



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada

IP 4

Processing Live-in Caregivers in Canada

IP 4 Processing Live-in Caregivers in Canada

1	What this chapter is about	1
2	Program objectives	2
3	The Act and Regulations	3
4	Instruments and Delegations	4
4.1	Instruments and delegations	4
4.2	Delegated powers	4
4.3	Delegates/Designated officers	4
5	Departmental policy	5
5.1	Responsibility for processing by the visa office	5
5.2	Responsibility for processing in Canada	5
5.3	Issuance or renewal of work permits in Canada	5
5.4	Mandatory employment contract	6
5.5	Validation of a job offer	6
5.6	Eligibility for permanent residence	6
5.7	Admissibility requirements	7
5.8	Quebec applicants	7
5.9	Parallel processing of family members	7
5.10	Responding to representations	7
6	Definitions	8
6.1	Bridge extension	8
6.2	Employment contract	8
6.3	Family member	8
6.4	Live-in caregiver	8
7	Processing an employment contract	9
8	Procedures for issuance/Renewal of work permits, study permits	10
8.1	Applications for work permits	10
8.2	Requirements for issuance of work permits	10
8.3	If all requirements are met	11
8.4	If requirements are not met: live-in caregiver has left work	11
8.5	If requirements are not met: live-in caregiver is between jobs	11
8.6	Refusal of an application for a work permit	11
8.7	Issuance of study permits	12
9	Processing applications for permanent residence	13
9.1	General guidelines	13
9.2	Applications	13

9.3 Fees	14
9.4 Assessing eligibility to become a member of the live-in caregiver class	14
9.5 Acceptable evidence of two years' employment	15
9.6 Checking for pending criminal charges	16
9.7 Granting approval-in-principle (applicants determined to be members of live-in caregiver class)	16
9.8 Refusing applicants determined not to be members of live-in caregiver class (ineligible applicants)	16
9.9 Applications in Quebec	16
9.10 Assessing admissibility requirements	17
9.11 Criminal and security checks	17
9.12 Medical examinations	17
9.13 Processing of family members	17
9.14 Family members not subject to examination	18
9.15 Ineligible family members	19
9.16 Finalizing approved cases	19
9.17 Finalizing refused cases	20
10 Tracking the application	21
Appendix A - Sample letters	A-1
Appendix B - Fact sheet on employment standards legislation	A-7
Appendix C - Provincial and territorial employment standards	A-13
Appendix D - Counselling fact sheet	A-16
Appendix E - Live-in caregiver/domestic worker associations	A-17
Appendix F - Live-in caregivers, working conditions by region	A-19

1 What this chapter is about

This chapter describes the processing in Canada of applications for renewal of work permits (same employer), applications for new work permits (new employer), applications for study permits and applications for permanent residence, under the Live-in Caregiver Program.

Note: See [OP 14](#) for the processing of live-in caregiver applications at visa offices abroad.

2 Program objectives

Citizenship and Immigration Canada established this program to meet a labour market shortage of live-in caregivers in Canada, giving qualified foreign caregivers the opportunity to work and eventually apply for permanent residence within Canada.

3 The Act and Regulations

The Immigration and Refugee Protection Act (IRPA), which was passed on November 1, 2001, and its accompanying Regulations, took effect June 28, 2002. They replace the *Immigration Act* of 1976 and the Regulations established on April 1, 1997.

References in the Regulations to the Live-in Caregiver Program

For more information about	Refer to
Authorization for application for permanent residence in Canada	R72
Definition of live-in caregiver	R2
Live-in caregiver class	R113
Requirements for work permit	R111, R112
Application for permanent residence in Canada	R113
Requirements for family members	R114
Applicable times	R115
Study without a work permit: short-term courses	R188
Application in Canada for work permit	R207
Application in Canada for study permit	R215

Forms Required

Form Title	Form Number
In-Canada Application for Permanent Resident Status	IMM 5002E
Document Checklist - Live-in Caregiver	IMM 5282E
Application to Change Conditions or to Extend my Stay in Canada	IMM 1249E

4 Instruments and Delegations

4.1 Instruments and delegations

Subsection A6(1) of the Act authorizes the Minister to designate officers to carry out specific 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.

Pursuant to subsection A6(2) of the *Immigration and Refugee Protection Act*, the Minister of Citizenship and Immigration, has delegated powers and designated those officials authorized to carry out any purpose of any provisions legislative or regulatory in instrument IL3 - Delegation and Designation.

4.2 Delegated powers

IL3 organizes delegated powers by modules. Each module is divided into columns including Column 1: provides an item number for the described powers, Column 2: provides a reference to the sections or subsections of the Act and Regulations covered by the described powers and Column 3: provides a description of the delegated powers. The duties and powers specific to this chapter are found in the modules listed below:

- Module 1 – Permanent residence and the sponsorship of foreign nationals
- Module 7 – Temporary Residents – Remaining in Canada
- Module 9 – Inadmissibility – loss of status – removal

4.3 Delegates/Designated officers

The delegates or designated officers, specified in Column 4 of Annexes A to H, are authorized to carry out the powers described in column three of each module. Annexes are organized by region and by module. Officers should verify the list below for the annex specific to their region.

Annex A	Atlantic Region
Annex B	Quebec Region
Annex C	Ontario Region
Annex D	Prairies/NWT Region
Annex E	BC Region
Annex F	International Region
Annex G	Departmental Delivery Network
Annex H	NHQ

5 Departmental policy

5.1 Responsibility for processing by the visa office

Visa offices are responsible for the initial selection process and issuance of work permits to live-in caregivers. See [OP 14, Section 8.3](#) for assessment of eligibility criteria. They are also responsible for processing overseas family members of live-in caregivers who have applied for permanent residence.

5.2 Responsibility for processing in Canada

The Case Processing Centre in Vegreville (CPC-V) is responsible for processing applications in Canada for:

- work permits and renewals;
- study permits;
- permanent residence in Canada.

Note: CPC-V refers cases to an inland immigration office (CIC) if an interview is warranted or if there is suspected misrepresentation, serious criminality or security concerns, as described in A34, A35, A36(1) or A37.

CPC-V issues all refusal letters.

5.3 Issuance or renewal of work permits in Canada

Work permits are issued for one year at a time. Live-in caregivers must apply to CPC-Vegreville for a renewal of their work permit before it expires.

They may change employers, but must apply for a new work permit, with a validated job offer and a new employment contract. If the caregiver continues to work for the same employer there is no need for a new validation. A letter from the employer stating that the live-in caregiver will continue to be employed full time for another year is sufficient. The employer and caregiver must also extend their employment contract for another year.

Live-in caregivers must continue to meet the requirements of the LCP.

Note: Applicants who take live-out employment are automatically disqualified from the program, as are those who work for more than one employer at a time.

The total duration of all work permits (added together) should not exceed three years. Participants must complete two years of full-time employment to qualify for permanent residence. The three-year

IP 4 Processing Live-in Caregivers in Canada

period gives them flexibility to compensate for periods of unemployment, illness, vacation or maternity leave.

5.4 Mandatory employment contract

An employment contract between employer and live-in caregiver, outlining the terms and conditions of employment, is a legal requirement of the Live-in Caregiver Program and must be provided to CPC-V before a work permit can be renewed. The contract must be signed by both employer and employee. Terms and conditions must, by law, be consistent with provincial employment standards.

5.5 Validation of a job offer

See [OP 14, Section 5.11](#).

Validation by Human Resources Development Canada (HRDC) is required for a new work permit (change of employer).

Local Human Resources Centres of Canada (HRCCs) of HRDC ask employers interested in hiring a live-in caregiver to complete an EMP 5093, *Application for Foreign Live-in Caregiver*.

For more information about application and validation please see [Section 7](#), Processing an Employment Contract.

5.6 Eligibility for permanent residence

Live-in caregivers may apply for permanent residence after they have worked for two years in the Live-in Caregiver Program within three years of their arrival in Canada. They must meet the requirements of the class R113. The live-in requirement is an important element of the program, as there is no shortage of Canadians willing to work on a live-out basis.

All family members of LCP applicants for permanent residence must undergo and pass medical, criminal and security checks. Separated or former spouses/common-law partners and children in the custody of another person including the separated or former spouse/common-law partner, are not eligible family members. Live-in caregivers cannot become permanent residents if any of their eligible family members are inadmissible.

