

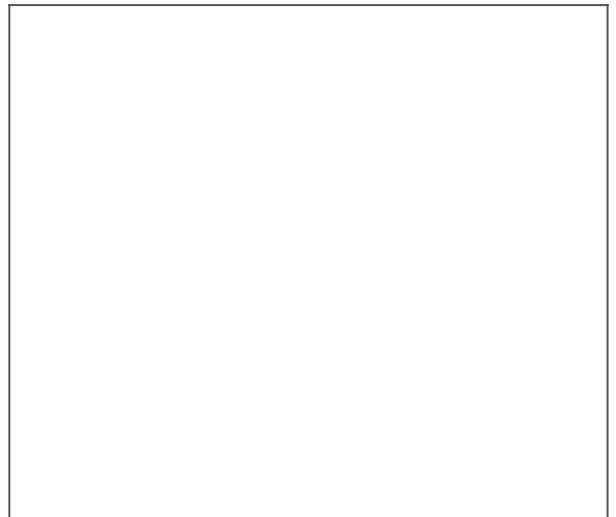
Covid-19 Immigration Information Bulletin (Update: April 9)

Authors: Jennifer McRae

published 04/09/2020

Last updated: April 9, 2020. All information is subject to change as the Government of Canada continues to make new and further announcements.

Given the urgency to take action to protect Canadians and those in Canada from contracting COVID-19, the Government has been releasing new directives daily including information on travel restrictions to Canada and immigration processes and procedures. As a result of the urgent nature within which the directives are being circulated, some of the directives lack clear and concise information resulting in confusion and personal interpretation as to how the directives apply.



This Information Bulletin outlines some of the key changes to immigration resulting from the COVID-19 pandemic.

Travel Restrictions

In order to minimize the risk of exposure to COVID-19, Canada is implementing restrictions on the entry of persons into Canada. These restrictions primarily relate to non-commercial travel, whether by air travel or land border crossings.

The Government has issued the following three Orders in Council that deal with travel to Canada:

1. Prohibition of Entry into Canada from any Country other than the U.S.;
2. Prohibition of Entry into Canada from the United States; and
3. Mandatory Isolation.

1. Prohibition of Entry into Canada from any Country

other than the United States than the U.S.

Pursuant to an Order in Council under the *Quarantine Act* titled *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any Country other than the United States)*, dated March 26, 2020, Canada has implemented measures to prohibit all foreign nationals (persons who are neither a Canadian citizen nor have permanent resident status in Canada) from entering Canada by means of an aircraft from a foreign country other than the United States.

There are a number of exceptions to this restriction, some of which include:

- an “immediate family member” of a Canadian citizen or Permanent Resident. The definition of “immediate family member” includes a spouse, common-law partner, dependent child, dependent child of a dependent child, parent or step-parent, or guardian or tutor of a Canadian citizen or Permanent Resident;
- a person who is authorized, in writing, by a consular officer of the Government of Canada to enter Canada for the purpose of reuniting immediate family members. In order to obtain this authorization email COVID-TravelExemptions-Exemptionsdevoyage-COVID.IRCC@cic.gc.ca or contact the nearest Government of Canada office abroad;
- a person or any person in a class of persons who, in the opinion of the Chief Public Health Officer:
 - does not pose a risk of significant harm to public health, or
 - will provide an essential service while in Canada;
- the holder of a valid Canadian work permit or study permit;
- a person whose application for a work permit was approved and who has received written notice of the approval, but who has not yet been issued the work permit;
- a person whose application for a study permit was approved, and who received written notice of the approval before noon, Eastern Daylight Time on March 18, 2020, but who has not yet been issued the permit
- a person who is exempt from the requirement to obtain a temporary resident visa, and the immediate family members of that person;
- a person permitted to work in Canada as a provider of emergency services;
- a licensed health care professional with proof of employment in Canada;
- a person whose application for permanent residence was approved, and who received written notice of the approval before noon, Eastern Daylight Time on March 18, 2020, but who has not yet become a permanent resident.

For a full list of the exceptions to the travel ban, please visit this Government of Canada [webpage](#).

