

Your status as a permanent resident

This fact sheet is for people who work with permanent residents. It explains how permanent residents can lose their status in Canada and be deported. Throughout the fact sheet, “you” refers to permanent residents. This is meant to make it easier to pass the information on to those who need it.

A permanent resident is an immigrant or refugee who has been granted the right to live permanently in Canada.

As a permanent resident, you have more rights and privileges than a visitor to Canada, but not all the rights of a Canadian citizen.

Many permanent residents apply for Canadian citizenship as soon as they can meet the requirements. One of the requirements is that you have lived in Canada for at least three years.

It is a good idea to consider becoming a Canadian citizen as soon as you can. Permanent residents can be removed from Canada for a variety of reasons.

What is the Permanent Resident Card?

Citizenship and Immigration Canada (CIC) issues the Permanent Resident (Maple Leaf) Card as proof of status. People who arrive in Canada as permanent residents should get their Permanent Resident Card in the mail within four weeks of coming to Canada if:

- they gave the Canada Border Services Agency (CBSA) their address in Canada, and
- all the necessary personal information was confirmed when they entered Canada.

If you became a permanent resident before June 28, 2002, you need to apply for the Permanent Resident Card. The application fee is \$50 per person. You can get the application from the CIC web site at www.cic.gc.ca or by calling CIC at 1-888-242-2100.

The Permanent Resident Card is valid for five years. You can only get it in Canada.

Returning to Canada

If you travel outside Canada, when you return you must prove to CBSA that you are a permanent resident. The best way to do this is to show your Permanent

Resident Card to a CBSA officer at a port of entry. A port of entry is a border crossing, international airport, or seaport.

If you do not have a Permanent Resident Card, you will need other evidence, such as a Record of Landing (IMM1000), to convince the CBSA officer at the port of entry that you are a permanent resident. But this can be difficult.

If you plan to travel outside Canada, you should get your Permanent Resident Card before you leave.

If you are returning to Canada by a commercial carrier, you will need your Permanent Resident Card. A commercial carrier could be a plane, boat, bus, or train.

What are the reasons for taking away permanent resident status?

No matter how long you have lived here, you can lose your permanent resident status and be required to leave Canada for any of the following reasons:

- You lived outside Canada for more than three years in any five-year period. (For more information, see the section called *What is the residency obligation?* on page 3.)
- You used false documents when you applied for permanent residence.
- You gave false or incomplete information when you applied for permanent residence, when you were granted permanent residence, or in any other immigration application or procedure.
- You were sponsored by someone who gave false or incomplete information on the sponsorship application, on their own application for permanent residence, or on any other immigration application or procedure.
- You were able to apply for permanent residence because your claim for refugee protection was accepted by the Immigration and Refugee Board (IRB) and that decision has been set aside because you gave false or incomplete information on your claim.
- There were conditions on your permanent resident status but you did not fulfill them.
- Before or after you became a permanent resident, you were convicted of or committed a crime outside Canada that is considered serious based on the sentence that could have been given, even if you were not given that sentence. An exception can be made if at least five years have passed since you committed the crime, or since your sentence ended, and if you can prove to Canadian authorities that you have been rehabilitated.
- Before or after you became a permanent resident, you were convicted in Canada of a crime that is considered serious based on the sentence that was or could have been given, unless you have received a pardon.
- CIC believes that you are, have been, or will be involved in espionage, subversion, or terrorism, or that you are a security risk for some other reason.
- CIC believes that you are, have been, or will be involved in organized crime

or that you belong or did belong to a criminal organization even if you have not committed a crime.

- CIC believes that you have been involved in people smuggling, human trafficking, or money laundering.
- CIC believes that you committed war crimes or crimes against humanity outside Canada.
- CIC believes that you were a senior member of or official in a government that was guilty of war crimes or crimes against humanity, or of terrorism or gross human rights violations.

If you think that your status could be at risk for any of these reasons, get legal advice. There is information about [how to get legal help](#) on pages 5 and 6.

CLEO also has a publication called *What can happen if a permanent resident is convicted of a crime*. To order a copy or read it online, please see our [contact information](#) at the bottom of page 6.

If you are deported from Canada, your dependent children who are not Canadian citizens may also have to leave.

What is the process for taking away permanent resident status?

A CBSA officer who has information showing that you should be removed from Canada will write a report. The officer can then order you to attend an admissibility hearing. Admissibility hearings take place before a member of the Immigration Division of the IRB. If CBSA has written a report saying that you are inadmissible,

you should get legal help immediately. It may be possible to persuade CBSA not to go ahead with an admissibility hearing.

If you are ordered to attend an admissibility hearing, it is important to get legal advice.

At the hearing, the member decides whether you have lost your status as a permanent resident.

What is the residency obligation?

Permanent residents must meet a residency obligation. This means they must live in Canada for at least 730 days (two years) in any five-year period or they can lose their status. These 730 days do not have to be consecutive.

