Canada’s Citizenship and Immigration Laws
<table>
<thead>
<tr>
<th><strong>Glossary</strong></th>
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<tbody>
<tr>
<td><strong>Administrative Body</strong> A board or commission that regulates and administers laws, for example The Immigration and Refugee Board. The board or commission must make decisions based on the law.</td>
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<tr>
<td><strong>Canadian citizen</strong> A person born in Canada (there are some exceptions), or a person who has received a Citizenship Certificate.</td>
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<tr>
<td><strong>Deportation order</strong> An order that states a person will be removed from Canada and permanently barred from the country unless he or she gets Ministerial consent to return.</td>
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<td><strong>Economic class</strong> A person who enters Canada as a provincial nominee, an entrepreneur, investor, self employed or as a live-in care giver.</td>
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<tr>
<td><strong>Entrepreneur (Permanent Residence category)</strong> An person who will own and actively manage businesses in Canada that will contribute to the economy and create jobs. Entrepreneurs must have business experience, a minimum net worth of CDN $300,000 (obtained legally) and must meet certain conditions.</td>
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<tr>
<td><strong>Family class Immigrants</strong> Spouses, common-law partners, dependent children, parents and grandparents sponsored by Canadian Citizens and Permanent Residents.</td>
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<td><strong>Foreign national</strong> A person who is not a Canadian citizen or a Permanent Resident.</td>
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<td><strong>Immigrant</strong> A person who comes to live in Canada as a Permanent Resident.</td>
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<tr>
<td><strong>Investor</strong> (Permanent Residence category)</td>
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<tr>
<td><strong>Permanent Resident</strong></td>
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<td><strong>Provincial nominee</strong></td>
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<td><strong>Refugee</strong></td>
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because of that fear, unwilling to seek the protection of that country. The United Nations High Commission for Refugees, the Red Cross / Red Crescent or the Refugee Protection Division of the Immigration and Refugee Board decide whether a person is a refugee.

**Sponsor**

A person or non-profit organization who sponsors an immigration application made by a member of the Family Class, or a Refugee.
Introduction

The *Immigration and Refugee Protection Act* is a federal law made by Parliament in Ottawa. Canada needs immigrants to support the economy because the population and birthrate in Canada are very low.

In 2002 Canada introduced a new immigration law called the *Immigration and Refugee Protection Act (IRPA)*. This module will tell you about laws and regulations concerning immigration in Canada. However, because changes are constantly made to regulations and policies, you should check Citizenship and Immigration Canada’s website, [www.cic.gc.ca](http://www.cic.gc.ca) for changes and updates.

If there are terms you do not understand, please read the section called Glossary at the beginning of the module.

**What is the *Immigration and Refugee Protection Act*?**

The *Immigration and Refugee Protection Act (IRPA)* is an act that sets out the laws and regulations about immigration and refugee protection in Canada. All of the procedures and decisions made in Canada about immigration and refugees must follow the Act.

The purpose of the *Immigration and Refugee Protection Act*'s is to identify:

- who is allowed to enter Canada and
- who is allowed to remain here.

The *IRPA* has two sets of objectives that govern how government, courts, and administrative bodies deal with people who wish to come or to stay in Canada:

- those dealing with immigration; and
- those dealing with refugees
The *IRPA*’s immigration objectives are:

- to support population growth and diversity
- to support the Canadian economy;
- to reunite families
- to support successful integration of immigrants into Canadian society; and
- to protect the health, safety and security of Canadians

The *IRPA*’s refugee objectives are:

- to save lives and offer protection to the displaced and persecuted
- to fulfill Canada’s international legal obligations with respect to refugees
- to grant fair consideration to those who come to Canada claiming persecution
- to support the self-sufficiency and the social and economic well-being of refugees by helping to reunite them with family members in Canada; and
- to protect the health and safety of Canadians, maintain the security of Canadian society, and promote international justice and security by denying access to Canada to persons, including refugee claimants, who are security risks or serious criminals

**Who can enter and stay in Canada?**

Everyone has the right to ask to come into Canada or to remain here. However, not everyone will be allowed into Canada.

The only people who have the right to come into and to stay in Canada are:

- Canadian citizens
- Permanent Residents (formerly known as Landed Immigrants)
- Persons registered under the *Indian Act*; and
- Refugees and protected persons

Temporary residents (visitors, students, temporary workers) can stay in Canada only for a limited time. All foreign nationals have to hold a visa or
other document required by the regulations if they wish to enter Canada permanently or temporarily.

**Who can Qualify to Immigrate to Canada?**

Immigrants usually fall into one of three major categories:

- Economic class - skilled workers, entrepreneurs, investors provincial nominees and live in caregivers
- Family class - those with family members already living in Canada as Canadian citizens or permanent residents; or
- Refugees and Humanitarian Class

The Minister of Citizenship and Immigration announces the number of immigrants that Canada will allow into the country during the next year. Once that number is filled, no other immigrants are supposed to be allowed into Canada in that year.

