



Citizenship and  
Immigration Canada

Citoyenneté et  
Immigration Canada

# OP 11

## Temporary Residents

## OP 11 Temporary Residents

Updates to chapter .....	2
1. What this chapter is about.....	3
2. Program objectives.....	3
3. The Act and Regulations.....	3
3.1. Forms .....	4
4. Instruments and delegations .....	4
5. Departmental policy.....	4
5.1. Visitor vs. temporary resident—the use of terms .....	4
5.2. Entry of foreign nationals .....	4
5.3. Not everyone needs a temporary resident visa .....	5
5.4. Dual intent.....	5
5.5. Passports and travel documents.....	5
5.6. Business persons and business delegations.....	6
5.7. Processing priorities.....	6
5.8. Interpreters.....	6
5.9. Processing fees.....	6
5.10. <i>Canadian Human Rights Act</i> and temporary resident examinations.....	7
5.11. Place of application for a temporary resident visa, study permit, work permit – Implementation of R11(2).....	7
5.12. <i>Foreign Missions and International Organizations Act (FMIOA)</i> .....	7
5.13. Parents and grandparents .....	8
6. Definitions.....	8
7. Procedure: Documents required with a temporary resident visa application.....	9
8. Procedure: Reviewing the documentation .....	10
9. Procedure: Assessing the application.....	11
10. Procedure: Applications that should have been submitted to another visa office as required by R11(2) .....	14
11. Procedure: Medical requirements for foreign nationals .....	14
12. Procedure: Issuing the visa—Types of temporary resident visas .....	14
13. Procedure: Issuing the Visa—Duration of visits .....	15
14. Procedure: Refusals.....	15
15. Procedure: Reporting high-profile cases.....	16
16. Procedure: Long-term temporary residents .....	16
17. Procedure: Diplomatic and official visas .....	17
18. Procedure: U.S. government officials.....	19
19. Procedure: Courtesy visas .....	19
20. Procedure: Facilitation visas .....	20
21. Procedure: Visitors wishing to donate living organs .....	20
22. Procedure: Cancellation of a visa .....	20
22.1. Cancellation of the visa .....	20
22.2. Steps.....	21
23. Procedure: Applicants for temporary residence with in-Canada applications for permanent residence in progress .....	21
23.1. Background.....	21
23.2. Live-in caregiver or spouse or common-law partner in Canada cases .....	22
23.3. In-Canada asylum seekers, members of the in-Canada protected persons (PP) classes and persons who have applied for humanitarian and compassionate (H&C) consideration in Canada .....	22
23.4. TRV issuance .....	22
23.5. TRV refusal.....	23
Appendix A Port of Entry Information Report.....	24
Appendix B Diplomatic or official temporary resident visas .....	25
Appendix C Passport Stuffer.....	31
Appendix D Refusal letter – Temporary resident .....	32
Appendix E Tick Box Options for Standard Refusal Letter .....	33
Appendix F: Applications from intending organ donors .....	35

## OP 11 Temporary Residents

### Updates to chapter

#### Listing by date:

#### Date: 2006-02-24

1. Section 5.13: Policy regarding the issuance of TRVs for parents and grandparents of Canadians and permanent residents was added (formerly OB14).
2. Section 7: Clarification regarding the discretionary nature of demanding proof of a visitor's financial resources was added.
3. Section 8: A note was added to remind officers of the application requirements of R10(2).
4. Section 14: A note regarding refusal letter procedures under A40 was added.
5. Section 21: A new section titled "Visitors wishing to donate living organs was added
6. Section 23: A new procedure was added regarding TRV applications for persons with in-Canada PR applications in process.
7. Appendix F: A new appendix titled "Applications from intending organ donors" that includes instructions in processing intending organ donors was added.

#### 2005-11-02

1. Policy additions on the following topics were made:

Section 5.11: Place of application for a temporary resident visa, study permit, work permit – Implementation of R11(2)

Section 5.12: *Foreign Missions and International Organizations Act* (FMIOA)

2. All references to collective certificates have been removed (from the definitions section, procedures sections and appendices). They are no longer in use.

3. Procedures were added to the chapter on the following topics:

Section 10: Procedure: Applications that should have been submitted to another visa office as required by R11(2)

Section 15: Procedure: Refusals, has been added to and clarified.

Section 20: Procedure: Facilitation visas

Section 21: Procedure: Cancellation of a visa

4. Appendices

Appendix B: A new appendix providing the guidelines for the issuance of diplomatic and official visas has been added. (Extracted from Chapter 10 of FAC's Consular Manual, the text has been updated and made electronically available by inclusion here.)

Other appendices have been re-ordered to reflect cancellation of the collective certificate information.

Appendices D and E provide comprehensive instructions for use when crafting refusal letters.

## OP 11 Temporary Residents

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### 1. What this chapter is about

This chapter explains how officers should assess applications for temporary resident visas (TRVs) made by prospective visitors, workers and students to Canada. It also explains the criteria which prospective temporary residents must meet.

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### 2. Program objectives

The goals of the *Immigration and Refugee Protection Act* (IRPA) with respect to foreign nationals as temporary residents are to:

- facilitate the entry of visitors, students and temporary workers for the purpose of fostering trade, commerce, tourism, international understanding, and cultural, educational and scientific activities;
- protect the health and safety of Canadians and to maintain the security of Canadian society; and
- promote international justice and security by fostering respect for human rights and by denying access to Canadian territory to persons who are criminals or security risks.

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### 3. The Act and Regulations

For legislation regarding foreign nationals as temporary residents see:

Immigration objectives	A3(1)(g)
Application before entering Canada	A11(1)
Obligation – answer truthfully	A16(1)
Obligation – relevant evidence	A16(2)
Examination by officer	A18(1)
Transit	A18(2)
Obligation on entry	A20(1)(b)
Temporary resident	A22(1)
Dual intent	A22(2)
Right of temporary residents	A29(1)
Obligation – temporary resident	A29(2)
Loss of temporary resident status	A47
Need for visa	R7(1)
Application of family members	R10(3)
Place of application for visa	R11(1)
Application outside Canada	R11(2)
Issuance of temporary resident visa	R179
Medical examination required	R30
End of examination	R37
Documents – temporary residents	R52
General conditions – temporary residents	R183
Conditions imposed on members of a crew	R184
Specific conditions	R185
Working without a permit	R186

## OP 11 Temporary Residents

Business visitors	R187
Visa exemption – nationality	R190(1)
Visa exemption – documents	R190(2)
Visa exemption – purpose of entry	R190(3)
Class	R191
Visitor	R192
Conditions	R193
International agreements	R204

### 3.1. Forms

The forms required are shown in the following table.

Form Title	Form Number
Affirmation for Visa	IMM 1281B
Visa Counterfoil	IMM1346
Application for a Temporary Resident Visa Made Outside Canada	IMM 5257B
Collective Certificate	IMM 1393B

## 4. Instruments and delegations

Nil.

## 5. Departmental policy

### 5.1. Visitor vs. temporary resident—the use of terms

Under the former *Immigration Act*, the term “visitor” used to be an all-encompassing term for any type of temporary stay. Workers and students were considered subcategories of visitor. According to the IRPA and its Regulations, visitors, students, workers and temporary resident permit holders are all now subcategories of the category temporary resident. This structure was created to make it clear that there is a distinction between the basis upon which a foreign national seeks entry into Canada (i.e., either as a permanent resident or a temporary resident) and the activity that the foreign national intends to undertake while in Canada temporarily (i.e., working, studying or just visiting).

As Canadian visitor visas were used to help facilitate the entry of most temporary residents, regardless of the activity that was going to be undertaken, it was felt that the term “temporary resident visa” (TRV) best reflected the new structure of IRPA. Therefore, throughout this chapter, the terms “temporary resident” and “temporary resident visa” will be used.

### 5.2. Entry of foreign nationals

Foreign nationals are allowed into Canada as temporary residents by privilege. A22 provides that a foreign national becomes a temporary resident if an officer is satisfied that they have applied for that status, have met the obligations set out in A20(1)(b) and are not inadmissible. Temporary residents include foreign nationals entering Canada as visitors on temporary resident visas and as workers or students on work and/or study permits. An officer must not issue a temporary resident visa to a foreign national unless they are satisfied that the applicant will leave Canada at the end of the period authorized for their stay. This authorized period must be temporary, because it applies only to temporary residents. Applicants may intend to eventually apply for permanent residence or, in fact, have an application in process, as provided for in A22(2). However, the officer must be satisfied that the applicant will respect the temporary period of stay that will be authorized upon entry. The foreign national must satisfy both the officer abroad and at the port of

## OP 11 Temporary Residents

entry that they have the ability and willingness to leave Canada at the end of the temporary period authorized, regardless of a future decision with respect to permanent status.

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### 5.3. Not everyone needs a temporary resident visa

Not everyone is required to obtain a temporary resident visa before arriving at a port of entry. For visa exemptions stemming from the nationality of an applicant, see R190(1). For visa exemptions resulting from the type of document an applicant may have, see R190(2). Visa exemptions based on the purpose of entry can be found at R190(3).

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### 5.4. Dual intent

An intention by a foreign national to become a permanent resident does not preclude them from becoming a temporary resident if the officer is satisfied that they will leave Canada by the end of the period authorized for their stay [A22(2), R183]. The person's desire to work, study or visit in Canada before or during the processing of an application for permanent residence may be legitimate. An officer should distinguish between such a person and an applicant who has no intention of leaving Canada if the application is refused.

An officer should also keep in mind:

- the time required to process an application for permanent residence, because the length of time will affect the applicant's means of support;
- obligations at home; and
- the applicant's likelihood of leaving Canada if the application is refused.

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### 5.5. Passports and travel documents

To enter Canada, most foreign nationals must be in possession of a valid and subsisting passport or other travel document which allows the person re-entry to the country which issued the document [R50]. The exceptions are found in R52(2). A list of unacceptable documents is found in R52(3).

