



Citizenship and  
Immigration Canada

Citoyenneté et  
Immigration Canada

# IP 1

## Temporary Resident Permits

## IP 1 Temporary Resident Permits

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### Updates to chapter

#### Listing by date:

#### Date: 2006-05-26

- Section 16 and Appendices F to I were updated to include new guidelines to assist officers when issuing temporary resident permits to victims of human trafficking.
- Working within Canada's existing legislative framework, immigration officers will issue temporary resident permits (TRPs) for up to 120 days to victims of human trafficking. The permit will enable victims to begin to recover from the impact of this crime. Victims who receive the TRPs will also be exempted from the processing fee, and will be eligible for health-care benefits under the Interim Federal Health program. The new measures have been carefully designed so that only *bona fide* victims of human trafficking will benefit from them.

#### Date: 2005-04-29

Among the many changes to this chapter, the highlights include:

- Section 3.1 was updated to include additional forms required for the issuance of the facilitation travel document counterfoil effective April 30, 2005.
- Section 5.2 was amended to update the requirements on permit issuance as regards the facilitation travel document counterfoil effective April 30, 2005;
- Section 5.3 was amended to update the wording to be inserted on permits with re-entry privileges;
- Section 5.14 was updated to include information on obtaining the facilitation visa counterfoil [IMM 1346 – Visitor's Visa];
- Section 5.17 was updated to add the new wording for temporary permits issued after April 30, 2005.
- Section 7, Table 4, was amended to add new documents and changes to existing documents issued to holders of temporary resident permits;
- Section 9 was amended to outline exemptions to cost recovery fees for clients holding the facilitation visa counterfoil [IMM 1346 – Visitor's Visa] and when to collect payment, if applicable.
- Section 16.3 was updated to ensure that clients are counselled about the facilitation travel document counterfoil [IMM 1346 – Visitor's Visa];.
- Section 16.5 was updated to add new instructions for permit holders who are authorized to re-enter Canada;.
- Section 18.5, Table 6, was amended to include the new wording on temporary resident permits where re-entry into Canada has been authorized;
- Section 26, Table 7, was updated to add new instructions to officers at the port of entry examining holders of the facilitation travel document counterfoil [IMM1346 – Visitor's Visa] and Letter of Introduction.

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- Appendix B was updated to add the amended instructions for holders of temporary resident permits, depending on whether leaving and re-entering Canada has been authorized.

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## 1. What this chapter is about

This chapter provides policy and procedural guidelines to Citizenship and Immigration Canada (CIC) staff at inland offices on:

- issuing temporary resident permits to allow inadmissible persons to enter or remain in Canada;
- extension, expiry and cancellation of permits;
- granting of permanent resident status to permit holders.

**Table 1: For information on related procedures, see appropriate manual chapter reference**

Issuing Temporary Resident Permits	Canadian visa offices abroad	OP 20
Issuing Temporary Resident Permits	Ports of Entry	ENF 4
Removal of persons whose permits have expired or been cancelled	Enforcement	ENF 3, ENF 6 and ENF 10

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## 2. Program objectives

Normally, persons who do not meet the requirements of the *Immigration and Refugee Protection Act* are refused permanent resident or temporary resident visas abroad, denied entry at a port of entry, or refused processing within Canada. In some cases, however, there may be compelling reasons for an officer to issue a temporary resident permit to allow a person who does not meet the requirements of the Act to enter or remain in Canada.

Temporary resident permits should not be used to restore the temporary resident status of a visitor, student or worker when their status has expired.

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## 3. The Act and Regulations

The *Immigration and Refugee Protection Act* (IRPA), assented to on November 1, 2001, and its accompanying Regulations, replace the *Immigration Act* of 1976, known as the “former Act,” and the April 1, 1997 Regulations.

The new legislation took effect on June 28, 2002.

**Table 2: Legislative objectives relevant to the temporary resident permit**

For information about	Refer to this section of the Act
Protecting the health, safety and security of Canadians and Canadian society	A3(1)(h) and (i)
Promoting international justice and security by denying access to persons who are criminals or security risks	A3(2)(g) and (h)
Social and humanitarian commitments	A3(1)(a)(b)(c)(d) and (g)
Economic and cultural interests	A3(2)(b)(c)(d)(e) and (f)
International obligations with respect to refugees	

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**Table 3: Legislative references relevant to the temporary resident permit**

<b>For information about</b>	<b>Refer to this section of the Act</b>
Temporary resident permit	A24(1)
Exception	A24(2)
Officer must act in accordance with instructions made by the Minister	A24(3)
Rights and obligations of temporary resident permit holders	A29(1) and A29(2)
<b>Inadmissibility:</b>	<b>Division 4 of IRPA</b>
Security	A34
Human or international rights violations	A35
Serious criminality	A36(1)
Criminality	A36(2)
Application of A36(1) and A36(2)	A36(3), R17 and R18
Prescribed class deemed rehabilitated	R18
Organized criminality	A37
Health grounds: danger to public health or public safety, excessive demand	A38(1)
Exception to health grounds	A38(2)
Financial reasons	A39
Misrepresentation	A40
Non-compliance with the Act	A41
Inadmissible family member	A42
Report on inadmissibility	A44(1)
Loss of status	A47
Annual report to Parliament	A94 and A94(2)(d)
Exception to temporary resident visa before entry	R7(2)(b)
Restoration of temporary resident status	R182
Validity of temporary resident permit	R63
Permit holder class	R64
Requirements of permit holder class	R65 and R65.1
Requirements of protected temporary residents class	R151.1
General and specific conditions imposed on temporary residents	R183, R185
Application for work permit after entering Canada	R199(d) and R206
Application for study permit after entering Canada	R215(1)(e) and R215(2)(c)
<b>Removal order</b>	A44(2), R240(1)
Made by Minister in certain circumstances	A45(d)
Made by Immigration Division following an inadmissibility hearing in certain circumstances	
FEE for temporary resident permits	R298(1)
FEE exemptions for temporary resident permits	R298(2)
FEE for restoration of temporary resident status	R306
FEE for application as member of permit holder class	R307

### 3.1. Forms required

The forms required are shown in the following table:

<b>Form number</b>	<b>Title</b>
IMM 1263B	Permit to Come into or Remain in Canada



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Purpose	Available for emergencies only when a hand-written temporary resident permit is required at the port of entry or inland; if used for extensions, record "Extension of permit #xxxx" in the "REMARKS" box. This form must NOT be used by visa offices abroad for TRP cases.
IMM 1249E (Kit)	Application to Change Conditions, Extend my Stay or Remain in Canada
Purpose	Client can obtain kit for permit extension through the CIC Internet Web site at: <a href="http://www.cic.gc.ca">www.cic.gc.ca</a> or request it from the Call Centre at 1-888-242-2100
IMM 1346 [Visa counterfoil]	Facilitation travel document (counterfoil coded PA-1) will be issued to approved persons to permit them to travel to Canada to receive their temporary resident permit and to temporary resident permit holders authorized to re-enter Canada (counterfoil coded PC-1). These facilitation travel documents will be conferred to nationals of countries subject to the temporary resident visa requirement. Visa offices will also issue to all approved clients a letter of introduction to the port of entry regarding the issuance of temporary resident permits. This letter is to be presented upon arrival in Canada to the receiving customs inspector so that the client may be referred to immigration secondary examination for issuance of the permit.
IMM 1442B	CAIPS/FOSS Full Document Entry – Generic (no longer used abroad as of April 30, 2005)
Purpose	As of April 30, 2005, visa offices no longer issue temporary resident permits using the IMM 1442 form. Visa offices will approve applications for temporary resident permits and generate the permits electronically through CAIPS. The permits will then be issued at the port of entry by FOSS when the approved client arrives in Canada. Ports of entry and inland offices issue temporary resident permits using the FOSS Full Document Entry form and printing them. Permit extensions are issued through CPC Vegreville using the same FOSS Full Document Entry form. A photograph of the foreign national should be affixed to the form in the space provided; a dry or wet seal can be used.
IMM 1444E	Application for Criminal Rehabilitation
IMM 5365B	Medical Notification

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### 4. Instruments and delegations

Section A6 authorizes the Minister to designate officers to carry out specific duties and powers and to delegate authorities. It also states those ministerial authorities that may not be delegated, specifically those relating to security certificates or national interest.

For details, see IL 3.

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### 5. Departmental policy

#### 5.1. Purpose of temporary resident permits

Normally, persons who do not meet the requirements of the Immigration and Refugee Protection Act are refused permanent resident or temporary resident visas abroad, denied entry at a port of entry, or refused processing within Canada. However, in some cases, there may be compelling reasons for an officer to issue a temporary resident permit to allow a person who does not meet the requirements of the Act to enter or remain in Canada.

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### 5.2. Authority to issue a temporary resident permit

The Act authorizes an officer to issue a permit. The officer must follow any instructions given by the Minister on issuing permits. Permits may be issued, at ports of entry and CIC inland offices while permit extensions are only issued inland.

Effective April 30, 2005, for document integrity reasons, visa offices no longer issue temporary resident permits on the IMM 1442 abroad,. Instead, visa offices will assess applications for the permit, refuse or approve the application and generate the actual temporary resident permit document through CAIPS for print-out by FOSS at the port of entry, when the approved person arrives in Canada. For persons who cannot journey to Canada due to the temporary visa requirement, visa offices will affix a facilitation travel document (IMM 1346—Counterfoil coded PA-1) to the valid passports or travel documents of approved applicants and to the existing temporary resident permits of persons authorized to re-enter Canada (IMM 1346 counterfoil coded PC-1). In other words, the facilitation travel document will enable authorized persons to re-enter Canada and approved applicants to travel to Canada to receive their permit.

To see which officers are designated to issue permits, see IL 3.

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### 5.3. Validity of a temporary resident permit

A permit may have a validity of from one day to three years. It may be extended or cancelled by an officer. If the period of validity elapses, the person must apply for a new permit, which marks a break in continuity. See section 5.16 below for extensions. The permit is no longer valid if the permit holder leaves Canada unless re-entry has specifically been authorized.

Authorization to re-enter Canada under R63(b) is indicated in the FOSS record for the temporary resident permit and is indicated on the document by the words “DEPARTURE FROM CANADA WILL NOT INVALIDATE THIS TEMPORARY RESIDENT PERMIT UNDER REGULATION 63(b).” For temporary resident permits issued prior to April 30, 2005, the re-entry privilege is indicated by the words “AUTHORIZED TO LEAVE AND RE-ENTER.”

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### 5.4. Inadmissibility

For references to specific grounds of inadmissibility, see A34 to A38.

For details on inadmissibility and A44(1) reports, see ENF 1 and ENF 5.

#### **Exceptions to inadmissibility on health grounds:**

Inadmissibility on health grounds based on excessive demand on health and social services does not apply to spouses, common-law partners and dependent children of Canadian citizen sponsors or permanent resident sponsors.

#### **Exceptions to criminal inadmissibility:**

Criminal inadmissibility does not apply to persons who:

- have been pardoned;
  - have satisfied the Minister that they have been rehabilitated;
  - are deemed to have been rehabilitated.
- 

### 5.5. Persons eligible for temporary resident permits

Any person who is:

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- inadmissible and seeking to come into Canada if an officer is of the opinion that it is justified in the circumstances [A24(1)];
- in Canada and is inadmissible, subject to a report or reportable for violation of the Act, or does not otherwise meet the requirements of the Act;
- not eligible for restoration of status.

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### 5.6. Issuance of temporary resident permits to persons under a removal order

Under IRPA, persons under a removal order may be issued a temporary resident permit. In some circumstances, issuance of a permit may be required where enforcement of the removal order is not possible. The authority to issue a permit in such rare circumstances is limited to NHQ which determines how to deal with the removal order on a case-by-case basis.