To meet the obligation, you must be physically present in Canada unless you are outside the country for one of the following reasons:

- you are with your spouse or common-law partner who is a Canadian citizen or, if you are a child, you are with your parent who is a Canadian citizen,
- you are working full-time for a Canadian business or the federal or a provincial public service, or
- you are with a spouse or common-law partner who is a permanent resident and is working full-time for a Canadian business or the federal or a provincial public service or, if you are a child, you are with your parent who is a permanent resident and is working full-time for one of these employers.

Humanitarian and compassionate reasons

If CBSA has information showing that you have not met the residency obligation, CBSA can make a removal order against you. But before making that decision, the CBSA officer must consider whether you should be allowed to keep your permanent resident status for humanitarian and compassionate reasons.

These reasons could be based on factors such as:

- the best interests of a child who will be affected by the decision,
- how many of the required number of days you are missing,
- the reason for your absence from Canada, for example, you or someone in your family was ill,
- whether you were prevented by circumstances beyond your control from returning to Canada,
- whether you returned to Canada as soon as you could,
- whether you have resident status or citizen status in any other country,
- to what extent you have established a home in Canada,
- whether you have established a home in any other country, and
- hardship to others, such as family members who are permanent residents or Canadian citizens, if you lose your status.

A visa officer can also decide that you have lost your status because you have not met the residency obligation. This can happen if you do not have a valid

Permanent Resident Card and you apply for a temporary travel document at a visa office outside Canada. The visa officer must consider the humanitarian and compassionate factors in your case before making a decision.

How to appeal decisions about loss of permanent resident status

In most cases, if a member of the Immigration Division orders that you be removed from Canada, you can appeal to the Immigration Appeal Division of the Immigration and Refugee Board (IRB). For example, in many instances, you can appeal a removal order based on a criminal conviction even for a serious crime, such as drug trafficking, assault, or a weapons offence. But this is not possible if you were ordered removed because:

- you were convicted of a serious crime for which you received a prison sentence of at least two years, or
- you were found to be a security risk, or inadmissible because you violated human or international rights or were involved in organized crime.

You can appeal a removal order made by CBSA based on your failure to meet the residency obligation.

You have **30 days** after you receive the decision or order to file an appeal of:

- a decision made by **a member of the Immigration Division**, or
- a removal order made by **CBSA** based on your failure to meet the residency obligation.

You cannot be removed from Canada until the end of the 30-day period. And, if you appeal, you will not be removed until the Immigration Appeal Division makes a decision.

You can appeal a decision made by a **visa officer** to the Immigration Appeal Division. You have to file this appeal within **60 days** of receiving the visa officer's decision.

If you appeal the decision of a visa officer, and you want to attend the hearing of your appeal, you can ask the Immigration Appeal Division to order that you be allowed to come to Canada for the appeal hearing. It is best to include this request when you file your appeal. If you did not include it, you must make the request within 60 days of filing your appeal.

The Immigration Appeal Division can consider a broad range of humanitarian and compassionate factors when deciding an appeal by a permanent resident concerning loss of status. Some of these factors are listed in the section called *Humanitarian and compassionate reasons* on page 4.

It is best to get legal help with an appeal.

How to get legal help

For legal advice or representation, you can contact a community legal clinic or a lawyer.

Legal aid certificates

If you do not have the money to pay for a lawyer, you may be able to get a legal aid certificate. A certificate will pay all or part of your lawyer's fees.

Legal aid offices have names of lawyers you can contact if you qualify for a certificate.

You can usually find the legal aid office nearest you by looking under "Legal Aid" in your phone book. You can also check Legal Aid Ontario's web site at <www.legalaid.on.ca> or phone them:

Toll-free outside Toronto... **1-800-668-8258**

In Toronto..... **416-979-1446**

Toll-free TTY..... **1-866-641-8867**

TTY in Toronto **416-598-8867**

You have the right to have a lawyer or other legal counsel at an admissibility hearing but Legal Aid Ontario rarely gives certificates for admissibility hearings. If there are legal reasons to challenge in court the decision made at an admissibility hearing, you might be able to get a legal aid certificate.

Legal Aid Ontario sometimes gives certificates for appealing a removal order to the Immigration Appeal Division.

Community legal clinics and Student Legal Aid Services Societies

Community legal clinics give free legal help to people with low incomes. This includes giving advice, making referrals, and sometimes representing people.

Some community legal clinics give advice on immigration problems or they can refer you to an immigration lawyer.

Every law school in Ontario has a Student Legal Aid Services Society. Law students who are supervised by lawyers give legal advice and can sometimes represent people in immigration matters.

You can usually find the community legal clinic or Student Legal Aid Services Society nearest you by looking under “Legal Aid” or “Lawyers” in your phone book. You can also check Legal Aid Ontario’s web site at <www.legalaid.on.ca> or phone them:

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This publication contains general information for people in Ontario. It is not a substitute for getting legal advice about your particular situation.

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