

# NEW DELHI – TEMPORARY FOREIGN WORKERS

## Procedures

---

### Contents

I)	General Resources .....	1
A.	Main Bookmarks .....	1
B.	Program Delivery Instructions: .....	1
C.	Worker Processing Tools.....	1
D.	SWU Instructions .....	1
II)	GCMS processing instructions .....	2
A.	Entering eligibility assessment.....	2
B.	Entering notes.....	3
C.	Accessing the LMIA details.....	3
D.	Medical examination.....	3
E.	Issuance.....	3
III)	Assessment - Reference Materials.....	5
A.	LMIA-based Temporary Foreign Workers.....	5
1.	General overview .....	5
2.	Caregivers.....	6
3.	Farm workers .....	6
4.	Truck drivers and regulated manual professions (carpenters, plumbers, electrician...) .....	7
B.	LMIA Exempt – International Mobility Program .....	7
T13 -	Federal–provincial or territorial agreements .....	7
C10 -	Significant benefit.....	8
C11 -	Entrepreneurs .....	8
C12 -	Intra-Company Transferees .....	8
C14 -	Television and Film Production Workers.....	10
C18 -	Atlantic Immigration Pilot Program .....	10
C20 –	Reciprocal employment .....	11
C41 –	Spouse of skilled workers.....	11
C42 –	Spouse of full-time students.....	14

C43 – Post Graduate Work Permit..... 16

C50 – Charitable or religious work..... 16

## I) **General Resources**

### A. **Main Bookmarks**

- [IRPA](#)
- [IRPR](#)
- [GCMS/SMGC](#)
- [IRCC Connexion](#)

### B. **Program Delivery Instructions:**

- [Temporary Resident Program](#)
- [Temporary Workers](#)
- [LMIA Exemption Code List](#)
- [Procedural Fairness](#)
- [Definition of Work](#)

Please note that the PDIs, particularly the first three links provide a wealth of information regarding assessment, requirements and processing. Please ensure to consult the PDI relevant to the type of work permit that you are processing.

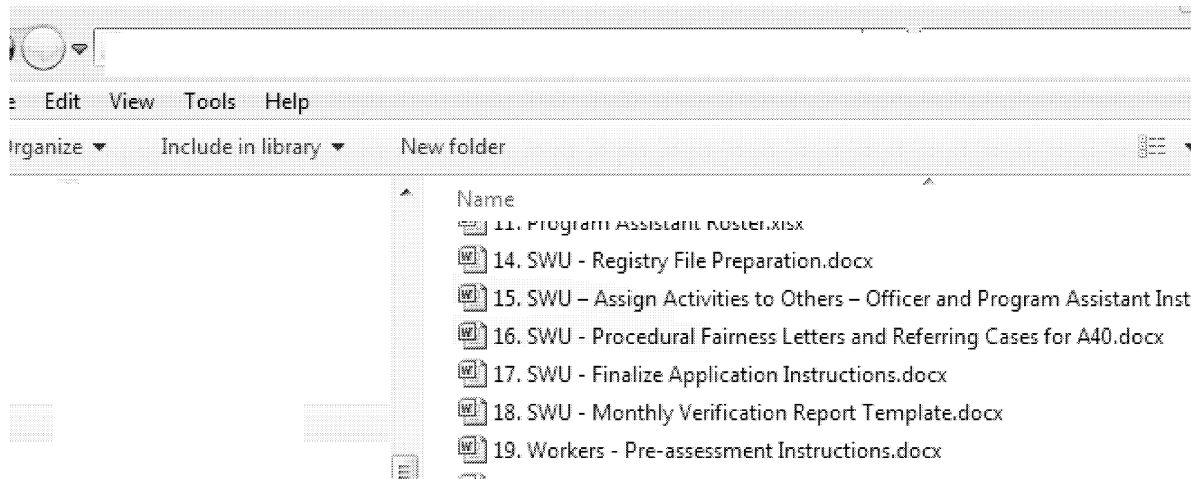
### C. **Worker Processing Tools**

- [Scanning Tool](#)
- [Low income cut-offs \(LICO\)](#)
- [Designated Learning Institutes](#) – to determine if spouse in Canada is attending a valid DLI which is PGWP-eligible.
- [NOC website](#) – enter the occupation title and it will return NOC code matches.
- [General NOC information](#) – To quickly distinguish between NOC O, A or B.
- [NOC Matrix](#) – to get an idea of the level of occupation.
- [Standard Wage rates in Canada by occupation](#) – to determine if spouse in Canada is being paid at least the minimum wage for the occupation s/he is said to be working in, which in turn would establish that they are indeed in a NOC O, A or B occupation.

