

IMMIGRATION REFRESHER – INVITING & HIRING

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UNIVERSITY OF
WATERLOO



Acronyms used within Immigration

- CCFTA – Canada-Chile Free Trade Act
- CPR – Canadian Permanent Resident
- CUSMA – Canada-US-Mexico Trade Agreement (formally NAFTA)
- BOWP – Bridging Open Work Permit
- DLI – Designated Learning Institution
- ESDC – Employment & Social Development Canada
- eTA – Electronic Travel Authorization
- GSS – Global Skills Strategy
- IEC – International Experience Canada program
- IMP – International Mobility Program
- IRCC – Immigration, Refugee & Citizenship Canada

Acronyms used within Immigration - cont'd

- IRPA – Immigration & Refugee Protection Act
- IRPR – Immigration & Refugee Protection Regulations
- LMIA – Labour Market Impact Assessment
- NOC – National Occupation Classification
- OWP – Open Work Permit
- PGWP – Post-Graduation Work Permit
- SOWP – Spousal Open WP
- SP – Study Permit
- TEER – Training, Education, Experience & Responsibility
- TFWP – Temporary Foreign Worker Program
- TRV – Temporary Resident Visa
- VR – Visitor Record
- WP – Work Permit

Nature of Our Business

University of Waterloo is an Academic Institution. We are also an Employer to whom we hire employees to provide services as an Academic Institution.

Thus, the nature of our business is to teach, do research and provide support services to those activities.



What is deemed “work”



Immigration Canada’s definition:

Section 1(1) of IRPR sets out the definition for 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.”

Thus, the nature of what the University of Waterloo’s business needs to be considered.

What is deemed “work” – cont’d

How it’s applied:

Any activity performed that have traditionally, historically or potentially been done or may be of benefit to the University as an academic institution and/or employer is considered to be “work.”

The activity is not dependent on whether remuneration has been provided but whether that activity, within the entire University (not just your dept./area) can or have been compensated for or is of a benefit to the University as an academic institution and/or employer AND where a Cdn/CPR can or potentially can do the activity in place of a foreign national.



Work Permit - Types



LMIA Supported

This type of WP requires extensive advertising and recruitment and a submission to IRCC and ESDC to show that the employer has made every effort to try to find and hire a Cdn/CPR for the job



LMIA Exemptions

Defined set of eligibility criteria allowable for academia must be met to be exempt from the requirements of the LMIA process for a WP – i.e. C44 = PDS/PDSA, C43 = PGWP, C52 = Award /Scholarship Recipients



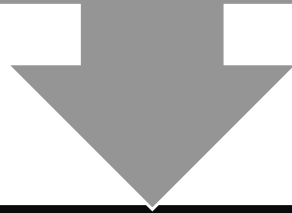
WP Exemptions

Work that can be performed in Canada without the need for a WP. Duration and type of work is restricted for academia to 120 calendar days for research* work only.

What are LMIA's

Immigration Canada's definition:

Section 203 of IRPR specifically sets out the regulatory parameters of eligibility to issue a work permit based on assessments of the employer's recruitment efforts against the employer's local/regional labour market.



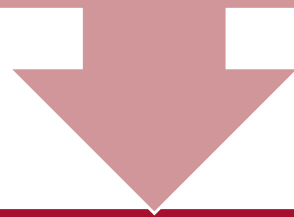
How it's applied:

The Assessment is used to determine if the applicant employer has made every effort to first recruit and hire a Canadian or Canadian Permanent Resident for the position being offered and whether the hiring of a foreign national for the position will negatively Impact the Labour Market regionally, provincially and/or federally.

What are LMIA Exemptions

Immigration Canada's definition:

Sections 204 to 208 of IRPR provides regulatory authority to issue WPs without the need for a LMIA. IRCC considers, by policy, specific situations that meet the requirements of sections 204 to 208.



How it's applied:

Certain IRCC policy considerations gives academic institutions across Canada the ability to hire and/or invite foreign nationals to work, collaborate and/or research with our faculty, staff and students without the need to meet restrictive "Cdns/CPRs first" requirements.

What are Work Permit Exemptions

Immigration Canada's definition:

Section 186 and 200 of IRPR provides regulatory authority to work without the need for a work permit.

