



Citizenship and  
Immigration Canada

Citoyenneté et  
Immigration Canada

# OP 14

## Processing Applicants for the Live-in Caregiver Program

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## OP 14 Processing Applicants for the Live-in Caregiver Program

### Updates to chapter

#### Listing by date:

##### Date: 2010-10-27

Both minor and substantive changes have been made throughout this chapter to reflect regulatory amendments and administrative changes to the Live-in Caregiver Program (LCP) which came into effect on April 1, 2010. It is recommended that any former version of this chapter be discarded in favour of this updated version. Significant changes to the chapter include the following:

- Section 2 reflects regulatory amendments to R113(1)(d) with respect to the employment requirement for permanent residence.
- Section 5.7 reflects administrative changes to the LCP employment contract requirements, including implementation of mandatory employer paid benefits and publication of revised LCP contract templates (federal and province of Quebec).
- Section 5.9 specifies that a LCP work permit may now be issued for a period of up to four years plus three months where circumstances warrant (e.g., passport validity, LMO/CAQ validity).
- Section 8.4 reflects that the medical examination completed by applicants is assessed by medical officers overseas for excessive demand in anticipation of the applicant subsequently applying for permanent residence under the LCP from within Canada.
- Appendix A was updated to correct references to subsection 11(1) of the *Act* within the sample letters.
- Appendices B, C and D were updated to ensure accuracy of website references and to reflect regulatory amendments to R113(1)(d) with respect to the employment requirement for permanent residence.
- Appendix E was deleted.

##### Date: 2009-12-04

The following changes have been made to link to updated information on the validity of Labour Market Opinions.

- Section 7.3, now directs to section 6 of chapter FW 1.
- Section 8.5, link to FW 1 has been updated.
- Appendix B, a link to HRSDC's table on regional wages and working conditions for the Live-in Caregiver Program, has been added.

##### Date: 2009-08-26

Both minor and substantial changes have been made throughout this chapter. It is recommended that any former version of this chapter be discarded in favour of this version. Substantial changes include the following:

- Section 4.1 now refers to IL 3.
- Sections 4.2 and 4.3 were deleted.

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- Section 5.3 includes information concerning Canadian secondary school equivalency and the validity of the documents provided. The following bullet was also removed, as it does not directly pertain to the LCP: be able to compete in the Canadian labour market if they leave the care giving field after they become permanent residents.
- Sections 5.4 and 5.5 add clarification to the training and work experience requirements.
- Section 5.6 includes changes that reflect Operational Bulletin 71 – Live-in Caregiver Program Applicants and Official Languages.
- Section 5.7 removed reference to the HRSDC pilot project in BC. BC is now using the CIC application form that is filled out by the employer.
- Section 5.8 now includes clarification of full-time work in Canada.
- Section 5.10 includes a new section to reflect Operational Bulletin 25 – Instructions to CIC officers concerning the validity period of Live-in Caregiver work permits as well as family members of Live-in Caregivers. It also contains clarification for situations where a live-in caregiver who applies for a work permit wishes to bring an accompanying family member with them to Canada. Section 5.11 adjusts the definition of family members to be consistent with OP 2.
- Section 6.0 has been removed and the definitions have been relocated to various sections of the document.
- Section 7 specifies that the HRSDC LMO may be issued for a period of up to three years plus three months.
- Section 7.2 replaces the role of the officer with LMO validity and work permit validity dates. It also reflects HRSDC's revised policy on the validity of LMOs.
- Section 7.3 clarifies the difference between the LMO expiry date, the LMO duration date and the work permit expiry date.
- Section 8.3 (2b) provides detail for determining an applicant's work experience.
- Section 8.6 outlines the process for Quebec-bound live-in caregiver applicants.
- Section 9.5 includes clarification for the situation where a live-in caregiver applies for permanent residence and a non-accompanying family member wishes to become an accompanying family member during the processing period.

**Date: 2003-10-01**

The note at the end of section 5.8 was changed and now reads:

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**Note:** If there is anything in the documentation provided by the applicant or the employer, or anything said by the applicant at the interview, that leads the officer to believe there could be insufficient income, the officer may request the employer to provide evidence of sufficient income from reliable or easily verifiable third-party Canadian sources. Affidavits would not be acceptable as such evidence.

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## 1. What this chapter is about

This chapter describes the overseas processing of work permit applications under the Live-in Caregiver Program (LCP), and the overseas processing of applications for permanent residence from live-in caregivers' family members living outside Canada.

Procedures related to in-Canada processing of work permit applications under the LCP and the in-Canada processing of applications for permanent residence from live-in caregivers are described in [IP 4 – Processing Live-in Caregivers in Canada](#).

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## 2. Program objectives

Citizenship and Immigration Canada (CIC) established this program to meet a labour market shortage of live-in caregivers in Canada, while providing an avenue for individuals to work and eventually apply for permanent residence from within Canada.

The LCP brings qualified temporary workers to Canada to provide in-home child care, senior home support care or care of the disabled. The LCP allows applicants to apply for permanent residence from within Canada after being employed full-time as a live-in caregiver for at least 24 months or a total of 3,900 hours in a minimum of 22 months within the four years immediately following their entry into Canada under the LCP.

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## 3. The Act and Regulations

For legislation regarding the LCP, please refer to:

Definition of live-in caregiver	R2
Live-in caregiver class	R110
Processing	R111
Work permits: requirements	R111, R112
Permanent residence	R113
Family members: requirements	R114
Conformity: applicable times	R115

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### 3.1. Forms required

The forms required are shown in the following table:

Form Title	Form Number
Application for a Work Permit Made Outside of Canada	IMM 1295B
Application for a Temporary Resident Visa Made Outside of Canada	IMM 5257B
Additional Family Information	IMM 5406E
Application for Permanent Residence in Canada	IMM 0008EGEN

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## 4. Instruments and delegations

Section 6 of the *Immigration and Refugee Protection Act* (IRPA) authorizes the Minister to designate officers to carry out specific powers and to delegate authorities. It also states those ministerial authorities that may not be delegated, specifically those relating to security certificates or national interest.

The Minister of Citizenship, Immigration and Multiculturalism has delegated powers and designated those officials authorized to carry out any purpose of any provisions legislative or regulatory in instrument IL 3 – Designation of Officers and Delegation of Authority.

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### 5. Departmental policy

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#### 5.1. Where the initial work permit application is processed

To participate in the LCP, a foreign national must make an application for an initial live-in caregiver work permit at a Canadian visa office abroad.

Applications under the LCP will be reviewed by Canadian visa offices abroad for completeness pursuant to R10.

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#### 5.2. Eligibility criteria [R112]

Applicants who seek to enter Canada as a live-in caregiver and who apply for a work permit under the LCP must meet the requirements in R112 whether they intend to eventually seek permanent residence in Canada or not.

R200(3)(d) requires such an individual to meet the eligibility requirements in R112.