### D. **SWU Instructions**

Available on the I: Drive: [I:\IM\\_Brnch\SWU - Procedures](#)

*(Ex: Request letters, medicals, verifications, scheduling interviews, procedural fairness, etc.)*



## II) GCMS processing instructions

### A. Entering eligibility assessment

Officers are responsible for entering the final decision in an application. In situations when they are not able to immediately finalize an application, for instance because a medical examination or additional documents are required, officer must change the “eligibility” value according to the following instructions:

Eligibility Assessment	Definition
Passed	Applicant meets eligibility criteria – VIT/MEDs to be issued. Applicant will be approved once/if VIT/MED are passed.
Failed	Applicant does not meet eligibility requirements; no visa/permit to be issued.
Recommend Passed	Initial assessment completed. Officer requires additional documents.
Review Required	<b><u>Should NO be used by decision makers.</u></b>
Recommend Interview	Applicant provided document in need of verification. Whilst the verification is ongoing, eligibility will remain at Recommend Interview. See Verification SOPs for next steps OR an interview is required, and the officer creates the event with status of not started. Refer to scheduling of interview SOP.

Final Assessment	Definition
Approved	Applicant meets eligibility and admissibility requirements. Visa and/or permit to be issued.
Refused	Applicant does not meet eligibility or admissibility requirements. No visa/permit to be issued
Withdrawn	Applicant requests withdrawal or officer-initiated withdrawal. File to be closed and refund may be performed.

When assessing any TR application, an officer may enter the final assessment without entering an eligibility assessment if the officer is satisfied that all eligibility and admissibility requirements are met.

## **B. Entering notes**

Notes must be entered for all work permit approvals, clearly explaining how the applicants meets the requirements of his position, particularly in the case of the International Mobility Program.

When officers are satisfied but additional elements are required, generally the medicals, they **must** ensure to indicate in their notes the duration of the work permit to be issued. For instance, for open work permits, they must indicate the duration of the spouse's work permit in Canada. This allows an officer to quickly issue the permit when both the eligibility and the medicals are "passed", instead of having to look in the application to find out about the duration.

## **C. Accessing the LMIA details**

The LMIA details are available in GCMS under: Employment Details/LMIA. Officers must then click on "Refresh" to populate the relevant fields.

Officers must pay a particular attention to:

- "Valid to": the LMIA must be or have been valid when the application was submitted;
- "Decision": It should show "Confirmed" (approved);
- "ESDC Comments": Relevant comments must be considered, including the name of the applicant in case a LMIA is issued for several persons;
- "Requirements": The applicant must meet the requirements of the LMIA.

## **D. Medical examination**

Work permit applicants will generally remain in Canada for over six months and thus require a medical examination. If the field "medical" is empty, officers must:

- Go to Admissibilities / Medical;
- Click "New" then refresh (alt+enter);
- Change the status to "Generate" then refresh;
- If an email address is on file, go to "Correspondence", and send the email by changing the status of the medical request letter from "generate" to "sent".
- If there is no email address on file, give the application to the PA in charge of sending medical request letters.

## **E. Issuance**

When approving an application, officers are required to:

- Enter the **validity date** of the Work Permit, which is generally 12 or 24 months, as per the LMIA details. In the case of open work permits (C41 and C42), the duration must be identical to that of the spouse's permit;
- Enter **remarks** if required: those will inform CBSA regarding the conditions of the permit. Officers must indicate in the remarks the maximum duration of the permit (12 or 24 months), so that the duration is adjusted accordingly by the Port of Entry;
- **Authorize** the permit;

- **Generate** the counterfoil. The counterfoil will be generated with the same validity as the permit. If the validity is not automatically generated though, this means that the passport will expire before that date. In that case, limit the validity of the counterfoil to the passport's validity minus one day.

### III) Assessment - Reference Materials

Two general categories of work permits exist:

#### 1. LMIA-based Temporary Foreign Workers Program

The employer is required to obtain a Labour Market Impact Assessment (LMIA) from Employment and Social Development Canada (ESDC). A positive LMIA shows that there is a need for a foreign worker to fill the job and that no Canadian workers are available to do the job.

#### 2. LMIA exempt International Mobility Program

This program allows employers to hire or bring in foreign workers without a LMIA, if the employment is likely to generate an economic, cultural or competitive advantage for Canada and provides reciprocal benefits enjoyed by Canadians and permanent residents. In Delhi, two of the most important categories are C41 and C42, which provides for the issuance of open work permit to eligible spouses of students or workers in Canada.