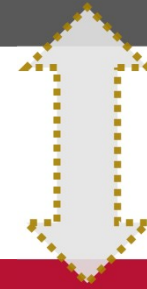


How it's applied:

IRCC sets out by policy and specific situations – aka Ministerial Instructions under A25.2 of IRPA – that must meet the requirements of these 2 sections only to allow for work performed in Canada to not need a WP.

LMIA vs. LMIA Exempt vs. Work Permit Exempt

LMIA – mostly done for faculty appts; extensive advertising for position must be done along with bona fide recruitment & interview process



* Both are used to support the WP application

LMIA Exempt – for most visiting & research related positions; categories of exemption are limited

Work Permit Exempt – mostly used for visiting research positions only; period of visit is exact and limited with requirement to physically leave Canada after visit period ends

What is deemed “work”

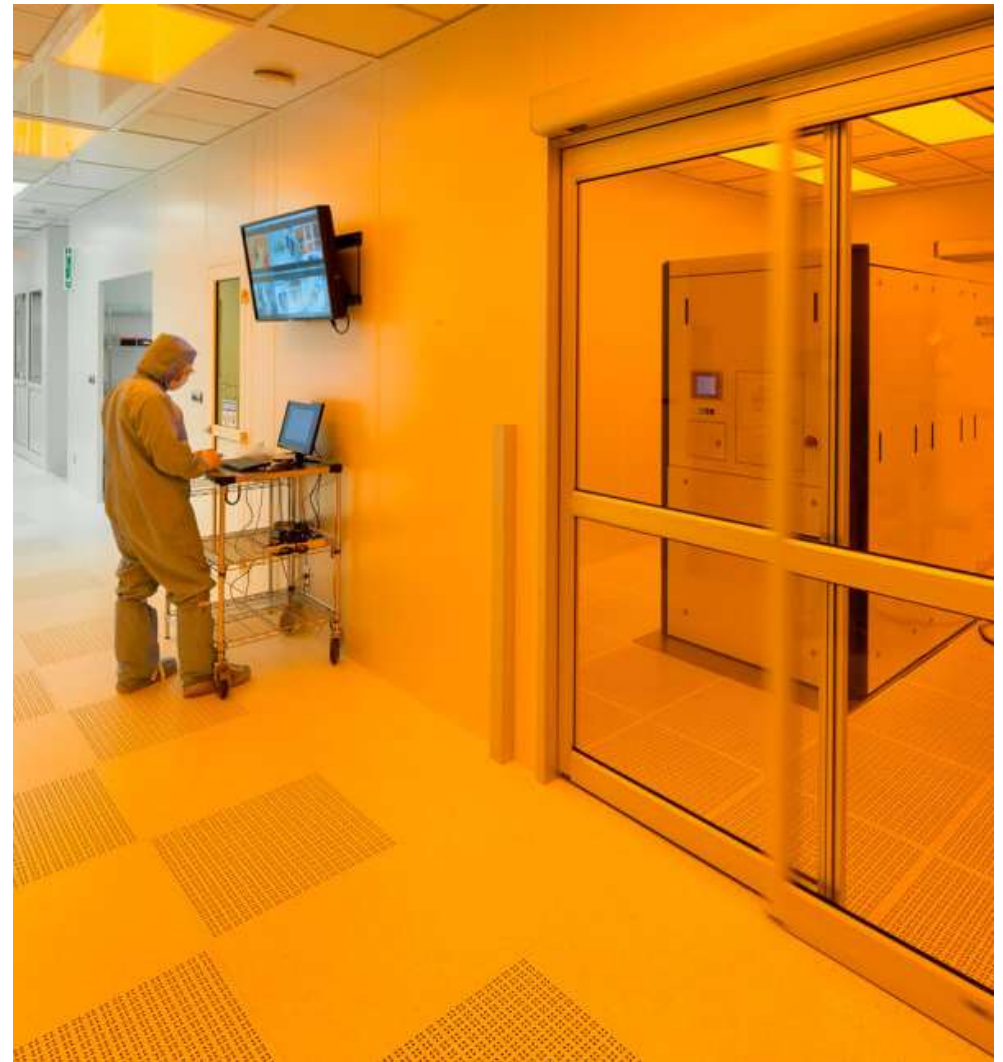
- **Scenario 1:**

A Chinese delegation member is invited to visit and tour the facilities of the QNC. While on the tour, the delegation member is asked to participate in an experiment.

