

## CANADA | COVID-19 TRAVEL AND IMMIGRATION FAQ

Canada began imposing restrictions on travel at the beginning of March and on 18 March expanded the restrictions to all foreign nationals (Students, Workers, and Visitors) who are not Canadian citizens or permanent residents and their immediate family members.

Travel restrictions imposed offer limited exemptions to travelers from visa-exempt nations arriving directly from the United States who can demonstrate that their purpose of travel is non-discretionary (which many border officials are limiting to essential services), and/or those traveling from other regions with valid work permits and/or consular approval letters.

### GENERAL MEASURES

- People recommended to stay at home
- Varying regional limits on public and private gatherings
- Economic measures in force to facilitate access to government aids, loans etc.

### BORDER CONTROLS

- The Government of Canada has put in place an emergency order under the Quarantine Act. It applies to all travelers arriving in Canada. Its purpose is to slow the spread of COVID-19 in Canada. Failure to comply with this order is an offence under the Quarantine Act.
- All borders are closed, except for:
  - Canadian citizens and Permanent Residents and their immediate family members
  - Holders of valid work or study permits and/or consular approval letters that can demonstrate their entry is for non-discretionary purposes (see below for clarification on what this means)
  - Accredited officials
  - Protected Persons
  - Persons entering on grounds of National Interest
  - Transit passengers
  - Crew members and foreign nationals entering Canada to become crew members

## NEW WORK PERMIT APPLICATIONS

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- When arriving by air, the basic rule is that foreign nationals are prohibited from boarding an aircraft for a flight to Canada when:
  - the flight is departing from any country other than the United States, and
  - the foreign national is not covered by any of the exemptions in the Orders
- While Canadian citizens, permanent residents continue to board an aircraft, they are still subject to health screening measures.
- Based on the current travel restrictions, visa-exempt nationals arriving directly from the United States can make applications for work permits at Canadian ports of entry if they establish their entry is *for non-discretionary purposes*.
  - Travelers are recommended to seek guidance of Newland Chase representatives as these rules are subject to change and currently many border officials are interpreting the guidelines strictly by imposing an essential service test.
  - In order to demonstrate non-discretionary nature of the travel, one needs to establish:
    - That the positions are still actively needed in Canada and not interrupted by current circumstances;
    - That the foreign workers with the aid of the employers have pre-established self-quarantine plans immediately upon arrival; and,
    - The urgency of need, given that the work in most instances must be done remotely upon initial entry, why the positions are nevertheless still needed on the ground and that the work cannot be done remotely from outside Canada until travel restrictions are lifted
- Consular processing of applications are also delayed due to:
  - temporary closure of visa application centers that process biometrics and more importantly in this case, the submission and retrieval of passports with visas; and,
  - current department policy to:
    - prioritize processing of applications deemed essential (health services, food supply and other critical infrastructure projects)
    - limiting processing to principal applicants, with the expectation that only once the foreign worker has established in Canada and commences employment, that the applications of accompanying family members will be processed

## IN CANADA/VISITORS, WORKERS AND PERMANENT RESIDENTS

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Due to the circumstances, Immigration, Refugee and Citizenship Canada (IRCC) are showing flexibility. They are accepting incomplete applications at this time which they will retain and provide time for applicants to obtain missing documents.

Those holding status that is expiring soon, or holders of expired visas or permits are permitted to be in Canada but it is advised that you take action to extend your status.



I am in Canada and unable to return to my home country but my status in Canada is going to expire shortly. What should I do?

**NC:** You should apply to extend or change your status. If you were a worker who is no longer working, then you can change your status to visitor. All visitors can apply to extend their status and if you are missing information to do so you can submit an incomplete application which will allow you to remain in Canada with implied status. Do not flagpole (the act of attempting to leave Canada and enter the US temporarily in order to return and apply for new permits at Canadian port of entry) to try and extend your status.



I am in Canada, unable to return to my home country and my status in Canada has expired. What should I do?

**NC:** If your status has already expired you have 90 days to restore your status. If it has been more than 90 days since your status expired, you may be eligible to apply for a temporary resident permit and remain in Canada with legal status. Do not flagpole to try and extend your status.



I have received a job offer with another employer and want to change employers. What should I do?

**NC:** You must apply for a new work permit from inside Canada. However, you don't need to wait until your work permit application is approved to start your new job or work for a new employer. If you complete an IRCC web form when you submit your application explaining that you wish to change employers, IRCC will send you an email confirming when you can start your new job. Do not flagpole to try and obtain your work permit.



I have received Confirmation of Permanent Residency but my in-person landing appointment was cancelled. What should I do?