#### A. LMIA-based Temporary Foreign Workers

A large number of applicants in this category are low skill workers, such as caregivers, farm workers, truck drivers, etc. Logically, assessing those applications largely rely on the LMIA.

##### 1. General overview

Officers must ensure that a **valid LMIA is present on file**. The LMIA must have been valid **when the application was submitted** (the maximum validity date can be the lock-in date), but it is not necessary for the LMIA to still be valid when the application is reviewed by an officer.

The LMIA must indicate the name of the applicant.

While an LMIA is generally present on file, officers must verify the information present in GCMS by accessing the LMIA from the “employment” tab (see: Accessing the LMIA details at p. 3).

Officers must pay a particular attention to the ESDC comments field, which often indicates the name of the applicant, the number of positions available, and other relevant details.

Officers must consider the “requirements” field and ensure that they are met by the applicant.

A **valid offer of employment** must be provided, with wages and duties consistent with the NOC of the employment.

The applicant must demonstrate that they would be able to perform the job that they seek.

Officers must also keep in mind that all WP applications must also meet the general requirements applicable to temporary residents, namely that the officers must be satisfied that the applicant **will depart Canada** at the end of the authorized stay. While funds and income in the home country of the applicant cannot logically constitute grounds for refusal, the overall bona fide of the application and the likelihood that an applicant will comply with the terms of admission and eventually depart Canada are to be considered in the assessment.

Permits are **issued for the duration of the LMIA**, which is usually 12 or 24 months. Officers are to enter the validity date based on the date of finalization. However, considering that applicants may not immediately travel, CBSA will amend the permit in order to ensure that it is valid for the appropriate duration from the date of issuance. For this reason, officers must enter the duration of the permit in the “remarks” field, with a note such as: *“Work Permit valid for 24 months from the date of issuance”*.

**Refusal grounds** are usually based on:

- **R200(3)(a)**: You were not able to demonstrate that you will be able to adequately perform the work you seek.
- **R200(1)**: The employer has failed to provide an offer of employment to you, as required under subparagraph 200(1)(c)(ii.1) of the IRPR.
- **R200(1)(b)**: Purpose I am not satisfied that you will leave Canada at the end of your stay, as stipulated in subsection 200(1) of the IRPR, based on the purpose of your visit.
- **R200(5)/200(1)(c)(ii.i)(A)**: I am not satisfied that the offer of employment is genuine.

## 2. Caregivers

Regulation: R200

Requirements: LMIA confirmed and valid at the time of submission of the application. The requirements are indicated in the LMIA and generally include:

- A six months long nanny course;
- A year of professional experience as a caregiver

Additional requirements apply:

- Basic English proficiency (IELTS around 5).
- The employer must meet LICO for his family after deducting the salary paid to the caregiver.

## 3. Farm workers

Generally no specific requirements are present on the LMIA.

consult Kristen Atkins in case of concerns or questions.

Please



#### 4. Truck drivers and regulated manual professions (carpenters, plumbers, electrician...)

Requirements:

- Basic English proficiency (IELTS around 5)
- License required

#### **B. LMIA Exempt – International Mobility Program**

Those different exemptions are identified by a code, such as C12, C41, etc. Some of the most common exemptions are listed and explained below.

For additional information and details, please make sure to refer to [the PDIs and the exemption list](#).

#### **A75 –Start-up Business Class Work Permits**

##### PDI Instructions

Regulation: R205(a)

The processing office will confirm that:

- the work permit application is accompanied by the Letter of Support;
- a note in the Client tab in GCMS confirms that a Commitment Certificate exists ([click on the Client's UCI, then navigate to the Notes tab to see the note](#));
- 
- a police certificate was provided, if required, as per regular temporary resident processes;
- a medical examination was completed, if required, as per regular temporary resident processes;
- the applicant has completed an [IMM 5802](#) (Offer of Employment to Foreign National Exempt from a Labour Market Impact Assessment (LMIA)), has paid the employer compliance fee and included the fee receipt number in the required field in the form;
- the applicant has provide proof of funds for 52 weeks according to the LICO amount for their family.

The work permit is to be issued for the duration of the employment, up to a maximum of 12 months.

