

IMMIGRATION AND REFUGEE LAW



MOSAIC PUBLIC LEGAL EDUCATION PROJECT FOR NEWCOMERS

Funded by
**The Law Foundation of
British Columbia**

Legal support provided by
Embarkation Law Group
Immigration and Citizenship Lawyers



Author: Judith Boer

May 2004

CONTENTS

This publication may not be reproduced commercially, but copying for other purposes, with credit, is encouraged. Feel free to photocopy pages for anyone who needs information.

GENERAL OVERVIEW	7
Immigration and Refugee Protection Act	7
Citizenship and Immigration Canada	8
Provincial Immigration Programs	8
Offices Abroad	8
Offices in Canada	8
Visas and Permits	9

PART I - IMMIGRANTS AND TEMPORARY RESIDENTS

Immigration Program	11
ECONOMIC CLASS	11
Skilled Workers	12
Business Immigrants	13
BC Provincial Nominee Program	14
Live-In Caregivers	14
FAMILY CLASS	15
Family Members Living Outside Canada	15
In-Canada Spouse/Common-Law Category	17
Sponsorship Requirements	18
Length of Undertaking	19
Minimum Income Required	20
Sponsorship Breakdown	21
Bars to Sponsorship	22
Inadmissibility of Family Members	23
Factors That Can Slow Down Processing	24

TEMPORARY RESIDENTS	24
Visas and Permits	24
Visitor Visa	24
Work Permit	25
Student Permit	25
Staying Permanently	26
HUMANITARIAN & COMPASSIONATE APPLICATION	26
Application Considerations	26
Establishment in Canada	27
Sponsorship	28

PART II - INADMISSIBILITY AND REMOVAL ORDERS

INADMISSIBILITY	29
Indictable and Summary Offences	29
Permanent Residents and Foreign Nationals	29
Foreign Nationals	31
Overcoming Inadmissibility	32
REMOVAL ORDERS	33
Refugee Claimants	34
Appeal	35

PART III - REFUGEES

United Nations.....	37
PROTECTED PERSONS	37
Persons in Need of Protection.....	37
Convention Refugees.....	38
Refugee and Humanitarian Resettlement Program	39
Refugee Claimants	39
Refugee Claim Process	39
Legal Counsel	41
Flow Chart: Overview of Refugee Claim Process	42
Eligibility of Refugee Claimant	43

Immigration and Refugee Board (IRB)	43
Rejected Refugee Claim	44
Change of Address	44
PRE-REMOVAL RISK ASSESSMENT (PRRA)	45
Risk to Canada	46
People Who Cannot Apply for PRRA	47
SPONSORING A REFUGEE OVERSEAS	47
Sponsorship Agreement Holders	48
Groups of Five	48
Community Sponsors	48
Joint Assistance Sponsorships (JAS)	48
EMPLOYMENT, EDUCATION AND HEALTH SERVICES....	49
Social Insurance Number	49
Work Permit	49
Education	50
Health Services	51
Income Security	51

PART IV - PERMANENT RESIDENT STATUS AND CITIZENSHIP

Permanent Residents	53
Canadian Citizens	53
PERMANENT RESIDENT STATUS	53
Rights of Permanent Residents	53
Permanent Resident Card	53
Residency Obligation	54
Losing Permanent Status	55
CANADIAN CITIZENSHIP	55
Becoming a Canadian Citizen	55
Residency Requirement	55
Citizenship Test	56
Citizenship Ceremony	57
Children	57

People Who Cannot Become Canadian Citizens	57
Dual Citizenship	58

PART V – RESOURCES & APPENDIXES

GOVERNMENT AND LEGAL RESOURCES	59
COMMUNITY AGENCIES	61
APPENDIX I: SKILLED WORKERS	65
APPENDIX II: INVESTORS	69
APPENDIX III: ENTREPRENEURS	71
APPENDIX IV: SELF-EMPLOYED PERSONS	75
APPENDIX V: LIVE-IN CAREGIVERS	77
APPENDIX VI: VISA REQUIREMENT	79
APPENDIX VII: FEES	83
APPENDIX VIII: SPONSORSHIP DEFAULT COLLECTION ..	85
SOURCES	87

GENERAL OVERVIEW

This module is for general information only. The information is not legal advice. Please contact a local community agency or lawyer if help is needed with a legal situation.

Immigration and Refugee Protection Act (IRPA)

The *Immigration and Refugee Protection Act* (IRPA) regulates Canada's immigration system. IRPA came into effect in June 2002 replacing the previous *Immigration Act*.

Canada's immigration system recognizes that ***foreign nationals*** come to Canada for a variety of reasons. The term 'foreign national' applies to people who are not Canadian citizens or permanent residents. The policies and rules of IRPA provide various options for foreign nationals to immigrate to Canada and establishes different criteria for different groups of immigrants.

Economic Class Immigrants

Economic class immigrants are selected on the basis of their ***ability to become economically established in Canada***. They include skilled workers, business immigrants and live-in caregivers.

Family Class Immigrants

Family class immigrants are selected on the basis of their ***relationship to a Canadian citizen or permanent resident*** who provides an undertaking to support the new immigrant if necessary for a time after they arrive in Canada. Members of the Family Class include a spouse, common-law partner, child, parent as well as other family members.

Refugees

Convention Refugees and Protected Persons are selected on the basis that they ***need protection from persecution***. Persecution is the threat to a person's life or freedom because of their race, religion,

nationality, political opinion or because they belong to a particular social group.

Temporary Residents

Temporary residents come to Canada for a *limited time to visit, work or study*.

Citizenship and Immigration Canada (CIC)

In Canada, immigration and refugee matters are federal responsibilities. The government department that oversees immigration and refugee matters is *Citizenship and Immigration Canada* (CIC). In this module, the department will be referred to as *CIC*. On December 12, 2003, the *Canada Border Services Agency* (CBSA) was created. It will perform certain tasks which were previously performed by CIC, in particular enforcement activities (including investigations, detentions, and removals).

Provincial Immigration Programs

Even though immigration is a federal responsibility, most provinces have immigration agreements with the federal government. These agreements give provinces control over various immigration and settlement services. Criteria and selection of skilled workers, for example, may differ from province to province to reflect regional needs. However, in all cases, the federal government continues to be responsible for criminal, medical and security reviews.

Offices Abroad

CIC's staff work at Canadian embassies, high commissions and consulates around the world. These immigration officers process applications for immigration, refugee resettlement, and temporary visas and permits.

Offices in Canada

Within Canada, CIC processes applications at three case processing centres:

- Vegreville (Alberta) processes in-Canada spousal/common-law partner sponsorship applications, permanent resident applications on humanitarian grounds, and temporary visa extensions
- Mississauga (Ontario) specializes in overseas family class sponsorships
- Sydney (Nova Scotia) processes applications for Canadian citizenship and Permanent Resident Cards

Visas and Permits

Visas and permits are NOT the same. A visa allows a foreign national to come into Canada. A permit, on the other hand, allows a foreign national to do something in particular while they are in Canada.

For example, a foreign national who wants to study in Canada may need a visa to come to Canada (some countries are visa exempt) and a study permit to actually go to school in Canada. There are some exceptions where a foreign national may be allowed to study in Canada without a study permit.

Temporary residents must ensure that NEITHER their visa nor permit expires.

PART I – IMMIGRANTS AND TEMPORARY RESIDENTS

Immigration Program

Canada's immigration program has two main groups of immigrants:

- 1) Economic Class immigrants
- 2) Family Class immigrants

Economic Class immigrants are selected based on their ability to become *economically established* in Canada soon after they arrive. Their ability to become economically established is assessed based on criteria such as their work experience, education, language proficiency, or business experience.

Family Class immigrants are people who are sponsored by a family member who is a Canadian citizen or permanent resident. The goal of the family class program is to reunite families in Canada.

People within these categories generally apply to immigrate to Canada from abroad. Although there are some exceptions that allow some family class sponsorships to be done from inside Canada. The application processing fees are listed in *Appendix VII* on page 83.

ECONOMIC CLASS

Within the Federal Immigration Program, there are three categories of economic immigrants:

- Skilled Workers
- Business Immigrants
- Live-In Caregivers

Skilled Workers

As a minimum requirement to apply as a Skilled Worker, foreign nationals must have at least one-year full time work experience of a certain skill level.

If an applicant has at least the minimum work experience, a point system is then used to assess the applicant's ability to become economically established in Canada. Currently, a pass mark of 67 points will generally indicate that an applicant is qualified to immigrate as a Skilled Worker (although the pass mark is subject to change).

To obtain the pass mark, a Skilled Worker would generally require post-secondary education, work experience, and proficiency in either English or French.

For detailed information on skilled workers see *Appendix I* on page 65.

Factors	Points Available
Education	25
Language Skills	24
Work Experience	21
Age	10
Arranged Employment	10
Adaptability	10
Total	Maximum 100
Pass Mark	67

CIC offers a self-assessment tool that shows whether a person would qualify as a skilled worker. The self-assessment tool is available at www.cic.gc.ca/english/skilled/assess/index.html.

Business Immigrants

In the Federal Immigration Program, there are the following three types of business immigrants:

- ❑ Investor Class
- ❑ Entrepreneur Class
- ❑ Self-Employed Class

Individuals may qualify in more than one Economic class, including the Skilled Worker category, so they will need to consider which best suits their situation (i.e., person should consider conditions on visa and financial commitments).

Investor Class

The Immigrant Investor Program seeks to attract people with sufficient 'business experience' and capital to Canada. In addition to their business experience, investors must have a minimum net worth of \$800,000, and be willing to invest \$400,000 in a specified fund for 5 years.

The Investor gets the \$400,000 back after 5 years. Alternatively, there are options whereby the investor need not tie up \$400,000 over 5 years, but can pay a lower amount up front that will not be returned after the 5 years.

For more information on investors see *Appendix II* on page 69.

Entrepreneur Class

The Entrepreneur Program seeks to attract people with 'business experience' willing to establish and manage a business in Canada that will create employment for a Canadian or permanent resident.

Entrepreneurs must demonstrate the necessary 'business experience', have a minimum net worth of \$300,000 and be able to establish a business in Canada. The permanent resident status granted to Entrepreneurs is subject to terms and conditions, and may be revoked if these terms and conditions are not met within a specified period.

For more information on entrepreneurs see *Appendix III* on page 71.

Self-Employed Class

Self-employed persons must have the intention and ability to create their own employment as *artists*, *farmers* or *athletes*. They are expected to contribute to the cultural or athletic life of Canada, or in the case of farmers, to purchase and manage a farm in Canada.

See *Appendix IV*, on page 75, for more information.

BC Provincial Nominee Program (BC PNP)

Most provinces, including BC, have immigration agreements with the federal government. BC's program is called the 'BC Provincial Nominee Program' and allows BC to select immigrants based on their employment skills.

The program assists employers fill critical skill shortages and allows BC to select immigrants based on their skills. The skill shortage must be of *highly skilled* workers, such as software developers, aerospace engineers, or post-secondary professors.

More information on the BC Provincial Nominee Program can be found at www.mcaws.gov.bc.ca/amip/prgs/id.htm.

Other provinces may have different selection criteria. If a skilled worker does not meet BC's criteria, he or she should look into the immigration programs of other provinces. For example, Manitoba may be in need of skilled agricultural workers and Alberta may be in need of people with experience in the oil and gas industry.

Similar to the provincial programs for skilled workers, most provinces have immigration programs to attract business immigrants. More information on BC's programs to attract entrepreneurs and investors is available at www.businessimmigration.gov.bc.ca.

Live-In Caregivers

Live-In Caregivers provide care for children, elderly people or people with disabilities. They do this in the house of the person being cared for (usually, the employer's house).

A person interested in this program must first get a temporary work permit. This will allow her to work in Canada as a live-in caregiver. After working in Canada for two years, the live-in caregiver may apply for permanent resident status from within Canada.

