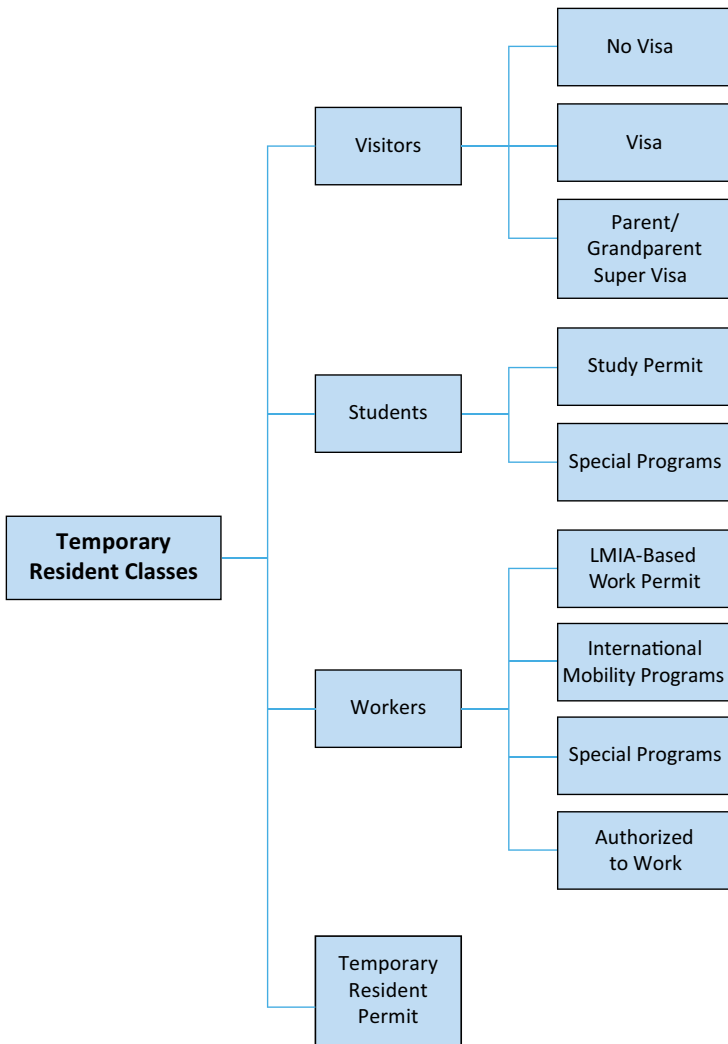


4

Temporary Resident Status: Introduction, Visitors, and Temporary Resident Permits

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FIGURE 4.1



I. Temporary Resident Status: Introduction

Obtaining entry to Canada as a temporary resident allows millions of people to visit, study, or work in Canada, which provides benefits to our economy. The government does not set annual targets for temporary resident applications as it does for permanent resident immigration; instead, it processes applications

according to demand.¹ The results of this are reflected in Statistics Canada's observation that "the number of individuals admitted annually on a temporary basis has been growing faster than the number of permanent immigrants."²

Interestingly, the data in the minister's 2019 *Annual Report to Parliament on Immigration*³ supports this trend and highlights the fact that

Canada facilitates the entry of temporary residents, comprised of visitors, foreign workers, and students. In 2018, a full 6,024,233 visas and electronic travel authorizations were issued to visitors, international students, and temporary workers, an increase of 5.2% from 2017.

Once here, workers can support innovation efforts in Canada and help Canadian firms to grow and prosper, which leads to more jobs for Canadians and a stronger economy for all. Specific industries, including some agricultural sectors, rely heavily on foreign workers during peak seasons.

Important contributions are made by foreign nationals with in-demand talent who come to Canada on a temporary basis, including through programs such as the Global Skills Strategy. Such initiatives make it easier for Canadian businesses to quickly attract the temporary foreign talent they need through a fast and predictable process.⁴

Temporary resident programs are vital to Canada's prosperity. At the same time, Canada's immigration policy recognizes that it is important to balance the need to attract foreign nationals with the need to protect the Canadian economy and Canadians by denying access to those who pose a criminal or security threat and to those whose knowledge and skill set is not required in Canada. These goals are reflected in the immigration objectives set out in section 3(1) of the *Immigration and Refugee Protection Act*:⁵

(g) to facilitate the entry of visitors, students and temporary workers for purposes such as trade, commerce, tourism, international understanding and cultural, educational and scientific activities;

1 Immigration, Refugees and Citizenship Canada (IRCC), *Annual Report to Parliament on Immigration, 2014*, Temporary Residents (Ottawa: CIC, October 2014), online (pdf): *Government of Canada* <<https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/pub/annual-report-2014.pdf>>.

2 Statistics Canada, *Foreign Nationals Working Temporarily in Canada* (last modified 23 April 2014), by Derrick Thomas, Catalogue No 11-008-X, no 90, online: <<http://www.statcan.gc.ca/pub/11-008-x/2010002/article/11166-eng.htm>>.

3 IRCC, *2019 Annual Report to Parliament on Immigration* (Ottawa: IRCC, 8 April 2020), online (pdf): *Government of Canada* <<https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/pub/annual-report-2019.pdf>>.

4 *Ibid* at 7.

5 SC 2001, c 27 [IRPA].

- (h) to protect public health and safety and to maintain the security of Canadian society;
- (i) to promote international justice and security by fostering respect for human rights and by denying access to Canadian territory to persons who are criminals or security risks.

The Importance of Keeping Informed

You can monitor the Immigration, Refugees and Citizenship Canada (IRCC) website for up-to-date information about the temporary resident programs. However, the website is not law. The website can sometimes be incorrect or incomplete, and it is no substitute for understanding the substantive law as it relates to temporary status. The IRPA and the *Immigration and Refugee Protection Regulations*⁶ contain numerous crucial details about temporary residents—including entry requirements, temporary classes, eligibility criteria, and exemptions. The minister’s operational bulletins and program delivery instructions are also an important source of information about application processes and procedures. Practitioners can stay connected with IRCC by signing up for various electronic updates at www.cic.gc.ca/english/department/media/social.asp.

II. Temporary Resident Visas—General Provisions

Temporary residents are foreign nationals who are permitted to enter and remain in Canada for a specified period of time, but who must leave by the end of the period authorized for their stay.

Section 7 of the IRPA stipulates that all foreign nationals “may not enter Canada to remain on a temporary basis without first” submitting a request for admission under the temporary resident category (which is divided into the following processing streams: visitors, students, and workers) before appearing at a port of entry (POE). Therefore, in order to gain admission to Canada as a temporary resident, a foreign national needs to submit an application to IRCC for processing, unless the person is from a visa-exempt country.⁷ A foreign national who is a citizen from a visa-exempt country can submit a request online for

⁶ SOR/2002-227 [IRPR].

⁷ See IRCC, “Entry Requirements by Country/Territory” (last modified 29 November 2019), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/entry-requirements-country.html>>.

an electronic travel authorization (eTA) for their entry at the border, although there are exceptions to this general rule (see the eTA section in this chapter).

In exceptional cases, foreign nationals may need special permission to be admitted to or to be allowed to remain in Canada, as they are “inadmissible” (IRPA, ss 34 to 42). Such foreign nationals may be granted a temporary resident permit (TRP), which will temporarily overcome their inadmissibility. In these cases, the officer must be convinced that it is “justified in the circumstances,”⁸ meaning the reasons for allowing entry clearly outweigh any health or safety risks to Canadian society. (See Section III, “Temporary Resident Permit,” in this chapter.)

Temporary Residents

A temporary resident (TR) is a foreign national who is authorized to enter and remain in Canada for a limited and temporary period.

A temporary resident visa (TRV) allows a foreign national who is a citizen of a designated country admission to Canada.

An eTA allows a foreign national who is exempt from the requirement of obtaining a TRV entry to Canada by air (an eTA is not needed for entry by land or sea).

