

Vulnerable Worker Open Work Permit (VWOWP)

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 are protected from being abused at work. For those whose work permits only allow them to work for a specific employer in Canada, the vulnerable worker open work permit (VWOWP) would allow them to leave an abusive employer and look for a new job in Canada. This fact sheet explains what VWOWP is, its eligibility requirements, and other general questions related to VWOWP applications.

What is the vulnerable worker open work permit (VWOWP)?

If you are experiencing abuse at work or are at risk of abuse, and your current work permit only allows you to work for one specific employer, you may apply for an open work permit as a vulnerable worker. This open work permit would allow you to leave your current abusive employer and look for a new job with a new employer in Canada.

What is abuse?

Abuse may be physical, psychological, sexual or financial. Immigration, Refugees and Citizenship Canada (IRCC) lists examples of abuse to include the following:

- physical harm
- forcing you to work in a way that's unsafe or puts your health at risk
- unsafe or unsanitary living conditions in employer-provided housing
- sexual touching that you did not agree to
- making unwanted sexual comments to you
- controlling where you can go
- stealing from you
- stopping you from seeing friends or co-workers
- taking some or all of the money you are paid
- threats, insults and intimidation
- forcing you to commit fraud

Please note that behaviours that are not listed in the above example list may be abuse. IRCC identifies “any behaviour that scares, controls or isolates you” as possible abuse. So, for example, if your employer is not paying you wages, it could be a form of financial abuse.

What is abuse in the context of COVID-19?

If your employer's behaviour puts your health or public health at risk in the context of COVID-19, they may be engaging in abusive behaviour. Some examples include forcing or pressuring you to work when you show COVID-19 symptoms, preventing you from seeking medical assistance, or refusing to pay you during the mandatory quarantine or isolation period when you entered Canada.

Other examples of abuse in the context of COVID-19 can be found on the IRCC website at: https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/vulnerable-workers.html#examples_of_abuse_risk.

For more information on your rights at work during COVID-19, please check out our fact sheet on *Your Right to Refuse Unsafe Work*.

Am I eligible to apply for VWOWP?

If you believe you are experiencing abuse or are at risk of abuse at work, you can apply for a VWOWP if you meet **both** of the following requirements listed by IRCC:

- You are inside Canada
 - However, you cannot make an application at a port of entry (this means no flagpoling), and
- You have a valid employer-specific work permit
 - This is a work permit that has your employer's name on it and hasn't expired
 - Workers in the Seasonal Agricultural Worker Program (SAWP) with a valid work permit are also eligible
 - If your employer-specific or SAWP work permit has already expired, you are eligible to apply for VWOWP if you applied to renew your work permit before it expired

Can I still apply for a VWOWP if my employment is already terminated?

Yes. If the officer who reviews your application determines, for example, that the employer terminated your employment because you complained or reported mistreatment, the officer may find this to be abuse on the basis that the termination is an act of retribution. Moreover, if you have experienced abuse at a job and have left the job, an officer could determine that you are at risk of abuse if you returned to that job.

Can I still apply if I have previously done unauthorized work or failed to comply with a condition on my work permit?

You are still eligible to receive a VWOWP even if you have previously engaged in unauthorized work or failed to comply with a condition on your work permit (such as working for a different employer, or in a different location, or in a different type of work). If you have engaged in unauthorized work or failed to comply with a condition on your work permit, we strongly recommend that you obtain legal advice before submitting your application for a VWOWP.

How can I apply for VWOWP?

To apply, you must do **both** of the following:

- Fill out an application online; and
- Support your application with evidence of the abuse.

What type of evidence should I include in my application?

IRCC has provided the following guidance on the type of evidence to support your application.

- You must include a letter to describe your situation and the abuse you're facing or are at risk of facing.
- You **may** also include other types of evidence, for example:
 - a letter, statement or report from a support organization, medical doctor, healthcare professional, etc.
 - a sworn statement, also known as an affidavit
 - a copy of an official report you submitted to an enforcement agency, such as a police report
 - a copy of an official complaint submitted to a provincial enforcement agency, such as the Employment Standards Branch, Human Rights Tribunal or WorkSafeBC
 - photos showing injuries or working conditions

Please note that the above list is meant to give examples. You may include other types of evidence not listed here. For more information, visit: <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/permit/temporary/vulnerable-workers.html>

IMPORTANT: We recommend that you obtain legal advice prior to submitting your application for a VWOWP.

Is there an application fee to apply for VWOWP?

No. There is no cost to apply.

Will my employer be contacted if I apply for VWOWP?

Your employer will NOT be contacted during your application process. If your application is approved, your former employer will be investigated. If your application is unsuccessful, your employer will NOT be informed that you have applied for a VWOWP.

Will I be contacted if I apply for VWOWP?

After IRCC receives your application, an officer may contact you for an interview.

Where can I find more information about VWOWP?

Visit canada.ca/vulnerable-foreign-workers. Once you click on the link and get to the webpage, there is a button on top of the webpage that allows you to quickly exit the page while browsing. You may also choose to delete your browsing history if your employer monitors your computer.