To get a temporary work permit, live-in caregivers must meet the following conditions:

- ❑ Successful completion of high school (or equivalent).
- ❑ Training or paid work experience in a related field.
- ❑ Speak, read and understand sufficient English or French to communicate effectively in an unsupervised setting.
- ❑ Have an employment contract with their future employer.

CIC provides detailed information about the Live-In Caregiver Program at www.cic.gc.ca/english/pub/caregiver/index.html.

See *Appendix V*, on page 77, for more information on Live-In Caregivers.

West Coast Domestic Workers Association

302-119 West Pender Street

Vancouver, BC V6B 1S5

Phone: 604-669-4482

Website: www.vcn.bc.ca/wcdwa

Provides information, support, and advocacy to domestic workers with employment and immigration issues.

FAMILY CLASS

In this section, the person sponsoring a family member will be referred to as the “sponsor”. The family member being sponsored will be referred to as the “applicant”.

Family Members Living Outside of Canada

Canadian citizens and permanent residents can sponsor family members who live outside Canada. Family members who can be sponsored include:

- a) *Spouse*
 - A husband or wife, who is at least 16 years old.

- The marriage must be legally recognized in Canada and in the country where it took place (some provinces, including BC currently recognize same-sex marriages).
- b) *Common-law Partner*
- A person of the ***opposite sex*** or ***same sex*** who has lived with the sponsor for 1 year or longer in a marriage-like relationship.
- c) *Conjugal Partner*
- Person of the same sex or opposite sex with whom the sponsor has had a conjugal relationship (a sexual, intimate and exclusive relationship) for at least one year; it is a “marriage-like” relationship.
 - This type of application will usually only be made where there has been a barrier preventing the sponsor and applicant to get married or live together outside of Canada. The couple will have to explain to CIC why they are not married or living together (e.g., homosexuality is a crime in their home country).

Proof of Marriage, Common-Law, or Conjugal Relationship

Marriage certificate and wedding invitations

Commitment ceremony certificate

Pictures of couple

Pictures of couple on vacation

Joint medical plans, credit cards, bank accounts

Joint house, car, and furniture

Joint membership in organisations or groups

Letters from friends and family

Shared responsibility for children

Long distance phone bills

- d) *Dependent Children*
- A child of the sponsor OR a child of the applicant.
 - Children in the following situations are considered to be dependent children:
 - The child is younger than 22 and is not married or in common-law relationship.
 - The child is younger than 22, is married or in a common-law relationship AND is going to school or is financially dependent on the parents.

- The child is older than 22 and due to a disability is financially dependent on the parents.
- The child is older than 22, is a continuous full-time student and is substantially financially supported by the parents. The child must be a student since before the age of 22 and the school must be a recognized post-secondary institution.

e) *Parents and Grandparents*

f) *Brothers, sisters, nieces, nephews, or grandchildren*

- They must be orphans under the age of 18.
- They cannot be married or in a common-law relationship.

g) *Child, under 18 years old, who is adopted in Canada*

h) *Only family member*

- If a Canadian citizen or permanent resident in Canada does not have any family members living in Canada or any family members who can be sponsored, then he or she may sponsor one family member regardless of age or relationship.

In-Canada Spouse/Common-Law Category

A Canadian citizen or permanent resident can sponsor a spouse or common-law partner who is *living with them in Canada*. Sponsorship of an in-Canada spouse or common-law partner may include the person's dependent children.

The spouse or common-law partner must have valid temporary status in Canada as a *visitor, student or temporary worker*. The spouse or common-law partner is required to maintain their temporary status while in Canada. Filing the In-Canada sponsorship does not in itself extend the temporary status.

Refugee claimants do not have valid temporary status. Therefore, they cannot be sponsored by a spouse or common-law partner within this category.

It is important to note that unlike an overseas sponsorship, the In-Canada sponsorship does not have an automatic right of appeal. A proper assessment

and weighing of the circumstances should be done before deciding to file an In-Canada sponsorship application, particularly if there are any potential admissibility concerns (see page 29).

Sponsorship Requirements

People who want to sponsor family members must meet certain criteria:

- ❑ Canadian citizen or permanent resident
- ❑ Living in Canada (except in case of Canadian citizen sponsoring a spouse and/or dependent children)
- ❑ At least 18 years of age
- ❑ Not the subject of a removal order
- ❑ Not detained in any penitentiary, jail, or prison
- ❑ Has not been convicted of a sexual offence or an offence against a relative
- ❑ Is not in default of any debt payable to Canadian authorities
- ❑ Is not an undischarged bankrupt
- ❑ Is not in receipt of social assistance for a reason other than disability

Employers, church groups or friends cannot sponsor individuals under this provision. It is intended for family reunification only.

Undertaking and Sponsorship Agreement

Undertaking: Sponsors must sign an agreement, called an undertaking, with the government. Sponsors agree to provide basic needs for their sponsored family members. Basic needs include food, housing, clothes, and medical care. Sponsors have to do this for 3 to 10 years (see on next page).

THE UNDERTAKING CONTINUES TO EXIST EVEN IF THERE IS A BREAKDOWN IN THE RELATIONSHIP OR CIRCUMSTANCES CHANGE. FOR EXAMPLE, THE UNDERTAKING CONTINUES TO EXIST WHEN A FAMILY MEMBER BECOMES A CANADIAN CITIZEN, A COUPLE GETS A DIVORCE, OR A SPONSOR BECOMES UNEMPLOYED.

If a sponsored family member uses government programs, such as welfare, then the sponsor has to repay the government. ***The sponsor will not be allowed to sponsor other family members until this debt is paid.*** The BC

government is currently actively collecting sponsorship defaults. See *Appendix VIII* on page 85 for more details.

LENGTH OF UNDERTAKING

Sponsored Family Member	Length of Undertaking
Spouse, common-law partner or conjugal partner	Three years from the date that applicant becomes a permanent resident.
Dependent child who is younger than 22	Ten years from the date that the child becomes a permanent resident or until the child turns 25 , whichever comes first.
Dependent child who is 22 or older.	Three years from the date that the child becomes a permanent resident.
Any other person (e.g., father, mother, or grandparent).	Ten years from the date that applicant becomes a permanent resident

Sponsorship Agreement: The sponsor must also sign a sponsorship agreement with the family member. The sponsor promises to support the family member and the family member promises to try to become self-supporting.

Children under the age of 22 do not have to sign the Sponsorship Agreement.

BC Ministry of Human Resources

Sponsorship Default Coordinator

2280 Kingsway

Vancouver, BC V5N 5M9

Phone: 604-660-5350

This office provides information on repaying money for defaults on previous sponsorships.

Sponsor's Minimum Income

Sponsors must have a minimum income to sponsor most family members (see exception for spouses, common-law partners, conjugal partners and children below). The level of income required is subject to change. Please check the CIC website for the most up-to-date income requirements.

MINIMUM INCOME REQUIRED Effective until February 1, 2005

Family Size	Minimum Income
1	\$19,261
2	\$24,077
3	\$29,944
4	\$36,247
5	\$40,518
6	\$44,789
7	\$49,060
Each additional person	\$4,271

Source: www.cic.gc.ca/english/pdf/kits/guides/5196E.PDF

The minimum income requirement is based on 'Statistics Canada's Before-Tax Low Income Cut-Offs'. The requirement may change from year to year depending on economic measurements such as inflation and cost of living. The chart is available on the website of the National Council of Welfare at www.ncwcnbes.net/htmdocument/principales/povertyline.htm.

The minimum income required is the amount listed under 'cities of 500,000+' REGARDLESS if the sponsor lives in a smaller community.

Sponsors who do not earn enough money to meet the minimum required income can ask their spouse or common-law partner to be a co-signer for other family members. The income of the spouse or common-law partner is added to the sponsor's income so that the minimum income requirement is met. ***The co-signer will have the same responsibilities as the sponsor, as stated in the undertaking.***

Sponsors do NOT require a minimum income if they are sponsoring their spouse, common-law partner, conjugal partner and/or children. However, if the sponsor does not meet the minimum income requirement, it is

important to show how the applicant will be able to support himself or herself in Canada. While the sponsorship may be permitted, the applicant can be found inadmissible for financial reasons if they are unable or unwilling to support themselves.

Sponsorship Breakdown

Sponsorship breakdowns happen when sponsors cannot or will not provide the basic needs of their sponsored family members and the family members cannot support themselves.

Examples of Sponsorship Breakdown

- ❑ Sponsor does not have enough money to support the sponsored family member.
- ❑ Sponsor allows the sponsored family member to stay in the home, but does not provide food or clothing.
- ❑ Sponsor divorces the sponsored spouse and wants him or her to leave the house.
- ❑ The sponsor hurts the family member.

CIC WILL NOT DEPORT SPONSORED FAMILY MEMBERS
BECAUSE A SPONSORSHIP BREAKS DOWN

SPONSORED FAMILY MEMBERS WILL NOT LOSE THEIR
PERMANENT RESIDENT STATUS IF THEY RECEIVE
WELFARE

SPONSORS CANNOT MAKE SPONSORED FAMILY MEMBERS
LEAVE CANADA

LSS publishes the booklet “Sponsorship Breakdown” which is available in Chinese, English, Korean, Punjabi, Spanish and Vietnamese. It is on the LSS’ website at www.lss.bc.ca/pubs_byTitle/pubs_s.asp.

If the Sponsor is Hurting or Scaring the Family Member

- ❑ Family members should call the police if they are in immediate danger.

- ❑ Victims of abuse, including women, children, men and seniors, can stay at transition houses or shelters. These houses are safe and free. The police can take the victim to a shelter.

VictimLINK: 1-800-563-0808

A 24-hour, multilingual, province-wide service for victims of family violence, sexual violence and other crimes. Call to find a shelter and other resources. Deaf people can call the TTY at (604) 875-0885 or the Telus Relay Service at 711 to call collect.

Multicultural Victim Services Program: 604-254-9626

Helps all victims of crime (men and women). Service can be provided in other languages. At MOSAIC.

The module “Family Law” has information on separation, abuse, and child custody.

Bars to Sponsorship

People cannot sponsor their family members if they:

- ❑ have a removal order
- ❑ are in prison
- ❑ have been convicted of a sexual or criminal offence against a family member for which they have not received a pardon, or more than 5 years have not passed since the completion of a sentence
- ❑ are in default of an undertaking
- ❑ are in default of support payments ordered by a court
- ❑ are in default of debts to the Canadian government under the *Immigration and Refugee Protection Act* (see phone number for collection services below)
- ❑ are an undischarged bankrupt
- ❑ receive welfare (other than disability assistance)

In an overseas sponsorship, a person ***can appeal*** if they are denied sponsorship due to one of the above reasons.

Collection Services

Phone: 1-800-667-7301

This office will provide information on loan accounts.

It can be accessed from Canada and the United States only.

Inadmissibility of Family Members

It is important to remember that in a Family Class sponsorship, there are actually two applications being assessed:

- 1) The application by a Canadian citizen or permanent resident to be a sponsor **AND**
- 2) The application by the sponsored family member to become a permanent resident in Canada.

Even where the sponsor qualifies, the sponsored family member's application for permanent residence may still be turned down if the applicant is *inadmissible* to Canada.

An applicant may be inadmissible to Canada on the basis of

- ❑ security
- ❑ violating human or international rights
- ❑ criminality
- ❑ health grounds: their health condition is likely to be a danger to public health or public safety
- ❑ misrepresenting or withholding material facts
- ❑ financial reasons: they are unable or unwilling to support themselves in Canada, without social assistance (this is does not apply where the sponsor meets the minimum income requirement)

In addition, ***family members*** (other than a spouse, common-law partner, conjugal partner, and dependent child) ***may also be inadmissible if their health condition is expected to cause excessive demand on health or social services.***

For more information on inadmissibility see page 29.