This requirement ensures adequate identification of the foreign national, and guarantees the person's readmission either to the country that issued the passport or identity or travel document, or to another country. Before issuing a temporary resident visa, the officer must ensure that travel documents are acceptable for travel to Canada and that they guarantee readmission to another country.

Diplomatic, consular, official and service passports meet the passport requirements for temporary residents.

- A valid passport or other travel document means that:
  - ◆ the document is genuine, as opposed to fraudulent or altered;
  - ◆ it was legally issued by the proper authority;
  - ◆ it was legally obtained and not exchanged so as render it invalid; and
  - ◆ it is acceptable for travel to Canada.
- A subsisting passport or other travel document means that a genuine (valid) document continues to exist, i.e., has not been cancelled or revoked.

## OP 11 Temporary Residents

In order for a temporary resident visa to be issued, the passport's validity date must not have expired.

For a complete explanation of what constitutes a valid passport or travel document for visiting Canada, see OP 16, Passports and Travel Documents.

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### 5.6. Business persons and business delegations

One of the Department's goals is to facilitate the entry of business visitors and delegations to foster trade and commerce. However, some prudence is required before issuing temporary resident visas to business applicants whose track record is unknown.

Officers should determine whether or not the business visitor has the ability to undertake the business proposed in Canada. Checking with the visa office's trade section to obtain its opinion as to the legitimacy of the companies is one method of verifying the visitor's background. Organizers of the delegation and supporting companies may be asked to provide documentation in support of the visit.

Random interviews with individuals may be necessary to ensure that the delegation is genuine.

It may be necessary to assess the bona fides of the inviting enterprise in Canada, as some invitations may be made specifically to facilitate the entry of non-legitimate visitors to Canada.

Any visa office dealing with business travellers originating outside its area of jurisdiction should carefully scrutinize all documentation and, where bona fides are questionable, request assistance from the visa office responsible for the applicant's normal place of residence.

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### 5.7. Processing priorities

Temporary resident applications will be given as much priority as possible within the restraints imposed by other processing priorities at the visa office.

When application forms are presented in person, processing will most often be done the same day unless the person is from a country where special procedures apply (see IC 2, Security Vetting of Visitors).

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### 5.8. Interpreters

The duty to act fairly includes the duty to ensure that the applicant understands what is expected of them. If necessary, officers should wait until an interpreter is available before interviewing or refusing an applicant. An interpreter may be a locally engaged staff member, a friend or relative of the applicant, or any other person who can communicate with the applicant and officer.

If an interpreter is used, officers should enter details in the case notes.

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### 5.9. Processing fees

Refer to IR 5, Cost Recovery Processing, for complete details on processing fees and exemptions.

The following is a summary of information contained in IR 5:

- processing fees vary according to the type of temporary resident visa: single-entry temporary resident visa or multiple-entry temporary resident visa;
- processing fees are non-refundable even if the application is refused; the fee is for processing the application, not the decision;
- there is no fee for a temporary resident visa if a work or study permit is issued at the same time. Slightly different rules apply to entertainers;

## OP 11 Temporary Residents

- transit visas are fee exempt;
- courtesy visas are not automatically fee exempt. A fee is applicable unless the person is listed in R296(2);
- temporary resident visas issued to diplomats are always fee exempt, whether the purpose of the visit is official or not.

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### 5.10. **Canadian Human Rights Act and temporary resident examinations**

Discrimination means treating people differently, negatively or adversely without a good reason (*bona fide* justification). Officers are prohibited from discriminating against temporary resident visa applicants by the *Canadian Human Rights Act* (CHRA).

Prohibited grounds include race, national or ethnic origin, colour, religion, age, sex, marital status, pardoned conviction, and physical or mental disability.

Officers are required to differentiate between people on some of these grounds (such as the fact that nationals of some countries require a TRV while nationals of another country do not). Discriminatory decisions are allowed under section 15(g) of the CHRA if they are *bona fide* justified. This means that there is a good reason for the apparently discriminatory decision.

It is important not to rely solely on profiles to refuse a temporary resident visa applicant. A refusal should be based on the characteristics of the individual and not on sweeping generalities for all persons of that race, national or ethnic origin, colour, religion, age, sex or marital status, or for persons who have been pardoned or who have a physical or mental disability.

Officers should document their decision in their case notes, ensuring that the applicant was assessed as an individual.

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### 5.11. **Place of application for a temporary resident visa, study permit, work permit – Implementation of R11(2)**

Since April 1, 2005, applicants are required to submit their application for a temporary resident visa, study permit or work permit to the visa office that is responsible for serving

- the country in which the applicant has been lawfully admitted; or
- the applicant's country of nationality, or, if the applicant is stateless, their country of habitual residence.

When determining "nationality," presentation of a national passport should constitute satisfactory proof of the applicant's nationality.

Visa offices in the U.S.A. have responsibility for applicants who have been lawfully admitted to the U.S.A. or Canada.

R11(2) continues to be very flexible. For example, the business person from India spending a day or two in the U.K. will be able to apply for a temporary resident visa in London, as long as they were lawfully admitted to the U.K. Similarly, a Chinese student currently studying in Singapore will be able to apply for a study permit at the visa office there. However, it will not permit a Brazilian national who is physically in Brazil to make a temporary work permit application by mail to the visa office in New York City.

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### 5.12. **Foreign Missions and International Organizations Act (FMIOA)**

In general terms, the FMIOA authorizes the making of orders, for the purpose of according to the diplomatic mission and consular posts of any foreign state, an international organization, or an accredited mission and any of the persons connected therewith, the privilege and immunities as



## OP 11 Temporary Residents

specified in such orders. Foreign Affairs Canada (FAC) has the responsibility for administering the FMIOA.

More particularly, section 5, respecting international organizations, allows the Governor in Council (GIC) to make orders granting specified privileges and immunities to the representatives of foreign states that are members or participate in an international organization, officials of an international organization, and experts who perform missions for an international organization.

Section 5 also includes residual authorization allowing the GIC to designate "such other classes of persons" who, in accordance with a treaty, convention or agreement, as provided in a schedule to the FMIOA, are entitled to privileges and immunities. Certain international organizations which are headquartered in Canada, such as the International Civil Aviation Organization (ICAO) have orders, *ICAO Privileges and Immunities Order*, which are intended to remain in force indefinitely and may be subject to amendment from time to time. Other orders are made for a limited duration in order to cover a specific event being held in Canada, such as a meeting hosted by a particular international organization. Of particular interest is subsection 5(4) of the FMIOA which provides that, in the event of an inconsistency or conflict between an order made by the GIC under the FMIOA and any of sections A33 to A43, the order prevails to the extent of the inconsistency or conflict.

Therefore, when persons are covered under the FMIOA, they are not subject to the same admissibility requirements as everyone else. When officers become aware that an inadmissible person is covered, they should contact Operational Coordination and Policy Liaison: Admissibility (RIL) within CIC's International Region for further instructions.

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### 5.13. Parents and grandparents

In April 2005, the Minister of Citizenship and Immigration made a policy decision to encourage visa officers to be more flexible in issuing temporary resident visas (TRVs), including multiple-entry visas, to parents and grandparents:

- who have applications for permanent residence in process, and
- who wish to visit but do not intend to immigrate to Canada.

As per A22(2), the intent to become a permanent resident does not preclude a person from becoming a temporary resident. If a parent or grandparent intends to become a permanent resident eventually and can satisfy an officer on a balance of probabilities that they will leave Canada at the end of the authorized period of stay [as per R179], officers will normally issue a TRV (single-or multiple-entry visa). Longer validity visas should also be considered (See Procedure 16, Long-term temporary residents, below).

Issuing a temporary resident permit (TRP) would only be warranted if the parent or grandparent is inadmissible to Canada or fails to meet the requirements applicable to visitors and there is a compelling humanitarian or compassionate reason to facilitate their entry into Canada. In all cases, the health and security of Canada must be protected.

Where possible, officers should counsel applicants of the importance of maintaining their temporary resident status while in Canada and that there is no in-Canada immigration class for parents and grandparents. Notes of this counselling should be included in CAIPS.

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## 6. Definitions

Affirmation for visa	An Affirmation for Visa (IMM 1281B) is issued only to the holders of diplomatic or special passports from countries whose regimes are not recognized by Canada. Other citizens of these countries may be issued temporary resident visas in the normal manner, e.g., diplomats from Cambodia or Taiwan. For more information, refer to OP 16.
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## OP 11 Temporary Residents

International Air Transport Association (IATA)	<p>The IATA is an association of over 220 of the world's airlines, with headquarters in Montréal. Its mission is to represent and serve the airline industry. Its goals include the promotion of safe, reliable and secure air services, provision of industry-required products and services, and development of cost-effective and environmentally friendly standards and procedures to facilitate the operation of international air transport.</p> <p>Citizenship and Immigration Canada has agreed to facilitate the processing of applications for entry into Canada by representatives of airlines or organizations coming into the country to attend meetings and conferences of the IATA and its affiliated or subsidiary branches, whether or not those airlines or organizations are IATA members; Work permits, when warranted, may be issued to officers, employees or specialists contracted to the IATA (See FW 1, section 5.27).</p> <p>IATA representatives who are citizens of countries subject to Canadian temporary resident visa requirements should be provided with every courtesy when they apply for a temporary resident visa. They are not eligible for diplomatic visas, but should be issued courtesy visas. Courtesy visas should be multiple-entry and long-term, i.e., for three years, except for citizens of special category and statesman countries where multiple-entry visas cannot be issued.</p>
POE information report to visa office	<p>When a holder of a temporary resident visa is refused entry into Canada, port-of-entry (POE) officers will provide full details to the issuing visa office abroad in anticipation of future representations being made.</p> <p>This reporting system gives visa offices abroad immediate feedback on their decisions for issuing temporary resident visas, and helps to monitor the effectiveness of the temporary resident visa program. These reports should be added to the original file and cross-indexed to the files of family members. For further details on the content of these reports, see Appendix A.</p>
Temporary resident visa	<p>A visa is a document issued or a stamped impression made on a document by an officer. A Canadian temporary resident visa counterfoil (IMM 1346) may be issued to persons who qualify for a temporary resident visa.</p> <p>The purpose of the visa is to identify the holder as a person who may become a temporary resident upon admission to Canada. The holder is a person who, in an officer's opinion, meets the requirements of the Act and Regulations [A22, R179].</p>

### 7. Procedure: Documents required with a temporary resident visa application

The following documents must be provided with a temporary resident visa application:

- application form IMM 5257B;
- cost-recovery processing fee or a receipt which indicates the cost recovery processing fee has been paid to an approved financial institution;
- a valid passport or travel/identity document that guarantees re-entry to the country that issued it. If a re-entry permit is required, applicants must obtain this permit before applying for a temporary resident visa;
- recent passport-size photos for each family member (the name of the person should be written on the back of each photo);

## OP 11 Temporary Residents

- information concerning the person who will be responsible for children under 16 years of age who are travelling alone. If the child is the subject of a custody order or is travelling with one parent, proof of custody and/or the other parent's consent for the trip must also be provided. Minors travelling without their parents require a letter of permission to travel from the non-accompanying parent(s).

