

Inadmissibility

Some people are not allowed to enter Canada. They are said to be "inadmissible" under the Immigration and Refugee Protection Act (IRPA) as described in this section.

A Canadian immigration officer will decide if you can enter Canada when:

- you submit your visa application or electronic travel authorization (eTA) application, or
- you go to an entry point.

There are several reasons why we might prohibit you from entering Canada, for example, security, legal and medical reasons.

Security

- **34 (1)** The following facts result in inadmissibility on grounds of security:
 - **a)** be the perpetrator of any act of espionage directed against Canada or that is contrary to the interests of Canada;
 - **b)** be the instigator or perpetrator of acts aimed at subversion by force of any government;
 - **b.1)** engage in subversion against any democratic institution, as that expression is understood in Canada;
 - **c)** engaging in terrorism;
 - **d)** being a danger to the security of Canada;
 - **e)** engaging in any act of violence likely to endanger the life or safety of any person in Canada;
 - **f)** be a member of an organization that there are reasonable grounds to believe is, has been or will engage in an act referred to in paragraph (a), (b), (b.1) or (c) .

Human or international rights violation

- **35 (1)** The following facts are inadmissible for violation of human or international rights:
 - **a)** commit, outside Canada, any of the offenses referred to in sections 4 to 7 of the Crimes Against Humanity and War Crimes Act;
 - **b)** occupy a senior position - within the meaning of the regulation - in a government that, in the opinion of the Minister, is or has engaged in terrorism, serious or repeated violations of human rights or commits or has committed genocide, a crime against humanity or a war crime within the meaning of subsections 6 (3) to (5) of the Crimes Against Humanity and War Crimes Act;

- **c)** be, except in the case of a permanent resident, a person whose entry or stay in Canada is restricted pursuant to a decision, resolution or measure of an international organization of States or an association of states of which Canada is a member and that imposes sanctions on a country against which Canada has imposed - or has undertaken to impose - sanctions in concert with that organization or association;
- **d)** be, except in the case of the permanent resident, a person presently subject of an order or regulation made on the ground that any of the facts referred to in paragraph 4 (1.1) (c) has occurred or (d) of the Special Economic Measures Act, under section 4 of that Act;
- **e)** be, except in the case of the permanent resident, a person presently subject to an order or regulation made under section 4 of the Law on Justice for Victims of Corrupt Foreign Officials (Law of Sergei Magnitsky).

Serious criminality

- **36 (1)** The following facts are inadmissible for serious criminality:

(robbery, fraud over \$5,000, assault causing bodily harm, most offenses related to driving under the influence of alcohol or drugs, including cannabis, most cannabis related crimes, including illegal production, sale, import and export)

- **a)** be convicted in Canada of an offense under any federal law punishable by imprisonment for not less than ten years or an offense under a federal law for which imprisonment for more than six months is imposed;
- **b)** be convicted outside Canada of an offense committed in Canada which would constitute an offense under any federal law punishable by imprisonment for not less than ten years;
- **c)** commit an offense outside Canada, which, if committed in Canada, would constitute an offense under any federal law punishable by imprisonment for not less than ten years.

- **Criminality**

(2) The following facts, except for the permanent resident, are inadmissible for criminality:

(Shoplifting, public mischief, no prison sentence has been served)

- **a)** be convicted in Canada of an offense under any federal law punishable by indictment or of two offenses under any federal law which do not arise out of the same occurrence;
- **b)** be convicted, outside Canada, of an offense that if committed in Canada would constitute an offense under any federal law punishable by indictment or of two offenses that do not arise out of the single occurrence and which, if committed in Canada, would constitute offenses against federal laws;
- **c)** commit an offense outside Canada which, if committed in Canada, would constitute an offense under any federal law punishable by indictment;

- **d) commit, upon entering Canada**, an offense that constitutes an offense under a federal law specified by regulation.