Live-in caregivers may request parallel processing for some or all of their family members living in or outside Canada. Family members processed concurrently at a visa office may be issued permanent resident visas. Once the live-in caregiver is a permanent resident, family members who are not processed concurrently may be sponsored as members of the family class, provided they were examined.

Note: A separated spouse, former common-law partner or child in the custody of another person, who was not examined, cannot later be sponsored as a member of the family class.
R117(9)(d)

5.7 Admissibility requirements

Applicants and all family members, both in Canada and outside Canada, must pass medical, criminal and security checks. They cannot be granted permanent residence if they or any of their family members are inadmissible. See A33 to A42.

5.8 Quebec applicants

The *Canada-Quebec Accord* gives Quebec legal authority to select independent immigrants such as live-in caregivers. Applicants need Quebec's approval after completing two years of full-time work in the program in order to be granted permanent residence in that province.

If Quebec refuses the application, the applicant should be given the opportunity to apply for permanent residence in another province. It would be unfair and legally unfounded to remove these applicants from Canada if they meet federal LCP requirements for permanent residence as specified in R113.

Note: For more information, the provincial government booklet, *Guide for Live-in Caregivers* http://www.immq.gouv.qc.ca/anglais/how_immigrate/workers/caregiver_guide.html is available from the ministère des Relations avec les citoyens et de l'Immigration (MRCI).

5.9 Parallel processing of family members

Live-in caregiver applicants for permanent residence may have their family members living abroad processed concurrently for permanent residence. If all admissibility requirements are met, the visa office issues permanent resident visas to eligible family members of live-in caregivers granted permanent residence in Canada.

5.10 Responding to representations

The *Privacy Act* requires that information concerning clients must be released only to the client or a designated representative who is a Canadian citizen or permanent resident. Before responding to a representation made in person or in writing, the identity of clients or their representative must be confirmed.

The decisions on a live-in caregiver's application for permanent residence are objective and straightforward. The immigration Regulations do not allow for discretion. Officers should reply to representations by reiterating the grounds of ineligibility or inadmissibility.

IP 4 Processing Live-in Caregivers in Canada

6 Definitions

6.1 Bridge extension

A bridge extension is an interim work permit given to live-in caregivers who are between jobs and have not yet found a new employer. The extension is usually for a period of two months.

6.2 Employment contract

Live-in caregivers and their employer must sign an employment contract which states the terms and conditions of employment before a work permit can be issued. This ensures that both parties understand what is expected of them and reinforces the employer's legal responsibilities to the caregiver.

6.3 Family member

Definitions in R2: Any of the following relationships qualify an individual as a family member:

- spouse or common-law partner;
- dependent child;
- dependent child of dependent child.

6.4 Live-in caregiver

A live-in caregiver is a person who provides child care, senior home support care or care of the disabled without supervision in a private household in Canada in which the person resides. R2

7 Processing an employment contract

HRCCs inform employers of the legal requirement to have an employment contract with their live-in caregiver.

Employers are required to:

- provide a signed employment contract to their prospective live-in caregiver;
- have the live-in caregiver sign the employment contract and return it to the employer;
- give the contract to the HRCC along with the application form.

Note: Employers are told that their live-in caregiver must submit a copy of the signed contract to the CPC-V as part of the documentation required for the work permit application process.

The HRCC provides information on:

- acceptable wage standards;
- taxation;
- health insurance;
- workers' compensation and other employment issues.

Once the application and employment contract are submitted by the employer, the HRCC:

- reviews the application/employment contract;
- confirms that the job offer exists;
- confirms the need for live-in care;
- records details of job validation in the HRDC National Employment Service System (NESS);
- provides letter to employer confirming validation;
- instructs employer to send copy of validation letter to live-in caregiver;
- issues refusal letter to employer if offer of employment rejected.

Note: The validation information is available to CPC-V through the FOSS-NESS link.

IP 4 Processing Live-in Caregivers in Canada

8 Procedures for issuance/Renewal of work permits, study permits

8.1 Applications for work permits

Applicants must apply for:

- a permit renewal before the expiry of the current permit;
- a new permit if they change employers.

Applicants mail completed Application to Change Conditions or to Extend my Stay in Canada IMM 1249E to CPC-V. (Applications are available through Call Centres or by downloading from the CIC Internet site).

Note: Proof of fee payment at a financial institution is submitted with the application as is a copy of the new or extended employment contract (signed by both employer and caregiver). (See [IR5](#) for details on fees.)

8.2 Requirements for issuance of work permits

Requirements	Applicant must provide:	CPC-V must:
Live-in, full-time caregiver: If same employer	1. letter from the employer stating that the live-in caregiver will continue to be employed full time for another year. 2. copy of a new or extended, signed employment contract. No need for new validation.	1. assess whether applicant continues to meet the definition of a live-in caregiver, (i.e., full-time, live-in employment as caregiver).
If change of employer	1. copy of HRC validation of new offer of employment. 2. a new employment contract signed by the applicant and the new employer.	1. check FOSS-NESS link for record of validation by HRC. 2. verify that contract contains required information (see OP 14, Section 7 for details).

8.3 If all requirements are met

CPC-V issues a new permit for one year and

- writes LCP in special programs box;
- includes in Remarks: "May study without study permit if course or program of studies is six months or less." R188

8.4 If requirements are not met: live-in caregiver has left work

If it is clear that an applicant has left live-in caregiver work, CPC-V will refuse the application.

Note: If an investigation is required, the case should be referred to an inland CIC.

8.5 If requirements are not met: live-in caregiver is between jobs

If an applicant is between jobs and has not found a new employer, CPC issues an interim work permit to bridge the gap. Cost recovery applies.

The bridge extension should:

- have a duration of two months;
- show the last employer;
- include "bridge extension" in Remarks.

Note: If the bridge extension expires before the applicant finds a new job, CPC should carefully assess the reasons for continued unemployment, and may need to refer the applicant to an inland CIC.

8.6 Refusal of an application for a work permit

Reasons for refusing an application must be well-documented and provided to the applicant. Refusal of a work permit means that the person is disqualified from applying for permanent residence in Canada under the LCP.

Should the refused applicant request an extension of their temporary resident status, the officer should assess carefully their *bona fides* as a temporary resident.

If it appears that the person may not leave Canada, or has no means of support, or in some other way no longer qualifies for temporary resident status (e.g., worked without authorization), the request for an extension should be refused. (See [IP 6](#) Temporary Resident Extensions)

IP 4 Processing Live-in Caregivers in Canada

8.7 Issuance of study permits

Live-in caregivers who wish to take a course or program of studies more than six months in duration require a study permit.

CPC-V may issue study permits to live-in caregivers because they hold work permits R215. Enter LCP code in the special program box.

9 Processing applications for permanent residence

9.1 General guidelines

- CPC-V sends a letter with the final work permit extension, advising live-in caregivers when they will be eligible to apply for permanent residence, how to obtain an application for permanent residence kit and what requirements must be met.
- The officer determines if the applicant meets the requirements to become a member of the live-in caregiver class.
- Once a member of the live-in caregiver class, the applicant is given approval-in-principle and can apply for open work permit.
- Applicant and family members in Canada and abroad are referred for examination to determine admissibility.
- Once statutory requirements are met, permanent residence is granted to live-in caregiver and any family members in Canada and permanent resident visas are issued to accompanying family members abroad.
- If necessary, refusal letters are issued.

Note: Live-in caregivers must provide enough information in their applications so that officers can make the required decisions. R113(1)(a)

9.2 Applications

Applicants complete the In-Canada Application for Permanent Resident Status for Live-in Caregivers: Forms IMM 5002E and IMM 5282E. The kit can be requested through the Call Centre, or downloaded from the CIC Internet site.

Applicants must list all family members in Canada and abroad, and indicate which ones they wish to have processed concurrently for permanent residence.

Note: Family members may not be added to an application once processing has begun.

Applicants submit the completed forms with fee receipts and all required supporting documents to CPC-V.

CPC-V staff screen the application for completeness and verify:

- that all required forms completed and signed as per Immigration Guide IMM 5290;
- that evidence of payment of applicable processing fees at designated financial institution exists;

IP 4 Processing Live-in Caregivers in Canada

- that two passport-size photographs of applicant and of family members in Canada are included;
- that all required documents are included as per Document Checklist IMM 5282E, including proof of two years of employment.

