



Immigration, Refugees
and Citizenship Canada

Immigration, Réfugiés
et Citoyenneté Canada

OP 1

Procedures

Canada 

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Updates to chapter

2017-03-31

Section 8 has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *Procedural fairness* section.

2017-03-10

- Appendix A has been updated. The table was removed and replaced with a link to current information on the IRCC website.
- Sections 5.9 to 5.12, 13 and 14 as well as Appendix D have been moved as part of the Department's efforts to modernize operational guidance to staff. They can now be found in the *DNA testing* section.
- Sections 5.29 and 5.37 as well as Appendix C have been moved as part of the Department's efforts to modernize operational guidance to staff. They can now be found in the *Use of representatives* section.

2017-01-06

Appendix A has been updated to remove Western Sahara from the list of countries and territories. Applicants from this territory should select Morocco.

2016-03-15

- Section 6.5 has been updated to reflect that applicants from visa-exempt countries who apply for an authorization to return to Canada also require an electronic travel authorization (eTA).
- Appendix A has been updated to reflect that applications from citizens and permanent residents of Gambia are now processed in Dakar.

2016-01-25

- Hyperlinks to the Standards Council of Canada's list of laboratories accredited to conduct DNA relationship testing for Immigration, Refugees and Citizenship Canada (IRCC) have been inserted into sections 5.10, 5.11, 5.12, and 14.
- Appendix D (*Sample letter requesting a DNA test*) has been updated to add a hyperlink to the Standards Council of Canada's list of laboratories accredited to conduct DNA relationship testing.

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- Appendix E (*Laboratories accredited by the Standards Council of Canada for DNA testing*) has been removed, along with any reference to it elsewhere in the Manual.
- Appendix F is now Appendix E.
- Appendix G is now Appendix F.
- Appendix H is now Appendix G.

2013-11-18

The list of accredited laboratories for DNA testing in Appendix E has been updated.

2013-05-10

Sections 5.17, 5.39, and 7.3 have been updated as a result of the implementation of biometric collection from prescribed applicants for a temporary resident visa, work permit, or study permit outside Canada.

These updates have been added to the intranet version only as the *Biometrics Procedures (BP 1)* manual is currently posted on intranet.

2012-12-05

Appendix E – Addition of DNA testing laboratory

2011-08-19

Appendix A – Burkina-Faso, Cameroon, Cape Verde, Central African Republic, Chad, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Ivory Coast, Mali, Mauritania, Niger and Senegal updated to reflect recent changes.

2010-09-23

- Section 3.1 – Removed reference to bilingual IMM 5257.
- Section 5.5 – Removed details and referred to OP 3.
- Section 5.14 – Inserted reference to disaster procedures as per OB 183.
- Section 5.16 – Updated URL.
- Section 5.19 – Inserted “see also” reference to Lock-in date.
- Section 5.24 – Inserted “see also” reference to File Transfer.
- Section 5.29 – Removed URL and inserted reference as per OB 055.
- Section 5.36 – Clarification of taping interview.
- Section 5.38 – URL updated.

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- Section 5.39 – Updates in contacts provided by IR.
- Section 6 – Minor Authorization to return to Canada (ARC) update/clarification.
- Section 7.4 – Rephrasing of principal applicant.
- Section 8 – Removed reference to personal suitability.
- Section 9.1 – Addition of reference to email.
- Section 12 – Updated URLs, removed reference to CIC Explore.
- Appendix A – Changed references from Port-au-Prince to Santo Domingo, and from Prague to Vienna.

2010-03-31

Appendix E – Updated references from Molecular World and Warnex Medical Laboratories to Warnex PRO-DNA and Warnex PRO-AND.

2009-07-28

Appendix A was updated to indicate where applicants from the Federal Skilled Worker class must send their permanent residence applications.

2008-11-03

This update contains important information for all IRCC and CBSA staff who may be involved in the handling of high-profile cases. It applies to all citizenship and immigration program lines.

The standing procedural instruction in section 15, on high-profile or contentious cases has been updated with new instructions and distribution lists for missions abroad, IRCC offices in Canada and CBSA offices at ports of entry or inland. This new instruction is intended to replace the RIM 057 instruction on the IR Website on management of sensitive cases as well as similar instructions that may have been developed locally or for specific program lines. All local or program-specific instructions on handling high-profile cases should now be replaced by a link to OP 1, Section 15.

Appendix E – The list of accredited DNA laboratories has been updated.

2008-01-25

- Section 5.17 – Addition of information clarifying what is meant by “lawful admission” and what are the correct procedures for processing accompanying family members as per R11.
- Section 5.24 – Addition of information regarding the application and lock-in dates for Quebec economic cases and for successful IAD appeals and judicial reviews.

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- Section 5.25 – Addition of section “Fee refunds when applicant changes economic category”.
- Section 5.38 – Deletion of option 2 under B) Local office procedures.
- Section 6.1 – Addition of section “Overarching principles for processing ARC applications”.
- Section 6.2 – Addition of section “Factors to consider when assessing ARC applications”.
- Section 6.3 – Addition of section “The download of Previously Deported Persons (PDP) into CPIC”.
- Section 9.2 – Clarification added regarding communication with MPs.
- Section 10 – Addition of summary of protocol on the use of Canadian state symbols abroad, plus annexes of Canadian emblems.
- Section 12 – Inclusion of further best practices for CAIPS notes.
- Section 13.1 – Addition of information regarding how to continue processing if the client withdraws consent for DNA test.
- Section 14 – Correction made to appendix reference for DNA labs (Appendix E).
- Appendix A – Changes in “Where to apply” for Bahrain, Burkina Faso, Cameroon, Democratic Republic of Congo, Gabon, Guinea, Kuwait, Mali, Niger, Oman, Palestinian Authority, Qatar, Republic of Congo, Saudi Arabia, United Arab Emirates, and Yemen.
- Appendix C – Correction of the form number of the Authority to Release Information to Designated Individuals [IMM 5475].
- Appendix E – Updated list of accredited DNA labs.
- Appendix H – Addition of Appendix “Sample ARC letters”.

2005-12-07

- Section 5.12 – References to the sample letter to be used when requesting a DNA test (found at Appendix D) have been added.
- Section 5.16 – “Where an application must be submitted” – now includes the website for a version of the document “Where to apply for a permanent resident visa, temporary resident visa, study permit, work permit and permanent resident travel document”.
- Section 5.17 – Additions were made to section “What is meant by ‘lawfully admitted’”.
- Section 5.18 – Acknowledgement of receipt (AOR) of the application (formerly section 5.42) has been amended.
- Section 5.19 – Addition of section “File transfer”.
- Section 5.20 – Addition of section “Procedure - R11(1) - Permanent resident applications”.
- Section 5.21 – Addition of section “Procedure - R11(2) - Temporary resident visas, study permits, and work permits”.
- Section 5.22 – Addition of section “Permanent resident travel document (PRTD)”.

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- Section 5.28 – Working with lawyers and consultants - The text of this section has been deleted and a link to IP 9 “Use of Representatives, Paid and Unpaid” has been inserted.
- Section 5.30 – “Counselling applicants during interview” was formerly section 5.27.
- Section 5.37 – “Invitations to attend functions” (formerly section 5.41) now includes a website to Conflict of Interest Measures found in the Values and Ethics Code for the Public Service.
- Section 5.38 – Addition of section “Response to inquiries and representations - clients and representatives”.
- Section 13.1 – Reference to the sample letter to be used when requesting a DNA test (found at Appendix D) has been added.
- Appendix C –“Service standards for communications with practitioners - lawyers and consultants” has been deleted and replaced by “Revocation of authorization and direction” (formerly Appendix D).
- Appendix D – now is a sample letter to be used when requesting a DNA test. This new letter sets out for the applicant the reasons for requesting the DNA test. The letter also reinforces that the DNA test is not mandatory to prove a relationship.
- Former Appendix E –“Acknowledgment of receipt letter (sample wording)” has now become Appendix F.
- Appendix formerly called “Appendix G - Where to apply for a travel document (permanent resident abroad)” has been deleted. (Information formerly available in this appendix is now part of Appendix A.
- Appendix G is now “Disposal of paper documentation”.
- All appendices were reorganized according to the above-referenced changes.

The following sections were deleted:

- Authority to disclose personal information – formerly section 5.24
- Copying applicants on correspondence to a designated representative – formerly section 5.25
- Refusing to communicate with a designated representative – formerly section 5.26
- Letters of non-objection – formerly section 5.34
- Advertising guarantees by practitioners – formerly section 5.35
- Verification of information/documents with a third party – formerly section 5.36
- Retention of visas for payment – formerly section 5.37
- Offshore processing of immigration applications – formerly section 5.38
- Service standards – formerly section 5.40

2004-11-09

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- Section 19 – Document retention and disposal—has been added.
- Appendix F has been modified to reflect the addition of Molecular World Inc. to the list of laboratories accredited by the Standard Council of Canada for DNA testing.
- Appendix H – Disposal of paper documentation—has been added.

2004-08-09

Appendix F has been modified to reflect the addition of Genetrack Biolabs Inc. to the list of laboratories accredited by the Standards Council of Canada for DNA testing.

2004-05-11

Section 5.31 (Presence of counsel) has been changed to reflect the decision of the Federal Court of Appeal in *Ha v. MCI* which found that in the particular circumstance of the case, procedural fairness required that counsel be allowed to be present at interview. Visa offices, when confronted with a request to have counsel present at interview, are asked to consult with NHQ/RIM.

2003-06-13

Appendix A – “USA” should read “United States of America”.

2003-05-15

- Appendix G added.
- Section 5.16: reference to Appendix G added.

2003-05-05

Section 6: Authorization to Return to Canada and the download of Previously Deported Persons onto CPIC. Amendments have been made to the procedures for the issuance of an Authorization to Return to Canada (ARC) for offices outside Canada. New procedures have been implemented for inputting the ARC document into CAIPS, which has the effect of removing the PDP information from the CPIC-PDP database.

1 What this chapter is about

This chapter provides basic information that applies to activities described in other chapters.

Included in the basic information are general processing guidelines. Following them will help officers meet the objectives of immigration policy, and comply with the mandate, principles and vision of the International Region.

2 Program objectives

Subsections A3(1) and (2) describe the objectives of the immigration program.

3 The Act and its Regulations

For more information, see the following legislation.

For information about	Refer to this section of the Act or its Regulations
Foreign national	A2(1)
Permanent resident	A2(1)
Objectives - immigration	A3(1)
Objectives - refugees	A3(2)
Application of Act and Regulations	A3(3)
Humanitarian and compassionate considerations	A25, R66, R67, R68, R69
Misrepresentation	A40
Authorization to return to Canada	A52(1)
Excluded relationships	R5, R125
What is an application	R10
Where an application must be submitted	R11, R150(1)

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Returning an application	R12
Unenforced removal orders	R25
Inadmissibility of non-accompanying family members	R23
Issuance of a permanent resident visa	R70

3.1 Forms

The forms required are shown in the following table.