The permit does not negate the removal order, and there is no statutory stay in place for these cases.

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### 5.7. Factors to consider when issuing or extending a temporary resident permit

Officers should issue permits with caution and only in special circumstances. They should give careful consideration to the factors below before granting an initial permit for the maximum period of three years or before extending one for an additional two years.

- A temporary resident permit is a document that can carry privileges greater than those accorded to visitors, students and workers with temporary resident status. It allows application inland for a work or study permit, and may give access to health or other social services.
- There is no discretion involved in granting permanent residence to persons who meet the requirements of the permit holder class. Persons who remain continuously in Canada on a permit for the specified time and do not become inadmissible on other grounds will be granted permanent residence.

Officers should deal conclusively at an early stage with cases where risk and need factors deteriorate, especially if there is little prospect of improvement before the holder is eligible for permanent residence.

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### 5.8. Assessment of need and risk when issuing a temporary resident permit

Officers may issue a temporary resident permit if:

- the need to enter or remain in Canada is compelling and sufficient to overcome the risk;
- the risk to Canadians or Canadian society is minimal and the need for the presence in Canada outweighs the risk. See sections 12, 13, 14 and 15 below for assessment of need and risk. Restoration of status is not an option.

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### 5.9. Interviews

Officers may interview the client as part of the enforcement, selection or counselling process. Interviews provide officers with information regarding possible inadmissibility and violations of the Act. Officers may also use interviews to assess credibility, confirm facts related to need and/or risk and communicate concerns to the client.

Officers do not have to interview all applicants for temporary resident permits. If an officer is sure the applicant is eligible for a permit, is credible, and does not represent a risk to Canadian

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society, an interview may not serve any useful purpose. If the officer is uncertain about either of the last two factors, an interview should be held.

See section 10 below for guidelines on when to conduct interviews.

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### 5.10. Concurrence of decision

For all cases involving serious criminal inadmissibility or inadmissibility on health grounds, NHQ, Immigration Health Services (RNH), or Overseas Medical Services (RIH) concurrence of a decision to issue a permit is required. For serious criminal inadmissibility, a case summary and recommendation must be submitted to the Director, Case Review (BCM) JETN-6. For inadmissibility on health grounds, a case summary and recommendation must be submitted to the Director General, RHQ. See sections 13.4 and 14.4 below for instructions on case summaries.

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### 5.11. Accountability

It is essential that officers appreciate the importance of accountability when recommending or issuing a permit. They are required to recommend or issue permits **only** in accordance with the Act and Regulations, following guidelines of this chapter, and to leave a record of their decision. **Clear records of decisions allow the monitoring and research necessary for the preparation of the annual report to Parliament.**

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### 5.12. Provincial health insurance coverage

Rules governing eligibility in provincial public health insurance plans vary widely and are subject to change. Officers should obtain information about eligibility directly from their regional headquarters (RHQ).

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### 5.13. Third-party information

Officers must weigh the possible merits of each case in relation to the gravity of the inadmissibility or violation. If it becomes necessary to obtain information or confirmation from third parties, documentary evidence should be kept on file. If officers use third-party information to arrive at a decision, the client must be informed and allowed to respond to it.

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### 5.14. Conditions and obligations that apply to temporary resident permit holders

Permit holders are required to:

- apply for and obtain from a Canadian visa office abroad a counterfoil to allow them to return to Canada:
  - ◆ if they are holders of a temporary resident permit issued after April 30, 2005 or one that had received an extension after that date;
  - ◆ if they are from a country where a visa is required;
  - ◆ if they have authorization to leave and re-enter Canada; and
- apply for extension of their status at least 30 days before the expiry of their permit;
- leave Canada upon expiry or cancellation of the permit.

Holders of temporary resident permits with prior authorization to re-enter Canada are not required to pay a fee for the issuance of a facilitation travel document counterfoil.

Under IRPA, there is no separate fee for the extension of permits; rather, the same fee as the original permit (\$200) will be charged for the extension of the permit.

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Permit holders who do not comply with the provisions of the Act or Regulations may be subject to an inadmissibility report and a removal order.

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### 5.15. Break in continuity

A break in continuity occurs when permit holders, without authorization for re-entry, leave Canada, or when they neglect their responsibility to seek an extension of their status prior to the expiry of their permit. In both these situations, a new temporary resident permit would be issued and the permit holder's electronic file would be marked with a break in continuity, affecting eligibility for permanent resident status.

Officers can use a **limited degree** of flexibility and discretion in interpreting a break in continuity; a short break, which is outside the client's control, may not necessarily be an impediment to an extension of status.

**Example:** 1. A legitimate hindrance of short duration such as the permit holder's illness or the death of a close family member prevented the permit holder from seeking early extension.

**Example:** 2. A permit holder should not suffer the consequences of processing delays or departmental oversight causing a lapse in permit validity.

If necessary, officers may request documentary proof to support the veracity of a claimed hindrance.

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### 5.16. Extensions

Permit holders must apply for an extension of their status at least 30 days before the expiry of their permit. Extensions are indicated on the temporary resident permit by numerical sequence at the top of the permit, and in FOSS on the permit holder's electronic file. Failure to extend status before the expiry of a permit can result in a break in continuity, affecting eligibility for permanent residence. See section 5.18 of this chapter.

Permit extensions cannot be refused if the only reason for the refusal is to preclude the person from becoming eligible to apply for permanent residence in the permit holder class.

Under R183(5), once a permit holder has applied for an extension, the temporary resident permit status of the holder continues under the same conditions until the decision to extend or not is made, or the extension ends.

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**Note:** R182 does not apply to holders of temporary resident permits.

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### 5.17. Cancellation

A permit may be cancelled at any time. The permit is deemed cancelled when the permit holder leaves Canada unless the document authorizes re-entry.

Authorization to re-enter Canada is indicated on the client's TRP FOSS record by the words "Authorized to Leave and Re-enter Canada." If the permit was issued after April 30, 2005, the following words will appear on the actual permit document [IMM 1442]: "DEPARTURE FROM CANADA WILL NOT INVALIDATE THIS TEMPORARY RESIDENT PERMIT UNDER REGULATION 63(b)."

If the permit was issued prior to that date, the permit should contain the words "AUTHORIZED TO LEAVE AND RE-ENTER".

On expiry or cancellation of the permit, the person is directed to leave Canada or is/may be ordered deported.

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### 5.18. Granting of permanent residence to members of permit holder class

Permit holders may become permanent residents of Canada as members of the permit holder class if they have not become inadmissible on any grounds other than those for which the original permit was issued and have resided continuously in Canada for three to five years, depending on the nature of their original inadmissibility.

See section 10 of this chapter for further details.

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**Note:** Permit holders who are members of the protected temporary residents class may, without delay, become permanent residents of Canada at no cost as soon as the processing of their application is finalized and they are found to be admissible. For more information, see:

- In this chapter, section 20 – Procedure: Eligibility for permanent resident status: Protected temporary residents class;

- PP4, sections 5 and 9

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### 5.19. Ineligibility for permanent residence

#### Break in continuity

Permit holders are not eligible for permanent residence in the permit holder class if they do not meet the requirement of continuous residence, i.e., there has been a break in continuity. See Break in continuity, section 5.16 above.

#### Security, human rights violations, serious criminality or organized crime

Persons who are inadmissible for reasons involving security [A34], human rights violations [A35], serious criminality [A36] or organized crime [A37] are not entitled to apply for permanent residence in the permit holder class.

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### 5.20. Annual report to Parliament

The Act [A94] requires the Minister to table on or before November 1st of each year an annual report to Parliament on the activities undertaken under the Act, including the number of temporary resident permits issued. These are categorized according to the grounds of inadmissibility.

The Minister is accountable to Parliament for the use of this authority.

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## 6. Definitions

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### 6.1. Deemed rehabilitated [A36(3)(c) and R18]

The Act and Regulations provide for a person convicted of relatively minor crimes to be considered rehabilitated without having to apply for rehabilitation, after a certain period of time (five or ten years, depending on the level of the offence) has elapsed with no further offences. A person who is rehabilitated or deemed rehabilitated is no longer inadmissible.

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### 6.2. Permit holder

A holder of a temporary resident permit is a permit holder.

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### 6.3. Permit holder class [R64 and R65]

The permit holder class is prescribed as a class of persons who may be granted permanent resident status based on the requirements of the Regulations. See section 21 for a detailed explanation of these requirements.

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### 6.4. Protected temporary residents class

#### R151.1(2) states:

**R151.1(2)** A foreign national is a protected temporary resident and a member of the protected temporary residents class if the foreign national holds a temporary resident permit and

- (a) became a temporary resident under a temporary resident permit for protection reasons after making a claim for refugee protection outside Canada under section 99 of the Act; or
- (b) was issued a Minister's permit under section 37 of the former Act after seeking admission to Canada under section 7 of the former Regulations or section 4 of the *Humanitarian Designated Classes Regulations*.

This class was created to allow refugees in urgent need of protection to apply for permanent residence from within Canada but without the delay associated with the permit holder class.

For more information, see:

- In this chapter, section 20 – Procedure: Eligibility for permanent resident status: Protected temporary residents class
- PP4, sections 5 and 9

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### 6.5. Temporary resident permit (TRP) [A24(1)]

A temporary resident permit (TRP) is a discretionary document that may be issued to inadmissible persons or persons reported or who may be reported for violation of the *Immigration and Refugee Protection Act* allowing them to come into or remain in Canada, where justified by exceptional circumstances.

The temporary resident permit combines two authorities that previously existed under the *Immigration Act* of 1976: the Minister's permit and discretionary entry.

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### 6.6. Temporary resident status - Visitors, students and workers

Temporary status is given to a foreign national who is not inadmissible and meets the requirements of the legislation to enter and/or remain in Canada as a visitor, student or worker.

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## 7. Procedure: Forms and Information Systems

**Table 4: Documents to use in issuing TRPs**

IMM 1442	1. FOSS Full Document Entry - Generic
	<ul style="list-style-type: none"><li>• Visa offices approve applications for TRPs and use CAIPS to upload into FOSS the information necessary to enable the POE to print out the TRP onto the IMM 1442 when the applicant arrives in Canada. Visa offices no longer print out TRPs on this or any other form.</li><li>• Ports of entry and inland offices issue permits using the FOSS full document entry form and print them on this generic form.</li><li>• Permit extensions are issued through CPC Vegreville using the FOSS full document entry form.</li><li>• A photograph of the foreign national should be affixed to the form in the space provided; a dry or wet seal can be used.</li></ul>

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IMM 1346	Visitor's Visa
	Facilitation travel document for approved temporary resident permits (counterfoil coded PA-1) and for temporary resident permit holders with re-entry authorization (counterfoil coded PC-1) who are nationals of a country subject to the temporary resident visa requirement. Visa offices will issue approved clients who are subject to the temporary resident visa requirement a special facilitation travel document (IMM 1346) to enable them to travel to Canada to receive the permit or to re-enter. Visa offices will also issue to all approved clients a Letter of Introduction to the port of entry for temporary resident permit issuance. This letter is to be presented upon arrival in Canada to the receiving customs inspector so that the client will be referred to immigration secondary for issuance of the permit.
IMM 1263B	The "Permit to Come into or Remain in Canada" form is available for emergencies only when a handwritten document is required. If used for extensions, record "Extension of permit #xxxx" in the REMARKS box. This form must NOT be used by visa offices abroad for TRP cases.
IMM 1249E	<ul style="list-style-type: none"><li>• "Application to Change Conditions, Extend my Stay or Remain in Canada": Client can obtain kit for permit extension through the CIC internet site or request it from the Call Centre.</li></ul>

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### 8. Procedure: How inland offices become aware of inadmissibility

Officers will become aware of inadmissibility when:

- they detect inadmissibility or other violation when reviewing an application for extension of status or other document; or
- client is aware of inadmissibility or violation and requests a TRP; or
- person is reported under an A44(1) report for inadmissibility or violation.