Note that a person who is Temporary Resident Visa (TRV) exempt will need to apply in advance of travel through a Visa Office to obtain an approval letter for a work permit in order to travel to Canada. Generally, a TRV exempt person can apply for a work permit at a port of entry.

It is important to note, however, that regardless of the above-noted exceptions, a foreign

national travelling from outside the United States will not be permitted entry into Canada under any circumstances if:

- they are exhibiting signs or symptoms of a fever and cough/breathing difficulties; or
- they are travelling for an optional or discretionary purpose, such as tourism, recreation or entertainment.

This Order in Council came into force on Thursday, March 26, 2020 and is set to be in place until June 30, 2020.

2. Prohibition of Entry into Canada from the United States

Pursuant to an Order in Council under the *Quarantine Act* titled Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States), dated March 26, 2020, Canada has implemented measures to prohibit foreign nationals from entering Canada from the United States, whether by air travel or land border crossings.

Foreign nationals are prohibited from entering Canada from the United States if:

- they are exhibiting signs or symptoms of a fever and cough/breathing difficulties;
- they are travelling for an optional or discretionary purpose, such as tourism, recreation or entertainment; or
- they have been in any country other than Canada or the United States within 14 days of seeking entry into Canada.

According to this Order in Council, only foreign nationals who (1) show no signs of illness, (2) have not travelled internationally in the prior two weeks and (3) who are travelling for a “non-optional” purposes will be permitted entry into Canada from the United States.

Immigration, Refugees and Citizenship Canada has confirmed that family reunification is considered travel for non-optional or discretionary purposes. Note that foreign nationals travelling to Canada from the U.S. may apply for a work permit at a port of entry whereas foreign nationals flying from any other country may not even if they are TRV exempt.

This Order in Council came into force on Thursday, March 26, 2020 and is set to be in place until April 21, 2020.

3. Mandatory Isolation

Pursuant to an Order in Council under the *Quarantine Act* titled *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Mandatory Isolation)*, dated March 24, 2020, Canada

has implemented requirements upon any person, including Canadian citizens, Permanent Residents and foreign nationals, entering Canada to self-isolate for a 14 day period commencing on the day the person enters Canada and monitor for signs and symptoms of COVID-19. If any signs or symptoms are developed then they must comply with instructions provided by the public health authority. Note that there are some exemptions from the requirement to self-isolate, some of which include:

- crew members or members of a crew;
- person who enters Canada at the invitation of the Minister of Health for the purpose of assisting in the COVID-19 response;
- any person who in the opinion of the Chief Public Health Officer will provide an essential service in Canada;
- any person who enters Canada for the purpose of providing emergency services or medical care or transporting essential medical equipment, supplies or means of treatment or truck drivers who regularly cross the border to maintain the flow of goods

Note that individuals working in services labelled by a province as “essential” are not exempt from mandatory self-isolation unless they fall within one of the exemptions listed above.

If a person is unable to self-isolate then they must be transported by the Government to a quarantine facility for purposes of self-isolation.

Note that a temporary foreign worker can be subject to penalties of up to \$750,000 if found non-compliant with the mandatory self-isolation Order in Council. Further, any person who causes a risk of imminent death or serious bodily harm to another person while willfully or recklessly contravening the *Quarantine Act* or regulations could be liable for a fine of up to \$1,000,000 or imprisonment of up to 3 years, or both.

This Order in Council came into force on Wednesday, March 25, 2020 and is set to be in place until June 30, 2020.

Employers of temporary foreign workers who are subject to mandatory self-isolation must pay the temporary foreign workers during any mandatory self-isolation period. Note that temporary foreign workers who are hired under the Temporary Foreign Worker Program are unable to work while in self-isolation unless they fall under one of the exemptions. This restriction appears to include work from home while in self-isolation.

Furthermore, employers of temporary foreign workers are responsible for facilitating the foreign workers’ self-isolation, and those employers required to provide housing to temporary foreign workers must ensure that the housing meets the following minimum standards:

- space to allow for social distancing (remaining 2 meters apart);
- space that can separate those who are in self-isolation from those who are not;
- ensuring that self-isolated workers are separated from older adults and those with medical conditions who are at risk of developing serious illness;

- contains materials (such as soap) to all for adequate sanitation;
- surfaces should be cleaned and disinfected regularly

Boarding Flights to Canada

Pursuant to an Interim Order under the *Aeronautics Act* titled Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 3, dated March 24, 2020, Canada has implemented measures to prohibit commercial air carriers from permitting foreign nationals from boarding flights to Canada.

