



Immigration, Refugees and Citizenship Canada

Immigration, Réfugiés et Citoyenneté Canada

Deputy Minister

Sous-ministre

Ottawa K1A 1L1

F-1329014

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MEMORANDUM TO THE MINISTER

REVOCATION OF THE VISITOR-TO-WORKER PUBLIC POLICY

FOR APPROVAL

SUMMARY

- The purpose of this memorandum is to seek your approval to revoke the *Temporary public policy to exempt certain visitors in Canada from immigration requirements* to mitigate program integrity risks. The Department first implemented this facilitation measure to support temporary residents in Canada who could not leave the country due to COVID-19 border restrictions.
- We recommend that you revoke the visitor-to-worker public policy by checking the “I concur” box and signing this memorandum and the attached Annex at your earliest convenience. The public policy will be revoked upon your signature.

BACKGROUND:

- In response to the COVID-19 pandemic, the Department implemented several public policies to support temporary residents who were forced to remain in Canada due to travel restrictions, one of which was the *Temporary public policy to exempt certain visitors in Canada from immigration requirements* (hereafter the visitor-to-worker public policy).
- The Department first introduced the visitor-to-worker public policy in August 2020 as a temporary measure to allow visitors in Canada to apply for a work permit after entry to Canada during the COVID-19 pandemic. While the measure was set to expire in early 2023, it was renewed for a two-year period until February 2025 as the Canada Border Services Agency (CBSA) lobbied for its extension to help mitigate increasing flagpoling volumes.
- This measure enables foreign nationals to apply for a work permit from within Canada by exempting them from the requirement to apply for a work permit before entering Canada, as per the *Immigration and Refugee Protection Regulations*. The public policy also provides foreign nationals who held a work permit in the last 12 months with the ability to request interim work authorization to work legally in Canada until a decision is made on their work permit application.

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CURRENT STATUS:

- There have been indications that unscrupulous actors have used this policy to coach or mislead foreign nationals into coming to Canada as visitors with the promise of a work permit once they arrive, only to remain as visitors and work without authorization, whether knowingly or unknowingly. In such instances, foreign nationals are left in vulnerable situations where Immigration, Refugees and Citizenship Canada (IRCC) cannot inspect their employer as they are not work permit holders, there is no record of work authorization, and the foreign national may fear reprisal because their unauthorized work in Canada could lead to enforcement action, including removal. These foreign nationals are also not eligible for the Open Work Permit for Vulnerable Workers, which requires that applicants hold an employer-specific work permit.
- The Department has implemented measures to address program integrity concerns related to temporary residents, for example by re-imposing Temporary Resident Visa requirements on Mexican nationals. While this measure helped address some program integrity concerns, it is possible that other foreign nationals could be misled by unscrupulous actors.

CONSIDERATIONS:

- Revoking this public policy would have minimal impacts on foreign nationals, given relatively low uptake. Between August 2020 and June 30, 2024, 4,643 work permits were issued under these public policies, of which only 661 were issued in 2024.
- The public policy has also been specifically referenced in two separate lawsuits (*Centre des travailleurs et travailleuses immigrants*, Canadian Global Immigration), and a link has been made between the public policy and the exploitation of foreign nationals being misled into coming to Canada as visitors with the promise of a work permit once they arrive.
- Any pending applications submitted prior to the revocation date would still be able to benefit from the public policy. This could potentially deter some from working without authorization, while also enabling transitions to working in Canada.
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- However, uptake of this measure is low and its revocation is expected to have a minimal impact on port of entry flagpoling volumes. Additionally, volume reduction measures related to the Post-Graduation Work Permit (PGWP) Program, as well as the June 21, 2024

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Ministerial Instructions to specifically restrict PGWP holders from flagpoling, are anticipated to reduce flagpoling volumes.

