

To Whom It May Concern:

My name is Heather Neufeld and I am an immigration lawyer for a community organization called Connecting Ottawa. I am providing this general letter to clarify an individual's right to continue working - and an employer's right to continue to employ them - up until the individual receives their new work permit, provided that they applied to extend their work permit before it expired.

An individual who submits an application to extend their work permit before the previous work permit expires has maintained their status to legally continue working in Canada. I understand that some employers are concerned, or confused, because work permit extension confirmation letters from Immigration, Refugees and Citizenship Canada (IRCC) note that "maintained status" ends 120 days after an individual submits their request to extend a work permit.

I am writing to clarify that this arbitrary 120-day extension date on these letters is neither a legal requirement nor is it found anywhere in the *Immigration and Refugee Protection Act and Regulations*. Rather, this 120-day extension date is an attempt by IRCC to notify employers that an individual is permitted to keep working until a final work permit decision is made. IRCC assumed new work permits would be issued within 120 days. However, due to the backlog at IRCC right now, no one is currently receiving a decision within this timeframe.

In reality, individuals may legally work past any date listed on their work permit extension letter until they receive the new permit. In this regard, the IRCC web site states:

If a temporary resident also applies for renewal of their work or study permit before the expiry of their existing permit and their permit expires before a decision is made, paragraph R186(u) or section R189 authorizes them to work or study without a permit under the same conditions pending a determination of their application for renewal and only as long as the person remains in Canada.¹

Furthermore, according to subsection 183(5) of the *Immigration and Refugee Protection Regulations*, an individual's work permit remains valid until the application for renewal is decided as long as they applied prior to the expiry date of the work permit:

- (5) If a temporary resident has applied for an extension of the period authorized for their stay and a decision is not made on the application by the end of the period authorized for their stay, the period is extended until
- (a) the day on which a decision is made, if the application is refused; or
 - (b) the end of the new period authorized for their stay, if the application is allowed

¹ <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/visitors/implied-status-extending-stay.html>

Finally, the IRCC web site expressly confirms that the 120-day extension date on the work permit extension letter is an artificial date and does not in any way override the individual's right to continue working with "maintained status" past that date:

The letter is provided to applicants as proof that they have continued authorization to work, and the validity date is added to give employers and other stakeholders a more concrete period of time of authorized work. IRCC has found in the past that employers and stakeholders are reluctant to accept an unknown period such as "until a decision is made."

Letter validity

Officers should understand that the validity date of the letter in no way overrides the authority of paragraph R186(u), which allows foreign nationals who meet the requirements to continue working until a final decision is made on their work permit renewal application or the foreign national leaves Canada.²

It is important to note that it is not possible to simply contact IRCC to request a new letter with a later date because responses to online web form inquiries are taking several months. I know of some cases where lawyers have submitted web form requests and not received a response for five months. Also, it is nearly impossible to reach a call centre agent by phone given the staffing shortages at IRCC and their phone system's tendency to simply hang up on a person calling for assistance.

Please let me know if you require further information as I do not want anyone to lose their employment simply because of government delays beyond your employee's control.

Sincerely,



Heather Neufeld
Barrister and Solicitor

² <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/work-without-permit/authorization-work-without-work-permit-implicit-status.html>