Form title	Form number
Certificate of Departure	IMM 0056B
Authorization to Return to Canada pursuant to A52(1)	IMM 1203B
Application for Permanent Residence in Canada	IMM 0008E
Application for a Study Permit	IMM 1294B
Application for a Work Permit	IMM 1295B
Application for a Temporary Resident Visa	IMM 5257
Denial of Authorization to Return to Canada	IMM 1202B

4 Instruments and delegations

Pursuant to subsections A6(1) and (2), the Minister has designated persons or a class of persons as officers to carry out any purpose of any provision, legislative or regulatory, and has specified the powers and duties of the officers so designated. These delegations may be found in chapter IL 3, *Designation and Delegation*.

5 Departmental policy

5.1 Mandate of the International Region

The International Region delivers immigration programs abroad by

- selecting foreign nationals and refugees in accordance with the Government's plans and policies;

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- facilitating the admission to Canada of genuine visitors for tourism, studies and temporary employment;
- contributing to the development of Canada's migration, refugee and social policies by reporting and analysing international trends and developments in these fields;
- advising on the foreign policy implications of domestic policies and on the impact of international migration trends in the domestic arena; and
- maintaining liaison with foreign governments, international agencies and non-governmental organizations.

5.2 Principles of the International Region

International Region achieves excellence in fulfilling its mandate and realizing its vision through a shared commitment to

- professionalism;
- client service;
- integrity;
- accountability;
- teamwork;
- fairness and compassion.

5.3 Vision of the International Region

International Region contributes to Canada's cultural diversity and to its economic prosperity and growth through our innovative, cost-effective and responsible management of Canadian immigration programs abroad.

International Region strives to achieve excellence in providing services which meet the diverse and changing needs of clients, partner agencies and the Canadian public.

As the principal representatives abroad of Canadian interests in the field of international migration, refugee and social policy issues, officers are advocates of Canadian values and practices in the delivery of immigration programs. Officers also play a crucial role in maintaining the safety and order of Canadian society by ensuring that individuals who pose security or criminal risks are denied entry to Canada.

5.4 Relationships and dependency

For information on relationships and dependency see chapter OP 2, *Processing Members of the Family Class*.

5.5 Adoptions

Refer to chapter OP 3, *Adoptions*.

5.6 Categories of foreign nationals

The Act and Regulations distinguish between three broad categories of foreign nationals.

These categories are family class, economic class, and refugees or persons in refugee-like situations. The Act or Regulations define members of the family class, Convention refugees abroad class, country of asylum class and source country class.

The Regulations also define the economic class, which consists of the federal skilled worker class, Quebec skilled worker class, provincial nominee class, investor class, entrepreneur class and self-employed persons class.

5.7 Children of unmarried parents

Children of unmarried parents may be sponsored by either parent. They may also be accompanying family members of either parent.

In some circumstances, children born to unmarried parents may be unable to obtain standard proof of their relationship to their parents. Where this is the case, officers may consider documents that corroborate the claimed relationship.

These documents include the following:

- school records identifying the parent;
- proof of long-term support by the parent, such as money order receipts or income tax statements listing the applicant or accompanying child as a dependant;
- affidavits from prominent citizens attesting to their knowledge of the child's paternity or maternity from birth.

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For residents of the province of Quebec, a legal ruling called *Reconnaissance de paternité* (Acknowledgment of Paternity), obtainable under provincial law, constitutes evidence of paternity. Other provinces may have similar declaratory judgments which would be equally acceptable. It is the sponsor's obligation to obtain such documents.

In the absence of these documents, officers may accept the results of a DNA test of relationship (see section 5.9).

Where these conditions cannot be met but the sponsor or principal applicant has always contributed to the child's support, development and welfare, and where other circumstances corroborate the claim to parenthood, including the agreement of the other parent or legal guardian, if applicable, then a positive decision is appropriate. To preclude future custody disputes, officers should, whenever possible, obtain consent for the child's immigration from their other parent or legal guardian.

In cases in which all possible proof of relationship is inadequate and the circumstances of the case do not warrant special consideration, officers should refuse the application. If the child has been listed as an accompanying family member, the principal applicant may delete the child from the application.

5.8 Divorced foreign nationals

Divorced applicants may have legal obligations arising from their divorce. These often include alimony or child-support payments, as well as the terms of child custody orders.

An obligation to pay alimony or child support is material only to an applicant's ability to adapt to Canada.

Officers may not insist that applicants make arrangements to continue to pay alimony or child support. Nor can officers insist they submit proof that their ex-spouses or common-law partners are satisfied with payment arrangements. If these arrangements break down, the ex-spouses or common-law partners must apply to a Canadian court to have their rights recognized.

As well, it is illegal to abduct a child under 16 [*Criminal Code*, subsection 280(1)] or under 14 [*Criminal Code*, section 281] from the legal guardian (father, mother, guardian or other). Applicants, accompanied by children under the legal guardianship of someone who has not agreed to let them travel, are about to commit a criminal offence. They do not commit the offence until they depart for and arrive in Canada [They would then be inadmissible at the port of entry under section A36].

If there are reasonable grounds to believe applicants are about to commit an offence as described in section A36, officers should explain the situation to the applicants. The applicants must prove they will not

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be inadmissible for this reason. Written consent of the legal guardian or, if that is not possible, permission of a court, is satisfactory proof.

If the court attached conditions to a custody order (usually visiting rights), the officer must ask for the same proof of consent.

See also chapter OP 2, *Processing Members of the Family Class*.

5.9 DNA test for relationship

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *DNA testing* section.

5.10 When is a DNA test appropriate?

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *DNA testing* section.

5.11 DNA results

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *DNA testing* section.

5.12 DNA test request letter and DNA companies

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *DNA testing* section.

5.13 Requirement for truthfulness

Subsection A16(1) and section A127 require applicants to produce documentation and answer truthfully all questions related to their admissibility.

Untruthfulness may take the form of false oral or written statements, as well as false documents. Officers must decide if applicants intend to mislead an officer or are simply inaccurate. Their untruths must have direct bearing on their own or their family members' admissibility.

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Applicants who do not comply with paragraph A16(1)(a) and section A127 may fall under subsection A40(1) for misrepresentation.

Applicants who misrepresent themselves may do so to conceal other grounds for inadmissibility. For example, someone who does not admit to a conviction may also be criminally inadmissible. In such a case, an officer must find the appropriate inadmissible class in the Act and cite it in the refusal.

If there are no other grounds for refusal, an officer must consider whether the untruth was pertinent to the question of admissibility.

Applicants should be advised, where appropriate, that withholding or misrepresenting information that is material to their applications may result in the refusal of that application under subsection A40(1), thereby rendering them inadmissible for entry into Canada for two years after that refusal.

For more information see chapter ENF 2, section 10, *Misrepresentation*.

5.14 Processing priorities

While Regulations do not establish processing priorities, operational priorities may be established.

Departmental policy requires that applications in the family class for spouses, common-law and conjugal partners, and dependent children be finalized within six months. Section 5.7 of chapter OP 2 lists exceptional circumstances that could result in visa offices legitimately not meeting these service standards.

Refugee applications classified as urgent or vulnerable should also receive priority processing. Chapter OP 5 provides definitions and instructions on processing urgent and vulnerable refugee applications.

In the event of a disaster, visa offices are reminded to continue to pull the applications of affected persons to the front of the queue for review, and advise the appropriate Geographic Desk, International Region of the situation. Given the variety of situations which can occur as a result of any disaster, it remains the applicant or sponsor's responsibility to demonstrate that they are negatively affected by the situation.

The *Immigration and Refugee Protection Act* (IRPA) provides sufficient discretion to respond in a flexible and humane manner to emergency situations. Although files from clients in affected areas may be put to the front of a queue, this is neither a special program nor priority processing, and messaging should not reflect otherwise.

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Where warranted, due to the severity of a disaster or surrounding issues, NHQ will issue specific instructions indicating what special programs or measures are to be implemented. These specific instructions would be provided to the applicable visa offices, inland offices and case processing centres, as well as the Call Centre. In the absence of disaster-specific instructions, visa offices are to respond in the manner outlined above.

5.15 Who must apply for a visa?

Except in prescribed cases, subsection A11(1) requires every foreign national to apply for and obtain a visa before they appear at a port of entry (POE).

Section R6 requires foreign nationals who wish to become permanent residents of Canada to obtain a permanent resident visa (PRV).

Section R7 requires foreign nationals who wish to visit Canada to obtain a temporary resident visa (TRV) unless the Regulations exempt them from doing so.

5.16 Where an application must be submitted?

Section R11 impact

Section R11 specifies where applicants should submit their applications for permanent or temporary resident visas. The intent of section R11 is to direct applications to the processing office best informed to assess them thereby improving program integrity and security.

Appendix A, *Where to apply for a permanent resident visa, temporary resident visa, study permit, work permit or permanent resident travel document*, consists of a list of all countries in the world and the visa office responsible for each country. A version of Appendix A is also available on the IRCC website at www.cic.gc.ca/english/information/offices/apply-where.asp for reference by applicants who download their application forms and kits from this site. **For persons applying directly to offices, the attachment could be part of the kit which is sent back to the applicant.**

Permanent resident applicants: family and economic classes (federal skilled workers, Quebec skilled workers, provincial nominees and business classes)

Subsection R11(1) requires that all applicants for permanent residence (other than applicants who come under Part 8 of the Regulations [convention refugees abroad and humanitarian-protected persons abroad]) must submit their applications to the visa office responsible for

- the country where the applicant is residing, if the applicant has been lawfully admitted to that country for at least one year; or
- the applicant's country of nationality, or if the applicant is stateless, their country of habitual residence other than a country where they are residing without having been lawfully admitted.

Temporary resident applicants

Subsection R11(2) requires that applications for a temporary resident visa or a study or work permit must be made outside Canada at the visa office responsible for

- the country where the applicant is present and has been lawfully admitted; or
- the applicant's country of nationality or, if the applicant is stateless, their country of habitual residence other than a country in which they are residing without having been lawfully admitted.

Presentation of a national passport should constitute satisfactory proof of the applicant's nationality, and the office responsible for the country in question will generally process the application whether the applicant lives in that country or not. However, this does not prevent the office, if it sees fit, from running checks with the office responsible for the applicant's country of habitual residence.

5.17 What is meant by “lawfully admitted”

The intent of section R11 is not to expend energy on front-end R11 eligibility screening, but rather to protect program integrity by ensuring that applications are submitted to offices with the appropriate expertise and local knowledge. However, there may be times when R11 eligibility will determine case processing actions (file transfers, for example) and the following information on “lawful admission” should assist in determining R11 eligibility in these cases.

