



Canada: Work Permits for Temporary U.S. Workers

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Summary

Canada's work permit procedures facilitate temporary entry of skilled foreign workers, professionals, traders, investors and intra-company transferees. Knowledge of the laws and regulations can help U.S. companies interested in expanding into Canada, bidding on contracts to be performed in Canada, or establishing strategic partnerships with Canadian companies, to temporarily employ non-Canadian workers in Canada or to send them temporarily to work with their Canadian business partners. This report represents a brief overview of the process involved in obtaining a work permit.

Background

The Canadian Immigration and Refugee Protection Act (IRPA) came into effect June 28, 2002. It is a re-codification version of the 1978 Immigration Act, and incorporates changes to practice and procedures that have been implemented over the years. This includes the rules and regulations concerning temporary foreign workers, especially skilled workers for whom there may be a need in Canada's labor market. According to the Government of Canada, in 2013 over 338,000 workers entered Canada temporarily to help Canadian employers address skill shortages.

Who Needs a Work Permit?

A work permit is required for any foreign national who is seeking entry to Canada to engage in any activity for which wages are paid, for which commission is earned, or whose activity directly competes with the Canadian labor market. U.S. employees who wish to enter Canada as a temporary worker may do so either through a work permit, or if meeting the requirements, under NAFTA. For more information on entering Canada as a temporary worker under NAFTA, see the International Market Insight Report "Temporary Entry of People under NAFTA" published in May 2014.

Citizenship and Immigration Canada does recognize certain job categories where a person may not need work permits to work temporarily in Canada. If the U.S. worker does not qualify to enter under NAFTA and does not fit into one of the categories below, they will require a work permit. Work permit exemption categories include:

Athletes and Coaches: Foreign teams, athletes and coaches competing in Canada.

Aviation accident or incident investigators: Accredited agents or advisers working on an aviation accident or incident investigation being done under the *Transportation Accident Investigation and Safety Board Act*.

Business visitors: Business visitors who come to Canada to do business activities but are not part of the Canadian labor market.

Civil Aviation Inspectors: Inspectors who check the flight operations or cabin safety of commercial airlines during international flights.

Clergy: People who work as ordained ministers, lay persons or members of a religious order. Their duties may include preaching doctrine, leading worship or giving spiritual counselling.

Convention Organizers: People who organize or run international meetings or conventions.

Note: People who provide “hands-on” services at these events must have a work permit. These services include providing audio-visual services, doing show decorating, and building, setting up and taking down displays.

Crew Members: Crew members, such as truck drivers, bus drivers, and shipping and airline workers, if:

- they are working on foreign-owned and -registered vehicles that are used mainly to transport cargo and passengers internationally, and
- their work is related to operating vehicles or serving passengers.

Emergency Service Providers: People who help out in an emergency, if they are here to help preserve life or property. Emergencies include natural disasters, such as floods or earthquakes, or industrial accidents that threaten the environment.

Examiners and Evaluators: Professors and academic experts who evaluate or supervise academic projects, research proposals or university theses may work for Canadian research groups or schools.

Expert Witnesses or Investigators: Experts coming to Canada to give evidence for a regulatory body, tribunal or court of law.

Family members of foreign representatives: Spouses and children of foreign representatives.

- must be accredited (with a counterfoil in their passport) by the Department of Foreign Affairs, Trade and Development (DFATD). If they are not accredited, DFATD will refer them to an immigration officer to apply under the regular process.
- need a letter of no objection from DFATD (normally issued only if there is a reciprocal employment arrangement with the person’s home country). To find out how to obtain this letter, contact DFATD’s Office of Protocol.

Foreign Government Officers: Employees of other governments. Canada has exchange agreements with some countries that allow officials to work in each other's government departments. Government officials coming to work in Canada must bring a formal letter if they will be working in Canada for more than three months.

Foreign representatives: Diplomats and official representatives of other countries or the United Nations and their staff.

Health Care Students: Foreign health care students doing clinical clerkships or working in Canada for a short period of time, if:

- the main goal of the work is training,
- the training lasts less than four months and
- they have written approval from the board that regulates their job (note that certain provinces do not need written approval).

For further details, please refer to section 5.17, "Work without a work permit R186(p): Health care students" in the [Foreign Worker Manual](#) (PDF, 1.25 MB).

Judges, Referees and similar officials: Officials at international amateur competitions who will judge or be officials for artistic or cultural events, such as music and dance festivals, animal shows and agricultural contests.