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**Note:** The officer's first duty when children are travelling with only one parent or with a relative/friend is to ensure that the child is not being abducted from their lawful guardian.

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- other documents as required, e.g., letter of invitation or other explanation for the trip; evidence of links to home countries; proof of present immigration status in the country of application.

In assessing the adequacy of a visitor's financial resources, officers may exercise discretion in the documentation they request from applicants. In situations where applicants generally pose a low risk regarding funds, officers may choose to limit or waive routine requirements for documentary evidence. For inland extensions or frequent visitors for example, the client history may provide adequate information for the officer to determine whether or not they think applicants could support themselves during they stay in Canada. When warranted, officers may consider a combination of any of the following documents as evidence of ability to support an intended visit. The list is not exhaustive but demonstrates various resource documents that may be presented:

- ◆ bank statement(s) or deposit book(s) of applicant (and spouse) that show accumulated savings;
- ◆ applicant's (and spouse's) letter of employment or employment book, providing name of employer, applicant's position/occupation, date employment commenced and annual earnings;
- ◆ host's or family member in Canada (and spouse's) evidence of income: previous year Revenue Canada Notice of Assessment indicating annual income; or alternately, letter from employer(s) showing position, date employment commenced and annual earnings;
- ◆ evidence of size of family for host or family member in Canada (to equate earnings with size of family to ensure ability to support long-term visit);

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### 8. Procedure: Reviewing the documentation

All documents should be properly completed and enclosed with the application. Officers should:

1. upon receipt of the application determine whether under R11(2) the receiving office should be processing the application.

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**Note:** If, per R11(2), the receiving office is not the designated processing visa office (see "Where to Apply" country listing included as Appendix A in OP 1), the complete application together with accompanying processing fee should be returned to the applicant. The applicant should be advised they are not eligible to submit an application for a temporary resident visa to that office, per R11(2), and should be informed of the name of the responsible office through which they may apply.

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2. check that the application form IMM 5257B has been properly completed and signed by the applicant. Applicants for a temporary resident visa may apply on behalf of their accompanying spouse and dependent children. Children 18 years and over must complete their own application form; and

## OP 11 Temporary Residents

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**Note:** As per R10(2)(a), the application must contain the name, birth date, address, nationality and immigration status of the applicant and of all family members of the applicant, whether accompanying or not, and a statement whether the applicant or any of the family members is the spouse, common-law partner or conjugal partner of another person.

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3. determine whether the applicant is in need of a temporary resident visa [R190].

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**Note:** If the issuance of a visa will facilitate the travel of a visa-exempt person, officers may issue a visa if they are satisfied that all requirements have been met. See Procedure: Facilitation visas, section 20 below.

**Note:** Before returning a passport to a person who does not require a temporary resident visa, officers should ensure that the passport is genuine and does not contain a photo substitution.

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4. determine whether the applicant requires a study or work permit in addition to the temporary resident visa (see OP 12 Students and FW 1 Foreign Worker Manual);
5. determine whether the appropriate processing fee has been paid (see IR 5);
6. ensure the application is checked against FOSS, existing immigration and visitor file records, and the Enforcement Information Index. If the applicant is a non-resident of the country of application, officers should request a records check from the visa office responsible for the country of citizenship or of habitual residence
7. determine if additional security checks are required (see IC 2, Security Vetting of Visitors, for special category and statesman procedures).

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### 9. Procedure: Assessing the application

Listed below are some areas officers should explore with applicants. The purpose of these questions is to determine whether:

- applicants intend to remain in Canada illegally, claiming refugee status or otherwise seeking to remain in Canada, and thus not abide by the requirement to leave Canada at the end of the period authorized for their temporary stay;

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**Note:** A person may have a dual or eventual intent to become a permanent resident, but in order to qualify for a temporary resident visa, they must demonstrate that they have the capacity and willingness to leave Canada at the end of the authorized temporary period.

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- the ties to their home country are sufficiently strong to ensure that they are motivated to return home after the visit to Canada; and
- they meet the requirements of the Act and Regulations.

Areas of concern	Things to consider	Additional information
What is the purpose of your trip?	<ul style="list-style-type: none"> <li>• What will the person be doing in Canada?</li> <li>• What are the applicant's plans for visiting Canada? Are the plans well thought out or are they frivolous?</li> </ul>	<ul style="list-style-type: none"> <li>• At the interview, officers should confirm the reason for the trip as stated on the application form.</li> <li>• Officers should also remember that, although not all persons visiting Canada will have detailed plans, they should normally have some idea of</li> </ul>

## OP 11 Temporary Residents

		what they will be doing.
How long will you be staying in Canada?	<ul style="list-style-type: none"> <li>• What is the duration of the visit?</li> <li>• Is the time requested definitive? Indeterminate?</li> <li>• Considering the applicant's situation in their home country and the purpose of the trip, is the time requested reasonable? Plausible? Practical?</li> </ul>	
What ties do you have with Canada?	<ul style="list-style-type: none"> <li>• Who invited the person to Canada? Is there proof of an invitation?</li> <li>• What family does the person have in Canada? What is their immigration status in Canada?</li> </ul>	
What ties do you have with your country of residence?	<ul style="list-style-type: none"> <li>• Is the person employed? If yes, at what salary? In what position? Has the applicant's employer approved a request for leave?</li> <li>• What family does the person have in the country of residence? Where were they at the time of the application?</li> <li>• Does the person have property? What is the value of the property?</li> <li>• What financial obligations is the person leaving behind? What are the nature and value of these obligations?</li> <li>• What other responsibilities and obligations is the person leaving behind? How will they be discharged?</li> <li>• Is travel consistent with local customs or practices? Has the person travelled before?</li> </ul>	<ul style="list-style-type: none"> <li>• Even if the person's ties to the home country seem to be strong, there may be other factors in the general economic or political environment which make the long-term prospects for the person or their family unstable. You should consider these factors in your assessment.</li> </ul>
Do you have a valid passport or travel document?		See OP 16 Passports and Travel Documents.
How will you support yourself in Canada?	<ul style="list-style-type: none"> <li>• Does the client have the means to be self-supporting or is someone else willing and able to provide adequate support?</li> </ul>	<ul style="list-style-type: none"> <li>• Foreign nationals must have enough funds to maintain themselves in Canada without resorting to illegal employment or social assistance.</li> </ul>

## OP 11 Temporary Residents

	<ul style="list-style-type: none"> <li>• Is the person staying in hotels or with relatives or friends?</li> <li>• Is it reasonable for the foreign national to be staying with the host for the period indicated?</li> <li>• Will the person be travelling within Canada? For how long?</li> <li>• What is the source of funds: traveller's cheques or credit cards?</li> <li>• Are there currency restrictions in the home country?</li> </ul>	<ul style="list-style-type: none"> <li>• When foreign nationals are planning to stay with friends or relatives, officers should ensure that the host is not only willing, but also able to provide for the visitor during the period indicated.</li> <li>• Officers should remember to clarify the type of trip envisaged and the duration to determine how much money the person requires.</li> </ul>
Will you be able to leave Canada?	<ul style="list-style-type: none"> <li>• Does the person have the financial ability to return, such as an airplane ticket, money or a statement of bank assets?</li> <li>• Does the person have a passport, travel document and/or visa which will admit the person to the home country or to a third country?</li> </ul>	<ul style="list-style-type: none"> <li>• Persons who require a visa to re-enter their home country or a third country will be limited at the POE to a visit that does not exceed the validity of their re-entry visa.</li> </ul>
Do you intend to work or study in Canada?		<ul style="list-style-type: none"> <li>• Barring a few exceptions, most foreign nationals who work or study in Canada must have a work or study permit before arriving at the POE. See OP 12 Students, or FW 1 Foreign Worker Manual.</li> </ul>
Have you ever been convicted of a criminal offence?	<ul style="list-style-type: none"> <li>• Is the person described under the criminality sections of the Act [A33, A36, A37]?</li> <li>• Is the person described under the security provisions of the Act [A33, A34, A35]?</li> </ul>	<ul style="list-style-type: none"> <li>• For more information, see ENF 2/OP 18 Inadmissibility, and ENF 14/OP 19 Criminal Rehabilitation.</li> <li>• For more information, see ENF 2/OP 18 or IC 2, Security vetting of Visitors, for details of security screening for visitors.</li> </ul>
Do you suffer from a serious medical condition?	<ul style="list-style-type: none"> <li>• Does the person meet the medical requirements under R30?</li> </ul>	
Have you ever been refused a temporary resident visa to travel to Canada?		<ul style="list-style-type: none"> <li>• The answer will help you determine if the person has a temporary intent and will also support a potential refusal under the requirement to answer truthfully [A16(1)].</li> </ul>
Were you ever removed from Canada or any other	<ul style="list-style-type: none"> <li>• Does the person require authorization to return to</li> </ul>	<ul style="list-style-type: none"> <li>• For more information, see ENF 2/OP 18 Inadmissibility.</li> </ul>

## OP 11 Temporary Residents

country?	Canada?	
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### 10. Procedure: Applications that should have been submitted to another visa office as required by R11(2)

If, after processing has commenced, it is learned the applicant should have submitted **their** application to another visa office, processing of the application should continue to final decision. In these instances, the processing officer should note the R11(2) ineligibility in CAIPS notes and continue processing to completion on the basis of the available information. However, on a case-by-case basis, a file transfer to the responsible visa office may be necessary where required by program integrity.

