Immigration, Refugees and Citizenship Canada / Immigration, Réfugiés et Citoyenneté Canada
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Archived: June 2, 2025 12:36:40 PM
From: [redacted] Représentants [redacted]
Sent: Fri, 21 Mar 2025 12:19:35
To:
Cc: Immigration Representatives / Représentants immigration (IRCC)
Subject: TR: SCLPC - FC OWP - Requirement to be in Canada at the time of the decision - REP-2025-0189- Due 02-Feb-25
Importance: Normal
Sensitivity: None

Good day,

[redacted] **Immigration Representatives Mailbox**

Please note that this mailbox is intended for general guidance and does not provide responses to case-specific inquiries but have provided the following information as guidance.. If you have case specific questions about a file, you are encouraged to submit the IRCC Web form.

Our sincere apologies for not responding sooner.

Meeting this requirement at the time of the decision is based on the last eligibility criteria in yellow below stating the applicant must have a valid TR status. If the applicant left Canada while waiting for a decision on their PR application, they will no longer have a valid TR status. It's only when they re-seek entry, the Border Services Officer must re-examine the foreign national and authorize them to enter Canada again as TR. We will consult internally to assess whether this requirement should only be met at the time of the application.

The public policy

The foreign national:

- * is a principal applicant who has submitted a permanent residence application under the Spouse or Common-Law Partner in Canada Class or as a spouse, common-law or conjugal partner under the Family Class that has been accepted for processing by Immigration, Refugees and Citizenship Canada after meeting the requirements of a complete application under section 10 of the Regulations and the "Ministerial Instructions with respect to the processing of applications for permanent residence made by a foreign national as a sponsored spouse, common-law partner, conjugal partner or dependent child and the processing of sponsorship applications made in relation to those applications" published in the Canada Gazette Part I on December 24, 2016, and that has not been refused or withdrawn;
- * has submitted a work permit application under section 200 or 201 of the Regulations, where the duration of the work permit requested is for a maximum of two years;
- * is the subject of a sponsorship application submitted by their Canadian citizen or permanent resident spouse, common-law or conjugal partner;
- * has the same residential address as their sponsor in Canada at the time of application; and,
- * has a valid temporary resident status in Canada or is eligible for and has applied for restoration of status.

[redacted]

The Immigration Representatives Mailbox

De :
Envoye : 17 janvier 2025 16:12

Immigration, Refugees and Citizenship Canada / Immigration, Réfugiés et Citoyenneté Canada
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À : Immigration Representatives / Représentants immigration (IRCC)
Objet : SCLPC - FC OWP - Requirement to be in Canada at the time of the decision

[redacted]

I am wondering what the legal authority is for requiring that applicants for an open work permit under the Temporary public policy exempting certain applicants applying under the spouse or common-law partner in Canada class or the Family Class from work permit requirements be in Canada at the time of the decision on the work permit application?

This holds these applicants hostage in Canada and prevents them from traveling as they have no way of knowing when a decision will be rendered. This requirement does not appear to be in the public policy?

https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/public-policies/spousal-work-permit-exemption.html

Public Policy Considerations

This public policy allows sponsored spouses and partners in Canada to support their family and build their lives together. The work of sponsored spouses and partners, and their family members, creates social and economic benefits for Canadian citizens and permanent residents.

This public policy facilitates the issuance of an open work permit to foreign nationals applying under the Spouse or Common-Law Partner in Canada Class or the Family Class, and their family members, who have a valid temporary resident status, maintained their status or are eligible for and have applied to restore their status, and have the same residential address as their sponsor in Canada when they apply for an open work permit.

As such, I hereby establish that, pursuant to my authority under section 25.2 of the *Immigration and Refugee Protection Act* (the Act), there are public policy considerations that justify the granting of an exemption from the provisions of the Regulations to foreign nationals who meet the conditions (eligibility requirements) described below.

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- * has submitted a work permit application under section 200 or 201 of the Regulations, where the duration of the work permit requested is for a maximum of two years;
- * is the subject of a sponsorship application submitted by their Canadian citizen or permanent resident spouse, common-law or conjugal partner;
- * has the same residential address as their sponsor in Canada at the time of application; and,
- * has a valid temporary resident status in Canada or is eligible for and has applied for restoration of status.

https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/special-initiatives-pilot-project/partner.html

Eligibility

To be issued an open work permit under this public policy, the applicant must meet all of the following criteria **at the time of decision on the work permit application**.

The applicant must

1. 1. have submitted the application for an open work permit using the online IRCC Secure Account (referred to as MyAccount or the Authorized Paid Representative Portal) as per section R9.2
    1. 1. Only applicants who meet the requirements of section R9.4 and section R9.5 may use the paper application form.
2. 2. be physically in Canada, **and**
    1. 1. have valid temporary resident status, **or**
    2. 2. have maintained their temporary resident status under subsection R183(5), **or**
    3. 3. have applied for and be eligible for restoration of temporary resident status
3. 3. be included as a spouse or common-law partner in the SCLPC class, or as a spouse, common-law partner or conjugal partner in the family class, in a permanent residence application that has met the requirement of a complete application as per section R10, and the applicable ministerial instructions as **either**
    1. 1. the principal applicant, **or**
    2. 2. an accompanying dependent child of the principal applicant in a)
4. 4. be the subject of a sponsorship application submitted by a Canadian citizen or permanent resident as
    1. 1. a spouse, common-law or conjugal partner
    2. 2. an accompanying dependent child as per section R2 of the sponsored person in a)
5. 5. at the time of application, be residing at the same residential address in Canada as
    1. 1. the sponsor, if a principal applicant
    2. 2. the sponsor and principal applicant, if an accompanying dependent child

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is withheld pursuant to section

est retenue en vertu de l'article

19(1)

of the Access to Information Act

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