



Immigration and Refugee Law

MOSAIC



This project has been made possible through the financial support of The Law Foundation of British Columbia

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Revised: November 2008
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CONTENTS

<i>General Overview</i>	1
Immigration and Refugee Protection Act (IRPA).....	1
Citizenship and Immigration Canada (CIC).....	1
Provincial Immigration Programs.....	2
Offices Abroad.....	2
Offices in Canada.....	2
Visas and Permits.....	2
Part I - Immigrants and Temporary Residents.....	3
<i>Immigration Program</i>	4
<i>Economic Class</i>	5
Skilled Workers.....	5
Business Immigrants.....	6
BC Provincial Nominee Program (BC PNP).....	7
<i>Family Class</i>	9
Family Members Living Outside of Canada.....	9
Applicants.....	9
Sponsors.....	11
In-Canada Spouse/Common-law Category.....	12
Sponsorship Requirements and Responsibilities.....	12
Sponsorship Breakdown.....	15
Inadmissibility of Family Members.....	16
Factors that can Slow Down Processing.....	17
<i>Temporary Residents</i>	18
Visas and Permits.....	18
Visitor Visa.....	18
Work Permit.....	19
Student Permit.....	19
Staying Permanently.....	20
Canadian Experience Class (CEC).....	20
Live-in caregivers.....	20
Assistance for Victims of Human Trafficking.....	21
<i>Humanitarian and Compassionate Application</i>	22
Application Considerations.....	22
Establishment in Canada.....	22
Sponsorship.....	23
Part II - Inadmissibility and Removal Orders.....	24
<i>Inadmissibility</i>	25
Indictable and Summary Offences.....	25
Permanent Residents and Foreign Nationals.....	25
Overcoming Inadmissibility.....	27
<i>Removal Orders</i>	29
Refugee Claimants.....	29
Appeal.....	30

Part III - Refugees.....	31
<i>United Nations</i>	32
<i>Protected Persons</i>	33
Persons in Need of Protection	33
Convention Refugees.....	33
Refugee and Humanitarian Resettlement Program	34
Refugee Claimants.....	35
Refugee Claim Process.....	35
Legal Counsel.....	36
Eligibility of Refugee Claimant	36
Safe Third Country Agreement with the U.S.	37
Immigration and Refugee Board (IRB)	37
Rejected Refugee Claim	37
Change of Address.....	38
<i>Pre-removal Risk Assessment (PRRA)</i>	39
Risk to Canada.....	40
People Who Cannot Apply for PRRA	40
<i>Sponsoring Refugees Overseas</i>	41
Sponsorship Agreement Holders	41
Groups of Five	41
Community Sponsor	41
Joint Assistance Sponsorships (JAS).....	41
Government-assisted Refugee Program.....	42
<i>Employment, Education and Health Services</i>	43
Social Insurance Number (SIN)	43
Work Permit	43
Education.....	43
Health Services	44
Income Security	45
Part IV - Permanent Residence and Canadian Citizenship.....	47
Permanent Residents.....	48
Canadian Citizens	48
<i>Permanent Resident Status</i>	49
Rights of Permanent Residents	49
Permanent Resident Card	49
Residency Obligation	50
Losing Permanent Resident Status.....	50
<i>Canadian Citizenship</i>	52
Becoming a Canadian Citizen.....	52
Residency Requirement	52
Citizenship Test	52
The "Application for Citizenship" Form	53
Citizenship Ceremony	53
Children	53
People Who Cannot Become Canadian Citizens	54

Dual Citizenship.....	54
<i>Government and Legal Resources</i>	55
<i>Community Agencies</i>	58
APPENDICES	61
<i>APPENDIX I: Skilled Workers</i>	62
<i>APPENDIX II: Investors</i>	66
<i>APPENDIX III: Entrepreneurs</i>	68
<i>APPENDIX IV: Self-employed Persons</i>	71
<i>APPENDIX V: Live-in Caregivers</i>	72
<i>APPENDIX VI: Visa Requirement</i>	74
<i>APPENDIX VII: Fees</i>	77
<i>APPENDIX VIII: Sponsorship Default Collection</i>	80
<i>APPENDIX IX: Sources</i>	83

General Overview

Immigration and Refugee Protection Act (IRPA)

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

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

Economic Class Immigrants

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

Family Class Immigrants

Family class immigrants are selected on the basis of their **relationship to a Canadian citizen or permanent resident** who provides an undertaking to support the new immigrant if necessary for a time after his/her arrive in Canada. Members of the family class include spouses, common-law partners, children, parents and other family members.

Refugees

Convention Refugees and Protected Persons are selected on the basis of their **need for protection from persecution**. Persecution is the threat to a person's life or freedom because of his/her race, religion, nationality, political opinion or membership in a particular social group.

Temporary Residents

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

Citizenship and Immigration Canada (CIC)

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

Provincial Immigration Programs

Even though immigration is a federal responsibility, most provinces have immigration agreements with the federal government. These agreements give provinces control over various immigration and settlement services.

Criteria and selection of skilled workers, for example, may differ from province to province to reflect regional needs. However, in all cases, the federal government continues to be responsible for criminal, medical and security reviews.

Offices Abroad

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

Offices in Canada

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

- Vegreville, Alberta: Processes extensions for temporary resident and permit statuses, work and study permits, applications for permanent residence by some classes in Canada and loans for the right of permanent residence fees.
- Mississauga, Ontario: Specializes in overseas family class sponsorships.
- Sydney, Nova Scotia: Processes applications for Canadian citizenship and Permanent Resident Cards.

Visas and Permits

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

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

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

Part I Immigrants and Temporary Residents

Immigration Program

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

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

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

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

People within these categories generally apply to immigrate to Canada from abroad. However, certain exceptions allow some family class sponsorships to be done from within Canada. The application processing fees are listed in *Appendix VII* on page 77.

Economic Class

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

- Skilled Workers
- Business Immigrants
- BC Provincial Nominee Program (BC PNP)

Skilled Workers

A skilled worker has the education, work experience, language proficiency (can speak English or French) and other abilities that will help him/her establish him/herself in Canada. As a minimum requirement to apply as a skilled worker, foreign nationals must have at least one year of full-time work experience at a certain skill level.

If an applicant is determined to have at least the minimum work experience, a point system is used to assess his/her ability to become economically established in Canada. Currently, a pass mark of 67 points will generally indicate that an applicant is qualified to immigrate as a skilled worker. (Please note: The pass mark is subject to change; please verify at the time you are seeking information).

To obtain the pass mark, a skilled worker generally requires a post-secondary education, work experience and proficiency in either English or French.

For detailed information on skilled workers, see *Appendix I* on page 60.

The following factors are used to assess applicants:

Factors	Points available
Education	25
Language skills	24
Work experience	21
Age	10
Arranged employment	10

Factors	Points available
Adaptability	10
Total	Maximum 100
Pass mark	67

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

Business Immigrants

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

- Investor Class
- Entrepreneur Class
- Self-employed Class

Because some individuals may qualify in more than one economic class, including the skilled worker category (above), they must consider what class or category best suits their personal situation (i.e. consider conditions on visa and financial commitments).

Investor Class

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

The applicant must also have at least two years’ business experience and meet medical/security requirements as well as the minimum number of points on the selection grid for investors based on factors like education, business experience and adaptability. The selection grid is available at www.cic.gc.ca/english/immigrate/business/investors/selection.asp

The \$400,000 is returned to the investor approximately five years and two months after payment. Alternatively, the investor can choose to pay a lower amount up-front that will not be returned.

For more information on investors see *Appendix II* on page 66.

Entrepreneur Class

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

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

For more information on entrepreneurs see *Appendix III* on page 68.

Self-employed Class

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

See *Appendix IV* on page 71 for more information.

BC Provincial Nominee Program (BC PNP)

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

The program helps B.C. employers fill critical skill shortages and allows the province to select immigrants based on their skills. Skill shortages in B.C. usually involve **highly skilled** workers like software developers, aerospace engineers and post-secondary professors. There are, however, some exceptions for individuals working in the tourism/hospitality industry and long-haul truck drivers, though these categories may be subject to change.