Once officers become aware of inadmissibility, they should:

- establish that a permit is needed to overcome an inadmissibility or violation;
- determine if the client meets the eligibility criteria and requirements for favourable discretion (see section 5.5 above);
- consider factors set out in section 5.7 above;
- assess the need and appropriate risk factors as set out in sections 12, 13, 14 and 15 below;
- discuss permit option with client only after the above issues have been established.

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### 9. Procedure: Cost recovery

A cost recovery fee must be collected for the processing of an application for a temporary resident permit or a permit extension unless an exemption applies. The fee will not be refunded if a permit is refused.



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### Fee exemptions:

1. Where a visa-exempt person or a person holding a valid passport or travel document with a visa counterfoil coded PA-1 applies for entry into Canada and produces a letter of introduction at the immigration secondary examination, a temporary resident permit is issued following a favourable examination. The fee requirement is waived as it has already been paid abroad.
2. Similarly, upon application for a travel document to permit return to Canada from abroad, the officer shall, after verification of the permit holder's identity, issue without charge a travel document coded PC-1 (cost-recovery code FPN) to the temporary resident permit holder who has authorization to leave and re-enter Canada but does not have a Canadian facilitation travel document to allow return to Canada.
3. In the case of a lost or stolen permit, no fee is to be taken, and the counterfoil is coded PA-1 (cost recovery code FPN) whether the permit was initially issued abroad, in Canada or at the port of entry.

The issuance of the facilitation travel document is considered part of the temporary resident permit application process. The fee has already been paid when the permit was issued.

Foreign nationals, who are otherwise exempt from the temporary resident visa requirement, are not required to obtain the facilitation travel document since they can travel to Canada without a temporary resident visa.

Before collecting the fee, officers should ensure that issues in section 8 above have been established.

**Table 5: Cost recovery information**

Officers should consult:	
For the latest fees	Part 19, <i>Immigration and Refugee Protection Regulations</i>
For exemptions	The Coding Manual (COD)
For cost recovery codes	The Coding Manual (COD) and Help screens on FOSS

The fee to cover the cost of issuing a temporary resident permit does not have to be collected before the officer considers issuing a permit. The officer may wait until the decision is made to recommend a permit before collecting the fee.

The fee is non-refundable. If the officer issues more than one permit in a case, a separate fee for each permit must be collected.

The officer must also collect a fee when issuing a permit at the request of the Minister.

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## 10. Procedure: Interviews: Temporary entry and permanent resident status

Officers may interview the client as part of the enforcement, selection or counselling process. See section 5.9 above for policy on interviews.

### An interview is necessary:

- for serious inadmissibility or flagrant or intentional violations;
- to assess credibility, merit, or risk and the degree of contrition.

### An interview may not be necessary if:

- inadmissibility is on health or technical grounds and when credibility or merit is not an issue;

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- inadmissibility involves one or two minor (summary) offences and the statutory time period (five years) has passed, thus allowing for deemed rehabilitation [R18(2)(b) and (c)].

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### 11. Procedure: Next steps: Temporary entry

After the interview, officers should:

- prepare a case summary as per guidelines in section 11.1 below;
- consult with appropriate designated authorities, as required, seeking concurrence;
- complete the need and risk assessments including findings from interview and following guidelines set out in sections 12, 13, 14 and 15 below;
- determine the period of validity as set out in section 11.4 below.

---

#### 11.1. Case summary and recommendations: Temporary entry

Permit issuance must still be reported to NHQ, but officers do not require concurrence from NHQ.

**Case summary should include:**

- information in support of the inadmissibility/violation;
- in those cases where an A44(1) report has been prepared, the A44(1) report citing the specific inadmissibility/violation [see also ENF 5 – Writing A44(1) Reports];
- a narrative explanation or summary of the relevant facts, circumstances and recommendation in the case [in the form of FOSS remarks entered or to be entered; and, if an A44(1) report was prepared, by notation on the accompanying A44(1) Highlights report form].

**A recommendation for a permit should include:**

- the grounds on which it is based including any public policy, national interest, or humanitarian and compassionate considerations;
- in the case of foreign nationals, brief comments on the applicant's chances of successful settlement in Canada (education, work skills, employment history, family support, ability to pay for health care if ineligible for provincial public health insurance);
- the duration for which the permit should be issued; and
- whether the permit should be valid for leaving and re-entering Canada.

**If recommending to a local authority:** note the recommendation on the "For Official Use Only" portion.

**If recommending to RHQ or NHQ:** the summary and recommendation should be in a memorandum, e-mail or facsimile.

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#### 11.2. Serious criminality: Temporary entry

If a permit is issued for serious criminality [A36(1)], officers must:

- submit a report to NHQ, stating:

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- ◆ the offence and the equivalent offence in Canada, if applicable;
- ◆ the sentence, including the time served if it included imprisonment;
- ◆ the reason for the permit, with a copy of the document;
- include the A44(1) report if it contains details of the offence, sentence and rationale for permit issuance;
- fax reports to Director, Case Review (BCM) JETN-6: (613) 957-2608;
- enter relevant information in the “Remarks” section of the appropriate FOSS screens; this will give officers at the Case Processing Centre all information needed before deciding on an extension.

**Example:** Concurrence given by NHQ or RHQ to issue a temporary resident permit and extensions.

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### 11.3. Decision

For authorities designated to issue permits, see IL 3, Instruments and Delegations.

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### 11.4. Period of validity for temporary entry

In cases of serious criminal inadmissibility, the Rehabilitation Unit of the Case Research and Review Directorate will indicate the length of the validity. When determining the period of validity of a permit or when considering extensions, officers should:

- issue it only for the time required (e.g., for one week to admit a person for a conference);
- weigh the need for the permit against the risks;
- consider the additional expenses incurred by the client for an extension and the impact of any additional processing on departmental resources;
- remember that permanent resident status **will be granted** to a medically inadmissible person after three years on a permit and to a criminally inadmissible person after five years on a permit.

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## 12. Procedure: Decision criteria: Temporary entry

To determine whether favourable consideration is warranted to overcome inadmissibility, officers must weigh the need and risk factors in each case.

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### 12.1. Needs assessment

An inadmissible person’s need to enter or remain in Canada must be compelling and sufficient enough to overcome the health or safety risks to Canadian society. The degree of need is relative to the type of case.

The following includes points and examples that are **not** exhaustive, but they illustrate the scope and spirit in which discretion to issue a permit is to be applied.

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### Officers must consider:

- the factors that make the person's presence in Canada necessary (e.g., family ties, job qualifications, economic contribution, temporary attendance at an event);
- the intention of the legislation (e.g., protecting public health or the health care system).

### The assessment may involve:

- the essential purpose of the person's presence in Canada;
- the type/class of application and pertinent family composition, both in the home country and in Canada;
- if medical treatment is involved, whether or not the treatment is reasonably available in Canada or elsewhere (comments on the relative costs/accessibility may be helpful), and anticipated effectiveness of treatment;
- the tangible or intangible benefits which may accrue to the person concerned and to others; and
- the identity of the sponsor (in a foreign national case) or host or employer (in a temporary resident case).

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### 12.2. Cases that may not warrant favourable consideration

Cases that may not warrant favourable consideration include:

- an inadmissible sponsored parent, with other children or family members in the home country to provide care; or
- a criminally inadmissible spouse with a risk of violence or repeat offence.

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**Note:** Inadmissible persons may be allowed to enter or remain in Canada for a legitimate temporary purpose as long as this does not contravene the intention of the legislation.

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### 12.3. National interest cases

The urgent need for the applicant's presence in Canada should normally relate to economic or employment security of Canadian citizens or permanent residents. Such need may be confirmed by appropriate officials of the national employment service or provincial government. The *bona fides* of the individual as well as the employer or business proposal and the urgency of the case should be well established before a permit is issued.

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## 13. Procedure: Inadmissibility on health grounds: Temporary entry

The provisions covering inadmissibility on health grounds [A38 and R20] were established by Parliament to protect Canadian residents from persons who are, or are likely to be, a danger to public health or to public safety, or when their admission would cause, or might be expected to cause, excessive demands on health or social services. Decisions to recommend and issue permits in these cases should not be made lightly.

<p><b>Example:</b> Temporary residents coming to Canada for prearranged medical treatment may warrant favourable discretion.</p>
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Inadmissibility on health grounds based on excessive demand does not apply to:

- a spouse, common-law partner or child of a sponsor or their dependent family members;
- a Convention refugee or protected person or their dependent family members.

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### 13.1. Risk assessment

Officers should consider the following:

- Is the person suffering from a communicable or contagious disease? This should be assessed in the context of threat to the travelling public and the community of destination. If precautions cannot guarantee that there will be no threat to anyone en route or in Canada, a permit should NOT be issued.
- Can concerned officials and the public be protected or forewarned regarding any person who presents a health risk?
- How severe is the person's anticipated need for health or social services in relation to the demand for these services by Canadian residents?
- What is the cost of the treatment or care, if available?
- If a temporary resident, how will the costs be covered (insurance, family finances)?
- What arrangements are there to cover treatment, care and other costs?
- Will a temporary resident need follow-up treatment at home or in Canada? Is it available in the home country, and if not, will this prevent the person from returning home?
- In permanent resident cases, is the person likely to become self-supporting?
- Is there a risk the person will require public assistance?

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### 13.2. Factors specific to foreign nationals being inadmissible on health grounds

- What is the cost of the treatment or care, if available?
- How will the costs be covered (insurance, family finances)? Will provincial public health insurers provide insurance coverage?

Rules governing eligibility in provincial public health insurance plans vary widely and are subject to change. Officers should obtain information about eligibility directly from their Regional Headquarters (RHQ).

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### 13.3. Permit holders, inadmissible on health grounds, requiring continuous public assistance

Permit holders, inadmissible on health grounds, are eligible for permanent resident status after three years. If they are likely to need public assistance continuously, they are high-risk candidates for permits. Officers should be guided in these cases (M4 to M7) by the "Health Conditions" and "Narrative" sections contained in the Medical Notification IMM 5365B form or the Medical Status report from FOSS.

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### 13.4. Case summary: Submitting the report

Officers should submit the report for a permit to the delegated authority (see IL 3).

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### 13.5. Role of delegated authority

On receipt of the report, the delegated authority will:

- seek an opinion from the responsible provincial health authorities, where they have indicated a desire for such involvement;
- ensure that all public safety, quarantine, health care access, eligibility for provincial health insurance, financial and provincial jurisdictional factors are satisfactorily addressed before authorizing the issuance of the permit;
- convey the decision to the requesting office, with copies to any other departmental offices or visa offices involved and to RNH or RIH.

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### 13.6. Provincial health authorities

If an opinion from provincial health authorities is required and the information on the “Narrative” is not sufficient, Immigration Health Services (RNH) or Overseas Medical Services (RIH) will, upon request, forward a complete diagnosis directly to the province. If the case appears to warrant facilitation, RHQs should ask RNH or RIH to send a diagnosis to the provincial health authorities. Due to varying provincial requirements, it is left to each RHQ to devise the liaison procedures with their provincial counterparts.

If provincial authorities have been consulted and do not favour permit issuance, the delegated authority must consider this position when weighing all the factors. This may result in refusal of the permit.