A visitor record (VR) (IMM 1097) is a paper document that may be issued if, upon examination, an officer decides to permit entry to a foreign national for a period of less than six months, longer than six months, or if the foreign national submitted a request to extend their authorized stay as a visitor from within Canada and it has been approved. A visitor record is a document that includes conditions and the date by which the person must leave. It is not the same as a TRV, which is a counterfoil sticker.

Individuals from certain countries are required to have a valid passport and a TRV in order to be admitted into Canada.⁹ Others may be granted admission based on their nationality (and, thus, passport)¹⁰ and eTA document (if applicable). “Admission” is when a border officer allows the person entry to Canada.

There is a significant difference between a “visa” (e.g., TRV) and a “permit” (e.g., study permit or work permit).

A TRV is issued as a counterfoil document by an officer from a Canadian visa office such as a Canadian consulate, embassy, or high commission. The

8 IRPA, s 24.

9 *Ibid.*

10 A valid travel document is required for entry to Canada; see s 190 of the IRPR for TRV exemptions.

TRV is placed in the applicant's passport to identify the holder as a person who may become a temporary resident upon admission to Canada.

FIGURE 4.2



In comparison, a “permit” document (such as a work permit or a study permit), allows a person to work or study in Canada *after* she has been granted admission. In other words, the person is “permitted” to work or study in Canada after she has been admitted. (See also Section III, “Temporary Resident Permits,” in this chapter.)

This distinction is important because individuals from visa-required countries who are authorized to work or study in Canada also need a valid TRV for entry and re-entry into Canada.¹¹ When a foreign national from a visa-required country submits a work permit or study permit application, if approved, a TRV will also be granted.

A TRV is issued for a specific period of time; there is an issue date and an expiry date on the document. The foreign national is required to enter Canada between these dates; it is not indicative of the period authorized for his stay in Canada. For example, if a foreign national is issued a TRV on August 1, 2020 and the document expires on September 1, 2020, the foreign national must

¹¹ There are exceptions to this general rule; see s 190 of the IRPR for additional information.

appear at the border and request admission to Canada between those two dates. However, the foreign national is permitted to remain in Canada for up to six months or “any other period that is fixed by an officer” (IRPR, s 183(2)).

Generally, “any other period that is fixed by an officer” means:

- the officer at the border has indicated (handwritten under the admission stamp in the passport) the date by which the person must leave Canada; or
- the officer at the border has issued a permit document or a visitor record, which indicates the period authorized for the foreign national’s stay in Canada.

If the officer at the border has admitted the person and not written anything under the admission stamp in the passport, this generally indicates a legislated authorized stay in Canada of up to six months.¹²

A foreign national who is admitted to Canada on a valid passport and TRV, if required, can remain in Canada as a visitor (that is, no work permit or study permit has been issued) for the period of her authorized stay. However, if a foreign national would like to extend her stay in Canada as a visitor, she must submit a formal written request, in the form of an application, to IRCC for determination. If approved, a visitor record will be issued and will allow the foreign national to remain in Canada until the new expiry date.

A. Temporary Resident Visa Exemptions

The IRPR grant exceptions to the rule that all foreign nationals who seek temporary resident status in Canada require a TRV before arriving at a POE. Some foreign nationals may be exempt on the basis of the following:

- *Nationality.* Citizens of certain countries, including Australia, France, and Britain, and citizens of a British overseas territory do not require a TRV to enter Canada, nor do nationals or permanent residents of the United States. Section 190(1) of the IRPR provides a full list of nationality exemptions.
- *Documents.* Foreign nationals do not require a TRV to enter Canada if they hold certain documents, including a diplomat’s passport, a passport or travel document issued by the Holy See, a national Israeli passport, or certain Hong Kong passports. Section 190(2) of the IRPR provides a full list of exemptions based on the applicant’s documents.

¹² IRPR, s 183(2).

- *Purpose of entry.* Foreign nationals may be exempt from the TRV requirement if they are members of a transportation crew or are passengers on an airplane landing in Canada for refuelling. Section 190(3) of the IRPR provides a full list of exemptions based on the applicant’s purpose of entry.

It is important to note that section 190(3) of the IRPR states that a TRV is *not* required if a foreign national seeks re-entry to Canada after solely visiting the United States or St Pierre and Miquelon, and

- the foreign national held a study permit or work permit that was issued before she left Canada on the visit or was authorized to enter and remain in Canada as a temporary resident; and
- the foreign national returns to Canada by the end of the period initially authorized for her stay, or any extension to it. This is also known as the “contiguous territory” rule.

1. Electronic Travel Authorizations

Foreign nationals who are nationals from a visa-exempt country are required to obtain an eTA as of September 29, 2016 if they wish to fly or transit through Canada. Exceptions to this general rule include Her Majesty the Queen of Canada and any member of the royal family, citizens of the United States of America, and foreign nationals who hold a passport that contains a diplomatic acceptance or consular acceptance.¹³

Applying for an eTA is a mandatory online process that costs \$7 (per person) and is valid for a five-year period. The eTA is simply a mechanism for the government of Canada to monitor the border by gathering information in advance on prospective travellers to Canada for the purpose of admissibility screening. For example, when an inadmissible foreign national from a visa-exempt country appears unannounced at the Canadian border, it can be costly and burdensome on border officers and foreign nationals if they are turned around or detained.

Any person who is from a visa-exempt country and *who is flying into or transiting through Canada* must first apply for and obtain an eTA approval. An eTA must be completed for *each* family member who is flying into Canada irrespective of age or dependency.

An eTA is not required if the foreign national is travelling into Canada by boat or by motor vehicle.

Note that the eTA is linked to the foreign national’s passport, and, thus, if the passport is lost, stolen, or expires, then a new eTA must be obtained.

¹³ See IRCC, “Entry Requirements by Country/Territory” (last modified 22 June 2018), online: *Government of Canada* <<http://www.cic.gc.ca/english/visit/visas-all.asp#eta-exemptions>>.

The eTA online application service requires the foreign national to have a valid passport, credit card, and email address. The foreign national needs to fill out the form online, which asks for basic information, such as name, date of birth, and passport details. The form also asks the foreign national for the following details:¹⁴

- preferred language of communication with IRCC (English or French);
- marital status;
- whether the foreign national has multiple citizenships or permanent resident status in another country;
- how much money the foreign national will be travelling with;
- job title, occupation, and the employer's name and address;
- whether the foreign national has been denied entry into any country, including Canada;
- whether the foreign national has ever been charged with or been convicted of a crime;
- health questions; and
- the reason for coming to Canada.

Generally, the eTA application will be approved within minutes, but there are instances where IRCC will require more time. In those cases, IRCC will send the foreign national an email (within three days) that outlines the next steps.

If the person is a Canadian permanent resident, he does *not* need an eTA for air travel to Canada, irrespective of nationality. Indeed, permanent residents are not eligible for an eTA because they are by very definition not temporary residents. Rather, a person with valid permanent resident status has a right of entry to Canada (see Chapter 6, Permanent Resident Status: Introduction and Residency Requirements). To board a commercial transport carrier destined to Canada, the permanent resident is required to have a valid permanent resident card (PR card). If entering Canada in a private vehicle, a valid PR card is not necessarily required as long as the person can otherwise demonstrate that they have valid PR status (see Chapter 6).

It should be remembered that if a foreign national is from a visa-exempt country, but is inadmissible to Canada, although a TRV is not required, a TRP is necessary for admission to Canada (see Section III, "Temporary Resident Permit," in this chapter).

14 IRCC, "Apply for an Electronic Travel Authorization (eTA): How to Apply" (last modified 12 June 2018), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/eta/apply.html>>.

