

Crossing The Line: Navigating Current Eligibility Requirements For Accessing Canadian Immigration Benefits At A Port Of Entry



For many years, the available processes for seeking temporary residence in Canada have remained a constant. Indeed, changes in Canadian immigration which impact large numbers of foreign nationals are a relatively rare occurrence. However, for the many temporary foreign workers and international students in Canada who must extend their immigration status, such a change did come to pass in late 2024.

A temporary resident's options for extending their Canadian immigration status has always been limited. All have the option of filing an online application with the Immigration, Refugees and Citizenship Canada (IRCC) inland case processing centre. However, this method of application is typically a lengthy one, and subject to the inland processing centre's case capacity and efficiency. At the time of writing, IRCC's processing times for inland work permit applications are posted at 190 days.

The appeal of the port entry

An additional option has always been made available to those temporary residents who, due to their nationality, ¹ are deemed exempt from the requirement to possess a temporary resident visa for travel to Canada. All visa-exempt foreign nationals were eligible, until recently, to extend their immigration status at the port of entry. Instead of engaging in an extended inland process which would likely take many months to conclude, visa-exempt temporary residents could simply depart Canada and obtain their new temporary resident documents instantly upon reentry. Such applications are adjudicated by the Canada Border Services Agency (CBSA) on IRCC's behalf.

Canada's shared land border with the United States has historically provided a particularly convenient method for port of entry renewals. The prospect of taking a short trip across the border in order to secure an extension of one's immigration status on the same day is an appealing one. For many years, it was common to see an extended wait for temporary resident processing at these land border crossings, particularly during the week.

Due to the popularity of the renewal process at the port of entry (and the associated queues of applicants), this option does not typically make for the most convenient

day. Nevertheless, the benefits are undeniable, allowing current temporary residents to avoid processing which could take months, and during some periods, close to a year. For temporary foreign workers and international students currently engaged in work and studies, access to the port of entry also avoids an extended period of the “maintained” status that results from the inland application process. While maintained status does provide the authorization required to continue employment and educational activities while an application is in process, this interim authorization exists only so long as a temporary resident remains in Canada.

During this past year, we have seen a concerted effort from the Canadian government to significantly reduce traffic at our shared border with the United States. Initially, these plans were announced as part of efforts to strengthen border security.² The CBSA subsequently introduced restrictions, effective December 24, 2024, on those who were eligible to apply for work permits and study permits at the ports of entry.³

Following the initial confusion that would follow, we would see further clarification provided.

Classic eligibility requirements for port of entry applications

Prior to December 2024, the rules governing a foreign national’s eligibility to seek (or renew) their status as a temporary foreign worker or international student at the port of entry were simple, or at the very least, well established and widely understood. For example, any foreign national could apply for a work permit at the port of entry if:

1. They were exempt from the requirement to hold a temporary resident visa under R190; and
2. They held a valid medical certificate, if one was required under R30(3).

It is worth noting that there are a small number of work permit categories which cannot be processed at the port of entry. These include work permits administered under the following programs:

1. International Experience Canada (the limit does not apply to citizens or permanent residents of the United States);
2. Seasonal Agricultural Worker Program; and
3. Post-Graduation Work Permit Program⁴ (a recent development).

The above eligibility requirements still apply today, and foreign nationals without any current immigration status in Canada can continue to seek a work permit at the port of entry. On the other hand, for many of those with valid temporary resident status (as a visitor, international student or temporary foreign worker) that seek to obtain a work permit or study permit at the port of entry, there is now an additional requirement in place.

New restrictions on port of entry applications

The new restrictions on port of entry applications are described in *Operational bulletin 686*.⁵ The purpose behind the new restrictions is to limit a current temporary resident’s ability to seek a work permit or study permit at the port of entry. This is accomplished by disqualifying a large number of those who engage in a practice that, until recently, was only colloquially known as “flagpoling.” In its traditional form, this practice envisioned a current permit holder crossing the Canada-U.S. land border, turning around the flagpole and seeking a new permit upon reentry to Canada.

Operational bulletin 686 has now bestowed “flagpoling” with a more formal status, and simultaneously expanded its scope. The term is now defined as follows:

[W]hen foreign nationals, who hold temporary resident status in Canada, leave Canada and after a visit to the United States or St. Pierre and Miquelon, re-enter for the purpose of obtaining immigration services at a port of entry including work and study permits.

With respect to its expanded scope, a land border crossing is no longer an integral component of “flagpoling.” Indeed, travel that includes a visit to the United States (or St. Pierre and Miquelon) by any means of transportation is now included in the definition.

As a result of the new restrictions, many foreign nationals with valid temporary resident status in Canada (i.e., those in possession of a currently valid work permit, study permit or visitor record) are no longer eligible to seek a work permit or study permit at the port of entry, if they engage in flagpoling.

Exemptions under the new rules

Operational bulletin 686 does note a number of exemptions to the new restrictions. The following groups may continue to access immigration services at the port of entry when flagpoling:

1. Citizens and lawful permanent residents of the United States.
2. Professionals and/or technicians under one of the enumerated free trade agreements (with a corresponding exemption for certain spouses and common-law partners).
3. International truck drivers who hold a work permit, are required to depart Canada for the purpose of their employment, and held maintained status as a result of applying for renewal prior to departure.
4. Those with a pre-existing appointment booked with the CBSA for permit processing as of the date that the designation comes into effect.

Many visa-exempt temporary residents in Canada will not qualify to access immigration services at the port of entry under one of the above exemptions. However, those with sufficient motivation to avoid the inland application process, and the means to do so, can choose to travel to any country other than the United States (or St. Pierre and Miquelon), and make their application to the CBSA at the port of entry upon their return. It remains to be seen whether the definition of “flagpoling” will be refined in the future in order to further reduce access to the immigration services provided at the port of entry.

Looking ahead

In light of the current geopolitical climate and ongoing developments in international trade, it appears that there is a renewed focus on economic immigration and the processes that govern it. Current and prospective temporary foreign workers, as well as the Canadian employers seeking to employ them, should closely monitor these developments in order to ensure that they can plan accordingly.

Footnotes

1 Section 190 of the *Immigration and Refugee Protection Regulations* (SOR/2002-227) (IRPR).

2 See [Canada’s Border Plan](#).

3 See [CBSA New Release: Ending flagpoling for work and study permits at the border](#).

4 As of June 21, 2024, applications for a post-graduation work permit are no longer processed at ports of entry, pursuant to the [Ministerial Instructions](#). Notably, those who have received preliminary approval for a post-graduation work permit in the form of a letter of introduction may continue to obtain their work permit at the port of entry.

5 See [Operational bulletin 686](#).

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