#### **T13 - Federal–provincial or territorial agreements**

##### PDI Instructions

Regulation: R204(c)

Classification: International Agreements

**What to look for:** The foreign national must have a valid nomination from a province or territory. The WP application must include:

- Offer of employment;
- Nomination letter from the province;
- Statement of compliance from the province justifying the issuance of a LMIA-exempt WP.

Officers should also verify that the PNP is still in process and has not been withdrawn.

The work permit is to be issued for the duration of the employment, up to a maximum of two years.

### C10 - Significant benefit

#### PDI Instructions

Regulation: R205(a)

Classification: Canadian interests

**What to look for:** The foreign national will usually be a distinguished scholar in their field, and an urgency to bring the person to Canada generally exists. Those are very rare cases and a significant social or cultural benefit to issuing an LMIA-exempt work permit must be demonstrated.

### C11 - Entrepreneurs

#### PDI Instructions

Regulation: R205(a)

Classification: Canadian interests

Employer name: foreign national's name or business name as per the offer of employment

Employment location: as per the IMM 5802 form and work permit application

Intended occupation: entrepreneur

LMIA-exempt (offer of employment) number: required

Employer compliance fee: required

Duration: the work permit is to be valid as per the applicant's request and officer's judgement

#### **What to look for:**

### C12 - Intra-Company Transferees

#### PDI Instructions

Regulation: R205(a)

Classification: Canadian interests

Intended Occupation: As per LMIA exempt details

Employer: As per LMIA exempt details

Employment Location: As per LMIA exempt details

Remarks: “Intra-Company Transferee: Specialized Knowledge” or “Intra-Company Transferee: Executives and Senior Managers”

Issue: as per LMIA exemption details

If the client was previously in Canada in this capacity, ensure they have not met the maximum work permit duration and that they have had 1 year full time employment outside of Canada prior to coming back.

**What to look for:** Applicants are eligible under this exemption if they:

- are currently employed by a multi-national company and seeking entry to work in a **parent**, a **subsidiary**, a **branch**, or an **affiliate** of that enterprise in Canada;
- are transferring to an enterprise that has a qualifying relationship with the enterprise in which they are currently employed, and will be undertaking employment at a **legitimate and continuing** establishment of that company;
- are being transferred to a position in an **executive, senior managerial, or specialized knowledge** capacity;
- Have been employed continuously (via payroll or by contract directly with the company), by the company that plans to transfer them outside Canada in a **similar full-time position** (not accumulated part-time) for **at least one year in the three-year period** immediately preceding the date of initial application.

**Documents required:**

- Confirmation of employment and of transfer;
- Confirmation of the relationship between the foreign company and the Canadian branch;
- Confirmation that the applicant has been employed at the company in a similar full-time position for at least one year in the previous three years;
- Proof that the position is at an executive or managerial level or that the applicant has specialized proprietary knowledge which is required for the position;
- Description of the position in Canada;
- Duration of the planned employment in Canada;

## C14 - Television and Film Production Workers

### PDI Instructions

Regulation: R205(a)

Classification: Canadian interests

Intended Occupation: As per nomination letter of LMIA exempt details

Employer: As per nomination letter of LMIA exempt details

Employment Location: As per nomination letter of LMIA exempt details

Issue: to duration of the offer of employment to a maximum of two years

Remarks: none required

**What to look for:** This exemption applies to foreign nationals in the TV and film industry whose position is essential to a TV or film production that would create and maintain significant economic benefits and opportunities for Canadians and permanent residents.

This applies to high skill NOC, such as producers or lighting technicians.

### **Documents required:**

- Proof of professional experience;
- Offer of employment;
- Letter of support from the production, highlighting the work and the details of the significant economic benefit to Canada (see PDI for specific details);
- Letter from the union or guild indicating that it has no objection to the foreign national working in the specific position in Canada.

## C18 - Atlantic Immigration Pilot Program

### PDI Instructions

Regulation: R204(c)

Classification: International Agreements

Intended Occupation: As per nomination letter of LMIA exempt details

Employer: As per nomination letter of LMIA exempt details

Employment Location: As per nomination letter of LMIA exempt details

**What to look for:** Applicants who have received a job offer from an employer **and** a referral letter by one of the Atlantic Provinces may be eligible for a 1 year C18.

**Documents required:**

- Letter of nomination from the Atlantic province;
- An offer of employment for a position matching the experience of the applicant in India;
- Proof of professional experience, and
- Signed commitment form indicating that the applicant will apply for PR within 90 days.

