

CANADA :

WORK PERMITS AND CORPORATE TRANSFERS

For foreign nationals who do not qualify under NAFTA or GATS, the usual process to work temporarily in Canada is through application for a **Work Permit**. This involves an application for a “confirmation” by HRSDC to prove that no Canadian can fill the position. The latter part of the process has a specific legal test, which may involve advertising for the position. Depending on the employer, that test may be met with evidence of internal corporate web-site advertising for the job.

The HRSDC portion of the process generally takes 2 to 3 weeks. Once “confirmed,” the employee must apply to CIC for a Work Permit. This is done either from their home country (varying wait times), or from the U.S. depending on their current status in the U.S. If done at a Canadian visa post in the U.S., the process usually takes about 30 days. Note: Quebec requires an additional step called “Certificat d’Acceptation du Québec,” which can take another month. You should generally count three (3) months total for issuance of the Work Permit.

The *Immigration and Refugee Protection Act and Regulations* provide for **Specialized Knowledge Workers – R205(a), C12 exemption**. This is similar to the L1B category provided for entry in the U.S.A. It essentially allows for a transfer of an employee to the Canada corporate branch if this would “create or maintain significant social, cultural or economic benefits or opportunities” for Canadians. Some basic requirements of C12:

- Applies to Senior Managers/Executives and Specialized Workers
- Work Permit required
- Exempt from HRSDC confirmation
- Allows for transfer of employee from foreign to Canadian branch of an international company which “is or will be doing business” in Canada and the foreign country
- Mere presence of an agent or officer in Canada not sufficient
- Seeking entry to open new office in Canada may qualify (See requirements)
- **Manager/Exec** - 3 years max
- 1 year for Exec opening new office
- No more than 7 years total
- **Spec Know** – max 1 year
- No more than 3 years total (unless NAFTA)
- 2 year renewals in-land possible for both
- Specialized knowledge must be demonstrated; Advanced Knowledge is also possible

Note that the employee must have worked at least **1 year continuously in the previous 3 years in a similar position for the company that plans to transfer them to Canada**. Further, the employee does not have to currently be an employee of the company. Short term work project permits allowed. The C12 category is an excellent alternative for those looking to avoid the lengthy confirmation process by HRSDC.