Officers may not issue a work permit under the LCP to persons who will be working in nanny-like jobs under the International Exchange Canada programs. Applicants should be assessed according to the criteria of the specific program for which they are applying.

Applicants under the International Exchange Canada programs are not eligible to apply for permanent residence in Canada under the LCP and their work permit cannot be extended beyond the prescribed period. These individuals are not live-in caregivers under the LCP. For further information, see FW 1 – Temporary Foreign Worker Guidelines.

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#### 5.3. Education [R112(b)]

An educational institution, as generally understood, requires the existence of a building or buildings devoted primarily to formal education, training and development.

Applicants under the LCP must have successfully completed a course of study that is equivalent to the successful completion of Canadian secondary school.

Given the variation in school systems across countries, this requirement cannot be regarded as simply a matter of counting the years of schooling until reaching the number twelve. Equivalency of achievement is what is important. For example, in the Philippines, 72 credits of post-secondary education is equivalent to the successful completion of Canadian secondary school. Fewer than 72 credits is not equivalent.

Officers must be satisfied as to the validity of the diplomas/certificates being submitted and may refuse a work permit if sufficient proof is not provided. Officers must be confident that the testing that was completed was for the equivalency of the successful completion of Canadian secondary school.

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#### 5.4. Training or work experience requirement [R112(c)]

Applicants under the LCP must have completed at least:

- six months of full-time training in a classroom setting in a field or occupation related to the employment for which the work permit is sought; or
- one year of full-time paid employment, including at least six months of continuous employment with one employer, in such a field or occupation within the three years immediately before the day on which they submit an application for a work permit.

Prospective live-in caregivers must meet *either* the training or work experience requirement in order to be eligible for a work permit under the LCP.

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### **Training requirement**

Training must be offered as part of a formal education program at an educational institution accredited by the appropriate local education authorities. However, accreditation is not necessarily an endorsement of quality.

Officers should assess the quality of the program and whether it is adequate in equipping the applicant to perform the duties required by the proposed job. Where there are caregiver training programs established primarily to provide training to meet Canadian requirements, it will be necessary to determine their legitimacy as well as the adequacy of the training.

Full-time training must be taken for a continuous period of at least six months.

Training must be in a field or occupation related to the employment sought. For example, prospective live-in caregivers may have training in early childhood education, geriatric care, paediatric or geriatric nursing.

Live-in caregiver training should be similar to the training offered by Canadian community colleges in child care or other related fields. The course load at Canadian community colleges averages 25 to 30 hours per week. This does not include activity assignments or a practicum. Thus, a student in an educational institution offering live-in caregiver training should be attending classes at least 25 to 30 hours per week.

It is acceptable to have some on-the-job training throughout the course as long as the classroom schedule demonstrates that there is a requirement for, and completion of, a full six months of full-time training in a classroom setting throughout that course.

There is no specific list of courses required by CIC, as CIC is not an education-regulating body. However, visa offices can assess the legitimacy, quality, adequacy and relevance of the training programs offered in their regions, including whether the hours of classroom training are sufficient. Officers may undertake research concerning the legitimacy of a given training program and/or educational institution, including if the institution is located in another country. In such cases, officers should request assistance from the visa office in the country where the educational institution is situated to verify the legitimacy of the institution and the substance of the training.

Correspondence courses and part-time studies, such as training taken on weekends, do not meet the full-time training requirement.

The six-months of full-time training must be successfully completed prior to the date that the applicant applies for a work permit under the LCP.

### **Work experience requirement**

Work experience must be in a field or occupation related to the employment sought. For example, prospective live-in caregivers may have experience in early childhood education, geriatric care, paediatric or geriatric nursing. Caregiving experience in an institutional setting (day care, crèche, hospital, senior citizens' home, etc.) should be considered in assessing whether the applicant meets the experience requirement. Experience as a midwife or hospital technician is not acceptable as they do not have caregiving experience related to children, the elderly or people with disabilities.

Caregiving experience in the applicant's own home would not normally qualify someone for the LCP, as the applicant would not have been in a paid employment situation. However, there may be legitimate situations where the applicant was employed as a live-in caregiver by a relative. Applicants are responsible for satisfying the officer that they were actually paid for the work performed and that their experience was an employment related one.

To claim work experience, prospective live-in caregivers must demonstrate that they have completed at least one year of full-time paid employment related to the job duties of a caregiver. This work experience must have occurred within the three years immediately preceding the date

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that the application for a work permit under the LCP is submitted. This work experience must include at least six months of continuous employment with the same employer.

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**Note:** The onus is on the applicant to satisfy the officer that their training or experience meets the requirement of the [R112(c)].

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### 5.5. Language ability [R112(d)]

Applicants under the LCP must have a level of fluency in English or French that enables them to communicate effectively and independently in an unsupervised setting. For example, they should be able to:

- respond to emergency situations by contacting a doctor, ambulance, police or fire department;
- read the labels on medication;
- answer the telephone and the door; and
- communicate with others outside the home, such as schools, stores or other institutions.

Live-in caregivers must be able to perform their job in an unsupervised setting. Proficiency in speaking, understanding and reading one of Canada's official languages will also ensure that caregivers understand their rights and obligations and are not dependent on their employers to interpret provincial/territorial labour legislation and employment standards. They will also be better equipped to seek outside assistance in the event of personal difficulties or if they find themselves in an unsatisfactory employment situation.

Visa offices must consult International Region, National Headquarters if a refusal under R112(d) is being considered in cases where an applicant is fluent only in the official language which is not the official language spoken in the employer's community.

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### 5.6. Mandatory employment contract [R112(e)]

A prospective employer in Canada interested in hiring a foreign live-in caregiver must first have their job offer approved by Human Resources and Skills Development Canada/Service Canada (HRSDC/Service Canada) and obtain from them a positive or neutral Labour Market Opinion (LMO). The prospective employer is responsible for ensuring that there is a signed, written employment contract with the prospective live-in caregiver. By law, the terms and conditions of the employment contract must be consistent with provincial/territorial employment standards and labour laws. The signed employment contract and the employer's positive/neutral LMO from HRSDC/Service Canada are part of the documentation that must be sent by the prospective live-in caregiver to the visa office with their work permit application under the LCP.

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**Note:** In addition to a legislated requirement, the employment contract is a tool that officers use in their assessment of the application. It also provides officers with information that may be used in an interview.