B. Types of Temporary Resident Visas

There are four types of TRVs, as discussed below:

1. *Single-entry visa.* A single-entry TRV is issued when the foreign national's purpose of entry is limited, such as when entry is for the purpose of participating in a one-time event (e.g., the 2015 Pan American Games) or the minister has issued country-specific instructions.
2. *Multiple-entry visa.* As of February 6, 2014, visitors to Canada are automatically considered for a ten-year multiple-entry TRV, although, quite often, the maximum validity period for a multiple-entry TRV is matched to the maximum validity of the length of the passport. It is important to note that although the TRV is valid for a ten-year period, the foreign national is not permitted to remain in Canada for ten years. Generally, as mentioned, the temporary resident is authorized to stay in Canada for up to six months, but the officer may fix any other period of stay, as set out in section 183(2) of the IRPR.
3. *Transit visa.* A transit visa is generally required for travel through Canada to another country by anyone who would need a TRV to enter Canada. The foreign national is required to show travel tickets and is authorized to remain in Canada only up to 48 hours. The government has created programs that exempt certain qualified foreign nationals from certain countries from the requirement for a transit visa (e.g., members of the Transit Without Visa Program or the China Transit Program).¹⁵
4. *Parent and Grandparent Super Visa.* As of December 1, 2011, foreign nationals who are the parents or grandparents of a Canadian citizen or of a permanent resident can apply for the Parent and Grandparent Super Visa (also referred to simply as a Super Visa). The Super Visa is generally issued for a ten-year period (or up to the applicant's passport expiry date, whichever is earlier), allows multiple entries, and permits the foreign national to remain in Canada for up to two years at a time.¹⁶ The traveller should make sure to specifically request from the POE officer the full two-year duration, if such length of stay is desired. Keep in mind that the duration of stay authorized at the POE is always at the discretion of the officer admitting the individual.

15 See IRCC, "Transit Without Visa Program: Find out if You're Eligible" (last modified 5 November 2019), online: *Government of Canada* <[http:// https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/transit/without-visa.html](http://https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/transit/without-visa.html)>.

16 IRCC, "Super Visa (for Parents and Grandparents): About the Document" (last modified 1 February 2019), online: *Government of Canada* <[http:// https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/parent-grandparent-super-visa/about.html](http://https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/parent-grandparent-super-visa/about.html)>.

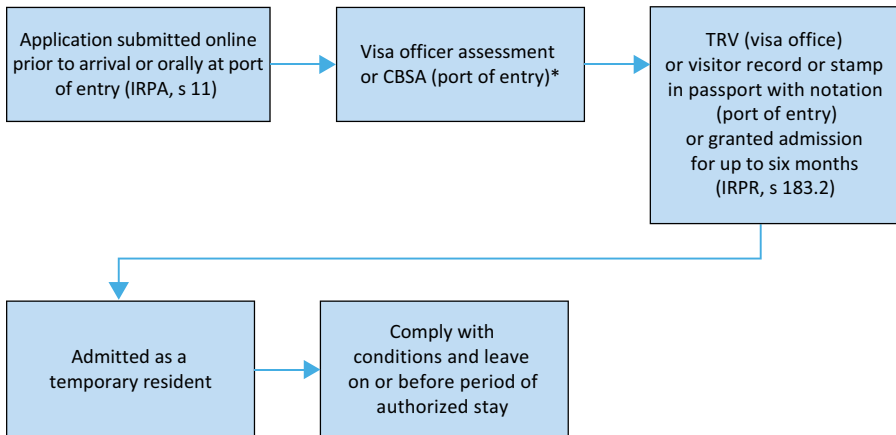
C. General TRV Application Requirements

Foreign nationals who require a TRV must submit a formal, written application (IRPR, s 10) along with the necessary supporting documentation. Generally, applicants are required to submit their application packages to the address specified on the department's website.

Applicants can submit the TRV application online or through a visa application centre (VAC), which is the exclusive service provider for the government of Canada and is authorized to receive applications for TRVs, study permits, work permits, and travel documents for permanent residents. The VAC, which was implemented as a cost-savings measure, provides administrative assistance and collects biometric data. VAC representatives review application forms and ensure that they are “complete” according to IRCC standards so that they can be transmitted to the Canadian visa office for processing and finalization. VAC representatives cannot offer legal advice, are not responsible for the content of any application, and cannot advise on whether a document request will be granted.

The general temporary resident admission process is illustrated in Figure 4.3.

FIGURE 4.3



*Individuals who do not require a visa for entry to Canada as a visitor will need an eTA, unless they qualify under an exemption.

Section 179 of the IRPR sets out the basic criteria for a TRV to be issued to a person who would like entry to Canada as a visitor, student, or worker. A TRV may be issued only if an examination establishes that the foreign national:

- has applied in accordance with the regulations for her particular temporary resident class;
- has applied—to the appropriate office or online—as directed by the department’s website (IRPR, s 11);
- will leave Canada by the end of the period authorized for his stay in Canada;
- has paid the required processing fees;
- holds a passport or similar document that may be used to enter the country that issued it, or another country;
- meets the medical examination requirements set out in section 30 of the IRPR, if applicable;
- meets the requirements applicable to the temporary resident class (visitor, student, or worker); and
- is not inadmissible.

It is important to note that there is a program called the “Visitor Visas for Workers and Students: How to Apply from Inside Canada” category.¹⁷ This in-Canada TRV application process allows individuals who are already in Canada on a valid worker or student authorization to submit a TRV application to the case processing centre (CPC) in Ottawa.

The program was created because study permits and work permits were being issued for longer periods of time or being renewed from within Canada. As a result, the TRV document in the foreign national’s passport would expire. This meant that the foreign national could remain in Canada due to her lawful status (that is, valid status on a work permit or study permit) and could depart Canada at any time, but she would not be able to re-enter Canada unless she had a valid TRV.

Because the law clearly states that visa-required foreign nationals should obtain a TRV *before* entering Canada, meaning that foreign nationals in Canada on valid worker or student authorizations would need to submit TRV applications to a consulate outside Canada for processing, this administrative process was quite burdensome for the foreign national and IRCC. As a result, the in-Canada TRV application process was created.

17 IRCC, “Visitor Visas for Workers and Students: How to Apply from Inside Canada” (5 February 2020), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/apply-new-temporary-resident-visa-within-canada.html>>.

1. Application Documents

A foreign national is deemed to have applied for a TRV as a member of the visitor class when he has submitted a number of forms and documents that support the application. The following are examples of the forms and documentation required:

- a completed application package, including fee payment (see the box below);
- a valid passport or travel/identity document or document listed under section 52(1) of the IRPR;
- recent passport-sized photos for each family member;
- proof of custody and/or a letter of consent from the custodial parent in a case where a child under 16 years of age is travelling either alone or with an adult other than the parent or guardian;
- proof of current immigration status, if the foreign national is not a citizen of the country in which she is applying;
- biometric information (fingerprints) for citizens from certain countries; and
- proof of the applicant's ability to adequately cover all reasonable expenses (both for the applicant and for any accompanying family members) to be incurred during the stay in Canada.

The Application Package

It is advisable to consult the IRCC website for the most up-to-date application package, because the forms are amended frequently and the list of supporting documents can change. All applications being submitted to IRCC for processing should follow the checklist and can include additional supporting documentation not mentioned on the checklist, should the circumstances require it.

Generally, an application package for visitor status may include the following forms:

- the appropriate visa or visitor record application form (e.g., IMM 5257 for a TRV or IMM 5708 for a visitor record request);
- Family Information (IMM 5645 or IMM 5707);
- Statutory Declaration of Common-Law Union (IMM 5409), if applicable;
- Schedule 1: Application for Temporary Resident Visa (IMM 5257B);
- country-specific forms (if applicable);

- Document Checklist (IMM 5484); and
- Use of a Representative (IMM 5476).

Fillable versions of forms are available on the IRCC website and, in many cases, may be submitted via IRCC's online portal.

There are also cost-recovery processing fees and biometric fees (for some foreign nationals) that must be paid at the time of application. If the applicant is submitting a paper application kit, she must print out and include a fee receipt showing that the fee has been paid online through the IRCC portal/website.

