



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada

Chapter ENF 4

POE Examinations

1 What this chapter is about

This chapter describes how an officer at a port of entry conducts primary and secondary examinations of persons seeking to enter Canada. These persons include:

- Canadian citizens;
- Registered Indians;
- Permanent residents;
- Permanent resident applicants;
- Foreign nationals; and
- Temporary resident permit holders.

2 Program objectives

The objectives of the act for conducting primary and secondary immigration examinations are:

- to facilitate the entry of persons who have the right to enter Canada;
- to facilitate the entry of foreign nationals into Canada for purposes such as trade and commerce, tourism, international understanding and cultural, educational and scientific activities;
- to protect the health and safety of Canadians and to maintain the security of Canadian society;
- to promote international justice and security by denying access to Canadian territory to persons who are criminals or security risks;
- To offer safe haven to persons with a well-founded fear of persecution based on race, religion, nationality, political opinion or membership in a particular social group, as well as those at risk of torture or cruel and unusual punishment.

3 The Act and Regulations

The authority to conduct an examination comes from a variety of sources including the *Immigration and Refugee Protection Act*, the Regulations and the Instruments of Delegation of Authority. The following sections provide authority for an officer relating to examinations of persons seeking to enter Canada.

3.1 Powers and authorities of an officer

| Powers of officer | Section |
|--|--------------|
| Authority for an officer to conduct an examination where a person makes an application. (Section 26 of the Regulations specifies that all persons who seek to enter Canada are making an application and are therefore subject to an examination.) | A15(1) |
| Authority for an officer to <ul style="list-style-type: none"> board and inspect any means of transportation bringing persons to Canada examine any person carried by that means of transportation and any record or document respecting that person seize and remove any record or document to obtain copies or extracts hold the means of transportation until the inspection and examination are completed This section provides authority for officers to commence an examination prior to the passenger's arrival at the Primary Inspection Line (PIL). | A15(3) |
| Authority to require a person being examined to produce a visa and all relevant evidence that the officer reasonably requires including, in the case of foreign nationals, photographic and fingerprint evidence and a medical examination. | A16(1) & (2) |
| Authority for an officer to authorize a person to enter Canada for the purpose of further examination or an admissibility hearing at a later time or date. | A23 |
| Authority to issue a temporary resident permit, if justified by the circumstances, to an inadmissible person, and to cancel it at any time. | A24 |

ENF 4 Port of entry examinations version 1

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| <p>Authority for the Minister to examine the circumstances concerning a foreign national who is inadmissible and to grant permanent resident status or an exemption from any applicable criteria or obligation of the Act if of the opinion that it is justified by</p> <ul style="list-style-type: none"> humanitarian and compassionate considerations relating to them, taking into account the best interests of a child directly affected, or public policy considerations. | A25(1) |
| Authority to report permanent residents and foreign nationals who are believed to be inadmissible. | A44(1) |
| Authority to impose conditions, including the payment of a deposit or the posting of a guarantee for compliance with any conditions considered necessary, on a permanent resident or foreign national who is the subject of a report. | A44(3) |
| Authority to authorize a foreign national, against whom a removal order has been enforced, to return to Canada. | A52(1) |
| Authority to issue a warrant for the arrest and detention of a permanent resident or foreign national who the officer has reasonable grounds to believe is inadmissible and is a danger to the public or is unlikely to appear for examination, an admissibility hearing or removal from Canada. | A55(1) |
| <p>Authority to arrest and detain without a warrant, a foreign national, other than a protected person:</p> <ul style="list-style-type: none"> who the officer has reasonable grounds to believe is inadmissible and is a danger to the public or is unlikely to appear for examination, an admissibility hearing, removal from Canada, or at a proceeding that could lead to the making of a removal order by the Minister under subsection 44(2); or if the officer is not satisfied of the identity of the foreign national in the course of any procedure under the Act. | A55(2) |
| Authority to detain a permanent resident or foreign national, on entry to Canada, if an officer considers it necessary in order to complete an examination or has reasonable grounds to suspect that the person is inadmissible on grounds of security or for violating human or international rights. | A55(3) |
| Authority to order the release from detention of a permanent resident or a foreign national before the first detention review by the Immigration Division if the officer is of the opinion that the reasons for the detention no longer exist. This section also allows the officer to impose any conditions, including the payment of a deposit or the posting of a guarantee for compliance with the conditions, that the officer considers necessary. | A 56 |
| Authority to conduct eligibility determinations for refugee claimants and to refer eligible claims to the Immigration and Refugee Board .. | A100(1) |