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### 5.7. Employment contract requirements

The employment contract requirements are as follows:

- the contract must include a description of mandatory employer-paid benefits, including:
  - ◆ transportation to Canada from the employee's country of permanent residence or the country of habitual residence to the location of work in Canada;
  - ◆ medical insurance coverage provided from the date of the employee's anticipated date of arrival until such time as they are eligible for provincial/territorial health insurance;
  - ◆ workplace safety insurance coverage for the duration of the employment;



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- ◆ all recruitment fees, including any amount payable to a third-party recruiter or agents hired by the employer that would otherwise have been charged to the employer
- the contract must include a description of:
  - ◆ job duties which clearly demonstrate that the employee's primary duty will be live-in caregiving;
  - ◆ hours of work;
  - ◆ wages;
  - ◆ accommodation arrangements (including where applicable, room and board);
  - ◆ holiday and sick leave entitlements;
  - ◆ termination and resignation terms
- all terms and conditions outlined in the contract must abide by provincial/territorial employment standards and labour laws;
- the live-in caregiver position being offered must be full-time (minimum of 30 hours per week);
- the employer must have sufficient income to pay the wages and benefits of a live-in caregiver. HRSDC/Service Canada will advise employers of the current acceptable wages to be paid, based on the equivalent wages for Canadian live-in caregivers;
- the employer must be residing in Canada; and
- the employer must supply suitable accommodation for the live-in caregiver in a private residence in Canada, such as a private unit or a room with a lock, where they are to provide child care, senior home support care or care for a disabled person.

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**Note:** A LCP employment contract template is available on the [CIC website](#). Employers and live-in caregivers are encouraged to use this contract template but are not obliged to do so. However, effective April 1, 2010, all employment contracts submitted as part of employer LMO applications under the LCP, and all work permit applications received by CIC that are based on these LMOs, must contain all the information and clauses within the LCP employment contract template. Any additional provisions must not conflict with provincial/territorial labour laws and employment standards. The use of an alternate contract format may delay the processing of the LMO application as HRSDC/Service Canada officers will have to do a thorough comparative assessment to determine if the contract is compliant with the LCP requirements.

**Note:** For live-in caregivers destined to Quebec, the Ministère de l'Immigration et des Communautés culturelles (MICC) has its own contract template reflecting Quebec provincial requirements under the LCP. The Quebec contract template is available on the [MICC website](#).

**Note:** Housework, cleaning or other similar domestic duties such as food preparation, may be allowable as a small part of the overall job duties outlined in the employment contract when clearly related to the duties of caring for the individual(s), however such domestic duties cannot be the primary duty of a prospective live-in caregiver.

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### 5.8. Employment by diplomatic personnel

Diplomatic personnel may have their live-in caregiver enter and remain in Canada under the LCP, provided the individual is eligible under R112 to become a live-in caregiver and they obtain a work permit under the LCP. The caregiver will be able to apply for permanent residence once they have

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met the requirements of R113. Such an individual will not be considered a member of the diplomat's personal suite.

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**Note:** Domestic staff who enter Canada as accredited members of a diplomat's suite are not live-in caregivers under the LCP and, as such, are not eligible for permanent residence.

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For more information, see section 5.3 of the FW 1 – Temporary Foreign Worker Guidelines chapter.

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### 5.9. Validity period of initial LCP work permits

The general policy is for visa officers to issue initial LCP work permits with a validity of up to four years plus three months provided the LMO is approved for the same duration by HRSDC/Service Canada. This general policy serves to help minimize subsequent in-Canada applications for work permit extensions.

The four-year period corresponds to the amount of time allotted to a live-in caregiver to complete the employment requirement of the LCP in order to be eligible to apply for permanent residence. The additional three months allow for a transition period to apply for permanent residence under the LCP.

Quebec regulations allow the issuance of *Certificats d'acceptation du Québec (CAQ)* for those applicants destined for Quebec in a National Occupational Classification skill level of less than B, including live-in caregivers. A CAQ can be issued to live-in caregivers with a maximum validity period of 48 months. As such, live-in caregivers destined for Quebec may be issued a LCP work permit of up to four years provided the CAQ is approved for the same duration by the MICC.

The decision on the validity period of the initial LCP work permit remains that of the reviewing officer and they are free to depart from the general policy where circumstances warrant (e.g. passport validity, LMO/CAQ validity, etc).

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### 5.10. Family members who wish to accompany a live-in caregiver on a LCP work permit

Family members do not normally accompany live-in caregivers who are coming to Canada on a LCP work permit. Even when an employer agrees that a family member may reside with the caregiver in the residence of the persons for whom they are providing care, there are no guarantees that any subsequent employer would agree to the same terms. Furthermore, the income of the caregiver may not be sufficient to care for and support their family member(s) in Canada.

Live-in caregivers who wish to bring their family member(s) with them while they are on a work permit under the LCP will not be permitted to do so unless they satisfy an officer that they have sufficient funds to care for and support the family member(s) in Canada, the family member(s) are not otherwise inadmissible and they have permission to live in the home of the person(s) for whom they are to provide care.

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### 5.11. Family members of live-in caregivers who have applied for permanent residence

Live-in caregivers who enter Canada under the LCP are eligible to apply for permanent residence after they have worked full-time as a live-in caregiver for at least 24 months *or* a total of 3,900 hours in a minimum of 22 months within the four years immediately following their entry into Canada under the LCP. To be eligible to apply for permanent residence under the LCP, they must meet the requirements of R113.

All family members of live-in caregivers who have applied for permanent residence must be declared and included in the live-in caregiver's application for permanent residence. All family members, whether accompanying the principal applicant or not, are required to be examined. All eligible family members must undergo and pass medical, criminal and security checks. Live-in caregivers cannot become permanent residents if any of their eligible family members are inadmissible.

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Normally, an inadmissible family member, whether accompanying or not, would render the live-in caregiver principal applicant and all family members inadmissible. There are, however, two exceptions to this rule described in R23. The first is a separated spouse/common-law partner and the second is a child who is in the legal custody of someone other than the applicant, or someone other than the applicant is empowered to act on behalf of that child by virtue of a court order, written agreement or by operation of law.

If an applicant's separated spouse/common-law partner or their children in the custody of someone else are inadmissible, their inadmissibility would not render the applicant inadmissible.

As separated spouses/common-law partners can reconcile and custody arrangements for children may change, examination is required in order to safeguard the future right to sponsor them in the family class. If these family members are not examined, they cannot be sponsored in the family class in the future under R117(9)(d).

Satisfactory documentary proof of a separation and of custody being with someone other than the applicant is required. A separation agreement or custody papers are examples of acceptable proof.

Officers will not issue a permanent resident visa to separated spouses or children in the custody of someone else, even if they are examined, as they are non-accompanying.

If these family members are genuinely unavailable or unwilling to be examined, the consequences of not having them examined should be clearly explained to the applicant and reflected in the CAIPS or GCMS notes. Applicants should be counselled to sign and return a statutory declaration acknowledging the consequences or inform the Case Processing Centre and visa office that they want the child examined in order to preserve future sponsorship privileges.

Live-in caregivers who apply for permanent residence may request concurrent processing for some or all of their family members residing in or outside Canada. Those who are processed concurrently at a visa office may be issued permanent resident visas once the live-in caregiver becomes a permanent resident.

For more details, see section 5.12 of the OP 2 – Processing Members of the Family Class chapter and the IP 4 – Processing Live-in Caregivers in Canada chapter.