More information on BC PNP is available at www.ecdev.gov.bc.ca/ProgramsAndServices/PMP/index.htm and www.canadavisa.com/british-columbia-provincial-nominee-program.html

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

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

Family Class

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

Family Members Living Outside of Canada

Canadian citizens and permanent residents can sponsor family members who live outside Canada.

Applicants

Family members who can be sponsored include:

a) Spouse

- A husband or wife who is at least 16 years old.
- The marriage must be legally recognized in Canada and in the country where it took place. Canada legally recognizes same-sex marriages.

b) Common-law partner

- A person of the ***opposite or same gender*** who has lived with the sponsor for one year *or more* in a marriage-like relationship. (CIC is very strict about the couple having lived together a minimum of one full year.) Canada legally recognizes same-sex common-law relationships.

c) Conjugal partner

- Person of the opposite or same gender with whom the sponsor has had a conjugal (marriage-like) relationship (a sexual, intimate and exclusive relationship) for at least one year.
- This type of application will usually only be made when there is a barrier preventing the sponsor and applicant to marry or live together outside of Canada. The couple must explain to CIC why they are not married or living together (e.g. homosexuality is a crime in their home country).

Proof of marriage, common-law or conjugal relationship
Marriage certificate and wedding invitations
Commitment ceremony certificate
Pictures of couple
Pictures of couple on vacation
Joint medical plans, credit cards, bank accounts
Joint house, car, furniture
Joint membership in organizations or groups

Letters from friends and family
Shared responsibility for children
Long-distance phone bills

d) Dependent children

- A child of the sponsor OR a child of the applicant.
- Children in the following situations are considered to be dependent:
 - The child is younger than 22 and is not married or in a common-law relationship.
 - The child is younger than 22, is married or in a common-law relationship **AND** is going to school or is financially dependent on the parents.
 - The child is older than 22 and, due to a disability, is financially dependent on the parents.
 - The child is older than 22, is a continuous full-time student and is substantially financially supported by the parents. The child must be a student since before the age of 22 and the school must be a recognized post-secondary institution.

e) Parents and grandparents

f) Brothers, sisters, nieces, nephews and grandchildren

- Must be orphans under the age of 18.
- Cannot be married or in a common-law relationship.

g) Child under 18 years adopted in Canada

h) Only family member

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

Family members that **cannot** be sponsored include:

- He/she is under 16 years old.
- The applicant/sponsor was married to someone else at the time of their marriage.
- The applicant has lived apart from his/her sponsor for at least one year and either the applicant or sponsor is in a conjugal or common-law relationship with someone else.
- The sponsor immigrated to Canada and, at the time he/she applied for permanent residence, the family member who should have been included on the application

forms and examined to see if he/she met immigration requirements was not included or examined.

- The sponsor previously sponsored another spouse or common-law or conjugal partner, and it has not been three years since that person has become a permanent resident. This applies only to those trying to sponsor a spouse or common-law partner.

Sponsors

People who want to sponsor family members must meet the following criteria:

- Canadian citizen or permanent resident
- Living in Canada (except in case of Canadian citizen sponsoring a spouse/dependent children)
- At least 18 years of age
- Not the subject of a removal order
- Not detained in any penitentiary, jail or prison
- Has not been convicted of a violent criminal offence, sexual offence or offence against a relative
- Is not in default of any debt payable to Canadian immigration authorities
- Is not in default of an undertaking (failed to provide the financial support he/she agreed to provide when he/she signed a sponsorship agreement to sponsor another relative in the past)
- Is not an "undischarged" bankrupt
- Is not in receipt of social assistance for a reason other than disability

Employers, church groups and friends cannot sponsor individuals under this provision; it is intended for family reunification only.

Information on who can be a sponsor is available at www.cic.gc.ca/english/immigrate/sponsor/spouse-apply-who.asp#sponsoring.

In an overseas sponsorship, a person **may appeal** if he/she is denied sponsorship because he/she does not meet one of the above criteria.

Collection Services

Phone: 1-800-667-7301

This office provides information on loan accounts.
It can only be accessed from Canada and the U.S.

In-Canada Spouse/Common-law Category

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

As of February 2005, it is no longer a legal requirement that the spouse or common-law partner have valid temporary status in Canada as a *visitor, student or temporary worker*. The spouse or common-law partner applicant should always try and maintain his/her temporary status while in Canada. Individuals who are visitors, workers, students and refugee claimants can apply in this category. In certain circumstances, individuals who do not have legal temporary status may also apply in this category.

It is important to note that, unlike an overseas sponsorship, the in-Canada sponsorship does not have an automatic right of appeal. A proper assessment and weighing of the circumstances should be done before deciding to file an in-Canada sponsorship application, particularly if there are any potential admissibility concerns (see pages 21 and 30).

Sponsorship Requirements and Responsibilities

Undertaking and Sponsorship Agreement

Undertaking: Sponsors must sign an agreement, called an undertaking, with the government, in which they agree to provide basic needs for their sponsored family members. Basic needs include food, housing, clothing and medical care. Sponsors must agree to do this for three to 10 years depending on their relationship to the sponsored family member (see next page).

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

If a sponsored family member uses government programs like welfare, then the sponsor has to repay the government on behalf of the sponsored family member.

The sponsor will not be allowed to sponsor other family members until this debt is paid. The B.C. government is currently actively collecting sponsorship defaults. See *Appendix VIII* on page 80 for more details.

Sponsored family member	Length of undertaking
Spouse, common-law partner or conjugal partner	3 years from the date the applicant becomes a permanent resident
Dependent child who is younger than 22	10 years from the date the child becomes a permanent resident or until the child turns 25 , whichever comes first
Dependent child who is 22 or older	3 years from the date the child becomes a permanent resident
Any other person (e.g. father, mother or grandparent)	10 years from the date the applicant becomes a permanent resident

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

Children under the age of 22 do not have to sign a sponsorship agreement.

BC Ministry of Housing and Social Development
Sponsorship Default Recovery Program
 Phone: 604-660-5350

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

Sponsor's Minimum Income

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

Minimum Income Required
(Low-income cut-off)
Effective until December 31, 2007

Family Size	Minimum Income
1	\$20, 778
2	\$25, 867
3	\$31, 801
4	\$38, 610
5	\$43, 791
6	\$49, 389
7	\$54, 987
Each additional person	\$5, 598

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

The minimum income requirement is based on “Statistics Canada’s Before- Tax Low-Income Cut-Offs” and may change from year to year depending on economic measurements like inflation and cost of living. The chart is available on the website of the National Council of Welfare at www.ncwcnbes.net/en/research/povertylines/relatedfactsheets.html

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

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

Sponsors do NOT require a minimum income if they are sponsoring their spouse, common-law partner, conjugal partner and/or children. However, if the sponsor does not meet the minimum income requirement, it is important to show how the applicant will be able to support him/herself in Canada. While the

sponsorship may be permitted, the applicant can be found inadmissible for financial reasons if he/she is unable or unwilling to support him/herself.

Sponsorship Breakdown

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

Examples of Sponsorship Breakdown

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

LSS publishes a booklet entitled “Sponsorship Breakdown” in Chinese, English, Korean, Punjabi, Spanish and Vietnamese and available at www.lss.bc.ca/publications/pub.aspx?p_id=113.

If the Sponsor is Hurting or Scaring the Family Member

- Family members should call the police at 911 if they are in immediate danger.
- Victims of abuse, including women, children, men and seniors, can stay at transition houses or shelters, which are safe and free. The police can take the victim to a shelter.

**CIC WILL NOT DEPORT SPONSORED FAMILY MEMBERS
BECAUSE A SPONSORSHIP BREAKS DOWN IF THEY ARE ALREADY
PERMANENT RESIDENTS, CANADIAN CITIZENS or refugee claimants
proceeding with their own case.**

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

**SPONSORS CANNOT MAKE SPONSORED FAMILY MEMBERS
LEAVE CANADA.**

VictimLINK (1-800-563-0808): A 24-hour, multilingual, province-wide service for victims of family/sexual violence and other crimes. Call to find a shelter and other

resources. Hearing impaired service available via TTY at 604-875-0885 or call the Telus Relay Service collect at 711.