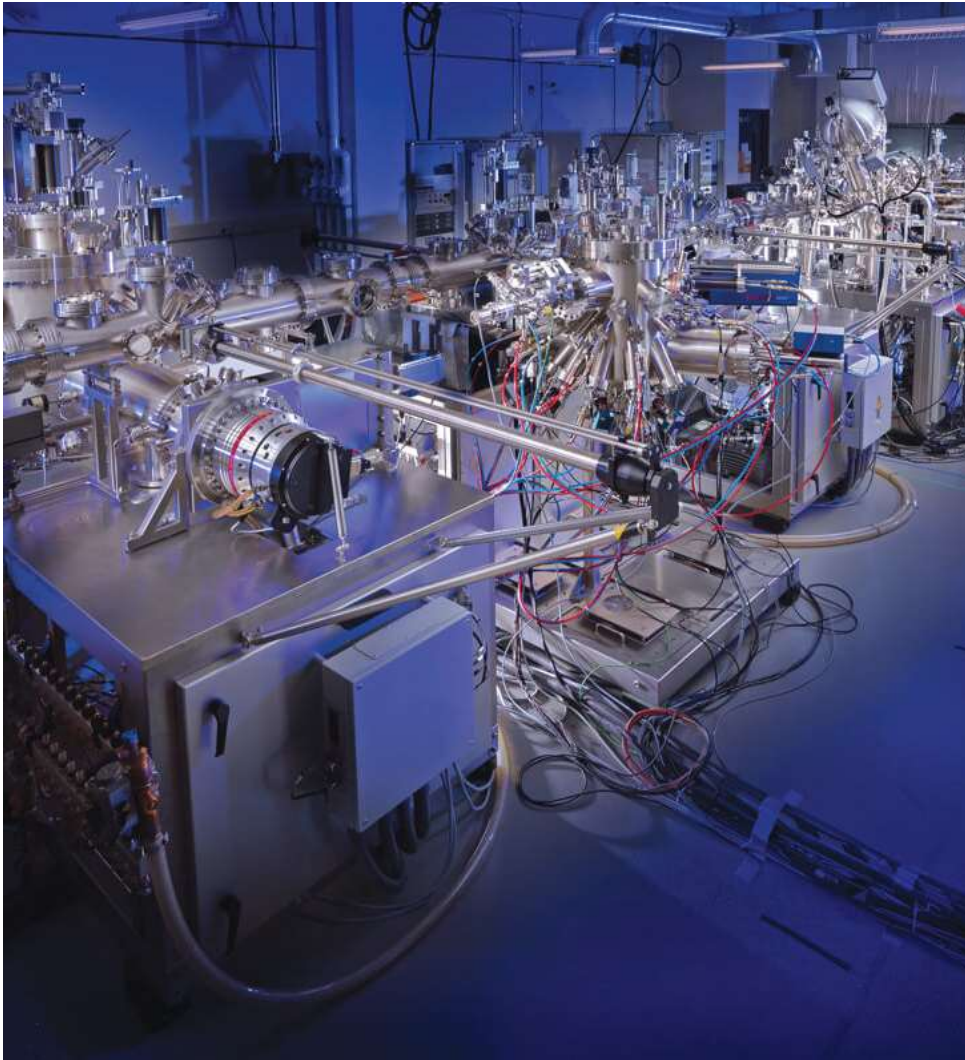
- **Analysis:**

The delegation member is asked to participate in an experiment – traditionally this is part of the tour and has never been considered as an activity that can be performed for the benefit of the University but is of benefit to the tour group only

- **Conclusion** – Not deemed as a worker



What is deemed “work” – cont’d



- **Scenario 2:**

The same Chinese delegation member is invited to visit the TQT lab and provide a talk to faculty, staff and students about the research the delegation member is currently conducting in collaboration with TQT.

- **Analysis:**

The delegation member is specifically invited to provide a talk on research that they are co-collaborating with a member of TQT, thus performing a duty that is part of the nature of our business – a duty that potentially can be done by the TQT member

- **Conclusion – Deemed a worker**

What is deemed “work” – cont’d

- **Scenario 3:**

Master’s student recently graduated and will be volunteering within the Brain & Body Lab to complete a research project.