The application is considered made on the date the completed application, correct fees and supporting documentation are received by CPC-V.

Applications returned to the applicant are not considered to be applications.

If the application is not complete, CPC enters the date of the incomplete application in FOSS and returns the package to the applicant, with a letter explaining the reason.

9.3 Fees

Principal applicants in Canada pay processing and right of permanent residence fees (RPRF) for all family members included in the application for parallel processing for permanent residence, whether in Canada or abroad. No RPRF is required for the principal applicant's dependent children R303(2)(a). No processing or right of permanent residence fees are charged for family members not included for parallel processing. See [IR5](#). The CPC will indicate that fees have been paid in Canada when forwarding the forms to the responsible visa office.

The kit includes instructions on how to pay fees at a financial institution and submit receipt with the application. If an application does not include the correct cost recovery fee, CPC must return the kit to the applicant with a letter requesting payment.

9.4 Assessing eligibility to become a member of the live-in caregiver class

CPC-V must determine whether applicants meet the requirements to become members of the live-in caregiver class, listed in R113, as follows:

- application for permanent residence has been submitted;
- they are temporary residents;
- they possess a valid work permit to work as a live-in caregiver;
- they provide proof of having worked full time as a live-in caregiver for a total of two years during the three years since being admitted to Canada as a live-in caregiver (see below);
- they have lived in the employer's home while working as a live-in caregiver;
- they have provided, without supervision, child care, senior home support care, or care of the disabled in that home;
- they are not the subject of, and they do not have family members who are the subject of an inadmissibility hearing (A44(1) report), an appeal or judicial review resulting from an inadmissibility hearing, or a removal order:

Officers should check:

- the statutory questions on the IMM 5002E;

IP 4 Processing Live-in Caregivers in Canada

- the FOSS for any record of A44(1) report, referral to a hearing or removal order;
-

Note: A live-in caregiver is not eligible for permanent residence if their spouse or common-law partner is a refugee claimant, or has appealed or sought judicial review.

- that the applicant did not misrepresent education, training or experience when applying to come to Canada as a live-in caregiver;
-

Note: This could include misrepresentation by another person as well as by the applicant. See [OP 14, Section 7.1](#) for requirements for initial work permit issued by the visa office. Information may have since come to light indicating misrepresentation in order to meet these requirements.

9.5 Acceptable evidence of two years' employment

Evidence may include:

- statement of earnings showing hours worked and deductions made by employer;
 - record of wages and deductions sent to Canada Customs and Revenue Agency (CCRA);
 - record of earnings (ROE): under the *Employment Insurance Regulations*, an employer must complete a ROE after every interruption of earnings due to termination of contract or illness or injury. Applicants should have ROEs for each previous job, but will not have one for their current job. The local HRCC may assist if employees have trouble obtaining ROEs;
 - if they are still employed with the same employer and any of the above documents are not available, they may provide a statutory declaration stating terms and conditions of their most recent employment.
-

Note: The two-year period does not include any absence from Canada, periods of unemployment, part-time work, sickness or maternity leave. However, allowable vacation leave, as outlined in the provincial and territorial employment standards legislation, will be counted as part of the two years.

Live-in caregivers have the right to be covered under workers' compensation, but this period of unemployment is not included in the required two-year work record.

Note: For additional information on vacation leave, see the fact sheet on employment standards legislation ([Appendix B](#)).

IP 4 Processing Live-in Caregivers in Canada

9.6 Checking for pending criminal charges

If an officer has reason to believe the applicant or a dependant of the applicant may have committed an offence in Canada that would make them inadmissible, processing may be delayed for a year, pending police investigation, or, if charges are laid, until the courts have disposed of the matter. If the police do not lay charges or the person is found not guilty, processing may continue. If the person is convicted, the person would be reported under A44(1), and not be eligible for permanent residence.

If an officer has reason to believe the applicant or dependant may have committed or been convicted of a crime outside Canada, the application may be refused. Reliable and releasable information is necessary. Unsupported suspicion is not sufficient grounds for refusal.

Example: Newspaper clippings, anonymous letters or oral comments may generate suspicion that will require more reliable substantiation, likely from a jurisdiction that has authority to conduct an investigation for the purpose of laying criminal charges. An official confirmation by the authorities that an individual is under investigation or a copy of the charges will provide “reasonable grounds.”

9.7 Granting approval-in-principle (applicants determined to be members of live-in caregiver class)

CPC sends a letter to applicants informing them that they have been granted “approval-in-principle,” and requesting any further information needed.

Approved applicants and any family members in Canada at the time of approval-in-principle may apply for an open work permit and are exempt from validation R207. They must obtain the guide, *Applying to Change Conditions or Extend your Stay in Canada*, by visiting the CIC Web site or phoning a Call Centre.

9.8 Refusing applicants determined not to be members of live-in caregiver class (ineligible applicants)

CPC sends a letter to ineligible applicants informing them that they have been refused. (See [Appendix A](#).)

If an interview is necessary in order to explain the reasons for refusal and to counsel the client with respect to their status in Canada, CPC may refer the case to an inland CIC.

9.9 Applications in Quebec

CPC-V sends a copy of the application for permanent residence and a covering letter to the ministère des Relations avec les citoyens et de l’Immigration (MRCI). If Quebec accepts the application, MRCI issues a “Certificat de sélection du Québec” (CSQ).

If Quebec refuses the application, the CPC informs the applicant that they may apply for permanent residence in another province, and will continue processing if the applicant selects another province.

For further information, please see [Section 5.8](#).

9.10 Assessing admissibility requirements

Once CPC has determined that the applicant is a member of the live-in caregiver class, they and their family members in Canada and outside Canada will undergo medical, criminal and security checks to determine admissibility. Applicants cannot be granted permanent residence if they or any of their family members are inadmissible.

Note: See [OP 14, Section 9](#) for processing family members outside Canada.

9.11 Criminal and security checks

Applicants and dependent children 18 years of age or over must provide police certificates for every country they have lived in for six months or more.

CPC-V should:

- check CAIPS notes for visa office comments;
- check FOSS and CPIC for any report on inadmissibility or criminal activity;
- refer cases involving suspected misrepresentation or serious criminality or security, as described in A34, A35, A36(1) and A37 to an inland CIC.

Note: Applications will be refused if the applicant or any dependent child is inadmissible.

For more information about	Refer to
Criminal and security checks	OP 2, Section 5.18
Security and criminal screening of permanent residents	IC 1
Evaluating inadmissibility	ENF 2

9.12 Medical examinations

For information on procedures, see [OP 15, Medical Procedures](#).

9.13 Processing of family members

Live-in caregivers must name all their family members, whether in Canada or abroad, on their application so that they can be assessed against requirements for permanent residence. Live-in

IP 4 Processing Live-in Caregivers in Canada

caregivers may choose concurrent processing for some or all of their family members, or they may choose to sponsor some or all at a later date, provided they have been examined. Family members sponsored later must meet all the requirements at that time.

Applicants must indicate which family members will be processed concurrently for purposes of obtaining their permanent resident visas and which family members are listed only for the purpose of examination.

For family members living abroad, CPC-V will inform the responsible visa office by forwarding:

- a copy of the IMM 5002E (In-Canada Application for Permanent Resident Status), which lists all family members and shows which ones are to be processed concurrently;
- confirmation that fees have been paid for family members to be processed concurrently.

CPC should ensure that the visa office has up-to-date contact information for family members, and advise the visa office of any change in the live-in caregiver's address and telephone number.

Note: For visa office processing, see [OP 14](#).

9.14 Family members not subject to examination

Separated spouses, former common-law partners and children in the custody of a separated spouse or former spouse or common-law partner do not need to be examined.

Applicants must provide written evidence of the breakdown of their relationship:

- formal separation agreement;
- letter from a lawyer indicating that divorce proceedings are underway;
- court order in respect of children identifying the fact of the relationship breakdown;
- documents removing the spouse or common-law partner from insurance policies or will;
- statutory declaration in the case of countries where legal separation and divorce are not possible, e.g., the Philippines. To be satisfied that the relationship has truly broken down, the officer may consider supporting evidence such as:
 - evidence that the separated spouse is living with or has children with another partner;
 - income tax returns showing status as separated.

