

FOREIGN RELIGIOUS AND CHARITABLE WORKERS

Foreign Religious and Charitable workers coming to Canada generally fall into 2 categories: those who are performing “spiritual” duties, and those who are performing “non-spiritual” duties, such as administrative tasks, or charitable work.

Religious Workers performing Spiritual Duties

Foreign Religious workers may be able to work in Canada, and be paid salaries and benefits, without holding a Work Permit if they are:

“... a person who is responsible for assisting a congregation or group in the achievement of its spiritual goals and whose main duties are to preach doctrine, perform functions related to gatherings of the congregation or group or provide spiritual counselling...”

There are 3 parts to this definition:

- a) “Assisting a congregation or group”: this assumes that the group exists in Canada. Thus, “church planters” sent to establish a church may not qualify for this.
- b) “in the achievement of its spiritual goals”: this may rule out administration workers, organists, maintenance personnel, and other workers with non-spiritual duties;
- c) “whose main duties are to preach doctrine, perform functions related to gatherings of the congregation or group or provide spiritual counselling”: These are the usual functions of clergy. A foreign worker may be able to have other duties as well; however, their “main duties” should fall within these boundaries.

Religious Workers performing “Non-Spiritual” Duties

If a person is coming to Canada to work in a religious or charitable organization, and performing duties other than those set out above, they usually need a Work Permit. There are at least 3 ways to obtain one:

- a) HRDC Validation: An employer can apply to have the position for the foreign worker “validated” by Human Resources Development Canada. If HRDC feels that offering the position to the foreign worker wouldn’t have a negative effect on the Canadian labour market, they may validate the position. HRDC may require proof that you’ve tried to hire a Canadian (eg by advertising); details of the remuneration offered (so you don’t use the system to recruit cheap labour overseas); and details about what the foreign worker will be doing.

- b) Religious and Charitable Workers exemption: Immigration Regulation 205 (d) reads:

205. A work permit may be issued under section 200 to a foreign national who intends to perform work that...

(d) is of a religious or charitable nature.

Canada Immigration takes the view that in order to qualify under this category, work must be on a volunteer basis, which “goes above and beyond normal work in the labour market”, such as organizing volunteer workers to repair homes for the poor. The foreign worker can only be paid a small living allowance. We believe that Canada Immigration’s position is unduly restrictive, and that this interpretation can be challenged.

- c) Intra Company Transferees: Another possibility for foreign religious or charitable workers to work in Canada would be as Intra Company Transferees. If a foreign religious or charitable group wants to establish a Canadian branch, or transfer a Senior Executive, Senior Manager, or person with “Specialized Knowledge” to an existing Canadian branch, they may be able to use this provision. The transferee must have worked with the foreign branch for at least 1 year in the previous 3 years to use this provision.