migrant workers centre

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Unauthorized Work & Immigration Consequences

There are two key pieces of legislation referenced in this document: the *Immigration and Refugee Protection Act* ("*IRPA*" or the "*Act*") and the *Immigration and Refugee Protection Regulations* ("*IRPR*" or the "*Regulations*"). Please note that the information contained in this document is only legal information and not legal advice. For legal advice, please book an appointment with a lawyer.

"**Unauthorized work**" includes working without a valid permit (such as while on a visitor record) or violating the conditions of a permit, such as working for an unauthorized employer, outside the permitted location, or in a different role than what is listed on the permit. Study permits often have caps on how many hours can be worked, for example, and working more than those hours is unauthorized. These caps may not be clearly marked on the permit itself and are subject to change.

The *Regulations* define **work** as "an activity for which wages are paid or commission is earned, or that is in direct competition with the activities of Canadian citizens or permanent residents in the Canadian labour market." The IRCC Guidelines state that for "unpaid work" officers must consider whether there is entry into the labour market. For example, volunteer and charity work are often not seen as entering the labour market and therefore not work, but this involves a case-by-case evaluation, and if you are not sure please speak to a lawyer.

Having engaged in unauthorized work may negatively affect one's ability to be issued a Work Permit, depending on the specifics of each situation.

According to *IRPR* Section 200(3)(e):

> **(3) An officer shall not issue a work permit to a foreign national if**
>
> > **(e)** the foreign national has engaged in unauthorized study or work in Canada or has failed to comply with a condition of a previous permit or authorization unless:
> >
> > > **(i)** a period of six months has elapsed since the cessation of the unauthorized work or study or failure to comply with a condition,
> > >
> > > **(ii)** the study or work was unauthorized by reason only that the foreign national did not comply with conditions imposed under paragraph 185(a), any of subparagraphs 185(b)(i) to (iii) or paragraph 185(c);

IRPR 200(3)(e)(ii) refers to the conditions on a permit, which are listed in *IRPR Section 185*, and are the type of work, the employer, the duration of the work for any one employer, and the location of the work. This section means that officers **may** grant a Work Permit if the unauthorized work was while the individual held a valid Work Permit but worked in a different location than stated on the permit, for example.

IRPR 200(3)(e)(i) requires individuals to wait a period of at least six months after ceasing unauthorized work before they can be issued a new work permit. Officers have **discretion** to grant a permit after this period based on the circumstances. This only means that they are able to issue a permit, but it is not a guarantee that they will.

Vulnerable Worker Open Work Permits: IRPR 207.1

The most helpful information about these permits can be found here. As stated in these Guidelines,

> "In addition, per subsection R200(3.1), paragraph R200(3)(e) **does not** apply to migrant workers referred to in subsection R207.1(1), who have engaged in unauthorized work or failed to comply with a condition. Migrant workers are required to meet all other requirements of the *IRPA* and *IRPR*, including valid temporary resident status."

This means the six-month restriction does not affect eligibility for this permit. It is often beneficial to clearly disclose any unauthorized work in your application, particularly when workers have taken on unauthorized work in order to reduce dependency on abusive employment, or after leaving an abusive situation. IRCC will then have this information upfront, and there is no need to fear disclosing what was already explained again in the future.

However, as demonstrated above, unauthorized work while on a Work Permit can be seen as less serious that unauthorized work while on visitor status. When disclosing unauthorized work performed while here as a visitor, please be mindful of the timing and the possibility of misrepresentation in a subsequent application for a Work Permit. If there are any doubts, please book an appointment with a lawyer to discuss the specifics of your situation.

Misrepresentation – Serious Consequences

A finding of **misrepresentation** can lead to a five-year ban on immigration applications and possible removal from Canada. It is taken very seriously.

Unauthorized work on its own is a violation of immigration laws, but it does not automatically lead to a misrepresentation finding. However, if someone has applied for a permit or extension and omitted or misrepresented their unauthorized work, this could escalate the situation and carry severe consequences.

Misrepresentation includes not only false statements or omissions in your application, but also the submission of false or fabricated documents — such as employment reference letters, paystubs, bank statements, etc. This can also include falsely claiming work experience that you do not actually have.

Under *IRPA* 40(1)(a):

> "A permanent resident or a foreign national is inadmissible for misrepresentation that directly or indirectly misleads or withholds material facts relevant to a determination under this Act."

For misrepresentation to be established, the false statement or omission must be "**material**," meaning it could influence the outcome of an immigration decision. Courts have defined material misrepresentation as information that is objectively relevant to an officer's assessment.

In *Idelfonso v. Canada (Citizenship and Immigration)*, 2025 FC 392, Justice Zinn reiterated that the test for materiality is determined by its potential to mislead immigration authorities and create a risk of error in administering the *Act*. Materiality of a misrepresentation is established "if it is important enough to affect the process" and cause an error in the administration of the *Act*, even if it is not decisive or determinative of an application.

Here are some key points and recent caselaw:

- Misrepresentation can be indirect, such as by a shady consultant or legal representative. In *Haghighat v. Canada (Citizenship and Immigration)*, 2021 FC 598, the Court found that even if the representative is convicted of fraud, and even if the misrepresentation is the consultant providing their client with a fake IRCC passport request letter, the applicant can be inadmissible for that misrepresentation.

- As per *Singh v. Canada (Citizenship and Immigration), 2021 FC 959*, it is considered misrepresentation for someone to not disclose in a visitor extension application that they have accepted a job and that the employer has a LMIA application in process.

- Not disclosing previous visa refusals to other countries such as the US has been found to be misrepresentation. See *Canada (Citizenship and Immigration) v. Singh Sidhu*, 2018 FC 306, *Abdool v. Canada (Citizenship and Immigration)*, 2024 FC 1172, *Sharsheev v. Canada (Citizenship and Immigration)*, 2024 FC 49

Feel free to read more here.

Poison Pen Letters & the Risk of Non-Disclosure

Anonymous reports, often called poison pen letters, can be sent to immigration authorities by former employers, abusive ex-partners, or anyone, alleging unauthorized work or misrepresentation. If detailed enough, these letters may trigger an investigation, potentially leading to a finding of misrepresentation, a removal order, or a five-year ban. Because of this risk, voluntary disclosure may be the safer option to avoid future consequences. Unfortunately, anyone can report a foreign national that they suspect to be in violation of immigration laws by informing CBSA or calling their hotline.

If you have any questions or want to know how these laws apply to a specific situation, please book an appointment with a lawyer.