## C20 – Reciprocal employment

### PDI Instructions

Regulation: R205(b)

Classification: Canadian interests

Intended Occupation: As per nomination letter of LMIA exempt details

Employer: As per nomination letter of LMIA exempt details

Employment Location: As per nomination letter of LMIA exempt details

Remarks: “Reciprocal agreement for XX months”

**What to look for:** The Canadian company and the Indian company have a reciprocal agreement that allows their employees to be mobile and work in other places; employees from both companies can travel and work in the other. Note that the exchange must be between the two companies but can be demonstrated on a global level, and not necessarily between the companies’ branches in Canada and India only. A key element is the existence of **reciprocity** between institutions. Officers should look for a letter from the Canadian institution, evidence of the existence of an exchange program and of its reciprocity.

## C41 – Spouse of skilled workers

### PDI Instructions

Regulation: R205(c)(ii)

Classification: Public policy, competitiveness and economy

Intended Occupation: Open

Employer: Open

Employment Location: Open

Remarks: none required

Issue: to the expiry of spouse’s work permit (please ensure to indicate it in the notes)

**What to look for:** Spouses or common-law partners of skilled people coming to Canada as foreign workers may themselves be authorized to work without first having an offer of employment.

A spouse is eligible to apply for an open work permit if the foreign worker:

- Is working in a **NOC 0, A or B** position unless they are a provincial nominee;
- Holds a work permit valid for at least **six months**, assessed at the time of the submission of the application;
- Physically resides or plans to **physically reside in Canada** while working.

If the foreign worker holds an **open work permit**, the spousal applicant should submit:

- A letter from the worker's employer confirming employment in a NOC 0, A or B position;
- A copy of the foreign worker's last three pay slips.

Alternatively, the spouse in Canada **may have been nominated by a province for PR**. In such cases, please verify the type of work permit held by the spouse in Canada. To do this, check their WP document provided with the application. Additionally, go into the spouse's most recently approved WP file in GCMS and check the WP column. If the WP document says "Provincial Nominee" and if the Exemption Code in the WP column is T13, then their occupation level in Canada **does not matter** for the spouse in India to be eligible. For these cases, going forward, please also amend the Exemption code from C41 to T13 for the spouse in India.

For **all other types of work** permit held by the spouse in Canada (PGWP, LMIA, Exemptions other than T13), they must be in a NOC 0, A or B occupation.

Officers should review the letter of employment of the worker to confirm that the duties highlighted are in line with those usually performed by workers with similar NOC.

Officers should also conduct an integrated search on the spouse to ensure that there is no adverse information on file.

Besides misrepresentation of the relationship, **common refusal grounds** for failing to meet the basic criteria are usually based on the following grounds:

- **R205(a) or R205(c)(ii) NOC:** Eligibility for a work permit in this category only applies to the spouse or common-law partner of a work permit holder who is doing work that is at a level that falls within National Occupational Classification (NOC) skill levels O, A or B.
- **R1(1) (Marital status):** You have not established that you are the spouse or that you meet the definition of common-law partner, as defined in the IRPR.

### **GCMS steps**

*Recommending Interview:* Enter notes in file regarding why interview is recommended. Change Eligibility to “Recommend Interview” Assign the file to RC-6029.

*Sending meds:* Change Eligibility to “Passed” and assign the file to RC-6029. Before sending meds, please check that medical result is not already present. If not, “Send” the meds. Do not send the passport request until after meds have been received passed.

If you are unsure about checking med results or sending meds, please consult with Shelley or with one of the TRU core officers.

*Approving:* authorize the WP to the date of spouse’s WP validity or to passport validity, whichever is earlier. Leave the counterfoil at “Generate”. “Generate” and “Send” the passport request letter. Assign to RC-6029.

*Refusing:* Select “Other” refusal ground and enter the comment “You have been unable to adequately demonstrate that you meet the requirements of a spousal open work permit under section 205(c)(ii) of the Regulations.”

Additionally, select R205 from the Refusal Grounds when spouse in Canada is not employed in NOC O, A or B or if there is no evidence of employment.

Use the New refusal grounds and not Legacy. Pick the refusal intro that states “...International Mobility...” “Send” the refusal letter to close the file.

## C42 – Spouse of full-time students

### PDI Instructions

Regulation: R205(c)(ii)

Classification: competitiveness and public policy

Intended Occupation: Open

Employer: Open

Employment Location: Open

Remarks: none required

Issue: to expiry of spouse's study permit (please ensure to indicate it in the notes)

**What to look for:** Spouses or common-law partners of full-time students may be authorized to work without first having an offer of employment. The **relationship must be genuine** and a marriage certificate (or a proof of common-law, although this is extremely uncommon in India) is required.