Air carriers are prohibited from permitting a foreign national to board an aircraft for a flight to Canada departing from any country other than the United States, with the exception of foreign nationals who are in transit through Canada to another country or who are permitted to enter Canada under an Order in Council.

With respect to flights from the United States, air carriers must notify every foreign national passenger that they may be prohibited from entering Canada pursuant to the Order in Council titled Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States) (as referenced above and found [here](#)). All foreign national passengers must confirm that they have read the emergency order and that, to the best of their knowledge, they are not prohibited from entering Canada under the order.

Moreover, air carriers must conduct, at the boarding gate, a health check of every person prior to their boarding an aircraft for a flight to Canada. An air carrier conducting the health check must ask questions of every person to verify if they exhibit the following symptoms:

- a fever;
- a cough; and
- breathing difficulties.

The air carrier is prohibited from allowing a person to board an aircraft if:

- the person's answers to the health check indicate that they exhibit a fever and a cough/breathing difficulties;
- the air carrier observes, during the health check, that the person is exhibiting a fever and a cough/breathing difficulties; or
- the person is a competent adult and refuses to answer questions authorized pursuant to the Interim Order.

A person who is prohibited from boarding for any of these reasons, is not permitted to board an aircraft for the purpose of being transported to Canada for a period of 14 days after the refusal, unless they have a medical certificate certifying that any symptoms that the person is exhibiting are not related to COVID-19.

This Interim Order came has been fully in force since March 27, 2020 and will remain in effect indefinitely.

For a summary of all travel restriction measures that Canada has implemented, please visit this Government of Canada [webpage](#).

Immigration Program Updates

The Government of Canada has also put in place special measures to account for disruptions in processing new and pending immigration applications.

According to these measures, no application in progress will be closed or refused due to a lack of documentation or non-compliance. Applications are continuing to be processed, but delays are to be expected. All applicants are encouraged to submit all required documentation as soon as possible to avoid further delays.

Until further notice, Immigration, Refugees and Citizenship Canada (IRCC) offices may continue to request any additional documents necessary for processing to continue in relation to all citizenship and immigration applications, including requests for police certificates, biometrics, passports, and medical examinations. The following guidelines have been implemented with respect to a request for additional documentation:

- when additional documentation is required to make a decision on an application, processing officers should send a request letter and allow ninety (90) days for the applicant to respond;
- if a request for additional documentation was previously sent but the applicant was unable to comply within the deadline, processing officers will allow an additional ninety (90) days for the applicant to respond; and
- the biometric instruction letter (BIL) cannot be amended and will continue to advise applicants that they have 30 days from the date of the letter to give their biometrics. IRCC officers are to allow ninety (90) days for the applicant to provide their biometrics, despite the 30-day timeline identified in the BIL.

IRCC has continued with Express Entry draws. The March 18, 2020 Express Entry draw results were posted on IRCC's website on March 20, 2020.

For additional information, please contact **Jennifer McRae** via email at jem@tdslaw.com or call him at (204) 935-2374.

DISCLAIMER: *This article is presented for informational purposes only. The content does not constitute legal advice or solicitation and does not create a solicitor client relationship. The views expressed are solely the authors' and should not be attributed to any other party, including Thompson Dorfman Sweatman LLP (TDS), its affiliate companies or its clients. The authors make no guarantees regarding the accuracy or adequacy of the information contained herein or linked to via this article. The authors are not able to provide free legal advice. If you are seeking advice on specific matters, please contact Keith LaBossiere, CEO & Managing Partner at kdl@tdslaw.com, or 204.934.2587. Please be aware that any unsolicited information sent to the author(s) cannot be considered to be solicitor-client privileged.*

While care is taken to ensure the accuracy for the purposes stated, before relying upon these articles, you should seek and be guided by legal advice based on your specific circumstances. We would be pleased to provide you with our assistance on any of the issues raised in these articles.