- **Application**

(3) The following provisions govern the application of subsections (1) and (2):

- **a)** the offense punishable by indictment or summary conviction is assimilated to the offense punishable by indictment, regardless of the method of prosecution actually chosen;
- **b)** the conviction does not result in inadmissibility in the event of a final verdict of acquittal or in the event of a record suspension - except in the case of revocation or nullity - under the Criminal Records Act ;
- **c)** the facts referred to in paragraphs (1) (b) or (c) and (2) (b) or (c) do not result in an inadmissibility for the permanent resident or the foreign national who, on the expiry of the prescribed period, convinces the Minister of his rehabilitation or who belongs to a regulatory category of persons presumed to be rehabilitated;
- **d)** the proof of the fact referred to in paragraph (1) (c) is, in the case of the permanent resident, based on the balance of probabilities;
- **e)** inadmissibility cannot be based on the following offenses:
 - **(i)** those that qualify as contraventions under the Contraventions Act,
 - **(ii)** those for which the permanent resident or foreign national is convicted under the Young Offenders Act, chapter Y-1 of the Revised Statutes of Canada (1985),
 - **(iii)** those for which the permanent resident or foreign national has received a specific sentence under the Youth Criminal Justice Act.

Organized criminality

- **37 (1)** The following facts result in inadmissibility for organized crime:
 - **a)** be a member of an organization that there are reasonable grounds to believe is or has been engaged in activities that are part of a criminal activity plan organized by several persons acting in concert in order to commit an offense under any federal law punishable by indictment or the commission, outside Canada, of an offense that, committed in Canada, would constitute such an offense, or to engage in activities forming part of such a plan;
 - **b)** engaging, as part of transnational crime, in activities such as human smuggling, trafficking in persons or laundering of the proceeds of crime.

- **Application**

(2) The facts referred to in paragraph (1) (a) do not result in inadmissibility simply because the permanent resident or foreign national entered Canada using a person who is engaged in the activities that are covered.

Health Grounds

- **38 (1)** Causing, except for the permanent resident, medical inadmissibility the state of health of the foreign national likely constituting a danger to public health or safety or likely to cause an excessive demand for social or health services.

- **Marginal note: Exception**

(2) The state of health which would risk causing an excessive burden on social or health services does not, however, result in inadmissibility for foreign nationals:

- **a)** which has been ruled to be in the "family reunification" category as the spouse, common-law partner or child of a respondent who has been ruled to have regulatory status;
- **b)** who applied for a permanent resident visa as a refugee or a person in a similar situation;
- **c)** who is a protected person;
- **d)** who is the spouse, common-law partner, child or other prescribed family member of the foreign national referred to in paragraphs (a) through (c).

Who can make your medical exam

You must see a doctor whose name is on the list of designated doctors. Your own doctor cannot give you the medical exam.

The designated physician does not make the final decision about your medical examination. Immigration, Refugees and Citizenship Canada (IRCC) will take this decision. If your review reveals a problem, you will be contacted in writing.

After submitting your request

You will receive instructions from IRCC regarding your medical examination. You will need to have a medical exam within 30 days of receiving these instructions.

If you make a asylum claim at a point of entry, a border services officer will tell you that you will need to undergo a medical examination within 30 days.

If you do not follow these instructions, your request may be refused.

Duration of validity of your medical examination results

The results of your medical examination are valid for 12 months only. If you do not come to Canada as a permanent resident within this period, you may need to undergo another medical examination.

Receipt of a procedural fairness letter

If IRCC is of the opinion that you may be inadmissible for health reasons, you will receive a letter explaining the reasons. This letter is called a procedural fairness letter. You will receive this letter before a final decision is made on your application. You will have the opportunity to submit information to respond to it.

You are allowed to seek advice or professional representation in order to respond to the procedural fairness letter, but this is not required.

For example, you could provide information and evidence regarding:

- your state of health or medical diagnosis;
 - for example, if you have received care to treat or improve your state of health;
- the type of drugs and services you need;
 - for example, if your doctor has changed your medications;
- the cost of any medications or services you need;
 - for example, if the doctor has changed your medications to a low cost equivalent.

Any additional information should be sent within 90 days from the date of the letter. If you are unable to respond by this date, you must contact us to request an extension.

Mitigation plan

If IRCC is of the opinion that your health condition may place an excessive demand on social or health services in Canada, you may be asked to submit a mitigation plan. You will only receive such an invitation if it applies to your particular situation.

It is not possible to opt out of public health services, with the exception of outpatient prescription drugs in some provinces or territories. Thus, you cannot submit a mitigation plan that covers the costs of health services.

How to establish a mitigation plan

You must include your mitigation plan in the response to the procedural fairness letter the IRCC sent you.

Your plan should indicate:

- how the necessary services will be provided to you;
- how you will pay for these services;
- your financial situation for the entire period during which you will need services (include financial documents).

You must also submit a duly signed declaration of capacity and intention. When you sign the declaration, you are agreeing to take responsibility for arranging and paying for the services you will need in Canada.