A refusal letter should be sent to the client, as described in Appendix A.

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## 14. Procedure: Criminal inadmissibility: Temporary entry

See A36, A37, R17, R18, and R19 for legislative references.

Powers to exclude or remove criminals were established by Parliament to protect Canadians. Decisions to allow criminally inadmissible persons to come into Canada should not be made lightly.

In reviewing criminal cases, officers should check the time elapsed since the sentence was served to determine whether the client might be eligible for rehabilitation, if appropriate, or be deemed rehabilitated.

---

### 14.1. Risk assessment

Acceptable risk means further criminal activity is unlikely. The onus is on the client to demonstrate this.

Officers need to assess:

- the seriousness of the offence;
- the chances of successful settlement without committing further offences;
- behavioural factors involved (drugs, alcohol);
- evidence that the person has reformed or is rehabilitated;
- pattern of criminal behaviour (e.g., the offence a single event and out of character);

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- completion of all sentences, fines paid or restitution made;
- outstanding criminal charges;
- restriction of travel following probation or parole;
- eligibility for rehabilitation or a pardon;
- time elapsed since the offence occurred;
- controversy or risk caused by presence of the person in Canada.

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### 14.2. Other factors specific to criminally inadmissible foreign nationals

Officers need to assess:

- eligibility for provincial health insurance coverage in foreign national cases; if ineligible, foreign nationals should prove they have sufficient assets or private insurance to cover possible medical costs;
- any risk that a foreign national will require public assistance.

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### 14.3. Provincial health insurance coverage

Rules governing eligibility in provincial public health insurance plans vary widely and are subject to change. Applicants should obtain information about eligibility directly from provincial plan administrators.

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### 14.4. Case summary: Submitting the report

Officers should submit the report for a permit to the delegated authority (see IL 3).

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## 15. Procedure: Other inadmissibility or violation - Temporary entry

Officers must weigh the possible merits of each case in relation to the gravity of the inadmissibility or violation. If it becomes necessary to obtain information or confirmation from third parties, documentary evidence should be kept on file. The applicant must be informed of third party information and allowed to respond to it if officers use the information to arrive at a decision.

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### 15.1. Risk assessment - Cases inadmissible for reasons other than those of a medical or criminal nature

Officers should address all the following questions:

- history: is there a pattern of previous or multiple violations of the Act/Regulations?
- intention: is the violation inadvertent and accidental, or the result of careless or flagrant disregard for the law?
- credibility;
- previous deportation: have the original grounds for deportation been overcome or diminished? Are there any statutory bars remaining against the person, other than the deportation order?

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- controversy: are there public controversial elements to the case that warrant referral to NHQ?
- settlement risk: if a foreign national is intending to immigrate, is there any risk the person will require public assistance? Officers should consider that persons continuously on a permit for a specified time will be granted permanent residence.

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### 15.2. Minor criminal inadmissibility - Frequent travellers

If a person is not eligible to obtain relief from the Minister or has not received a pardon, and if circumstances warrant facilitation, a permit may be issued authorizing re-entry.

**Example:** Officers could consider granting a permit valid for re-entry to a frequent business traveller who was convicted of a minor criminal offence which renders the person inadmissible under A36(2) and if the applicant meets each one of the criteria listed in section 15.3 below.

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### 15.3. Determining if criminal inadmissibility is minor

A criminal offence is minor if:

- the crime did not involve drugs, except for simple possession of marijuana/hashish;
- the crime did not involve physical harm or violence;
- the crime resulted in a suspended sentence or probation (no jail term), unless it was the result of plea bargaining;
- the crime did not involve damage to property (impaired driving resulting in an accident would not be eligible);
- if on probation, the person has been fulfilling the conditions;
- there are no more than two convictions.

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## 16. Procedure: Victims of human trafficking

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### 16.1. Purpose of the Guidelines regarding the issuance of temporary resident permits to victims of human trafficking

These guidelines have been developed to assist immigration officers in assessing whether or not to issue a temporary resident permit to victims of trafficking. **These guidelines must be applied in conjunction with the Ministerial Instruction found in Appendix G.** The objective of these guidelines is to respond to the vulnerable situation of foreign nationals who are victims of trafficking by providing them with a means of legalizing their status in Canada, when appropriate.

This will contribute to the federal anti-trafficking efforts. In order to enhance existing in-Canada mechanisms for trafficking victims who are foreign nationals, CIC has developed criteria to be used in assessing temporary resident permit applications by victims of trafficking. These measures will also extend Interim Federal Health coverage to these victims and will introduce a more systematic way of tracking these cases.

These guidelines will remain in effect until further notice or until amended.

For more information on Canada and CIC's commitment to human trafficking, see Appendix F.



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### 16.2. Definitions

#### Trafficking in persons and victims of trafficking

Trafficking in persons (TIP) is a modern form of exploitation, and is a criminal offence under the *Criminal Code* and the *Immigration and Refugee Protection Act* (IRPA) (see Appendix F).

The UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, which Canada ratified on May 13, 2002, defines TIP as follows:

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (Article 3).

Traffickers use a number of methods to control their victims including the confiscation of their identification papers, monitoring and surveillance, restraint, sexual assault, and violence or threats of violence to them or to their family members. TIP may occur across or within borders; it often involves extensive organized crime networks and violates the basic human rights of its victims.

Traffickers take advantage of desperate people looking for work to support themselves and their families. Traffickers prosper in poor countries and countries in transition where people may accept jobs in marginalized sectors with little or no respect for labour standards. In source countries, traffickers often lure victims through false promises of employment as domestic workers, factory and farm workers, nannies, models or exotic dancers and then coerce them into the sex trade or forced labour. In some cases, trafficked persons may know what type of work they will perform but be deceived about the working conditions, or the degree of personal liberty or freedom of movement they will possess. Traffickers may also obtain victims through kidnapping or abduction.

Victims of trafficking in persons (VTIP) may enter Canada illegally or legally. For example, victims may be smuggled into Canada in a clandestine manner, or may enter legitimately and may or may not overstay their status. Alternatively, traffickers may use deception or false documents to fraudulently obtain visas or assist victims to be admitted at a port of entry. VTIPs may or may not be aware that they have entered Canada illegally. In some cases, persons who enter Canada as legitimate visitors are subsequently exploited by traffickers. Identifying VTIPs who are in transit can be difficult; exploitation may not yet have occurred, and potential victims would be unaware of the traffickers' true intent. At this stage, victims may view traffickers as assisting, rather than exploiting them.

#### Smuggling vs. trafficking

Trafficking is often confused with smuggling; however, it is important to be able to distinguish between the two, as they require different responses from authorities. Migrant smuggling involves the facilitation, transportation, or procurement of the illegal entry of a person or persons across an international border (as defined by the *Protocol against Smuggling of Migrants by Land, Sea, and Air*, which Canada ratified on May 13, 2002). Smuggling occurs with the consent of the smuggled persons who will generally be free to go in the country of final destination, where they usually have no further contact with the smuggler. TIP, on the other hand, involves the use of threats, force, fraud or other forms of coercion. VTIPs are not at liberty in their final destination. They are exploited for the labour or services they can provide.

Both smuggling and TIP may present similarly and are often only distinguished after further inquiry. Smuggled persons may become VTIPs at any point in the smuggling process. Some may

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consent, for example, to being smuggled across a border, but find on arrival in the country of destination that debt bondage, or other forms of coercion, have been imposed. If this occurs, they become VTIPs, regardless of whether they consented to being smuggled in the first place.

### Impact of TIP on victims

TIP causes a number of direct and indirect harmful consequences to its victims. VTIPs may be physically and/or sexually assaulted, confined, restrained and/or subjected to psychological abuse. Fear for one's own personal safety, and the safety of loved ones can cause additional emotional trauma and stress. VTIPs may also experience shame, low self-esteem and a sense of powerlessness. Many VTIPs suffer from post-traumatic stress disorder, and may fear or mistrust authorities.

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### 16.3. Procedures: Responses through the temporary resident permit

CIC's involvement typically begins when a person self-identifies or is referred to CIC by a non-governmental organization or law-enforcement authority as a VTIP. A mutual and automatic consultation between CIC and partner law-enforcement agencies should occur when a person self-identifies as a VTIP. If referred by an NGO, and if the CBSA or RCMP have not already been consulted an automatic consultation should occur.

A preliminary interview of the person concerned may be necessary to verify their identification as a VTIP. If the victim is referred to CIC by a law-enforcement agency, they can assist with the preliminary verification; however, the final decision rests with CIC to determine if a TRP is justified in the circumstances. When the VTIP is referred by the CBSA, a final decision should be made within 48 hours of contact as the CBSA may release the individual after 48 hours. For information on dealing with trafficked children, officers should consult ENF 21 Recovering Missing, Abducted and Exploited Children.

It is important to be sensitive to the personal situation of a suspected VTIP; they may be experiencing psychological and/or physical trauma. They may require the assistance of an interpreter.

These victims may be in Canada without status and may also lack travel and identity documents. Because of the urgent nature of these cases, for expediency, local CIC offices shall process these applications rather than sending the application to CPC- Vegreville.

#### **In applying their discretion to issue a TRP, officers must act in accordance with the Ministerial Instructions found in Appendix G of this chapter.**

VTIPs may require a two-stage response when considering a TRP request. In some cases, a short-term temporary resident permit lasting up to 120 days will be necessary before proper consideration can be given to whether a longer-term TRP is appropriate. Different considerations will apply in short- and longer-term situations; these are described below. Once the officer has made their decision whether to grant a TRP or not, they should communicate the decision to the CBSA.

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**Note:** If the VTIP has existing immigration status through another visa, the officer may consider not issuing a TRP until the current status has lapsed.

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#### **Short-term TRP (up to 120 days)**

Given the complexity of TIP cases and the trauma that a VTIP may be experiencing, when a possible TIP case comes before an officer, it is not always possible for the officer to make a conclusive finding that the individual is a VTIP. If the individual is a self-identified victim of trafficking and has not yet been to the police, it may be difficult for the officer to verify all of the facts. The individual may not be able to undergo an in-depth interview with the officer (due to language, fear, trauma, etc.), they may be too afraid to identify traffickers, or may be afraid of consequences to their own well-being or the well-being of loved ones under threat, should the nature of their activities become known.

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For these reasons, an officer may only be able to make a preliminary assessment that, based on the circumstances presented to the officer, the individual may be a VTIP.

The criteria used in a preliminary assessment to verify the circumstances, including an assessment of credibility and whether the individual may have been trafficked, should take into account any indications that:

- the recruitment of the individual was fraudulent or coerced and for the purposes (actual or intended) of exploitation;
- the individual was coerced into employment or other activity;
- the conditions of employment or any other activity were exploitative; or
- the individual's freedom was restricted.

For suggested questions to help make such a preliminary assessment, see Appendix H.

In these cases, the officer may issue the individual a short-term temporary resident permit:

- to provide a period of reflection for the suspected VTIP to further consider their options for returning home or to allow time to decide if they wish to assist in the investigation of the trafficker or in criminal proceedings against the trafficker;
- to allow the suspected VTIPs to recover from physical and/ or mental trauma (e.g., counselling and/or medical treatment may be necessary);
- to allow the suspected VTIPs to escape the influence of traffickers so that they can make an informed decision on a future course of action;
- to facilitate the participation of the suspected VTIPs in the investigation or prosecution of an alleged TIP offence in Canada, or otherwise assist authorities.
- for any other purpose the officer may judge relevant to facilitate the protection of vulnerable foreign nationals who are victims of human trafficking.

In this situation, the officer can consider issuing a short-term TRP up to 120 days on the understanding that the individual will return to the officer for a more complete examination, should a subsequent TRP be desired.