CONSULTATIONS:

- The Department consulted CBSA and Global Affairs Canada (GAC) on revoking this public policy. CBSA was engaged at both the Deputy Minister- and Assistant Deputy Minister-levels when the Department first prepared advice on revoking this public policy earlier this year and consulted at Director General-level on this current memo. CBSA does not support rescinding this public policy. GAC was consulted at the working level and is generally supportive of revoking this public policy as a means of decreasing irregular migration movements across the US-Canada border.

RESOURCE IMPLICATIONS:

- Despite the low volumes, revoking this public policy would redirect some IRCC operational resources to other priority files, allowing officers to focus on departmental priorities. However, CBSA may experience a small increase in flagpoling clients.

LEGAL CONSIDERATION:

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COMMUNICATIONS IMPLICATIONS:

- The visitor-to-worker public policy has not typically been high-profile in traditional or social media since it was launched at the height of the pandemic. Both IRCC and CBSA have referred to this public policy favourably in proactive messaging aimed at discouraging the practice of flagpoling. However, it has been linked in several media reports of mistreatment of some foreign nationals in Quebec, including allegations that some employers pointed to this public policy to lure the foreign nationals to Canada, where they worked illegally in bad conditions.
- If the public policy is revoked, a proactive approach is recommended. A web notice should be issued to inform of this change and text related to it removed from the public website, as well as from any proactive messaging that IRCC or CBSA have used in materials aimed at deterring flagpoling.
- As the uptake of this public policy has been limited, significant public reaction is not anticipated.

Messaging will be prepared to emphasize that this was a pandemic-era policy, minimizing both the low uptake and the potential for it to be misused. This messaging will be shared with CBSA and Global Affairs Canada.

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RECOMMENDATION:

- We recommend that you revoke the visitor-to-worker public policy by checking the “I concur” box and signing this memorandum and the attached Annex at your earliest convenience. The revocation of the *Temporary Public Policy to exempt certain visitors in Canada from immigration requirements* will take effect two weeks after your signature.

NEXT STEPS:

- Should you agree with the recommended approach, the Department will finalize and publish communications and operational materials to reflect your decision.
- The Department would continue to work closely with CBSA on the revocation of this public policy and ensure alignment on next steps. The Department, in conjunction with CBSA,
- Provinces and territories would be notified of your approval through the Forum of Ministers Responsible for Immigration.

Scott Harris
Associate Deputy Minister



DM approved August 13, 2024

Dr. Harpreet S. Kochhar
Deputy Minister

I concur

I do not concur



The Hon. Marc Miller, P.C., M.P.
Minister of Immigration, Refugees and Citizenship

Annex: Revocation of the Visitor to Worker Public Policy – *for signature*

CONFIDENTIAL (UNTIL SIGNED BY THE MINISTER)

REVOCATION OF THE TEMPORARY
PUBLIC POLICY TO EXEMPT CERTAIN
VISITORS IN CANADA FROM
IMMIGRATION REQUIREMENTS

RÉVOCATION DE LA POLITIQUE
D'INTÉRÊT PUBLIC TEMPORAIRE
VISANT LA DISPENSE DE
CERTAINES EXIGENCES EN
MATIÈRE D'IMMIGRATION POUR
CERTAINS VISITEURS AU CANADA

I hereby revoke, effective 23:59:59 Eastern Standard Time (EST) 14 days after my signature, the following public policy:

The Temporary public policy to exempt certain visitors in Canada from immigration requirements signed on February 17, 2023.

Je révoque par la présente, à compter de 23:59:59 Heure normale de l'Est (HNE), 14 jours après ma signature, la politique d'intérêt public suivante :

La Politique d'intérêt public temporaire visant la dispense de certaines exigences en matière d'immigration pour certains visiteurs au Canada signée le février 17, 2023.



Marc Miller, P.C./C.P., M.P./ député
Minister of Citizenship and Immigration /
Ministre de la Citoyenneté et de l'Immigration
Dated at Ottawa, this 14 day of August 2024
Fait à Ottawa, ce 14 jour de août 2024