**Who can apply under the Economic Class?**

Applicants under the Economic class can apply as:

- skilled workers
- entrepreneurs
- self employed
- investors
- provincial/territorial nomination; or
- live-in caregivers

To qualify under the skilled worker category, the person must have an offer of employment; or have been living legally in Canada for one year as a temporary foreign worker; or be a skilled worker who has at least one year of experience in one or more of the National Occupation Codes and corresponding occupations. A list of the National Occupation Codes is available from Citizenship and Immigration Canada.
The Canadian Experience Class was recently added in order to simplify the Permanent Residence application process for international students who have graduated from a Canadian university or college, and for temporary workers in Canada.

When a person applies to immigrate to Canada as a skilled worker, he or she must meet basic criteria. If he or she meets those criteria, the person is assessed on a point system to see if he or she qualifies as a skilled worker. Points are awarded based on education, abilities in English and/or French, work experience, age, pre-arranged employment, and adaptability.

The following table shows the point distribution system used for an applicant applying for Permanent Residence as a skilled worker.\(^1\)

<table>
<thead>
<tr>
<th>Factor</th>
<th>Maximum Points</th>
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<tr>
<td>Education (level attained)</td>
<td>25</td>
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<tr>
<td>Language (proficiency in one of the official languages)</td>
<td>24</td>
</tr>
<tr>
<td>Work Experience (in accordance with number of years)</td>
<td>21</td>
</tr>
<tr>
<td>Age (age 16 to 54)</td>
<td>10</td>
</tr>
<tr>
<td>Pre-arranged employment</td>
<td>10</td>
</tr>
<tr>
<td>Adaptability</td>
<td>10</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
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The pass mark is 67 points.

Entrepreneurs, investors and self-employed immigrants are not subject to a point based assessment. These applications are assessed on the ability of the

\(^1\) Immigration and Refugee Protection Regulations, S.O.R./02-227, ss. 78 - 83
person to meet the investment requirements and on whether the person has business experience and/or a business plan with sufficient funding.

**Who can apply under the Family Class?**

The rules are different for those who qualify under the family class. These are people who have close relatives in Canada. A Canadian Citizen or Permanent Resident can apply to sponsor dependent children, a spouse or common-law partner, parents or grandparents.

One of the goals of Canada’s immigration programs is family reunification. Thousands of Canadian Citizens and Permanent Residents sponsor their dependent children, spouses, parents and grandparents for Permanent Residence. Applications for sponsorship are submitted to a processing centre in Canada and then to the Canadian Visa offices overseas responsible for the applicant’s country. Sponsorship applications are complicated. They take a long time to process and if documents are missing, the process takes even longer.

If you have been refused the sponsorship of a family member, you may appeal the decision to the Immigration Appeal Division of the Immigration and Refugee Board. The Board can uphold the refusal, overturn the refusal as legally incorrect, or may decide to allow the appeal on compassionate or humanitarian grounds.

**Who can apply as a Refugee?**

A refugee is a person who is outside of their country of origin because of a legitimate fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion. A refugee is either not able to seek protection in his or her own country or are not willing to seek protection in his or her own country because of the fear of persecution. A
refugee can also be someone who has no nationality and is outside of the country where he or she normally lives and cannot or will not, due to legitimate fear, seek protection within that country.

Refugees and people needing protection are people in or outside Canada who fear returning to their home country. Canada provides protection to thousands of people every year.

Refugees and people in need of protection are selected by the United Nations High Commission for Refugees, the International Red Cross and the government of Canada for resettlement in Canada. Groups and individuals can sponsor refugees who qualify to come to Canada. Some refugees come to Canada as Government Assisted Refugees. The government provides these persons with financial support for up to 2 years in order to help them resettle and make Canada their new home.

Canada also offers refugee protection to people in Canada who fear persecution or who would face torture, a risk to their life or a risk of cruel and unusual treatment or punishment if they were removed from Canada.

Individuals who make a claim for refugee protection in Canada are referred to the Refugee Protection Division of the Immigration and Refugee Board. A Board member will listen to the person’s refugee claim and decide whether the person’s situation meets the definition of a refugee according to the UN Convention Relating to the Status of Refugees.

**When can a Person be Removed from Canada?**

Temporary residents (visitors, students, workers) and Permanent Residents can be removed from Canada if they do not follow the law.

There are three types of Removal Orders:

- *Departure Order*: no ban from Canada once a person has confirmed their departure from Canada
- **Exclusion Order**: a 1 to 2 year ban from Canada once a person has confirmed their departure from Canada
- **Deportation Order**: a permanent ban from Canada

People who have been removed from Canada can apply to Citizenship and Immigration Canada for an *Authorization to Return* to overcome their ban from Canada. Applicants must have very good reasons to return to Canada.