The most current instructions for visitors to Canada can be found on the IRCC website at <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides.html>.

Applicants may also need to provide other supporting documentation to convince the officer that they have a temporary intention and will return to their country of residence at the end of the period authorized for their temporary stay. For example, an applicant may choose to submit a letter from his employer or his school in the country of residence to indicate that the applicant is expected to return. The applicant might also tender evidence to show that family members such as children or elderly parents in the home country are reliant on him to return at a specific time. These are just two of many possible examples.

It is important to note that the applicant is required to submit all of the supporting documentation necessary to demonstrate the bona fides of his request, whether or not it is on the IRCC checklist. The onus is on the applicant to demonstrate that he meets the requirements and, thus, should be issued a TRV or visitor record. The checklist merely sets out the minimal requirements for the application to be considered complete. It could never cover every possible scenario, and it is not by any means supposed to be viewed as exhaustive.

Biometric Information

Applicants applying for a TRV, work permit, or study permit, and who are between the ages of 14 and 79, are required to present themselves to a VAC for the collection of biometric information—currently fingerprints and photographs—to confirm the applicant's identity. Individuals must pay a fee directly to the VAC to have this information collected. Individuals who are from a visa-exempt country will need to provide biometrics only if they are applying for a work permit or study permit (or TRP).

Individuals who are in Canada or the US¹⁸ can book an appointment at a designated Service Canada office (SCO) or a US Application Support Center (ASC) to provide their biometrics. Walk-in biometric collection is not available.

The IRCC website states that the purpose of collecting such information is to make it more difficult for someone to forge, steal, or use the applicant's identity; resolve problems or errors that may occur if the applicant's name, date of birth, and/or place of birth are similar to those of someone else; and make it easier for the applicant to re-enter Canada the next time he applies or travels. The examining officer at the POE will use the biometric information to confirm the traveller's identity upon arrival in Canada.¹⁹

2. Place of Application

Applicants outside Canada seeking a TRV are required by section 11 of the IRPR to submit their application online or to the VAC that is responsible for processing TRVs, as indicated by the departmental website.

If a temporary resident would like to extend her stay from within Canada as a visitor, she must submit an application request for a visitor record online or by mail to the CPC in Edmonton, Alberta.

3. Intention to Depart Canada

According to section 20(1)(b) of the IRPA, a foreign national must satisfy an officer that he will leave Canada at the end of the period authorized for his temporary stay. This requirement is by far the most common reason for rejection of a temporary resident application, and therefore special attention must be paid to explaining and documenting the applicant's honest intention to return home after a temporary stay in Canada.

An officer considers a variety of factors in determining an applicant's intention, including, but not limited to, the following:

1. whether the applicant has family or economic ties to his country of residence;
2. whether the applicant has sufficient funds for his stay in Canada;

18 For details on where to provide biometrics, see "Where to Give Your Fingerprints and Photo (Biometrics)" (last modified 8 June 2020), online: *Government of Canada* <<https://www.cic.gc.ca/english/information/where-to-give-biometrics.asp>>.

19 IRPR, s 12.1; see also IRCC, "Facts About Biometrics" (last modified 24 January 2020), online (video): *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/campaigns/biometrics/facts.html>>.

3. the applicant's immigration status in his country of residence;
4. the economic and political conditions in the applicant's country of residence;
5. the applicant's obligations or responsibilities in his country of residence;
6. the applicant's travel history; and
7. whether the applicant has family ties in Canada.

Each application is decided on a case-by-case basis, so it is important to submit any pertinent documentation to demonstrate the applicant's temporary intention (or to declare the applicant's dual intention [IRPA, s 22(2)], if applicable).

a. Family and Economic Ties

The officer will consider whether the applicant has any family members living in her country of residence, the degree and strength of the relationship (e.g., sibling or cousin), and whether the applicant has family in Canada. If the applicant does not have family in her country of residence, it may be more of a challenge for her to demonstrate that she will return to her "home" country. If the applicant has a lot of family in Canada, it can be a challenge to demonstrate that this would not be a motivation for the applicant to overstay her status in Canada.

The officer will also consider the applicant's employment status and economic ties in her country of residence. The officer will review the applicant's employment history and will consider facts such as salary/wage, longevity with the current employer, employment history, and the type of employment the applicant holds. The officer will consider whether the applicant's employer is aware of and supports the temporary absence from work. This is all with a view to determining whether the applicant is sufficiently established in her own country to motivate her to return there after her temporary stay in Canada.

Other economic ties to be considered include ownership of property in the country of residence and the value of the property, as well as ownership of other financial tools such as stocks, bonds, and retirement plans. Significant holdings may, in the officer's opinion, suggest ties strong enough to indicate an intention to return.

b. Financial Self-Sufficiency

The applicant must prove that he has sufficient funds to support himself as well as any accompanying family members while in Canada. The amount of money an officer believes is necessary for the temporary stay in Canada will vary according to the circumstances of the visit—for example, the length of the stay and whether the applicant will need to pay for accommodations.

The following are examples of the kind of supporting documents that could be included as evidence of an applicant's financial resources:

- bank statements or deposit books that show accumulated savings (for the applicant and spouse, if applicable);
- letters of employment providing the name of the employer, the applicant's position/occupation, the date that the employment commenced, and annual earnings (for both applicant and spouse, if applicable);
- evidence of assets in the country of residence, such as property deeds and car ownership;
- documentation pertaining to retirement savings, pension plans, stocks, bonds, etc.; and
- evidence of income from any rental properties.

Irrespective of whether the applicant has sufficient funds to support his stay in Canada, the host or family member in Canada is encouraged to also provide documentation to demonstrate that they have the ability to provide financial support for the application, if applicable. In this instance, the host should provide a detailed letter of invitation that outlines their financial stability, resources, and income. Although the onus is on the applicant to demonstrate that he has sufficient funds to support his stay in Canada, the officer will consider the financial ability and willingness of the host or family member to also lend support.

c. Immigration Status

The officer will take into consideration the applicant's immigration status in their current country of residence. TRV applicants are able to apply to come to Canada from any country; however, a lack of status in the country that they are applying from may undermine their ability to convince the Canadian visa officer that they will not do the same in Canada if granted a TRV. For example, if a foreign national was working illegally in the United Kingdom, it would be significantly harder to convince the officer that the foreign national would abide by Canada's immigration laws (as they aren't abiding by the immigration laws in their current country of stay).

In comparison, if a foreign national is lawfully working in the United Kingdom and submits a TRV application to the Canadian High Commission (CHC) in London for processing, the CHC in London will consider the pattern of immigration compliance and would likely render a positive decision.

d. Economic and Political Conditions

The officer is permitted to consider all of the applicant's circumstances, including the economic and political situation in the applicant's country of residence.

Even if the applicant's ties to the home country are strong, unstable economic or political conditions may affect the outcome of a request for a TRV.

Although officers are encouraged to use their knowledge of local conditions in making their decisions, they cannot stereotype or generalize applicants based on country conditions without first confronting an applicant with their concerns and allowing an opportunity to respond.²⁰ Officers must also engage with the evidence in the application and consider each application on its own merits.²¹ Failure to do so is a reviewable error that could be challenged in the Federal Court.

e. Other Obligations and Responsibilities

When reviewing a TRV application, the officer may consider any other material factors or extrinsic²² information that is public, such as information from the Internet or information that was previously submitted to IRCC by the applicant himself. These factors could include social media profile details, newspaper articles about the applicant, or a prior TRV application.

It is important to remember that the onus to provide sufficient evidence to support the applicant's case rests on the applicant. A failure to provide supporting documentation may result in the TRV application being refused. However, the Federal Court has consistently stated that the principles of procedural fairness exist in immigration processing. As a result, the applicant's right to disabuse an officer of any concerns before a decision is rendered should be proportionate to the complexity of the application and should consider the nature of the application. In other words, officers must meet this requirement in all cases, but to different degrees.²³ If an officer has serious concerns or considers extrinsic evidence, the officer must advise the applicant of the case to be met and allow the applicant an opportunity to respond.