Multicultural Victim Services Program at MOSAIC (604-254-9626): Provides assistance and information to all victims of crime (men and women). Service can be provided in other languages.

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

Inadmissibility of Family Members

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

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

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

An applicant may be inadmissible to Canada on the basis of

- Security
- Violating human or international rights
- Criminality
- Health grounds (i.e. his/her health condition is likely to be a danger to public health or safety)
- Misrepresenting or withholding material facts
- Financial reasons (i.e. he/she is unable or unwilling to support him/herself in Canada without social assistance (this does not apply where the sponsor meets the minimum income requirement))

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

A person can appeal if he/she was approved as a sponsor but the application of the family member was refused; however, there are limitations as to what can be appealed.

The sponsor **cannot** appeal if:

- He/she withdrew or abandoned the sponsorship application
- The applicant for permanent residence is not eligible to apply as the sponsor's spouse, partner or dependent child
- The application was refused because he/she provided false information (unless the applicant was a spouse, common-law partner or dependent child)
- The applicant was refused because of a serious criminal offence
- The application was refused for security reasons, organized crime or human rights violations

If you do not qualify to sponsor your spouse, partner or dependent child in the family class, your spouse may apply to remain in Canada on humanitarian and compassionate grounds (see page 22).

For more information on inadmissibility see page 25.

Factors that can Slow Down Processing

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

Temporary Residents

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

Visas and Permits

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

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

Visitor Visa

- Generally, visitors need a valid passport that will not expire until they leave Canada.
- Also, visitors must apply for a visa to travel to Canada unless they are from a visa-exempt country (*see Appendix VI on page 74*).
- Canada does not pay for hospital or medical services for visitors. Visitors should buy travel insurance.
- If visitors want to stay longer, they must apply to extend their temporary resident status before their status expires.
- Usually, individuals cannot come to Canada as visitors and then convert their visitor visa into a work permit. These individuals will likely have to apply for a work permit from outside of Canada.

Genuine Visitors

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

- Visitors must also show they are able and willing to leave Canada at the end of their visit (valid passport, return plane ticket, etc.).
- Visitors may need a medical examination and a letter of invitation from someone who lives in Canada.

Work Permit

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

Student Permit

- Foreign students need a student permit for any studies that are longer than six months
- If students have valid study permits, they can:
 - a) Work on campus at their college or university
 - b) Apply to renew their study permit from within Canada if they want to continue studying in Canada
- To be eligible to study in Canada, the person applying for a student permit must:
- Have been accepted by a school, college, university or other educational institution in Canada
- Prove he/she has enough money to pay for his/her:
 - tuition fees
 - living expenses
 - return transportation
- Be a law-abiding citizen with no criminal record and not be a risk to the security of Canada
- Be in good health and willing to complete a medical examination, if necessary

- Satisfy an immigration officer that he/she will leave Canada when he/she has completed his/her studies

Staying Permanently

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

However, qualified temporary residents may be able to apply for permanent resident status inside Canada under the “**Canadian Experience Class,**” provided they meet specific criteria. This new immigration class was implemented in 2008 for certain skilled temporary workers and international students who possess a Canadian education and Canadian work experience.

Canadian Experience Class (CEC)

Foreign nationals who are international students and temporary foreign workers are now able to apply for permanent residence inside of Canada.

International students must have:

- Temporary resident status when they submit their application under the CEC
- Twelve months’ full-time (or part-time equivalent) work experience in a skilled job within 24 months of applying in the CEC
- Obtained their work experience after obtaining a diploma/degree in a post-secondary program of studies of at least two years (one year if it is a post-graduate degree)
- English/French language proficiency

Foreign workers can also apply in the CEC if they have:

- Temporary resident status when they submit their application under the CEC
- Worked full-time (or part-time equivalent) at a skilled job for at least 24 months within 36 months of applying
- English/French language proficiency

Live-in caregivers

Live-in caregivers provide care for children, elderly people or people with disabilities in the home of the person being cared for (i.e. the employer’s house).

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

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

- Successful completion of high school (or equivalent)
- At least six months of training or at least a year of paid work experience in a related field
- Must be able to speak, read and understand sufficient English or French to communicate effectively in an unsupervised setting
- Must have an employment contract with their future employer
- Must have a work permit before entering Canada

CIC provides detailed information about the Live-in Caregiver Program at www.cic.gc.ca/english/work/caregiver/index.asp or see *Appendix V* on page 72 for more information on live-in caregivers.

Legal advice, advocacy and information for live-in caregivers
available at the
West Coast Domestic Workers' Association:
604-669-4482 www.wcdwa.ca

Assistance for Victims of Human Trafficking

Victims of human trafficking should visit their closest CIC office. If they need immediate help they should contact the police.

Victims of human trafficking may be eligible for a 180-day temporary resident permit that can be renewed depending on the circumstances. For more information visit www.cic.gc.ca/english/work/trp.asp

Humanitarian and Compassionate Application

At any time an individual can apply to stay in Canada for humanitarian and compassionate reasons (often called an H&C application), even if he/she already lives in Canada and is not eligible to apply for permanent residence status.

Application Considerations

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

An H&C application is assessed based on the person's establishment in Canada and/or the risk if he/she were forced to leave Canada. Immigration officers will consider the hardship to the applicant and/or others (e.g. Canadian family members) if the applicant was forced to leave Canada.

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

A marriage or common-law relationship with a Canadian person does NOT automatically result in a positive H&C decision. There is no legal right for a spouse or common-law partner to stay in Canada if he/she does not have status.

Individuals with Canadian-born children may have an H&C case, as CIC officers must consider what is best for the children. It is not, however, a guarantee that they will be able to stay in Canada.

Establishment in Canada

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

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

- How long was he/she in Canada?
- Does he/she have a job? What is the importance of the job and how long has he/she done it?

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

The applicant should include pictures and letters written by other people (e.g. neighbours and co-workers) with his/her application.

- *Letters:* Should introduce the writer, explain how he/she knows the applicant, give reasons why the applicant would be good citizen (e.g. gives back to the community and is hard-working) and provide contact information in case CIC wants to ask more questions.
- *Pictures:* Should show family and community events.

Sponsorship

While an H&C application does not include any formal sponsorship, it can be helpful to include a sponsorship agreement under the family class category to show that one family member will financially support the other in Canada.

Process

H&C applications are processed in two stages. First, an immigration officer will determine if there is sufficient hardship to grant preliminary approval to the applicant. If preliminary approval is granted, CIC will go on to assess the applicant's medical, criminal and security admissibility. A preliminary approval of the H&C application IS NOT a guarantee of final acceptance. If an applicant believes he/she may be inadmissible to Canada, he/she should also apply to CIC for a waiver of that inadmissibility. Always seek legal advice in these circumstances.

Part II

Inadmissibility and Removal Orders

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

People who are inadmissible are not allowed to come into or remain in Canada as temporary residents, immigrants or, in some cases, refugees.

Inadmissible people who are already in Canada may be deported.

People who may be inadmissible should seek legal advice.

Inadmissibility

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

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

Indictable and Summary Offences

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

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

Permanent Residents and Foreign Nationals

Permanent residents and foreign nationals will be inadmissible if they are involved in certain activities. These individuals will not be allowed into Canada as temporary residents, immigrants or refugees. If they are in Canada already they may be deported.

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

Security

Permanent residents and foreign nationals are inadmissible if CIC believes they are a danger to Canadian society. For example, the person is a spy or terrorist, or commits acts of dangerous violence.

Members of organizations involved in any of these actions are also inadmissible. The Immigration and Refugee Protection Act also contains provisions in which someone CIC believes to be inadmissible on security grounds can apply for ministerial relief and ask the inadmissibility be waived.

Human or International Rights Violations

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

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

Serious Criminality

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

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

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

Organized Criminality

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

Misrepresentation

Permanent residents and foreign nationals are inadmissible if they lied to CIC, either by giving false information or not providing all relevant information.