Military Personnel: Members of an armed force of another country, if they have movement orders stating that they are entering Canada under the terms of the Visiting Forces Act.

News Reporters, film and media crews: People who are:

- news reporters or members of their crews,
- film or media crews who will not enter the Canadian labor market,
- journalists who work for a print, broadcast or Internet news service (journal, newspaper, magazine, television show, etc.), if the company they work for is not Canadian,
- resident correspondents or
- managers and clerical staff, as long as the event is short term (six months or less).

Performing Artists: Actors, musicians, other performing artists, and their essential staff to support performances, coming to Canada for a limited time, provided they will not perform in a bar or restaurant, will not enter into an employment relationship with the Canadian organization that has contracted for their services, and will not perform for the production of a movie or television or radio broadcast.

Public Speakers: Guest speakers, commercial speakers or seminar leaders who speak or deliver training in Canada, as long as the event is no longer than five days.

Students Working On-Campus: Full-time foreign students working on the campus of their school of study.

Note: It is the responsibility of the applicant to provide appropriate documentation to prove their categorical status. For example, to obtain exemption for the work permit as a public speaker the applicant must provide relevant documentation verifying status as a public speaker; duration of stay, intended location of speech, ticket sales, and event flyer information. Further information on this and other categories is provided in the [Foreign Workers Manual](#), Section I.

Labor Market Opinion

U.S. companies applying for a work permit will need to find out if they require a Labor Market Opinion (LMO). An LMO is a labor market verification process whereby Employment and Social Development Canada (ESDC) assesses the offer of employment to ensure that the foreign work will not have a negative impact on the Canadian labor market. There are only a few cases where an LMO is NOT required:

- Workers covered under international agreements, like NAFTA
- People taking part in exchange programs
- Spouses
- Workers, their spouses/common-law partners or their dependents who are eligible for a work permit through a pilot project
- Workers nominated by a province for permanent residence
- Entrepreneurs and workers transferred within a company
- Academics and students
- Co-op students
- Religious workers
- Francophone Significant Benefit Program

Labor Market Opinion requests are submitted to ESDC through Service Canada Offices. For more information on identifying whether you need a labor market opinion, please visit the [CIC website](#). To find a local Service Canada LMO Processing Center, visit [ESDC's website](#).

Obtaining a Work Permit for Temporary Work in Canada

These steps must be followed in order to obtain a temporary work permit in Canada:

1. The Canadian employer first makes a formal job offer to the foreign national.
2. The Canadian employer submits a [temporary foreign worker application](#) with supporting documentation.
3. ESDC checks the genuineness of the offer of employment and weighs the likely

effect the employment of a foreign national will have on the Canadian labor market (Labor Market Opinion).

4. If the offer is found to be genuine and it is found that the employment of the foreign national will not adversely affect the Canadian labor market, and the candidate meets the requirements to enter Canada, a confirmation letter is sent to the employer.
5. The employer gives a copy of the letter to the foreign national.
6. The foreign national submits an application to CIC at the point of entry into Canada for a work permit (or an extension of an existing work permit), pays the fee for the work permit and attaches ESDC's confirmation letter.

The nearest Canadian consulate or an office of Service Canada may also be consulted in advance of arrival for information and guidance.

The Employer's Role

A Canadian employer must make a job offer to the prospective foreign worker before approaching ESDC to obtain a labor market opinion and a letter of confirmation. The Canadian employer will have to demonstrate the following to ESDC before the LMO can be granted:

- That reasonable efforts were made to hire or train Canadian citizens or permanent residents;
- That suitable qualified Canadian citizens and permanent residents were considered first and were not available, or could not be trained in time to fill the position for which the foreign worker is requested;
- That the required skill level, working conditions, salary and other factors were sufficient to attract Canadians, as well as warrant the recruitment of foreign workers;
- That appropriate unions or professional associations were contacted to identify suitable candidates; and
- That the admission of the foreign worker can create or maintain employment in Canada, provide training opportunities or transfer specialized knowledge to Canadian citizens or permanent residents, or strengthen a company's competitive position in the international marketplace.

The Canadian employer is responsible for ensuring that a worker has the necessary permits and follows the conditions and time limits described in the work permit.