Factors That Can Slow Down Processing

- Incomplete or unsigned application forms
- Missing documents
- Incorrect or incomplete address
- Unclear photocopies of documents
- No certified English or French translations of documents
- Investigation of sponsors by CIC
- Verification of information and documents provided
- A medical condition that requires additional tests or consultations
- A criminal or security problem
- Family situations such as divorce, custody or maintenance disputes
- CIC errors or backlogs

TEMPORARY RESIDENTS

Temporary residents are people who come to Canada for a limited time to visit, work or study.

Visas and Permits

Visas and permits are NOT the same. A visa allows a foreign national to come into Canada. A permit, on the other hand, allows a foreign national to do something in particular while they are in Canada.

For example, a foreign national who wants to study in Canada may need a visa to come to Canada (some countries are visa exempt) and a study permit to actually go to school in Canada. There are some exceptions where visitors can study in Canada without a study permit.

Visitor Visa

- Generally, visitors need a valid passport that will not expire until they leave Canada.
- Also, visitors will need to apply for a visa to travel to Canada, unless they are from a visa exempt country (*see Appendix VI* on page 79).
- Canada does not pay for hospital or medical services for visitors. Visitors therefore should buy travel insurance.

- ❑ If visitors want to stay longer, they must apply to extend their temporary resident status before their status expires.
- ❑ Usually, persons cannot come to Canada as visitors and convert their visitor visa into a work permit. The person will likely have to apply for a work permit from outside Canada.

Genuine Visitors

- Visitors must satisfy an immigration officer that they are real visitors who intend to leave Canada at the end of their visit.
- For example, they can show that they have strong ties to their home country (such as family, work and property).
- Visitors should have a credible reason for wanting to visit Canada.
- CIC may not believe that a person is a genuine visitor if the person has strong ties to family in Canada and no family in their country.
- Visitors must be able to show that they can and will support themselves and their accompanying family members without working while in Canada.
- Visitors must also show that they are able and willing to leave Canada at the end of their visit (valid passport, return plane ticket).

Work Permit

- ❑ In addition to applying for a visa (if they are not from a visa exempt country), a person needs to apply for a work permit if they intend to work in Canada temporarily.
- ❑ Foreign workers need work permits and must leave Canada when their temporary resident status expires.
- ❑ In most cases, they need a job offer from an employer in order to obtain a work permit.
- ❑ They must apply for work permits from outside Canada.
- ❑ Most work permits are for 1 year.
- ❑ Usually, foreign workers can apply from within Canada to extend their work permits (if done before the original permit expires).
- ❑ The employer and/or foreign worker should seek legal advice.

Student Permit

- ❑ Foreign students need a student permit for any studies that are longer than six months

- If students have valid study permits, they can:
 - a) Work on campus at their college or university.
 - b) Apply to renew their study permit from within Canada, if they want to continue studying in Canada.

Staying Permanently

People CANNOT come to Canada as temporary residents and automatically convert their temporary status into permanent residence status. In most cases, they must apply for permanent resident status outside Canada. They can submit their permanent resident application to a visa post abroad while they continue to study or work in Canada.

HUMANITARIAN AND COMPASSIONATE APPLICATION

At any time, a person can apply to stay in Canada for humanitarian and compassionate reasons (often called an H&C Application).

Application Considerations

H&C applications are for people who would suffer hardship if they had to leave Canada and apply for permanent resident status from abroad. The hardship must be **unusual, excessive, or undeserved**. Applicants can present whatever facts they believe are relevant.

An H&C application will be based on the person's establishment in Canada and/or risk if they were forced to leave Canada. Immigration officers will consider the hardship to the applicant and/or to others (such as Canadian family members) if the applicant were forced to leave Canada.

For example, Canadian citizens or permanent residents may face excessive hardship if the H&C applicant is the sole provider for his or her family or owns a business that employs several Canadian citizens or permanent residents.

A marriage or common-law relationship with a Canadian person does NOT automatically result in a positive H&C decision. There is no legal

right for a spouse or common-law partner to stay in Canada if they do not have status.

Persons with Canadian born children may have an H&C case because the CIC officer must consider what is best for the children. **HOWEVER** it is not a guarantee that they will be able to stay in Canada.

Establishment in Canada

An important part of an H&C application is the person's life in Canada. CIC looks at the person's employment history, savings, language skills, friends and family, and involvement in the community. CIC will not assess the person's ***potential*** for establishment.

When deciding on a person's establishment in Canada, CIC will consider such things as:

- How long was the person in Canada?
- Does the person have a job? What is the importance of the job and how long have they done it?
- How are the person's language skills and did the person try to improve?
- Does the person have an education and/or skills? Were there improvements while the person was in Canada?
- Has the person depended on welfare in Canada?
- Does the person have family in Canada?
- Is the person married to a Canadian citizen or permanent resident?
- Does the person have Canadian born children? How old are they?
- Does the person have children in the home country?
- What is the person's community involvement, either religious or non-religious?
- What is the hardship in returning? Who will miss the person and what will make it difficult to wait in the home country?

The applicant should include pictures and letters written by other people (for example, neighbours and co-workers) with their application.

- *Letters:* The letter should introduce the writer, explain how he or she knows the applicant, give reasons why the applicant would be good citizen (for example, the person gives to the community and is hard-

working), and provide contact information in case CIC wants to ask more questions.

- *Pictures*: Pictures should show family and community events.

Sponsorship

While an H&C application does not include any formal sponsorship, it can be helpful to include a sponsorship agreement. This shows that the family member will financially support the family member in Canada.

PART II – INADMISSIBILITY AND REMOVAL ORDERS

The *Immigration and Refugee Protection Act* lists grounds that may make permanent residents and/or foreign nationals inadmissible to Canada.

People who are inadmissible are not allowed to come into or remain in Canada as temporary residents, immigrants or in some cases refugees. Inadmissible people who are already in Canada may be deported.

People who may be inadmissible should seek legal advice.

INADMISSIBILITY

Permanent residents and foreign nationals may be inadmissible due to security concerns, human rights violations, serious criminality, organized crime or misrepresentation.

Foreign nationals may be inadmissible due to criminality, health grounds, financial reasons or an inadmissible family member.

Indictable and Summary Offences

There will be references to indictable offences and summary offences within inadmissibility discussion. A *summary offence* is a less serious offence than an indictable offence. The procedure and punishment for summary offences tend to be less onerous.

An *indictable offence* is more serious than a summary offence. Murder and armed robbery are examples of indictable offences. These crimes are usually tried by federally appointed judges and carry heavy sentences.

Permanent Residents and Foreign Nationals

Permanent residents and foreign nationals will be inadmissible if they are involved in certain activities. These individuals will not be allowed into

Canada as temporary residents, immigrants or refugees. If they are in Canada already they may be deported.

Grounds for inadmissibility for *foreign nationals AND permanent residents* include:

Security

Permanent residents and foreign nationals are inadmissible if CIC believes that they are a danger to Canadian society. For example, the person is a spy, a terrorist, or commits acts of dangerous violence. Members of organizations that are involved in any of these actions are also inadmissible.

Human or International Rights Violations

Permanent residents and foreign nationals are inadmissible if they committed war crimes or crimes against humanity.

People will also be inadmissible if they were a senior government official in a government that committed acts of terrorism, gross human rights violations, genocide, war crimes or crimes against humanity.

Serious Criminality

Permanent residents and foreign nationals are inadmissible if they have been convicted of a serious offence, either inside or outside Canada.

In Canada, an offence is considered serious when it is punishable with a prison sentence of 10 years or longer (even if the person does not serve the full 10 years) OR if the person was sentenced to 6 months or longer in a federal prison.

If the person committed an offence outside of Canada, CIC will determine if the activity is punishable under Canadian law and what the punishment would have been.

Organized Criminality

Permanent residents and foreign nationals are inadmissible if they are involved with organized crime. Organized crime is defined as “a pattern of criminal activity planned and organized by a number of persons acting in concert”. It includes people smuggling, trafficking in persons and money laundering.

Misrepresentation

Permanent residents and foreign nationals are inadmissible if they lied to CIC. They either gave false information or did not provide all relevant information.

If a sponsor misrepresented him or herself then the sponsored family members may be inadmissible as well.

Non-compliance

Permanent residents and foreign nationals are inadmissible if they did not comply with the *Immigration and Refugee Protection Act*.

Foreign Nationals

In addition to the grounds discussed above, foreign nationals may be inadmissible for a number of other reasons, including criminality, health, finances and inadmissible family members.

Criminality

Foreign nationals are inadmissible if they committed an indictable offence OR two summary offences *in Canada*.

They are also inadmissible if they committed crimes outside of Canada that, if committed in Canada, would be considered an indictable offence or two summary offences.

Health Grounds

Foreign nationals are inadmissible if they are a danger to public health, a danger to public safety or will put an excessive demand on health or social services.

Spouses, common-law partners and children within the Family Class, refugees and protected persons may be inadmissible only if their health condition would put an excessive demand on health or social services.

Financial Reasons

Foreign nationals are inadmissible for financial reasons if they are unable or unwilling to support themselves and their dependants without relying on welfare.

Inadmissible Family Member

A foreign national is inadmissible if their accompanying family member is inadmissible.

This ground for inadmissibility does NOT apply to protected persons.

Overcoming Inadmissibility

People who are inadmissible due to criminality may be able to overcome their inadmissibility through rehabilitation. Rehabilitation means that they lead a stable lifestyle and that they are unlikely to be involved in any further criminal activity. A person can apply for rehabilitation or will be automatically deemed rehabilitated after a certain length of time.

Offences Outside Canada

People who were convicted of a criminal offence outside Canada may overcome criminal inadmissibility by applying for rehabilitation.

If a person is deemed to have been rehabilitated, he or she does not need to apply for rehabilitation. People are deemed to have been rehabilitated if **ten years** have passed since they completed the

sentence or committed the offence, if the offence is one that would, in Canada, be an ***indictable offence*** punishable by a maximum term of imprisonment of less than ten years.

If the offence is one that, in Canada, would be a ***summary offence*** and if they were convicted for two or more such offences, that period is ***five years*** after the sentence was served or to be served.

Offences In Canada

People who have criminal convictions in Canada must seek a pardon from the National Parole Board of Canada before they will be admissible to Canada.

For more information on rehabilitation see the CIC guide “Rehabilitation For Persons Who Are Inadmissible to Canada Because of Past Criminal Activity” available at www.cic.gc.ca/english/pdf/kits/guides/5312E.PDF.

REMOVAL ORDERS

People who have been issued a removal order may be required to leave Canada. Removal orders may be issued to unsuccessful refugee claimants, permanent residents who do not comply with their immigration requirements, and permanent residents who are inadmissible.

The person will be informed of the reasons for the removal and is given a copy of the order. Family members in Canada who are dependents (spouse and/or children) may be included in the removal order if they are not Canadian citizens or permanent residents 19 years of age or over.

There are three types of removal orders:

Exclusion Order

The person cannot return to Canada for one year. However, the person can try to get permission from CIC to return sooner.

Departure Order

The person must leave Canada within **30 days** after the order is issued and they must confirm their departure with CIC. The person can return to Canada without restrictions. ***A departure order automatically becomes a deportation order if the person does not leave within 30 days or does not confirm their departure with CIC.***

All refugee claimants are issued conditional departure orders as soon as they make a refugee claim.

Deportation Order

The person is permanently barred from returning to Canada. The person may never return to Canada unless they receive written permission from CIC.

A deportation order may not be effective immediately due to the backlog at CIC. Priority will be given to people who collect welfare or have criminal convictions.

An escort may be assigned for a person if it is believed that the person will not obey the removal order. The RCMP or a medical officer may escort the person out of Canada if the person is considered very dangerous or a threat to the health or safety of other travellers.

Refugee Claimants

All refugee claimants are given conditional departure orders as soon as they make a refugee claim. If the claim is accepted then the removal order is cancelled. If the claim is denied, withdrawn or abandoned then the removal order will go into effect. The person then has 30 days to leave Canada. If they do not leave Canada, their departure order will become a deportation order.

Note: removal orders will be postponed when a person applies for judicial review.