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

Non-compliance

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

Foreign Nationals

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

Criminality

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

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

Health Grounds

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

Spouses, common-law partners and children within the family class, refugees and protected persons may be inadmissible only if their health condition is a danger to public health or safety.

Financial Reasons

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

Inadmissible Family Member

A foreign national is inadmissible if his/her accompanying family member is inadmissible.

This ground for inadmissibility does NOT apply to protected persons.

Overcoming Inadmissibility

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

Offences Outside of Canada

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

If a person is deemed to have been rehabilitated, he/she does not need to apply for rehabilitation. People are deemed to have been rehabilitated if **10 years** have passed since they completed the sentence or committed the offence, or if the offence is one that would, in Canada, be an **indictable offence** punishable by a maximum term of imprisonment of less than 10 years.

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

Offences in Canada

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

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

Removal Orders

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

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

There are three types of removal orders:

Exclusion Order

The person cannot return to Canada for one year or, in some cases of misrepresentation, two years. However, the person can try to get permission from CIC to return sooner.

Departure Order

The person must leave Canada within **30 days** after the order becomes effective and must confirm his/her departure with CIC, as well as obtain a certificate of departure. The person can return to Canada without restrictions. ***A departure order automatically becomes a deportation order if the person does not leave within 30 days of it becoming effective or does not confirm his/her departure with the Canadian Border Services Agency (CBSA).***

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

Deportation Order

The person is permanently barred from returning to Canada. The person may not return to Canada unless he/she receives written permission from CIC.

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

Refugee Claimants

All refugee claimants are given conditional departure orders as soon as they make a refugee claim. If the claim is accepted then the removal order is cancelled. If the

claim is denied, withdrawn or abandoned then the removal order goes into effect. The person then has 30 days to leave Canada. If he/she does not leave Canada, the departure order will become a deportation order.

Please note: Removal orders will be postponed when a person applies for judicial review.

Appeal

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

People who **cannot** appeal removal orders include those who,

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

Countries to which removal orders are currently **NOT** enforced are (this list is subject to change):

- Afghanistan
- Burundi
- Democratic Republic of Congo
- Haiti
- Iraq
- Liberia
- Rwanda
- Zimbabwe

Part III

Refugees

United Nations

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

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

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

Protected Persons

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

Persons in Need of Protection

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

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

A person in Canada whose removal to his/her country or countries of nationality or, if he/she does not have a country of nationality, his/her country of former habitual residence, would subject him/her **personally**

- a) to a danger, believed on substantial grounds to exist, of **torture** within the meaning of Article 1 of the Convention Against Torture; or
- b) **to a risk to his/her life** or to **a risk of cruel and unusual treatment or punishment** if
 - (i) the **person is unable or**, because of that risk, **unwilling to avail him/herself of the protection of that country**,
 - (ii) the **risk would be faced by the person in every part of that country** and is **not faced generally by other individuals** in or from that country,
 - (iii) the risk is **not inherent or incidental to lawful sanctions**, unless imposed in disregard of accepted international standards, and
 - (iv) the **risk is not caused by the inability of that country to provide adequate health or medical care**.

In other words, persons in need of protection in Canada are afraid to return home because of:

- a risk of torture
- a risk of life, or
- a risk of cruel and unusual treatment or punishment.

Convention Refugees

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

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

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

(a) is outside each of his/her countries of nationality and is unable or, by reason of that fear, unwilling to avail him/herself of the protection of each of those countries; or

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

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

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

Refugee and Humanitarian Resettlement Program

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

Resettlement is the legal process of bringing a refugee to Canada to live as a permanent resident. The CIC relies on the United Nations High Commissioner for Refugees (UNHCR), other referral organizations and private sponsorship groups to identify and refer refugees for resettlement in Canada.

There are three refugee classes:

- *Convention Refugees Abroad Class*: A person is outside of his/her home country or where he/she normally lives and cannot return to that country because there is a well-founded fear that he/she will be persecuted because of race, religion, political opinion, nationality or membership in a social group (e.g. women or those who have a different sexual orientation)
- *Country of Asylum Class*: People who are in a refugee-like situation but do not qualify as Convention refugees, are outside of their home country or where they normally live, have been and continue to be seriously and personally affected by a

conflict or violations of human rights, cannot find an adequate solution to the problem within a reasonable time and will be privately sponsored or able to support themselves.

- *Source Country Class*: Person lives in a home country labelled as a source country for refugees and lives in a country that he/she normally lives in.

For more information refer to www.cic.gc.ca/english/refugees/outside/index.asp

Refugee Claimants

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

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

Refugee Claim Process

3. Person makes a refugee claim at the airport, border or CIC office. **A CIC officer interviews the person to find out if he/she is eligible to make a claim.** The officer will take notes during the interview to later use at the hearing, to check for consistency.
4. Within three days, the CIC officer decides if the claim is eligible to be heard by the *Immigration and Refugee Board*. See page 37 for more information on eligibility. The refugee claimant is given a conditional departure order (see page 29).
5. If the claim is not eligible, the person may be removed from Canada. See page 29 for information on removal orders.
6. If the claim is eligible, CIC sends it to the IRB for a hearing.
7. The claimant fills out a **Personal Information Form (PIF)**, which must be completed and given to the IRB **within 28 days**.

THE PIF IS VERY IMPORTANT

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

It asks the claimant to state why he/she fears returning to his/her home country. The refugee claimant should include ALL relevant information.

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

8. The claimant sends in documents that support his/her claim, e.g. a doctor's report, newspaper articles or reports from human rights agencies.
9. The claimant has an interview or hearing at the IRB and the IRB decides if he/she is a Convention Refugee or Person In Need of Protection.
10. If the decision is "yes" then the person has protected person status. He/she can stay in Canada and apply for permanent resident status (to be done **within 180 days**). The person can include his/her dependents inside and outside of Canada in his/her application for permanent resident status.
11. If the decision is "no" the person can apply to federal court to have the decision reviewed. See page 40 for more information.
12. If the person does not apply to federal court or the court refuses the application, then the person may be removed from Canada. See page 31 for more information on removal orders.
13. The decision may be appealed to the Federal Court of Appeal only if the judge who made the decision states that a serious question of general importance is involved.
14. Before removal, the person can apply for a Pre-removal Risk Assessment. See page 39 for more information.

Legal Counsel

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

If a claimant is not represented by a lawyer, then a friend, relative or other person can act as his/her counsel at the hearing; however it is always strongly advisable to have a lawyer represent the claimant at a hearing.

Eligibility of Refugee Claimant

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

People can be ineligible due to security concerns, human rights violations, serious criminality, organized crime or misrepresentation (see page 33). In addition, people cannot make a refugee claim if they made a refugee claim in Canada before and their claim was rejected, abandoned, withdrawn or ineligible. They are also ineligible if they have refugee protection in another country and can return to that country.

Safe Third Country Agreement with the U.S.

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

The “Safe Third Country Agreement” is an agreement between Canada and the United States. Under the agreement, persons seeking refugee protection must make a claim in the first country they arrive in unless they qualify for an exception to the agreement. Refugee claimants arriving from the U.S. may be allowed to pursue their refugee claims in Canada if they meet an exception under the agreement. More information is available at www.cbsa-asfc.gc.ca/agency-agence/stca-etps-eng.html

Immigration and Refugee Board (IRB)

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

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

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

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

Rejected Refugee Claim

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

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

If the person does not apply for a judicial review, he/she will be scheduled for an interview with the removal department of CIC. CIC may also give him/her a *Pre-removal Risk Assessment* (PRRA) form. See page 39 for more information on the PRRA.

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

If a failed refugee claimant does not apply for a judicial review or a PRRA he/she should leave Canada within 30 days. If he/she does not leave within 30 days, his/her departure order automatically becomes a deportation order and he/she will be permanently barred from returned to Canada. See page 29 for more information on removal orders.

Change of Address

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

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

Pre-removal Risk Assessment (PRRA)

A PRRA looks at the risks a person would face if he/she were to be returned to his/her home country. CIC looks at the risk of persecution, torture, cruel and unusual treatment or punishment and the risk to life.