CPC should review CAIPS notes from the initial work permit application at the visa office to see if the visa officer confirmed the applicant's marital status. CPC may ask the visa office to confirm or discredit the statutory declaration or other information provided by the applicant concerning their marital status.

Note: It is important to distinguish between "separated" spouses or former common-law partners and "uncooperative" spouses or common-law partners. The former need not undergo

IP 4 Processing Live-in Caregivers in Canada

examination; the latter must undergo examination, without which the live-in caregiver's application for permanent residence in Canada may have to be refused.

Children are exempt from examination only if the applicant provides written evidence that the child is in the legal custody or guardianship of another individual (including the other parent). If written legal evidence is not available, a child must undergo a medical examination.

9.15 Ineligible family members

If a visa office informs CPC-V that family members do not meet the definition of "family member" (e.g., over 22 and not full-time students) or are not subject to examination, CPC-V should:

- inform the applicant that the ineligible family members cannot be part of the application;
- give the applicant the opportunity to provide additional information within a stated time period or to apply for a RPRF refund if paid for the ineligible family members.

At the end of a pre-determined period of time, the CPC should release the IMM 5292, Confirmation of Permanent Residence, for the applicant and eligible family members only.

Note: It is not necessary for applicants to delete ineligible family members from the application. However, applicants should have an opportunity to provide evidence that the family members are eligible.

9.16 Finalizing approved cases

CPC:

- enters information in FOSS that applicant and family members in Canada are granted permanent residence;
- sends an electronic Confirmation of Permanent Residence (IMM 5292) to the inland office;
- includes names of family members living abroad, visa office and file number;
- includes program code: LCP and permanent resident category: LCI.

Inland office:

- prints permanent resident visa;
- grants permanent residence to applicant and family members in Canada;
- informs the visa office that permanent residence has been granted so that visa office can issue visas to family members abroad being processed concurrently, if medical and background checks are still valid.

IP 4 Processing Live-in Caregivers in Canada

9.17 Finalizing refused cases

If the visa office informs the CPC that the family members did not meet requirements or could not be located, CPC must inform the applicant of the status of the case.

After giving time for the applicant to respond, CPC will refuse the application. The applicant will be refused if any family member is inadmissible or if any family member cannot be located or is uncooperative in undergoing medical or background checks. The refusal letter to the applicant must state that the applicant **and** all family members are refused.

Applicants who still have valid status must be informed in writing that their status and work permit will not be extended and that they should leave Canada.

Note: Procedural fairness requires that the applicant be aware of factors that may contribute to a negative decision and be given the opportunity to respond.

If the reason for refusal was that the spouse, common-law partner and/or children were not medically examined, officers should confirm that they were indeed subject to examination, and not exempt because of a relationship breakdown.

Officers must also confirm that the visa office informed the applicant that the family member's lack of cooperation in undergoing medical and background checks could result in refusal of the application for permanent residence.

10 Tracking the application

The Field Operational Support System (FOSS) tracks processing of applications for permanent residence through the Case Processing Support (CPS) module.

CPC-V staff:

- enter applications in the CPS module when they arrive at the CPC;
- enter names of family members residing abroad in the Remarks section and complete the Y (yes) or N (no) box when the visa office provides results of overseas examination (see section D);
- indicate if provisionally approved in “approved in principle” field when the eligibility decision made;
- enter results and date when eligibility requirements met.

When all requirements are met, CPC officers:

- enter the granting of permanent resident status;
- enter the closest inland office to client’s residence as office of issue.

The inland office will, according to local procedures:

- print permanent residence documents on a regular basis;
- send a call-in notice or letter to the client.

Appendix A Sample letters

Live-in caregiver approved

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 live-in caregiver class. However, a final decision will not be made until all remaining requirements for becoming a permanent resident have been met. If applicable, all of your family members, both in Canada and abroad, must pass medical and background checks. Even if your family members abroad are not applying to join you in Canada at this time, they must pass medical and background checks. You cannot become a permanent resident until you and your family members have passed medical and background checks.

If you are not already in possession of an open work permit and you 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 you are registered for, the start date and the expected completion date. Please contact an Immigration Call Centre in your area and 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, as such, for your own protection, you should not allow any other person to use this number. If sending correspondence to Citizenship and Immigration Canada, please include your personal identification number. Failure to include this number could result in the return of your correspondence unanswered.

If you require further assistance, please telephone your local Call Centre at the number indicated below 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>.

Montreal	(514) 496-1010
Toronto	(416) 973-4444
Vancouver	(604) 666-2171
Rest of Canada	1-888-242-2100

Procedural fairness letter

This refers to your application for permanent resident status in Canada.

Insert secondary paragraph(s) here (see below)

[Provide specifics of the situation which is leading to refusal and state whether it is the applicant or family members that are not meeting the requirement.]

You have the opportunity to make any submissions related to this matter. Should you wish to make submissions, you must do so in writing to this office within 30 days from the date of this letter. If you do not make a submission, a decision regarding your ability to comply with these requirements will be taken on the basis of the information on your file. This may result in your application being

IP 4 Processing Live-in Caregivers in Canada

refused and no further consideration given to the request for permanent residence unless a new application, including fees, is submitted.

You have until (type date plus 30 days) to send new information, not previously on your immigration file. If the information is not in English or French, you must also include an adequate translation.

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 as such for your own protection, you should not allow any other person to use this number. If sending correspondence to Citizenship and Immigration Canada please include your personal identification number. Failure to include this number could result in the return of your correspondence unanswered.

If you require further assistance, please telephone your local Call Centre at the number indicated below 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>].

Montreal	(514) 496-1010
Toronto	(416) 973-4444
Vancouver	(604) 666-2171
Rest of Canada	1-888-242-2100

Procedural fairness live-in caregiver - inserts

Worked less than 24 months

In the course of reviewing your file, it appears that your application for permanent residence may have to be refused as you and/or your family member(s) do not appear to meet immigration requirements.

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation R113(1) states:

A foreign national becomes a member of the live-in caregiver class if

. . .

- (d) they entered Canada as a live-in caregiver and, for a cumulative period of at least two years within the three years immediately following their entry,
- (i) resided in a private household in Canada, and
 - (ii) provided child care, senior home support care or care of a disabled person in that household without supervision;

Under removal order

In the course of reviewing your file, it appears that your application for permanent residence may have to be refused as you and/or your family member(s) do not appear to meet immigration requirements.

In order to become a permanent resident under the live-in caregiver class, you and your family members, if any, must comply with requirements as specified in the *Immigration and Refugee Protection Regulations, 2002* for this class.

Regulation 113(1) states:

IP 4 Processing Live-in Caregivers in Canada

A foreign national becomes a member of the live-in caregiver class if

. . .

(e) they are not, and none of their family members are, the subject of an enforceable removal order or an admissibility hearing under the Act or an appeal or application for judicial review arising from such a hearing;

Did not reside with employer

In the course of reviewing your file, it appears that your application for permanent residence may have to be refused as you and/or your family member(s) do not appear to meet immigration requirements.

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulation* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

. . .

(c) they hold a work permit as a live-in caregiver;

(d) they entered Canada as a live-in caregiver and, for a cumulative period of at least two years within the three years immediately following their entry,

(i) resided in a private household in Canada, and

(ii) provided child care, senior home support care or care of a disabled person in that household without supervision;

Not in possession of a valid work permit

In the course of reviewing your file, it appears that your application for permanent residence may have to be refused as you and/or your family member(s) do not appear to meet immigration requirements.

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation R113(1) states:

A foreign national becomes a member of the live-in caregiver class if

. . .

(c) they hold a work permit as a live-in caregiver;

Inadmissible

In the course of reviewing your file, it appears that your application for landing may have to be refused as you and/or your family member(s) do not appear to meet immigration requirements.

In order to become a permanent resident as a member of the live-in caregiver class, you and your family members, if any, must comply with admissibility requirements as specified in the *Immigration and Refugee Protection Regulations*.

Regulation 72(1) states:

A foreign national in Canada becomes a permanent resident if, following an examination, it is established that

(e) . . .