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### 11. Procedure: Medical requirements for foreign nationals

Foreign nationals who meet the conditions as laid out in R30(c) or (d) must undergo a medical examination. For information on applicants who are exempt from these conditions, see section 17 below.

If the applicant is required to undergo a medical examination but has a temporary resident visa or is even passport-exempt, officers should provide the person with a letter for the port of entry, which includes medical examination results.

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**Note:** Procedures for assessing visitors who wish to obtain medical treatment in Canada are found in OP 15 Medical Procedures.

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### 12. Procedure: Issuing the visa—Types of temporary resident visas

Applicants indicate on their application form if they wish a single-entry or multiple-entry visa.

Officers should normally grant a multiple-entry visa if the applicant has requested and paid the processing fee for multiple entries to Canada. If officers have doubts about issuing multiple entries, it is preferable to refuse the application than to compromise and grant a single-entry visa.

In accordance with R190(3)(f), persons who have been issued single-entry visas and are still within the period authorized for their stay in Canada may travel to the U.S. and back. They will not have to obtain a second temporary resident visa to re-enter Canada.

A single-entry visa:

- may be issued up to six months before the expected date of travel; and
- should have an expiry date of at least one month after the expected date of arrival in Canada.

A multiple-entry visa:

- has a maximum validity date of up to five years or one month prior to the expiry date on the passport/re-entry visa, whichever is earlier.

For more information, see section 13 below.

## OP 11 Temporary Residents

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### 13. Procedure: Issuing the Visa—Duration of visits

The temporary resident visa counterfoil does not have a space to indicate the suggested duration of a visit. Officers will routinely grant entry for a period of six months to a person requesting entry as a visitor, even where the person requests entry for only a very brief period.

In rare cases, officers may indicate a suggested duration just below the visa. This may trigger the examining officer to check CAIPS/FOSS notes. The officer would take those remarks into consideration when making a decision.

When a temporary resident visa is issued, officers should therefore consider it very likely that the person will be allowed to remain in Canada for six months. When in doubt that the person is a *bona fide* visitor, officers should not issue the visa (not even a transit visa).

For specific information on how to process applications from citizens of special category and statesman countries, please see IC 2, Security Vetting of Visitors.

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**Note:** Procedures for securing and ordering visas, and reporting lost or stolen visas are also found in IC 3.

**Note:** After the issuance of a TRV, the passport stuffer may be included. See Appendix C.

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### 14. Procedure: Refusals

If the applicant is found ineligible and the application is to be refused, the refusal may be:

- decided after review of a written application with no in-person interview conducted with the applicant; or
- decided at the conclusion of an interview with the applicant.

An applicant should never be requested to attend an interview if it is evident through a review of the paper application that the applicant is ineligible and additional information would not alter a refusal decision.

Officers should ensure that case notes in CAIPS are complete and accurate. They should:

- outline the circumstances of the application;
- outline the process followed in coming to or making the decision,
- note the presence and identity of an interpreter, if applicable;
- take into account any representations made by interested persons (or counsel) and make note of the nature and content of these representations; and
- detail the reasons for the refusal.

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**Note:** Refused applicants may seek redress from the Federal Court of Canada and the Canadian Human Rights Commission. If applicants choose this recourse, officers will have to provide their notes.

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All refusals must be made in writing. Officers are required to issue a refusal letter to all temporary resident visa applicants whether the refusal decision is made after a paper examination of the application where no interview has been conducted, or following an interview with the applicant. An approved standard letter format which is to be used by all visa officers is included as Appendix D. The standard refusal letter has opening and closing paragraphs which are to remain unaltered.



## OP 11 Temporary Residents

Visa offices are able to customize the letter for their clientele with the insertion of specific tick-box standardized reasons for refusal.

As the most common reasons for refusal vary from office to office, a menu of reasons has been developed and each visa office is able to customize the standard letter by inserting 5-7 most commonly used refusal reasons at that visa office. A list of the standardized tick-box reasons is included as Appendix E.

Officers issuing the refusal letter, in addition to checking off the applicable box(es), should add the name of the applicant, the file number, date and sign the letter. The letter may be handed to the applicant at the end of the interview or, if the refusal is the result of a paper review of the application and the decision is rendered where the applicant is not physically present, the letter may be sent by mail or courier.

Grounds for refusal are as follows:

A11, A20(1)(b) and R179	<ul style="list-style-type: none"> <li>Foreign national does not meet the obligations of the <i>Act</i> and <i>Regulations</i>;</li> <li>Officer is not satisfied that the foreign national will leave by the end of the period authorized for their stay;</li> </ul>
A34, A35, A36, A37, A38, or A39	<ul style="list-style-type: none"> <li>Any grounds for inadmissibility according to the <i>Act</i>, e.g., grounds related to security, human or international rights violations, criminality, organized crime, health, or financial reasons.</li> </ul>

**Note:** The standard letter found in Appendix D will not be used for refusals for misrepresentation [A40]. For refusals under A40, the IPM will use an A40 refusal letter which must include the information that the applicant is banned from entry into Canada for two years from the date of issuance of the A40 refusal letter.

### 15. Procedure: Reporting high-profile cases

Officers must report all high-profile or possibly controversial cases to Case Review in the Case Management Branch (BCD), with a copy to the responsible geographic bureau in the International Region. BCD will channel the information to the Minister's office. For more information, see OP 1 Procedures.

In cases involving security risks, information must be sent to Security Review, BCD, with a copy to the International Region geographic desk and Foreign Affairs Canada/ISSR prior to issuing a temporary resident visa. These cases include persons who, if admitted to Canada, may arouse controversy or be potential targets for physical threats, as well as persons who may be security risks.

Officers must include the person's full name and date of birth and other details as appropriate. These cases should not be finalized until the geographic bureau confirms that no objections to the visit have been expressed.

### 16. Procedure: Long-term temporary residents

Some visitors plan to live in Canada for more than six months or up to one or more years, e.g., the spouses of foreign students or elderly parents of Canadian citizens.

In addition to assessing these applicants against normal temporary resident requirements, officers should also satisfy themselves that the host is able to support a long-term visitor and that medical emergencies have been covered.

Areas of Concern	What to Do	Additional Information to Consider
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## OP 11 Temporary Residents

<p>Is the host able to support a long-term visitor or does the visitor have the financial capacity to self-support a long-term stay?</p>	<ul style="list-style-type: none"> <li>• Determine whether the host is receiving social assistance.</li> <li>• Does the host have a stable income?</li> <li>• Compare the host's income with the low- income cut-off figures found in IP 2 to determine if the host has sufficient income to support a long-term visitor.</li> <li>• Request a record of past employment and/or consecutive bank statements from the host and/or the visitor (to determine if funds were borrowed for the purpose of the application).</li> <li>• Consider the ability of non-accompanying family members to support the visitor's stay in Canada.</li> </ul>	<ul style="list-style-type: none"> <li>• Refer to OP 12 on how to estimate living expenses for students and their family members.</li> <li>• Although spouses of students are entitled to a work permit when they arrive in Canada, finding employment is not a certainty. The family member's eligibility to work in Canada should not lead to the assumption that funds will be available.</li> <li>• The Canadian International Development Agency does not provide funds to support the spouses of the students it sponsors.</li> </ul>
<p>Is the applicant covered for medical emergencies?</p>	<ul style="list-style-type: none"> <li>• Ensure that the person has appropriate insurance or sufficient funds to adequately cover medical emergencies.</li> </ul>	<ul style="list-style-type: none"> <li>• No Canadian province provides provincial medical insurance for tourists and most do not cover students or their spouses and dependent children. Definitive information may be obtained from the Immigration Health Program Elaboration, Medical Services Branch.</li> </ul> <p>Note: Pre-existing conditions are not usually covered by insurance.</p> <ul style="list-style-type: none"> <li>• Lack of medical coverage may constitute a reason for refusing an applicant under A39.</li> </ul>

### 17. Procedure: Diplomatic and official visas

Persons travelling on diplomatic or official passports require temporary resident visas only if they are citizens of a country requiring a temporary resident visa. This rule applies whether they are coming to Canada on a posting or are simply visiting, e.g., to attend a conference or for tourism.

Diplomats and officials from countries which are visa-exempt are not required to obtain a diplomatic temporary resident visa prior to a posting to Canada, but are strongly encouraged to do so. A diplomatic visa facilitates their entry to Canada by indicating to port of entry officers that they are entitled to diplomatic privileges.

For information about U.S. government officials, see section 18 below.

The following table summarizes procedures for diplomatic and official visas.