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1. For the purposes of R11, “lawful admission” is broadly defined and may cover many situations, a few of which are described below. However, the circumstances in which an individual **has not been lawfully admitted** and is therefore ineligible to apply at a visa office are limited to:

- i. persons who entered a country without status and still have no status in that country. Under section R11, they are not eligible to apply in the country where they currently are living without status.
- ii. persons who, at the time of the submission of their application, are not physically in a country served by the visa office through which they are applying. An applicant cannot send an application to a visa office if they are not physically in a country served by that visa office (unless it is their country of nationality).

2. For the purposes of section R11, situations in which an individual is considered to **have been “lawfully admitted”** will include (but are not limited to)

- i. persons who were lawfully admitted, but no longer have legal status when the application is submitted. For example, a person who has entered a country lawfully but at some time subsequent to lawful admission has lost legal immigration status is considered to have been lawfully admitted, whether or not status has been restored at the time of the application to the visa office. Such applicants may or may not qualify for a visa, but their application must be accepted for processing and assessed on its merits;
- ii. persons who initially were not lawfully admitted, but have since gained legal status and have legal status at the time an application is submitted;
- iii. where an individual enters a country illegally, and then makes a refugee claim, the claim must be finally determined. If positive, the person could be considered “lawfully admitted” on the date the positive decision is made on the claim. Making a refugee claim in itself does not regularize a person’s immigration status and does not imply that the person has been “lawfully admitted”. In Canada and the United States, during the processing of a refugee/asylum claim, the individual does not have lawful status. Therefore, a person would not be considered to be lawfully admitted until a positive decision has been received on the claim. However, other countries vary in their interpretation of what type of status an individual may have while awaiting a decision on a refugee claim. Therefore, officers should require applicants to provide documentary evidence of their lawful status. In all instances, a positive decision on a claim would certainly provide the individual with lawful status.

It is the opinion of Legal Services that the making of a refugee claim alone does not regularize a person’s immigration status for the purpose of making an application for a visa (either permanent or temporary) to Canada.

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The granting of the asylum decision is the determinative date of a person's immigration status. The date the decision is rendered on the asylum claim becomes the date the individual is considered to be "lawfully admitted".

3. Subsection R11(1) also stipulates that an applicant must have been **lawfully admitted for at least one year when applying for permanent residence**.

Persons who are applying for permanent residence must be residing in and have been legally admitted for a period of **at least one year** to the country which the visa office receiving the application serves. The applicant is not required to have been residing in the country for one year at the time of application, but to have been lawfully admitted to that country for a minimum one-year period at the time of application.

For example, under subsection R11(1), an individual may have lawfully entered and be currently residing in a country on the basis of a one-year work permit. Anytime during that year, the individual would be eligible under subsection R11(1) to apply for permanent residence to Canada through the visa office responsible for applications from the country in which the individual is residing.

Applicants for temporary resident services must have been lawfully admitted (although there is no time requirement). Applicants do **not** need to have been lawfully admitted to the country or territory where they are providing their biometric information.

Note: Family members included in an application for permanent residence or an application for a temporary purpose, do not need to have been lawfully admitted to the country in which the application is submitted. Such a requirement would make it impossible for some families to submit visa applications anywhere.

Criteria outlined in subsections R11(1) and (2) concern the applicant. Both subsections require 'the applicant' to submit an application to 'the applicant's' country of nationality or the country where "the applicant" has been lawfully admitted (for at least one year in the case of a permanent residence application). The Regulations are silent regarding accompanying family members who are included in the application.

Paragraph R10(2)(a) requires that all family members be identified in an application, accompanying or not; however, R11 criteria have not included accompanying family members. The interpretation is that family members who are included on either a permanent residence application or an application for temporary residence need **not** have been lawfully admitted to the country in which the applicant has submitted an application.

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Refugee class

Section R150 requires that applications from foreign nationals submitted in the refugee class be made at the immigration office outside of Canada that serves the applicant's place of residence.

Determining an applicant's status

Residency status [R11(1)(a)]

In many countries, an official document (residency permit, employment authorization, etc.) is issued as formal proof of residency or extended temporary status and length of such status. The status of persons holding such documents is therefore easily determined.

In countries where there are no credible official documents to formally prove residency, or none that can satisfy our regulatory requirements regarding the length of stay authorized, or where applicants are unable to obtain such documentation to establish their status for certain, various indicators of place and length of residence can be taken into consideration if they are substantiated by reliable documentation, such as

- visas, entry and exit stamps, and entries found in the applicant's passport;
- place of family residence and continuous presence there of applicant's family members;
- personal papers such as a local driver's licence, identification cards, or local bank cards;
- employment contract;
- place of employment;
- civil government to which applicant pays taxes;
- place where applicant's economic and day-to-day activities are carried out.

In short, when determining residency in a particular country, offices should take into account any official document showing that the applicant has been granted legal status in that country for a period of one year or has been living there lawfully for at least one year.

However, there will be no obligation to request any kind of official documentary evidence when it becomes obvious, upon initially examining the application, that the applicant does in fact legally reside in the country where the application is made and that the country in question is served by the office to which the application is submitted.

Change of status during processing of application

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For applicants whose legal status in the country where they made their application changes or expires before the processing of their application has been completed, processing will be completed in the office where it was submitted.

However, if an office concludes that it cannot continue to process the application without jeopardizing the integrity of the program, that office must notify the applicant that it cannot process the application and that the application will be transferred to the office that handles the new country of residence or nationality.

If it is determined, upon review, that the applicant does not meet the requirements of paragraph R11(1)(a) or (b), the applicant is to be notified and told why the application cannot be processed at that office. Also, pursuant to section R12, the application form, any documents submitted and the processing fee must be returned to the applicant. No part or record of the application should be kept.

When an application is returned to the applicant because it cannot be processed pursuant to section R11, the applicant is to be advised to which office the application should be submitted.

Special procedure for the family class

The application for permanent residence for members of this class no longer gives applicants a choice as to which office will process their applications. The Case Processing in Mississauga (CPC-M), which receives the applications, will make this determination pursuant to section R11 and will forward the file to the appropriate visa office. The option of selecting the office where the sponsor wanted the application to be processed has been deleted from the “application for sponsorship and undertaking”.

5.18 Acknowledgment of receipt (AOR) of the application

Visa offices will respond to applications for permanent residence within four weeks from the date of receipt of the application. The response will include the following:

- the applicant’s file number;
- the approximate time within which the application should be completed based on the category of application; and
- other information concerning additional or missing documentation, medical examination instructions or the possible requirement of an interview.

A sample of the AOR letter is included as Appendix E.

5.19 File transfer

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *File transfer* section.

5.20 Procedure: permanent residence applications [R11(1)]

New applications

For R11(1) cases and for program integrity reasons, permanent residence applications from persons ineligible under subsection R11(1) should not be accepted by the receiving visa office. As per section R12, if the receiving visa office is not legally responsible for processing an application under subsection R11(1), **the entire application should be returned to the applicant** (including application forms, processing fees and supporting documents). No case processing should occur; the applicant should be told why the application is being returned and advised of the name of the visa office through which they may apply.

Applications in process

In rare instances, an applicant's ineligibility under subsection R11(1) may not be discovered until after the visa office has begun processing the application. In these cases, once the ineligibility comes to light, the visa office should note the subsection R11(1) ineligibility in CAIPS notes, inform the applicant they are ineligible for processing at that office and advise the applicant that their application is being transferred to the responsible visa office. If the application is a family class case, the officer should inform the CPC-M that the application is ineligible to be processed at the office where it was initially received. The CPC-M should be advised of the visa office to which the file is being transferred. The officer should then transfer the application to the responsible visa office.

5.21 Procedure: temporary resident visas, study permits and work permits [R11(2)]

The majority of applicants apply where they reside or where they are staying temporarily. However, a number of applications continue to be made to a country where the applicant is neither physically present nor has the right of admission. Program integrity issues arise when applications are not made to a visa office where the local knowledge and language expertise are available. Officers should be mindful that the intent of section R11 is to ensure that, as much as possible, applications are reviewed by the visa officers in offices with the local knowledge and expertise necessary to conduct an effective case review.

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Applicants are required to submit their application for a temporary resident visa, study permit or work permit to the visa office that is responsible for serving

- the country in which the applicant has been lawfully admitted; or
- the applicant's country of nationality or, if the applicant is stateless, their country of habitual residence.

Application provisions for a temporary resident visa continue to be very flexible. For example, the businessperson from India spending a day or two in the U.K. will be able to apply for a temporary resident visa in London, as long as they were lawfully admitted to the U.K. Similarly, a Chinese student currently studying in Singapore will be able to apply for a study permit at IRCC's visa office in Singapore. However, a Brazilian national who is physically in Brazil will not be able to make a temporary work permit application by mail to the IRCC office in New York City.

New applications

If, upon receipt, an application is determined to be ineligible for processing under subsection R11(2), the receiving visa office should, as per section R12, return the complete application and the accompanying processing fee to the applicant. The applicant should be advised they are not eligible to submit a non-immigrant application to that visa office under subsection R11(2), and should be given the name of the responsible office through which they may apply.

Applications in process

In some instances, the R11(2) ineligibility of a non-immigrant application may not be determined until after case processing is underway. In these cases, the processing officer should note the R11(2) ineligibility in CAIPS notes, and processing should continue to completion on the basis of the available information. However, on a case-by-case basis, a file transfer to the responsible visa office may be necessary to ensure program integrity.

5.22 Permanent resident travel document (PRTD)

Persons who require a travel document to return to Canada pursuant to subsection A31(3) must apply to the specific office, as indicated in Appendix A, to ensure that a Canada-based IRCC officer is available for the processing of the application. More information about the travel document is available in chapter OP 10, *Permanent Residency Status Determination*.

5.23 Applications from illegal residents

Section R11 stipulates that applicants cannot submit applications for temporary or permanent resident visas outside their country of nationality—or, if stateless, outside their country of habitual residence—to a visa office in a country where they have not been lawfully admitted. Therefore, visa offices should return applications, plus any accompanying documents or fees, if they determine that an applicant was not legally admitted to the country where the submission was made. Applicants should be counselled to apply for a visa to a visa office where they have been lawfully admitted for at least one year.

5.24 Lock-in date

The lock-in date is a reference point used to freeze certain factors for the purpose of processing applications. Neither the Act nor the Regulations define it. It does not overcome any requirements of the Act and Regulations that applicants must satisfy when an officer admits them.

Regulations in effect on the lock-in date usually apply to applications submitted that day. Changes in regulations after the lock-in date do not usually apply to applications submitted on or before the lock-in date.

See also section 5.19, *File transfer*.

Note: The Act allows the Governor in Council to apply changes in regulations to applications already submitted. When the Governor in Council does this, it states which applications are affected by the changes.

Family class: Lock-in (of age) is based on the day that the responsible case processing centre (CPC) receives a sponsorship application. The documents downloaded to CAIPS from the CPC will specify the lock-in date.