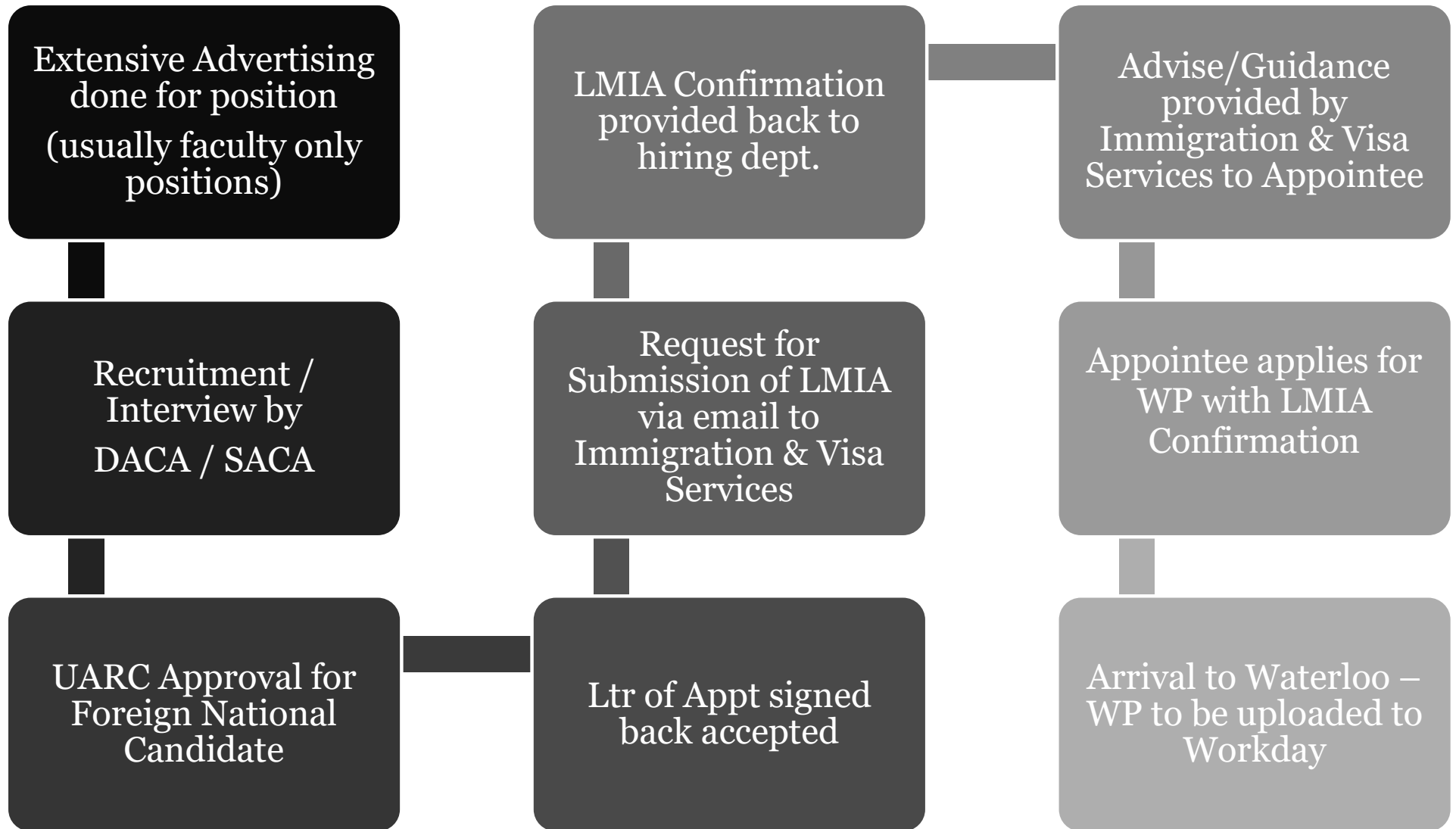
- **Analysis:**

If the duties of the volunteer is to be a test participant, no work is considered here as traditionally all labs across campus have always used volunteer test participants as part of any research project.