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**Note:** Family members who are not processed concurrently may be sponsored as members of the family class once the live-in caregiver is a permanent resident.

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### 5.12. Responding to representations

Information concerning clients should be released only to the applicant or the applicant's authorized paid or unpaid representative (see section 5.4 of the IP 9 – Use of Representatives Paid or Unpaid chapter). Prior to responding to a representation, officers should ensure that clients or their representative verify their identity. This applies whether the representation is made in person or by mail.

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### 6. Definitions

Nil.

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### 7. Procedure: Offer of employment validation process – HRSDC/Service Canada roles and responsibilities

HRSDC/Service Canada is mandated pursuant to R203 to assess the impact that the hiring of the temporary foreign worker is likely to have on the Canadian labour market.

Prospective employers in Canada interested in hiring live-in caregivers must first contact their local HRSDC/Service Canada Centre and apply for a LMO. A LMO assesses what impact hiring a foreign worker would have on Canada's labour market. The foreign caregiver's work permit application must include proof that the prospective employer received a positive or neutral LMO from HRSDC/Service Canada.

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Prospective employers must complete a Foreign Live-in Caregiver Application (EMP 5093) available on [HRSDC's website](#).

They can apply online or submit a paper application to:

Service Canada  
Temporary Foreign Worker Program  
P.O. Box 6500  
Toronto LCD  
Downsview A  
Toronto, ON M3M 3K4  
Fax: 416-954-3107  
Toll free: 1-866-720-6094

A full description of the conditions that a prospective employer must meet to hire a foreign live-in caregiver, instructions on how to complete the LMO application and a description of HRSDC/Service Canada's assessment criteria and process can be found on the [HRSDC website](#).

An HRSDC/Service Canada Centre officer reviews the completed LMO application, which includes a copy of the employment contract. In assessing the offer of employment, the officer considers such factors as:

- the need for live-in care;
- the job offer is genuine;
- the employer is offering wages and working conditions that meet provincial/territorial employment standards and labour laws;
- the job duties are that of a full-time live-in caregiver (minimum of 30 hours per week); and
- a reasonable search has been carried out to identify qualified and available Canadian citizens and/or permanent residents and unemployed foreign caregivers already in Canada.

If satisfied that the offer of employment meets the assessment criteria, the HRSDC/Service Canada officer issues a letter confirming the positive/neutral LMO to the prospective employer and instructs them to send a copy to the prospective live-in caregiver employee.

Details of the positive/neutral LMO are recorded in the HRSDC Foreign Worker System (FWS) and are available to CIC officers through the FWS/CAIPS or FWS/GCMS link.

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**Note:** An employer is issued only one positive/neutral LMO by HRSDC/Service Canada regarding an offer of employment at a time and it must be submitted to CIC to support a work permit application within a maximum of 6 months from its issuance (see section 7.2 below).

**Note:** If the LMO application is rejected, the HRSDC/Service Canada Centre officer issues a refusal letter to the prospective employer.

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Anyone who employs a live-in caregiver under the LCP is required to:

- register as an employer with the Canada Revenue Agency (CRA);
- obtain a taxation number in order to make the proper deductions for income tax, employment insurance and the Canada Pension Plan;
- remit these deduction amounts to the proper federal authority; and
- provide their employee with a record of employment when the employee's job is finished.

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**Note:** The CRA provides employers with an information kit that contains the necessary forms and explains how to comply with the law. Employers can obtain the record of employment only if they are properly registered as an employer.

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### 7.1. When is a new labour market opinion required?

A positive/neutral LMO for an offer of employment is specific to the approved employer and job duties.

A change of employer will require a new positive/neutral LMO, a new employment contract and a new work permit application. Officers should treat the new LMO request as a new application in the queue (cost recovery fees apply).

This measure is meant to deter abuse by those employment agencies that might try to use a list of fictitious employers in order to bring a “pool” of live-in caregivers to Canada. Once in Canada, these caregivers would be in a position of having entered into a contractual agreement with an employer who does not exist or for whom they will not work. These caregivers are thus in Canada illegally and are vulnerable to exploitation by the employment agency that brought them to Canada.

A new positive/neutral LMO is also required if it was not used within 6 months of its issuance (see section 7.2 below).

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### 7.2. Expiry date of the labour market opinion

All LMOs issued by HRSDC/Service Canada to employers will be valid for the purpose of work permit applications for a maximum of 6 months from the date of issuance. A LMO that is not submitted to CIC to support a work permit application within this 6 month period will be deemed to have expired. The employer will be required to apply for a new LMO if they still wish to hire a live-in caregiver under the LCP.

The LMO expiry date identifies the 6 month period during which:

- the employer must notify the caregiver that the LMO was approved;
- the employer must send the LMO confirmation letter to the prospective live-in caregiver; and
- the prospective live-in caregiver must apply for a work permit to CIC (regardless of the start date of the job offer).

If these actions do not occur within the period of time identified, the LMO is no longer valid and, if the employer still wishes to hire a live-in caregiver, they will be required to submit a new LMO application to HRSDC/Service Canada.

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**Note:** This strengthens the integrity of LMOs by ensuring CIC has a reasonably accurate assessment of labour market conditions when evaluating an application for a work permit under the LCP.

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**Live-in caregivers destined for Quebec:** Due to HRSDC/Service Canada and MICC administrative requirements, a LMO for a live-in caregiver in the province of Quebec is valid for 3 months after the CAQ is issued. This directive applies **regardless** of the expiry date that may appear on the LMO.

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### 7.3. Labour market opinion validity and work permit validity dates

Refer to section 6 of the FW 1 –Temporary Foreign Worker Guidelines chapter regarding LMO validity and duration of employment as per the LMO.

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### 8. Procedure: Selecting live-in caregivers

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#### 8.1. How the process begins

The selection process is designed to ensure that the prospective employer and employee take responsibility for obtaining all the necessary information and application forms so that the visa offices can focus on rendering a timely final decision on LCP work permit applications.

After the prospective employer in Canada obtains confirmation of a positive/neutral LMO from HRSDC/Service Canada, HRSDC/Service Canada notifies the employer in a letter that the offer of employment has been validated and provides the system file number. The confirmation letter from HRSDC/Service Canada:

- asks the employer to forward a copy of the HRSDC/Service Canada LMO confirmation letter and the signed employment contract to the prospective live-in caregiver;
- tells the employer to have the live-in caregiver applicant check the applicable visa office's website for information about the work permit application process. The visa office website will instruct the applicant to download the application forms or, in a few cases, contact the visa office to obtain the application forms; and
- suggests that employers download the application forms from the applicable visa office's website and send them to the live-in caregiver applicant if they are concerned about the applicant's access to the Internet.

The confirmation letter from HRSDC/Service Canada also advises the employer to instruct the live-in caregiver applicant to send the work permit application and all required supporting documentation, including the signed mandatory employment contract and a copy of the LMO confirmation letter, to the appropriate visa office.