Appeal

Permanent residents and protected persons can appeal removal orders. The Immigration Appeal Division of the Immigration and Refugee Board hears appeals. A person cannot be removed from Canada if they have appealed a removal order and the appeal has not yet been decided.

People who CANNOT appeal removal orders include people who,

- ❑ are security threats
- ❑ violated human or international rights
- ❑ received a sentence of at least two years for criminal activity
- ❑ are or have been involved in organized crime
- ❑ made a misrepresentation, except in cases where the person is the sponsor's spouse, common-law partner or child

PART III - REFUGEES

United Nations

In 1950, the U.N. General Assembly established the United Nations High Commissioner for Refugees (UNHCR) as one of several attempts by the international community to provide protection and assistance to refugees.

In 1951, the United Nations created the *Geneva Convention Relating to the Status of Refugees*. This document defines refugees and explains the rights of refugees and the duties of countries. The *Convention* was created to prevent refugees from being sent back to a country where they would face persecution. If a person fits within the *Convention's* definition of a refugee then he or she is a *Convention Refugee*.

More information on the UNHCR and the Convention can be found at www.unhcr.ch.

PROTECTED PERSONS

A protected person is either a *Person in Need of Protection* or a *Convention Refugee*. All protected persons get refugee protection in Canada.

Persons in Need of Protection

Persons in Need of Protection are people who would face danger if they were to return to their home country. The danger includes torture, threat to life, or risk of cruel and unusual treatment or punishment.

The *Immigration and Refugee Protection Act* defines a *person in need of protection* as:

A person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them *personally*

(a) to a danger, believed on substantial grounds to exist, of *torture* within the meaning of Article 1 of the Convention Against Torture; or

(b) *to a risk to their life* or to *a risk of cruel and unusual treatment or punishment* if

(i) the *person is unable or*, because of that risk, *unwilling to avail themselves of the protection of that country*,

(ii) the *risk would be faced by the person in every part of that country* and is *not faced generally by other individuals* in or from that country,

(iii) the risk is *not inherent or incidental to lawful sanctions*, unless imposed in disregard of accepted international standards, and

(iv) the *risk is not caused by the inability of that country to provide adequate health or medical care*.

See pages 45-46 for an explanation of these requirements.

Convention Refugees

A Convention Refugee is a person who fits the definition of refugee as defined in the *United Nations Convention Relating to the Status of Refugees*.

Canada's *Immigration and Refugee Protection Act* defines a convention refugee as:

a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(a) is outside each of their countries of nationality and is *unable or*, by reason of that fear, *unwilling to avail themselves of the protection of each of those countries*; or

(b) not having a country of nationality, is outside the country of their former habitual residence and is *unable or*, by reason of that fear, *unwilling to return to that country*.

A person asking for Convention Refugee status or protection in Canada is called a ***Refugee Claimant***.

There are two types of refugees. Some refugees are selected and sponsored by the Canadian government from outside Canada. They fall within the *Refugee and Humanitarian Resettlement Program*. Most refugees, however, arrive in Canada on their own and claim refugee status at the border, airport or immigration office.

Refugee and Humanitarian Resettlement Program

CIC selects people from refugee camps around the world to move to Canada. These refugees receive money for travel to Canada, housing, and basic household items. They also receive welfare for one year after they arrive in Canada. People in this program have to go through medical, security and criminal screenings.

Refugee Claimants

Most refugees travel to Canada on their own to make a refugee protection claim at the border, airport or CIC office inside Canada.

Each family member (including children) must make a claim. The claims are usually processed together. However, a family member can ask that his or her claim be dealt with separately (called severing the claim) if they do not want their family members to hear their story.

Refugee Claim Process

1. Person makes a refugee claim at the airport, border or CIC office. ***A CIC officer interviews the person to find out if he or she is eligible to make a claim.*** The officer will take notes during the interview which will be used later at the hearing to check for consistency.
2. Within 3 days, the CIC officer decides if the claim is eligible to be heard by the *Immigration and Refugee Board*. See page 43 for more information on eligibility. The refugee claimant is given a conditional departure order (see page 33).

3. If the claim is not eligible, the person may be removed from Canada. See page 34 for information on removal orders.
4. If the claim is eligible, CIC sends it to the IRB for a hearing.
5. The claimant fills out a ***Personal Information Form*** (PIF), which must be completed and given to the IRB, ***within 28 days***.

THE PIF IS VERY IMPORTANT

The PIF asks questions about the claimant's identity, family, work history, military service and other personal information.

It asks the claimant to state why he or she has a fear to go back to their home country. The refugee claimant should include **ALL** relevant information.

The decision of the IRB will be based on the information in the PIF, the claimant's testimony and evidence.

6. The claimant sends in documents that support his or her claim. For example, a doctor's report, newspaper articles or reports of human rights agencies.
7. The claimant has an interview or hearing at the IRB and the IRB decides if he or she is a Convention Refugee or Person In Need of Protection.
8. If the decision is "yes" then the person has protected person status. He or she can stay in Canada and apply for permanent resident status (to be done ***within 180 days***). The person can include their dependents inside and outside Canada in their application for permanent resident status.
9. If the decision is "no", the person can apply to the Federal Court to review the decision. See page 44 for more information.
10. If the person does not apply to the Federal Court, or the court refuses the application, then the person may be removed from Canada. See page 33

11. for more information on removal orders.

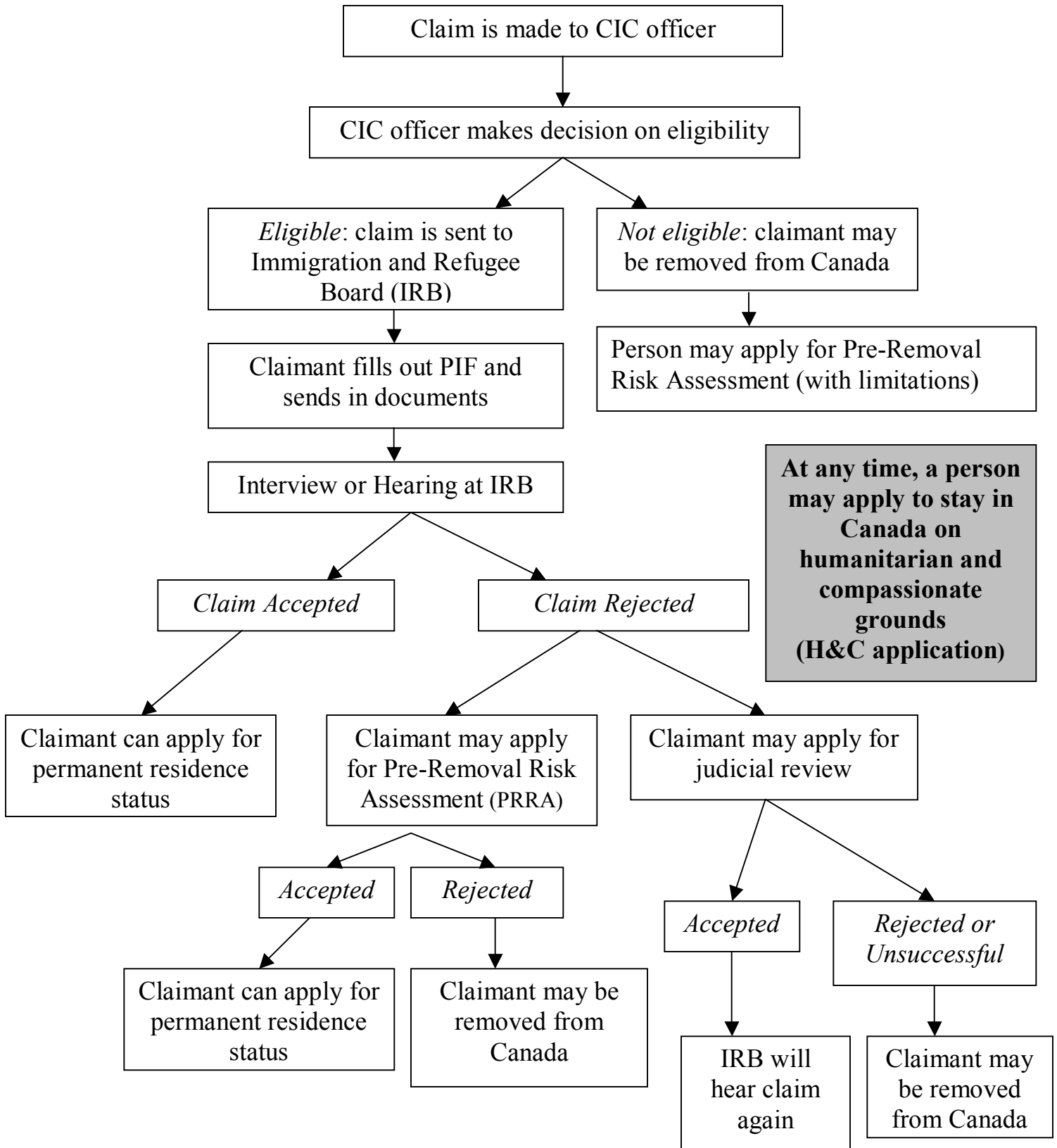
12. Before removal, the person can apply for a *Pre-Removal Risk Assessment*. See page 45 for more information.

Legal Counsel

Refugee claimants have the right to be represented, at their own expense, by legal counsel during the claim process. Limited legal aid funding may be available for refugee claimants who cannot afford a lawyer.

If a claimant is not represented by a lawyer then a friend, relative or other person can act as their counsel at the hearing.

Flow Chart: Overview of Refugee Claim Process



Eligibility of Refugee Claimant

To decide if a person is eligible to make a refugee claim, CIC officers ask claimants about their identity, their background and the way they travelled to Canada. Officer may also ask claimants why they are asking for protection in Canada. Based on this information, officers will decide if the person is eligible to make a refugee claim.

People can be ineligible due to security concerns, human rights violations, serious criminality, organized crime or misrepresentation (see page 29). In addition, people cannot make a refugee claim if they made a refugee claim in Canada before and their claim was rejected, abandoned, withdrawn or ineligible. They are also ineligible if they have refugee protection in another country and can return to that country.

Safe Third Country Agreement with US

The *Immigration and Refugee Protection Act* states that people who come to Canada from or through a recognized 'safe third country', where they could have claimed refugee protection, are ineligible to make a refugee claim in Canada.

To date, no country has been recognized as a 'safe third country' and therefore this exclusion is not in effect. However, Canada and the United States are working on an agreement which recognizes both Canada and the United States as 'safe third countries'. Once the agreement becomes law, people who could have made a refugee claim in the United States will be ineligible to make a claim in Canada.

Immigration and Refugee Board (IRB)

The *Immigration and Refugee Board* (IRB) is separate from CIC. The IRB hears and decides refugee claims.

Refugee claimants can request to have an expedited hearing. However, these are not granted often and most refugee claimants will have a full hearing at the IRB.

At the hearing, the claimant's PIF and all other evidence will be reviewed. The claimant will also give oral testimony. An interpreter will be at the hearing if one is needed. The hearing can be held in either French or English. Most hearings last half a day (the letter from the IRB will state how long the hearing will be). The refugee claimant can request a longer hearing.

The IRB may tell the claimant the decision at the end of the hearing or mail it to the claimant later. The decision may take a few days or several months if it is a complicated case.

Rejected Refugee Claim

When the IRB rejects a claim, it sends a letter to the claimant. The letter explains why the claim was not accepted.

The refugee claimant can apply for a judicial review within **15 days** after the decision of IRB. A judicial review is a legal process and the claimant should speak with a lawyer about it.

If the person does not apply for a judicial review, he or she will be scheduled for an interview with the removal department of CIC. At the interview, the person will be given a departure order. CIC may also give the person a *Pre-Removal Risk Assessment* (PRRA) form. See page 45 for more information on the PRRA.

When a person has a rejected refugee claim, he or she cannot make another refugee claim in Canada.