**NC:** All landing appointments will be done by telephone whenever possible. Otherwise, IRCC will reschedule them for a later date. You will be contacted by email to let you know when your phone appointment will be. Do not flagpole to try and land.



My Permanent Residency application is still processing and I have been asked to submit a police certificate but am unable to obtain a police clearance at this time. What should I do?

**NC:** No application in progress will be closed or refused because of documents missing due to COVID-19. For example, if you cannot submit your passport, obtain a police certificate or undergo a medical exam IRCC will automatically give you 90 days to complete these steps.

Once you're able to, complete the steps as soon as possible to avoid delays.



I have an application processing Canada and have been requested to submit Biometrics but all the Biometrics collections agencies are closed. There is a deadline on the submission of my Biometrics of 30 days. What should I do?

**NC:** Even though your Biometrics Instruction Letter will say you must submit your biometrics in 30 days, IRCC will automatically give you 90 days. You will not need a new biometrics instruction letter and will be able to submit biometrics with the original letter even after the 30-day deadline has passed.



I have submitted my extension/renewal application but it has not been approved yet and my Health Care is about to expire. What should I do?

**NC:** IRCC has written to provincial health authorities to request that they consider implementing facilitative measures to ensure continuity of health coverage for temporary workers and students on implied status but ultimately this will be at the discretion of individual provinces and territories.

It is suggested that you contact your local health authority to inquiry as to what they will accept from you to extend your health care.

## EMPLOYER COMPLIANCE CONSIDERATIONS



What should I do if I must lay-off temporary foreign workers currently employed on work permits?

**NC:** Actions required will depend on whether the temporary foreign worker is employed on a Labor Market Impact Assessment (LMIA)-required work permit, or an LMIA-exempt work permit. For LMIA-required work permit holders, the lay-off should be reported to the responsible Temporary Foreign Worker Unit (TFWU) of Employment and Social Development Canada (ESDC).

No such reporting requirement exists for LMIA-exempt work permits. Employers of foreign workers on both LMIA-required and LMIA-exempt work permits may be audited in the future on the reason for the lay-offs. As such, appropriate documentation should be maintained.



What should I do if I must reduce the hours of work, and/or salary/compensation of a Temporary Foreign Worker (TFW)?

**NC:** All employer-specific work permits, whether LMIA-required or LMIA-exempt are subject to a compliance regime whereby TFWs must be provided with hours of work, benefits, and compensation that are substantially the same as those submitted by the employer in support of applications for those work permits or LMIA's, as applicable.

Where feasible, applications should be submitted for new LMIA's and/or work permits on the basis of the revised working conditions.

In some situations, applications for new work permits and/or LMIAs will not be feasible either substantively or with respect to timing. In such cases, in the event an audit is conducted in the future on the affected work permit, employers may put forth a statutory justification for any discrepancies resulting from measures undertaken in response to “*dramatic changes in economic conditions*” that directly affect the business, so long as those measures do not disproportionately target foreign workers.

Due to the liabilities and penalties that result from non-compliance, legal advice should be obtained for specific scenarios. Legal advice should also be sought with respect to impacts on employment law and other areas of law beyond the scope of immigration.



### What requirements and obligations extend to employers of TFWs subject to mandatory 14-day self-quarantine orders under Canada’s *Quarantine Act*?

**NC:** Employers are required to provide all temporary foreign workers with compensation and benefits, on the basis of at least a 30 hour work week, that are substantially the same as those provided in support of any application for an LMIA and/or Work Permit, as applicable. Amongst other requirements, employers must also not require TFWs to undertake any activity that impacts on their compliance with any orders made under the *Quarantine Act*.

For employers of TFWs on LMIA-based work permits, employers are required to notify Employment and Social Development Canada (ESDC) immediately upon the TFW’s arrival at the work location. Canadian authorities may initiate an audit or inspection at any time with respect to the above-requirements, including during the initial 14-day period of self-quarantine.

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**We’re here to help with any Canadian immigration actions.** [Contact us](#) to schedule a consultation to learn how we can support your business during and after the COVID-19 pandemic and keep up-to-date with the latest COVID-19 travel and immigration updates on our dedicated online resource – [COVID-19: Latest Travel and Immigration Disruption](#). We also invite you to attend or to download one of our [regional webinars](#), which address changes both globally, regionally and country by country.

This white paper was prepared by [Bahman Motamedi](#), Newland Chase Canada Managing Director.

This publication is not intended as a substitute for legal advice. Readers are reminded that immigration laws are subject to change. We are not responsible for any loss arising from reliance on this publication. Please contact Newland Chase should you require any additional clarification or case-specific advice.

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