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**Note:** The selection process begins when the visa office receives the completed application form and all other required documents from the applicant.

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The officer checks the FWS (through the FWS/CAIPS or FWS/GCMS link) using the system file number provided in the LMO confirmation letter to verify that HRSDC/Service Canada has validated the offer of employment under the LCP.

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#### 8.2. Documents required with a LCP work permit application

In addition to the regular documentation required for a work permit application (see the FW 1 – [Temporary Foreign Worker Guidelines](#) chapter), the applicant should provide:

- proof of having completed the equivalent of Canadian secondary school;
- proof of six months of full-time training in a classroom setting *or* one year of full-time paid employment related to the job in question within the last three years, including at least six months of continuous employment with one employer;
- a valid passport;
- a police certificate from all areas where the applicant has resided (not mandatory until the time of application for permanent residence, but easier to provide from the home country than from Canada. If this is not provided, it is not a reason to refuse a work permit unless the officer believes the applicant would be inadmissible on criminal grounds);
- an original birth certificate, original marriage certificate where applicable and, if separated or divorced, original certificates or, if certificates are not available, written evidence of marital

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status (this is particularly important in countries where legal separation or divorce is not possible);

- information on close family members (may not be required by all visa offices);
- letters of reference from previous employers. Applicants must also provide proof of full-time employment, including proof that the mandatory deductions of that country have been paid. For example, in the Philippines, employers are required by law to pay monthly contributions to Philhealth and Social Security System for all employees without exception. Proof of contributions made is adequate proof that the employee was paid for this employment; OR
- in the case of overseas employment, applicants must also provide the employment contract listing duties, dates of employment, position, copy of passport pages containing the initial entry visa and subsequent work permits the applicant held to work in that country;
- a copy of the employer's valid LMO confirmation letter from HRSDC/Service Canada which provides the system file number of the job validation in the FWS;
- a copy of the mandatory signed employment contract which sets out the terms and conditions of employment signed by the employer and applicant; and
- the processing fee (for details, see the IRP Regulatory Amendments - Cost Recovery Fact Sheet, in Appendix A of IR 5).

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**Note:** Other documents may be necessary because of the legal requirements of the country in which the applicant resides or as a result of country conditions as determined by the visa office.

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### 8.3. Assessing the LCP work permit application

Once the application for a work permit under the LCP, including all required supporting documentation, has been received by the applicable visa office, officers will need to determine if the applicant meets the eligibility criteria in R112, as described in the following table.

#### Live-in Caregiver Program: Eligibility criteria for applicants

Criteria	Background information	How to evaluate
1. Successful completion of the equivalent of Canadian secondary school education.		<ul style="list-style-type: none"> <li>• Studies must be completed in a vocational, technical or academic stream, or any combination of these.</li> <li>• Studies at a community college or university may also qualify.</li> </ul> <p>Using knowledge of the host country's education and training system, the officer must be satisfied that:</p> <ol style="list-style-type: none"> <li>a) the institution is a legitimate establishment;</li> <li>b) the purpose of the institution is formal education;</li> <li>c) the program has a formal curriculum;</li> <li>d) examination results are successful;</li> </ol>

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		<p>e) the diploma and supporting documents are valid; and  f) if diplomas are not available, report cards and letters from the institution attesting to the applicant's educational achievement are genuine.</p> <p><b>Note:</b> Applicants who provide false transcripts will be refused under A16(1), A40(1) and A36.</p>
<p>2. (a) Successful completion of six months full-time classroom training in a field or occupation related to the job in question;  <b>OR</b></p>	<ul style="list-style-type: none"> <li>Allows for applicants who are well qualified through their education, but may not have experience.</li> <li>If a host government has sanctioned a training program for governesses, caregivers of the elderly or jobs of a similar nature, then the program may satisfy the LCP criteria. Officers should screen training programs for legitimacy and adequacy.</li> </ul>	<p>Officers must be satisfied that:</p> <p>a) the transcripts of individual courses within the degree/ diploma program include six months related to caregiving;  b) training has been completed in a classroom setting and does not include activity assignments. The intent is that hours spent working cannot be credited as hours spent training;  c) the courses taken relate directly to the Canadian job offer.</p>
<p>2. (b) Completion of one year of full-time paid employment, including at least six months of continuous employment with one employer in that field or occupation within three years immediately prior to the day on which the person submits an application for a work permit to a visa office.</p> <p><b>Note:</b> Applicants must meet either 2(a) or 2(b).</p>	<ul style="list-style-type: none"> <li>This allows experienced applicants who have no formal training to apply.</li> </ul>	<ul style="list-style-type: none"> <li>The applicant must have at least six months of continuous full-time paid employment with the same employer. This criterion disqualifies persons who change employers frequently.</li> <li>Work experience must be within three years immediately prior to the application.</li> <li>Work experience in an institutional setting where the applicant's duties include caregiving (day care, crèche, hospital, senior citizens home) may also be considered.</li> <li>Experience as a mid-wife or hospital technician is not acceptable as they do not have caregiving experience related to children, the elderly or persons with disabilities.</li> </ul>



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		<ul style="list-style-type: none"> <li>The caregiving work experience must be related to the Canadian job offer.</li> </ul> <p><b>Note:</b> Applicants who submit forged employment references will be refused under A16(1) and A40(1).</p>
<p>3. Ability to speak, read and understand either English or French at a level sufficient to communicate effectively in an unsupervised situation.</p>		<ul style="list-style-type: none"> <li>If an officer has reason to doubt an applicant's language ability, then the officer should interview the applicant.</li> <li>The officer should carefully document how language ability was assessed in refusal cases and consult with International Region, National Headquarters if a refusal under R112(d) is being considered in cases where an applicant is fluent in the official language which is not the official language spoken in the employer's community.</li> </ul>
<p>4. Have an employment contract with their future employer.</p>	<ul style="list-style-type: none"> <li>The employer will send the contract to the applicant.</li> <li>The applicant will sign the contract indicating agreement and return it to the employer. The signed employment contract is sent to the visa office by the applicant with the work permit application form and other required documents.</li> </ul> <p><b>Note:</b> If necessary, the applicant may renegotiate some aspect of the employment contract, resulting in a revised contract. If the contract is revised after being approved by HRSDC/Service Canada as part of the employer's LMO application, any changes to the contract must be clearly identified and explained. The signatures of both the employer and applicant must be on any revised employment contract. If the revised contract has hand-written changes, the original</p>	<ul style="list-style-type: none"> <li>The officer should electronically receive validated offers of employment from HRSDC/Service Canada.</li> <li>The employment contract should include information on:             <ol style="list-style-type: none"> <li>the duties of the caregiver and a detailed job description;</li> <li>the hours of work and schedule;</li> <li>wages and overtime rates;</li> <li>days off, vacation and sick leave;</li> <li>health insurance and other benefits;</li> <li>the cost of room and board;</li> <li>accommodation; and</li> <li>terms of separation.</li> </ol> </li> <li>The officer should be able to clearly substantiate from the information provided that the potential employee will primarily be providing care.</li> </ul>