As a matter of practice, practitioners should always review previously submitted immigration applications (when possible), research the applicant online to see what an officer may discover, and ensure that a well-thought-out application outlining any obligations or responsibilities (such as caring for an elderly parent, etc.) with relevant supporting documentation is submitted for processing.

20 See *Lin v Canada (Minister of Citizenship and Immigration)*, 2004 FC 96.

21 *Ibid.*

22 Extrinsic evidence is *usually* evidence that is derived from sources other than the applicant. The source and content of the extrinsic evidence—that is, whether the information is known to the applicant or whether it is a truly public or confidential document—will be a consideration in the degree to which the principle of a “right to disabuse the officer of any concerns” is owed to the applicant.

23 IRCC, *OP 1: Procedures*, s 8 at 45 (31 March 2017), online (pdf): *Government of Canada* <<https://www.canada.ca/content/dam/ircc/migration/ircc/english/resources/manuals/op/op01-eng.pdf>>.

In *Ardiles v Canada (Minister of Citizenship and Immigration)*²⁴ the Court determined that procedural fairness is required when the applicant had no knowledge of or was unaware of the fact that previously submitted immigration records still existed, as the applicant had been told they were destroyed. Specifically, the Court stated that the officer read the file, but did not rely on any of the content when she rendered her negative decision. However, since the applicant “had no knowledge” of its existence, there was a perception of unfairness and breach of duty, thus procedural fairness was owed. The Court stated:

[29] In the case at bar, having regard to the words “not brought forward by the applicant” used by Hugessen J.A. to qualify the term “extrinsic evidence,” and his reference to Muliadi, I interpret the term “extrinsic evidence not brought forward by the applicant” as evidence of which the applicant is unaware because it comes from an outside source. This would be evidence of which the applicant has no knowledge and on which the immigration officer intends to rely in making a decision affecting the applicant. While this would include information obtained from an outside party as in Muliadi, I fail to see why it would not also include evidence from a spouse obtained separately from the applicant, or other information in the immigration file that did not come from the applicant, of which the applicant could not reasonably be expected to have knowledge.

[30] He went on the state at para. 23 that the relevant point is “whether the applicant had knowledge of the information so that he or she had the opportunity to correct prejudicial misunderstandings or misstatements”. In the case at bar, the Respondent concedes that the information in the Applicants’ backlog file was “extrinsic” in the sense that it emanated from sources other than the Applicants themselves. Further, neither the Applicants nor their counsel were ever notified that the backlog file had been located until they read the Immigration Officer’s notes, which were only forwarded after this application for leave was filed in January 2002 and that following a specific request which had been submitted by counsel. At all times, they had been led to believe that the paper file no longer existed, which put them in the difficult position of having to prove by other means the truth of their claim. ...

[36] This is clearly a borderline case. Even though the Immigration Officer stated that she did not consider the information to be “extrinsic” and that, in any event, she did not rely on it, the non-disclosure of this relevant information leads to a perception of unfairness and breach of duty. Further, I cannot conclude that the breach of natural justice was so minor in extent and could not have appreciably affected the final decision.

24 2002 FCT 1323. Although this was a PR application, the principle of procedural fairness and consideration of old immigration applications is relevant.

In contrast, the Court in *Shao v Canada (Citizenship and Immigration)*²⁵ concluded that the officer was not obligated to advise the applicants of the existence of documents or potentially damaging evidence that the applicants themselves had previously submitted to IRCC. A distinguishing point was the fact that in *Ardiles*, the applicants had no way of knowing that the other immigration records still existed (they were told they had been destroyed), whereas in *Shao*, the applicants simply forgot about the previous immigration applications (the contents of which could have supported their current application).

[26] ... [I]n this case the Applicants contend that they were denied procedural fairness because the Officer did not advise them of the existence of documents that one or both of them had completed and submitted. This simply cannot be right.

Procedural fairness requires decision-makers to ensure that the essence of their concerns and the specific provisions of the IRPA at issue are communicated to the applicant, and that the applicant has a reasonable opportunity to respond.

Although there is no appeal mechanism for TRV or visitor record applications, it is possible to request leave for a judicial review of the Federal Court of Canada.

f. Dual Intent

A foreign national who has submitted an application for permanent resident status or intends to become a permanent resident, after being granted temporary resident status, has a dual intention and is not necessarily precluded from becoming a temporary resident.

In order to be granted status as a temporary resident in Canada, an applicant must have an intention to remain *temporarily*. However, if an applicant has applied for or would like to apply for permanent resident status, then he has an intention to remain *permanently* in Canada. These two intentions can be perceived to inherently conflict with each other. The applicant can address this by requesting the officer to consider his “dual intention” (IRPA, s 22(2))²⁶—that although the applicant would like to live in Canada permanently, he will abide by the rules for temporary residents.

²⁵ 2018 FC 610.

²⁶ It is important to note that the applicant should invoke this section of the law. The officer is not obligated to consider it unless the applicant has asked for consideration under the section.

The IRCC policy pertaining to dual intent²⁷ states:

Assessing an application where there are dual intent implications is no different from assessing any other temporary residence application. Each applicant receives the benefit of a procedurally fair, individual assessment. The applicant must, in turn, satisfy the officer that they meet all the requirements of the IRPA and the IRPR relating to temporary residence, before any temporary residence application is approved. ...

The existence of 2 different intents is not, in itself, reason to refuse a temporary residence application. If the officer is satisfied that the applicant would leave Canada after their authorized stay, regardless of the outcome of any future potential permanent residence application, the temporary residence application may be approved.

The possibility that an applicant for temporary residence may, at some point in the future, be approved for permanent residence does not absolve the individual from meeting the requirements of a temporary resident, specifically, to leave Canada at the end of the period authorized for their stay, in accordance with section R179.

As with all entries to Canada, a foreign national must satisfy the officer abroad—if he is from a TRV-required country—and the officer at the POE that he has the ability and willingness to depart Canada at the end of the temporary period for which he has been authorized. The fact that a foreign national has been issued a TRV does not in itself guarantee admission to Canada. Under section 180 of the IRPR, the foreign national must not only meet the requirements for issuance of the visa at the time it is issued, but must continue to meet those requirements at the time of the examination on entry into Canada.

4. Processing Fees

Applicants for a TRV must pay a processing fee.²⁸ The amount for a multiple-entry TRV or a single-entry TRV is the same as that for a Super Visa, and there is no fee for a transit visa if that is being requested. Furthermore, there is no fee for a TRV if a work or study permit is being requested at the same time. Fees and exemptions are set out in the IRPR and are subject to change: section 296 (TRVs), section 298 (TRPs), section 299 (work permits), and section 300 (study permits).

Processing fees are non-refundable, even if the application is refused.

27 IRCC, “Temporary Residents: Dual Intent” (last modified 13 March 2019), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/visitors/dual-intent-applicants.html>>.

28 See IRCC, “Fee List” (last modified 1 June 2020), online: *Government of Canada* <<https://www.cic.gc.ca/english/information/fees/fees.asp>>.

It should be noted that some visitor class applicants are exempt from paying the processing fee (IRPR, s 296):

- diplomats, who are always fee-exempt, regardless of whether the purpose of their visit is official;
- members of the armed forces who comply with the *Visiting Forces Act*;²⁹
- members of the clergy and religious groups who are visiting for certain religious purposes;
- competitors, coaches, judges, team officials, medical staff, or members of a national or international sports organizing body who are participating in the Pan American Games, or performers participating in a festival associated with the games;
- applicants who are applying at the same time and place for a work permit or a study permit;
- persons who enter Canada
 - for the purpose of attending meetings hosted by the government of Canada, an organization of the United Nations, or the Organization of American States as participants;
 - for the purpose of attending meetings as representatives of the Organization of American States or the Caribbean Development Bank; or
 - for the purpose of attending meetings hosted by the government of Canada, an organization of the United Nations, or the Organization of American States at the invitation of the government of Canada; and
- travellers who are in transit for a period of less than 48 hours to a destination other than Canada, or who are travelling through or stopping over in Canada for refuelling.