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

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

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

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

Applicants must show that:

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

(b) The risk they face affects them personally and is not faced by all other people in the country (e.g. the risk is not due to a famine or civil war).

(c) The risk exists in every part of the country. They cannot move to another part of the country to be safe.

(d) The risk is not punishment for a crime they committed **UNLESS** the punishment for the crime violates international standards (e.g. torture).

(e) The risk is not due to the country's lack of medical care (e.g. the person has AIDS and his/her home country does not have new medications).

Only **new evidence** will be considered for a PRRA. New evidence is information that was not available at the refugee hearing, e.g. events that happened in the home country after the IRB hearing. If the person did not appear before the IRB,

then all information and evidence can be submitted. Evidence can include newspaper articles, human rights reports, legal documents, medical and psychological reports and expert opinions.

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

Risk to Canada

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

If he/she is allowed to stay in Canada, he/she may be removed when the situation in his/her home country changes. Unlike other PRRA applicants, he/she cannot apply for permanent resident status.

People Who Cannot Apply for PRRA

Some people are not eligible for PRRA, including:

- People going through an extradition process. Extraditions return people to another country to stand trial for a crime they committed in that country.
- People who are recognized as a Convention Refugee by a country to which they can return.
- Repeat refugee claimants returning to Canada less than six months after leaving Canada and after the claim was refused, withdrawn, abandoned or ineligible.
- People who came to Canada from a "safe third country."

If the PRRA application is refused, CBSA will want to remove the person immediately. He/she should contact a lawyer and can appeal the decision to the federal court and try to have the court judicially review it. However, the person can still be removed from Canada unless he/she can get the court to "stay" (postpone) the removal until it decides to review the decision.

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

Sponsoring Refugees Overseas

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

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

More information on sponsoring refugees is available on CIC's website at www.cic.gc.ca/english/refugees/sponsor/index.asp

Sponsorship Agreement Holders

A number of organizations and groups across Canada have pre-approved sponsorship agreements with the government of Canada to support refugees from abroad in settling in Canada. Most of these are religious, ethnic, community or service organizations groups.

Groups of Five

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

Community Sponsor

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

Joint Assistance Sponsorships (JAS)

For this type of sponsorship, the government works together with Canadian groups (sponsorship agreement holders) to sponsor and help resettle a refugee with special needs. The government will provide the money and the people will provide emotional support.

Refugees with special needs usually require one year of support to resettle in Canada. People who can be considered for a JAS include women at risk, victims of trauma or torture, large families, people who have been in refugee camps for a long time and people with medical conditions.

Refugees under the JAS program receive income assistance from the government, which usually lasts for 24 months, depending on the circumstances.

Government-assisted Refugee Program

Government-assisted refugees are Convention Refugees Abroad resettlement in Canada is entirely supported by the Government of Canada, with support coming from CIC-supported non-governmental agencies. The support usually lasts up to one year from the date of arrival.

Urgent Protection Program (UPP)

The Urgent Protection Program (UPP) ensures Canada is able to respond to urgent requests by refugees facing the threat of being returned home or direct threats to their lives.

In 1988, Canada created the ***Women at Risk Program*** for refugee women in desperate circumstances. These women do not have family or friends to support or protect them and they may be at risk of rape or other violence.

More information on the Government-assisted Refugee Program is available at www.cic.gc.ca/english/refugees/outside/resettle-gov.asp

Employment, Education and Health Services

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

Social Insurance Number (SIN)

Refugee claimants can apply for a SIN — a nine-digit number used as personal identification for government programs.

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

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

Work Permit

Refugee claimants are usually eligible for work permits if they cannot survive without public assistance and have passed a medical exam. It can take two to four months to get this free work permit. Refugee claimants can apply for a work authorization once their PIF has been submitted to the IRB and their medical exams have been completed.

Refugee claimants can have an open work permit, meaning they do not need a job offer to get a work permit, and the permit is not limited to a specific job or employer.

Unsuccessful refugee claimants who are in the process of a PRRA or H&C application have to pay for their work permit.

Education

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

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

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

Student Loans

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

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

Ministry of Advanced Education
Student Services Branch
Victoria: 250-387-6100
Lower Mainland: 604-660-2610
Toll-free: 1-800-561-1818
www.aved.gov.bc.ca/studentsservices

English Classes

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

Refugee claimants are **NOT** eligible for ELSA classes. Refugee-serving agencies may offer free ESL classes for refugee claimants or may be able to refer refugee claimants to free or low-cost ESL classes in the community.

Health Services

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

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

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

Medical Services Plan

Vancouver: 604-296-4677

Toll-free: 1-888-788-4357

www.health.gov.bc.ca/msp/

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

The Immigration Loans Program provides refugees and protected persons with loans to cover medical examinations conducted abroad, travel documents and travel to Canada. More information is available at www.servicecanada.gc.ca/en/goc/immigration_loan.shtml

Income Security

Convention Refugees can apply for welfare and disability benefits.

Refugee claimants who do not have any sources of income to support themselves and their families can go to the Ministry of Social Development and Housing (be advised that this Ministry's name changes frequently) for financial assistance. Financial assistance is discussed in detail in the module "Income Security."

Income Assistance

The following people can apply for income assistance:

- Citizens
- Convention Refugees and Protected Persons
- Refugee claimants
- Refugee claimants who are appealing an IRB decision
- PRRA applicants
- People with deportation orders that cannot be executed
- People with a Temporary Resident Permit (formerly Minister's Permit)

Hardship Assistance

- Person undergoing a sponsorship breakdown while still in the sponsorship support period (three to 10 years, as referred to on page 15) while the Ministry verifies if the sponsor can support the applicant. In the case of proven abuse by the sponsor, the person should be put on regular assistance*.

LawLINE

604-408-2172

Toll-free 1-866-577-2525

Interpretation services available for those
who prefer to speak in their first language

Find a community advocacy program at:

www.povnet.org/find_an_advocate

* This applies to people who are already permanent residents. PEOPLE WHO HAVE NOT OBTAINED PERMANENT RESIDENT STATUS SHOULD BE ADVISED TO AVOID INCOME ASSISTANCE AS IT MAY MAKE THEM FINANCIALLY INADMISSIBLE TO CANADA. Please seek advice from the LawLINE or a community legal advocacy program.

Part IV
Permanent Residence
and
Canadian Citizenship

Permanent Residents

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

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

Canadian Citizens

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

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

Permanent Resident Status

Rights of Permanent Residents

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

Rights of permanent residents include:

- Receive most social benefits including health care coverage.
- Live, work and study anywhere in Canada
- Apply for citizenship
- Protection under Canadian law and the Charter

Responsibilities include:

- Paying taxes
- Respecting all laws

Permanent residents cannot:

- Vote or run for political office
- Hold certain jobs
- Remain in Canada if they are inadmissible, have been ordered to leave Canada and had their appeal of that order dismissed

Permanent Resident Card

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

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

As of December 2007, most permanent residents must have the card if they need to re-enter Canada in a commercial carrier (e.g. plane, bus). Since the card is only issued in Canada, a permanent resident should get it before leaving Canada. If he/she does not have a card, he/she can go to a Canadian embassy or consulate

and get a temporary travel document to re-enter Canada. This document costs \$50.

If a person came to Canada as a permanent resident before June 2002, the card replaces the original landing papers.

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

Residency Obligation

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

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

A person can meet his/her residency obligations while living abroad in the following circumstances:

- He/she is accompanying a spouse or common-law partner abroad who is a Canadian citizen.
- He/she is a child accompanying a Canadian parent.
- He/she works full-time for a Canadian business or the Canadian government.
- He/she is accompanying a spouse or common-law partner who is a permanent resident **AND** who works full-time for a Canadian business or the Canadian government.
- He/she is a child with a parent who is a permanent resident **AND** who works full time for a Canadian business or the Canadian government.

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

Losing Permanent Resident Status

A person who does not meet the residency obligations may lose his/her permanent resident status. A person does not lose his/her permanent resident status immediately and has the right to appeal to the Immigration Appeal Division. He/she should get legal help as soon as possible because an appeal must be filed within 60 days after receiving the decision by the CIC.