If the person is assessed to be a suspected VTIP, officers should direct the person to their embassy or high commission, NGOs, provincial and municipal agencies and assist in making a first contact with the appropriate groups. In many instances, the person may simply wish to return to their country of habitual residence as soon as possible and may need assistance in this regard. Medical and social counselling assistance may be granted via the Interim Federal Health (IFH) program available through CIC for holders of TRPs issued to suspected VTIPs for the duration of the reflection period.

Information on TRPs can be found elsewhere throughout this chapter.

TRPs issued under such circumstances must be coded in FOSS using the special program code TPE and the case type code 80 = inadmissible person N.E.S.

If the person is seeking to file a claim for Convention refugee/protected person status, relevant information can be found in PP1.

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### Longer-term TRP

When a suspected VTIP is seeking a longer-term TRP, a more complete verification of the facts in consultation with law enforcement and an interview may be required. In order to establish reasonable grounds to believe the individual is a VTIP, the officer will need to consider the following factors in arriving at a decision (see also note below):

- Whether it is reasonably safe and possible for the victims to return to and to re-establish a life in the country of origin or last permanent residence;
- Whether the victims are needed, and willing, to assist authorities in an investigation and /or in criminal proceedings of a trafficking offence;
- Any other reason the officer may judge relevant.

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**Note:** These persons have been trafficked to Canada, they may have been kept in isolation from Canadian society, may be illiterate or unskilled and may not have formed support networks that they want or are able to depend on for help in integrating. These circumstances should not weigh against affording legal status.

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Officers should take into account apparent risks in the consideration of the circumstances of the VTIP; however, the goal of the assessment is not to duplicate a PRRA-like process.

The objectives of the interview are:

- to establish the facts of the case in order to verify that the person was trafficked;
- to use the facts to determine the best course of action for the long term.

For more information on how to carry out the interview and suggested questions, see Appendix H.

In reaching a decision, the officer should recall that the objective of these Guidelines is to respond to the vulnerable situation of foreign nationals who are VTIPs by providing them with a means of legalizing their status in Canada when appropriate. In general, if it would be unsafe or very difficult for a VTIP to re-establish a life in the country of origin, or if the VTIP is willing to assist authorities in Canada, the officer can exercise their discretion to issue a TRP, including one that will lead to permanent residence.

If permanent residence in Canada is determined to be the best course of action, officers may consider issuing a temporary residence permit for a sufficient period of time in case and until the person becomes a permanent resident (see section 5.18 above).

TRPs issued under such circumstances must be coded in FOSS using the special program code TPE and the case type code 80 = inadmissible person N.E.S.

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### 16.4. Interim Federal Health Program

It is recommended that the duration of IFH coverage for these persons **be limited to the “reflection period.”** It could be extended if they apply for refugee status, but not if they apply for other types of visa.

As regards coverage, this new group should initially receive the same benefits as other groups covered under the IFH program. However, considering the purpose of the “reflection period,” some psychological counselling and other medical services related to their particular situation may be considered as “urgent and essential.” The specific medical needs of this group, as well as medical resources available, are unclear at present and cases could be assessed individually. Medical services covered should probably be similar to those offered for Canadians under similar circumstances.

VTIPS should be coded 04 – others in FOSS

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IFH is available to VTIPS and provides health service benefits for the reflection period of up to 120 days. The IFH is not available to VTIPs who are:

- able to pay for their own health care services; or
- covered by a private or public health care plan.

### IFH related forms

The forms related to this program are FOSS-generated on the generic form IMM 1442B, and will confer IFH eligibility as determined by the officer for 12 months, or a lesser period. For VTIPs, this period **must** coincide with the length of their TRP issued for the period of reflection.

The form "Interim Federal Health Certificate" (also FOSS-generated and printed on IMM 1442B) contains the following information:

- basic identification;
- the paragraphs noted in the "Information" IFH form (IMM 1442B), Section 10.4;
- the client's photograph;
- signature; and
- access to IFH.

### Information on the IFH form (IMM 1442B)

It is understood that VTIPs must renounce benefits under IFH once other medical benefits, such as provincial medical coverage, commence. This is why the IFH forms (IMM 1442B) are valid for the reflection period, and contain an eligibility paragraph under "Remarks" which states the following:

"The above mentioned person is eligible for benefits under the Interim Federal Health (IFH) program as described on the attached list. Eligibility will continue until...(day/month/year)...but may be revoked before, should the holder qualify for private or public health insurance or otherwise ceases to be eligible."

"I, the undersigned, declare that I require assistance for medical care and that should my circumstance change or should I qualify for any other form of medical benefits, I will no longer seek to obtain benefits under the IFH program."

### Issuing IFH documents

In order to ensure that VTIPs have timely access to health care, officers should issue IFH documents during their first contact with clients, or as soon as possible after their preliminary assessment.

These documents are to be used for all eligible medical needs with procedures dependent upon the client's status in Canada and province of residence.

These forms provide the option to add the two paragraphs that:

- confirm the VTIP's eligibility for IFH access for the period of reflection;
- specify the commitment to cease benefits as agreed upon once other benefit options become available.

## IP 1 Temporary Resident Permits

Currently the IFH document cannot identify VTIPs who are eligible for psychological counselling and other medical services related to their particular situation. In order to identify these individuals and alert Medical Services to pay the treatment invoice, **the officer must send a fax to the attention of Joy Baldwin, Manager IFH Program at NHQ fax number 1-800-362-7456 identifying the case.** The fax should contain the following information:

Name

Duration of the TRP

Date of Birth

FOSS Identification Number

Classification of the TRP i.e., that it has been issued to a VTIP

---

### 16.5. Cost recovery

Approval has been granted for a Public Policy to exempt VTIPs from the cost recovery fee for the short-term TRP of up to 120 days for the period of reflection. See Appendix I for the text of the Public Policy. For fee purposes, these TRPs should be coded M26 in FOSS.

---

### 16.6. Repatriation

In some instances, the person may want to return to their country of citizenship or legal permanent residence. If the person is in the enforcement stream, the CBSA is responsible for sending the person home.

To be in the enforcement stream, the person would need to be out of status and in violation of IRPA. At that point, the CBSA would remove them in the normal course of their removals. If the person wishes to apply for a PRRA, they would be removed from the enforcement stream until a decision had been made. The CBSA has no legal authority to remove persons who do not have an enforcement action against them.

#### Other measures available

Foreign nationals who are VTIPs may avail themselves of a number of other legislative and administrative measures in order to remain in Canada temporarily or permanently. These include stays of removal, refugee protection claims, applications for humanitarian and compassionate consideration, and pre-removal risk assessment. The officer should bring these options to the attention of the individual.

---

## 17. Procedure: Communicating decisions and issuing temporary resident permits

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### 17.1. Negative decisions

Officers should:

- inform clients of negative decisions in writing;
- enter refusals in FOSS as an NCB under "General Information";
- follow up or monitor to ensure compliance.

The letter (see Appendix A) should communicate any of the following, as applicable:

## IP 1 Temporary Resident Permits

- duration and limitation of existing valid temporary status;
- requirements concerning voluntary departure and confirmation of departure;
- notice to appear for inquiry and counseling regarding possible penalties for failure to comply (should confirmation of the client's departure be necessary, see Appendix C for appropriate wording);
- steps to take in seeking relief or to overcome their inadmissibility or make themselves eligible in future.

---

### 17.2. Positive decisions

Officers should prepare a temporary resident permit by:

- entering the data in FOSS;
- ensuring appropriate **validity dates** and indicating whether or not the person shall be **allowed to leave and re-enter Canada**;
- entering the correct "Type of case" code on the document (see Appendix D). This information is valuable to CIC staff and to provincial ministries responsible for health insurance and social assistance;
- referring to FOSS, Coding manual for further instructions on forms coding and completion procedures;
- generating the document on the Full Document Entry printer or, in **emergency situations only**, completing an IMM 1263B by hand and inputting via the SE (Status Entry) mode;
- attaching a picture of the permit holder to the permit using a wet or dry seal; and
- issuing separate documents for each person requiring a temporary resident permit.

---

### 17.3. Advice to clients

Officers should:

- issue a letter of explanation to ensure the client understands the nature of the permit (see Appendix B for sample);
- counsel clients to:
  - ◆ obtain work or study permits if they wish to work or study in Canada;
  - ◆ obtain private health insurance if not eligible for provincial health insurance;
  - ◆ obtain a facilitation travel document counterfoil from a Canadian visa office abroad to return to Canada if they leave, and have authorization to re-enter (only if client is subject to the temporary resident visa requirement);  
leave Canada before permit expires or apply to CPC Vegreville for extension.

---

### 17.4. Issuing permits when one family member is inadmissible (foreign national cases)

When permits are issued to a family with one or more inadmissible members:

## IP 1 Temporary Resident Permits

- officers should issue separate permits to each family member (not all on one permit);
- all family members remain on permits for the required time period before being granted permanent residence;
- the family members may be in different inadmissible classes;
- the inadmissible class that best describes the person must be indicated on the permit;
- a person requiring a permit because one family member is inadmissible is described at A42;
- the type of case code should be the same for all members of the family (e.g., if one family member is inadmissible on criminal or health grounds, that type of case code should appear on everyone's permit).

---

### 17.5. Leaving and re-entering Canada

Normally, temporary resident permits are not valid for re-entry to Canada. One exception is permits issued to persons who travel frequently to Canada.

Authorization to re-enter Canada is added to the FOSS "Temporary Resident Permit" screen. The permit itself will contain the words "DEPARTURE FROM CANADA WILL NOT INVALIDATE THIS TEMPORARY RESIDENT PERMIT UNDER REGULATION 63(b)." Notwithstanding authorization to re-enter Canada given to permit holders, temporary resident permits [IMM 1442B] issued after **April 30, 2005** are **not acceptable** as travel documents to board international carriers travelling to Canada. Permit holders with authorization to re-enter Canada must be counselled that their permit is not a travel document. Approved clients who are subject to the temporary resident visa requirement must also be told that if they leave, they will require that a counterfoil be placed in their passport by a Canadian visa office abroad to facilitate their return to Canada.

Unless the holder of a temporary resident permit has been granted authorization to re-enter Canada, R63(b) cancels the permit when the holder leaves Canada.

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## 18. Procedure: When not to issue a TRP

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### 18.1. A44(1) reports: If decision is not to refer to an inadmissibility hearing

If a temporary resident, student or worker with valid temporary resident status is reported under A44(1) but a decision is made not to hold an inadmissibility hearing or issue a removal order, that person remains a temporary resident. It is **not** necessary to issue a temporary resident permit.

---

### 18.2. Loss of temporary resident status

If a worker, student or temporary resident has lost temporary resident status only because of the expiry of their status, they **must** apply within 90 days of the expiry date, for restoration of status and pay the appropriate cost recovery fee. Officers will restore current status of visitor, student or worker rather than issue a TRP so as to avoid giving the individual greater privileges. See section 5.5 above and R182.

---

### 18.3. Restoration of status

In the absence of compelling need, permits should not be issued even if the inadmissibility and risk are minor. It would undermine the integrity of the immigration system if the lack of a visa or valid temporary visitor, student or worker status could be overcome by issuance of a temporary resident permit.



## IP 1 Temporary Resident Permits

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### 18.4. Sponsor, host or employer in Canada is not reputable

Officers should not consider issuing permits if they have reasonable grounds to believe that the prospective sponsor, host or employer in Canada is not reputable or accountable (e.g., an ad hoc committee established solely for the purpose of sponsoring the inadmissible individual as a speaker).

