

WORK PERMITS

You search the globe for the right person to fill that position. When you find the perfect candidate, you need her...NOW! The only thing holding you back is the Work Permit, which is somewhere in a Visa Office. You're tempted to have her start right away while her application is in process, but if she's caught, not only will she be ineligible for a Work Permit for 6 months, but your company will have committed an offence...

At Lowe & Company, we work to find solutions to meet your business realities. We're often able to bring your people in under short term exemptions while their case is being processed. After all, the world doesn't wait for the slowest link in the chain!

The General Principle

Non-Canadians are not allowed to work in Canada, unless:

- The activity is not considered "work";
- The activity is exempt from the requirement for a Work Permit;
- You have a Work Permit.

Definition of Work

"Work" means an activity for which wages are paid or commission is earned, or that competes directly with the activities of Canadians in the Canadian labour market. In some cases, even Self Employment would be considered "work" under this definition.

Activities exempt from Employment Authorizations

Some activities are exempt from the requirement to obtain an Employment Authorization. Some common ones are:

- Businesspeople coming to buy goods in Canada;
- Businesspeople coming to sell goods in Canada (though not to the public);
- Clergymen, coming to assist a congregation in spiritual matters;
- Certain performing artists and athletes;
- Full time students working on campus.

Each of these are subject to specific limitations, however.

If you need a Work Permit

If you are to do work, and the activity is not exempt, then you need a Work Permit, which is issued by Canada Immigration. There are 2 kinds of Work Permits: those requiring approval by Human Resources Development Canada (“HRDC” Validation), and those which can be issued without HRDC Validation.

HRDC Validation

Human Resources Development Canada’s role is to determine whether a job offered to a foreign worker would have a positive or neutral effect on Canada’s labour market. They will consider:

- job creation or retention for Canadians;
- any knowledge or skills transfer to Canadians by the foreign worker;
- whether there is a labour shortage for that kind of worker;
- whether the wages offered are competitive;
- what recruitment efforts the employer has made; and
- whether there is a labour dispute in progress which could be affected.

HRDC does not issue Work Permits.

Role of the Immigration Office

Work Permits are issued by Canada Immigration. They will review an application and determine whether HRDC Validation is necessary; if so, then you must first obtain this, after which the Work Permit is usually approved.

Validation Exempt Activities

If the position is exempt from HRDC Validation, you can apply directly to Canada Immigration. Some examples of exempt positions include:

- Intra-Corporate transferees;
- Applicants under NAFTA or the Canada Chile Free Trade Agreements;
- Religious or charitable workers (doing non-spiritual activities);
- Spouses of skilled workers holding a Work Permit;
- Spouses of foreign students holding a Student Permit.

There are also special programs, like the one for Software Professionals, which do not require you to apply for HRDC Validation.

As noted above, all of these are subject to certain restrictions.