The spouse or common-law partner is eligible to apply for an open work permit if the study permit holder is:

- a **full-time student**;
- **actively pursuing studies** and in good standing
- enrolled in a **Designated Learning Institution**;
- which is eligible to issue **Post-Graduate Work Permit (PGWP)**.

Please refer to the list of DLIs to verify if the institution issues PGWP. To note: in certain situations, the column “Offers PGWP-eligible programs” will read “Yes (details)”. Officers must click on “details” to ensure that the specific program in which the student is enrolled is eligible.

Officers should also conduct an integrated search on the spouse to ensure that there is no adverse information on file.



**Common refusal grounds for not meeting basic criteria:**

- No evidence of spouse's ongoing enrolment at a post-secondary institution in Canada.
- Spouse in Canada enrolled in a program not eligible for a PGWP.

**GCMS steps**

*Recommending Interview:* Enter notes in file regarding why interview is recommended. Change Eligibility to "Recommend Interview" Assign the file to RC-6029.

*Sending meds:* Change Eligibility to "Passed" and assign the file to RC-6029. Before sending meds, please check that medical result is not already present. If not, "Send" the meds. Do not send the passport request until after meds have been received passed.

If you are unsure about checking med results or sending meds, please consult with Shelley or with one of the TRU core officers.

*Approving:* authorize the WP to the date of spouse's SP validity or to passport validity, whichever is earlier. Leave the counterfoil at "Generate". "Generate" and "Send" the passport request letter. Assign to RC-6029.

*Refusing:* Select "Other" refusal ground and enter the comment "You have been unable to adequately demonstrate that you meet the requirements of a spousal open work permit under section 205(c)(ii) of the Regulations."

Use the New refusal grounds and not Legacy. Pick the refusal intro that states "...International Mobility..." "Send" the refusal letter to close the file.

## C43 – Post Graduate Work Permit

### PDI Instructions

Regulation: R205(c)(ii)

Classification: competitiveness and public policy

Intended Occupation: Open

Employer: Open

Employment Location: Open

Remarks: Post Graduate Work Permit

Notes: Enter name of institution and the name and duration of the program completed

**What to look for:** Ensure the client has provided a completion of studies letter, transcript and/or copy of the diploma;

- Ensure the client studied full-time at a designated learning institution and in certain circumstance ensure the program of study was eligible for a post graduate work permit – clients are allowed to be enrolled part-time during the last semester of their studies
- Client must apply within 90 days of completing their program of study
- The study permit must still be valid at the time they submit their work permit application
- If the client was continuous enrolled in a one year program – issue to 1 year (\*\*Unless the client completed a fast track master's program within one year)
- If the client was enrolled in a 2 year or greater program of study issue to 3 years

## C50 – Charitable or religious work

### PDI Instructions

Regulation: R205(b)

Classification: Canadian interests

Regulation: R205(d)

Employer: As per the letter of LMIA exemption

**What to look for:** This category applies to religious workers or volunteers going to work for a registered charity. While religious workers will generally apply for a WX-1 visa under R186(I), they may also apply for an LMIA-exempt WP, particularly if the employment is longer than six months.

Applicants must demonstrate that they will perform work required by the religious organization to which they will be attached, for instance the Gurdwara and work for a stipend below minimum wage.

## Brief details on WP caseload from Bangalore

---

Bangalore is the capital city of Karnataka province and is one of major software hubs of India with virtually all major players having a strong presence in and adjoining area, and hence Software/ BPO/ KPO/ Service industry occupations are predominant in the WP case load.

Bangalore receives WP application from entire Southern India provinces but most applications would be from province of Karnataka, Andhra Pradesh, Telangana and Kerala. Also the application from Western provinces of Maharashtra (primarily from capital city of Mumbai) and Gujarat (spread out more evenly) are also seen in the workload.

**Pages 33 to / à 34  
are withheld pursuant to sections  
sont retenues en vertu des articles**

**16(1)(c), 16(1)(b)**

**of the Access to Information Act  
de la Loi sur l'accès à l'information**

**Pages 34 to / à 43  
are withheld pursuant to sections  
sont retenues en vertu des articles**

**16(1)(c), 19(1)**

**of the Access to Information Act  
de la Loi sur l'accès à l'information**

**Page 35**

**is withheld pursuant to section  
est retenue en vertu de l'article**

**16(1)(b)**

**of the Access to Information Act  
de la Loi sur l'accès à l'information**