Refugee and economic class: Lock-in (of age) occurs when a visa office has accepted a submission as an application. If a visa office determines that, after date stamping a submission as received, the submission does not meet the definition of an application, the submission should be returned to the appropriate party and the lock-in set only after the submission has been returned to the visa office with the missing information or documentation.

If age is a factor that makes an applicant admissible, officers should use the applicant's age on the lock-in date. As long as they are the right age on the lock-in date, they can surpass it before admission.

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For Quebec-selected economic files, the lock-in date for dependency is the date the application for a Quebec Selection Certificate (CSQ) was received by Quebec. There are some offices which already receive, as part of the application for permanent residence, a copy of Quebec Form 6. This form specifies the date on which the application for a CSQ was received by the *Service d'immigration du Québec*. In other cases, offices may receive only the CSQ. In the absence of proof of when the file was received by Quebec, offices should use the CSQ issuance date as the lock-in date. The fees payable for the dependent child should also be determined based on the age of the child as of the lock-in date. For example, if the child was 21 years old when the application for a CSQ was submitted, but is 23 years old when the application is received by the embassy, the fee would be Can\$150 (i.e., the fee for a family member of the principal applicant who is less than 22 years of age and not a spouse or common-law partner). Where there is a dispute as to the correct fee payable or dependency, the *Service d'immigration du Québec* office should be contacted to provide the Quebec application date.

Note: For Quebec-selected entrepreneur cases, the lock-in date for conditions is the CSQ issuance date. The *Ministère de l'Immigration, de la Diversité et de l'Inclusion* has indicated that all the entrepreneurs selected by the department as of June 28, 2002, have signed Annexe 6 (D05 Admission conditionnelle.doc): Déclaration d'un entrepreneur admis sous condition, acknowledging the conditions described in R98. The signed document is kept in the entrepreneurs' files at the Quebec immigration office.

Successful Immigration Appeal Division (IAD) appeals and judicial reviews: Cases which are re-opened following a successful IAD appeal or judicial review should maintain their original lock-in date, but the application date should be changed to reflect the date on which the file is re-opened. This will ensure that accurate processing times are reported.

Note: Processing times are defined as the period required to bring a case to a final decision. A successful IAD appeal sets aside the original decision, thus initializing a new and separate processing time for a (new) final decision. Missions must flag these cases to ensure they are processed promptly to conclusion and not queued according to application date.

See also section 7.3, *What is an application?*.

5.25 Fee refunds when applicant changes economic category

When a provincial nominee certificate is received for a case in another economic class, the procedure below is to be followed.

Cases for which processing has not begun (i.e., that have not passed the initial evaluation stage)

After receiving the certificate, the mission must inform the applicant that a certificate was received and that a new, complete application in the provincial nominee class (including annex 4) should be submitted. The applicant has the choice to withdraw the initial application or to continue with both applications. If the applicant decides to withdraw the initial application, the fees paid can be assigned to the PV2 application rather than refunded. The action that is being taken and the basis for it must be clearly indicated in the CAIPS notes.

Cases for which processing has begun (i.e., that have passed the initial evaluation stage)

Once a case has passed the initial evaluation stage, the processing fees cannot be refunded. If a provincial nominee certificate is submitted and the applicant wants to be considered in the provincial nominee class, the applicant has a first option to withdraw his federal application and submit a new application in the provincial nominee class; processing fees for the federal application are not refunded, and new processing fees are required for the application in the provincial nominee class. The second option is to allow processing of the federal application to continue and to submit a new application in the provincial nominee class, along with the new fees. The applicant does not necessarily have to withdraw the initial application, because the IRPA does not prohibit multiple applications. Prior to finalizing either application, the visa office will advise the applicant that the second application has to be withdrawn for the visa to be issued; visas must not be issued for one file while the second remains open and in process.

Since cases under the Provincial Nominee Program (PNP) are not in selection inventory queuing, having these applicants withdraw and reapply should not disadvantage them as to their places in the processing queue and their processing times.

General principles concerning fee refunds

- A reallocation of funds is permissible only when the file has not passed the initial evaluation stage and the request to transfer the fee to the new file is accompanied by the new file—there can be no waiting period/holding of fees for future considerations.
- There is no refund or reallocation of fees once a file has passed the initial evaluation stage.

For more information on fee refunds and the initial evaluation stage, see Financial Policy Manual 4, section 4.2.

5.26 Language of application forms and form letters

Only application forms in English and French are official application forms. Forms printed in any other languages are unofficial and serve only as models to help applicants complete the official forms in English or French.

Refusal letters for all types of applications must be in English or French. Unofficial translations of refusal letters may accompany the official language letter. Such translations must state clearly that they may not be used for any official or legal purpose.

Other form letters may be in languages other than English or French.

5.27 Security screening of foreign nationals

Sections 15 and 16 of the *Access to Information Act* may exempt parts of the security screening process from public access. Officers should read these guidelines in conjunction with chapter IC 1, *Security and Criminal Screening of Immigrants*.

Security screening procedures identify persons seeking admission who are, or have been, involved in espionage, subversion or terrorism, organized crime, war crimes and crimes against humanity. Note that a security screening clearance does not mean applicants do not have a criminal record.

Officers are responsible for ensuring that persons who may threaten the safety and good order of Canadian society are denied entry. Officers also help promote international order and justice by denying use of our territory by such individuals. These goals are important, and strict compliance with security screening procedures is required to achieve them.

Responsibility for responding to queries about delays in immigration processing rests with the Department. Applicants or their representatives should not be referred to other federal departments or agencies that assist in the security or criminality screening of applications.

Officers may refer to the background inquiries carried out by the Department, but specific details of the process may be exempt from public access. No reference should be made to them explicitly.

Refusal letters should simply quote the part of the Act used to refuse the application. Officers need not explain the security screening process.

See chapter OP 2 for information about using non-releasable information to refuse family class applications for security reasons.

5.28 Extending the validity of visas

The validity of a permanent resident visa may not be extended. Nor can replacement visas be issued with a new validity date. If foreign nationals do not use their visas, they must make a new application for a permanent residence visa.

They must also pay a new application processing fee. If they have paid a right of permanent resident fee (RPRF), they do not need to pay it again. The RPRF may be collected only once.

Sometimes, due to factors beyond their control, applicants receive visas that are valid for less than two months. If they cannot travel before their visas expire, officers should update whichever requirement (e.g., medical) was used to set the visa validity. When a new validity date has been obtained, a new visa will be issued.

5.29 Working with lawyers and consultants

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *Use of representatives* section.

5.30 Responding to case status inquiries

Once the visa office is satisfied that an immigration representative has been designated by the applicant the office may respond to straightforward case status inquiries verbally or in writing. If there is any doubt as to a representative's identity, information should not be given over the telephone.

Any complex or in-depth inquiry or discussion related to an individual case should be accepted and responded to in writing only.

Any case-specific interchange of information should have a written record, including an annotation in the CAIPS/FOSS case notes to ensure that no misunderstandings occur.

5.31 Counselling applicants during interview

Once applicants have designated a representative, visa offices should not appear to suggest to or solicit applicants to change or abandon their representative by asking them to sign another designation.

Officers should refrain from soliciting information from applicants concerning the fees paid to representatives, or how and why the applicant has retained a representative.

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The following situations have been cited as regular occurrences:

- during verification of mailing addresses at an interview, the applicant provides an address different from the one indicated on the IMM 0008E form;
- applicants verbally indicate that they are no longer represented;
- applicants verbally indicate the designation of a new representative;
- applicants verbally indicate that IRCC should no longer communicate with the designated representative; or
- applicants verbally indicate that they are still represented but request that the visa or other documents be sent directly to them rather than the representative.

If an applicant is represented, it is assumed that the representation remains valid and should not be the subject of any counselling between the visa office and an applicant unless the applicant revokes the representation in writing. If an applicant advises that the previous designated counsel no longer represents them, the proper course is to have the applicant complete the form to revoke the previous representative and designate a new one.

See Appendix C for revocation of authorization and direction, prepared by Legal Services.

5.32 Non-specific inquiries

Managers and officers should not allow themselves to be drawn into a “hypothetical” discussion, which could involve the facts of an actual case.

Similarly, no commitment should be made on how a case will be treated until a formal application has been made.

5.33 Private versus group information sessions

Many representatives request private sessions in order to obtain information on “local office procedures”. This diverts scarce resources from case processing.

When major changes occur which affect processing, managers are encouraged to hold general group information sessions for local applicant representative organizations to inform them accordingly. It is recognized that some offices have little contact with lawyers and consultants, and group information sessions would therefore not be appropriate.

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Applicant representatives may join professional organizations which provide updates on changes as well as information and training services to their members.

5.34 Presence of counsel

On January 30, 2004, the Federal Court of Appeal found in *Ha v. MCI* that the failure of a visa office to allow an overseas refugee applicant to have counsel present during the selection interview was a breach of procedural fairness in the particular circumstances of the case. Details of requests to have counsel present should be forwarded to the International Region's Operational Coordination Unit (RIM), which will consult with legal services and provide advice. RIM can be contacted at Nat-Operational-Coordination-Selection-RIM@cic.gc.ca.

5.35 Interpreters or translators

Some offices have had representatives or their employees present themselves as interpreters. This is not an acceptable practice and may place the representative in a conflict of interest situation since the representative cannot claim to be unbiased. Officers should therefore decline all such offers/requests.

Managers are encouraged to develop lists of interpreters by determining which local agencies meet requirements of honesty and competence, and direct applicants to them.

Instructions on hiring and using interpreters in Canada are contained in the chapter SA 7 and may be a useful reference regarding this matter. Locally engaged staff may, however, continue to work as interpreters with consent being sought from the applicant and noted in CAIPS.

5.36 Taping interviews

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *Handling sensitive cases* section.

5.37 Representatives in CAIPS/FOSS/GCMS

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *Use of representatives* section.

5.38 Invitations to attend functions

Program managers and other staff who may be approached by applicant representatives and/or their organizations with requests to attend functions should be guided by Chapter 2, *Conflict of Interest Measures*, found in the Values and Ethics Code for the Public Service at www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_851/vec-cve1_e.asp.

5.39 Response to inquiries and representations: clients and representatives

The responsibility for responding to inquiries or representations is varied dependent on the issue. Listed below are the various categories of inquiries/representations and to whom the issue should be directed.

A) Individual case inquiries related to the decision or decision-making process

- Visa office email address.
- If there is no reply after 30 days or if there is a disagreement with the reply, you may contact Case Management Branch, by email at case-review-im-enquiry@cic.gc.ca and copy the responsible Director for the geographic region by email (preferred) or by fax to 613-957-5802.

B) Local office procedures

- Immigration Program Manager via the visa office email address.
- If no reply after 30 days, you may contact the Director for the geographic region by email (preferred) or by fax at 613-957-5802.