<p>Who is entitled to diplomatic or official visas?</p>	<ul style="list-style-type: none"> <li>• See Appendix B.</li> </ul>
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## OP 11 Temporary Residents

	<ul style="list-style-type: none"> <li>In addition, consult the Office of Protocol at Foreign Affairs Canada (the acronym is XDC) or the Admissibility Branch, NHQ. In urgent cases, contact the Immigration Advisor and Liaison Officer at the Office of Protocol at (613) 992-0889 or (613) 294-3331 (cellular).</li> </ul>
Port-of-entry procedures	Customs officers will simply stamp diplomatic or official passports, thereby authorizing entry for a period of six months. Customs officers will not refer diplomats or officials to secondary examination.
Role of Office of Protocol	<ul style="list-style-type: none"> <li>During the six-month period, the person's foreign mission will forward the passport to the Diplomatic Corps Services Division, Office of Protocol, Foreign Affairs Canada.</li> <li>The Office of Protocol will issue a diplomatic (D), consular (C), official (J) or international (I) acceptance, which indicates that the person is accredited to Canada and entitled to remain in Canada for the duration of status.</li> </ul>
Visa exemption for accredited persons	<ul style="list-style-type: none"> <li>Once accredited, these persons do not require a temporary resident visa to enter Canada.</li> </ul>
Spouses and dependent children of diplomats	<ul style="list-style-type: none"> <li>Dependent children of diplomats, consular officers, representatives or officials who are under 22 years of age and considered to be members of the family forming part of the household will be issued acceptances.</li> <li>Children over 22 years of age will be issued acceptances only if they are registered as full-time students.</li> <li>After 25 years of age, dependent children are no longer eligible to receive official acceptance (even if they are still studying), and must change their official status to regular immigration status.</li> </ul>
<p>Servants of diplomats</p> <p>Note: Members of the official service staff are exempt from the same requirements as foreign representatives (diplomats).</p>	<p>Can be one of the following two types:</p> <ul style="list-style-type: none"> <li>Private servants: are issued official (O-1) visas; will receive an official (J) acceptance from the Office of Protocol; will not require a temporary resident visa if they wish to re-enter; do not require a work permit; must undergo a medical examination.</li> <li>Live-in Caregivers: must meet requirements to be live-in caregivers in Canada; must undergo a medical examination; are issued a work permit; do not enjoy any privileges or immunities; require a temporary resident visa to re-enter Canada.</li> </ul> <p>For guidance on employment requirements for diplomatic servants, see FW 1, Foreign Worker Manual. For more information on the Live-in Caregiver Program, see OP 14.</p>
Processing fees	<ul style="list-style-type: none"> <li>There is no processing fee for diplomatic visas [See section 7.11, of IR 5, Cost Recovery].</li> </ul>

## OP 11 Temporary Residents

Medical examinations	<p>The following are exempt from having to undergo a medical examination, even if they are from countries where they would normally have to undergo one:</p> <ul style="list-style-type: none"><li>• diplomatic/consular officials entering for official duties only;</li><li>• spouses and dependent children of diplomatic/consular officials unless they intend to work;</li><li>• members of the armed forces of a country designated under the <i>Visiting Forces Act</i> who are entering for official duties only. (See IR1, Visitors, for the list entitled "Countries Designated for the Purposes of the <i>Visiting Forces Act</i>.")</li></ul>
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### 18. Procedure: U.S. government officials

The following official U.S. government personnel assigned to temporary postings in Canada are not issued diplomatic or official acceptances in Canada and are therefore not eligible for diplomatic visas:

- United States Naturalization and Immigration Service officers;
- U.S. Customs officers;
- International Joint Commission employees;
- inspectors with the Federal Grain Inspection Service of the U.S. Department of Agriculture, and other U.S. government officials in possession of official U.S. government passports and assigned to temporary postings in Canada.

U.S. government employees will be issued work permits under R204 and as such are HRSDC confirmation exempt (T10). For more information on the documentation of U.S. government employees, see FW 1 Foreign Worker Manual.

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### 19. Procedure: Courtesy visas

Officers may issue courtesy visas to persons who, although not entitled to diplomatic privileges and immunities, are because of their position or reason for coming to Canada considered of sufficient importance to warrant a visa to facilitate their admission. Examples of the appropriate use of courtesy visas include issuance to persons of diplomatic rank coming to Canada for tourist purposes, to members of the IATA, to members of a trade mission visiting Canada, and to well-known visiting professors coming to Canada to attend conferences. See Appendix B, section 4.3 for more information.

Courtesy visas may be issued in any type of passport to persons who require visas or who are normally visa-exempt. The visa will alert port-of-entry officers to the fact that the visa office abroad considers the individual deserving of expeditious and courteous treatment.

Persons on courtesy visas are subject to normal documentation by the port of entry; officers should therefore ensure that a person who is normally subject to referral for a secondary examination understands that a courtesy visa does not exempt them from such procedures.

There is a processing fee for courtesy visas, except for persons listed in R296(2).

## OP 11 Temporary Residents

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### 20. Procedure: Facilitation visas

Canadian citizens abroad are the responsibility of Foreign Affairs Canada, and not CIC. A Canadian citizen who wishes to travel to Canada should be referred to the Consular section if they do not have a Canadian passport. There are, however, exceptional circumstances where CIC can facilitate the travel of a dual national by placing a facilitation visa counterfoil into the passport of the Canadian's other nationality.

Issuance of a facilitation visa is not to be done merely for the convenience of the client, but in cases where not facilitating their travel would result in undue hardship (usually created through no fault of the client). In addition, it is not the policy of CIC to assist persons who wish to 'hide' the fact of their Canadian citizenship from a foreign government that does not permit dual citizenship.

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**Note:** Documents which are evidence of Canadian citizenship, such as Canadian citizenship cards or Canadian birth certificates, are not travel documents. They should be supported by other government-issued photo identification. If there is doubt about these documents when presented as evidence of Canadian citizenship upon boarding, the legitimate holder can be requested to obtain a Canadian passport.

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Before considering the issuance of a facilitation visa, officers must verify the status and identity of the applicant through written confirmation from a consular officer that the client has a record of Canadian passport or documentary evidence of citizenship (DEC).

Some circumstances that might warrant the issuance of a facilitation visa include the following:

- when new, replacement or emergency passports cannot be issued in a sufficiently timely fashion **and** where the travel is urgent:
  - ◆ for Canadians in distress (lost/stolen documents);
  - ◆ for dual nationals coming to Canada for the first time;
  - ◆ for dual nationals who did not obtain a Canadian passport prior to leaving Canada.
- children born in Canada to foreign nationals, who have returned to their country, and do not wish to 'claim' the citizenship automatically granted to Canadian born children.

Dual nationals who are required to use their foreign passport for entry to/exit from their country of second citizenship can show their Canadian passport to airline officials to facilitate the boarding of a flight to Canada.

Facilitation visas should only be single-entry and valid for the period needed to travel.

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### 21. Procedure: Visitors wishing to donate living organs

For procedures related to the assessment of visitors wishing to enter Canada for the purpose of donating living organs, see Appendix F.

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### 22. Procedure: Cancellation of a visa

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#### 22.1. Cancellation of the visa

As was the case under the former Act and Regulations, there is no provision under IRPA or the Regulations that authorizes an officer to cancel a visa *per se*.

## OP 11 Temporary Residents

That said, there are operational steps that can be undertaken by an officer to address circumstances where a visa is issued based on a fraud or misrepresentation.

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### 22.2. Steps

In cases where the officer determines that the visa is invalid (the decision to issue it is a nullity because of fraud or misrepresentation), the officer should advise the person, in writing, of their concern stating that the visa is invalid and should be returned to the visa office. As well, once the visa officer has requested the return of the visa, the person should be convoked for interview not only for the purpose of invalidating the visa, but also to find the person inadmissible for misrepresentation under A40.

As an added deterrent to those persons who do not comply with a visa officer's request to return the visa to the visa office, it is suggested the letter also include a warning to the person that POEs in Canada have been advised the visa is invalid and as such POE officers will deny the visa holder entry into Canada.

The officer must enter a note in CAIPS explaining the circumstances and reasons for cancelling the visa. If the officer cancelling the visa is not in the issuing visa office, e-mail contact providing complete details will need to be forwarded to the issuing visa office in order that appropriate notes may be entered into CAIPS. As notes after issuance of a document are not automatically downloaded into FOSS, the officer should make an NCB entry in FOSS providing complete details.

Should the individual gain entry into Canada, inland immigration officers may initiate removal proceedings through an A44 report alleging that the person is inadmissible for misrepresentation under A40. (This approach is also open to officers at the POE, particularly in situations where the holder has been issued a multiple-entry visa.)

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## 23. Procedure: Applicants for temporary residence with in-Canada applications for permanent residence in progress

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### 23.1. Background

The *Immigration and Refugee Protection Act* and its *Regulations* permit certain foreign nationals to apply for permanent residence from within Canada. Given that processing times for in-Canada applications can be lengthy, in some instances, an applicant may voluntarily and temporarily leave Canada during the processing of their application.

When processing applications for temporary resident visas for foreign nationals with an application for permanent residence in Canada in progress, officers should take into consideration whether approval in principle (first-stage approval) has been granted. It is consistent with IRPA, and in the best interests of both CIC and the applicant, to facilitate the re-entry of these applicants as temporary residents in order to continue processing their application for permanent residence from within Canada.

**Officers should note that issuing a temporary resident visa (TRV) to facilitate return will permit these applicants to be granted permanent residence from within Canada. A temporary resident permit (TRP) will not.**

All in-Canada class applicants, except those in the spouse and common-law partner in Canada class (see Operational Bulletin 018-September 26, 2005 at <http://www.ci.gc.ca/cicexplore/english/guides/bulletins/2005/018.htm>) and the permit holder class, must not be inadmissible at the time of their PR application. Therefore, if these TRV applicants return to Canada on temporary resident permits (TRPs), they are, by definition, inadmissible and their applications for permanent residence from within Canada will be refused under R72(1)(e)(i), regardless of how close to finalization the application is at the CPC-V or at an inland CIC office. In-Canada officers have no option but to refuse these applications.

## OP 11 Temporary Residents

The critical determination that must be made by the visa officer when deciding whether to issue a TRV must be whether R179 is met. In making this determination for persons with pending in-Canada applications that have been accepted but not finalized, particularly with respect to R179(b), the officer should keep in mind the dual intent provisions of A22(2) and be guided by the procedures below.

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### 23.2. Live-in caregiver or spouse or common-law partner in Canada cases

Visa officers should verify by checking FOSS through CAIPS whether or not approval in principle (AIP—first stage "approval in principle") has been granted on the in-Canada application.