Current processing fees for each type of visa are listed on the IRCC website.

5. Passport and Travel Documents

In order to be granted admission to Canada, a foreign national must have a passport or travel document (e.g., NEXUS card or UN *laissez-passer* document) that is valid for the period authorized for her stay. The details of what documents are acceptable for entry to Canada are set out in section 52 of the IRPR.

With respect to TRV processing, an officer will usually not issue a TRV for a duration that extends beyond the foreign national's passport validity period. Therefore, if a foreign national's passport is soon to expire, the foreign national should renew it before applying for a TRV or requesting entry to Canada.

There are exceptions to the general rule. Certain individuals do not need a passport or travel document for entry to Canada, in accordance with section 52(2) of the IRPR, which outlines the exceptions as follows:

²⁹ RSC 1985, c V-2.

- (a) citizens of the United States;
- (b) persons seeking to enter Canada from the United States or St Pierre and Miquelon who have been lawfully admitted to the United States for permanent residence;
- (c) residents of Greenland seeking to enter Canada from Greenland;
- (d) persons seeking to enter Canada from St Pierre and Miquelon who are citizens of France and residents of St Pierre and Miquelon;
- (e) members of the armed forces of a country that is a designated state for the purposes of the *Visiting Forces Act* who are seeking entry in order to carry out official duties, other than persons who have been designated as a civilian component of those armed forces;
- (f) persons who are seeking to enter Canada as, or in order to become, members of a crew of a means of air transportation and who hold an airline flight crew licence or crew member certificate issued in accordance with International Civil Aviation Organization specifications; or
- (g) persons seeking to enter Canada as members of a crew who hold a seafarer's identity document issued under International Labour Organization conventions and are members of the crew of the vessel that carries them to Canada.

It is important to note that foreign nationals who fall within the scope of section 52(2) of the IRPR still need to provide proof of their status—that is, national ID card, birth certificate, certificate of citizenship, and so on—for admission to Canada. In addition, although section 52(2) of the IRPR allows certain individuals to be exempt from the passport or travel document requirement, airlines and organizations providing other forms of transportation have rules and regulations that often require a passport or travel document.

6. Medical Examinations

Under section 30(1) of the IRPR, medical examinations are required in the context of temporary resident applications when:

- the foreign national is seeking entry into Canada or applying for a renewal of a work or study permit or authorization to remain in Canada, as a temporary resident for a period in excess of six consecutive months, including an actual or proposed period of absence from Canada of less than 14 days; or
- the foreign national resided or sojourned for six or more consecutive months in a designated country or territory during the one year immediately preceding the date of seeking entry to Canada; or
- the foreign national is seeking to work in Canada in an occupation in which the protection of public health is essential.

Medical examinations must be performed by an IRCC-designated panel physician³⁰ and are valid for a 12-month period.

In certain circumstances, a foreign national seeking to stay in Canada for six months or longer may be exempt from the medical examination requirement. Section 30(1) of the IRPR lists the following exempt persons:

- an accredited foreign representative (IRPR, s 186(b)) entering Canada with the purpose of carrying out official duties, unless that person seeks to engage or continue in secondary employment in Canada;
- a family member of an accredited foreign representative, as listed in section 186(b) of the IRPR, unless that family member seeks to engage or continue in employment in Canada;
- a member of the armed forces of a country that is a designated state for the purposes of the *Visiting Forces Act* who is entering or is in Canada to carry out official duties, other than a person who has been designated as a civilian component of those armed forces, unless that member seeks to engage or continue in secondary employment in Canada;
- a family member of a protected person, if the family member is not included in the protected person's application to remain in Canada as a permanent resident; and
- a non-accompanying family member of a foreign national who has applied for refugee protection outside Canada.

If a medical examination is needed, the applicant may complete an upfront medical exam, as it would save time in the processing of their temporary resident application. Generally, medical exams include the completion of a medical history questionnaire, a physical exam (blood pressure, height, weight, etc.), chest x-rays, and other laboratory tests. Applicants have the right to have a chaperone with them at any time during the medical exam; however, it is recommended that this type of accommodation be arranged at the time of booking the medical appointment.

Once the medical exam is completed, the applicant must include a copy of the eMedical printout when submitting their application. However, if the applicant took the medical *after* they submitted their temporary residence application, no additional action is required by the applicant once the medical has been completed.

30 To find a panel physician, see “Find a Panel Physician” (last modified 15 November 2018), online: *Government of Canada* <<https://secure.cic.gc.ca/pp-md/pp-list.aspx>>.

D. Decision on Application

A TRV is issued only when the officer is satisfied that the applicant meets the requirements of the IRPA and its regulations (IRPA, s 22; IRPR, s 179)—namely, that the applicant has:

- fulfilled certain application obligations;
- met the criteria for the particular class of temporary resident that he has applied under; and
- shown that he is not inadmissible.

Applications for a TRV may be refused for any of the following reasons:

- the applicant does not meet the eligibility criteria for the particular class of temporary resident;
- the applicant (or any family member) is inadmissible on the grounds of security risk, human or international rights violations, serious criminality, criminality, organized criminality, health risk, financial reasons, misrepresentation, or non-compliance with the IRPA, or because of an inadmissible family member; or
- the officer is not satisfied that the applicant will leave by the end of his stay.

E. Examination at Port of Entry

As previously noted, obtaining a TRV does not guarantee admission to Canada. Anyone who seeks entry to Canada, including temporary residents, must be examined by an officer in accordance with section 18 of the IRPA. Therefore, when the person arrives at a Canadian POE seeking admission, an officer from the Canada Border Services Agency (CBSA) decides whether to allow entry and under what conditions. A change in a foreign national's circumstances between the time that he acquired a TRV and the time of his arrival in Canada, or additional information about the individual that has come to light, could result in his being refused entry despite holding a valid visa. In other words, a TRV allows a foreign national to travel to a Canadian POE to request admission to Canada as a visitor; however, admission depends on the border officer's final determination.

Generally, a temporary resident's passport or travel document is electronically scanned and then stamped at the POE to show the date of arrival to Canada; it may also indicate the required date of departure from Canada. On the other hand, if the officer has any doubts about the foreign national's intention to live up to the terms and conditions of admission, they may be refused

entry to Canada or a security deposit may be imposed (for further details, see Chapter 14, Immigration Hearings and Detention).

In July 2019, the government of Canada began to electronically collect all entry and exit information by land and in the summer of 2020, regulatory amendments pertaining to data collection for travellers who arrived by air came into force. The government has advised that the collection of this basic data will enhance CBSA's (and IRCC's) ability to manage border security and maintain the integrity of Canada's immigration system.³¹

F. TRV Conditions

Temporary residents must comply with any conditions under section 183 of the IRPR. There are general conditions that are automatically imposed on all TRVs issued. Among them are the following requirements:

- to leave by the end of the authorized period of stay, and
- not to study or work without the appropriate permit.

G. Status Change or Extension of a Temporary Resident Visa

After admission has been granted, a temporary resident may not change status—for example, to study or work in Canada—without proper authorization. Interestingly, if a visitor in Canada would like to obtain a work or study permit, the application must be processed at a visa office outside Canada. Generally speaking, a visitor cannot be granted an initial work or study permit from a processing office within Canada, although there are a few exceptions to this rule. If a foreign national who is in Canada as a visitor would like to work or study, he needs to submit a complete application kit in accordance with section 10 of the IRPR for processing and determination. If approved, the foreign national needs to depart Canada and re-enter so that he may be issued the permit at the border.