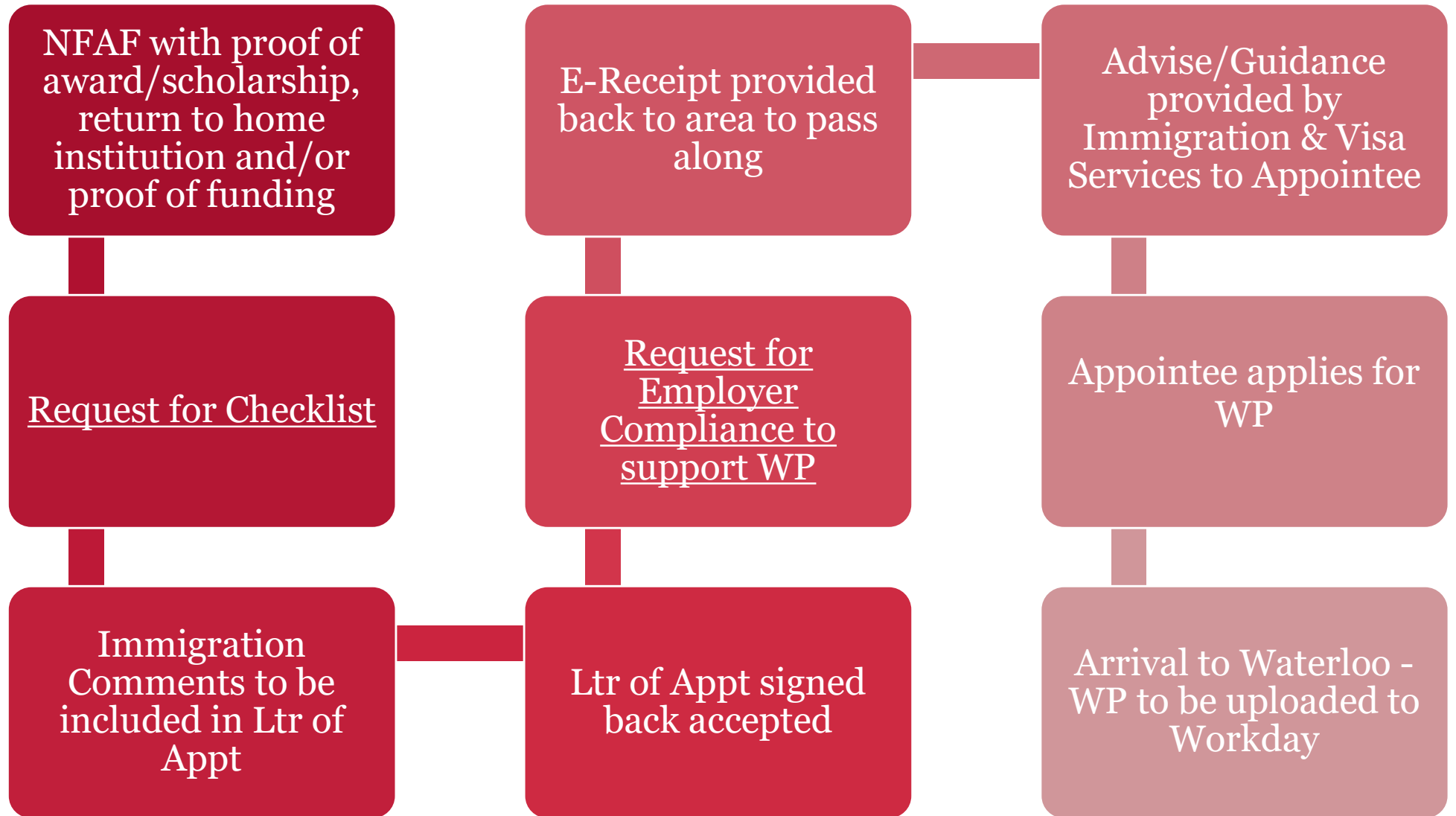
If the duties of the volunteer is to conduct research for the project, this is considered work as other researchers in other labs across campus are being paid for their work – the former Master’s student is volunteering their time to do the research work.



Appointment Process for LMIA's



Appointment Process for LMIA Exemptions



Employer Compliance - What is it

Immigration Canada's definition:

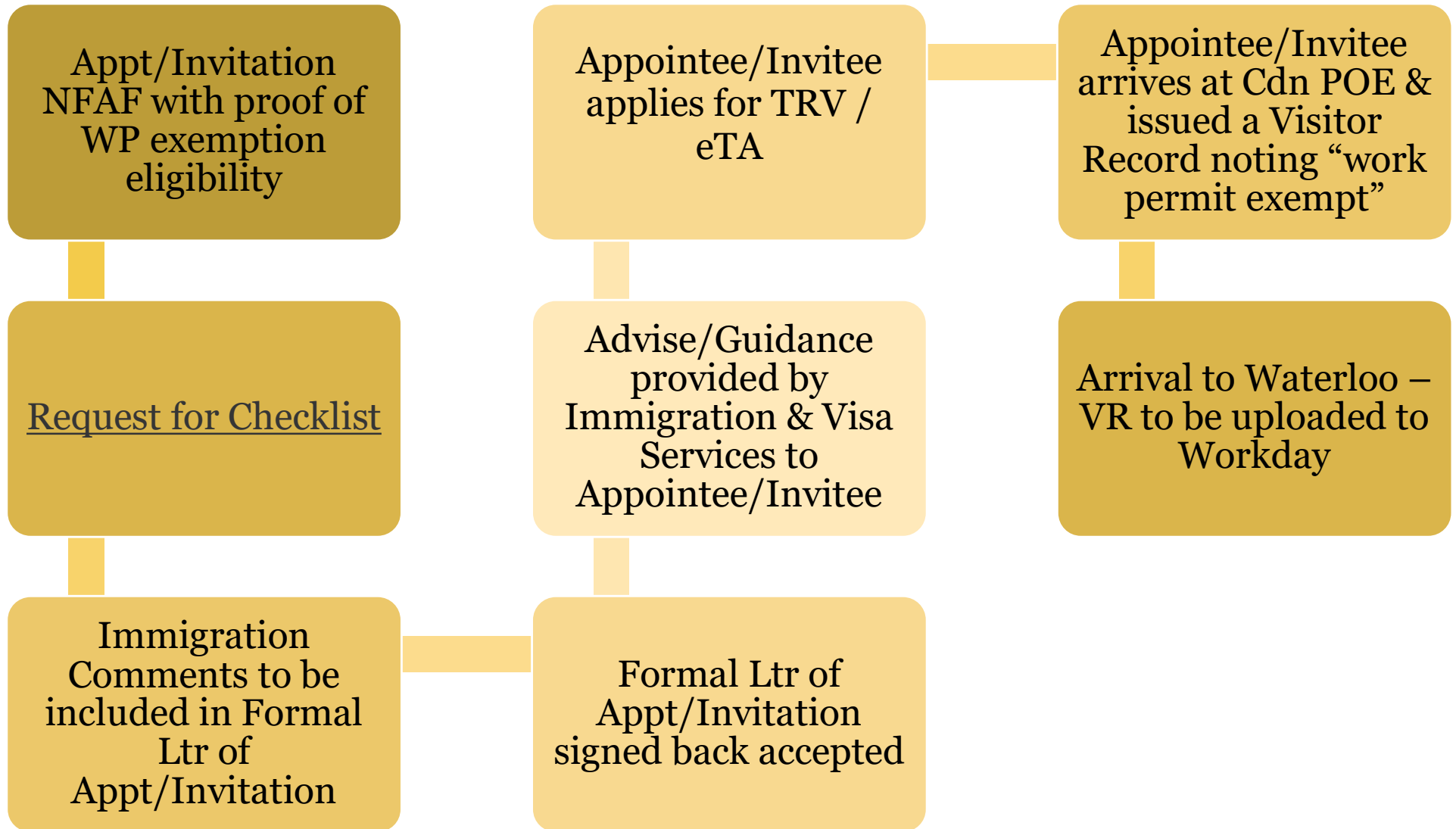
A fee associated process made by the employer to IRCC to support the employer's application through the International Mobility Program (IMP) for the LMIA exemption.



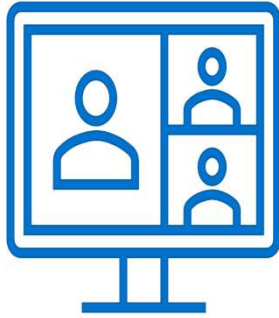
How it's applied:

The Employer Compliance is a means for the employer to show to IRCC that the foreign worker chosen meets an LMIA exemption. An "Offer of Employment / LMIA Exemption #" is generated upon approved submission for the foreign worker to include with their work permit application for IRCC to match up the employer proof with the foreign worker work permit application documents.