C) Quality of service complaints, or situations involving possible professional misconduct or malfeasance

- Immigration Program Manager by email.
Email address format: firstname.lastname@international.gc.ca
- If no reply after 30 days, Director for the geographic region by fax at 613-957-5802.

D) Complaints from applicants related to biometric information collection and processing

For complaints from applicants alleging that their biographical data was matched against the fingerprints of a different applicant (mistaken identity) or alleging that their fingerprints were erroneously matched against an existing record in the RCMP's databank (false positives):

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- Immigration Program Manager via the visa office email address.
- If no reply after 30 days, you may contact the Director for the geographic region by email (preferred) or by fax at 613-957-5802.

For complaints about quality of service related to biometric collection, see point C) above. For complaints about the biometric requirement or general biometric procedures, see point E) below.

E) General procedures, procedural consistency between offices, operational policy, global processing times and levels

- Director, Operational Coordination, International Region Branch. If a reply from an International Region Director under B, C, or D has not been received after 30 days, a follow up may be initiated to the Senior Director, Geographic Operations, by fax at 613-957-5802.

F) Immigration (selection) policy

Write to the appropriate Director within Immigration Branch.

- Family class: Director, Social Policy and Programs.
- Skilled workers, provincial nominees, students, temporary workers: Director, Economic Policy and Programs.
- Business class: Director, Business Immigration.
- Ministerial Instructions, Levels: Director, Horizontal Immigration Policy.

At this time, all visa offices are equipped to receive enquiries via email, including case-specific enquiries. While many visa offices may now systematically also respond to email enquiries by email, other visa offices are still working to put email management systems in place and are monitoring the reliability of email delivery in their countries of responsibility. The protocol encourages visa offices to respond to emails via email, but allows immigration program managers the flexibility to use operationally feasible and efficient channels for response (whether this is email, fax, letter or other means) depending on the local environment and conditions.

The protocol requires that visa offices

- receive client enquiries via email;
- respond to emails (acceptable responses include automated replies, standard responses, and case-specific replies via email or other channels);
- have a dedicated email enquiries mailbox and address; and

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- handle email enquiries in the same way as other enquiries are handled (e.g., have written consent to release personal information to third parties, ensure client is adequately “identified” before any personal information is released).

Email enquirers must therefore state

- the enquirer’s full name;
- who they are (i.e., the applicant, the applicant’s designated individual, the applicant’s authorized representative, Canadian MP); and
- their email address.

They must also provide, as a minimum, the applicant’s

- given name;
- family name;
- date of birth; and
- visa office file number.

Visa offices must also

- establish, publish and adhere to response times for email enquiries;
- have the client’s consent to communicate via email;
- respond to the client in the official language of the client’s choice;
- provide cautions to clients using email to protect their personal identifiers and to be aware that email is not a secure channel;
- protect the privacy of IRCC staff;
- provide IRCC identifiers in email replies: office name and address;
- provide clear instructions to clients on what address to use and what information to include with an enquiry.

Enquiries and representation should be sent to these mailboxes, not to the mailboxes of individual officers or program managers. Enquiries or representation should be sent either by email or by fax/mail, not both.

6 Authorization to return to Canada

6.1 Overarching principles for processing authorization to return to Canada (ARC) applications

Section A52 is intended to send a strong message to individuals to comply with enforceable departure orders. A permanent bar on returning to Canada is a serious consequence of non-compliance. Consequently, an ARC should not be used as a routine way to overcome this bar, but rather in cases where an officer considers the issuance to be justifiable based on the facts of the case.

Individuals applying for an ARC must demonstrate that there are compelling reasons to consider an Authorization to Return to Canada when weighed against the circumstances that necessitated the issuance of a removal order. Applicants must also demonstrate that they pose a minimal risk to Canadians and to Canadian society. Merely meeting eligibility requirements for the issuance of a visa is not sufficient to grant an ARC. The decision to grant an ARC should be consistent with the objectives of the legislation as defined in paragraph A3(1)(h).

Effect of pardons on the requirement for an ARC

If the applicant has received a pardon, the effect of this pardon on the requirement for an ARC should be analyzed **before** assessing the ARC. The following rules apply when dealing with pardons:

- Enforced removal order based solely on convictions for which a pardon has been granted

An ARC is required. A pardon removes the underlying criminal inadmissibility with respect to a particular conviction. However, as the removal order has been enforced, the foreign national requires an ARC based on section A52.

- Unenforced removal order (individual failed to confirm departure or never left Canada) based **solely** on convictions for which a pardon has been granted

An ARC is not required. A pardon removes the underlying criminal inadmissibility with respect to a particular conviction. This renders a removal order based **solely** on that conviction ineffective. As the removal order has not been enforced, and can no longer be enforced, the foreign national does not require an ARC.

- Unenforced removal order based on convictions for which a pardon has been granted and on other grounds of inadmissibility

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A pardon removes the underlying criminal inadmissibility with respect to a particular conviction. However, the removal order is based on additional grounds to the pardoned conviction. As the removal order remains effective, it should be enforced. Once the removal order is enforced, an ARC is required.

- Person who lost permanent resident status pursuant to paragraph A46(1)(c) who later receives a pardon for the conviction on which the removal order was based

Such a person is now a foreign national. A pardon removes the underlying criminal inadmissibility with respect to a particular conviction. The pardon does not reverse the loss of permanent resident status. The requirement for an ARC depends on whether the removal order was enforced, as explained in the examples above.

6.2 Factors to consider when assessing an ARC application

- The severity of the IRPA violation that led to the removal.
- The applicant's history of cooperation with IRCC:
 - Are there any previous immigration warrants?
 - Did the applicant fail to appear for any hearing or removal?
 - Did the applicant comply with the terms and conditions of the document issued by IRCC?
 - Did the applicant pay for the removal costs?
 - Was the applicant removed under escort?

In most cases, a proper assessment of these factors will require contacting the office responsible for the removal. If there is evidence of criminal activity, officers may consult with Canadian law enforcement authorities and ask for a local police certificate.

- The reasons for the applicant's request to return to Canada:
 - Do compelling or exceptional circumstances exist?
 - Are there alternative options available to the applicant that would not necessitate returning to Canada?
 - Are there factors that make the applicant's presence in Canada compelling (e.g., family ties, job qualifications, economic contribution, temporary attendance at an event)?
 - Are there children directly implicated in the application whose best interests should be considered?
 - Can the applicant support him or herself financially?
 - How much time has passed since the infraction that led to the removal order?
 - How long does the applicant intend to stay in Canada?

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- Are there tangible or intangible benefits that may accrue to Canada or the person concerned?

Bona fide marriages, attendance at the funeral of a family member or acceptance under a provincial nominee program are examples of factors that would normally constitute a “compelling reason” for returning to Canada. However, no one factor alone should automatically serve to override concerns related to the safety of Canadians and the security of Canadian society.

Other considerations

When assessing an A34/35/37 application, IRCC must consult the National Security Division of the Canada Border Services Agency (CBSA).

If an applicant is inadmissible on grounds other than those cited in the previous removal order (i.e., medical, criminality, security), they must apply for and obtain a temporary resident permit (TRP). In cases of criminal inadmissibility, a rehabilitation decision (or the applicant is deemed to have been rehabilitated) or a pardon (a foreign pardon or one issued by the National Parole Board) will also be necessary. A TRP does not overcome the need for an ARC.

An ARC can be granted for return to Canada as a permanent resident, for a one-time visit, or for occasional entries for a specified purpose (e.g., medical treatments, work-related activities) over a prescribed period.

If an applicant requires an ARC but has not submitted fees, a letter should be sent explaining the requirement for an ARC. If no response is received within 90 days, the application may be refused under section A41 and subsection A52(1). Please refer to Appendix G for a sample letter.

If the Department defrayed the costs of multiple removals, the entire amount of removal-related expenses must be recovered. The cost recovery fee applies to each application.

Any individual who has a right of appeal before the IAD as per section A63 can appeal a negative ARC decision to the IAD.

6.3 The download of previously deported persons into CPIC

Data on previously deported persons (PDPs) is downloaded into the Canadian Police Information Centre (CPIC) database. CPIC is a computerized database that provides tactical information on crimes, criminals and public safety. It is the only national information-sharing system in the country that links criminal justice and law enforcement partners across Canada and internationally.

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The primary objective for entering data on PDPs into CPIC is to enhance public safety and security by providing peace officers with the necessary information to form reasonable grounds to believe that the person may be arrested without a warrant under paragraph A55(2)(a). The CPIC-PDP database will equip peace officers across Canada with information that a foreign national has been deported from Canada and has returned to Canada without authorization under subsection A52(1), and that at the time of the person's removal, there were reasonable grounds to believe that the person was a danger to the public and/or was unlikely to appear.

In such cases, the deportee will be added to the FOSS-PDP database and a previous deportee (PREV.DEP) flag will be enabled in FOSS. When a name is queried in CPIC and it is a direct match to a person found in the PDP database, the information on CPIC will instruct law enforcement partners in Canada to contact the Immigration Warrant Response Centre (IWRC) for further assistance.

Information on individuals in the CPIC-PDP database originates from the FOSS-PDP database. See chapter ENF 11, section 17.1, for more information on who will be added to the FOSS-PDP database, and chapter ENF 11, section 17.2, for more information on who will be added to the CPIC-PDP database.

As part of the PDP initiative, visa offices outside Canada play a critical role in ensuring that the PDP information in FOSS and CPIC is accurate. In doing so, a PDP will be removed from FOSS and/or CPIC only after a positive decision on the ARC has been electronically completed in CAIPS.

For further background information on the requirements for PDPs to be added to the FOSS and/or CPIC database, see chapter ENF 11, section 13, *Verifying departure*.

6.4 Who requires an ARC? (under the authorization of the Minister of IRCC)

Under subsection A52(1), a foreign national must obtain a written ARC after the enforcement of any of the following removal orders:

- a deportation order (lifetime ban from returning to Canada) [R226];
- a departure order that becomes a deportation order (lifetime ban from returning to Canada) [R224(2)];
- an exclusion order:
 - one-year ban [R225(1)],
 - two-year ban [R225(3)].

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Before an application for an ARC can be considered, the removal order must first be enforced. A removal order can be enforced by two methods: either at a POE, or at a visa office outside Canada pursuant to subsection R240(1) or R240(2). A removal order is enforced under these provisions only after an officer has issued a Certificate of Departure [IMM 0056B]. For further information on enforcing a removal order at a visa office outside Canada, see chapter ENF 11, section 13.5.

Note: Persons who have been issued any removal order on the basis that they are an accompanying family member under paragraph A42(b) do not require an ARC.

6.5 Issuing an ARC [IMM 1203B]

An ARC is issued to overcome a removal order. At visa offices outside Canada, only an Immigration Program Manager, Deputy Program Manager, or Operations Manager has the designated authority (see item 39 of chapter IL 3) to make the decision to grant or deny an ARC. Only they can sign an IMM 1203B form and enter the decision on the ARC screen in CAIPS. Making recommendations that are considered in a decision by a more senior officer are not to be construed as the exercise of a delegated authority. The decision-maker may receive and consider reports of others as long as it does not abdicate its responsibility to make a decision.