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	<p>wording must remain legible, struck out and the signatures of both parties must appear next to the change, indicating agreement.</p> <ul style="list-style-type: none"> <li>• A contract template is available on the <a href="#">CIC website</a>.</li> <li>• For applicants destined to Quebec, MICC has its own contract template reflecting Quebec provincial requirements under the LCP. The Quebec sample contract is available on the <a href="#">MICC website</a>.</li> </ul>	<ul style="list-style-type: none"> <li>• The contract should outline what care requirements are needed (child-care, elderly and/or care of persons with disabilities) and should clearly outline employee duties that meet the employer's requirements.</li> <li>• By law, the terms and conditions of the contract must be consistent with provincial/territorial labour laws and employment standards.</li> <li>• At the interview, the caregiver's understanding of the job duties, working conditions, wages, etc., should be consistent with the information in the contract.</li> <li>• The officer may request that the employer provide, evidence of sufficient income from a reliable or easily verifiable third-party Canadian source. Affidavits would not be acceptable as such evidence.</li> </ul>
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### 8.4. Statutory requirements for admissibility

In addition to meeting the LCP eligibility criteria in R112, the applicant must undergo the following admissibility checks:

- medical examination;
- security check for certain applicants; and
- compliance with normal visitor requirements (see the OP 11 – Temporary Residents chapter).

**Note:** The medical examination completed by applicants is assessed by medical officers overseas for excessive demand in anticipation of the applicant subsequently applying for permanent residence under the LCP.

**Note:** Live-in caregivers are permitted by regulation to apply for permanent residence after working full-time as a live-in caregiver for at least 24 months or a total of 3,900 hours in a minimum of 22 months within the four years immediately following their entry into Canada under the LCP. It is therefore difficult to apply the normal requirement that temporary residents leave Canada by the end of the period authorized for their stay in the case of live-in caregivers. Insofar as is possible, given the difficulty of establishing future intentions, officers should satisfy themselves that an applicant under the LCP has the intention of leaving Canada should any subsequent application for permanent

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residence be refused. The question is not so much whether the applicant will seek permanent residence but whether the officer is satisfied that the person would not stay in Canada illegally.

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### 8.5. Finalizing the application for a LCP work permit

When all the requirements are met, the work permit is **approved** by the visa office and **issued** at the POE for a period of up to four years plus three months for a specific job and a specific employer. The validity period of the initial LCP work permit is determined based on the duration of employment indicated on the LMO and other considerations (e.g. passport validity, LMO/CAQ validity). See section 6 of the FW 1 – Temporary Foreign Worker Guidelines chapter for details.

National Occupational Classification (NOC) code 6474-200 is to be used for LCP work permits and permanent resident status documents.

The code "LCP" should also be entered in the special program box of the work permit.

To complete the process, officers should:

- enter the details concerning the applicant's marital status into CAIPS or GCMS notes, including details of the applicant's separated or divorced spouse/partner (e.g. spouse's name, date of birth, date of divorce);
- enter details of the police certificate, if available. The Case Processing Centre in Vegreville (CPC-Vegreville) will access these details should the applicant apply for permanent residence from within Canada under the LCP;
- make decisions based on the requirements of the *Act* and *Regulations* and document them;
- indicate in the case notes how the assessment was conducted and what documents were considered. If the application was refused, indicate which criteria the applicant failed to meet;
- if the decision is negative, send the appropriate letter to the applicant informing them of the outcome of their application (see the sample refusal letter titled "Applicant does not meet program requirement" in Appendix A); and
- if the employer withdraws the offer of employment, the application must be refused (see the sample refusal letter titled "Withdrawal of offer of employment" in Appendix A).

Live-in caregivers should be given LCP publications produced by CIC and/or referred to the CIC website for more information about the program, a fact sheet on employment standards legislation (Appendix B), a listing of employment standards contacts (Appendix C), and the counselling fact sheet (Appendix D).

### 8.6. Quebec-bound applicants

Paragraph 22(b) of the *Canada-Quebec Accord* states that Quebec's consent is required in order to admit into the province any temporary foreign worker whose admission is subject to Canada's requirements relating to the availability of Canadian workers. A Quebec-bound applicant under the LCP must obtain a CAQ prior to submitting a LCP work permit application to CIC. The MICC issues a CAQ following a review of the file based on their selection criteria.

All applicants under the LCP must satisfy a Canadian visa officer that they meet the eligibility criteria in R112. The federal visa officer must ensure that *all* R112 criteria are met. The applicant must meet all LCP requirements outlined in R112, and other IRPR criteria, regardless of the issuance of a CAQ by the MICC.

Staff at visa offices must process live-in caregivers destined to Quebec in the same way as any other cases and in the order in which they are received in the queue.

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When an applicant has obtained a CAQ but does not meet federal requirements, the federal Regulations take precedence. These applicants should be refused. Issuance of a CAQ does not automatically guarantee a work permit under the LCP.

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### 9. Procedure: Processing permanent residence applications for family members abroad

This process usually takes place after the live-in caregiver has completed the LCP and applied for permanent residence.

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#### 9.1. Requirements for the visa office

Upon notification that a live-in caregiver applicant (principal applicant) has dependent family members residing abroad, the visa office will:

- forward an Application for Permanent Residence in Canada (IMM 0008EGEN) to family members and indicate the time limit for responding;
- open an LC2 file in all cases, whether the family members are undergoing concurrent processing or not;
- confirm the identity and determine the relationship of family members;
- show the case as "passed" at the paper screening and selection stage, whether family members are being processed concurrently or not;
- show whether or not the processing and right of permanent residence fees have been paid;

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**Note:** The codes "FPC" and "LFC" should be entered if the principal applicant has paid the processing and right of permanent residence fees in Canada.

- insert the exemption code "999" for family members who are not processed concurrently and "LFN" to show that they are exempt from paying the right of permanent residence fee. An explanation should also be included in the remarks box (e.g. LC2 not applying for permanent residence); and
- initiate medical and background examinations.

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#### 9.2. Quebec cases

A *certificat de sélection du Québec* (CSQ) is required for the live-in caregiver and all accompanying family members who are to reside in the province of Quebec.

The officer requests a CSQ to be issued for accompanying family members by contacting the responsible MICC office and providing a list of the accompanying family members abroad. The list should contain the name and date of birth of the accompanying family members and of the principal applicant, including their CPC client ID number.

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**Note:** The officer should inform the NHQ/Immigration Branch if there are any problems with the issuance of the CSQ.

**Note:** The officer should not request that non-accompanying family members complete a *Demande de certificat de sélection* (DCS).