If a failed refugee claimant does not apply for a judicial review or a PRRA, he or she should leave Canada within **30 days**. If they do not leave within 30 days, their departure order automatically becomes a deportation order and they will be permanently barred from returned to Canada. See page 33 for more information on removal orders.

Change of Address

If claimants move, they **must** report their new address to the IRB and CIC. If they do not report the change of address, they will not get important letters from the IRB or CIC which could lead to their claim being declared abandoned.

Claimants can request that their file be transferred. For example, if a claimant moves to Vancouver from Toronto he or she can ask that their hearing be held in Vancouver instead of Toronto. **HOWEVER**, this must be done well in advance. If the person does not give enough notice, the claim may be declared abandoned. **CAUTION: the transfer request may not be granted.**

PRE-REMOVAL RISK ASSESSMENT (PRRA)

A *Pre-Removal Risk Assessment* (PRRA) looks at the risks a person would face if they were to be returned to their home country. The risk must be *specific* to the person. CIC looks at the risk of persecution, torture, cruel and unusual treatment or punishment, and the risk to life.

In most circumstances, when a person's PRRA is successful they get refugee protection and they can apply for permanent resident status in Canada. The person must have identity documents and pass criminal and security checks.

People who are eligible for a PRRA will be given the application at their interview with the removal department of CIC. Generally, they will get the application when they are 'removal ready', which means that they have a valid passport or travel document and a removal order. In some situations, people can request and make a PRRA application themselves.

If a person was given a PRRA application, his or her removal order is postponed during the assessment. The removal order goes back into effect when (a) the person does not apply for the assessment or applies too late, (b) the application is refused, or (c) the person withdraws the application.

The person has **15 days** to send in the application form and **another 15 days** after that to send in evidence.

Applicants must show that:

- (a) They are not able to get protection from the police and/or other authorities in their home country.

- (b) The risk they face affects them personally and is not faced by all other people in the country. For example, the risk is not due to a famine or civil war.
- (c) The risk exists in every part of the country. They cannot move to another part of the country to be safe.
- (d) The risk is not punishment for a crime they committed **UNLESS** the punishment for the crime violates international standards (e.g. torture).
- (e) The risk is not due to the country's lack of medical care. For example, the person has AIDS and their home country does not have new medications.

Only *new evidence* will be considered for a PRRA. New evidence is information that was not available at the refugee hearing. For example, events that happened in the home country after the IRB hearing. If the person did not appear before the IRB then all information and evidence can be submitted. Evidence can include newspaper articles, human rights reports, legal documents, medical and psychological reports, and expert opinions.

A person can apply for a judicial review if their PRRA was unsuccessful. If the judicial review is dismissed or unsuccessful, the person will have to leave Canada.

Risk to Canada

The PRRA process for people who are considered a risk to Canada is different. These are people who are not allowed to make a refugee claim due to security reasons, serious crimes or human rights violations. In these situations, the risk the person faces if he or she is returned to their home country is balanced with the possible risk Canadian society faces if the person stays in Canada.

If they are allowed to stay in Canada, they may be removed when the situation in their home country changes. Unlike other PRRA applicants, they cannot apply for permanent resident status.

People Who Cannot Apply for PRRA

Some people are not eligible for PRRA, including:

- ❑ People going through an extradition process. Extraditions return people to another country to stand trial for a crime they committed in that country.
- ❑ People who are recognized as a Convention Refugee by a country to which they can return.
- ❑ Repeat refugee claimants returning to Canada less than 6 months after leaving Canada.
- ❑ People who came to Canada from a 'safe third country'.

Community Legal Education Ontario (CLEO) publishes pamphlets on the PRRA. Their website is www.cleo.on.ca.



SPONSORING REFUGEES OVERSEAS

Organizations and individuals can sponsor refugees who are abroad and are seeking resettlement in Canada. CIC can match refugees with groups interested in sponsoring refugees. Sponsors must be Canadian citizens or permanent residents and be at least 18 years old. ***Refugee claimants who are already in Canada do not qualify for this type of sponsorship.***

Sponsoring groups must support the refugees for one year. This support includes housing, clothing and food. In special cases, the sponsorship period can be extended for up to 3 years.

More information on sponsoring refugees is available on CIC's website at www.cic.gc.ca/english/refugees/resettle-4.html.

Sponsorship Agreement Holders

A number of organizations and groups across Canada have pre-approved sponsorship agreements. These are religious groups such as the Catholic Church and the Anglican Church.

Groups of Five

A group of five or more people can sponsor refugees. Each member of the group must be at least 18 years old, live in the community where the refugee will live and provide support.

Community Sponsor

This sponsorship is for organizations and businesses that have money to support a refugee. There must be people within this group who live in the community where the refugee will live.

Joint Assistance Sponsorships (JAS)

For this type of sponsorship, the government works together with Canadian residents to sponsor a refugee. The government will provide the money and the people will provide the emotional support.

People who can be considered for a JAS include women at risk, victims of trauma or torture, large families, people who have been in refugee camps for a long time, and people with medical conditions

In 1988, Canada created the *Women at Risk Program* for refugee women in desperate circumstances. These women do not have family or friends to support or protect them and they may be at risk of rape and other violence. More information is available at www.cic.gc.ca/english/refugees/women-1.html.

EMPLOYMENT, EDUCATION AND HEALTH SERVICES

Refugee claimants have certain rights and may have access to Canadian services.

Social Insurance Number

Refugee claimants can apply for a Social Insurance Number (SIN) which is a nine-digit number used as personal identification for government programs.

A SIN is needed to work in Canada. Employers must ask to see an employee's SIN card. In order to get a SIN refugee claimants need to have a work permit.

SIN numbers that begin with the number "9" are given to people who are not Canadian citizens or permanent residents. All new 900-series SIN cards have an expiry date that matches the expiry date on the person's immigration documents.

Work Permit

Refugee claimants are usually eligible for work permits. It can take 3 to 6 months to get the work permit but refugee claimants do not have to pay for the permit. They can apply for a work authorization once their PIF has been submitted to the IRB and their medical exams have been completed.

Refugee claimants can have an open work permit, which means that they do not need a job offer in order to get a work permit. Their work permit is not limited to a specific job or employer.

Unsuccessful refugee claimants who are in the process of a PRRA or H&C application have to pay for their work permit. It costs \$150 and must be renewed every 6 months.

Education

Refugee claimants can apply for student permit so that they can attend school while waiting for a decision on their claim. However, this is not an easy process. For example, CIC may refuse the application if the claimant wants to attend college or a post-secondary institution.

Study permits are only necessary for programs that last longer than 6 months.

Children do not need a student permit to attend school, but they must have a medical exam.

Student Loans

Convention Refugees and Persons in Need of Protection can apply for financial assistance for school through the Canada Student Loans Program. ***Refugee claimants are not eligible for student loans.***

The student must have a SIN and a copy of the Protected Persons Status Document, which must be valid the entire period of study.

Ministry of Advanced Education

Student Services Branch

Victoria: 250-387-6100

Lower Mainland: 604- 660-2610

Toll-Free: 1-800-561-1818

www.aved.gov.bc.ca/studentsservices

English Classes

A student permit is not usually needed to take English classes. Convention Refugees and Persons in Need of Protection can take government sponsored ESL classes through ELSA (English Language Services for Adults). See ELSA's website for more information: www.elsanet.org/index.html.

Refugee claimants are **NOT** eligible for ELSA classes. Refugee-serving agencies may offer free ESL classes for refugee claimants or may be able

to refer refugee claimants to free or low-cost ESL classes in the community.

Health Services

The Interim Federal Health Program provides refugee claimants with health services while they are not yet covered by a provincial medical plan. However, it only covers emergency and essential health services and may not cover actual costs of services (for example, it will only cover a portion of hospital costs).

In Vancouver, the Bridge Health Clinic offers free medical services to refugee claimants.

Bridge Health Clinic
at Raven Song Community Health Centre
200-2450 Ontario Street
Vancouver, BC
Phone: 604-709-6540

British Columbia's health care plan is called the Medical Services Plan (MSP). Convention refugees and Persons in Need of Protection can apply for MSP three months after they have been determined to be protected persons.

Medical Services Plan
Vancouver: 604-296-4677
Toll free: 1-888-788-4357
Website: www.hlth.gov.bc.ca/msp/

Income Security

Convention Refugees can apply for welfare and disability benefits.

Refugee claimants who do not have any sources of income to support themselves and their families can go to the Ministry of Human Resources for financial assistance. Financial assistance is discussed in detail in the module "Income Security".

Hardship Assistance

The following people can apply for hardship assistance:

- ❑ Refugee claimants
- ❑ Refugee claimants who are appealing an IRB decision
- ❑ PRRA applicants
- ❑ People with deportation orders, which cannot be executed
- ❑ People with a Minister's permit

PART IV - PERMANENT RESIDENCE AND CANADIAN CITIZENSHIP

Permanent Residents

Permanent residents are immigrants, refugees and protected persons who have been given the right to live permanently in Canada. Permanent residents have more rights than visitors to Canada, but they do not have all the rights that Canadian citizens have (e.g., they cannot vote).

Rules surrounding permanent resident status are found in the *Immigration and Refugee Protection Act*.

Canadian Citizens

Canadian citizens enjoy all the rights, freedoms and protections as outlined in the *Canadian Charter of Rights and Freedoms*.

Rules surrounding citizenship are found in the *Citizenship Act*.

PERMANENT RESIDENT STATUS

Rights of Permanent Residents

Permanent residents have the right to enter and live in Canada. They also have *most* of the rights set out in the *Canadian Charter of Rights and Freedoms* (commonly called the *Charter*). These rights include the freedom of religion and legal rights. The Charter is explained in more detail in the module “Human Rights”.

Permanent residents cannot become politicians and they cannot vote. Also, people must be Canadian citizens for certain jobs.

Permanent Resident Card

In 2002, CIC began to issue Permanent Resident cards as proof of status. The card is also called a ‘PR card’. It enhances the paper “Record of Landing” document.

The PR card costs \$50.00. Children's cards also cost \$50. The card is valid for 5 years.

As of December 31, 2003, most permanent residents must have the card if they need to re-enter Canada in a commercial carrier (e.g., plane, bus). Since the card is only issued in Canada, a permanent resident should get it before they leave Canada. If they do not have a card, they can go to a Canadian embassy or consulate and get a temporary travel document to re-enter Canada. This document costs \$50.

For information on the PR card call *1-800-255-4541* (in Canada only).

Residency Obligation

Permanent residents must meet a residency obligation to maintain permanent resident status. They must meet the obligation for two out of every 5 years. This means that the person must live in Canada for at least two years (730 days) in any five-year period. It does not have to be two years in a row.

If the person has been a permanent resident for more than five years, only the last five years will be looked at.

A person can meet their residency obligations while living abroad in the following circumstances:

- They are accompanying a spouse or common-law partner abroad who is a Canadian citizen.
- They are a child accompanying a Canadian parent.
- They work, full-time, for a Canadian business or the Canadian government.
- They are accompanying a spouse or common-law partner who is a permanent resident AND who works, full-time, for a Canadian business or the Canadian government.
- They are a child with a parent who is a permanent resident AND who works, full time, for a Canadian business or the Canadian government.

Even if there is a failure to meet the residency obligation CIC may determine that humanitarian and compassionate considerations justify the retention of resident status.

Losing Permanent Resident Status

A person who does not meet the residency obligations may lose his or her permanent resident status. A person does not lose his or her permanent resident status immediately and has the right to appeal to the Immigration Appeal Division. They should get legal help as soon as possible because an appeal must be filed within a specified time.

Permanent residents may also lose their permanent resident status if they are found to be inadmissible. See page 29 for more information on inadmissibility.

CANADIAN CITIZENSHIP

Canadian citizens enjoy all the rights, freedoms and protections of the *Canadian Charter of Rights and Freedoms*. They have the right to have a Canadian passport and to re-enter Canada no matter how long they have been out of the country. They cannot be forced to leave Canada for any reason, unless they obtained their Canadian citizenship or permanent resident status by not telling the truth.