You may be able to obtain advice or representation from another person in order to respond to the procedural fairness letter, but this is not required.

Appeal

You can appeal a decision. The appeal must be made to the Immigration Appeal Division (IAD) 30 days after receipt of the removal order for health reasons.

A medical document must be received by the IAD and the other party within 60 days of the hearing.

Financial reasons

- **39** Imposes an inadmissibility for financial reasons the inability of the foreign national or his unwillingness to provide, both now and in the future, for his own needs and those of his dependents, as well as his failure to convince the officer that the necessary measures - other than seeking social assistance - have been made to cover their needs and his.

Misrepresentation

- **40 (1)** Are inadmissible for misrepresentation the following facts:
 - **a)** directly or indirectly, misrepresenting a material fact with respect to a relevant subject, or a reluctance to do so, which leads or risks to lead to an error in the application of this law;
 - **b)** be or have been sponsored by a respondent who has been ruled inadmissible for misrepresentation;
 - **c)** the final annulment of the decision allowing their claim of refugee protection or application for protection;
 - **d)** loss of citizenship;

- **Marginal note: Application**

(2) The following provisions apply to subsection (1):

- **a)** inadmissibility runs for five years following the final decision, if the permanent resident or foreign national is not in the country, or following the execution of the removal order;
- **b)** paragraph (1) (b) applies only if the Minister is satisfied that the facts in question justify inadmissibility.

- **Marginal note: Inadmissibility**

(3) A foreign national who is inadmissible under this section may not, during the period referred to in paragraph (2) (a), submit an application to obtain the status of permanent resident.

Cessation of refugee protection – foreign national

- **40.1 (1)** A foreign national is inadmissible on a final determination under subsection 108(2) that their refugee protection has ceased.

- **Marginal note: Cessation of refugee protection - permanent resident**

(2) A permanent resident is inadmissible on a final determination that their refugee protection has ceased for any of the reasons described in paragraphs 108(1)(a) to (d).

Non-compliance with Act

- **41** With regard to foreign nationals, inadmissibility for breach of this law entails any fact - act or omission - committed directly or indirectly in breach of this law and, as regards the permanent resident, the breach of residency obligation and the conditions imposed.

Inadmissible family member

- **42 (1)** Take, except for the permanent resident or a protected person, inadmissibility for family inadmissibility the following facts:
 - **a)** the inadmissibility of any member of his family who accompanies him or who, in regulatory cases, does not accompany him;
 - **b)** accompany, for a member of his family, an inadmissible person.

Exception

(2) In the case where the foreign national referred to in subsection (1) is a temporary resident or in the event that he has submitted an application for temporary resident status or an application to stay in Canada as a temporary resident:

- **a)** the facts referred to in paragraph (1) a) result in inadmissibility only if the member of his family is inadmissible due to a case referred to in sections 34, 35 or 37;
 - **b)** the facts referred to in paragraph (1) b) result in inadmissibility only if the member of his family whom he is **accompanying** is inadmissible due to a case referred to in sections 34, 35 or 37.
-

Assessment of inadmissibility

- **Report of inadmissibility**

44 (1) If the officer is of the opinion that the permanent resident or foreign national in Canada is inadmissible, the officer may prepare a detailed report and submit it to the Minister.

- **Follow-up**

(2) If the Minister considers the report to be well founded, the Minister may refer the matter to the Immigration Division (IS) for investigation, except in the case of a permanent resident inadmissible for the sole ground that he did not comply with the residency obligation or, in the circumstances covered by the regulations, of a foreign national; he can then issue a removal order.

- **Conditions**

(3) The officer or the Immigration Division may impose such conditions as he considers necessary, including the issuance of a performance guarantee, on the permanent resident or foreign national who is the subject of a report or investigation or, while in Canada, a removal order.

- **Conditions - inadmissibility for security reasons**

(4) If the matter of a security inadmissibility report is referred to the immigration Division and the permanent resident or alien who is the subject of the report is not detained, the agent also imposes regulatory conditions on the latter.

- **Duration of conditions**

(5) The regulatory conditions imposed under subsection (4) do not cease to apply until any of the following events occur:

- a) the detention of the person concerned;
 - b) withdrawal of the inadmissibility report for security reasons;
 - c) the final decision that no removal order for inadmissibility on grounds of security is taken against the person concerned;
 - d) the Minister's statement made with respect to the individual under subsection 42.1 (1) or (2);
 - e) the execution of the removal order against the person concerned in accordance with the regulations.
-

Security Certificate

The security certificate regime, which is governed by the Immigration and Refugee Protection Act (IRPA), is an immigration process for the removal from Canada of non-Canadians who are inadmissible for **reasons of security (34), violation of human or international rights (35), serious criminality (36) or organized criminal activity (37)**. Only permanent residents or foreign nationals can be covered by a security certificate.