If a foreign national would like to extend his stay in Canada as a visitor, he must submit an application request for a visitor record online. If the foreign national cannot apply online due to a disability or a technical error with the online process, they may submit a paper application with the requisite fee and supporting documentation to the CPC in Edmonton, Alberta.

Under section 183(5) of the IRPR, so long as a temporary resident in Canada has applied to extend her status *before* the expiry of her authorized stay

31 See CBSA, “Entry and Exit Information” (last modified 11 May 2020), online: *Government of Canada* <<https://www.cbsa-asfc.gc.ca/btb-pdf/ebsiip-asfipi-eng.html>>.

in Canada, the person will continue to have legal or “implied status” in Canada. As outlined earlier, a border officer will indicate the period authorized for the foreign national’s stay in Canada by writing it under the entry stamp, issuing a visitor record, or doing nothing and allowing entry for up to six months (as permitted by law). So long as the foreign national either departs Canada or submits an application to extend her time in Canada as a visitor *before* the expiry of the time she is allowed to stay, the foreign national will have implied status.³²

In the past, there was debate as to when the application was considered to be “made”—the date prescribed by the common law postal rule³³ (the date it was mailed to IRCC) or the date of receipt. IRCC has resolved this issue by making it mandatory for visitors to extend their stay via the online process. Since submission of the application and receipt of the application are simultaneous when done online, there is now no longer any possibility for confusion.

It is important to note that if an application to extend a foreign national’s stay in Canada, while the foreign national has implied status in Canada, is deemed by IRCC to be incomplete then IRCC will advise the applicant to depart Canada immediately, although the applicant may be eligible to submit an application for restoration of status (IRPR, s 182).

1. Loss and Restoration of Temporary Resident Status

In accordance with section 47 of the IRPA, a temporary resident may lose temporary resident status:

- at the end of the period authorized for her stay in Canada;
- on a determination by an officer or the Immigration Division of the Immigration and Refugee Board that the foreign national has failed to comply with a condition or requirement of the IRPA; or
- on cancellation of a TRP.

If a foreign national who is in Canada as a visitor remains in Canada beyond the period authorized for her stay (that is, she has overstayed), the foreign national may submit an application for restoration of status within 90 days of

32 IRCC, “Temporary Resident: Implied Status (Extending a Stay)” (last modified 14 August 2019), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/visitors/implied-status-extending-stay.html>>.

33 Generally, application of this common law rule will depend on the wording of the legislation or ministerial instruction, but often for PR applications, it is the date of receipt: see *Hamid v Canada (Minister of Citizenship and Immigration)*, 2006 FCA 217; *Salahova v Canada (Citizenship and Immigration)*, 2010 FC 352; *Castro v Canada (Minister of Citizenship and Immigration)*, 2005 FC 659.

having lost her status. However, if more than 90 days have passed, the foreign national must depart Canada.³⁴ The applicant may also consider applying for a TRP, but only if the circumstances sufficiently justify it. Keep in mind that the applicant remains out of status while waiting for a decision on a restoration application or a TRP application.

A restoration of status may be granted only if the temporary resident (visitor, worker, or student) has continued to comply with the initial requirements for her stay in Canada but has failed to comply with one or more of the subsequent requirements by:

- remaining in Canada longer than the period authorized for her stay;
- changing the conditions of her studies—for example, their type or their times and periods of the studies—without permission, if they were specified on the study permit as a condition; or
- changing employers, type of work, or location of work, without applying to change the conditions, if they were specified on the work permit.³⁵

Therefore, a temporary resident whose temporary resident status has expired is not eligible to apply for an extension but may apply for restoration of status, provided that the 90-day period has not passed. There is no guarantee that the application for restoration of status will be approved; however, the application should include an explanation for the failure to comply, with as much supporting evidence as possible.

H. Letter of Invitation

In many cases, it is recommended that the foreign national submit a letter of invitation in support of an application, because it may help to convince the officer that the foreign national intends to visit temporarily and has additional financial support from a friend or family member (“the host”). It is important to note that a detailed invitation letter is required for Super Visa applicants.

The letter should set out important information about the host, such as the person’s name, date of birth, contact information, status in Canada, occupation, and the number of people residing in the household. The letter should clearly state that the friend or family member promises to support the temporary

34 Note that the foreign national could submit an application for TRP (IRPA, s 24). The success of this request would depend on the circumstances of the case.

35 See IRCC, “Restoration of Temporary Resident Status” (last modified 8 April 2020), online: *Government of Canada* <<http://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/visitors/restoration-status.html>>.

resident during his stay in Canada, and should include a description of the type of financial assistance offered—for example, accommodation, transportation costs, and medical costs.

The letter should also include similar information about the person being invited, including the foreign national's name and contact information, the person's relationship to the host, the expected length of the visit, and arrangements for accommodation while in Canada. The letter may be notarized, but this is not a requirement.

The following additional documents and evidence may be enclosed in support of the letter of invitation:

- proof of the host's financial stability and/or income (e.g., the last several Canada Revenue Agency notices of assessment, a letter from the host's employer, pay stubs, evidence of home ownership [if applicable], or bank statements);
- evidence of the host's relationship to the applicant (e.g., birth or marriage documents, photos, Facebook printout demonstrating the longevity of the friendship, or telephone records);
- evidence of the reason for the visit to Canada (e.g., wedding);
- evidence of the size of the family living in the home (e.g., school records, birth certificates, bills in the name of the family member, or tax documents);
- medical insurance for the duration of the foreign national's temporary stay; and
- if applicable, evidence that the host has previously hosted foreign nationals from visa-required countries before (including other family members or friends).

I. Parent and Grandparent Super Visa

The Parent and Grandparent Super Visa was created to help ameliorate the negative effects on families of strict application quotas and lengthy processing times. The Super Visa allows family members to be reunited in Canada for much longer periods of time, creating more desirable conditions than a regular six-month visit. With a Super Visa, the foreign national is allowed to stay for up to two years at a time without the need to renew the TRV, and may re-enter Canada multiple times over a ten-year period (the time period for which a Super Visa is valid).³⁶

The Super Visa requires all applicants to undergo a medical examination³⁷ and to purchase private medical insurance that is valid in Canada for at least

³⁶ See *supra* note 16.

³⁷ The medical examination must be conducted by an IRCC-designated panel physician.

one year from the applicant's date of entry. The medical insurance must contain the minimum coverage of Cdn\$100,000 for health care, hospitalization, and repatriation.

Applicants must also provide clear and unequivocal evidence of the familial relationship (blood or adoption) between the parent or grandparent and the Canadian citizen or permanent resident (e.g., birth certificates).

Moreover, the child or grandchild in Canada must provide a written commitment of financial support that sets out the living arrangements, care, and support for the duration of the parent's or grandparent's stay in Canada. Specifically, the child or grandchild must establish that he meets a minimum income threshold called the low-income cut-off (LICO). The LICO is set out in a table³⁸ that is updated every year. This is another reason why the letter of invitation must include details regarding the number of members in the family unit (the "sponsoring" child or grandchild, his spouse and dependants, and the visiting parents and/or grandparents) and the number of people residing in the household.

Table 4.1 provides the LICO table that was effective from January 1 to December 31, 2020:

TABLE 4.1 Low-Income Cut-Offs, 2020

SIZE OF FAMILY UNIT	MINIMUM NECESSARY INCOME
1 person (your child or grandchild)	\$25,921
2 persons	\$32,270
3 persons	\$39,672
4 persons	\$48,167
5 persons	\$54,630
6 persons	\$61,613
7 persons	\$68,598
For each additional person more than 7	\$6,985

Source: IRCC, "Guide 5256: Applying for Visitor Visa (Temporary Resident Visa)" (last modified 16 April 2020), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/guide-5256-applying-visitor-visa-temporary-resident-visa.html>>.

38 See IRCC, "Guide 5256: Applying for Visitor Visa (Temporary Resident Visa)" (income table) (last modified 16 April 2020), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/guide-5256-applying-visitor-visa-temporary-resident-visa.html>>.