(i) they and their family members, whether accompanying or not, are not inadmissible,

IP 4 Processing Live-in Caregivers in Canada

The sections of the *Immigration and Refugee Protection Act* that describe grounds for inadmissibility to Canada are in Division 4 of Part I. The text of this Division is attached to this letter.

Refusal letter

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 as such for your own protection, you should not allow any other person to use this number. If sending correspondence to Citizenship and Immigration Canada please include your personal identification number. Failure to include this number could result in the return of your correspondence unanswered.

If you require further assistance, please telephone your local Call Centre at the number indicated below 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>].

Montreal	(514) 496-1010
Toronto	(416) 973-4444
Vancouver	(604) 666-2171
Rest of Canada	1-888-242-2100

Inserts for refusal letter for live-in caregiver

Worked less than 24 months

This refers to your application for permanent resident status in Canada under the live-in caregiver class.

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation R113(1) states:

A foreign national becomes a member of the live-in caregiver class if

...

(d) they entered Canada as a live-in caregiver and, for a cumulative period of at least two years within the three years immediately following their entry,

(i) they resided in a private household in Canada, and

(ii) *provided child care, senior home support care or care of a disabled person in that household without supervision;*

Since you have not presented evidence that you are able to comply with this requirement, your application for permanent residence in Canada as a member of the live-in caregiver class is refused.

You and your family members, if any, are required to leave Canada on or before the expiry date of your work permit. Failure to leave Canada could result in removal action.

Under removal order

This refers to your application for permanent resident status in Canada under the live-in caregiver class.

IP 4 Processing Live-in Caregivers in Canada

In order to become a permanent resident under the live-in caregiver class, you and your family members, if any, must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

...

(e) they are not, and none of their family members are, the subject of an enforceable removal order or an admissibility hearing under the Act or an appeal or application for judicial review arising from such a hearing;

Since **(type subject(s)' name(s) here)** has not presented evidence that they are able to comply with this requirement, your application for permanent residence as a member of the live-in caregiver class is refused.

Your and your family members, if any, are required to leave Canada on or before the expiry date of your work permit. Failure to leave Canada could result in removal action.

Did not reside with employer

This refers to your application for permanent resident status in Canada under the live-in caregiver class.

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

...

(c) they hold a work permit as a live-in caregiver;

(d) they entered Canada as a live-in caregiver and, for a cumulative period of at least two years within the three years immediately following their entry,

(i) they resided in a private household in Canada, and

(ii) provided child care, senior home support care or care of a disabled person in that household without supervision;

Since you have not presented evidence that you are able to comply with this requirement, your application for permanent residence as a member of the live-in caregiver class is refused.

Your and your family members, if any, are required to leave Canada on or before the expiry date of your work permit. Failure to leave could result in removal action.

Not in possession of a work permit as a live-in caregiver

This refers to your application for permanent resident status in Canada under the live-in caregiver class.

In order to become a permanent resident under the live-in caregiver class, you must comply with requirements as specified in the *Immigration and Refugee Protection Regulations, 2002* for this class.

Regulation R113(1) states:

A foreign national becomes a member of the live-in caregiver class if

...

IP 4 Processing Live-in Caregivers in Canada

(c) they hold a work permit as a live-in caregiver;

Since you have not presented evidence that you are able to comply with this requirement, your application for permanent residence as a member of the live-in caregiver class is refused.

You and your family members, if any, are required to leave Canada on or before the expiry date of your work permit. Failure to leave could result in removal action.

Inadmissible

This refers to your application for permanent resident status in Canada under the live-in caregiver class.

In order to become a permanent resident as a member of the live-in caregiver class, you and your family members, if any, must comply with admissibility requirements as specified in the *Immigration and Refugee Protection Regulations*.

Regulation 72(1) states:

A foreign national in Canada becomes a permanent resident if, following an examination, it is established that

(e) . . .

(i) they and their family members, whether accompanying or not, are not inadmissible,

Since **(type subject(s)' names(s) here)** has not presented evidence that they are able to comply with this requirement, your application for permanent residence as a member of the live-in caregiver class is refused.

The sections of the *Immigration and Refugee Protection Act* that describe grounds for inadmissibility to Canada are in Division 4 of Part I. The text of this Division is attached to this letter.

You and your family members, if any, are required to leave Canada on or before the expiry date of your work permit. Failure to leave Canada could result in removal action.

Inadmissibility Hearing, Appeal or Application for Judicial Review

This refers to your application for permanent resident status in Canada under the live-in caregiver class.

In order to become a permanent resident under the live-in caregiver class, you and your family members, if any, must comply with requirements as specified in the *Immigration and Refugee Protection Regulations* for this class.

Regulation 113(1) states:

A foreign national becomes a member of the live-in caregiver class if

. . .

(e) they are not, and none of their family members are, the subject of an enforceable removal order or an admissibility hearing under the Act or an appeal or application for judicial review arising from such a hearing.

Since **(type subject(s)' name(s) here)** is the subject of an admissibility hearing/appeal/ application for judicial review, you are not a member of the live-in caregiver class. Your application for permanent residence as a member of the live-in caregiver class will not be finalized until this matter is resolved.

Note: This is not a refusal letter as such, since refusal or acceptance cannot take place until the results of the hearing/appeal/judicial review are known.

Appendix B Fact sheet on employment standards legislation

Applicable to live-in caregivers or domestic workers

This fact sheet briefly outlines employment standards provisions applicable to live-in caregivers in each province and territory.

Although the *Live-in Caregiver Program* is run by the federal government, employment standards legislation pertaining to caregivers and domestics falls within provincial and territorial jurisdiction. Federal legislation (namely the *Canada Labour Code* and Regulations) applies only to certain specific sectors such as banking, interprovincial and international transportation, telecommunications, broadcasting, grain handling and uranium mines.

It should be noted that the provisions in provincial and territorial employment standards legislation and their scope may vary from one jurisdiction to another. This means that minimum working conditions prescribed by law are not identical across Canada for live-in caregivers or domestic workers (In several provinces, the law makes no distinction between live-in caregivers and the more general category of “domestic workers”.)

Under the *Immigration and Refugee Protection Act* and Regulations, employers and live-in caregivers must sign an employment contract that clearly defines the rights and responsibilities of both parties. The terms and conditions of the employment contract must by law be consistent with provincial employment standards. In some provinces and territories, employment standards legislation does not, in whole or in part, apply to live-in caregivers. Where there is no minimum wage applicable in a particular province or territory, Human Resources Development Canada (HRDC) determines the wage rate to be paid by employers. In some parts of the country, HRDC requires employers to pay wages higher than the minimum wage rate, based on the prevailing wage paid for this type of work.

Please note that the following information is subject to change.

Alberta

Most of the provisions in Alberta's *Employment Standards Code* apply to domestic workers including those concerning the recovery of unpaid wages, paid annual holidays, rest periods (usually 30 minutes per shift in excess of five consecutive hours – s. 18), days off (one day in each work week or two consecutive days per two-week period, three consecutive days per three-week period or four consecutive days per four-week period – s. 19), maternity leave, parental leave and notice of termination. The Code also stipulates that an employee cannot be held responsible for loss of property if another person also had access to it (s.12(3)).

Since July 1, 2000, domestic workers have also been entitled to a monthly minimum salary of \$1,125 and to paid general holidays. However, the Code's provisions regarding hours of work and overtime pay do not apply to them (s. 6, *Employment Standards Regulation*).

Web-site: www.3.gov.ab.ca/hre/employmentstandards/about/index/html

British Columbia

Provisions regarding minimum employment standards apply to live-in caregivers, who are considered as domestics under the *Employment Standards Act*. These provisions include those pertaining to the recovery of wages, annual vacations with pay, paid general holidays, maternity leave, parental leave, family leave, hours of work and overtime pay (usually after eight hours' work

IP 4 Processing Live-in Caregivers in Canada

in a day or 40 hours in a week), rest periods (normally eight hours between each shift and 32 consecutive hours per week) and notice of termination. In addition, an employer requiring that a uniform or special clothing be worn has to provide it free of charge to the employee and pay maintenance and cleaning costs (s. 25, *ESA*).