---

#### 9.3. Contacting family members

The officer will try to contact family members residing abroad either directly or by enlisting the live-in caregiver applicant's assistance. The inland officer's assistance in contacting overseas family members should be limited only to exceptional situations. A valid, complete and up-to-date mailing address for all family members is required. A telephone number is also very useful.

The CPC will inform the visa office whenever it receives a change of address for live-in caregivers whose family members are being processed abroad.

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If family members do not return a completed Application for Permanent Residence in Canada (IMM 0008), or do not provide documentation as requested within the stated time limit, the officer has specific instructions to follow up with the family members (see section 9.13 of the IP 4 – Processing Live-in Caregivers in Canada chapter). A copy of the form should also be sent to the principal applicant in Canada (and a copy to CPC-Vegreville if the visa office is not using CAIPS or GCMS). The officer may try to contact the principal applicant at anytime during this process.

The letter will state that, if documentation is not provided within a certain period of time (as appropriate), the file will be closed and the applicant in Canada could be refused.

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### 9.4. Finalizing approved cases

After identity, relationship and statutory requirements have all been met, the officer provides the CPC with the results of statutory checks, their period of validity and the visa office file number for both accompanying and non-accompanying family members.

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**Note:** The results can be communicated by email to CPC-Vegreville-Enquiries@cic.gc.ca. All e-mail messages are to be addressed to the attention of “Client Services.”

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### 9.5. Processing files for accompanying family members

The visa office file for accompanying family members will be left open until the inland CIC office confirms that the live-in caregiver applicant has been granted permanent resident status.

For the purpose of R114, all family members (both accompanying and non-accompanying) must be included in the original application for permanent residence. A non-accompanying family member can, during the processing of the application, become an accompanying family member by making a request to do so and paying the appropriate fees at the time of the request. The request must be made before permanent residence is granted to the live-in caregiver in Canada.

A newly created family member (e.g. newborn, new spouse) does not need to be included in the original application for permanent residence. These family members can be added to the application during the processing of the application of the live-in caregiver.

Upon notification that the principal applicant has been granted permanent resident status in Canada, the visa office verifies that the family members underwent parallel processing as accompanying family members. The case is then shown as “approved” and the visa office issues permanent resident visas to accompanying family members, provided that medical and background checks are still valid.

---

### 9.6. Processing files for non-accompanying family members

If the family members are non-accompanying, the officer shows the case file disposition as “withdrawn,” inserts a note in CAIPS or GCMS, e.g. “LC2 family member did not seek permanent residence,” and informs the CPC of the examination results.

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**Note:** Permanent resident visas are not to be issued to non-accompanying family members. These family members can be sponsored as members of the family class at a later date, provided that they were examined at the time the caregiver applied for permanent residence. Family members who are sponsored at a later date must meet all requirements applicable at that time.

**Note:** Family members, whether living in Canada or abroad, and whether accompanying the applicant or not, must complete a medical examination.

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### 9.7. Finalizing refused cases

The visa office:

- informs the CPC of negative results for accompanying and non-accompanying family members;

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- informs the CPC if family members have not undergone examination within the allocated period of time or could not be located (see section 9.3 above); and
- shows the final disposition of its LC2 file as "refused" for accompanying family members and as "withdrawn" for non-accompanying family members.

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**Note:** The visa office does not inform family members of the final disposition of the case.

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The CPC:

- informs the applicant regarding the status of their case. Additional time may be allowed for response; and
- refuses the case. The refusal letter to the live-in caregiver applicant will state that both the applicant and all family members, in Canada or abroad, are refused.

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**Note:** If a family member is inadmissible, the principal applicant and family members cannot be granted permanent resident status.

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

In cases where the basis for refusal is that the applicant's spouse or common-law partner or dependent children did not undergo medical and background checks, the CPC must verify the application to ensure that:

- the applicant's spouse, common-law partner or dependent child were indeed subject to examination, i.e. were not a separated spouse or child in the custody of the other parent; and
- the visa office did inform the applicant that the family member's lack of cooperation in undergoing medical and background checks could result in the refusal of the live-in caregiver's application for permanent residence in Canada (see section 9.3 above). The CPC can verify that reminder letters were sent by reviewing the case notes in CAIPS or GCMS.

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

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### 9.8. Ineligible family members

When the visa office determines that listed relatives do not meet the definition of "family members" according to the Regulations or that they are family members but not subject to examination (e.g. separated spouses or former common-law partners), the officer will take the following steps:

- inform the CPC of their findings;
- instruct these ineligible or separated family members to ignore any previous requests from the visa office to undergo examination or provide documentation; and
- close the LC2 file by showing it as "withdrawn" and entering in the CAIPS or GCMS case notes the reason why the family member was found ineligible or not subject to examination.

The CPC will:

- inform the live-in caregiver applicant that the ineligible or separated family member cannot be part of the application; and
- finalize processing of the application minus the ineligible persons.

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**Note:** When a visa office has informed the CPC that a family member is ineligible, the CPC should contact the applicant, explain the situation and allow the applicant an opportunity to either provide additional information within a stated pre-determined time, or apply for a refund of the right of permanent residence fee if the fee was paid for the ineligible family member.

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It is not necessary for applicants to delete ineligible family members from their application, only that they be given an opportunity to provide additional evidence that the ineligible family members are indeed eligible.

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

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## OP 14 Processing Applicants for the Live-in Caregiver Program

### Appendix A – Sample – letters

#### Refusal letter – LCP work permit – Applicant does not meet program requirement

Insert letterhead

Our Ref.:

Insert address

Dear:

I have completed my assessment of your application for a work permit in Canada as a live-in caregiver. I have determined that you do not meet the requirements of the Live-in Caregiver Program.

The requirements for issuance of a work permit as a live-in caregiver are set out in section 112 of the *Immigration and Refugee Protection Regulations*:

112. A work permit shall not be issued to a foreign national who seeks to enter Canada as a live-in caregiver unless they;
- (a) applied for a work permit as a live-in caregiver before entering Canada;
  - (b) have successfully completed a course of study that is equivalent to the successful completion of secondary school in Canada;
  - (c) have the following training or experience, in a field or occupation related to the employment for which the work permit is sought, namely,
    - (i) successful completion of six months of full-time training in a classroom setting, or
    - (ii) completion of one year of full-time paid employment, including at least six months of continuous employment with one employer, in such a field or occupation within the three years immediately before the day on which they submit an application for a work permit;
  - (d) have the ability to speak, read and listen to English or French at a level sufficient to communicate effectively in a unsupervised setting; and
  - (e) have an employment contract with their future employer.

I have determined that you do not meet these requirement(s) because (*set out reasons*).

Subsection 11(1) of the *Immigration and Refugee Protection Act* states that:

11. (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.

Subsection 2(2) of the Act specifies that:

2. (2) Unless otherwise indicated, references in the Act to “this Act” include regulations made under it.