ESDC's Role:

As mandated by the Immigration and Refugee Protection Act and Regulations, ESDC assesses offers of employment made by Canadian employers to foreign workers and develops an opinion on the likely effect of the employment of the foreign national on the labor market in Canada. This opinion is called a labor market opinion and is based on whether:

1. The work is likely to result in direct job creation or job retention for Canadian citizens or permanent residents;
2. The work is likely to result in skills and knowledge creation or transfer for the benefit of Canadian citizens or permanent residents;
3. The work is likely to fill a labor shortage;
4. The wages and working conditions offered are sufficient to attract Canadian citizens or permanent residents to, and retain them in, that work;
5. The employer has made, or has agreed to make, reasonable efforts to hire or train Canadian citizens or permanent residents; and
6. The employment of the foreign national is likely to affect the settlement of any labor dispute in progress or the employment of any person involved in the dispute.

The length of time it takes for ESDC to issue a letter of confirmation can vary depending on how prepared the Canadian employer is in their search to find a Canadian citizen or permanent resident to fill the job. It can take up to 4-6 months to complete the LMO process although it may be faster depending on the details of the company's application. The fee to apply for an LMO is CDN\$275.

A letter of confirmation will be refused in situations where ESDC's opinion is that the wages and working conditions offered are insufficient to attract and retain Canadian job seekers. This policy is to ensure that foreign workers are not improperly used by Canadian employers to drive down the wage structure in the Canadian labor market.

A list of ESDC Centers that process foreign worker requests (i.e., LMO applications) in each province can be found at: www.esdc.gc.ca/eng/jobs/foreign_workers/scc.shtml

The Worker's Role

Foreign workers can apply for work permits at the port of entry, such as an airport or border crossing, once the letter of confirmation has been received from ESDC/Service Canada. The foreign worker must present the letter of employment, ESDC/Service Canada LMO and proof of citizenship at the port of entry. If employed by a U.S. company, also useful and recommended, is a letter from the U.S. employer identifying and validating the employee's status within the firm and their travel plans. If the worker is a U.S. citizen a valid U.S. passport or travel document is required. There is a CDN \$150 fee for each work permit issued, payable at the port of entry.

Foreign workers who accept an offer to work temporarily in Quebec may also require a Certificat d'acceptation du Quebec (CAQ) from the provincial immigration office – [Ministere des Relations avec les citoyens et de l'immigration](http://www.mrci.gc.ca) (MRCI). The Canadian employer should contact MRCI to determine whether a CAQ is required, and to follow necessary procedures.

Typically, a medical exam is not required for U.S. citizens coming to Canada to live and work for up to six months. For longer than six months a medical exam is required if the

applicant has resided or sojourned for six or more consecutive months in a designated country or territory in the year immediately preceding the date of seeking entry into Canada. The country/territory list may be found on the CIC web site:

<http://www.cic.gc.ca/english/information/medical/dcl.asp>.

CIC's Role

CIC and its visa offices at Canadian embassies, high commissions and consulates outside Canada process applications for work permits to determine who may be eligible to work in Canada. When issued, the work permit states that the foreign worker can work at a specific job for a specific period of time for a specific employer. Once in Canada, applications for change of a work permit are required if the work will take longer than planned or there is a need to change jobs or employers. A complete list of CIC visa offices can be found at: <http://www.cic.gc.ca/english/information/offices/apply-where.asp>

Implications for U.S. Business:

U.S. companies anticipating bidding on Canadian procurement contracts or discussing strategic partnerships with Canadian companies should be aware of the opportunities that the work permit procedures offer to facilitate entry of their employees into Canada. Specialized skills are often required in Canada to expedite the completion of essential work. However, U.S. companies must remember that working in Canada generally remains dependent on the availability of local labor, so an application by an employer for a confirmation letter may not always be approved.

U.S. companies should also be aware that at the port of entry, the Canada Border Services Agency (CBSA) has the final say on who may enter Canada. Officers can deny entry to a foreign worker if they believe the foreign worker does not meet the requirements of the Immigration and Refugee Protection Act.

This can be a time consuming and costly process. The U.S. Commercial Service advises that it may be advantageous to U.S. companies that are considering sending temporary workers to Canada to engage a law firm that specializes in immigration law to ensure successful movement of their employees across the border. Contact the U.S. Commercial Service for a list of these law firms.

Further information is available from the following sources:

Citizenship and Immigration Canada <http://www.cic.gc.ca/>

Employment and Social Development Canada <http://www.esdc.gc.ca/eng/home.shtml>

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For More Information

If you would like further information contact Tracey Ford, Commercial Specialist at the U.S. Commercial Service in Ottawa, at:

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