Until a permanent resident becomes a Canadian citizen they must meet all requirements of Immigration and Refugee Protection. Permanent Residents and Temporary Residents can become inadmissible to Canada for the following reasons:

- Security - terrorism, espionage, endangering the lives of persons in Canada
- Human or International Rights violations - gross and systematic human right violations, war crimes, genocide, crimes against humanity
- Serious Criminality - convicted of a crime punishable by 10 years or more in prison, or being sentenced to a term of imprisonment of 6 months or more
- Organized Criminality - being a member of an organized crime groups (Mafia, Hells Angels; or involvement in transnational crime)
- Misrepresentation - giving false information or withholding information
- Non-compliance with the IRPA - working without a work permit or not meeting the residency obligations

Temporary Residents can also be found inadmissible for the following reasons:

- Health - having a health condition or psychiatric condition which could threaten the security and safety of people in Canada, or a condition that would create a burden on Canada’s social and medical system;
- Finances - inability or unwillingness to provide for one’s self or family
- Inadmissible family member

Permanent Residents can lose their status if they travel and stay outside Canada for more than 730 days in the 5 years before an examination (applying for a Permanent Resident Card, or entering Canada for example).
When a permanent resident does not meet residency obligations, an immigration officer may issue the person a Departure Order.

A Permanent Resident can remain outside Canada for 730 or more days if they are working in an official capacity for a Canadian government (federal, provincial, or municipal) overseas. Their time outside Canada can also exceed 730 if they are working for a Canadian incorporated company overseas. This is also true for their spouses, common-law partners, and dependents.

When making a decision, immigration officers may take into account humanitarian and compassionate considerations.

Anyone who gets a removal order loses their immigration status in Canada. Decisions about removal orders are made by immigration officers, or the Immigration Division of the Immigration and Refugee Board. Some removal orders can be appealed through the Immigration Appeal Division of the Immigration and Refugee Board.

Removals are very complex and anyone who gets a removal order should contact Citizenship and Immigration Canada, the Canada Border Service Agency, or a lawyer to get as much information as possible about their case. It is your responsibility to be informed.

It is very important to speak to a lawyer if you are refused status or lose status under the IRPA. You can also make an application to the Federal Court of Canada for leave to apply for Judicial Review. The Federal Court can review a decision and determine if there was an error in law or process.
When Can a Person Apply For Canadian Citizenship?

A Permanent Resident in Canada can apply for Canadian Citizenship if she or he has lived in Canada for at least three years out of the four years before the date of the application. To be eligible for citizenship, the Permanent Resident must:

- speak and understand spoken English or French or be able to read and write in simple English or French;
- show an adequate knowledge of Canada, and the rights and responsibilities of Canadian Citizenship.

There is a fee for processing a citizenship application: for adults it is $200.00, and for children under 18 it is $100.00. If the applicant meets the basic requirements for citizenship, and is between the ages of 18 and 54, she or he will be scheduled for a citizenship test. The answers to the test questions will show whether the applicant knows enough English or French and whether she or he has an adequate knowledge of Canada and Canadian Citizenship. Applicants are given study material so they can prepare for the test. If the applicant meets all the requirements, he or she will be invited to take the Oath of Citizenship at a citizenship ceremony.

Children who are permanent residents and have at least one Canadian parent do not need to have lived in Canada for three years before applying for Citizenship. The same thing applies to children who apply for Citizenship at the same time as their parents (concurrent application). Children and persons who are 55 years old or older are not required to write the citizenship test. Everyone over the age of 14 must swear the oath or make an affirmation of citizenship at a Citizenship Ceremony.

Who Cannot Become a Canadian Citizen?
A person **cannot become** a Canadian citizen if he or she:

- is in prison or on parole;
- was convicted of an indictable (serious) crime in the past three years;
- has been charged with a indictable (serious) crime;
- is under any removal order or investigation/proceedings under IRPA and is not allowed to be in Canada now;
- is charged with an offence under the *Citizenship Act*;
- is under investigation for a war crime or a crime against humanity; or
- has had his or her Canadian citizenship taken away (revoked) in the past five years.

Time spent in prison, on parole, or on probation does not count towards the 3 year resident obligation in order to be eligible to apply for Citizenship. A residence calculator is available at [www.cic.gc.ca](http://www.cic.gc.ca).

This is a brief summary of the rules and regulations about immigration, refugees and Canadian citizenship.

For more information please contact Citizenship and Immigration Canada. You can reach this Department on the internet at [www.cic.gc.ca](http://www.cic.gc.ca) or call their toll-free number at 1-888-242-2100.

If you are looking for legal information or a lawyer referral, visit or call Community Legal Information Association at 892-0853 in Charlottetown or 1-800-240-9798 long-distance. Their website address is [www.cliapei.ca](http://www.cliapei.ca). The office is located at 16 Fitzroy Street in Charlottetown. It is open Monday to Friday from 8:00 in the morning to 4:00 in the afternoon.

Information about many areas of interest to new Canadians is also available from the PEI Association for Newcomers to Canada. Their telephone number is 628-6009. Their website address is [www.peianc.com](http://www.peianc.com)

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