



GMS Flash Alert

Immigration Edition

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Canada - Changes to Bridging Open Work Permit Applications

The government of Canada has recently announced changes to the Bridging Open Work Permit (BOWP) program. BOWPs apply to individuals who currently have a valid Canadian work permit and who have applied for permanent residence (PR) under an eligible category.¹ Qualifying foreign nationals currently in Canada may obtain an open work permit to “bridge the gap” between the expiry of their current work permit and the final decision on their application for permanent residence (APR).

The BOWP program now:

- includes the Quebec Skilled Worker Class (QSWC),
- removes the previous rule that individuals can only apply for a BOWP if they had a work permit set to expire within four months, and
- extends eligibility for those applying for restoration.

The new rules further clarify that there is no automatic right to an open work permit for a spouse.

WHY THIS MATTERS

The recent changes to the BOWP are significant as they eliminate the requirement to apply for a BOWP within four months of expiry of an existing work permit. This means that applicants can access the BOWP option earlier and helps ensure that their BOWP is issued before their current one expires.

Furthermore, as COVID-19 has affected processing times for permanent resident applications, many temporary foreign workers are required to extend their current work permit so that they may continue to remain and work in Canada while they await the finalization of their PR application.

Key Changes

- The following individuals are now eligible for a BOWP: 1) individuals who have “maintained status,” 2) individuals who are eligible for restoration of status, and 3) individuals who hold a work permit with more than four months of validity remaining.
 - The previous rules denied BOWPs to foreign nationals whose work permits had expired, holding that their only option was to apply for restoration of temporary resident status.
 - Previous rules also denied eligibility for a BOWP unless the foreign worker had four months or less before his or her current work permit expired.
- Applicants who have applied for permanent residence in the following classes and meet the requirements listed below are now eligible for BOWPs:
 - Provincial Nomination Program (PNP) applicants. PNP applicants are eligible if they provide a copy of the nomination letter that indicates their employment is unrestricted and they selected “Open Work Permit” on their application form.
 - Agri-Food Pilot (AFP) applicants. AFP applicants must provide their approval in a “principle letter” and submit their application online.
 - Quebec skilled worker applicants. Quebec skilled worker applicants are eligible after they complete a “completeness check.”
- QSWC and PNP processing times usually extend to 24 months or more. Therefore, to help ensure that applicants do not have to submit multiple work permit extensions, the duration for the initial BOWP for these categories is 24 months or until the passport validity, whichever is shorter. The duration of the BOWP for other PR categories remains 12 months.
- Spouses of BOWP holders (the principal applicant) are not automatically entitled to a BOWP. Rather, if they want to work, they will have to apply for an open work permit pursuant to “rule C41” (spouse of a skilled worker) or “C42” (spouse of a full-time student).²
- Only spouses of study permit holders who are eligible for a post-graduation work permit (PGWP) may apply for the open spousal work permit.

Eligibility for BOWP

To qualify for a BOWP, applicants must adhere to the following:

- 1 Be currently in Canada after being authorized to enter as a temporary resident under *Immigration and Refugee Protection Act* (IRPA) s. 22.
- 2 Meet one of the following criteria:
 - have valid temporary resident status and authorization to work as the holder of a valid work permit;
 - have maintained status and authorization to work under paragraph 186(u) of the *Immigration and Refugee Protection Regulations* (IRPR) as a result of submitting an application to renew their work permit under subsection R201(1); or

- o be eligible to restore their temporary resident status with authorization to work on a work permit.
3. Have submitted an APR as the **principal applicant** under one of the following classes:
- o federal skilled worker class (FSWC);
 - o Canadian experience class (CEC);
 - o federal skilled trades class (FSTC);
 - o caring for children class or caring for people with high medical needs class before June 18, 2019;
 - o Provincial Nominee Program (PNP) for applicants with no employer restrictions on nominations;
 - o Agri-Food Pilot (AFP);
 - o Quebec skilled worker class (QSWC).
4. Have completed **one** of the following APR stages depending on their class:
- i. electronic application for permanent residence (e-APR) submitted under Express Entry and have passed the section R10 completeness check (applies to FSWC, CEC, FSTC, PNP);
 - ii. APR under the QSWC and have passed the section R10 completeness test;
 - iii. receipt of a positive eligibility assessment on their non-Express Entry APR submitted by mail or online – this applies to those caring for children or those with high medical needs, AFP, and some PNP.³

Other Significant Changes

Spouses or common-law partners applying for an open spousal work permit under C41 on the basis of their spouse's bridging open work permit application must provide proof of the BOWP holder's occupation level (i.e., proof that the BOWP holder's occupation falls within a National Occupation Classification (NOC) skill type 0, A, or B). Proof of the BOWP holder's NOC can be provided via:

- a letter from the principal foreign national's current employer confirming employment, and their occupation, with a description of duties or a copy of their employment offer or contract; and
- evidence that the principal foreign national is employed in a NOC 0, A or B occupation at the time of the work permit application until a decision on the application is rendered.

Further, when applying for an open spousal work permit, there can only be one principal foreign national and the applicant must demonstrate proof of a genuine relationship. The principal foreign national is the first foreign national of the couple who obtained a study or work permit or was deemed authorized to work. The principal foreign national cannot obtain a spousal open work permit under the C41 or C42 categories based on the dependent spouse's open spousal work permit.

In addition, the principal foreign national must demonstrate proof of a genuine relationship and include evidence of the relationship, such as a marriage certificate or declaration of common-law relationship.

Finally, for the C41 category, there must be evidence of the principal foreign national's authority to work in Canada for six months after the date of the C41 work permit submission (e.g. a work permit that is valid for one than six months).

KPMG NOTE

Employers and employees who have questions about the BOWP application updates or other Canadian work, study, or visitor permits and visas are encouraged to contact their qualified immigration counsel or KPMG Law LLP for further guidance.

FOOTNOTES:

- 1 See "[Program delivery update: Bridging open work permits for certain economic class permanent residence applicants \[R205\(a\) - A75\] – International Mobility Program](#)," on the government of Canada website.
- 2 See "[Public policy, competitiveness and economy \[R205\(c\)\(ii\) – C41, C42, C43, C44, C45\] – Canadian interest – International Mobility Program](#)," on the government of Canada website.
- 3 "[Bridging open work permits for certain economic class permanent residence applicants \[R205\(a\) - A75\] – International Mobility Program](#)," on the government of Canada website.

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Contact us

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