market Opinion (LMO) from Service Canada.

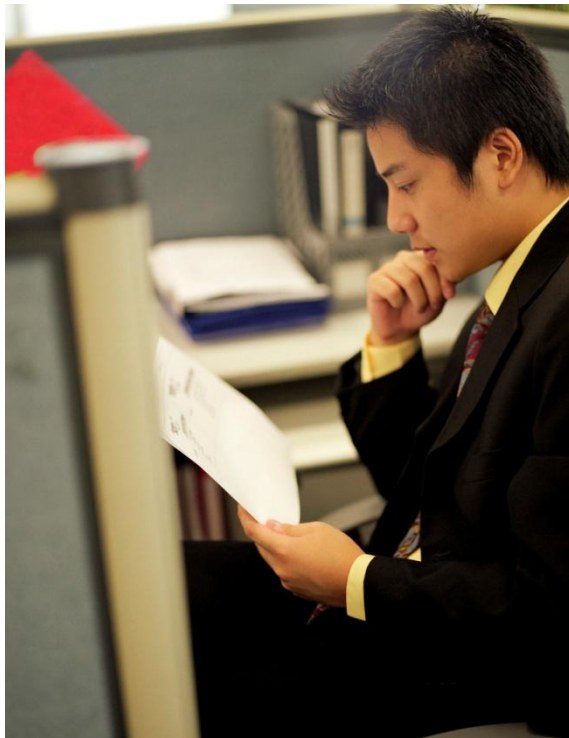


Temporary Foreign Worker Units

- **Facilitative process**, does not represent a change in policy or procedures;
- The Border Services Officer remains the delegated decision maker;
- TFWU officers are a resource equally accessible by clients and delivery partners;



Temporary Foreign Worker Units



- Request submitted prior to temporary foreign worker seeks entry.
- TFWU Officers have the opportunity to assess the request without the client present.
- Additional information can be requested, if required.



Request for Exemption Opinion

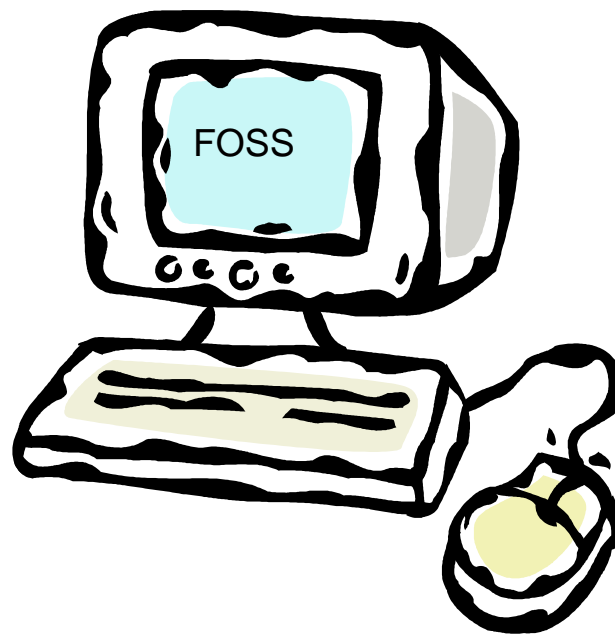
Request form includes:

- Employer's details
- Employee's details
- Date of expected arrival to Canada
- Rationale for requested exemption
- Relevant supporting documents



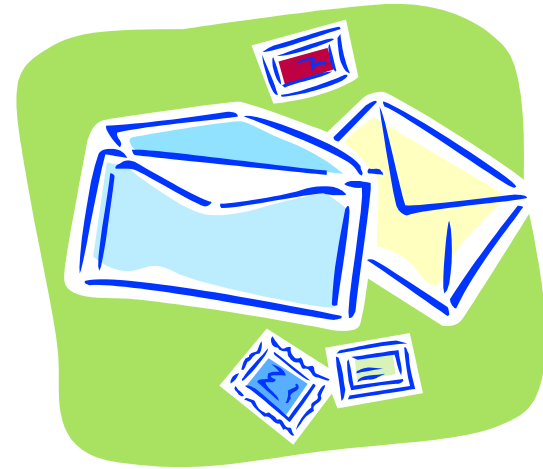
Positive Opinion

- Positive Opinion provided to Employer in writing in the form of a letter or fax.
- Positive opinion also recorded under CIC Client ID number.
- Reminder in the letter that final decision rests with officer at the POE.
- Client advised to have relevant documentation available to present to the officer at the POE.



Negative Opinion

- Applicant provided with a letter or fax advising of negative opinion;
- Notes placed under employees Client ID outlining reasons for opinion;
- In most cases, applicant referred to Service Canada to obtain LMO;
- Reminder that the officer at POE is delegated decision-maker.



Benefits to our partners



- Consistency of approach;
- Better informed client;
- Streamlining POE process (review already completed);
- A resource and pre-screening for partners.



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Contact us

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<p>Toronto TFWU Telephone: 416-954-7954 Fax: 416-973-9768 TFWU-Toronto-UTET@cic.gc.ca</p>	<p>Montréal TFWU Telephone: 514-283-1061 Fax: 514-283-1877 CIC-QUE-SRTE@cic.gc.ca</p>
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Thank You • Merci

Canada 