Permanent residents may also lose their permanent resident status if they are found to be inadmissible. See page 27 for more information on inadmissibility.

Canadian Citizenship

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

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

Becoming a Canadian Citizen

There are three ways in which a person becomes a Canadian citizen:

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

Residency Requirement

Permanent residents can apply for Canadian citizenship after they have had residency in Canada for **three years (1,095 days)**. Usually, they must have lived in Canada for at least three out of the four years right before the day they apply. For example, if a person applies on June 1, 2004, the citizenship judge will count back to June 1, 2000. The citizenship judge may consider a person's connection to Canada if the residency requirement is not met. Children do not need to meet this requirement.

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

Citizenship Test

Persons wishing to become Canadian citizens must write the citizenship test, which asks questions about Canada and tests whether the person understands English or French. People under the age of 18 and 55 and over do not have to write the test.

Each applicant receives the study guide *A Look at Canada*. The study guide is also available in large print, audiocassette and Braille. The study guide helps applicants prepare for the citizenship test. People can also attend a citizenship class. The guide is available at www.cic.gc.ca/EnGLish/resources/publications/look/index.asp

If the person meets the basic requirements for citizenship and is between the ages of 18 and 54, he/she will be scheduled for the test, which consists of short-answer, multiple-choice and fill-in-the-blank questions. The questions are about governments in Canada, voting, the rights and responsibilities of citizenship, history, geography and features of the region in which the person lives.

The "Application for Citizenship" Form

Phone the CIC call centre to request a form or download one from www.cic.gc.ca/english/information/applications/menu-citizen.asp. Each person who applies for citizenship must complete a separate application form. Children need a different form and each child needs a separate form.

If a person does not pass the test, he/she will be given an interview by a citizenship judge, who will ask questions to find out what the person knows about Canada.

The person may have to show original documents at the time of his/her test (e.g. immigration papers), so please bring all documents with you.

Citizenship Ceremony

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

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

Children

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

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

People Who Cannot Become Canadian Citizens

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

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

Dual Citizenship

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

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

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

Government and Legal Resources

One can make use of CIC call centres but be advised that it is *not* legal advice.

- When specific legal issues related to a foreign national's status in Canada arise, one should seek qualified legal advice.

NON-GOVERNMENTAL:

LawLINE

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

Lower Mainland: 604-408-2172

Outside Lower Mainland: 1-866-577-2525

After dialing, press [7] on your phone to connect to **LawLINE**

LawLINK

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

www.lawlink.bc.ca

Legal Services Society

Administration

400-510 Burrard Street

Vancouver, BC V6C 3A8

Lower Mainland: 604-408-2172

Outside Lower Mainland: 1-866-577-2525

www.lss.bc.ca

MOSAIC Legal Advocacy Program

1720 Grant Street

Vancouver, BC V5L 2Y7

604-254-9626

www.mosaicbc.com/programs_legal-advocacy.asp

West Coast Domestic Workers Association

#302-119 West Pender Street

Vancouver BC V6B 1S5

604-669-4482

www.wcdwa.ca

PICS Agricultural Worker's Legal Advocacy Program

203-12725 80th Avenue

Surrey, BC, V3W 3A6

604-596-7722

www.pics.bc.ca

Some additional suggested resources are:

Lawyer Referral Service

604-687-3221 (\$25 for 1st ½ hour);

Toll-Free B.C.-wide 1-866-577-2525

Pro Bono BC: 604-893-8932

Access Justice Client Hotline for Pro Bono: 604-893-8932

Brydges Line (emergency advice in criminal law for persons detained):

1-866-458-5500

GOVERNMENT

Citizenship and Immigration Canada (CIC)

1148 Hornby Street

Vancouver, BC

Toll-Free: 1-888-242-2100

TTY service (8 a.m.-4 p.m.): 1-888-576-8502 (in Canada only)

www.cic.gc.ca

Immigration and Refugee Board

1600-300 West Georgia Street

Vancouver, BC

604-666-5946

Toll-Free: 1-866-787-7472

www.irb-cisr.gc.ca

Passport Office

Vancouver: 604-586-2500

Toll-Free: 1-800-576-6868

www.ppt.gc.ca

Vancouver Office

Sinclair Centre

200-757 West Hastings Street

Office hours: 7:30 a.m. - 4:30 p.m.

Victoria Office

747 Fort Street, 5th floor

Office hours: 8:30 a.m. - 4:30 p.m.

Richmond Office

Suite 310-5611 Cooney Road

Office hours: 8:30 a.m. - 4:30 p.m.

Passport pickup service not available
at this office

Surrey Office

900-13401 108th Avenue

Office hours: 8 a.m. - 4:30 p.m.

**Refugee Protection Division -
Documentation Centre**
1600-300 West Georgia Street
Vancouver, BC

Community Agencies

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

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

Lower Mainland: 604-718-2780

Elsewhere in B.C: 1-888-355-5560

www.amssa.org

Neighbourhood Houses

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

Vancouver's neighbourhood houses are listed at www.anhgv.org. All neighbourhood houses in B.C. are listed at www.orw.ca/source/listings/neighbou.htm

ABBOTSFORD

Mennonite Central Committee BC

31414 Marshall Road

Abbotsford, BC V2T 3T8

604-850-6639

Toll-Free from Vancouver: 604-857-0011

Elsewhere in B.C.: 1-888-622-6337

www.mcc.org/bc

CAMPBELL RIVER

Campbell River and Area Multicultural and Immigrant Services Association

202-437 10th Avenue

Campbell River, BC V9W 4E4

250-830-0171

www.misa.crcn.net

BURNABY

Vancouver Multicultural Family Support Services Society

5000 Kingsway Plaza II

306-4980 Kingsway

Burnaby, BC V5H 4K7

604-436-1025

www.vlmfss.ca

COQUITLAM

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

Burnaby-Coquitlam Service Centre

435B North Road

Coquitlam, BC V3K 3V9

604-936-5900

www.successbc.ca

MOSAIC

7297 Kingsway

Burnaby, BC

V5E 1G5

Tel: 604-636-4712

Fax: 604-636-4743

DUNCAN

Cowichan Valley Intercultural and Immigrant Aid Society

101-255 Ingram Street
Duncan, BC V9L 1P3
604-748-3112

www.cviias.com

KAMLOOPS

Kamloops Cariboo Regional Immigrant Society

109 Victoria Street
Kamloops, BC V2C 1Z4
250-372-0855
Elsewhere in B.C.: 1-866-672-0855

www.immigrantservices.ca

NANAIMO

Central Vancouver Island Multicultural Society

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

www.cvims.org

NORTH VANCOUVER

(PICS)

North Shore Multicultural Society

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

www.nsms.ca

PENTICTON

Penticton and District Multicultural Society

245 Warren Street
Penticton, BC V2A 7G8
604-492-6299

www.cloud9design.ca/pdms

PRINCE GEORGE

Immigrant and Multicultural Services Society of Prince George

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

www.imss.ca

RICHMOND

Richmond Multicultural Concerns Society

210-7000 Minoru Boulevard
Richmond, BC V6Y 3Z5
604-279-7160

www.rmcs.bc.ca

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

Caring Place Service Centre
220-7000 Minoru Blvd.
Richmond, BC V6Y 3Z5
604-279-7180

www.successbc.ca

SURREY

Progressive InterCultural Community Services Society

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

www.pics.bc.ca

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

Surrey-Delta Service Centre
206-10090 152 Street
Surrey, BC V3R 8X8
604-588-6869

www.successbc.ca

Diversecity Community Resources

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

www.sdiss.org

VANCOUVER

Immigrant Services Society of BC

530 Drake Street
Vancouver, BC V6B 2H3
604-684-7498
www.issbc.org

Inland Refugee Society

604-873-6660

Lesbian and Gay Immigration Taskforce (LEGIT)