---

### 18.5. Public disorder

Officers should not consider issuing permits if they have reasonable grounds to believe that the person's presence in Canada may be expected to result in public disorder.

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### 18.6. Frequent travellers who have not applied for rehabilitation

Officers should not consider issuing permits if they believe that frequent travellers, or persons likely to return to Canada in the future, are eligible for rehabilitation and have not applied for rehabilitation. They should encourage the applicant to apply for rehabilitation and provide them with the "Application for Criminal Rehabilitation" (IMM 1444E).

---

### 18.7. Applicants with minor crimes who may be deemed rehabilitated

If sufficient time has elapsed, a person with minor criminal inadmissibility may be deemed rehabilitated and no longer be inadmissible. Therefore, it is not necessary to issue a temporary resident permit. [A36(3) and R18]

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## 19. Procedure: Permit extensions

Officers issuing permits should:

- advise clients to apply to CPC-V or local office for extension at least 30 days before expiry of permit;
  - maintain a "Bring Forward" system for follow-up
- 

### 19.1. Review of case by CPC Vegreville

- Obtain all pertinent information from FOSS or office(s) which recommended and authorized original permit and any extensions;
  - Check for level of decision-making authority or concurrence, to obtain any required;
  - If the decision on the original permit authorized extensions, no further concurrence is required unless the circumstances have changed;
  - Review need and risk factors; if risk outweighs need, it may be necessary to refuse extension (e.g., if there is a breakdown in settlement arrangements);
  - A short validity period may allow for monitoring and regular reviews;
  - If there has been no negative change to need and risk factors, reviews can be less thorough or frequent.
- 

### 19.2. Issuing permit extension

Officer should issue extension if:

## IP 1 Temporary Resident Permits

- client applied before expiry of the previous document;
- review of need and risk factors is still favourable;
- reason for inadmissibility has not changed;
- there are no new circumstances that would justify a refusal;
- permit was not automatically cancelled by departure from Canada;
- factors set out in section 5.7 above have been considered.

Refer to section 16 above for issuing documents.

---

### 19.3. Issuing extensions after expiry of permit

Officers can issue extensions after expiry of the previous document if:

- the client applied before expiry of the document. Clients should not suffer the consequences of processing delays (i.e., a break in continuity);
- the applicant's circumstances or reasons are sufficiently compelling/convincing to satisfy the officer and warrant an extension.

See section 5.15 above.

---

### 19.4. When not to extend permits

#### Permit holders outside Canada

If, after review of the case, officers at CICs or CPC-V believe a permit holder is outside Canada, they should convoke the client to an interview. This will verify the permit holder's presence in Canada. Permit extensions should not be issued to permit holders who are outside Canada.

#### Permit holders who may be eligible for rehabilitation

If, after review of the case, officers at CICs or CPC-V determine that the permit holder is eligible for rehabilitation, they should encourage the permit holder to apply for rehabilitation and provide the "Application for Criminal Rehabilitation" [IMM 1444E]. Permit extensions should not be issued to permit holders who are eligible for rehabilitation.

#### Restoration of temporary resident status - Visitors, students, workers

If after review of the case, officers at CICs or CPC-V determine that the original temporary resident permit was issued to overcome loss of temporary resident status, the officer should restore temporary resident status, if possible.

---

### 19.5. When to issue a new permit rather than grant an extension

If review of risk and need is positive, officers should issue a new permit in the following circumstances:

#### Table 6: Circumstances requiring a new permit

- |   |
|---|
| <ol style="list-style-type: none"><li>1. The client applied for extension after expiry of the previous document and has not satisfied an officer of compelling reasons for delay.</li><li>2. The client is inadmissible for a new reason.</li><li>3. The client left Canada, is returning to Canada and re-entry was not previously</li></ol> |
|---|

## IP 1 Temporary Resident Permits

<p>authorized. Authorization to re-enter should be indicated on the client's "Temporary Resident Permit" record in FOSS. The permit should also bear the words "DEPARTURE FROM CANADA WILL NOT INVALIDATE THIS TEMPORARY RESIDENT PERMIT UNDER REGULATION 63(b)."</p> <p>4. The client left Canada, is returning to Canada and re-entry was authorized, but validity date has expired.</p>
<p>For all of the above circumstances, officers should:</p> <ul style="list-style-type: none"><li>• issue a new permit if the client meets the requirements;</li><li>• record in FOSS a break in continuity of residence in Canada;</li><li>• record the previous document number in the appropriate field in FOSS (see Coding Manual or add to remarks section: "Has previously been in Canada on TRP #xxx");</li><li>• explain in a covering letter to the client the consequences of a break in continuity;</li><li>• remind client of importance of applying for extension in time.</li></ul>
<p>For circumstances in 2, 3 and 4, officers should write a new report.</p>

**Note:** A break in continuity may affect eligibility for permanent residence (eligible after three years of continuous residence on a permit in inadmissible cases on health grounds, and after five years in most other cases). It may also affect provincial health coverage.

---

### 20. Procedure: Convention refugees in Canada

Convention refugees or protected persons may be granted permanent residence in Canada unless they are inadmissible for reasons involving security, human rights violations, serious criminality, organized criminality, or danger to public health and safety [A21(2)].

However, there may be reasons to allow these inadmissible persons to remain in Canada under the authority of a permit.

Officers should:

- forward a full report and recommendation to the Director of Case Review, Case Management Branch, NHQ;
- advise visa offices to stop processing family members overseas.

---

### 21. Procedure: Eligibility for permanent resident status: Protected temporary residents class

Individuals who hold a temporary resident permit may become permanent residents in this class provided:

- they became a temporary resident under a temporary resident permit issued for protection reasons after having made a claim for refugee status outside Canada under A99; or
- they were issued a Minister's permit under the former Act after seeking admission to Canada as members of the Convention, source country, or country of asylum refugee classes.

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This class was created to facilitate the acquisition of permanent resident status by refugees in urgent need of protection. Members of the class, who are issued temporary resident permits to come to Canada before a permanent resident visa can be issued abroad, may apply for permanent residence from within Canada but without the waiting period that is one of the requirements of the permit holder class. There is no fee for applications made in this class.

For more information, see PP4, section 9.

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### 22. Procedure: Eligibility for permanent resident status: Permit holder class

Permit holders may become permanent residents of Canada as members of the permit holder class if they have not become inadmissible on any grounds other than those for which the original permit was issued and they have resided in Canada for a period of:

AT LEAST THREE YEARS, AND	AT LEAST FIVE YEARS, AND
<ul style="list-style-type: none"><li>are inadmissible on health grounds under section A38(1); or</li></ul>	<ul style="list-style-type: none"><li>are inadmissible on any grounds not mentioned in the first column of this table with the exception of:<ul style="list-style-type: none"><li>security [A34]</li><li>violation of human or international rights [A35]</li><li>serious criminality [A36(1)]</li><li>organized crime [A37]</li></ul></li></ul>
<ul style="list-style-type: none"><li>are inadmissible for having come to Canada as an accompanying family member of a foreign national who is inadmissible on health grounds; or</li></ul>	
<ul style="list-style-type: none"><li>are inadmissible on grounds of having come to Canada as an accompanying family member of a person described above.</li></ul>	

In order to be accepted in the permit holder class, individuals must make an application and pay the appropriate processing fee.

Individuals who become inadmissible on any other ground since permit issuance are not eligible for permanent residence. In situations where individuals become subject to a new inadmissibility, officers will need to reassess the case, including the new inadmissibility and, if they decide it is warranted, issue a new permit.

Otherwise, there is no discretion involved in granting permanent resident status to a permit holder who has completed the required time period. Officers recommending or issuing permits and extensions should carefully consider all the factors before issuing a permit or extension with a validity period which would allow the person to become a permanent resident.

---

#### 22.1. When requirements met

Officers should prepare a case summary for the delegated authority. This summary should indicate that the applicant has met the requirements of the permit holder class and should include the following:

- reasons for issuance of permit;
- reasons for extensions;
- any other information or documents relevant to case (e.g., medical notification in medically inadmissible cases).

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Officers with delegated authority under A21 can process the granting of permanent resident status of applicants who meet the requirements of the Permit Holder Class and exempt them from the inadmissibility covered by their temporary resident permit. (See IL 3 for delegation instruments). The responsible CIC would proceed with the granting of permanent resident status. CPC Vegreville does not handle the granting of permanent resident status for the permit holder class.

Applicants for permanent residence must pay the processing fee for the permit holder class and the right of permanent resident fee (if required), if they have not already been paid.

For a sample letter advising the applicant that their application for permanent resident as a member of the permit holder class has been accepted, see Appendix E.

---

### 22.2. When a new inadmissibility appears

If, at any time during the validity of the permit, the holder becomes inadmissible for an additional reason that was not covered by that permit, a new A44(1) report may be made and the new circumstances evaluated, as applicable.

A new inadmissibility constitutes a break in continuity of the time required to become eligible for the permit holder class for permanent residence and the applicant would NOT be eligible for permanent residence.

Depending on the circumstances of the case, either a new permit would be recommended, or a decision would be made by the CIC on whether to deport the permit holder.

---

### 22.3. Accompanying family members

There is no provision to allow members of the permit holder class to include family members on their applications for permanent residence. At the time of the applicant's original entry to Canada, any accompanying family members would have been inadmissible on grounds of accompanying an inadmissible family member [A42] and would consequently have required their own permit. In order to be considered for permanent residence, such individuals would need to submit their own applications under the permit holder class as principal applicants.

Family members living abroad who are eligible for membership in the family class may be sponsored once a member of the permit holder class has attained permanent resident status.

If accepted in the permit holder class, an applicant is not required to pay the right of permanent residence fee provided they are a dependent child of another member of the permit holder class who has already submitted an application for permanent residence.

---

### 22.4. Transitional guidelines

The regulatory amendments that came into force on August 11, 2004 changed the mechanism by which members of the permit holder class are granted permanent residence. This had an effect on the concurrent processing of family members. Prior to the amendments, principal applicants could include in-Canada family members for processing as part of their applications. As mentioned above, under the new Regulations, if family members of principal applicants in the permit holder class wish to become permanent residents, they must submit their own applications. Accompanying family members who are in Canada and possess a TRP may qualify, in their own right, for membership in the permit holder class. If they meet all the requirements of the Act and Regulations, family members outside Canada may be sponsored as members of the family class.

For the purposes of transition, any application received prior to August 11, 2004 will not be subject to the new restrictions regarding accompanying family members. Applications received on or after August 11, 2004 will be treated according to the new Regulations.

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### 23. Procedure: Cancellation of a temporary resident permit

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Officers, according to delegated authority, may cancel a permit at any time if a permit holder's circumstances change.

#### 23.1. Notification of intention to cancel

Officers must notify the person in writing of their intention to cancel the permit.

The letter should:

- state the reasons for the decision;
- be delivered by hand or double-registered mail, to ensure acknowledgment of service;
- be copied to person's legal counsel, if any;
- advise the person of the right to make written representations or discuss the decision in person with an officer;
- specify a reasonable period of time in which to make such representations.

This simply gives the person an opportunity to be heard and provide additional information. It should not be misconstrued as a formal hearing.

Before making a final decision, the officer should consult the office that originally issued the permit, explaining the change in circumstances, and, where necessary, obtain concurrence from the delegated authority to cancel.

#### 23.2. Notification of cancellation

Officers will issue another letter, informing the person of permit cancellation if:

- no representations are received; or
- representations are received, but they do not change the original decision.

The letter will include the effective date of permit cancellation and will, in most cases, require the person to leave Canada by a specified date or face the possible consequence of non-compliance: an inadmissibility report under A44(1) and removal from Canada.