Appointment/Invitation Process for WP Exemptions



Updates as of November 2024



- LMIA's for "low-wage" occupations – refuse to process by ESDC & IRCC for all Census Metropolitan Areas (CMAs) where the unemployment rate is 6% or higher – Waterloo Region's rate is 7.5%⁺
- "Low-wage" occupations are now determined to be any position where the regional median wage offered is below the provincial / territorial median hourly wage plus 20%
- "High-wage" occupations are now determined to be any position where the regional median wage offered is above the provincial / territorial median hourly wage plus 20%
 - Ontario median wage: $\$28.39^{\wedge} + 20\% = \$34.07/\text{hr}$ or $\$62,004/\text{yr}$ – i.e. Research Associates regional median wage = $\$61,679/\text{yr}^*$ is now deemed a "low-wage" occupation

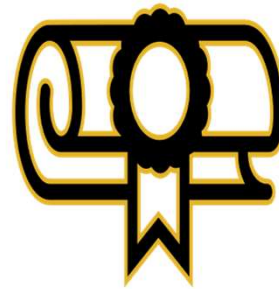
⁺ Employment Insurance Economic Region of Kitchener:
<https://srv129.services.gc.ca/eiregions/eng/kitchen.aspx>

[^] Hire a TFW in a high-wage or low-wage position:
<https://www.canada.ca/en/employment-social-development/services/foreign-workers/median-wage.html>

^{*} Wages in Kitchener-Waterloo-Barrie Region:
<https://www.jobbank.gc.ca/wagereport/location/geo27236>

Updates as of November 2024 - cont'd

- New additional eligibility requirements when applying for PGWP for university graduates:
 - Must complete & meet a minimum CLB score of 7 in all 4 categories[^]
 - “Flagpoling” to apply for PGWP no longer possible*
 - Maximum total duration of PGWP issued is 3 years – no exceptions
 - Accompanying SOWP limited to “high-skilled” positions only[^]



[^] <https://www.canada.ca/en/immigration-refugees-citizenship/news/2024/09/strengthening-temporary-residence-programs-for-sustainable-volumes.html>

* <https://www.canada.ca/en/immigration-refugees-citizenship/news/2024/06/canada-improves-fairness-for-applicants-by-ending-post-graduation-work-permit-flagpoling.html>

Updates as of November 2024 - cont'd

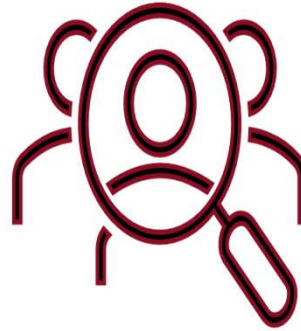


- Temporary Work Permit #s to be reduced to 5% of population by end of 2026*
- 2025 Worker #'s: reduction to 367,750 where only 285,750 will be allocated to the IMP WPs (LMIA exempt supported WPs)
- 2026 Worker #'s: reduction to 210,700 where only 128,700 allocated to the IMP WPs (LMIA exempt supported WPs)
- 2027 Worker #'s: increase to 237,700 where 128,700 allocated to the IMP WPs (LMIA exempt supported WPs)

*<https://www.cicnews.com/2024/10/breaking-canada-to-cut-immigration-by-20-in-2025-1047596.html#gs.h6rg5t>

Updates as of November 2024 - cont'd

- Permanent Resident #s to be decreased over next 3 years*
 - from 485k in 2024 to 395k for 2025 where 124,680 allocated to federal high skilled economic immigration
 - 380k for 2026 where 123,230 are allocated to federal high skilled economic immigration
 - 365k for 2027 with 118,730 are allocated to federal high skilled economic immigration
 - (originally announced Nov. 2023 to be increased to 500k for both 2025 & 2026)

