

Business immigration to Canada: Pathways and processes

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This article is part of a practical series written for international companies looking to establish, launch, operate or invest in a business Canada. Each article covers a major area of law in Canada – everything from employment laws to taxes. Access all the articles on the [“Doing business in Canada: A practical guide from ‘Eh’ to ‘Zed’” page](#).

Non-immigrant or temporary entry

Generally, all persons who are not Canadian citizens or permanent residents require a work permit to work in Canada. A work permit is normally granted only if there is no qualified Canadian available to fill the position in question. However, there are many exceptions to this general rule that either make a work permit unnecessary or that make a work permit much easier to obtain. The following are some of the more widely utilized exceptions to this general rule.

a) Business visitors

A person may enter Canada as a business visitor without needing a work permit if the person seeks to engage in international business activities in Canada without directly entering the Canadian labour market. A person will not be directly entering the Canadian labour market if:

- the primary source of remuneration for his or her business activities is outside Canada and
- the principal place of business and accrual of profits of the employer remain predominantly outside Canada, and/or if
- the services rendered do not compete directly with those rendered by Canadian citizens or permanent residents of Canada.

In addition, a representative of a business outside Canada may work in Canada without a work permit if the purpose of his or her visit is to attend business meetings, to purchase Canadian goods or services, or to give or receive training within a Canadian parent or subsidiary company of his or her employer. Although this is not an exhaustive

list of permissible activities, it does represent some of the most often-used exemptions to the requirement for a work permit.

b) Work permit exemptions under the Global Skills Strategy

A work permit is generally required if a foreign national is entering Canada for business purposes outside the scope of the business visitor provisions. On June 12, 2017, the Minister of Citizenship and Immigration established a public policy to facilitate the entry for certain high-skilled work of a short duration as part of the Global Skills Strategy. Two types of workers are exempt from the requirement to obtain a work permit under the Global Skills Strategy:

- **Highly skilled workers** : To qualify for the short-term work permit exemption as a highly skilled worker, the following requirements must be met:
 - The job to be performed must be classified under Training, Education, Experience and Responsibilities (TEER) category 0 or 1 in the National Occupational Classification (NOC); and
 - The work to be performed is for one of the following short periods of time:
 - up to 15 consecutive days once every six months; or
 - up to 30 consecutive days once every 12 months
- **Researchers** : The work to be performed by the foreign national must meet the following requirements:
 - The foreign national intends to perform work as a researcher at a publicly funded Canadian degree-granting institution or its affiliated research institution for a period of up to 120 consecutive days; and
 - The foreign national has a significant role to play or value to add to the research project.

Immigration officials have been instructed to document a “15-day (or 30-day) work permit exemption” in the case notes. The onus is on the foreign national to provide evidence to satisfy the examining officer that they are eligible for this exemption and to demonstrate that the required amount of time has passed since the first day of work under the previous use of the exemption if they wish to use it again.

c) Work permits

There are many categories under which a work permit can be obtained:

- **Intra-Company Transferee**: An intra-company transferee exemption is one of the quickest and most convenient ways for certain categories of foreign businesspersons to work in Canada. The only ones eligible for an intra-company transferee exemption are persons in senior executive or managerial positions or **in positions requiring specialized knowledge regarding the employer’s products, services or processes and procedures**. Such persons must also have been employees of a branch, subsidiary or parent of the company located outside of Canada for at least one year and must be seeking to enter Canada to work at a senior executive or managerial level or in a position that requires specialized knowledge for a temporary period in a related Canadian company.
- **Creating Significant Employment or Other Benefits in Canada**: The “significant benefit” exemption is available if a person’s employment will create or maintain significant employment or other benefits in Canada. This exemption may be

used, for example, where an individual does not meet the requirements for the intra-company transferee exemption, but has knowledge concerning the financial, administrative, or procedural affairs of a company that has an operation in Canada, and it can be shown that significant benefits will be generated from his or her employment. However, as immigration officers are generally unwilling to exercise their discretion to grant a work permit under this category except in unusual circumstances, obtaining a work permit under this category is likely only in extraordinary circumstances.

- Entry Under Trade Agreements: Certain international trade agreements to which Canada is a party, such as the Canada-United States-Mexico Agreement (CUSMA, formerly the North American Free Trade Agreement (NAFTA)), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the General Agreement on Trade in Services (GATS), and the Canada European Union Comprehensive Economic and Trade Agreement (CETA) facilitate the temporary entry of certain categories of workers who are nationals of one of the other member states. Three categories of work permits are generally granted under these agreements:
 - traders and investors;
 - professionals, including contractual service suppliers and independent professionals; and
 - intra-company transferees.

Employers are not required to obtain Labour Market Impact Assessments (LMIA - see the Confirmed Job Offer discussion below) for foreign workers seeking work permits under these categories and entry procedures are generally streamlined.

- Confirmed Job Offer: Where the exemptions noted above do not apply and other **exempt categories are not available**, a **“Labour Market Impact Assessment”** must be obtained from Service Canada, which is a federal institution that is part of Employment and Social Development Canada.

The criteria for assessing an offer of employment to a foreign worker vary from region to region in Canada, depending on employment levels, labour market conditions and the nature of the position at issue. The critical factor is that Service Canada must be satisfied that qualified Canadians or permanent residents are not available in Canada to **perform the work at issue - that the hiring of a foreign worker will not have a negative impact on the Canadian labour market**. Generally, it is sufficient to provide evidence that **the requisite specific recruiting/advertising in Canada has been done**.

Dependents of foreign workers

A work permit generally allows the spouse (legal or common law, in each case including a same-sex spouse) and children to accompany the person authorized to work to Canada. It also permits dependent children to attend elementary and secondary schools in Canada. However, it does not authorize the spouse or the children to accept employment in Canada. In many cases, however, it will be possible for the spouse to **obtain a work permit under Canada’s Spousal Work Permit Program**.

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