

## **Loss of Status and Options for Renewing or Restoring Your Status**

*This fact sheet explains the law in general. It is not intended as legal advice for your particular problem. Because each person's situation is different, you may need to seek legal advice. The information in this fact sheet was reviewed by a lawyer, and was last updated on 1 December 2020.*

As a migrant worker in Canada, you need a valid work permit to maintain your legal status to remain in Canada. It is possible to lose your status while you are still in Canada. This fact sheet explains what loss of status means and options for migrant workers in Canada to renew or restore their status.

### **What does “loss of status” mean?**

As a migrant worker, your work permit allows you to enter Canada and work in the country. Depending on the type of work permit that you hold, you may work for any employer in Canada, or you may only work for one particular employer. Your work permit has an expiration date and may have additional requirements that you need to comply with. With a valid work permit, you have temporary resident status in Canada. If your work permit is no longer valid, you lose your temporary resident status in Canada.

### **Do I lose my status when my job is terminated?**

No. You hold temporary resident status if your work permit is still valid, even if your job is terminated. You may remain in Canada until the expiration date of the work permit. However, if your work permit is “closed,” meaning that it only allows you to work for a particular employer, you wouldn't be able to work for a new employer under the old work permit. You will need to apply for a new work permit in order to work for a new employer.

### **I will be applying for a new work permit with a new employer. Is there anything that I should know?**

The good news is that application for a new work permit with a new employer is made easier under a new public policy released on 24 August 2020. With your new job offer, if you have valid **visitor** status in Canada on the day that you apply for a new employer-specific work permit, once your application is approved, you will receive the new work permit without having to leave the country. It is important to note that to be eligible for this new policy, you must have been in Canada on 24 August 2020 and remained in Canada, and your application should be submitted no later than 31 March 2021. The full text of this new public policy can be found at:

<https://www.canada.ca/en/immigration-refugees-citizenship/news/2020/08/new-temporary-public-policy-will-allow-visitors-to-apply-for-a-work-permit-without-having-to-leave-canada.html>

### **How would I know if my work permit is still valid?**

As a common example, a work permit is no longer valid when it expires, although this is not the only way that a work permit becomes invalid. The best time to take actions to renew your status is always before your work permit expires. Please also note that immigration officers cannot grant a work permit extension beyond the expiration date of your passport.

### **What can I do if I lost my status but I'm still in Canada?**

The law requires that anyone without legal status in Canada leave the country. However, it is possible to restore your status after your work permit has expired, so that you can remain in Canada legally.

Normally, work permit holders need to apply for restoration of status within 90 consecutive days after their status has expired. In response to the COVID-19 pandemic, however, Immigration, Refugees and Citizenship Canada (IRCC) has adopted a new public policy that allows people to apply for restoration of status after the 90-day period has passed.

Under the current policy, work permit holders now have until December 31, 2020 to restore their status if:

- their status expired after January 30, 2020; **and**
- they remained in Canada.

### **Flagpoling is prohibited in applying for restoration of status**

Flagpoling is a term used to mean going to a port of entry at the Canadian border in order to apply for a new work permit. You should not flagpole to restore your status. IRCC is clear that restoration of status cannot be granted at the port of entry.

In practice, when a person flagpoles, even without entering the US, they have left Canada. Once an out-of-status temporary resident leaves Canada, they can no longer apply for restoration of status, because restoration of status is only available to temporary residents whose status has expired while they are still in Canada. The officers at the port of entry can deem your flagpoling as seeking new entry. In that case, letting your previous status elapse could be held as a factor against granting new entry to you.

Due to travel restrictions in response to COVID-19, all non-essential travel at the Canadian-U.S. border is prohibited. Traveling for immigration purposes is **not** listed as a type of essential travel. As a result, flagpoling is no longer an option for most people to get a new work permit, even if they still have legal status in Canada.