There are two mandatory steps in issuing an ARC:

- complete the *ARC* screen on CAIPS; and
- complete IMM 1203B (granted) or IMM 1202B (denied) form, both of which are available on Connexion.

The rationale for the decision to grant or deny must be fully explained in the *Remarks* field of the ARC document.

For further information on completing the ARC screen, refer to the *CAIPS User Guide*.

In addition to an ARC, applicants from visa-required countries require a TRV, while applicants from visa-exempt countries require an electronic travel authorization (eTA). For permanent residence applicants, officers should note in the *Remarks* block of the Confirmation of Permanent Residence [IMM 5292B] that authorization to return to Canada was granted [A52(1)]. All applicable cost recovery fees must be paid prior the issuance of an ARC.

Officers should

- make two copies of the original IMM 1203B form;

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- give the original to the applicant;
- send one copy to the office that removed the applicant from Canada;
- send the second copy to the Microfilm Unit, Records Section, Information Management and Technologies Branch (BIM), IRCC, NHQ, 2/F, Jean Edmonds Tower North, 300 Slater, Ottawa, Ontario, K1A 1L1;
- inform applicants that they must present the IMM 1203B form at a port of entry.

If applicants arrive at the port of entry without an IMM 1203B form, they may be reported under subsection A44(1) for non-compliance for not having obtained the authorization to return to Canada as required under subsection A52(1).

Note: The ARC document should be used to grant the authorization to return to Canada whenever written authority is required (including exclusion orders). Its use is not limited to previous deportees where the PREV.DEF flag is enabled.

6.6 Effect of ARC decisions on the PDP database

Where there is a PREV.DEF flag enabled in FOSS, the effect of the ARC will be as follows:

- a decision to grant an ARC will disable the PREV.DEF flag in FOSS, remove the person from the Primary Inspection Line (PIL) "Hit List" at the port of entry and automatically remove the record from CPIC; or
- a decision to deny an ARC will maintain the PREV.DEF flag in FOSS, cause the client to remain on the PIL "Hit List" and maintain the record in CPIC.

The PREV.DEF flag in FOSS will be automatically disabled and the PDP information will be electronically removed from the CPIC-PDP database only after the program manager or delegated authority has granted an ARC under subsection A52(1), issued an IMM 1203B form for a deportation order or a departure order that has become a deportation order, and has completed the ARC screen in CAIPS.

Failure to remove the PREV.DEF flag from the CPIC-PDP database may result in the wrongful arrest under paragraph A55(2)(a) of a previous deportee who has been granted an ARC and has been issued a valid visa or permit. It is essential, therefore, that an ARC document be completed where previous deportees are granted authorization to return to Canada before issuing a visa or permit.

6.7. Amending an ARC decision

In exceptional circumstances, there may be occasions where an ARC is issued and new information later reveals that the document should not have been issued. Officers should take note that once the *Decision* field has been filled and the document finalized, the ARC cannot be re-opened and amended because a positive decision will have electronically removed the person's record from CPIC-PDP. It is therefore imperative for officers to be sure of their decision before completing the screen. The document can be edited until the *Decision* field has been filled. Should unanticipated circumstances occur requiring the decision to be changed after the ARC has been finalized, the following protocol must be followed.

To reverse a positive decision,

- send an email to IWRC with a short explanation and a request to re-enable the PREV.DEP flag;
- create a new ARC, choosing Value 3 (negative decision);
- copy and paste the email sent to IWRC into the *Remarks* field of the new ARC file.

To reverse a negative decision,

- create a new ARC, choosing values 1 or 2 (positive decision);
- explain the reason for the reversal in the *Remarks* field;
- there is no need to advise IWRC.

If the *Decision* field shows "Application abandoned/withdrawn", a new ARC must be created. There is no need to advise the IWRC.

6.8. Repayment of removal expenses incurred by the CBSA

Under the *Immigration and Refugee Protection Regulations* (IRPR), the applicability of the fee to reimburse removal expenses has been widened to include persons who were removed at public expense, not just those who were deported. Removals are defined in section R229 to include departure orders, exclusion orders and deportation orders. These fees apply only in situations where the relevant costs have not been recovered from a transportation company.

As set out in paragraphs R243(a) and (b), a person must repay costs incurred for removal to

- the U.S., or St.-Pierre-et-Miquelon, in the amount of Can\$750;
- any other destination, in the amount of Can\$1,500.

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Information on whether a person is required to repay the prescribed removal costs can be found in the Certificate of Departure screen through the CAIPS/FOSS interface, or the officer may contact the local CBSA Immigration Enforcement Centre. Collection of this fee will occur prior to the ARC being granted. Visa officers are required to mention in the CAIPS notes that payment was received.

Note: If the person is required to repay removal costs, there are no cost recovery exemptions. (This information should be available on the *Certificate of Departure* document viewable on CAIPS.)

If an individual advises that they are unable or unwilling to pay the fee immediately, they should be counselled to withdraw their application for an ARC. If the individual refuses to withdraw their application, the request for an ARC under subsection A52(1) should be denied. A written IMM 1202B form (Denial of Authorization to Return to Canada) should be issued, and the ARC screen on CAIPS completed with the decision disposition as “denied”.

7 Definitions

7.1 Who is a foreign national?

A foreign national is defined in subsection A2(1) as a person who is not a Canadian citizen or a permanent resident.

7.2 Who is a permanent resident?

A permanent resident is defined in subsection A2(1) as someone who has acquired permanent resident status and who has not subsequently lost that status under section A46.

7.3 What is an application?

Section R10 dictates the form and content that a submission must take to be considered an application. Section R12 states that if the requirements of sections R10 and R11 are not met, the application and all documents submitted in support of the application shall be returned to the applicant. If a submission fails to meet these minimum requirements, then it should be returned to the applicant in its entirety with an explanation of why it cannot be accepted and a request for the missing information or documents. When returning a submission, visa offices should ensure that applicants who have pre-paid their fees have the option of requesting a refund should they decide not to provide missing documentation or information in a re-submission.

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Biometric information is not considered part of a complete application as defined in section R10. Therefore, an application from a biometric-required applicant should not be returned to the applicant if biometric information is not submitted with the application.

As far as applicants' language proficiency is concerned, when a submission in the skilled workers, investor, entrepreneur or self-employed categories is received, the role of the front-screening locally engaged staff should be limited to making sure that either the language test results or another separate written explanation of the applicant's language proficiency is enclosed with the submission. If neither is included, then the whole submission shall be returned to the applicant. If an applicant clearly indicates on their IMM 0008E form and Schedule 3 or Schedule 6 that they have no speaking, listening, reading or writing ability in French or English, then no additional evidence of language proficiency is required. In such cases, zero points may be safely assigned for language.

Subsection R102(1) sets the requirement to assess the language proficiency of any business applicant, even if the language criterion makes little difference in the selection decision for business class applicants, given that they require fewer points to qualify.

Visa offices should ensure that the decision on accepting a submission as an application is taken up front and before any processing has begun, to avoid the situation where fees are accepted at the post but a decision is taken later to return the submission due to incomplete information. As a reminder, once paper screening has taken place, processing fees are not refundable. Once an application has been accepted, it should not be returned to an applicant for re-submission. Any missing information should be requested during case processing.

For more information on language requirements for skilled workers, see chapter OP 6, sections 10.3 to 10.10.

7.4 Who can be the principal applicant?

To be considered as an application, a submission for permanent residence in Canada must clearly indicate who is the principal applicant according to paragraph R10(1)(e). Either person in a marriage or common-law relationship may elect to be the principal applicant. Principal applicants cannot be alternated after the processing of an application begins. If applicants wish to have their spouse or common-law partners considered as the principal applicant, the original application should be closed and a new application, including new processing fees, should be submitted.

7.5 Who is an accompanying family member?

An accompanying family member is a family member of a principal applicant who receives a visa at the same time as the principal applicant to accompany or follow the principal applicant to Canada. An accompanying family member cannot seek permanent resident status before the principal applicant.

Family members of refugee applicants may, under certain circumstances, be processed and issued permanent resident visas up to a year after the principal applicant has been granted permanent resident status in Canada. See chapter OP 5, section 25, *One-year window of opportunity provision*.

With the following exceptions, section R23 and paragraph R70(1)(e) require foreign nationals and their family members, whether accompanying or not, to meet the requirements of the Act and Regulations, including admissibility requirements:

- spouses or common-law partners separated from and not living with applicants (the applicant must submit written evidence of the separation); and
- children of an applicant or an applicant's spouse or common-law partner who are in the legal custody or guardianship of a former spouse or common-law partner.

If a family member is not covered by an exemption and is legitimately unavailable for examination (e.g., the subject of a missing persons report filed with the police before the application for permanent residence was made), an applicant should sign a statement indicating they understand they may be permanently separated from the unexamined family member.

Applicants who intend to eventually sponsor a child who is in the custody of a former spouse or common-law partner should be advised to have the child medically examined. However, officers should not issue a visa to separated spouses or common-law partners, or to children in the custody of the other parent, even if they are examined.

The person who sought to exclude them from examination in the first place cannot later sponsor family members who are exempted from examination. These unexamined family members are not members of the family class [R117(9)(d)].

8 Procedural fairness

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *Procedural fairness* section.

9 Procedure: *Access to Information Act* and *Privacy Act*

9.1 Responding to requests for information: *Privacy Act*

Under the *Privacy Act*, Canadian citizens, permanent residents and all other persons present in Canada have a right to access their personal information held by a government institution.

The purpose of the *Privacy Act* is to protect the privacy of individuals with respect to personal information about themselves held by a government institution and to provide individuals with the right of access to such information.

Requests for personal information submitted pursuant to the *Privacy Act* should contain enough information for the officer to locate the requested information. This normally includes full name (including any aliases), date of birth, immigration/visa file number, and an eight-digit client ID number. The request should also indicate specifically the information being sought by the client, i.e., visa file, immigration file, medical file, citizenship file. Written consent to disclose information is required from the requestor and any persons (over 18 years of age) who may have information on the file.

Clients may authorize the release of personal information to a representative. The representative must be a Canadian citizen or a permanent resident. The authorization to disclose should be specific to IRCC, as an appointment of counsel form is not sufficient in most cases. If appropriate, officers should tell authorized representatives of clients without access rights pursuant to the *Privacy Act* to request information under the *Access to Information Act* instead (see section 9.5).

The *Privacy Act* does not prevent officers from contacting clients at the c/o addresses that they provide on their applications. The person or firm named in the address does not have to be a Canadian citizen, permanent resident or corporate entity in Canada.