A person who wishes to become a Canadian citizen must be at least 18 years old and must be legally admitted into Canada as a permanent resident. He or she must also fulfil a three-year residency requirement.

Becoming a Canadian Citizen

There are three ways in which a person can become a Canadian citizen:

- a) Being born in Canada
- b) Being born in another country to a Canadian parent
- c) Being a permanent resident and successfully applying to become a Canadian citizen (see residency requirement below)

Residency Requirement

Permanent residents can apply for Canadian citizenship after they have residency in Canada for *three years*. Usually, they must have lived in Canada for at least three years out of the four years right before the day they

apply. For example, if a person applies on June 1, 2004, the citizenship judge will count back to June 1, 2000. The citizenship judge may consider a person's connection to Canada if the residency requirement is not met.

The time people spent in Canada *before* becoming a permanent resident will be counted as *half time*. The maximum time allowed is one year. For example, if a person was a student for 4 years before becoming a permanent resident, then this will be counted as 1 year of residency.

Time spent outside of Canada, for example to attend school or on business, may or may not count toward the residency requirement. Time spent in prison, on probation or on parole does not count.

The "Application for Citizenship" Form

Call the CIC call centre to request a form or download one from the CIC website at www.cic.gc.ca/english/applications/index.html.

Each person who applies for citizenship must complete a separate application form. Children need a different form and each child needs a separate form.

Citizenship Test

Persons wishing to become Canadian citizens must write the citizenship test. The test asks questions about Canada and shows that the person understands English or French.

Each applicant receives the study guide *A Look at Canada*. The study guide is also available in large print, audiocassette and Braille. The study guide helps applicants prepare for the citizenship test. People can also attend a citizenship class.

If the person meets the basic requirements for citizenship, and is between the ages of 18 and 59, he or she will be scheduled for the test. The test consists of short-answer, multiple-choice and fill-in-the-blank questions. The questions are about governments in Canada, voting, the rights and responsibilities of citizenship, history, geography, and features of the region in which the person lives.

If a person does not pass the test, then the person will be given an interview by a citizenship judge. The judge will ask the person questions to find out what they know about Canada.

The person may have to show original documents at the time of their test (for example, immigration papers) and so they should bring the documents with them.

Citizenship Ceremony

If a person meets all the requirements to become a Canadian citizen, CIC will send a 'Notice to Appear to Take the Oath of Citizenship' telling the person when and where their citizenship ceremony will take place. The person will have to swear an oath of allegiance to the Queen and to observe the laws of Canada. People can bring their own holy book to the ceremony if they wish to do so.

The person receives the certificate of citizenship at the citizenship ceremony. The certificate is a small card that is used for identity and to prove Canadian citizenship.

Children

Children do not need to have lived in Canada for three years. A parent can apply for the child's citizenship as soon as the child receives permanent resident status.

Children under 18 do not have to write the citizenship test. Children over 14 must take the Oath of Citizenship and will be invited to the citizenship ceremony.

People Who Cannot Become Canadian Citizens

People will not be allowed to become Canadian citizens if they have a deportation order, are considered a security risk, or have had their Canadian citizenship taken away in the past five years.

If a person *has criminal convictions or charges* he or she should consult a lawyer before applying for citizenship.

Dual Citizenship

Dual citizenship occurs when a person is the citizen of more than one country. A Canadian citizen is allowed to be a citizen of another country as well.

However, some countries do not allow dual citizenship and therefore a person may lose the citizenship of their country of origin when they become a Canadian citizen. People should contact the consulate or embassy of their country of origin or a citizenship lawyer to find out if they allow dual-citizenship.

The Department of Foreign Affairs and International Trade offers advice on dual citizenship for travellers. It is available at www.voyage.gc.ca.

GOVERNMENT AND LEGAL RESOURCES

THE LEGAL RESOURCES LISTED HERE ARE SPECIFIC RESOURCES FOR
IMMIGRATION LAW

REFER TO THE MODULE “COMMUNITY RESOURCES” FOR A COMPLETE
LISTING OF ALL AVAILABLE LEGAL RESOURCES

Citizenship and Immigration Canada (CIC)

1148 Hornby Street
Vancouver, BC
Lower Mainland: 604-666-2171
Elsewhere in BC: 1-888-242-2100
Website: www.cic.gc.ca

Immigration and Refugee Board

1600- 300 West Georgia Street
Vancouver, BC
Phone: 604-666-5946
Website: www.irb.gc.ca

Law Line

This is a telephone service, organized by Legal Services Society, which provides legal information and advice about legal issues. It is for people who cannot afford a lawyer but do not qualify for legal aid.

Lower Mainland: 604- 408-2172
Outside Lower Mainland: 1-866-577-2525
After dialling the phone number, press “7” on your phone to connect to Law Line

Law Link

Provides online legal information on a variety of topics. The immigration law section includes: Legal Aid Guidelines, Live-in Domestic Workers, Permanent Residents, Refugees, Removal from Canada, Sponsorship, Temporary Visas

Website: www.lawlink.bc.ca/immigration-refugee/immigration-refugeeHome.asp

Legal Services Society

1140 West Pender, 2nd Floor
Vancouver, BC V6E 4G1
Lower Mainland: 604-408-2172
Outside Lower Mainland: 1-866-577-2525
Website: www.lss.bc.ca

Mosaic's Advocacy Project

1720 Grant Street

Vancouver, BC V5L 2Y7

Phone: 604-254-9626

Website: www.mosaicbc.com/programs_legal-advocacy.html

Passport Office

Vancouver: 604-586-2500

Toll free: 1-800-576-6868

Web site: www.ppt.gc.ca

Vancouver Office

Sinclair Centre

200-757 West Hastings Street

Office hours: 7:30 to 16:30

Victoria Office

Scotiabank Building

747 Fort Street, 5th floor

Office hours: 8:30-16:30

Richmond Office

135- 8011 Saba Road

Office hours: 8:30-16:00

Passport pickup service is not available at this office

Surrey Office

900-13401 108th Avenue

Office hours: 8:00-16:30

Refugee Protection Division - Documentation Centre

1700 - 300 West Georgia Street

Vancouver, BC

COMMUNITY AGENCIES

THE COMMUNITY AGENCIES LISTED HERE SPECIFICALLY ADDRESS
IMMIGRATION ISSUES

REFER TO THE MODULE “COMMUNITY RESOURCES” FOR A COMPLETE
LISTING OF ALL COMMUNITY AGENCIES

AMSSA (*Affiliation of Multicultural Societies and Service Agencies of BC*)

AMSSA is a coalition of organizations that provide multicultural programs and immigrant settlement services throughout BC. They can refer people to a settlement agency in their community.

Lower Mainland: 604-718-2780
Elsewhere in BC: 1-888-355-5560
www.amssa.org

Neighbourhood Houses

These offer social, educational, cultural and recreational services for families and individuals, including new immigrants and refugees. Most have after school programs, childcare for children, day camps, ESL classes, seniors and youth programs, family support programs and community information in many languages.

Vancouver’s neighbourhood houses are listed on www.anhgv.org. All neighbourhood houses in BC are listed on www.orw.ca/source/listings/neighbou.htm.

ABBOTSFORD

Mennonite Central Committee BC
31414 Marshall Road
Abbotsford, BC V2T 3T8
Phone: 604-850-6639
www.mcc.org/bc/

BURNABY

Vancouver Multicultural Family Support Services Society
306-4980 Kingway
Burnaby, BC V5H 4K7
Phone: 604-436-1025
www.vlmfss.ca

CAMPBELL RIVER

Campbell River and Area Multicultural and Immigrant Services Association
43-1480 Dogwood Street

Campbell River, BC V9W 3A6
Phone: 250-830-0171
www.misa.crcn.net

COQUITLAM

S.U.C.C.E.S.S.
Burnaby-Coquitlam Service Centre
435B North Road
Coquitlam, BC V3K 3V9
Phone: 604-936-5900
www.success.bc.ca

DUNCAN

Cowichan Valley Intercultural and Immigrant Aid Society
3 – 83 Trunk Road
Duncan, BC V9L 2N7
Phone: 604-748-3112

KAMLOOPS

Kamloops Cariboo Regional Immigrant Society

110-206 Seymour Street
Kamloops, BC V2C 2E5
Phone: 250-372-0855

www.kamloopsimmigrantservices.net

NANAIMO

Central Vancouver Island Multicultural Society

114 - 285 Prideaux Street
Nanaimo, BC V9R 2N2
Phone: 250-753-6911

www.cvims.org

NORTH VANCOUVER

North Shore Multicultural Society

207 - 123 East 15th Street
North Vancouver, BC V7M 1P4
Phone: 604-988-2931

www.district.north-van.bc.ca/communit/nsms/

PENTICTON

Penticton and District Multicultural Society

508 Main Street
Penticton, BC V5N 4C8
Phone: 604-492-6299

www.cloud9design.ca/pdms

PRINCE GEORGE

Immigrant and Multicultural Services Society of Prince George

1633 Victoria Street
Prince George, BC V2L 2L4
Phone: 250-562-2900

www.imss.ca

RICHMOND

Richmond Multicultural Concern Society

210-7000 Minoru Boulevard
Richmond, BC 6Y 3Z5
Phone: 604-279-7160

www.rmcs.bc.ca

S.U.C.C.E.S.S.

Caring Place Service Centre

220-7000 Minoru Blvd.
Richmond, BC V6Y 3Z5
Phone: 604-279-7180

www.success.bc.ca

SURREY

Progressive InterCultural Community Services Society (PICS)

109-12414 82nd Avenue
Surrey, BC V3W 3E9
Phone: 604-596-7722

www.picssociety.com

S.U.C.C.E.S.S.

Surrey-Delta Service Centre

#206 10090 152 Street
Surrey, BC V3R 8X8
Phone: 604-588-6869

www.success.bc.ca

Surrey Delta Immigrant Services Society

1107-7330 137th Street
Surrey, BC V3W 1A3
Phone: 604-597-0205

www.sdiiss.org

VANCOUVER

Immigrant Services Society of BC

530 Drake Street
Vancouver, BC V6B 2H3
Phone: 604-684-7498

www.issbc.org

Inland Refugee Society

101-225 East 17th Avenue
Vancouver, BC V5V 1A6
Phone: 604-873-6660

www.inlandrefugeesociety.org

Lesbian and Gay Immigration Taskforce (LEGIT)

P.O. Box 384
Vancouver, BC V6C 2N2

www.legit.ca

MCC Refugee & Newcomers Office
660 East 51 Avenue
Vancouver, BC V5X 1C9
Phone: 604-325-5524
www.mcc.org/bc/

MOSAIC
1720 Grant Street
Vancouver, BC V5L 2Y7
Phone: 604-254-9626
www.mosaicbc.com

Pacific Immigrant Resources Society
205-2929 Commercial Drive
Vancouver, BC V5N 4C8
Phone: 604-298-5888
www.pirs.bc.ca

*Progressive Intercultural Community
Services Society*
200-8161 Main Street
Vancouver, BC V5X 3L2
Phone: 604-324-7733
www.picssociety.com

Rainbow Refugee Committee
1170 Bute Street
Vancouver, BC
Phone: 604-684-9872 ext. 2850

Storefront Orientation Services (SOS)
360 Jackson Avenue
Vancouver, BC V6A 3B4
Phone: 604-255-4611

*S.U.C.C.E.S.S.
Social Service Centre*
28 West Pender Street
Vancouver, BC V6B 1R6
Phone: 604-684-1628
www.success.bc.ca

*Vancouver Association for Survivors of
Torture (VAST)*
2618 East Hastings Street
Vancouver, BC V5K 1Z6
Phone: 604-299-3539
www.vast-vancouver.ca

VERNON
*Vernon and District Immigrant Services
Society*
100-3003 30th Avenue
Vernon, BC V1T 9J5
Phone: 250-542-4177
www.spcno.bc.ca

VICTORIA
*Inter-Cultural Association of Greater
Victoria*
930 Balmoral Road
Victoria, BC V8T 1A8
Phone: 250-388-4728
www.icavictoria.org

*Victoria Immigrant and Refugee Centre
Society*
3rd Floor, 535 Yates Street
Victoria, BC V8W 2Z6
Phone: 250-361-9433
www.vircs.bc.ca

APPENDIX I

SKILLED WORKERS

Skilled workers are people who may become permanent residents because they can become economically established in Canada. To be accepted as a Skilled Worker applicants must:

- a) Meet minimum work experience requirements.
- b) Have funds required for settlement.
- c) Earn enough points in the six selection factors to meet the pass mark.