1170 Bute Street
Vancouver, BC V6E 1Z6
www.legit.ca

MOSAIC

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

Pacific Immigrant Resources Society

205-2929 Commercial Drive
Vancouver, BC V5N 4C8
604-298-5888
www.pirs.bc.ca

Progressive Intercultural Community Services Society

200-8161 Main Street
Vancouver, BC V5X 3L2
604-324-7733
www.pics.bc.ca

Rainbow Refugee Committee

1170 Bute Street
Vancouver, BC
604-684-9872 ext. 2850

Storefront Orientation Services (SOS)

360 Jackson Avenue
Vancouver, BC V6A 3B4
604-255-4611

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

Social Service Centre
28 West Pender Street
Vancouver, BC V6B 1R6
604-684-1628
www.successbc.ca

Vancouver Association for Survivors of Torture (VAST)

2618 East Hastings Street
Vancouver, BC V5K 1Z6
604-299-3539
www.vast-vancouver.ca

VERNON

Vernon and District Immigrant Services Society

100-3003 30th Avenue
Vernon, BC V1T 9J5
250-542-4177
www.spcno.bc.ca

VICTORIA

Inter-Cultural Association of Greater Victoria

930 Balmoral Road
Victoria, BC V8T 1A8
250-388-4728
www.icavictoria.org

Victoria Immigrant and Refugee Centre Society

3rd Floor, 535 Yates Street
Victoria, BC V8W 2Z6
250-361-9433
www.vircs.bc.ca

APPENDICES

APPENDIX I: Skilled Workers

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

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

Minimum Work Experience

A skilled worker must meet minimum work experience criteria:

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

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

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

Funds for Settlement

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

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

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

Funds Required for Settlement

Number of family members	Funds required (CDN \$)
1	\$10,601
2	\$13,198
3	\$16,225
4	\$19,700
5	\$22,343
6	\$25,199
7 or more	\$28,055

Source: www.cic.gc.ca/english/immigrate/skilled/funds.asp

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

Six Selection Factors

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

A self-assessment tool is available at www.cic.gc.ca/english/immigrate/skilled/assess/education.asp. This charts show how points are awarded in the six selection factors:

Factor 1: Education	Maximum 25
Person has a master's degree or PhD and at least 17 years' full-time or full-time equivalent study.	25
Person has two or more university degrees at the bachelor's level and at least 15 years of full-time or full-time equivalent study.	22
Person has a three-year diploma, trade certificate or apprenticeship and at least 15 years of full-time or full-time equivalent study.	22
Person has a university degree of two years or more at the bachelor's level and at least 14 years of full-time or full-time equivalent study.	20

Person has a two-year diploma, trade certificate or apprenticeship and at least 14 years of full-time or full-time equivalent study.	20
Person has a one-year university degree at the bachelor's level and at least 13 years of full-time or full-time equivalent study.	15
Person has a one-year diploma, trade certificate or apprenticeship and at least 13 years of full-time or full-time equivalent study.	15
Person has a one-year diploma, trade certificate or apprenticeship and at least 12 years of full-time or full-time equivalent study.	12
Person completed high school.	5
Factor 2: Official languages	Maximum 24
First official language	
High proficiency (per ability)	4
Moderate proficiency (per ability)	2
Basic proficiency (per ability)	1 to max of 2
No proficiency	0
Possible maximum (all four abilities)	16
Second official language	
High proficiency (per ability)	2
Moderate proficiency (per ability)	2
Basic proficiency (per ability)	1 to max of 2
No proficiency	0
Possible maximum (all four abilities)	8
Factor 3: Experience	Maximum 21
One year	15

Two years	17
Three years	19
Four years	21
Factor 4: Age	Maximum 10
21 to 49 years old at time of application	10
Less two points for each year over 49 or under 21	
Factor 5: Arranged employment in Canada	Maximum 10
Human Resources Development Canada (HRDC) approved offer of permanent employment.	10
Person is applying from within Canada and has a temporary work permit that is:	
a) HRDC-confirmed, including sectoral confirmations; or	10
b) HRDC confirmation exempt under NAFTA, GATS, CCFTA or significant economic benefit (i.e. intra-company transferee).	10
Factor six: Adaptability	Maximum 18
Spouse's or common-law partner's education	3-5
Minimum one year full-time authorized work in Canada	5
Minimum two years full-time authorized post-secondary study in Canada	5
Person received points under the Arranged Employment in Canada factor	5
Family relationship in Canada	5
Total	Maximum 100
Pass mark	67

APPENDIX II: Investors

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

Conditions

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

Information about the program is available at www.cic.gc.ca/english/immigrate/business/investors/index.asp

Definitions for Investors

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

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

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

Percentage of Equity:

a) Sole proprietorship: 100 percent of the equity of the sole proprietorship controlled by a foreign national or his/her spouse or common-law partner

b) Corporation: The percentage of the issued and outstanding voting shares of the capital stock of the corporation controlled by a foreign national or his/her spouse or common-law partner.

c) Partnership or joint venture: The percentage of the profit or loss of the partnership or joint venture to which the foreign national or his/her spouse or common-law partner is entitled.

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

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

b) The percentage of equity multiplied by the total annual sales is equal to or greater than \$500,000.

c) The percentage of equity multiplied by the net income in the year is equal to or greater than \$50,000.

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

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

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

APPENDIX III: Entrepreneurs

The Entrepreneur Program seeks to attract experienced persons that will own and actively manage businesses in Canada that will contribute to the economy and create jobs.

Entrepreneurs must demonstrate business experience, a minimum net worth of \$300,000 and are subject to conditions upon arrival in Canada.

Conditions

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

- a) The entrepreneur must control 33% or more equity in a Canadian business. The entrepreneur must provide active and ongoing management of the Canadian business.
- b) The entrepreneur must create at least one full-time job (or the equivalent) for a Canadian citizen or permanent resident. The entrepreneur and his/her family members cannot fill the job.
- c) Entrepreneurs must meet these conditions ***for at least one year within three years*** after becoming permanent residents. They must be able to show evidence of meeting the conditions.

Entrepreneurs must report the following to CIC:

- a) Their home address and telephone number. This must be done within six months of becoming a permanent resident.
- b) Evidence of their efforts to comply with the conditions. This must be done within one to two years of becoming a permanent resident.

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

Definitions for Entrepreneurs

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

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

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

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

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

Percentage of Equity:

a) Sole proprietorship: 100 percent of the equity of the sole proprietorship controlled by a foreign national or his/her spouse or common-law partner.

b) Corporation: The percentage of the issued and outstanding voting shares of the capital stock of the corporation controlled by a foreign national or his/her spouse or common-law partner.

c) Partnership or joint venture: The percentage of the profit or loss of the partnership or joint venture to which a foreign national or his/her spouse or common-law partner is entitled.

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

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

b) The percentage of equity multiplied by the total annual sales is equal to or greater than \$500,000.

c) The percentage of equity multiplied by the net income in the year is equal to or greater than \$50,000.

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

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

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

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

- a) The percentage of equity multiplied by the number of full-time job equivalents is equal to or greater than two full-time job equivalents per year.
- b) The percentage of equity multiplied by the total annual sales is equal to or greater than \$250,000.
- c) The percentage of equity multiplied by the net income in the year is equal to or greater than \$25,000.
- d) The percentage of equity multiplied by the net assets at the end of the year is equal to or greater than \$125,000.

APPENDIX IV: Self-employed Persons

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

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

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

Definitions for Self-Employed Persons

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

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

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

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

APPENDIX V: Live-in Caregivers

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

High School Education

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

Training or Employment

Caregivers must have six months of relevant full-time classroom training or 12 months of full-time paid employment. Relevant areas include early childhood education, geriatric care, paediatric nursing or first aid.

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

English or French Skills

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

Employment Contact

Caregivers must have written employment contracts with their future employer.

Live-in Criteria

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

The Work Permit

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

Changing Jobs

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

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

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

Applying for Permanent Residence in Canada

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

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

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

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

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

APPENDIX VI: Visa Requirement

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

Currently, citizens of the following countries and territories require a visa to visit or **travel through** Canada (*subject to change; always consult the most current list online*):

A

Afghanistan
Albania
Algeria
Angola
Argentina
Armenia
Azerbaijan

B

Bahrain
Bangladesh
Belarus
Belize
Benin
Bhutan
Bolivia
Bosnia-Herzegovina
Brazil
Bulgaria
Burkina Faso
Burundi

C

Cambodia
Cameroon
Cape Verde
Central African Rep.
Chad
Chile
China
Colombia
Comoros

Congo, Democratic Rep of
Congo, Rep. of the
Costa Rica
Croatia
Cuba

D

Djibouti
Dominica
Dominican Rep.