Live-in caregivers are normally entitled to a minimum wage of \$8.00 an hour. However, the minimum wage is \$6.00 an hour for inexperienced employees who had no paid employment experience prior to November 15, 2001 and fewer than 500 hours of paid employment with one or more employers (s. 15, *Employment Standards Regulation*). Moreover, an employer cannot charge a domestic more than \$325 a month to cover the cost of room and board (s. 14, *ESR*).

The employer of a domestic has to register the latter with the Registry Office of the Employment Standards Branch. The name, address and telephone and fax numbers of the employer and the employee must be provided. An employer planning to hire a domestic worker from another country must notify the Employment Standards Branch before the actual hiring and before making an application to bring the employee into Canada (s. 15, *ESA*; s. 13, *ESR*)

Finally, on employing a domestic, the employer must provide him or her a copy of the employment contract. This contract must clearly state the duties, hours of work, wage and cost of room and board. Any hours worked beyond those stated in the contract must be remunerated (s. 14, *ESA*).

Web-site: www.labour.gov.bc.ca/esb/domestics/

Manitoba

Most of the provisions in the *Employment Standards Code* apply to live-in caregivers and domestics working more than 24 hours a week. These employees are covered by the minimum standards regarding the payment of wages, the minimum wage (\$6.50 an hour; \$6.75 an hour as of April 1, 2003), paid general holidays, annual vacations with pay, maternity leave, parental leave and notice of termination. However a domestic worker or live-in caregiver working on a general holiday is not entitled to the overtime rate if the employer decides to give compensatory time off equal to the number of hours worked (s. 28(2), *Code*).

The *Home Care and Residential Care Workers Regulation* also contains provisions affecting live-in caregivers. Under this Regulation, residential care workers (i.e., employees hired to provide care and supervision for a child, teenager or adult requiring assistance to live independently, in a family home where they live during their work periods) must normally be paid an amount for each day of work equal to eight hours of wages at the regular rate plus four hours at the overtime rate. However, by agreement with their employer, they can work (and be paid for) fewer than 12 hours a day. They can also work more than 12 hours and be paid at the overtime rate for each additional hour of work—up to a four-hour maximum—inasmuch as they record these hours in a register and provide this register to their employer within a specified period (s. 2 of the Regulation).

The employer of a domestic or residential care worker cannot charge more than \$1.25 a meal, to a maximum of \$20 per week, plus \$20 per week for lodging (s. 3 of the Regulation). Moreover, the employer must give at least 36 consecutive hours of leave per week with no reduction of regular wages. If the domestic or residential careworker works during this period at the employer's request, the number of hours worked must be added to one of the leave periods occurring in the following eight weeks or be paid at a rate at least equal to the overtime wage rate (s. 4 of the Regulation).

Web-site: www.gov.mb.ca/labour/standards/index.html

New Brunswick

New Brunswick's *Employment Standards Act and Regulations* do not apply to persons working in private homes. Live-in caregivers therefore have no protection under provincial employment

IP 4 Processing Live-in Caregivers in Canada

standards legislation, which makes it all the more important to clearly spell out the working conditions in the employment contract.

Newfoundland and Labrador

The *Labour Standards Act* of Newfoundland and Labrador applies to live-in caregivers. The Act and Regulations set out minimum working conditions, including the minimum wage (\$5.75 as of May 1, 2002 and \$6.00 as of November 1, 2002), hours of work (maximum 16 hours a day), paid public holidays, annual vacations with pay, notice of termination, maternity leave, parental leave, the payment of wages and overtime pay (payable after 40 hours a week at a minimum rate of \$8.25 an hour; beginning on April 1, 2003 overtime will have to be paid at the rate of 150% of the employee's regular wage).

Web-site: www.gov.nf.ca/labour/labour_standards.asp

Nova Scotia

Nova Scotia's *Labour Standards Code and Regulations* apply to workers providing domestic services, including live-in caregivers, if they work more than 24 hours a week and their employer is not a close relative. Persons hired under the *Live-in Caregiver Program* can therefore benefit from the Code's provisions pertaining to vacations with pay, paid general holidays, the minimum wage (\$5.35 an hour for inexperienced workers (Inexperienced employees are persons who have been employed for fewer than three calendar months in total by their employer or another employer to perform the work for which they are employed and who have been in the service of their present employer for fewer than three calendar months.); \$5.80 an hour for other employees; these rates will rise, respectively, to \$5.55 and \$6.00 an hour on October 1, 2002), overtime (payable after 48 hours' work in a week at a rate of one and a half times the minimum wage), maternity and parental leave, bereavement leave, court leave, hours of work, rest periods (normally 24 consecutive hours per seven-day period), notice of termination and the payment of wages.

The employer can deduct an amount from a caregiver's wages to cover the cost of room and board. However these deductions cannot reduce the employee's wages to less than they would have earned at the minimum wage rate less \$53.15 per week (s. 8, *General Minimum Wage Order*). An employer requiring that a uniform be worn cannot reduce the wages of a caregiver for its purchase or laundering to an amount inferior to what they would have received at the minimum wage. However, the employee, regardless of their salary, remains responsible for the cost of dry cleaning (s.14, *GMWO*).

Web-site: www.gov.ns.ca/enla/labstand/lstcode/

Northwest Territories and Nunavut (Since Nunavut's creation in 1999, the labour standards legislation of the two territories has remained virtually identical.)

The provisions of the *Labour Standards Act* in both of these territories apply to live-in caregivers in the same manner as to most other employees. This means they are covered by provisions concerning the minimum wage (\$6.50 an hour or \$7 an hour in areas distant from the highway system), hours of work and overtime (payable after 8 hours a day or 40 hours a week), the weekly day of rest, annual vacations with pay, paid general holidays, maternity and parental leave, and notice of termination. The employer can deduct the cost of room and board from the wages of a live-in caregiver; nevertheless, wages for each pay period cannot be reduced below the minimum wage by more than \$0.65 per meal and \$0.80 per day for accommodation. In addition, the employer cannot reduce an employee's wages below the minimum wage rate for providing, maintaining or laundering a uniform or apparel worn at the employer's request, or for accidental breakage by the

IP 4 Processing Live-in Caregivers in Canada

employee of property belonging to the employer (ss. 2 and 3 of the *Labour Standards Wages Regulation*).

Web site (Act): www.lex.nt.ca/loi/pdf/type169a.pdf

(Regs): www.lex.nt.ca/reg/index/html

Ontario

The provisions of Ontario's *Employment Standards Act, 2000* apply to domestic workers, which includes persons employed by a householder to provide care, supervision or personal assistance to children, senior or disabled members of the household.

Under the provisions regarding hours of work and rest periods (Part VII of the Act) domestic workers, as is the case for most other employees in the province, are normally entitled to minimum rest periods: 11 hours per day, eight hours between each shift and at least 24 consecutive hours every work week or at least 48 consecutive hours in every period of at least two consecutive work weeks. They are also entitled to an eating period of at least 30 minutes for every period of five consecutive hours of work. With the employee's consent, this break may be divided and taken at two different times. The employer must also pay a domestic worker at the overtime wage rate after 44 hours of work in a week or, if the employee and employer agree, on the basis of the average number of hours worked in a given period (generally not to exceed four weeks). If the employee consents, the employer may grant an hour and a half of compensatory time off for each overtime hour worked instead of payment in cash. This compensatory time off must be taken within the following three months or, if the employee agrees, during the following 12 months (s. 22). Lastly, the employer must provide the domestic worker with written particulars respecting the hours of work and hourly rate of pay (s. 19, Ont. Reg. 285/01 — *Exemptions, Special Rules and Establishment of Minimum Wage Regulation*).

Domestic workers are entitled to the minimum wage, currently \$6.85 an hour. With regard to deductions for room and board supplied by the employer, the wages of a domestic worker cannot be reduced to less than would have been received at the minimum wage rate less \$2.55 per meal—to a maximum of \$53.55 per week—and \$31.70 per week for a private room. (An employer cannot deduct any amount from the wages of a domestic worker for a shared room.) These amounts cannot be deducted unless the employee has taken the meals provided and occupied the room. Moreover, no amount can be required for a room unless it is reasonably furnished and suitable for human habitation, supplied with clean bed linen and towels, and affords the employee reasonable access to a bathroom (s. 19 of the Regulation).