Minimum Work Experience

A skilled worker who must meet minimum work experience criteria:

- ❑ The person must have at least one year of paid full-time work experience.
- ❑ The work experience must be in the category of ***Skill Type 0***, or ***Skill Level A*** or ***B*** on the Canadian National Occupational Classification (NOC). See CIC website for details. NOC is classification system for jobs in the Canadian economy. It describes duties, skills, and work settings for jobs.
- ❑ The work experience must be within the last 10 years.

To find out if a person has the required minimum work experience follow the steps outlined on CIC's website at www.cic.gc.ca/english/skilled/qual-2.html or contact an immigration lawyer.

A person does not meet the minimum requirements if none of the work experience is skilled work experience or it did not occur in the 10 years immediately before the person applied for permanent resident status.

Funds for Settlement

Skilled workers must have enough money to support their families for six months after they arrive in Canada. The money cannot be borrowed from another person. The person must provide proof of funds when he or she sends in their application.

If skilled workers have arranged employment in Canada they do not have to show that they have funds available.

The amount of money needed depends on the size of the skilled worker's family. See chart on the next page.

FUNDS REQUIRED FOR SETTLEMENT

Number of Family Members	Funds Required
1	\$9,420
2	\$11,775
3	\$14,645
4	\$17,727
5	\$19,816
6	\$21,905
7 or more	\$23,994

Source: www.cic.gc.ca/english/skilled/qual-4.html

The amount of funds required may change – please consult CIC’s website for the current figures.

Six Selection Factors

Each person is given points for their education, English and/or French language skills, age, and work experience. Currently, if a person has **67 points** they may qualify to immigrate to Canada as skilled workers (the number of points required is subject to change).

A self-assessment is available at www.cic.gc.ca/english/skilled/assess/index.html.

This charts show how points are awarded in the six selection factors.

Factor One: Education	Maximum 25
Person has a Master's Degree or Ph.D. and at least 17 years of full-time or full-time equivalent study.	25
Person has two or more university degrees at the bachelor's level and at least 15 years of full-time or full-time equivalent study.	22
Person has a three-year diploma, trade certificate or apprenticeship and at least 15 years of full-time or full-time equivalent study.	22
Person has a university degree of two years or more at the bachelor's level and at least 14 years of full-time or full-time equivalent study.	20
Person has a two-year diploma, trade certificate or apprenticeship and at least 14 years of full-time or full-time equivalent study.	20
Person has a one-year university degree at the bachelor's level and at least 13 years of full-time or full-time equivalent study.	15
Person has a one-year diploma, trade certificate or apprenticeship and at least 13 years of full-time or full-time equivalent study.	15
Person has a one-year diploma, trade certificate or apprenticeship	12

and at least 12 years of full-time or full-time equivalent study.	
Person completed high school.	5
Factor Two: Official Languages	
Maximum 24	
1st Official Language	
High proficiency (per ability)	4
Moderate proficiency (per ability)	2
Basic proficiency (per ability)	1 to maximum of 2
No proficiency	0
Possible maximum (all 4 abilities)	16
2nd Official Language	
High proficiency (per ability)	2
Moderate proficiency (per ability)	2
Basic proficiency (per ability)	1 to maximum of 2
No proficiency	0
Possible maximum (all 4 abilities)	8
Factor Three: Experience	
Maximum 21	
1 year	15
2 years	17
3 years	19
4 years	21
Factor Four: Age	
Maximum 10	
21 to 49 years at time of application	10
Less 2 points for each year over 49 or under 21	
Factor Five: Arranged Employment In Canada	
Maximum 10	
Human Resources Development Canada (HRDC) approved offer of permanent employment.	10
Person is applying from within Canada and have a temporary work permit that is:	
a) HRDC confirmed, including sectoral confirmations; or	10

b) HRDC confirmation exempt under NAFTA, GATS, CCFTA, or significant economic benefit (i.e. intra-company transferee.)	10
Factor Six: Adaptability	
Maximum 10	
Spouse's or common-law partner's education	3 - 5
Minimum one year full-time authorized work in Canada	5
Minimum two years full-time authorized post-secondary study in Canada	5
Person received points under the Arranged Employment in Canada factor	5
Family relationship in Canada	5
Total	
Maximum 100	
Pass Mark	
67	

APPENDIX II

INVESTORS

The Immigrant Investor Program seeks to attract experienced persons and capital to Canada. Investors must demonstrate business experience, a minimum net worth of \$800,000 and make an investment of \$400,000.

Conditions

Investors must make an investment of \$400,000, which is placed with the Receiver General of Canada. CIC returns the investment, without interest, approximately five years after the investor becomes a permanent resident. Investors must submit the investment *within 30 days* after receiving notice from CIC.

Information about the program is available at www.cic.gc.ca/english/business/invest-1.html.

Definitions for Investors

Net Assets: the assets of the business, minus the liabilities of the business, plus shareholder loans made to the business by a foreign national and their spouse or common-law partner.

Net Income: the after-tax profit or loss of the business plus payment by the business to a foreign national and their spouse or common-law partner.

Net Worth: the fair market value of all of the assets of the investor and their spouse or common-law partner minus the fair market value of all of their liabilities.

Percentage of Equity:

- a. sole proprietorship: 100 % of the equity of the sole proprietorship controlled by a foreign national or their spouse or common-law partner
- b. corporation: the percentage of the issued and outstanding voting shares of the capital stock of the corporation controlled by a foreign national or their spouse or common-law partner.
- c. partnership or joint venture: the percentage of the profit or loss of the partnership or joint venture to which the foreign national or their spouse or common-law partner is entitled.

Qualifying Business: a business that can show evidence of any two of the following activities:

- a. The percentage of equity multiplied by the number of full time job equivalents is equal to or greater than 2 full-time job equivalents per year.

- b. The percentage of equity multiplied by the total annual sales is equal to or greater than \$500,000.
- c. The percentage of equity multiplied by the net income in the year is equal to or greater than \$50,000.
- d. The percentage of equity multiplied by the net assets at the end of the year is equal to or greater than \$125,000.

The activities must be performed at least two out of five years, beginning five years before the date of application for a permanent resident visa and ending on the date of the decision.

The business cannot be a business that is operated primarily for the purpose of getting investment income such as interest, dividends or capital gains.

APPENDIX III

ENTREPRENEURS

The Entrepreneur Program seeks to attract experienced persons that will own and actively manage businesses in Canada that will contribute to the economy and create jobs. Entrepreneurs must demonstrate business experience, a minimum net worth of \$300,000 and are subject to conditions upon arrival in Canada.

Conditions

An entrepreneur who becomes a permanent resident must meet the following conditions:

- a. The entrepreneur must control 33% or more of equity in a Canadian business.
- b. The entrepreneur must provide active and ongoing management of the Canadian business.
- c. The entrepreneur must create at least one full-time job (or the equivalent) for a Canadian citizen or permanent resident. The entrepreneur and his or her family members cannot fill the job.

Entrepreneurs must meet these conditions *for at least one year within three years* after becoming permanent residents. They must be able to show evidence of meeting the conditions.

Entrepreneurs must report the following to CIC:

- a. Their home address and telephone number. This must be done within 6 months after becoming a permanent resident.
- b. Evidence of their efforts to comply with the conditions. This must be done within 1½ to 2 years after becoming a permanent resident.

Before the immigrant visa is issued, an entrepreneur is required to sign a statement that he or she intends to and will be able to meet the conditions of permanent residence.

Definitions for Entrepreneurs

Business Experience: The management of a business and the control of a percentage of equity of the business. The experience must be relatively recent and for a certain period of time (at least two years out of the five immediately before the application for a permanent resident visa).

Full-time Job Equivalent: 1,950 hours of paid employment.

Net Assets: The assets of the business, minus the liabilities of the business, plus shareholder loans made to the business by a foreign national and their spouse or common-law partner.

Net Income: The after-tax profit or loss of the business plus payment by the business to a foreign national and their spouse or common-law partner.

Net Worth: The fair market value of all of the assets of the entrepreneur and their spouse or common-law partner minus the fair market value of all of their liabilities.

Percentage of Equity:

- a. sole proprietorship: 100 % of the equity of the sole proprietorship controlled by a foreign national or their spouse or common-law partner.
- b. corporation: the percentage of the issued and outstanding voting shares of the capital stock of the corporation controlled by a foreign national or their spouse or common-law partner.
- c. partnership or joint venture: the percentage of the profit or loss of the partnership or joint venture to which a foreign national or their spouse or common-law partner is entitled.

Qualifying Business: a business that can show evidence of any ***two of the following*** activities:

- a. The percentage of equity multiplied by the number of full time job equivalents is equal to or greater than 2 full-time job equivalents per year.
- b. The percentage of equity multiplied by the total annual sales is equal to or greater than \$500,000.
- c. The percentage of equity multiplied by the net income in the year is equal to or greater than \$50,000.
- d. The percentage of equity multiplied by the net assets at the end of the year is equal to or greater than \$125,000.

The activities must be performed at least ***two out of five years***, beginning five years before the date of application for a permanent resident visa and ending on the date of the decision.

The business cannot be a business that is operated primarily for the purpose of deriving investment income such as interest, dividends or capital gains.

Qualifying Canadian Business: a business operated in Canada by an entrepreneur. It cannot be a business that is operated primarily for the purpose of getting investment income, such as interest, dividends or capital gains. There must be evidence of any two of the following (in any year within three years of the entrepreneur becoming a permanent resident):

- a. The percentage of equity multiplied by the number of full time job equivalents is equal to or greater than two full-time job equivalents per year.
- b. The percentage of equity multiplied by the total annual sales is equal to or greater than \$250,000.

- c. The percentage of equity multiplied by the net income in the year is equal to or greater than \$25,000.
- d. The percentage of equity multiplied by the net assets at the end of the year is equal to or greater than \$125,000.

APPENDIX IV

SELF-EMPLOYED PERSONS

Self-employed persons are selected on their ability to create their own employment as *artists, farmers* or *athletes*.

They must have relevant experience and must have the intention and ability to establish a business that will, at a minimum, create employment for themselves.

They must have enough money to support themselves and their family members after they arrive in Canada.

Definitions for Self-Employed Persons

Self-employed person: A foreign national who has relevant experience and has the intention and ability to be self-employed in Canada and to make a significant contribution to specified economic activities in Canada.

Relevant experience: Experience for two years during the five years prior to the permanent resident application in one of the following:

- a) Self-employment in cultural activities or in athletics.
- b) Participation at a world-class level in cultural activities or athletics.
- c) Farm management experience.

Specified economic activities: cultural activities, athletics or the purchase and management of a farm.

APPENDIX V

LIVE-IN CAREGIVERS

In order to qualify as live-in caregivers, applicants must have high school education, 6 months of relevant training or 12 months of relevant employment, English or French skills and an employment contract.

High School Education

Caregivers must have the equivalent of a Canadian high school education.

Training or Employment

Caregivers must have six months of relevant full-time classroom training or twelve months of full-time paid employment. Relevant areas include early childhood education, geriatric care, paediatric nursing or first aid.

The experience must be obtained within the three years prior to the caregiver's application for a work permit.

English or French Skills

Caregivers must be able to speak, read and understand either English or French at a level that allows them to function independently in a home setting. For example, they must be able to contact emergency services if required and to understand labels on medication.