E

East Timor
Ecuador
Egypt
El Salvador
Equatorial Guinea
Eritrea
Ethiopia

F

Fiji
Kuwait
Kyrgyzstan

G

Gabon
Gambia
Georgia
Ghana
Grenada
Guatemala
Guinea
Guinea-Bissau
Guyana

H

Haiti
Honduras
Hungary

I

India
Indonesia
Iran
Iraq
Israel*
Ivory Coast

J

Jamaica
Jordan

K

Kazakhstan
Kenya
Kiribati
Korea, North

L

Laos
Lebanon
Lesotho
Liberia
Libya
Lithuania

M

Macao S.A.R.
 Macedonia
 Madagascar
 Malawi
 Malaysia
 Maldives Islands
 Mali
 Marshall Islands
 Mauritania
 Mauritius
 Micronesia
 Moldova
 Mongolia
 Montenegro
 Morocco
 Mozambique
 Myanmar (Burma)

N

Nauru
 Nepal
 Nicaragua
 Niger
 Nigeria

O

Oman

P

Pakistan
 Palau
 Palestinian Authority
 Panama
 Paraguay
 Peru

Philippines
 Poland

Q

Qatar

R

Romania
 Russia
 Rwanda

S

Sao Tome e Principe
 Saudi Arabia
 Senegal
 Serbia
 Seychelles
 Sierra Leone
 Somalia
 South Africa
 Sri Lanka
 Sudan
 Surinam
 Syria

T

Taiwan
 Tajikistan
 Tanzania
 Togo
 Trinidad and Tobago
 Tunisia
 Turkey
 Turkmenistan
 Tuvalu

U

Uganda
 Ukraine
 United Arab Emirates
 Uruguay
 Uzbekistan

V

Vanuatu
 Venezuela
 Vietnam

Y

Yemen

Z

Zambia
 Zimbabwe

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

Visitor Visa Exemptions

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

- Citizens of Andorra, Antigua and Barbuda, Australia, Austria, Bahamas, Barbados, Belgium, Botswana, Brunei, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Israel (National Passport holders only), Italy, Japan, Liechtenstein, Luxembourg, Malta, Mexico, Monaco, Namibia,

Netherlands, New Zealand, Norway, Papua New Guinea, Portugal, Republic of Korea, Republic of Latvia, St. Kitts and Nevis, St. Lucia, St. Vincent, San Marino, Singapore, Slovakia, Solomon Islands, Spain, Swaziland, Sweden, Slovenia, Switzerland, United States, and Western Samoa;

- Persons lawfully admitted to the United States for permanent residence who are in possession of their alien registration card (Green card) or can provide other evidence of permanent residence;
- British citizens and British Overseas Citizens who are re-admissible to the United Kingdom; citizens of British dependent territories who derive their citizenship through birth, descent, registration or naturalization in one of the British dependent territories of Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, St. Helena or the Turks and Caicos Islands; persons holding a British National (Overseas) Passport issued by the Government of the United Kingdom to persons born, naturalized or registered in Hong Kong;
- Persons holding a valid and subsisting Special Administrative Region passport issued by the Government of the Hong Kong Special Administrative Region of the People's Republic of China;
- Persons holding passports or travel documents issued by the Holy See.

APPENDIX VII: Fees

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

PERMANENT RESIDENT VISAS

Family Class Applicants

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

Spouse or Common-Law Partner on Canada Applicants

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

Investors, Entrepreneurs, or Self-employed Persons

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

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

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

TEMPORARY RESIDENT VISAS

Visitor Visa – Single entry to Canada	\$75
Visitor Visa – Multiple entry	\$150
Work Visa	\$150
Study Visa	\$125

RIGHT OF PERMANENT RESIDENCE FEE (RPRF)

For the acquisition of permanent resident status	\$490
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This fee is payable by principal applicants (with some exceptions) and accompanying spouses and common-law partners. It must be paid before the immigrant visa is issued overseas or before the applicant becomes a permanent resident in Canada.

The following applicants are not required to pay this fee:

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

OTHER APPLICATIONS AND SERVICES

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

APPENDIX VIII: Sponsorship Default Collection

MOSAIC Legal Advocacy Program provided the following information on sponsorship default collection:

As of November 2003, the Collection and Loan Management Branch of the Ministry of Provincial Revenue and as of 2007 the Revenue Services of British Columbia have been actively seeking repayment of money given out as income assistance to sponsored immigrants from sponsors.

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

If a sponsorship default occurs, it should be treated in law as a debt issue between the person who signed the undertaking (the sponsor) and the debt collector. It is no longer an issue between the sponsor and CIC.

However, like any creditor, the province can choose not to take enforcement action or can agree to accept repayment of the debt in installments. We caution you that this only happens in very rare cases, the best approach is to treat the issue as one would treat a debt, and look at the debt to see if there are other legal avenues available:

1. Was the client informed before 10 years elapsed or before the end of the sponsorship agreement period?
2. Was your sponsorship under an old Act and done as a humanitarian and compassionate application as opposed to a Spouse or Common law in Canada Class?

If you believe any of these to be the case you should seek qualified legal assistance.

Some other issues to review with your client issue are as follows:

1. Review the debt with your client. It is always possible that a calculation mistake was made as to the amount. Clients can ask for and receive a breakdown of all

money paid out as income assistance and the dates when it was given. If a mistake was made, the client can dispute the amount but should provide proof of their claim.

2. Explore with your client why the default occurred and why the client is not in a position to pay the debt now. If there are humanitarian and compassionate circumstances, you or your client should tell the Ministry those facts. Remember, the Ministry can choose not to enforce the debt if it wants. Again, be prepared to show proof of the circumstances you, or your client, have told the Ministry. However, unless the circumstances are extenuating such as your client is collecting disability benefits, has no assets and no means to pay, or the applicant has been abused by the sponsor and has proof, there will most likely be no acknowledgment of your client's hardship and the only avenue will be to negotiate a lower monthly payment.

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

3. You and/or your client should create a written financial statement showing all monthly income, savings, expenses and debt load and collect as much evidence as possible about each item (e.g. hydro bill, rent receipts, etc.)

4. Figure out with your client how much it is realistic for your client to repay the debt on a monthly basis or a lump sum with monthly payments to follow.

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

6. If your client's debt is excessive, your client may consider debt counselling to see if Bankruptcy is an option, this should always be treated as a last resort as Bankruptcy has many consequences. Make sure your client gets all the facts and a good Bankruptcy Trusty.

The province should not try and recover the debt if the sponsor is in receipt of income assistance or if there are concerns about the safety of the income assistance client (the applicant) due to possible family violence or abuse. As an advocate, you may have to intervene to inform the Ministry of these circumstances. However, it will in most cases seek recovery when circumstances change.

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

sponsor to be able to sponsor in the future. A person owing a debt for sponsorship default will not be able to sponsor another family member until the debt is paid back.

APPENDIX IX: Sources

Canada Border Services Agency (CBSA)

www.cbsa-asfc.gc.ca

Canadian Council for Refugees

www.ccrweb.ca

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

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

Citizenship and Immigration Canada (CIC)

www.cic.gc.ca

Community Legal Education Ontario (CLEO)

www.cleo.on.ca

Department of Foreign Affairs and International Trade

www.voyage.gc.ca

Government of British Columbia - WelcomeBC

www.welcomebc.ca

Immigration and Refugee Board (IRB)

www.irb.gc.ca

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

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

Legal Services Society of British Columbia (LSS)

www.lss.bc.ca

National Council of Welfare

www.ncwcnbes.net

National Student Loans Service Centre

www.canlearn.ca

United Nations High Commissioner for Refugees (UNHCR)

www.unhcr.ch