The other working conditions set out in the Act also apply to domestics, including paid public holidays, vacations with pay, maternity and parental leave, the payment of wages, notice of termination and severance pay. Furthermore, an employer cannot withhold or deduct part of an employee's wages for lost property without written consent; in no case can an amount be withheld if persons other than the employee had access to the property (s. 13 of the Act).

Web-site: www.gov.on.ca/LAB/esa_e/fs_domestics_e.htm

Prince Edward Island

Prince Edward Island's *Employment Standards Act* covers most domestic workers. However, some of its provisions concerning the minimum wage [\$6.00 an hour (The hourly minimum wage in Prince Edward Island will be increased to \$6,25 on January 1, 2003, \$6,50 on January 1, 2004 and \$6,80 on January 1, 2005.)], hours of work and overtime do not apply to persons employed for the sole purpose of protecting and caring for children, disabled or aged persons in a private home (s. 2(3) of the Act). Unless they perform other domestic duties (e.g., housekeeping, cooking or washing for

IP 4 Processing Live-in Caregivers in Canada

other members of the household), live-in caregivers are not entitled to the minimum wage or overtime pay.

All other working conditions prescribed by the Act apply to caregivers. These include paid legal holidays, rest periods (24 consecutive hours per week; at least one 30-minute break after each five consecutive hours of work), vacations with pay, maternity leave, parental leave, notice of termination and the payment of wages.

Moreover, the *Minimum Wage Order* states that the maximum amount that can be deducted from the employee's wages for room and board, when these are included, is \$45.00 per week. No amount may be deducted for a meal the employee has not received (s. 2, *MWO*).

Web-site: www.gov.pe.ca/infopei/Government/GovInfo/Employment/

Workplace_Issues_and_Supports/Employment/Standards/

Quebec

The *Live-in Caregiver Program* operates differently in Quebec compared to the other provinces and territories. Under the Canada-Quebec Accord, Quebec plays a role in the selection of foreign workers. In order to work in Quebec, caregivers have to obtain a *Certificat d'acceptation du Québec (CAQ)*, which is contingent, in part, on the signing of an employment contract between the employee and the employer. This contract must contain the job description, work schedule, days off, wage rate and residence qualifications. It must also describe the obligations of the employer. Beyond the requirement to comply with the provisions of the *Act respecting labour standards* as applicable, the employer is obliged to provide decent living conditions and facilitate access to French courses outside regular working hours. For further information, contact the *Ministère des Relations avec les citoyens et de l'Immigration*.

The *Act respecting labour standards* does not apply to an employee whose exclusive duty is to provide care, in a dwelling, to a child or to a sick, disabled or aged person (s. 3(2) of the Act). However, live-in caregivers may be covered by the provisions of the Act if they also do housework that is not directly related to the immediate needs of the care recipient. In such case, they are deemed to be domestics.

Domestics are entitled to annual leave with pay, statutory general holidays, overtime pay, notice of termination and various leaves for family events (leave for a wedding or death in the family, maternity leave, parental leave, absences for obligations to a minor child). Domestics living in their employer's residence are entitled to a minimum salary of \$280 per week (s. 5, *Regulations respecting labour standards*). (This minimum rate will increase to \$288 per week on October 1, 2002 and to \$292 per week on February 1, 2003.) Their employer may not require an amount for room and board (s. 51.0.1 of the Act). The regular work week for domestics is 49 hours. Every additional hour of work must be remunerated at the overtime rate of one and a half times the regular hourly wage; it may also be compensated, at the employee's request, by providing a paid leave equivalent to the overtime worked plus 50% (s. 8, *Regulations*).

Moreover, if an employer requires the wearing of a uniform, he must provide it free of charge to an employee who is paid at the minimum wage rate. He cannot require an amount of money for the purchase, use or maintenance of a uniform if this would reduce the employee's wages below what the latter would have earned at the minimum wage rate (s. 85 of the Act).

It should be noted that a labour commissioner cannot order the reinstatement of a domestic who has been the victim of an unlawful dismissal or a dismissal without good and sufficient cause; however, they can order the employer to pay compensation equal to the wages and other benefits the domestic would have received over a maximum period of three months (ss. 123 and 128 of the Act).

Web-site: www.cnt.gouv.qc.ca/eng/lois/coup_doeil/qui.asp

IP 4 Processing Live-in Caregivers in Canada

Saskatchewan

Saskatchewan's *Labour Standards Act* and *Regulations* do not apply in the same way to "care providers" as they do to domestic workers (these two categories have their own definitions) (A care provider provides services relating to the care and supervision of a person, whereas a domestic worker provides services relating to the management and operation of a residence. In both cases, these are employees working in the private residence of their employer or a close relative of the employer.). The minimum employment standards also vary depending on whether or not the employee lives with the employer.

Live-in care providers are covered by most of the provisions of the Act including those regarding maternity leave, parental leave, adoption leave, bereavement leave, annual holidays with pay, paid public holidays, the recovery of unpaid wages, hours of work, overtime (employees are normally entitled to 150% of their regular wage for each hour worked after eight hours' work per day or 40 hours per week) and notice of termination. Under the *Labour Standards Regulations* they are also entitled to two consecutive days off per seven-day period, which can be taken at a time agreed with the employer (s. 12 of the Regulations).

Minimum wage provisions in the Act do not apply to live-in caregivers beyond the first eight hours worked in a day (i.e., \$6.35 an hour, up to \$50.80 per day; the hourly rate will be raised to \$6.65 on November 1, 2002) (s. 13 of the Regulations).

The employer cannot require more than \$250 a month from the employee to cover the cost of room and board (s. 14 of the Regulations). Moreover, an employee can refuse to live in a dwelling that they consider unsuitable, unsafe or unsanitary, unless it has been approved by the Director of the Employment Standards Branch (s. 33 of the Regulations). An employer who requires the wearing of a uniform or any other clothing must cover the purchase and maintenance costs (s. 9, *Minimum Wage Board Order, 1997*).

Web-site: www.labour.gov.sk.ca/standards/domestic.html

Yukon Territory

Most provisions of the *Employment Standards Act* apply to domestics, including domestic homemakers. However, the Act does not cover sitters working in a private residence solely to attend to a child, or to a disabled, infirm or other person (*General Exemption Regulations*).

The Act applies to domestics, with the exception of provisions concerning hours of work, overtime pay and rest periods. Domestics are entitled to the minimum wage (\$7.20 an hour) multiplied by eight hours for each day of work (s. 3, *Minimum Wage Regulations*), annual vacations with pay, paid general holidays, maternity and parental leave, notice of termination and the recovery of unpaid wages. An employer cannot make a deduction from an employee's wages or require a payment to cover the cost of room and board that would result in the employee being paid wages that are below what would have been earned at the minimum wage rate, minus \$5. An employee cannot be required to cover the meal and accommodation costs unless these have been supplied by the employer and the employee has signed a contract of employment providing for the deduction or payment (s. 6, *Minimum Wage Regulations*).

Web-site (Act): www.lex-yuk.ca/cgi-bin/foioisa.dll/stats_en.

(Regs): www.lex-yuk.ca/cgi-bin/foioisa.dll/regs_en.

The information in this document is based on statutes and regulations in effect on 25/06/2002.

Labour Law Analysis

Strategic Policy and International Labour Affairs

Labour Program

Human Resources Development Canada

June 25, 2002

Appendix C Provincial and territorial employment standards

Contact list

If you have questions, difficulties or complaints regarding your employment as a live-in caregiver, you can call or visit the Labour or Employment Standards Branch for your province or territory. The counsellors at these offices will answer questions you may have about your rights, and help you if you are having any work-related difficulty with your employer. Sometimes you will hear a pre-recorded message when you call these numbers. Just stay on the line and follow the directions that you receive. If the recorded message does not answer your question, a counsellor will eventually come on the line. These numbers are used frequently, and it may take more than one try to get through. Be patient.

If you prefer, you can write to the office listed. Just write a letter indicating your question or concern and mail it to the address shown. Be sure to include your name and occupation (what you do) and how you can be reached (phone number and address). If it is important that you get assistance quickly, remember that calling is faster than writing. Do not hesitate to contact these people. They are here to help you. This is their job.