III. Temporary Resident Permit

A TRP is granted in exceptional circumstances (IRPA, s 24) and was previously commonly known as a “minister’s permit.” This document is necessary when a foreign national does not meet the requirements of the Act or is inadmissible³⁹ under the IRPA.

A TRP is the “temporary” fix to the situation, whereas something like rehabilitation is the “permanent” fix to inadmissibility issues involving criminality⁴⁰ (see Chapter 3, Admissibility).

A TRP is a discretionary instrument that provides the minister with the flexibility to address exceptional circumstances where an applicant is ineligible or inadmissible, yet the circumstances justify his entry on a temporary basis. When the minister (or other authorized official, such as an officer)⁴¹ assesses a TRP application, he “balances the objectives of the IRPA to meet Canada’s social, humanitarian and economic commitments, while maintaining the health and security of Canadians.”⁴² The minister may impose conditions, which are usually listed on the document, and a TRP can be cancelled at any time.

It is important to note that a TRP grants the holder temporary resident status for a limited period of time,⁴³ but it does not allow the person to work or study in Canada unless they have also obtained a work permit or study permit. Further, a TRP alone does not authorize the holder re-entry to Canada, and thus a TRV or eTA (if applicable) and valid travel document are also required. A TRP is usually invalidated if the holder leaves Canada, but the TRP may have either of the following statements on the bottom of the document: “This document authorizes re-entry to Canada” or “Valid for multiple re-entries to Canada,” which means that the document’s validity doesn’t terminate when the person departs Canada (it continues to overcome the inadmissibility or non-compliance on the person’s next entry to Canada).

39 A foreign national is inadmissible to Canada if she falls under the scope of any of ss 34 to 42 of the IRPA.

40 Rehabilitation is used to overcome criminal inadmissibility. Rehabilitation cannot be obtained to overcome an inability to meet the requirements of the IRPA. Practitioners should look to s 25 of the IRPA to assist in this regard.

41 For details on who can render a decision on a TRP, see IRPA, s 6, and IRCC, *Instrument of Designation and Delegation: Immigration and Refugee Protection Act and Regulations* (25 March 2020), online (pdf): *Government of Canada* <<https://www.canada.ca/content/dam/ircc/migration/ircc/english/resources/manuals/il/il3-eng.pdf>>.

42 See IRCC, “Temporary Resident Permits (TRPs)” (last modified 16 March 2020), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/permits.html>>.

43 IRPR, s 63.

A TRP may be issued to a foreign national who:

- would like entry to Canada, but is inadmissible or does not meet the requirements of the IRPA;
- is in Canada and has become inadmissible; or
- is in Canada and does not meet the requirements of the IRPA (that is, not eligible for restoration).

The foreign national must convince an officer that there are reasons why a TRP is justified in the circumstances. See *Krasniqi v Canada (Citizenship and Immigration)*⁴⁴ for an interesting discussion in which the Court found that IRCC guidelines requiring “compelling circumstances” fettered the officer’s discretion.

A TRP cannot be issued to:

- a foreign national whose claim for refugee protection has been rejected, withdrawn, or abandoned, if less than 12 months has passed since the claim was rejected, withdrawn, or abandoned (IRPA, s 24(4)); or
- a designated foreign national if they made a claim for refugee protection, an application for protection or in any other case, until five years has passed from the date of final determination (IRPA, s 24(5)).

A TRP may be issued at a Canadian visa office outside Canada, at the POE, or from within Canada (by the CPC in Edmonton, Alberta), depending on where the foreign national is making an application or request for entry to Canada. In practice, it is highly recommended that a foreign national who requires a TRP submit the formal written request to a Canadian consulate before attempting entry.

A. Application Criteria

Under section 24(1) of the IRPA, a foreign national who is inadmissible or who does not meet the requirements of the IRPA may be eligible for a TRP if an officer is of the opinion that admission or an extension of his stay is justified in the circumstances. Whether or not to grant the TRP is at the discretion of the officer, who balances the objectives of the IRPA against the foreign national’s need for admission or need to remain in Canada. The foreign national’s circumstances should ideally be persuasive, as this is an extraordinary measure.

44 2018 FC 743.

Generally, officers will consider the following non-exhaustive factors:⁴⁵

- the individual’s purpose in Canada and the intent of the IRPA, maintenance of program integrity, and the protection of public health and safety;
- the individual’s history and pattern of compliance (or non-compliance) with the IRPA;
- whether the violation was inadvertent and accidental or the result of careless or flagrant disregard for the law;
- the credibility of the applicant;
- whether the grounds for removal have been overcome or diminished;
- if there are high-profile, complex, or sensitive elements to the case that warrant relief; and
- whether the applicant would require social assistance if they become a permanent resident.

Although a TRP may be cancelled at any time, it remains valid until any one of the following events occurs (IRPR, s 63):

- the permit is cancelled under section 24 of the IRPA;
- the permit holder leaves Canada without obtaining prior authorization to re-enter Canada;
- the period of validity specified on the permit expires; or
- a period of three years elapses from the permit’s date of validity.

A TRP carries privileges greater than those accorded to visitors, students, and workers. For example, foreign nationals who have been issued a TRP with a validity period of six months or longer are allowed to submit applications from within Canada for a work permit (IRPR, s 199(d)) or a study permit (IRPR, s 215(e)) and may be able to have access to health care or other social services.

In addition, TRP holders may be eligible for permanent residence (IRPR, s 64)—that is, be members of the “permit holder class”—provided that they remain continuously in Canada as TRP holders for at least three years and do not become inadmissible on other grounds (IRPR, s 65). There is no discretion involved in granting a TRP holder permanent resident status under the permit holder class. The only criteria are that the foreign national has held a valid TRP for the necessary amount of time (with no break in continuity) and did not become inadmissible on other grounds.

45 IRCC, “Temporary Resident Permits (TRPs): Eligibility and Assessment” (last modified 28 June 2019), online: *Government of Canada* <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/permits/eligibility-assessment.html>>.

Because a break in continuity may affect the foreign national's eligibility for permanent residence, TRP holders must be cautious in this regard. A break in continuity occurs when a TRP holder leaves Canada without authorization for re-entry or the foreign national forgets to seek an extension of his status prior to the permit's expiry. It is therefore recommended that permit holders not leave Canada unless their TRP specifically authorizes re-entry and they have the necessary TRV/eTA and, moreover, that they apply for an extension of their status at least 90 days before the TRP expires.

B. Place of Application

TRPs are issued at a visa office (a Canadian consulate or the like) outside Canada, at a Canadian POE, or by an IRCC office inside Canada.

A foreign national outside Canada should apply for a TRP through the visa office by submitting a formal written application with supporting documentation for review and consideration. If approved, the foreign national will be given an approval letter, and the actual TRP document will be issued directly at the POE when she arrives in Canada. The visa office does not issue any permits, including TRPs, because the officer at the border has the final determination.

A foreign national who is from a visa-exempt country may apply for a TRP at the POE upon arrival to Canada rather than at the visa office. Although this process is permissible, it is not recommended for an initial TRP request. A TRP is an extraordinary request and, often, officers need time to conduct research and contemplate all of the application material before rendering a decision.

If a foreign national is in Canada, she may submit her request for a TRP to the CPC in Edmonton, Alberta. Once again, the foreign national should submit a formal written application and supporting documents in order to convince the officer that the need to remain in Canada continues to be sufficiently justified so as to overcome the risk in allowing her to remain in Canada. CPC Edmonton will often refer the application to a local IRCC office that is closer to the applicant's residence so that the applicant may be interviewed if necessary. In such a case, a decision may be rendered by the local IRCC office.

If the officer approves the TRP, the duration of the permit will be determined on the basis of the facts and circumstances presented by the applicant. For example, a person seeking to enter Canada for a short business trip will most likely be issued a TRP that is valid for the duration of that trip and no longer.