**If AIP has been granted** (that is, that the applicant meets the requirements of the class but is awaiting screening on admissibility), and:

- there are no serious admissibility or eligibility concerns;
- there is no reason to think the applicant is likely to fall out of status during the finalization of their application for PR within Canada;
- it appears likely that the applicant will become a permanent resident during their authorized stay in Canada (including any extensions) and would not stay in Canada illegally [i.e.: meets R179(b)];

then, if satisfied of the above, the visa officer should issue a TRV.

**If AIP status is unclear or there are negative indicators** concerning the current in-Canada PR application, it is recommended that the visa office contact the in-Canada office responsible (i.e., CPC-V or a CIC inland office) for clarification of the case status before making a decision on the TRV application.

**If AIP has not been granted**, it is also recommended that the visa office contact the in-Canada office responsible (i.e., CPC-V or a CIC inland office) for any information that might be relevant to the application at hand via e-mail using the CPC-Vegreville-Enquiries mailbox to communicate with the CPC-V).

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### 23.3. In-Canada asylum seekers, members of the in-Canada protected persons (PP) classes and persons who have applied for humanitarian and compassionate (H&C) consideration in Canada

The fact that the applicant has travelled outside Canada may have an impact on the in-Canada case processing for applicants in these circumstances. This means that consultation with the processing office in Canada will normally be needed (via e-mail using the the [CPC-Vegreville-Enquiries](#) mailbox to communicate with the CPC-V).

Visa officers are advised to contact the office in Canada responsible for the applicant's in-Canada case processing to verify whether the fact that the applicant is now outside Canada has any bearing on the case in process in Canada, and whether the office in Canada has any other information that might be relevant to the application at hand.

The response of the responsible office in Canada should be pasted into the CAIPS notes of the TRV file.

In assessing a TRV application in relation to R179, visa officers should take into consideration the information provided by the in-Canada processing office.

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### 23.4. TRV issuance

Where possible, visa officers should counsel applicants of the importance of maintaining their legal immigration status in Canada until becoming permanent residents and advise them of the

## OP 11 Temporary Residents

need to apply through the CPC-V for an extension should the PR case processing not be finalized prior to expiry of the period authorized for their stay in Canada.

As well, applicants should be advised that if their application for permanent residence is refused, they would have to leave Canada.

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### 23.5. TRV refusal

If there are serious doubts about admissibility or the officer is not satisfied that R179(b) will be met (keeping in mind the dual intent provisions of A22(2) and the inadmissibility exceptions to certain classes), then the TRV application should be refused. The issuance of a TRP is a discretionary decision, but the officer should keep in mind the information in other parts of this section, including 22.1 above.

Refused TRV applicants who have a spouse or common-law partner in Canada class case in process in Canada should be counselled to withdraw the in-Canada application and submit an FC1 application instead.

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**Note:** TRVs should not be issued to applicants as a means of facilitating entry into Canada for the purpose of submitting an application for permanent residence in Canada.

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## OP 11 Temporary Residents

### Appendix A Port of Entry Information Report

#### Port of Entry Information Report

The port of entry report will begin with the phrase "As requested" (see ENF 4) and include the following details:

- a) name and nationality of the subject of the report on inadmissibility [A44(1)];
- b) the person's date and place of birth;
- c) the visa document number, date and office of issue;
- d) the date and POE where the person sought to enter Canada;
- e) the reason for refusal, using the appropriate code letter for the reason for refusal:
  - ◆ A = seeking permanent residence
  - ◆ B = claims Convention refugee status
  - ◆ C = intends to seek or take employment
  - ◆ D = intends to follow a course of study
  - ◆ E = has insufficient funds to maintain self and family members
  - ◆ F = medical inadmissibility
  - ◆ G = criminal inadmissibility
  - ◆ H = expired temporary resident visa, and
  - ◆ I = other
- f) the name and file number of the CIC responsible for follow-up enforcement action, if the CIC differs from the port of entry; and
- g) the visa office file number (if the office included the number on the visa).

If the reason for refusal was code I (other), the CIC will make a further report to the issuing visa office abroad by mail, giving further details concerning the reason for refusal.

In the case of a statesman or special category visitor, the port of entry will mail the report in a double envelope, the outer one showing only the address of the visa office. The inner envelope should be marked with the security designation, PROTECTED B. This category would encompass sensitive information including routine RCMP criminal investigations. PROTECTED C should be used if the material covers extremely sensitive intelligence material on a high-profile or controversial individual.

## OP 11 Temporary Residents

### Appendix B Diplomatic or official temporary resident visas

(Extracted and updated from FAC's Consular Manual, Chapter 10)

#### 1. Purpose

The type of visa that will be granted to a passport holder will determine the status that Canada intends to give to that person. A diplomatic or official visa will indicate that Canada intends to accord official status to the passport holder. More often than not, Canada will be committed to extend official status when such visas have been issued abroad. For that reason, it is very important to distinguish situations that require diplomatic or official visas from those that require regular visitor visas.

It must be stressed that diplomatic, official, and service passports are only travel documents and do not in themselves determine the type of visa that should be granted.

#### 2. Criteria for issuance

##### 2.1 Purpose of a visit

Diplomatic and official visas are not automatically granted to holders of diplomatic, special, or service passports. The purpose of the visit is the primary factor to be considered in determining whether a diplomatic or official visa should be issued. For that reason, it is essential that a written request in the form of a note from the Ministry of Foreign Affairs, a diplomatic mission, or a consular post, bearing a signature or initial(s) and an official stamp, be received, clearly defining the purpose of the visit to Canada (see section 3 Requests for visas, below).

##### 2.2 Official visit

###### a) Official character of the visit

Ambiguous statements, such as "special mission" or "official visit," are not sufficient to justify the issuance of a diplomatic or official visa. The purpose of the visit, as stated in the written request, must clearly be of such an official nature that, insofar as Canada is concerned, it would justify the granting of appropriate privileges and immunities in Canada under domestic law in accordance with the relevant international conventions, headquarters agreements with international organizations, or international customary law.

###### b) Definition

The following working definition of "special mission" or "official visit" should be used in considering a request for a diplomatic or official visa: such a visa is of a temporary nature by a representative of a state, sent by the latter and consented to by Canada for the purpose of dealing with:

- i. questions of mutual interest,
- ii. questions pertaining to a diplomatic mission or a consular post of the sending state in Canada, and,
- iii. questions regarding bilateral or multilateral relations with third states or international organizations, including international conferences hosted by Canada.

##### 2.3 Examples where diplomatic visas are justified

## **OP 11 Temporary Residents**

Examples of situations justifying the issuance of diplomatic visas include:

- a diplomatic agent being assigned to a diplomatic mission in Canada or travelling through Canada on the way to a diplomatic assignment elsewhere;
- an official visit of a head of state or chief administrative officer (Secretary General, Director, or their Assistants) of the international organizations listed in FW 1 Appendix C (see also section 4.1 Diplomatic visas, below).

### **2.4 Examples where official visas are justified**

Examples of situations justifying the issuance of official visas include:

- support staff assigned to a diplomatic mission or a consular post in Canada or travelling through Canada on the way to a diplomatic mission or a consular post elsewhere;
- officials or experts of the United Nations Organization travelling to Canada on United Nations business. Some purposes that may be "official" to a sending state will not be regarded necessarily as such by Canada, like buying or selling a diplomatic mission on behalf of a governmental agency, or a fund-raising or electioneering visit to an expatriate community in Canada (see section 4.2 Official visas, below).

### **2.5 Personal status**

An individual's personal status is not normally a primary consideration for the issuance of a diplomatic or official visa (except for heads of state and other relatively rare instances). For instance, a senior official of a foreign government, travelling on a diplomatic passport, should not be issued a diplomatic visa if the individual intends to enter Canada for commercial negotiations with private enterprises, or on a private visit. In that case, the individual would be issued a regular temporary resident visa, if required, or a courtesy visa, if deemed appropriate. Another instance would be a student who is the child of a diplomatic agent serving outside Canada and who enters Canada solely to pursue their studies. If not exempt from a temporary resident visa, that person would need a regular temporary resident visa before entering Canada and may require a study permit as well. This individual would not be entitled to a diplomatic or official visa although they may hold a diplomatic or special passport.

### **2.6 Diplomatic or official visas on an ordinary passport**

A diplomatic or official visa may be inserted in an ordinary passport if the purpose of the visit warrants it, such as when a member of a foreign government, travelling on an ordinary passport, enters Canada as a member on an official mission, or when a private citizen (for example, an academic) is included in a state's delegation to a meeting of the International Civil Aviation Organization or a diplomatic conference in Canada.

## **3. Requests for visas**

### **3.1 Documents to be submitted**

An officer may issue a diplomatic or official visa only on receipt of one of the following:

## OP 11 Temporary Residents

- a written request, as above, from the Ministry of Foreign Affairs of the state to which the head of mission or post is accredited, or for which the diplomatic mission or consular post has jurisdiction in visa matters;
- a written request, as above, from a diplomatic mission or a consular post of the state of the applicant's citizenship;
- a written request, as above, by an international organization listed in FW 1 Appendix C in respect of its officials travelling to Canada to carry out official duties; or,
- in the case of persons entering Canada to take employment as officers of the Secretariat of the International Civil Aviation Organization, a letter to the individual concerned constituting an "offer of employment," indicating their official level at the I.C.A.O. and signed by or on behalf of the Secretary General.