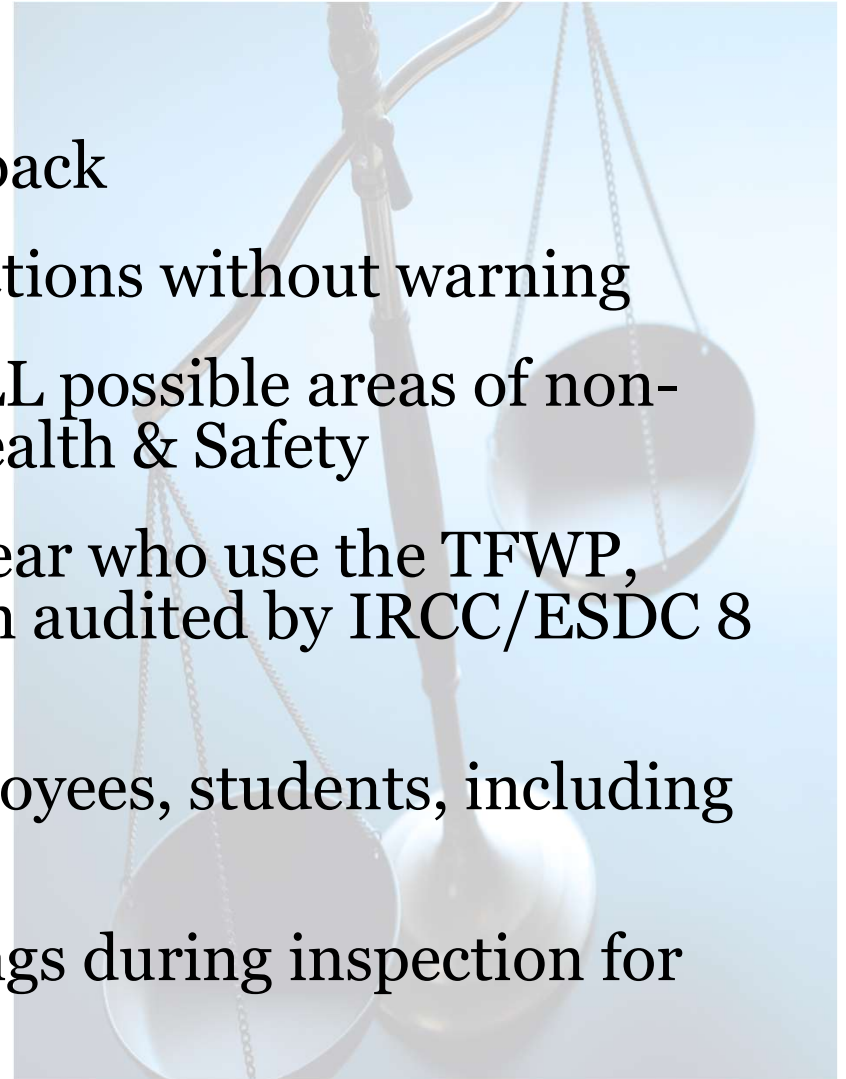


*<https://www.cicnews.com/2024/10/breaking-canada-to-cut-immigration-by-20-in-2025-1047596.html#gs.h6rg5t>

Compliance with IRCC and/or ESDC

IRCC & ESDC has the legal ability to:

- Review for compliance up to 6 years back
- Conduct on-site and/or virtual inspections without warning
- Inspections can include reviews of ALL possible areas of non-compliance including WSIB, CRA, Health & Safety
- Inspect 1 of every 4 employers each year who use the TFWP, including the IMP (Waterloo has been audited by IRCC/ESDC 8 times in the last 13 years)
- Interview any foreign nationals, employees, students, including Cdn/CPR employees and students
- Take photos, videos or audio recordings during inspection for future review and consideration



Compliance with IRCC and/or ESDC – cont'd

Any instance that is deemed non-compliant under the TFWP or IMP can lead to:

- 1 to 10 year ban from using the TFWP and IMP, including bans on the following:
 - Hiring any new non-Cdn/non-CPR
 - Re-appt/re-hire of any current non-Cdn/non-CPR
- Up to \$100,000 fine per non-compliance issue, to a maximum of \$1 million/yr
- Revocation of associated LMIA's & LMIA exemptions and WPs supported by the LMIA's/LMIA exemptions
- Loss of Designated Learning Institution (DLI) number – which means all current study permit holders will be required to transfer
- Employer's name is published as a banned user of the TFWP / IMP on the IRCC and ESDC websites

Websites of Interest

On-campus Immigration Information:

- <https://uwaterloo.ca/legal-and-immigration-services/visa-and-immigration-support/information-employers>

Information for Foreign Visitors – including visiting students:

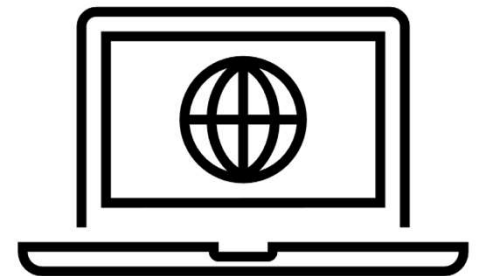
<https://uwaterloo.ca/legal-and-immigration-services/visitors-including-visiting-students-scholars-researchers>

IRCC Processing Times:

- <http://www.cic.gc.ca/english/information/times/index.asp>

IRCC TFWP Manual:

- <http://www.cic.gc.ca/english/hire/worker.asp>



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