Employment Contact

Caregivers must have written employment contracts with their future employer.

Live-in Criteria

An important requirement of the program is that employees must live in the employer's home.

The Work Permit

Work permits are *valid for one year*. To renew the permit, caregivers need to supply a copy of their signed contract and a letter from their employer stating that their job as a live-in caregiver is being offered for another year.

Changing Jobs

Caregivers do not need permission from their present employer to accept a job as a live-in caregiver with a different employer. They cannot be deported for quitting their job or for looking for other employment as a live-in caregiver.

New employers must have the offer of employment confirmed by HRCC and the live-in caregivers must get a new work permit before they begin to work for the new employer.

Working for anyone other than the employer named on the work permit is illegal. Live-in caregivers cannot accept trial employment where a new employer offers to "try out" the caregiver's services for a few weeks or months to determine if the person would be a suitable full-time employee.

Applying For Permanent Residence In Canada

Live-in caregivers must complete at least two years of employment as live-in caregivers in order to apply for permanent residence. They must complete these two years of employment within three years of arrival in Canada. Proof of employment can include pay stubs and T4 slips.

The two-year requirement does not include any extended time away from Canada. For example, if the caregiver goes on vacation for three months, that time will not be included as part of the two years of employment.

An application for permanent residence in Canada will not be assessed on the basis of the live-in caregiver's financial situation, skills upgrading in Canada, volunteer work, marital status or the number of family members he or she has in their country of origin.

The application for permanent residence can be cancelled if the caregiver misrepresented his or her education, training or experience.

Live-in caregivers can include family members in their application for permanent resident status. All family members must pass medical and background checks, whether they are accompanying the caregiver or not. Caregivers can be ineligible for permanent residence if they, their spouse or common-law partner, or any of their family members have a criminal record or a serious medical problem.

APPENDIX VI

VISA REQUIREMENT

Citizens of certain countries and territories require a Visa to visit Canada. An up-to-date list is available on the CIC website at www.cic.gc.ca/english/visit/visas.html:

Currently, Citizens of the following countries and territories require a Visa to visit or **travel through** Canada:

A	Cuba	I
Afghanistan	Czech Rep.	India
Albania	D	Indonesia
Algeria	Djibouti	Iran
Angola	Dominica	Iraq
Argentina	Dominican Rep.	Israel*
Armenia	E	Ivory Coast
Azerbaijan	East Timor	J
B	Ecuador	Jamaica
Bahrain	Egypt	Jordan
Bangladesh	El Salvador	K
Belarus	Equatorial Guinea	Kazakhstan
Belize	Eritrea	Kenya
Benin	Estonia	Kiribati
Bhutan	Ethiopia	Korea, North
Bolivia	F	Kuwait
Bosnia-Herzegovina	Fiji	Kyrgyzstan
Brazil	G	L
Bulgaria	Gabon	Laos
Burkina Faso	Gambia	Latvia
Burundi	Georgia	Lebanon
C	Ghana	Lesotho
Cambodia	Grenada	Liberia
Cameroon	Guatemala	Libya
Cape Verde	Guinea	Lithuania
Central African Rep.	Guinea-Bissau	M
Chad	Guyana	Macao S.A.R.
Chile	H	Macedonia
China	Haiti	Madagascar
Colombia	Honduras	Malawi
Comoros	Hungary	Malaysia
Congo		
Croatia		

Maldives Islands	Philippines	Tanzania
Mali	Poland	Thailand
Marshall Islands		Togo
Mauritania	Q	Tonga
Mauritius	Qatar	Trinidad and Tobago
Micronesia		Tunisia
Moldova	R	Turkey
Mongolia	Romania	Turkmenistan
Morocco	Russia	Tuvalu
Mozambique	Rwanda	
Myanmar (Burma)		U
	S	Uganda
N	Sao Tomé e Príncipe	Ukraine
Nauru	Saudi Arabia	United Arab Emirates
Nepal	Senegal	Uruguay
Nicaragua	Serbia-Montenegro	Uzbekistan
Niger	Seychelles	
Nigeria	Sierra Leone	V
	Slovak Rep.	Vanuatu
O	Somalia	Venezuela
Oman	South Africa	Vietnam
	Sri Lanka	
P	Sudan	Y
Pakistan	Surinam	Yemen
Palau	Syria	
Palestinian Authority		Z
Panama	T	Zambia
Paraguay	Taiwan	Zimbabwe
Peru	Tajikistan	

* Israel: only Israeli citizens holding valid Israeli "Travel Document in lieu of National Passport"

VISITOR VISA EXEMPTIONS

People who do not require a visa to visit Canada include:

- Citizens of Andorra, Antigua and Barbuda, Australia, Austria, Bahamas, Barbados, Belgium, Botswana, Brunei, Costa Rica, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel (National Passport holders only), Italy, Japan, Liechtenstein, Luxembourg, Malta, Mexico, Monaco, Namibia, Netherlands, New Zealand, Norway, Papua New Guinea, Portugal, Republic of Korea, St. Kitts and Nevis, St. Lucia, St. Vincent, San Marino, Singapore, Solomon Islands, Spain, Swaziland, Sweden, Slovenia, Switzerland, United States, and Western Samoa.

- ❑ Permanent residents of the United States who have their alien registration card (Green card) or can provide other evidence of permanent residence.
- ❑ British citizens and British Overseas Citizens who are re-admissible to the United Kingdom.
- ❑ Citizens of British dependent territories who received their citizenship through birth, descent, registration or naturalization in one of the British dependent territories of Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, St. Helena or the Turks and Caicos Islands.
- ❑ Persons holding a valid Special Administrative Region passport issued by the Government of the Hong Kong Special Administrative Region of the People's Republic of China.

APPENDIX VII

FEEES

The CIC website lists government fees for immigration applications and processes. *All fees are subject to change without notice.* In general, fees are payable at the time of application. The list is available at www.cic.gc.ca/english/applications/fees.html.

PERMANENT RESIDENT VISAS

Family Class Applicants

Sponsorship application (per application)	\$75
Principal applicant (person being sponsored)	\$475
Principal applicant, if less than 22 years of age and not a spouse or common-law partner (including a dependent child of the sponsor, a child to be adopted and an orphaned brother, sister, niece, nephew or grandchild)	\$75
The spouse or common-law partner of the principal applicant	\$550
A family member of the principal applicant who is less than 22 years old	\$150

Spouse or Common-Law Partner on Canada Applicants

Sponsorship application (per application)	\$75
Principal applicant (person being sponsored)	\$475
A family member of the principal applicant who is less than 22 years old	\$550

Investors, Entrepreneurs or Self-Employed Persons

Principal applicant	\$1050
The spouse or common-law partner of the principal applicant	\$550
A family member of the principal applicant who is 22 years or older	\$550
A family member of the principal applicant who is less than 22 years	\$150

Other Classes of Permanent Residents (e.g., Protected Persons, H&C Applicants)

Principal applicant	\$550
The spouse or common-law partner of the principal applicant	\$550
A family member of the principal applicant who is 22 years or older	\$550
A family member of the principal applicant who is less than 22 years	\$150

TEMPORARY RESIDENT VISAS

Visitor Visa - Single entry to Canada	\$75
---------------------------------------	------

Visitor Visa - Multiple entry	\$150
Work Visa	\$150
Study Visa	\$125

RIGHT OF PERMANENT RESIDENCE FEE (RPRF)

For the acquisition of permanent resident status	\$975
--	-------

This fee is payable by principal applicants (with some exceptions) and accompanying spouses and common-law partners. It must be paid before the immigrant visa is issued overseas or before the applicant becomes a permanent resident in Canada.

The following applicants are not required to pay this fee:

- dependent children of a principal applicant or sponsor, a child to be adopted, or an orphaned brother, sister, niece, nephew or grandchild
- protected persons, including Convention refugees

OTHER APPLICATIONS AND SERVICES

Application for a travel document	\$50
Authorization to return to Canada	\$400
Certification and replacement of an immigration document	\$30
Determination of rehabilitation - if inadmissible due to serious criminality	\$1000
Determination of rehabilitation - if inadmissible due to criminality	\$200
Extension of Authorization to Remain in Canada as a Temporary Resident	\$75
PR Card - Application fee	\$50
PR Card - Renewal or replacement of lost, damaged or stolen card	\$50
Repayment of removal expenses - To any other country	\$1500
Repayment of removal expenses - To the U.S.A. and St. Pierre and Miquelon	\$750
Restoration of Temporary Resident Status	\$200

APPENDIX VIII

SPONSORSHIP DEFAULT COLLECTION

Christina Davidson, Legal Advocate at MOSAIC, provided the following information on sponsorship default collection:

As of November 2003, the Collection and Loan Management Branch of the Ministry of Provincial Revenue has been actively seeking repayment of money given out as income assistance to sponsored immigrants from sponsors.

The provincial government has strong legal ground to stand on. Sponsors sign sponsorship agreements and undertakings with CIC. Sponsors agree to repay all money given out as income assistance to sponsored immigrants regardless of the sponsor's change in financial or other circumstances. CIC has the legal authority to assign their rights under the sponsorship agreement and undertaking to the provinces which they do when a sponsorship default occurs. Furthermore, the government has the legal authority to charge interest of 3% above prime on debts.

However, like any creditor, the province can choose not to take enforcement action or can agree to accept repayment of the debt in instalments.

I have several suggestions when clients come to you about this issue and they are as follows:

1. Review the debt with your client. It is always possible that a calculation mistake was made as to the amount. Clients can ask for and receive a breakdown of all money paid out as income assistance and the dates when it was given. If a mistake was made, the client can dispute the amount but should be prepared to provide proof of their claim.
2. Explore with your client why the default occurred and why the client is not in a position to pay the debt now. If there are humanitarian and compassionate circumstances, you or your client should tell the Ministry those facts. Remember, the Ministry can choose not to enforce the debt if they want. Again, be prepared to show proof of the circumstances you or your client have told the Ministry.

The debt does not go away if the Ministry decides not to enforce it. It just means that they will not take any enforcement action against your client for a certain period of time or possibly may never take action in very rare circumstances.

3. You and/or your client should create a written financial statement showing all monthly income, savings, expenses and debt load and collect as much evidence as possible about each item (e.g., hydro bill, rent receipts, etc.)
4. Figure out with your client how much it is realistic for your client to repay the debt on a monthly basis or a lump sum with monthly payments to follow.

5. The client can present the above information to the Ministry in the hopes that they will agree to the client's proposed repayment schedule.

The province will not try and recover the debt if the sponsor is in receipt of income assistance or if there are concerns about the safety of the income assistance client (sponsored immigrant) due to possible family violence or abuse. However, they may seek recovery when circumstances change.

Last, this program does not affect the rights of sponsored immigrants to get or continue receiving income assistance.

SOURCES

Canada Border Services Agency (CBSA)

www.cbsa-asfc.gc.ca

Canadian Council for Refugees

www.web.net/~crr/

Citizenship Act (R.S. 1985, c. C-29)

<http://laws.justice.gc.ca/en/c-29/text.html>

Citizenship and Immigration Canada (CIC)

www.cic.gc.ca

Community Legal Education Ontario (CLEO)

www.cleo.on.ca

Department of Foreign Affairs and International Trade

www.voyage.gc.ca

Embarkation Law Group

Immigration and Citizenship Lawyers

www.embarkationlaw.com

Government of British Columbia

Aboriginal, Multiculturalism and Immigration Programs Department

www.mcaaws.gov.bc.ca/amip/prgs/id.htm

Immigration and Refugee Board (IRB)

www.irb.gc.ca

Immigration and Refugee Protection Act (2001, c. 27)

<http://laws.justice.gc.ca/en/i-2.5/63408.html>

Legal Services Society of British Columbia (LSS)

www.lss.bc.ca

National Council of Welfare

www.ncwcnbes.net

National Student Loans Service Centre

www.canlearn.ca

United Nations High Commissioner for Refugees (UNHCR)

www.unhcr.ch