### 4. Persons entitled to diplomatic, official, and courtesy visas

#### 4.1 Diplomatic visas

Diplomatic visas may be granted to persons entitled, under international and domestic law, to diplomatic or consular (and similar) privileges and immunities, who intend to travel to Canada for an official purpose (see 2.3 above) or to pass through Canada on the way to an assignment in another state and who come within one of the following categories:

- (1) heads of state or members of organizations entrusted with head-of-state duties and their accompanying family members;
- (2) heads of government and their accompanying family members, and cabinet ministers of foreign governments;
- (3) diplomatic agents travelling to or from their diplomatic missions or on a temporary mission to Canada;
- (4) career consular officers travelling to or from their consular posts or on a temporary mission to Canada;
- (5) delegates to the international organizations listed in FW 1, Appendix C, including delegates to conferences convened by the latter, with the exception of clerical staff;
- (6) senior officials (Secretary General, Assistant Secretaries General, and holders of equivalent positions, such as President of the Council of the International Civil Aviation Organization) of the international organizations listed in FW 1, Appendix C;
- (7) senior officers (appointed at the P-4 level and above) of the Secretariat of the I.C.A.O.;
- (8) persons (spouse, father, mother, children) who are recognized as members of the family forming part of the household of the persons listed in (3) to (7) above;
- (9) foreign diplomatic couriers; and,
- (10) special cases, on authorization from Headquarters (Diplomatic Corps Services (XDC)).

#### 4.2 Official visas

## OP 11 Temporary Residents

Official visas may be granted to persons entitled, under international and domestic law, to official (functional) privileges and immunities, who intend to travel to, or to pass through, Canada for an official purpose and who come within one of the following categories:

- (1) members of the administrative and technical staff of diplomatic missions or international organizations; consular staff of consular posts; and service staff of diplomatic missions and consular posts in Canada;
- (2) other officials or experts on mission, acting on behalf of the international organizations listed in FW 1, Appendix C, or contractual employees such as translators hired by the United Nations Organization or the International Civil Aviation Organization for their assemblies;
- (3) persons (spouse, father, mother, children) who are recognized as members of the family forming part of the household of persons listed in section (1) above and of "other officials" indicated in section (2) above;
- (4) private servants of a member of a diplomatic mission or a consular post, but only after a Household Domestic Worker Employment Agreement (see FW 1, Appendix C) has been submitted by the employer to the diplomatic mission or the consular post or FAC Protocol (XDC);
- (5) special cases, on authorization from FAC, Protocol (XDC).

### 4.3 Courtesy visas

#### (1) Entitlement

Under Canadian law, no person other than those listed in sections 4.1 and 4.2 above is entitled to diplomatic, consular, or official privileges and immunities. Therefore, all other persons travelling to Canada for the purpose of an official visit, for an international organization or on behalf of a foreign government, other than those situations listed in sections 4.1 and 4.2 above, may be issued courtesy visas.

#### (2) Use

A courtesy visa, regardless of the holder's kind of passport, does not attest that the holder has a right to any diplomatic, consular, or official privileges and immunities, but it does indicate that the passport holder is regarded as an official of a foreign government and that the entry into Canada should be facilitated with an exemption from secondary immigration examination and secondary customs examination (search of baggage) unless there are serious reasons not to do so.

## 5. Authority for issuance

### 5.1 Policy

With the exception of those cases described in section 5.2 below, diplomatic agents, consular officers, or immigration officers may issue diplomatic and official visas without reference to Headquarters. However, if they have the slightest doubt regarding the *bona fides* of an applicant or their entitlement to a diplomatic or official visa, they should refer the request to the appropriate CIC Geographic division and to FAC Protocol.

### 5.2 Categories requiring consultation with CIC Geographic and FAC Protocol (XDC)

## OP 11 Temporary Residents

- (1) Diplomatic agents, consular officers, and immigration officers may not issue diplomatic or official visas to officials of "special category" states without prior consultation.
- (2) Officers should consult whenever there is some doubt or question regarding the issuance of a visa to a person assigned to Canada.
- (3) Officers should consult on all requests for visas for members of diplomatic missions, consular posts, or other offices in Canada not listed in the latest edition of *Diplomatic, Consular, and Other Representatives in Canada*  
<http://w01.international.gc.ca/Protocol/main-en.asp?>
- (4) There may be other categories of persons or states where, for a temporary period, authority from headquarters will be required before diplomatic or official visas are granted. When such circumstances arise, Protocol (XDC) or CIC Geographic will provide specific guidance to diplomatic missions and consular posts on request.

### 6. Issuance of visas

#### 6.1 Usefulness of diplomatic, official, and courtesy visas

Persons listed in sections 4.1 and 4.2 above, who are within the jurisdiction of the diplomatic mission or consular post and who intend to travel to Canada, should be advised to apply for the appropriate visa. Diplomatic, official, and courtesy visas, although not equivalent to the right of entry into Canada, are nonetheless the only evidence of Canada's consent to official visits by foreign officials. That consent, under international and domestic law, is a condition of the granting of diplomatic, consular, or official (functional) privileges and immunities (or courtesies) as soon as the holder sets foot on Canadian soil or during transit. Such visas are the only indication to immigration and customs officers in Canada that the holder, in Canada's view, is entitled to diplomatic, consular, or official (functional) privileges and immunities (or courtesies). In that connection, the visa coding and the statement made in "purpose of stay" are the essential elements for the issuance of the visas. The possession of an appropriate visa, not the holding of a diplomatic, official, or special passport, is the sole way of ensuring the right processing on arrival in Canada and thus avoiding irritating incidents.

#### 6.2 Security checks

Although holders of diplomatic visas are, in principle, exempt from immigration and customs inspection on entry into Canada, they are subject to mandatory security checks at Canadian airports. Officers should apprise holders of diplomatic visas of that requirement whenever possible. If necessary, the persons concerned can obtain more details about that requirement from their own diplomatic missions accredited to Canada.

#### 6.3 Information to facilitate entry

The period for which a visa will be valid is left to the discretion of the officer. That leeway should not be confused with the requirement on the former visa to show the intended "duration of stay." The period of validity should be indicative of the length of time given to the holder to present themselves at a port of entry and to ask for entry into Canada. It is recommended that some flexibility be exercised so that official visitors do not have to get new visas because they have changed their itineraries, or have delayed their arrivals by a few days, or their meetings on the way to Canada have lasted longer than expected. (This guideline does not apply, of course, to those cases in which specific authority covering the period of validity of the visa has already been obtained from Headquarters; for example, special categories.)

## OP 11 Temporary Residents

Persons travelling to Canada to assume their official functions at diplomatic missions, consular posts, or international organizations should be given a period of validity to allow them adequate preparation for, and flexibility in, their itineraries. Applicants should be advised that the duration of the initial entry into Canada will be determined by the Canadian official at the border and that the diplomatic mission in Canada should send their passports, together with the required documents, to the Department of Foreign Affairs, Protocol (XDC), requesting accreditation or recognition. During the validity of the diplomatic or official acceptance, no other visa is required to enter Canada.

### 6.4 Multiple-entry visas

Diplomatic and official visas will normally be valid for a single trip to Canada; however, multiple-entry visas may be considered in special circumstances. In some cases, it will be known that the applicant has a legitimate need to enter Canada for an official purpose more than once in the course of the trip covered by the official request, or will have to do so routinely for a period (for example, diplomatic couriers, children of diplomatic agents or consular officers), or will have to make several trips without spending any time in a locality where another visa could be obtained. Multiple-entry diplomatic or official visas must not be issued to persons who are on assignment to Canada, or to whom special regimes apply, without specific authorization from FAC.

### 7. Notification to CIC Geographic Desk and FAC, Protocol

Whenever an officer issues a diplomatic, official, or courtesy visa without prior authorization from Headquarters, but pursuant to standing instructions, and believes the visit would be of interest to Headquarters, they should notify Headquarters of the name and the occupation of the person concerned and the nature and the date of the proposed visit. Notification should be addressed to FAC Protocol and to the appropriate CIC geographic division and should be marked for distribution to other interested functional divisions or departments. Moreover, the Canadian port of entry should be alerted if that is deemed appropriate.

## OP 11 Temporary Residents

### Appendix C Passport Stuffer

Passport Stuffer

Important

Please note that admission to Canada is for a specific period of time and can be granted only at a Canadian port of entry. If you need a visa to enter Canada, the length of your stay will be for six months unless otherwise specified. If you do not need a visa, your status will automatically expire six months from the day you enter Canada.

If you wish to extend your stay once in Canada, you should call the number listed under Immigration in the local Canadian telephone directory. Ask for the application kit *Applying to Change Conditions, or Extend my Stay and Remain in Canada*, or you may download the kit from Citizenship and Immigration Canada's Web site at <http://www.cic.gc.ca>.

Remember:

Applications for an extension of status can be made *in writing* only and must be submitted at least *one month* before your status is due to expire.

IM-270-01-94



## OP 11 Temporary Residents

### Appendix D Refusal letter – Temporary resident

UNCLASSIFIED

File No.:

Insert the Date]

Dear

This refers to your application for a temporary resident visa to Canada. I have completed my assessment of your application and I have determined that you do not meet the requirements for a temporary resident visa; therefore, your application is refused.

In accordance with section 11(1) of the *Immigration and Refugee Protection Act* (IRPA), any person wishing to become a temporary resident of Canada must satisfy a visa officer that he or she is not inadmissible to Canada and meets the requirements of the *Act*. This includes the requirement to establish to the satisfaction of the visa officer that the applicant will respect their conditions of entry and will leave Canada by the end of the period authorized for his or her stay.

In reaching a decision, an officer considers several factors. These may include the applicant's travel and identity documents, reason for travel to Canada, contacts in Canada, financial means for the trip, ties to country of residence (including immigration status, employment and family ties) and whether the applicant would be likely to leave Canada at the end of his/her authorized stay.

I am not satisfied that you meet the requirements of the *Act* and Regulations for the reasons indicated below:

[ INSERT RELEVANT TICK BOX OPTIONS]

This application is closed. Please note that any new information you wish to provide must be submitted with a new application and processing fee. Should you wish to reapply, I would suggest that you do so only if your situation has changed substantively or you have significant new information to submit.

Yours sincerely,

Officer

## OP 11 Temporary Residents

### Appendix E Tick Box Options for Standard Refusal Letter

#### Tick Box Options

1.  You have not satisfied me that you meet the requirements of Regulation 179; that you would leave Canada at the end of the temporary period if you were authorized to enter. In reaching this decision I considered your ties to your country of residence/citizenship balanced against factors which might motivate you to stay in Canada.
  