Alberta

Department of Labour
Employment Standards Branch
Main Floor, Sterling Place
9940 – 106 Street
Edmonton, Alberta T5K 2N2
Toll free: 310-0000 then dial (403) 427-3731 Fax: (403) 427-8837
TDD/TDY: 1 800 232-7215
Web site: www.gov.ab.ca/hre/employmentstandards/

British Columbia

Ministry of Labour and Consumer Services
Employment Standards Branch
P.O. Box 9570
Stn. Prov. Govt.
Victoria, B.C. V8W 9K1
Toll free: 1 800 663-3316 Fax: (604) 660-7047
Web site: www.labour.gov.bc.ca/esb/

Manitoba

Manitoba Labour
Employment Standards Branch
604-401 York Avenue
Winnipeg, Manitoba R3C 0P8
Toll free (outside Winnipeg): 1 800 821-4307
Telephone (Winnipeg): (204) 945-3352 Fax: (204) 948-3046
Web site: www.gov.mb.ca/labour/standards/

IP 4 Processing Live-in Caregivers in Canada

New Brunswick

Department of Training and Employment Development
Employment Standards Branch
P.O. Box 6000
Fredericton, N.B. E3B 5H1
Toll free: 1 888 452-2687 Fax: (506) 453-3806
Web site: www.gnb.ca/0308/0001e.htm

Newfoundland

Department of Labour
Labour Standards Division
4th Floor, West Block
Confederation Bldg.
P.O. Box 8700
St. John's, Nfld. A1B 4J6
Toll free: 1 877 563-1063 Fax: (709) 729-5738
Web site: www.gov.nf.ca/labour/labour/labour_standards.asp

Northwest Territories

Department of Justice
Labour Services
Third Floor, Panda II Mall
P.O. Box 1320
Yellowknife, N.T. X1A 2L9
Toll free: 1 888 700-5707 Fax: (403) 873-0483
Web site: www.justice.gov.nt.ca/publicservices/labourboard.htm

Nova Scotia

Department of Environment and Labour
Labour Standards Division
5151 Terminal Rd., 7th Floor
P.O. Box 697
Halifax, N.S. B3J 2T8
Toll free: 1 888 315-0110 Fax: (902) 424-0503
Web site: www.gov.ns.ca/enla/services.htm

Ontario

(Call either number below to ask for the address of the office closest to you.)
Ministry of Labour
Employment Standards Branch
Toll free: 1 800 531-5551 Fax: (416) 326-6546
416-326-7160 (Greater Toronto area)
Web site: www.gov.on.ca/lab/es/ese.html

IP 4 Processing Live-in Caregivers in Canada

Prince Edward Island

Department of Community and Cultural Affairs
Labour and Industrial Relations
P.O. Box 2000
Charlottetown, Prince Edward Island C1A 7N8
Toll free: 1 800 333-4362 Fax: (902) 368-5526
Web site: www.gov.pe.ca/commcu/lair-info/index.php3

Quebec

Commission des normes du travail
Hall est, 7e étage
400, boul. Jean-Lesage
Québec (Québec) G1K 8W1
Toll free: 1 800 265-1414 Fax: (418) 643-5132
Web site: www.cnt.gouv.qc.ca

Saskatchewan

Department of Labour
Labour Standards Branch
1870 Albert Street
Regina, Sask. S4P 3V7
Telephone: (306) 787-9106 (Regina) or (306) 933-6587 (Saskatoon)
Web site: www.labour.gov.sk.ca

Yukon

Department of Community Services
Labour Services
Law Centre
2130 Second Ave., 3rd Fl.
Box 2703
Whitehorse, Yukon Y1A 2C6
Telephone: 867-667-5944 Toll free: 1-800-661-0408, local 5944
Fax: 867-393-6317
Web site: www.gov.yk.ca/depts/community/labour/index.html

Appendix D Counselling fact sheet

Important Information for Live-in Caregivers

You must have a written employment contract signed by both you and your future employer. The contract defines your job duties, hours of work, salary and benefits, such as overtime. The contract also reinforces your employer's legal responsibilities to you. This requirement helps provide a fair working arrangement between you and your employer and provides both of you with a clear understanding of what is expected of you.

You should ask for a "pay slip" with each pay cheque, that shows your deductions and net pay (pay after deductions).

If you are not happy with your job, you should tell your employer. A little flexibility on both sides is often enough to cause changes so that you are both happy. Some employers have waited a long time and may have paid agency fees to bring you to Canada. They will appreciate your honesty.

If you decide to change employers, you cannot begin work until you get a new work permit. Your new employer needs to get approval from a Human Resources Canada Centre before you can get your new work permit.

Even if you do not change employers, you need to renew your work permit every year. You should apply for an extension of your work permit in Canada at least two months in advance of the expiry date. This is your responsibility, not your employer's.

Under no circumstances can an employer have you deported from Canada. Your employer has no authority to hold your passport.

You are authorized to work in Canada as a live-in caregiver only. If you work in any other job, even part-time work, you could be disqualified from the program and from getting permanent residence.

The total duration of all work permits added together should not exceed three years.

If you or someone else lied about your education, training or experience when you first applied in the Live-in Caregiver Program outside Canada, you could be disqualified from the program in Canada.

If you want to apply for permanent residence in Canada, you must:

- work full-time as a live-in caregiver for two years within three years after you arrive in Canada;
- you, your spouse and your dependent children must pass medical, criminal and security checks and must not be going to an immigration inquiry (hearing) or be under an order to leave Canada. For example, if you marry a refugee claimant in Canada, the status of your spouse could prevent you from getting landed;
- you must live in your employer's home or you cannot continue to work in the Live-in Caregiver Program, and you cannot apply for permanent residence.

If you plan to apply for permanent residence, you may wish to get original documents that show, in as much detail as possible, all of your education, training and experience before you leave your country. These documents could help you when you apply for work in Canada, or help you get into a program of study, after you become a permanent resident. It is often easier to get these documents while you are still in your home country.

If you had to get a temporary resident visa to come to Canada, you may have to get a new one if you leave Canada temporarily, on holidays, for example, unless you are visiting the United States.

Appendix E Live-in caregiver/domestic worker associations

Contact list

You can contact any of the following groups to get more information about your rights as a live-in caregiver in Canada. These groups can answer your questions about working conditions, employee-employer relations, changing jobs, job loss or abuse. They can also help you learn more about your new community and how to meet people. You do not need your employer's permission to contact these groups.

West Coast Domestic Workers Association

119 Pender Street West, Suite 302
Vancouver, British Columbia V6B 1S5
Telephone: (604) 669-4482 Fax: (604) 669-6456
Web site: www.vcn.bc.ca/wcdwa
e-mail: wcdwa@vcn.bc.ca

Philippine Women's Centre

Kalayaan Centre
451 Powell Street
Vancouver, British Columbia V6A 1G7
Telephone: (604) 215-1103 Fax: (604) 215-1103
Web site: <http://pwc.bc.tripod.com>
e-mail: pwc@attcanada.ca

Committee for Domestic Workers' and Caregivers' Rights

789 14th Street East
Vancouver, British Columbia V5P 1H9
Telephone: (604) 874-0649 Fax: (604) 874-0649
Association des aides familiales du Québec
5101, rue Saint Denis
Montreal, Quebec H2J 2M1
Telephone: (514) 272-2670 Fax: (514) 272-7156
e-mail: afg@cam.org

Canadian Coalition for In-Home Care

12 Irwin Avenue
Toronto, Ontario M4Y 1K9
Telephone: (905) 849-6520 Fax: (905) 849-6921

Toronto Organization for Domestic Workers' Rights (Intercede)

234 Eglinton Avenue East, Suite 205
Toronto, Ontario M6G 1A5
Telephone: (416) 483-4554 Fax: (416) 483-9781
e-mail: cds@pofbwr.org

IP 4 Processing Live-in Caregivers in Canada

Immigrant Women of Saskatchewan, Regina Chapter

2248 Lorne Street
Regina, Saskatchewan S4P 2M7
Telephone: (306) 359-6514 Fax: (306) 522-9952
e-mail: iwsregina@accesscomm.ca

Calgary Immigrant Women's Association

750 - 11th Street South West, Suite 300
Calgary, Alberta T2P 3E9
Telephone: (403) 263-4414 Fax: (403) 264-3914
Web site: www.ciwa-online.com
e-mail: ciwagen@cadvision.com

Appendix F Live-in caregivers, working conditions by region

[\[Link to pdf\]](#)