Following an examination of your application, I am not satisfied that you meet the requirements of the Act and Regulations for the reasons explained above. I am therefore refusing your application.

Please inform your employer in Canada of this decision. You should disregard any previous instructions that may have been sent to you from this office. Thank you for your interest in Canada.

Yours sincerely,

Officer

cc: HRSDC/Service Canada Centre: (include name of employer)

#### Refusal letter – LCP work permit – Withdrawal of offer of employment

Insert letterhead



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Our Ref.:

Insert address

Dear:

I refer to your application for a work permit as a live-in caregiver. I have been informed that your prospective employer in Canada has withdrawn the offer of employment made on your behalf. One of the requirements for the issuance of a work permit as a live-in caregiver set out in section 112(e) of the *Immigration and Refugee Protection Regulations* is that an applicant must have an employment contract with their future employer. Since your future employer has withdrawn their offer of employment, your application does not meet this requirement.

Subsection 11(1) of the *Immigration and Refugee Protection Act* states that:

11. (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.

Subsection 2(2) of the *Immigration and Refugee Protection Act* specifies that:

2. (2) Unless otherwise indicated, references in the Act to “this Act” include regulations made under it.

Following an examination of your application, I am not satisfied that you meet the requirements of the Act and Regulations for the reasons explained above. I am therefore refusing your application.

If you have been requested to forward additional information, to undergo a medical examination, or to appear for an interview at this office, you should now disregard these requests and consider them cancelled. We can consider a new application only if you obtain another offer of employment that has been validated by Human Resources and Skills Development Canada/Service Canada.

Thank you for your interest in Canada.

Yours sincerely,

Officer

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### Appendix B – Fact sheet on employment standards legislation

#### Applicable to live-in caregivers or domestic workers

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

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

It should be noted that the provisions in provincial and territorial employment standards legislation and their scope may vary from one jurisdiction to another. This means that minimum working conditions prescribed by law are not identical across Canada for live-in caregivers or domestic workers.

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

For more information on employment standards and labour laws in provinces and territories, please consult the following websites. Please note that this information is subject to change.

Also note that HRSDC's website provides a table of [Regional Wages, Working Conditions and Advertisement Requirements for the Live-In Caregiver Program](#).

#### ALBERTA

Website: <http://www.employment.alberta.ca/SFW/1224.html>

#### BRITISH COLUMBIA

Website: <http://www.labour.gov.bc.ca/esb/>

#### MANITOBA

Website <http://www.gov.mb.ca/labour/standards/>

#### NEW BRUNSWICK

New Brunswick's *Employment Standards Act* and *Regulations* do not apply to persons working in private homes. Therefore, live-in caregivers have no protection under provincial employment standards legislation, which makes it all the more important to clearly spell out the working conditions in the employment contract.

Website: <http://www.gnb.ca/0308/index-e.asp>

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### NEWFOUNDLAND AND LABRADOR

Website: <http://www.hrle.gov.nl.ca/lra/labourstandards/faq.htm>

### NORTHWEST TERRITORIES AND NUNAVUT

Website: <http://www.ece.gov.nt.ca/Divisions/Labour/>

### NOVA SCOTIA

Website: <http://www.gov.ns.ca/lwd/employmentworkplaces/>

### ONTARIO

Web site: <http://www.labour.gov.on.ca/english/es/>

### PRINCE EDWARD ISLAND

Website: <http://www.gov.pe.ca/sss/index.php3?number=1004723&lang=E>

### QUEBEC

The *Live-in Caregiver Program* operates differently in Quebec compared to the other provinces and territories. Under the *Canada-Quebec Accord*, Quebec plays a role in the selection of foreign workers. In order to work in Quebec, caregivers have to obtain a *Certificat d'acceptation du Québec (CAQ)*, which is contingent, in part, on the signing of an employment contract between the employee and the employer. The *Act respecting labour standards* does not apply to an employee whose exclusive duty is to provide care, in a dwelling, to a child or to a sick, disabled or aged person (s. 3(2) of the Act). However, live-in caregivers may be covered by the provisions of the Act if they also do housework that is a small part of their overall duties and is indirectly related to the immediate needs of the care recipient. In such cases, they are deemed to be domestics.

Website: <http://www.cnt.gouv.qc.ca/en/home/index.html>

### SASKATCHEWAN

Saskatchewan's *Labour Standards Act and Regulations* do not apply in the same way to "care providers" as they do to domestic workers (these two categories have their own definitions). The minimum employment standards also vary depending on whether or not the employee lives with the employer.

Website: <http://www.aeel.gov.sk.ca/labour-standards>

### YUKON TERRITORY

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

Website: <http://www.community.gov.yk.ca/labour/index.html>

## OP 14 Processing Applicants for the Live-in Caregiver Program

### Appendix C – Provincial and territorial employment standards

#### Contact list

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

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

Please visit the CIC website for further details:

<http://www.cic.gc.ca/english/work/caregiver/arriving.asp#standards>

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### Appendix D – Counselling fact sheet

#### Important information for live-in caregivers

The CIC website provides information on the rights of temporary foreign workers and the law: <http://www.cic.gc.ca/english/work/tfw-rights.asp>.

You should confirm that your employer still wishes to hire you before you finalize plans to depart for Canada. If your employer no longer needs you, you will not be issued a work permit as it was approved only for that specific job and employer. You may not be allowed to enter Canada.

Officials at the port of entry may ask your employer to meet you at the port of entry before they issue you a work permit.

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

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

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

If you decide to change employers, you cannot begin work until you get a new work permit that names your new employer. Your new employer needs to get approval from Human Resources and Skills Development Canada/Service Canada before you can get your new work permit and begin working for them.

Even if you do not change employers, you may need to renew your work permit. It is illegal to work in Canada once your work permit has expired. You should apply for an extension of your work permit in Canada at least three months in advance of the expiry date. This is your responsibility, not your employer's.

It is your responsibility to keep your legal documents (such as your work permit and passport) safe. You should not give them to anyone, even your employer. Although you may be asked to show these documents for verification (e.g. your employer may request to see your work permit), you should always keep them in your possession.

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

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

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

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

- work full-time as a live-in caregiver for at least 24 months *or* a total of 3,900 hours in a minimum of 22 months within the four years immediately following your entry into Canada under the Live-in Caregiver Program;
- you, your spouse and your dependent children must pass medical, criminal and security checks and must not be going to an immigration inquiry (hearing) or be under an order to

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leave Canada. For example, if you marry a refugee claimant in Canada the status of your spouse could prevent you from getting permanent resident status; and

- you must live in the home of the person(s) for whom you have been hired to provide care or you cannot continue to work in the Live-in Caregiver Program, and you cannot apply for permanent residence.

Once you have worked for the required 24 months or 3,900 hours in a minimum of 22 months, you may apply for permanent residence. It is important that you maintain your temporary resident status and have a valid work permit until you have become a permanent resident.

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

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