2.  You have not satisfied me that you would leave Canada at the end of your stay as a temporary resident. In reaching this decision, I considered several factors, including :
  - (a) your history of having contravened the conditions of entry on a previous stay in Canada
  - (b) your travel history
  - (c) your immigration status
  - (d) your family ties in Canada and in your country of residence
  - (e) length of proposed stay in Canada
  - (f) purpose of visit
  - (g) limited employment prospects in your country of residence
  - (h) your current employment situation
  - (i) your personal assets and financial status

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3.  I am not satisfied that you have a legitimate business purpose in Canada, and therefore I do not consider you to be a genuine temporary resident who would leave Canada.
4.  I am not satisfied that you have sufficient funds, including income or assets, to carry out your stated purpose in going to Canada or to maintain yourself while in Canada and to effect your departure.
5.  Your host in Canada has not demonstrated that he or she has sufficient funds to support your visit.
6.  You have not provided sufficient documentation to support your income and assets or your host's income and assets.
7.  You have submitted documentation that lacks authenticity as part of your application. This has diminished the overall credibility of your submission.
8.  I am not satisfied that you have answered truthfully all questions put to you.
9.  Pursuant to sections 40(1)(a) and 40(2)(a) of IRPA, you are still inadmissible to Canada as a period of two years has not passed since your prior refusal.
10.  You are a member of an inadmissible class of persons described in section [INSERT RELEVANT SECTION: A34 - A42] of the *Immigration and Refugee Protection Act*. As a result, you are inadmissible to Canada.

## OP 11 Temporary Residents

11.  You are inadmissible to Canada on health grounds pursuant to section 38 of IRPA.
12.  You have failed to comply with our request for completion of a medical examination.
13.  You failed to comply with our request for an interview. Based on the information provided, you have not satisfied me that you meet the requirements for issuance of a temporary resident visa.
14.  You have made an application for a temporary resident visa in the transit visitor category. As you are planning to remain in Canada longer than 48 hours, you do not meet the requirements of this category. You must make an application for a temporary resident visa in the visitor category and pay the associated cost recovery fees.
15.  You have not submitted the requested documentation, namely:  
\_\_\_\_\_
16.  You have not satisfied me that you meet the requirements for issuance of a temporary resident visa because:\_\_\_\_\_

## OP 11 Temporary Residents

### Appendix F: Applications from intending organ donors

The following procedures apply when assessing a TRV application from an applicant wishing to enter Canada for the purpose of donating an organ to a Canadian citizen or permanent resident in Canada.

1. Three criteria should guide the initial assessment of the application:

1.1 Evidence of medical compatibility between the donor and the recipient.

The visa officer must be satisfied that the potential compatibility of the donor applicant and the recipient has been medically established.

The following documentation is normally required in this regard:

- A letter from a Canadian transplant specialist affiliated with a recognized transplant centre on the letterhead of the transplant centre or of the specialist (see Annex below for list of Canadian centres doing kidney transplants). This letter should confirm:
  - ◆ that a recipient has been identified;
  - ◆ that the applicant's medical tests have been completed and that the applicant appears to be a potential donor;
  - ◆ that the transplant centre will undertake the transplant surgery and treatment of the applicant if the applicant is approved as a donor;
  - ◆ that the applicant's medical assessment, surgery, and hospital stay costs related to the donation are covered under the relevant provincial/territorial health insurance.
- Additional medical testing may be expected to occur in Canada.

It is essential for an applicant wishing to enter Canada for the purposes of organ donation to have a letter from a Canadian transplant specialist with the above information. Without such a letter, visa officers have little assurance as to the likelihood of organ donation and potential compatibility. An applicant should be requested to obtain such a letter, which would require them to undertake the appropriate tests.

With no letter from a Canadian transplant specialist indicating potential compatibility, the visa officer may refuse the application on the basis of *bona fides*.

1.2. Evidence of satisfactory financial arrangements

The medical costs of the donor related to the donation are covered by the recipient's provincial/territorial health insurance or through specific provincial/territorial health funding. As previously indicated, the letter from the Canadian transplant specialist should indicate this provincial/territorial coverage.

Visa officers must be satisfied that satisfactory financial arrangements have been made to cover costs not related to the organ donation, e.g., for the applicant's transportation to and from Canada as well as for accommodation and living expenses while in Canada. Time frames for medical pre-operative procedures, the surgery itself and the recovery period should be taken into consideration when estimating the applicant's living expenses while in Canada.

## OP 11 Temporary Residents

Visa officers should request the applicant to provide evidence of private medical insurance coverage as medical conditions unrelated to the transplant process would not be covered by provincial/territorial health care insurance.

### 1.3 Evidence that a sale of human organ is not being transacted

The visa officer must be satisfied on a balance of probabilities that no sale of human organs is taking place. "Sale" means not only the exchange of a human organ for a financial consideration, but may also mean the exchange of an organ for a non-monetary, valuable consideration.

The possibility of both exploitation and financial or other inducement—namely, trafficking in human organs—must be carefully examined. Factors to consider may include:

- whether or not the donor and recipient are related to each other;
- the financial and social situations of both the donor and the recipient;
- the donor's understanding of the medical risks and overall health impact of the surgery;
- the circumstances under which the applicant was identified as a potential organ donor;
- local social context (i.e., is recruitment of live organ donors known to be occurring; are live organ sales known to happen; etc.);
- whether the donor has received or expects to receive a benefit (financial or other) as a direct result of the organ donation; and
- the donor's level of commitment to the donation (i.e., are there any indicators that the donor is undecided and may choose not to make the organ donation once in Canada).

In instances where the visa officer is satisfied that, on a balance of probabilities, a sale of human organs is indeed taking place, this factor must be part of the assessment of *bona fides*. If entry into Canada is part of the "valuable consideration" being exchanged for the living organ donation, it is unlikely the applicant will be able to satisfy the visa officer that they will leave Canada at the end of their authorized stay.

### 2. In addition to the three criteria, the officer should also bear in mind other factors that are normally considered relevant to establishing the *bona fides* of an applicant.

As in any TRV application, the applicant must satisfy the visa officer that their stay in Canada will be a temporary one. A consideration in these circumstances should be whether—if complications arise or follow-up care is required following the surgery in Canada—the donor would have access to adequate health care in their home country. Unavailability of adequate local health care facilities might be an inducement to remain in Canada beyond the period of authorized stay.

Officers should be satisfied that the prospective donor is indeed the individual submitting the TRV application.

### 3. If the applicant has been found to be inadmissible for any reason, the visa officer may wish to consider whether the issuance of a TRP is justified in the circumstances.

## OP 11 Temporary Residents

As organ donation may be an imminent life and death matter or at least a serious medical quality of life issue for a Canadian citizen or permanent resident, visa officers may wish to consider whether there are compelling factors such as H&C that outweigh the risks due to the inadmissibility.

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**Note:** Sections 5.7, 5.8, 8, 9 and 10 of OP 20 contain helpful guidance in the balancing of factors when assessing whether it may be justified to issue a TRP.

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Per A24(1), where an officer is of the opinion that the issuance of a TRP is justified in the circumstances, the TRV should be refused. TRP fees are applicable.

While the buying and selling of human organs is illegal in all provinces and territories in Canada, it is a breach of a provincial regulation, not a criminal offence and, therefore, it does not render an applicant criminally inadmissible. Officers should bear in mind, however, that where they have determined organ trafficking is indeed occurring in the particular case before them, and have refused a TRV on the basis that the applicant is not a *bona fide* visitor but is seeking entry into Canada in exchange for the living organ donation, Canada's national interest is not best served by the issuance of a TRP that facilitates the illegal international trade in human organs.

All factors taken into consideration in making the decision—including any H&C factors—should be recorded in CAIPS notes.

## OP 11 Temporary Residents

### Annex: List of Canadian centres doing kidney transplants.

1. British Columbia Transplant Centres (British Columbia Transplant Society)
  - a) Vancouver General Hospital
  - b) St. Paul's Hospital
  - c) BC Children's Hospital
2. Alberta Transplant Centres
  - a) University of Alberta Hospital Site, Edmonton
  - b) Foothills Hospital, Calgary  
(Paediatric transplants carried out at the above hospitals)
3. Saskatchewan Transplant Centres
  - a) St. Paul's Hospital, Saskatoon
4. Manitoba Transplant Centres
  - a) Health Sciences Centre, Winnipeg
5. Ontario Transplant Centres
  - a) Hamilton: St. Joseph's Health Care System
  - b) Kingston: Kingston General Hospital
  - c) London: London Health Sciences Centre, University Campus
  - d) Ottawa: Ottawa Hospital, General Campus
  - e) Toronto
    - Hospital for Sick Children
    - St. Michael's Hospital
    - University Health Network - Toronto Hospital Corp.
6. Quebec Transplant Centres
  - a) Fleurimont—C.H. de l'université de Sherbrooke Hôpital—Hôpital Fleurimont
  - b) Montreal
    - Hôpital Sainte Justine
    - Hôpital Maisonneuve Rosemont
    - Montreal General Hospital
    - Montreal Children's Hospital
    - Royal Victoria Hospital
    - C. H. de l'université de Montréal – Notre Dame
  - c) Quebec
    - C.H. universitaire de Québec- Hôtel-Dieu de Québec
7. Atlantic Provinces Transplant Centre
  - a) Queen Elizabeth Hospital, Halifax
  - b) IWK Hospital – Grace Health Centre for Children, Women and Families

The Canadian Organ Replacement Registry (CORR) provides information on the recognized Canadian transplant centres. The Web site is:

[http://secure.cihi.ca/cihiweb/dispPage.jsp?cw\\_page=RC\\_4\\_E](http://secure.cihi.ca/cihiweb/dispPage.jsp?cw_page=RC_4_E)

(Click on the link to the pdf file, which is available for free)