#### 23.3. Enforcement

A person whose permit has expired or been cancelled should be reported under A44(1) if the person does not leave Canada by the date specified.

The inadmissibility report may be based on:

- new grounds of inadmissibility other than the ones on which permit issuance was based, if applicable;
- the original grounds;
- overstaying the period for which they were allowed to enter or remain in Canada, if the permit was only issued to temporarily overcome the inadmissibility.

Depending on the circumstances, a designated officer may make a removal order against the person, or refer the report to the Immigration Division for an inadmissibility hearing.

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For procedures for reports, admissibility hearings and removal orders, see ENF 3 and ENF 6.

---

### 23.4. If a person's whereabouts are unknown

If a person's whereabouts are unknown, designated officers will:

- undertake a thorough investigation to locate the person;
- issue a warrant for the arrest of a person reported under A44(1) and enter it in CPIC.

A diligent effort to determine the person's whereabouts is necessary to guard against charges of false arrest should a warrant be executed against a person who has left Canada and re-entered with valid authorization.

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### 23.5. Deemed cancellation

A permit is automatically cancelled if a permit holder leaves Canada without authorization to re-enter.

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## 24. Procedure: Lost or stolen permits

An office notified of a lost or stolen permit:

- should enter the details in FOSS through the SE (Status Entry) module, using an NCB (Non-Computer Based entry) with an expiry date at least equivalent to the validity of the lost/stolen document;
- can issue a replacement permit through FOSS, verifying the information with the original issuing office. (See Coding Manual for further information.)

---

## 25. Procedure: Resettlement assistance

If a permit holder needs financial help, a settlement officer should:

- consult the responsible officer to determine the immigration category and the circumstances of the person's admittance and status in Canada;
- determine if financial assistance may be provided under the Resettlement Assistance Program, as applicable in each province.

This will alert the office to the holder's current circumstances, in the event that further investigation or action is warranted.

---

## 26. Procedure: Work and study permits

A temporary resident permit does not exempt the permit holder or their family members from the requirement to apply for work and study permits if they wish to work or study in Canada [R212 and R215(e)].

An officer should issue:

- a work permit to a permit holder in financial need if the permit is valid for at least six months [R199];

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- a study permit to a permit holder or their family members if the permit is valid for at least six months, and they meet the requirements applicable to all foreign nationals [R213 to R217].

For more information, refer to FW 1 and OP 20.

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### 27. Procedure: Roles and responsibilities

See IL 3 for authority to issue permit.

**Table 7: Responsibilities at various CIC offices**

<b>Applications at visa offices abroad (covered in OP 20)</b>
Officers are responsible for: <ul style="list-style-type: none"><li>• detecting, assessing and determining inadmissibility;</li><li>• assessing mitigating factors;</li><li>• issuing temporary resident permit counterfoil and letter of introduction to the POE.</li></ul>
<b>Ports of entry (covered in ENF 4)</b>
Officers are responsible for: <ul style="list-style-type: none"><li>• examining holders of the letter of introduction to the POE for TRP issued by the visa office;</li><li>• examining holders of the facilitation travel document issued to visa-required holders with prior authorization to re-enter Canada, who have departed Canada and wish to return during the validity period of the permit;</li><li>• examining persons who may be inadmissible;</li><li>• determining inadmissibility and factors warranting favourable discretion;</li><li>• issuing temporary resident permits to allow persons to come into Canada.</li></ul>
<b>Case Processing Centre (CPC) Vegreville</b>
<ul style="list-style-type: none"><li>• CPC Vegreville is responsible for:<ul style="list-style-type: none"><li>• issuing permits and permit extensions in accordance with delegated authority;</li><li>• forwarding applications to CICs, as appropriate, in accordance with delegated authority or the details of the case.</li></ul></li></ul>
<b>Inland offices (covered in ENF 1, ENF 2, ENF 3, ENF 5, ENF 6, ENF 10, ENF 14 and ENF 18)</b>
Officers are responsible for: <ul style="list-style-type: none"><li>• detecting and assessing inadmissibility;</li><li>• preparing A44(1) reports and determining outcome (removal order or hearing);</li></ul>



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- assessing circumstances which may warrant a permit;
- issuing or refusing permits in accordance with delegated authority;
- cancelling permits;
- processing applications for the granting of permanent resident status by members of the permit holder class;
- taking necessary enforcement action if permit holders do not comply with conditions or leave Canada on expiry or cancellation of permits.

### **Case Management Branch**

Case Management Branch:

- provides advice to officers on criminal inadmissibility prior to issuance of TRP and in accordance with delegated authority;
- analyses all case information including summary, recommendation and any other research to determine whether new grounds of inadmissibility exist in specific circumstances/cases.

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### Appendix A Sample letter to client covering refusal to issue/extend temporary resident permit

Dear

This refers to your application/interview of \_\_\_\_\_ [day/month/year] concerning \_\_\_\_\_ [nature of application and/or reason for interview].

Your case has been examined with reference to the possibility of [issuing a/extending your] temporary resident permit. After a careful and sympathetic review, it has been determined that there are insufficient grounds to merit the issuance/extension of a permit in your case.

Our records indicate that your authorization to remain in Canada is valid until \_\_\_\_\_ [day/month/year]. This should be sufficient time to enable you to arrange, effect and confirm your departure. Should you voluntarily depart Canada by [said date], no further action will be taken against you. However, failure to confirm your departure by this date will result in enforcement action being taken.

[In cases where the person is reportable under A44(1)]: In order to verify your departure, please ensure that the enclosed "Check Out Letter" [see Appendix C] is submitted at the port of exit.

Should you wish to return to Canada in future, it is suggested that you attend to the following: \_\_\_\_\_ [Identify action so that client can overcome inadmissibility or avoid violation of the Act/Regulations in future.]

Yours truly,

Citizenship and Immigration Officer

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**Note:** This is a sample letter with suggested wording. Preference as to the final wording, or the use of pre-printed as opposed to micro-produced "originals" is left to the discretion of local managers, provided the content remains consistent with the intent.

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## IP 1 Temporary Resident Permits

### Appendix B Sample letter to client covering issuance/extension of temporary resident permit

Dear

This refers to your application/interview of \_\_\_\_\_ [date/month/year] regarding \_\_\_\_\_ [nature of application and/or reason for interview].

In light of circumstances in your case, we are issuing you a temporary resident permit (enclosed) to enable you to remain in Canada for the duration indicated on the document.

The permit is valid ONLY until \_\_\_\_\_ [date/month/year].

Insert the following paragraph only if the applicant is subject to the temporary resident visa requirement and has been given authorization to leave and re-enter Canada under R63(b):

Should you wish to leave and re-enter Canada, you must visit a Canadian visa office abroad with your valid passport or travel document and obtain a special Canadian travel document counterfoil which will facilitate your return to Canada.

Insert if the holder is not given authorization to re-enter Canada:

If you leave Canada during the validity of your permit, the permit will automatically be cancelled.

If you are not eligible for provincial health coverage, you can obtain insurance through a private health insurance provider. Insurance firms can be found in the Yellow Pages of your telephone book.

Should it be necessary to extend the validity of your permit, you MUST ensure that your application for such extension reaches a CIC office or the Case Processing Centre in Vegreville, AB, at least thirty (30) days before the expiry date on the document in order to enable us to process your application in a timely manner. You should call the CIC Call Centre (1-888-242-2100) and ask for form IMM 1249 - "Application to Change Conditions, Extend my Stay or Remain in Canada." You may also download this application from the CIC internet Web site at [www.cic.gc.ca](http://www.cic.gc.ca). Otherwise, you are expected to leave Canada on or before the permit's expiry date.

The temporary resident permit has been issued under subsection 24(1) of the *Immigration and Refugee Protection Act*. You should be aware of the following provisions of the Act:

**A24.** (1) A foreign national who, in the opinion of an officer, is inadmissible or does not meet the requirements of this Act becomes a temporary resident if an officer is of the opinion that it is justified in the circumstances and issues a temporary resident permit, which may be cancelled at any time.

(2) A foreign national referred to in subsection (1) to whom an officer issues a temporary resident permit outside Canada does not become a temporary resident until they have been examined upon arrival in Canada.

(3) In applying subsection (1), the officer shall act in accordance with any instructions that the Minister may make.

**A29.** (1) A temporary resident is, subject to the other provisions of this Act, authorized to enter and remain in Canada on a temporary basis as a visitor or as a holder of a temporary resident permit.

(2) A temporary resident must comply with any conditions imposed under the regulations and with any requirements under this Act, must leave Canada by the end of the period authorized for their stay and may re-enter Canada only if their authorization provides for re-entry.

**A30.** (1) A foreign national may not work or study in Canada unless authorized to do so

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under this Act.

(2) Every minor child in Canada, other than a child of a temporary resident not authorized to work or study, is authorized to study at the pre-school, primary or secondary level.

### **If permit is valid for less than six months**

You are not entitled to work in Canada. However, you may study if your course of study is six months or less.

### **If permit is valid for six months or more**

If you wish to work in Canada or to study for longer than six months, you must apply for a work or study permit. These permits must be obtained prior to commencing your work or studies. Information in this regard is available from the nearest CIC or the CIC Call Centre at 1-888-242-2100.

If you have any questions regarding the above terms, please contact the CIC Call Centre at 1-888-242-2100, or your local CIC office.

Yours truly,

Citizenship and Immigration Officer

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**Note:** This is a sample letter with suggested wording. Preference as to final wording, or the use of pre-printed as opposed to micro-produced "originals" is left to the discretion of local managers, provided the content remains consistent with the intent.

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### Appendix C Sample letter to client where confirmation of departure is desired

Dear

It has been determined that you are in violation of the *Immigration and Refugee Protection Act*. Therefore, I am required by law to submit without delay a report to the Deputy Minister of Citizenship and Immigration or his delegated representative. This action could result in an inadmissibility hearing, and your deportation from Canada.

If you wish to depart Canada prior to the convocation of an inadmissibility hearing, it is in your best interest to confirm departure by giving this letter to the Immigration authorities at the port of departure who will inform me that you have departed Canada.

Failure to confirm your departure upon leaving Canada will result in the issuance of an arrest warrant against you.

For any further information, you may contact the CIC Call Centre at 1-888-242-2100.

Yours truly,

Citizenship and Immigration Officer

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### Appendix D “Type of case” codes

#### For early admission or “under application” cases

89	member of family class
88	Convention refugee, member of designated class
87	national interest (entrepreneur, self-employed, urgent labour market need)
86	other

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**Note:** “Under application” means cases approved for processing within Canada.

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#### “Refused” applicant for permanent residence

95	criminal/security/other inadmissibility - member of family class
94	criminal/security/other inadmissibility - national interest (entrepreneur, self-employed, urgent labour market need)
93	criminal/security/other inadmissibility – other
92	inadmissibility on health grounds - member of family class
91	inadmissibility on health grounds - national interest (entrepreneur, self-employed, urgent labour market need)
90	inadmissibility on health grounds – other

#### Temporary resident cases

96	verification of departure required (see OP 20)
85	medical treatment
84	student
81	worker
80	inadmissible person, N.E.S.

Refer to FOSS, Coding Manual for further instructions on forms coding and completion procedures.

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### **Appendix E** Sample letter advising that client is eligible to apply for permanent residence under the permit holder class

Client No.:

This letter acknowledges receipt of your application for permanent resident status in Canada.

It has been determined that you meet the eligibility requirements to apply for permanent resident status as a member of the permit holder class. However, a final decision will not be made until all remaining requirements for becoming a permanent resident have been met. These requirements include medical, security and background checks for you and, if applicable, all of your family members, both in Canada and abroad. Information will be sent to you shortly about fulfilling these conditions. You cannot become a permanent resident until you and all your family members have met these requirements.