Before releasing personal information, officers should confirm the identity of requesters and the authorization to release personal information to them. Personal information includes any information on or about a client of the Department that is recorded in any form. It also includes confirmation of the existence of a client's file or record.

Officers may disclose personal information by fax, email or by telephone, subject to security guidelines. Officers should ensure that they are disclosing information to the person authorized to receive personal information.

There are no fees pursuant to the *Privacy Act*.

9.2 Members of Parliament

Paragraph 8(2)(g) of the *Privacy Act* permits a government institution to disclose personal information “to a Member of Parliament for the purpose of assisting the individual to whom the information relates in resolving a problem”, without the written consent of the individual. Visa offices are thus authorized to respond to Members of Parliament (MPs) about an individual’s application.

MPs are sitting members of the House of Commons or the Senate. This discretionary privilege is not accorded to provincial members of legislative assemblies (MLAs), members of the National Assembly (MNAs) in Quebec, and members of provincial parliaments (MPPs).

MPs usually delegate constituency business to constituency assistants. These assistants request personal information on the behalf of MPs. Officers may release personal information to constituency assistants provided it is clear that MPs have designated them for this purpose. As with written requests, email requests for personal information on the letterhead of an MP or from the MP’s email address, signed by constituency assistants, do not pose a problem. The written reply will simply be addressed to the MP. International Region has given the email addresses of overseas missions to MPs to enable them to make inquiries by email. The Ministerial Enquiries Division has confirmed that visa offices can reply to the Parliament Hill email address of the MPs or to their official constituency email address, but visa offices cannot send replies to the home/private email accounts of ministerial staff.

In order to ensure the proper protection of private information, requests from MPs should normally be handled in writing. However, officers may release personal information to constituency assistants over the telephone if MPs have designated them for this purpose. In these cases, to ensure proper identification and compliance with the *Privacy Act*, assistants should submit their requests for information in writing, by electronic message or by fax requesting that the officer call them. This will ensure that the officer can confirm the identity of the assistant when returning the call.

When MPs have resigned or passed away, the seats become vacant, awaiting by-elections. In these cases, their constituency offices are kept open and the party whip is responsible for services to constituents until a by-election has been held. Visa offices can answer requests from the constituency office since the whip (an MP) is responsible for the office’s staff.

In the case of an independent MP or following a contested election, the Speaker of the House of Commons becomes responsible for services to constituents until a new Member is elected. Visa offices can answer requests in these cases as well.

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When Parliament is dissolved, personal information about other individuals cannot be given to MPs during this time unless authorized by the Minister. The Minister will make a decision regarding the release of information when each Parliament approaches the end of its allotted time and dissolution appears imminent. Appropriate directions will be issued to officers as necessary.

While the *Privacy Act* allows departments to disclose personal information to MPs in order to help resolve a constituent's problem, MPs have no special access rights to other individuals' records.

Also note that visa offices and immigration program managers are not to enter into policy discussions, program design or broad operational topics in letters to MPs. Subjects such as anti-fraud practices, processing priorities or quality assurance should not be tackled in such a letter. It is the Minister who is accountable to Parliament for such matters. Consequently, visa offices should suggest to MPs asking questions related to policy or general procedures to submit them to the Minister's office. In brief, information given to MPs by visa offices should be related only to a specific application and nothing else.

Timeframe for responses to parliamentarians

The standard for reply to MP enquiries is one week (or five working days). Where a substantive reply within one week is not possible, the MP's office should be advised within one week of receipt of the enquiry that a reply will be provided shortly and by a specific date. Such delays should be exceptional and short. Ideally, MPs should receive a response within two working days.

Program managers are responsible for either preparing replies to MPs personally, or closely and regularly monitoring replies sent by their office for both quality and timeliness. Note that visa offices **must** reply to **all** MP requests.

9.3 Exempt information

Only Public Rights Administration (BMX) at NHQ has the authority to exempt from release information requested under the *Privacy Act* or the *Access to Information Act*. The exempted information may make up the entire record or just a portion of it. If the visa office believes that certain information should not be released, it should provide BMX with a copy of the information along with an explanation as to why it should be exempt from release. Chapter 33 of the Privacy Manual and Chapter 9 of the Access to Information Manual contain guidelines for exempting information from release pursuant to the applicable sections of the *Privacy Act* and *Access to Information Act*.

9.4 Requests from IRCC and CPCs for visa office files

IRCC and CPCs have some responsibility for administering the *Privacy Act* and have the delegated authority to release information. Where exemptions must be made on certain documents, the documents in question will be sent to BMX for review. All requests submitted for personal information under the *Privacy Act* must be responded to within 30 days, even if the file is at a visa office. When a visa office receives a request for a file, officers will copy the entire file, including the file jacket, and send it to IRCC or the CPC that requested the file by the next unclassified bag. If the next bag is not scheduled to depart within a week of receipt of the request, the records will be forwarded by commercial courier.

9.5 Responding to requests for information: *Access to Information Act*

Under the *Access to Information Act*, Canadian citizens, permanent residents and all other individuals or corporations present in Canada have a right of access to any information held by a government institution, regardless of its source, subject to exclusions and exemptions as described in the Act. Whereas the *Privacy Act* is limited to providing access to personal information only, requests under the *Access to Information Act* may be about anything, including records on non-case files.

Clients who are outside Canada, and are not Canadian citizens or permanent residents, must have a representative in Canada submit a request on their behalf pursuant to the *Access to Information Act*. Appropriate authorizations to disclose information to the representative must be provided.

All requests under this Act must be submitted to BMX at NHQ. Only senior officials at NHQ have the delegated authority to release and exempt information pursuant to this Act. There is a Can\$5.00 application fee (payable by cheque or money order to the Receiver General for Canada). In some cases, clients may also be required to pay processing costs. All requests for information pursuant to the *Access to Information Act* must be responded to within 30 days.

If a visa office receives a request from BMX for information, officers should respond immediately. Officers will make one copy of the record(s) and file jacket of the immigration files, including any recommendations and rationale for any exemption on a separate page. They may wish to indicate their recommended exemptions on a separate copy of those specific pages. Officers will send a copy to BMX by the next unclassified bag. If the next bag is not scheduled to depart within a week of receipt of the request, the records will be forwarded by commercial courier.

For more information, see chapter 1, *Access to Information Manual (AM)*.

10 Procedure: use of federal government identifiers

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *Use of Government of Canada symbols* section.

11 Procedure: conducting interviews

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *Conducting interviews* section.

12 Procedure: case notes

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *Handling sensitive cases* section.

13 Procedure: DNA tests

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *DNA testing* section.

14 Procedure: DNA testing

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *DNA testing* section.

15 Procedure: high-profile, contentious and sensitive cases

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *Handling sensitive cases* section.

16 Procedure: applications from diplomatic, consular and official personnel

If an application for permanent residence is received from anyone with diplomatic, consular or official status in Canada, officers should notify Diplomatic Corps Services (XDC) in the Office of Protocol,

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Department of Foreign Affairs and International Trade, and provide XDC with the name and position of the applicant.

Applicants must be advised that, as well as meeting all other requirements for visa issuance, they must

- prove their missions informed XDC that their assignment is over and that XDC cancelled their official acceptance; and
- obtain an ordinary passport.

If applicants cannot prove their visa office has notified XDC of the change in their status, they may submit proof of cancellation of official acceptance alone.

17 Procedure: responses to enquiries after refusal

Applicants or their representatives often submit information after a refusal. Officers should not acknowledge receipt and consideration of this information when responding. To do so could open the refusal decision to review beyond the time limits for applying for judicial review (30 days after the date of the refusal letter).

Also, when the response states that the refusal decision was reviewed by someone other than the officer who made it, the courts may look on the review as a new decision.

Applicants or their representatives should be invited to submit new information with a new application. Appendix B contains a sample letter of response to this effect.

18 Procedure: humanitarian and compassionate considerations

A provision of section A25 allows the Minister to grant permanent residence to applicants who do not meet certain requirements of the foreign national class in which they have applied [R67 and R68]. Visa offices should refer to the delegation of instruments to determine who is permitted to act as the Minister's delegate when considering the issuance of a permanent resident visa under section A25.

The Department has not restricted use of this authority to a list of defined circumstances. A list would not be sufficiently comprehensive or flexible. The Department trusts the good judgment and discretion of its officers (and managers) to recognize when humanitarian and compassionate conditions warrant consideration under section A25.

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The Department has given delegated authority with the expectation that it will be used to resolve problems.

The Department also expects officers to be fully accountable for use of this authority. They must ensure that a complete record of the background and rationale for their decision forms part of case files.

Officers' written recommendations to waive the regulations are part of this record. The decision-makers must sign and date their own decisions.

The record of background and rationale, recommendations and program manager decisions must appear in the case notes of CAIPS files.

For further information on humanitarian and compassionate consideration under section A25, see chapter OP 4.

19 Procedure: document retention and disposal

When deciding whether to retain or dispose of a document on a permanent or temporary residence application, visa offices should consider

- whether the document is directly germane to any positive or negative decision taken on the application;
- whether the document may be essential as evidence in any administrative or judicial proceedings resulting from a refusal of the application;
- whether CAIPS notes are sufficiently well documented concerning the material so that it can be disposed of or returned to the applicant;
- the need to ensure that applications are as thin as possible to ensure efficient space management at visa offices.

19.1. Principles guiding the retention and disposal of documents

Visa offices have the authority to retain minimum paper documentation on immigrant and non-immigrant files in accordance with the guidelines in section 19.2.

Documentation obtainable from other sources is not retained on finalized files. Examples include copies of permanent resident counterfoils and confirmation of permanent residence, temporary resident permits, Quebec Acceptance Certificates (CAQs) and CSQs. Relevant details from these documents should be recorded in CAIPS notes.

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Visa offices should regularly review the documents that clients submit with their applications to ensure that only those documents that are relevant to the processing of a case are requested. Should visa offices note that documents routinely requested in the application kits are not relevant to decision-making in a permanent or temporary residence application, they should notify RIM/NHQ to allow for a review of kits to determine if those documents should no longer be required.

Visa offices should look for administrative opportunities to dispose of unneeded documents throughout the application process. Where possible, decisions on retention or disposal of documents should not be made only at the finalization of an application.

There are no legal impediments to immediately microfilming or microfiching documentation on approved and refused files. Microfilmed documentation is admissible in court proceedings under section 31 of the *Canada Evidence Act*.

Library and Archives Canada requires that the paper file be retained where an applicant might have been involved in war crimes or crimes against humanity. Five years after finalization, these files are to be forwarded to the Government Archives Division (GAD) of the Library and Archives Canada, 395 Wellington Street, Ottawa, Canada K1A 0N3.

19.2. Guidelines for the retention and disposal of documents

During processing

Documents that support routine processing are not to be filed. Examples of such documents include birth, marriage and education certificates, and copies of passports in immigrant files; and curricula vitae, school acceptances, statements of net worth, and letters of invitation in non immigrant files. The date of receipt and nature of contents, where applicable, are to be recorded in CAIPS notes.