The Minister of Public Safety and Emergency Preparedness and the Minister of Citizenship and Immigration review and sign the security certificates. This is a declaration by the two ministers that the person is inadmissible to Canada. Once signed, the security certificate is sent to the Federal Court, that will determine whether it is reasonable or not. If so, it becomes an enforceable removal order. This decision of the Federal Court can be appealed to the Federal Court of Appeal. In addition, authorization to appeal may also be sought from the Supreme Court of Canada.

Criminal record suspension and rehabilitation eligibility

Under the Canadian Immigration and Refugee Protection Act (IRPA), temporary residents and applicants for permanent residence in Canada may not be able to enter Canada if they have been involved in criminal activity.

To this end, an inadmissibility report will be issued. This document contains allegations by the Minister against a foreign national or permanent resident for having violated IRPA.

Due to the fact that your conviction or the criminal act committed has been obtained or carried out inside or outside Canada you must, in order to be released from these acts and/or charge, either obtain a criminal record suspension or proceed with a rehabilitation request.

Criminal record suspension (**Crime committed in Canada**)

If you have a criminal record in Canada, you must contact the Parole Board of Canada (PBC) to obtain a criminal record suspension (formerly a pardon), before they can be admitted to Canada.

- You can request a record suspension if you:
 - have been **convicted in Canada** of an offense under a federal law or regulation as an adult;
 - have been **convicted of a crime in another country and transferred to Canada** under the Transfer of Offenders Act or the International Transfer of Offenders Act.
- To apply for a record suspension, you must have completed all of your sentences, which includes:
 - all fines, additional fines, costs and amounts provided for in restitution or compensation orders;
 - all prison sentences and conditional sentences, including parole and statutory release;
 - any probation period.

Note: If you are subject to a restraining order, your waiting period may begin even if that order has not expired.

- Once you have finished serving all your sentences, you must wait for a period of time:
 - **5 years** for an offense punishable by summary conviction
 - **10 years** for an offense prosecuted by indictment

Rehabilitation Eligibility (**Crime Committed Outside Canada**)

Here is a summary of the types of offenses and the length of the corresponding rehabilitation periods.

*** Rehabilitation terms include probation or parole time**

- If you **have been convicted** of an offense **committed abroad** which, had it been committed in Canada, would be punishable by indictment and punishable by imprisonment for a term **not exceeding 10 years**:
 - You are **presumed to be rehabilitated**: at least **10 years** after serving the sentence.
 - You are eligible for an **individual rehabilitation** approval application: **5 years** after **serving the sentence**.
- If you have **committed an offense abroad** which, had it been committed in Canada, would be punishable by indictment and punishable by imprisonment for a maximum of **less than 10 years**:
 - You are **presumed rehabilitated**: at least **10 years** after **the offense was committed**.
 - You are eligible for an **individual rehabilitation** approval application: **5 years** after the **offense was committed**.
- If you **have been convicted** of an offense or have committed an offense **outside Canada** which, had it been committed in Canada, would be punishable by imprisonment for a term of up to **10 years or more**:
 - You are **presumed to be rehabilitated: not applicable**.
 - You are eligible to apply for **individual rehabilitation approval: 5 years after the sentence has been served** or the **offense has been committed**.
- If you **have been convicted** of at least **2 offenses committed abroad** which, had they been committed in Canada, would have resulted in summary convictions:
 - You are **presumed to be rehabilitated**: at least **5 years** after the sentences imposed have been or will be served.
 - You are eligible for an **individual rehabilitation** approval request: not applicable.

Fees for rehabilitation request

- The processing fee is CA \$200 or CA \$1,000; depending on the seriousness of the crime

Documents to provide when requesting individual rehabilitation

- Letter of reference on his good character, showing that new crimes are not likely to be committed.
- Proof of stable domicile
- Proof of employment
- Proof that 5 years have passed since the end of his sentence, including any period of parole or probation.

Ineligibility for rehabilitation

Foreign nationals who are not eligible for rehabilitation can apply for a temporary residence permit at a visa office abroad.