If you are not already in possession of a valid work permit or you have a work permit but wish to work elsewhere, or do not possess a valid study permit and you wish to attend school for more than six months, you may apply for either or both. If you wish to apply for a study permit, be sure to include a letter from the educational institution you plan to attend. The letter should outline the type of course or program for which you are registered, the start date and the expected completion date. Please contact an Immigration Call Centre to request an application kit.

The client number shown in the upper right corner of this letter is your personal identification number. This number provides access to information on your file and, for your own protection, you should not allow any other person to use this number. Please include your personal identification number in any correspondence with Citizenship and Immigration Canada. Failure to include this number could result in the return of your correspondence unanswered.

If you require further assistance, please telephone the Call Centre at 1-888-242-2100 and be prepared to quote your client number and your date of birth. General information and application kits may also be obtained through our Internet Web site at <http://www.cic.gc.ca>.

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### Appendix F Background on Canada's commitment to TIP

Canada has ratified the *Convention against Transnational Organized Crime* (TOC) and two related protocols: the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Trafficking Protocol) and the *Protocol Against the Smuggling of Migrants by Land Sea and Air* (Smuggling Protocol).

The Trafficking Protocol provides an internationally recognized framework, focussing on preventing TIP, protecting its victims, prosecuting offenders and facilitating international cooperation against such activity. It requires the criminalization of TIP in domestic legislation and recommends certain measures to protect and assist victims.

The Trafficking Protocol defines trafficking as:

“the recruitment, transportation, transfer, harbouring or receipt of persons, by improper means, such as force, abduction, fraud or coercion, for an improper purpose, such as forced or coerced labour, servitude, slavery or sexual exploitation.”

#### Trafficking provisions in the *Immigration and Refugee Protection Act* (IRPA)

Sections A118, A120 and A121 establish a specific TIP offence and provide for stiff penalties for trafficking persons into Canada:

#### IRPA Part 3 – Enforcement: Human Smuggling and Trafficking

**118.** (1) No person shall knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion.

(2) For the purpose of subsection (1), “organize”, with respect to persons, includes their recruitment or transportation and, after their entry into Canada, the receipt or harbouring of those persons.

**120.** A person who contravenes section 118 or 119 is guilty of an offence and liable on conviction by way of indictment to a fine of not more than \$1,000,000 or to life imprisonment, or to both.

**121.** (1) The court, in determining the penalty to be imposed under subsection 117(2) or (3) or section 120, shall take into account whether

(a) bodily harm or death occurred during the commission of the offence;

(b) the commission of the offence was for the benefit of, at the direction of or in association with a criminal organization;

(c) the commission of the offence was for profit, whether or not any profit was realized; and

(d) a person was subjected to humiliating or degrading treatment, including with respect to work or health conditions or sexual exploitation as a result of the commission of the offence.

(2) For the purposes of paragraph (1)(b), “criminal organization” means an organization that is believed on reasonable grounds to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment or in furtherance of the commission of an offence outside Canada that, if committed in Canada, would constitute such an offence.

On November 25, 2005, Bill, C-49, *An Act to amend the Criminal Code* (trafficking in persons) S.C. 2005, c.43, which created three new TIP specific *Criminal Code* offences, came into force. These offences prohibit:

- trafficking in persons;



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- receiving a financial or other material benefit from the trafficking of persons;
- withholding or destroying identity, immigration or travel documents to facilitate the trafficking of persons.

### **Criminal Code—Trafficking in persons offences**

**279.01** (1) Every person who recruits, transports, transfers, receives, holds, conceals or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable

(a) to imprisonment for life if they kidnap, commit an aggravated assault or aggravated sexual assault against, or cause death to, the victim during the commission of the offence; or

(b) to imprisonment for a term of not more than fourteen years in any other case.

Consent

(2) No consent to the activity that forms the subject-matter of a charge under subsection (1) is valid.

#### **Material benefit**

**279.02** Every person who receives a financial or other material benefit, knowing that it results from the commission of an offence under subsection 279.01(1), is guilty of an indictable offence and liable to imprisonment for a term of not more than ten years.

#### **Withholding or destroying documents**

**279.03** Every person who, for the purpose of committing or facilitating an offence under subsection 279.01(1), conceals, removes, withholds or destroys any travel document that belongs to another person or any document that establishes or purports to establish another person's identity or immigration status is guilty of an indictable offence and liable to imprisonment for a term of not more than five years, whether or not the document is of Canadian origin or is authentic.

#### **Exploitation**

**279.04** For the purposes of sections 279.01 to 279.03, a person exploits another person if they

(a) cause them to provide, or offer to provide, labour or a service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labour or service; or

(b) cause them, by means of deception or the use or threat of force or of any other form of coercion, to have an organ or tissue removed.

Several other *Criminal Code* offences have been used to address TIP cases, including:

Kidnapping, ss. 279 (1), (1.1);

Forcible confinement, s. 279(2);

Extortion, s. 346 (1);

Intimidation, s.423;

Assault, ss.265-268;

Causing death or bodily harm by criminal negligence, ss. 220 & 221;

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Homicide, ss. 222-228;

Sexual assault, ss. 271-273;

Uttering threats, s. 264.1(1);

Conspiracy, s. 465).

### **Prostitution-related offences:**

Keeping a common bawdy-house, s. 210;

Transporting a person to a bawdy-house, s. 211;

Procuring and controlling or living off the avails of prostitution of another, s. 212(1);

Living off the avails of the prostitution of a person under 18 years of age, ss. 212(2) & 212(2.1);

Administering stupefying thing for the purpose of illicit sex, s. 212(1)(i);

Child abduction (non-parental), ss. 280 & 281

Child pornography, s.163.1

Organized crime provisions, ss. 467.1-467.13.

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### Appendix G Ministerial instructions regarding the issuance of temporary resident permits to victims of human trafficking

Pursuant to subsection 24(3) of the *Immigration and Refugee Protection Act*, and in conformity with the authority delegated to me under item 13 in the delegation instrument signed by the Minister of Citizenship and Immigration on December 12th, 2005, I, Malcolm Brown, Assistant Deputy Minister, Strategic and Program Policy, hereby issue the following instructions:

Officers who are conducting assessments of foreign nationals to determine if they are victims of trafficking in persons are justified in issuing:

1(1) A short-term temporary resident permit lasting up to 120 days, in cases where the officer is only able to make a preliminary assessment that the individual may be a victim of trafficking in persons. The criteria used in the preliminary assessment to verify whether the individual may be a victim of trafficking in persons include indications that:

- a) The recruitment of the individual was fraudulent or coerced, and for the purposes (actual or intended) of exploitation;
- b) The individual was coerced into employment or other activity;
- c) The conditions of employment or any other activity were exploitive; or
- d) The individual's freedom was restricted.

1(2) In these cases, the officer may issue a short-term temporary resident permit lasting up to 120 days for any of the following purposes:

- a) To provide a period of reflection for victims of trafficking in persons to further consider their options for returning home or to allow time to decide if they wish to assist in the investigation of the trafficker or in criminal proceedings against the trafficker;
- b) To allow victims of trafficking in persons to recover from physical and/or mental trauma (e.g. counseling and/or medical treatment may be necessary);
- c) To allow victims of trafficking in persons to escape the influence of traffickers so that they can make an informed decision on a future course of action;
- d) To facilitate the participation of victims of trafficking in the investigation or prosecution of an alleged TIP offence in Canada, or otherwise assist authorities.
- e) For any other purpose the officer may judge relevant to facilitate the protection of vulnerable foreign nationals who are victims of human trafficking.

2. A longer-term temporary resident permit, or a subsequent temporary resident permit, in cases where a more complete verification of the facts provide reasonable grounds for the officer to believe that the individual is a victim of trafficking in persons. The officer should consider the following factors in deciding whether to issue a longer-term temporary resident permit:

- a) Whether it is reasonably safe and possible for the victims to return to and to re-establish a life in the country of origin or last permanent residence;
- b) Whether the victims are needed, and willing, to assist authorities in an investigation and /or in criminal proceedings of a trafficking offence.
- c) Any other factor that in the opinion of the officer justifies, in the circumstances, issuing a temporary resident permit.

The objective of these instructions is to provide protection to vulnerable foreign nationals who are victims of human trafficking, by regularizing their status in Canada, when appropriate.

Original signed by Acting ADM Rick Stewart for Malcolm Brown May 4, 2006.

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### Appendix H Interview questions and tips

These interview pointers have been developed by the International Organization for Migration

#### **Duty of the interviewer**

- To inform the victim that the purpose of the interview is to assist the person and not to take an enforcement action against them
- Treat the victim-witness sensitively and with empathy and with full respect of their human rights
- Adhere to the 'Do no harm' principle
- Create optimum conditions to minimize the stress of the interview
- Put no undue pressure on victim to make a statement
- To provide the victim with a fair opportunity to tell the story
- To be sensitive to any gender issues such as the victim and the interviewer be the same gender

#### **Interview style**

- Courteous, respectful, sensitive and aware of the issues
- Avoid an authoritarian approach
- Avoid over-familiarity – through eye contact or body language
- Ask simple questions – encouragement
- Active listening
- Allow free speech and avoid interruption
- Be aware that some questions may seek to recall painful events
- The victim may need to take a break at any time

The critical concepts to be discerned in the interview are those of exploitation and loss of or limitations on liberty.

Typical interview questions might include, but are not limited to, the following:

#### **Recruitment and documentation**

How did you get to Canada?

Did anyone help you enter Canada?

What did you think you were coming to Canada to do?

How did you obtain the documentation used to enter Canada (if person entered Canada with documentation)?

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### **Employment and coercion**

What did you come to Canada to do?

What sort of work did you actually perform, once you arrived in Canada?

Were you paid for your services? How much?

Did your employer(s) say that you owed them anything? What for?

Did you have to pay any of your earnings toward a debt?

Were you allowed to keep any/all of your earnings?

Do you believe that you still owe your employers anything?

### **Working conditions (exploitation)**

Did you and your employer have a written document setting out your respective entitlements and obligations? Do you have it?

How many hours a day did you work?

Were you allowed any time off?

Were you permitted time off if you were sick?

### **Restriction on liberty and use of force**

Were you allowed to communicate with family members?

Did you live and work at the same place? If so, were you permitted to leave the premises as you wished? Did anyone accompany you if you did leave?

Were threats made to you, your family members or others close to you?

What happened to your identification documents after you arrived?

Were you able to leave your job and seek another one, if you so wished?

What did you believe would happen if you attempted to leave?

The following reference material can be used as a resource for additional questions to assist the officer in assessing and screening the case:

Human Trafficking: Reference Guide for Canadian Law Enforcement

[http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf)

Appendix 1: Model Canadian Screening Tool to Help Identify a Potential Victim of Human Trafficking

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### **Appendix I Public Policy concerning payment of application fees for temporary resident permits of up to 120 days for persons preliminarily assessed to be victims of trafficking in persons**

Based on public policy considerations that effective action to prevent and combat trafficking in persons includes measures that protect the victims of trafficking, I, Monte Solberg, Minister of Citizenship and Immigration, hereby grant, on my own initiative, pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act*, an exemption from the payment of application fees specified in subsection 298(1) of the *Immigration and Refugee Protection Regulations*, and an exemption from the requirements specified in paragraph 10(1)(d) of the Regulations, to foreign nationals who have been preliminarily assessed to be victims of trafficking in persons and are issued a short-term temporary resident permit of up to 120 days under subsection 24 (1) of the Act.

Original signed by Minister Solberg May 3, 2006