After their receipt has been recorded, the documents are either discarded or, if they are originals, they are returned to the applicant.

The officer's record of information from returned or discarded documents must be sufficiently detailed to permit another officer to continue processing or to respond to representations. Officers must also ensure that CAIPS notes record any relevant information that may be used in administrative or judicial proceedings should a refusal be appealed. Visa offices should refer to RIM-03-10 and RIM-03-027, which outline the guidelines for documents required by hearings officers for evidentiary purposes.

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Officers may keep contentious or questionable documents on file during processing. If officers rely on a document to refuse an application, they will keep it on file, microfilm or microfiche after finalization (see Appendix F).

Officers must retain all evidence of an applicant's involvement in war crimes or crimes against humanity.

Following finalization

For those visa offices that have the capability, contents of files may be microfilmed or microfiched for storage, except for documents relating to an applicant's involvement in war crimes or crimes against humanity. These documents are to be kept for five years and then forwarded to Library and Archives Canada (see section 19.1 for the address). The IMM 0008E form may be microfilmed, except in the case of applications by persons involved in war crimes or crimes against humanity.

At visa offices without microfilm equipment, paper documents are retained according to the file retention and destruction schedule in Appendix F. This schedule also applies to the microfilming of documents. NHQ is currently reviewing the Department's policy on electronic and other technical means to preserve file documents in modes other than hard copies. Equipment and human resource costs must be carefully reviewed before any policy decisions are made.

Where appropriate, the microfilming or microfiching of documents should immediately follow finalization.

Periods for document retention differ. Documents are to be separated and microfilmed according to the following file destruction periods:

- 65 years for IMM 0008E forms in all cases;
- five years for criminal, medical or security refusals, controversial cases, or those of particular administrative interest;
- three years for successful entrepreneur cases;
- two years for other refusals and finalizations.

Appendix A: Where to apply for a permanent resident visa, temporary resident visa, study permit, work permit or permanent resident travel document

For current information, see the chart.

For specific information on requirements for each visa office, consult the IRCC website and follow the appropriate links.

Appendix B: Sample response to enquiries after refusal

Dear...

This letter is in response to your letter of (date) regarding the application for permanent residence in Canada made by (name).

(Name)'s application for permanent residence in Canada was considered on its substantive merits [and, if applicable, for possible humanitarian and compassionate grounds] and was refused. (Name) was provided with the decision containing the reasons for refusing (his/her) application for permanent residence in Canada by letter addressed to (him/her) date (date), thereby fully concluding (his/her) application.

Should (name) have different or additional information, (he/she) may wish to submit a new application for permanent residence in Canada.

Yours truly,

(name)

Appendix C: Revocation of authorization and direction

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *Use of representatives* section.

Appendix D: Sample letter requesting a DNA test (to be adapted to your needs)

This content has been moved as part of the Department's efforts to modernize operational guidance to staff. It can now be found in the *DNA testing* section.

Appendix E: Acknowledgment of receipt (AOR) letter (sample wording)

Dear...

This letter refers to your application for permanent residence in Canada, which was received at this office on (date).

Processing time

Applications for permanent residence in Canada in the foreign national category that you have applied to require on average ... months to process at this office. If you have not received any instructions from this office by (date), you are requested to contact this office directly. You will be notified of the appointment for your interview, if required, approximately ... months prior to the date of the interview, and you will be provided with further instructions at that time. If you have not received notifications of your interview appointment by (date), please contact this office directly.

Interview

Section 15 of the *Immigration and Refugee Protection Act* authorizes an officer to proceed with an examination where a person makes an application for permanent residence in Canada for the purpose of determining whether the person and all accompanying family members appear to be persons who may be granted entry into Canada. A personal interview may be required as part of the examination process. Section 16 of the *Immigration and Refugee Protection Act* states that a person who makes an application must answer truthfully all questions put to them for the purpose of the examination. If an applicant appears for the interview without all the family members as required by the officer, then the required examination cannot be completed. This means that the applicant would be found to be inadmissible to Canada as a foreign national by virtue of the fact that they are unable to comply with all the requirements of the *Immigration and Refugee Protection Act* and the Regulations, following sections 11 and 41 of the Act.

Interpreters

Interpreters must be arranged in advance for any family members who will be interviewed and who are unable to communicate well in either of Canada's official languages of English or French. Instructions for the provision of interpreters will be provided to you prior to your interview appointment.

Non-resident applications

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If you or any of your accompanying family members are not normally resident in the area of responsibility of this office, then you should be aware that there may be additional delay in the processing of your application for permanent residence in Canada. This delay will result from the need to refer your case to the Canadian immigration office that is responsible for the country in which you or your family members normally reside. This referral is necessary to verify any information that you have provided with your application, or for advice concerning qualifications or other matters of a local concern that should be taken into account when assessing your application.

I trust that this information concerning your application for permanent residence in Canada is helpful. Thank you for your interest in Canada.

Appendix F: Disposal of paper documentation

Documents noted in column “Retain hard copy”, i.e., IMM 0008E, refer to item 2 at the bottom of the table. All other documents refer to item 1, also at the bottom of the page.

Document	Note and discard on receipt (see 1 below)	Note and discard on selection (see 1 below)	Retain hard copy	Microfilm
IMM 0008E			See 2 below	
IMM 1344AE, IMM 1344BE				
CAQ/CSQ				
Family composition			See 2 below	
Birth/marriage certificates				
Education certificates				
Copies of passports				
Job descriptions or job offers				
Verification of relationship				
Proof of net worth				
Business history				
Business proposal				
Form letters				
Convocation letter				
Status inquiries				
Certificate of no conviction				
Certificate of conviction			See 2 below	
Stage B “NRT” stamp				
Security concerns			See 2 below	

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Evidence of war crimes			See 2 below	
Evidence of crimes against humanity			See 2 below	
Medical results (M1 to M3)				
Medical results (M4 to M7)				
Contentious information			See 2 below	
Refusal letter			See 2 below	
Statutory declaration			See 2 below	

* Individual file circumstances may justify modifications to the retention and disposal schedule.

1. Visa offices may retain documents if they consider that notation in CAIPS is insufficient to justify the refusal of an application (i.e., selected photographs in family class cases). Documents relevant to refusals for reasons of war crimes or crimes against humanity cannot be microfilmed.
2. At visa offices without microfilm or microfiche equipment, documents and files are to be retained in paper format according to file retention and disposal schedules.

Appendix G: Sample ARC letters

File number: B#####

NAME

Address

Address

Address

Dear [name],

This refers to your application for a permanent resident visa/temporary resident visa.

Persons who have been ordered deported from Canada require special written authorization in order to return.

Subsection 52(1) of the *Immigration and Refugee Protection Act* states that:

“If a removal order has been enforced, the foreign national shall not return to Canada, unless authorized by an officer or in other prescribed circumstances.”

Further, subsection 226(1) of the *Immigration and Refugee Protection Regulations* provides that a deportation order obliges the foreign national to obtain written authorization in order to return to Canada at any time after the deportation order was enforced.

Our records show that you were ordered deported on [or about date]. As you were previously deported from Canada, you are currently inadmissible to Canada and you require authorization to return to Canada if you wish to continue with this application for a [permanent resident/temporary resident] visa.

Should you decide to apply for authorization to return to Canada, you must indicate why special considerations apply in your case and pay a processing fee of Can\$400.00.

In addition, an interview may be required to assess your request. Please note, there is no guarantee your application for authorization to return to Canada will be approved.

Finally, section 243 of the *Immigration and Refugee Protection Regulations* provides that a person removed from Canada, at the expense of the Government of Canada, shall not return to Canada if that

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person has not paid all removal costs. The costs amount to Can\$750.00 for each removal to the United States or Saint-Pierre and Miquelon; and Can\$1,500.00 for removal to any other country.

Fees are payable in (local currency) or Canadian dollars. Payment must be in the form of a bank draft or certified cheque. Cash is not accepted for fee payment. The bank draft or certified cheque should be made for the exact amount and payable to "Canadian High Commission/Canadian Consulate/Canadian Embassy" if paying in (local currency) or "The Receiver General for Canada" if paying in Canadian funds payable at [visa office].

You have 90 days from the date of this letter to submit your request for authorization to return to Canada along with the processing fee. If you choose not to apply for authorization to return to Canada, your application for a [permanent resident/temporary resident] visa will be assessed on the basis of the available information.

Please indicate your file number in any correspondence with this office.

Sincerely,

Visa/Immigration officer
Canadian High Commission/Canadian Consulate/Canadian Embassy

File number: B#####

NAME

Address

Address

Address

Dear [name],

This letter refers to your application for a permanent resident visa/temporary resident visa.

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Persons who have been ordered excluded from Canada require special written authorization in order to return.

Subsection 52(1) of the *Immigration and Refugee Protection Act* states that:

“If a removal order has been enforced, the foreign national shall not return to Canada, unless authorized by an officer or in other prescribed circumstances.”

Further, section 225 of the *Immigration and Refugee Protection Regulations* provides that an exclusion order obliges the foreign national to obtain written authorization in order to return to Canada during the one-year period after the exclusion order was enforced (or two years in the event the exclusion order was enforced as a result of misrepresentation).

Our records show that you were ordered excluded on [or about date], and that this order was enforced on [date]. As you were previously excluded from Canada, you are currently inadmissible to Canada and require authorization to return to Canada if you wish to continue with this application for a [permanent resident/temporary resident] visa. The earliest date at which you will not require authorization to return to Canada is [date].

Should you decide to apply for authorization to return to Canada, you must indicate why special considerations apply in your case and pay a processing fee of Can\$400.00.

In addition, an interview may be required to assess your request. Please note that there is no guarantee your application for authorization to return to Canada will be approved.

Finally, section 243 of the *Immigration and Refugee Protection Regulations* provides that anyone removed from Canada, at the expense of the Government of Canada, shall not return to Canada if that person has not paid all removal costs. The costs amount to Can\$750.00 for each removal to the United States or St.-Pierre-et-Miquelon; and Can\$1,500.00 for removal to any other country.

Fees are payable in (local currency) or Canadian dollars. Payment must be in the form of a bank draft or certified cheque. Cash is not accepted for fee payment. The bank draft or certified cheque should be made for the exact amount and payable to “Canadian High Commission/Canadian Consulate/Canadian Embassy” (if paying in local currency) or “The Receiver General for Canada” (if paying in Canadian funds) payable at [visa office].

You have 90 days from the date of this letter to submit your request for authorization to return to Canada along with the processing fee. If you choose not to apply for authorization to return to Canada, your

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application for a [permanent resident/temporary resident] visa will be assessed on the basis of the available information.

Please indicate your file number in any correspondence with this office.

Sincerely,

Visa/Immigration officer

Canadian High Commission/Canadian Consulate/Canadian Embassy