ENF 4 Port of entry examinations version 1

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| Authority to search any person seeking to come into Canada including their luggage, personal effects, and the means of transportation if the officer believes, on reasonable grounds, that the person has not revealed their identity or has hidden documents relevant to their admissibility. | A139 |
| Authority to seize and hold any means of transportation, document or other thing that, on reasonable grounds, was fraudulently or improperly obtained or used or that the seizure was necessary to prevent its fraudulent or improper use or to carry out the purposes of the Act. | A140 |
| Authority to impose, vary or cancel conditions on any person who is obliged to submit to a medical examination. | R32 |
| Authority to conduct alternate means of examination. | R3 8 |
| Authority to direct a person who cannot be examined, other than protected persons and refugee claimants, to leave Canada. | R40 |
| Authority to direct persons to return to the United States. | R41 |
| Authority to allow or to refuse to allow a person to withdraw from Canada. | R42 |
| Authority to impose conditions on persons authorized to enter Canada for further examination. | R43 |
| Authority to require the posting of a cash or performance bond. | R45 |
| Authority to impose terms and conditions including the period of time that a temporary resident may remain in Canada. | R183 |
| Authority to impose conditions individually on a temporary resident. | R185 |
| Authority to issue a work permit on the basis of Canadian interests | R205 |
| Authority to issue a work permit on the basis of humanitarian reasons. | R206 |
| Authority to issue a study permit in certain cases. | R216 |
| Authority to require a transporter to provide a written report with respect to a stowaway. | R262 |
| Authority to require a transporter to provide copies of a passenger's ticket, itinerary and information about travel and identity documents. | R264 |
| Authority to require a transporter to assemble all members of the crew aboard a vessel. | R266 |
| Authority to require a transporter to provide a written report respecting a foreign national who has ceased to be a member of the crew. | R268 |
| Authority to require a commercial transporter to provide advanced passenger information on passengers it will be carrying to Canada. | R269(1) |
| Authority to require a commercial transporter to provide all reservation information it holds respecting a passenger being carried to Canada. | R269(2) |

3.2 Statutory requirements relating to persons seeking entry to Canada

The *Act* and Regulations impose the following obligations on persons seeking to enter Canada.

| Section | Requirement | Explanation |
|-----------|---|---|
| A11(1) | Apply for visa | Foreign nationals must, before entering Canada, apply for a visa or any other document required by the regulations. |
| A15 | Submit to an examination | An officer is authorized to examine any person making an application, including those seeking to enter Canada. |
| A16(1) | Tell the truth & produce required documentation | Any person who makes an application to enter Canada must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and documents that an officer reasonably requires. |
| A16(2) | Fingerprints and photographs | Foreign nationals must produce photographic and fingerprint evidence if required to establish identity or compliance with the Act. |
| A18(1) | Appear for examination | Every person seeking to enter Canada must appear for an examination to determine whether they have a right to enter Canada or may be authorized to enter and remain in Canada. |
| A18(2) | In transit passengers | Every person who seeks to leave an area at an airport that is reserved for passengers who are in transit or who are waiting to depart Canada must report for examination. |
| A20(1)(a) | Landing of permanent residents | Every foreign national who seeks to become a permanent resident must establish that they hold the visa or other document required under the regulations and are coming to Canada in order to establish permanent residence. |
| A20(1)(b) | Entry of temporary residents | Every foreign national who seeks to become a temporary resident must establish that they hold the visa or other document required under the regulations and will leave Canada by the end of the period authorized for their stay. |
| A20(2) | Provincial selection criteria | Foreign nationals seeking to become permanent residents who intend to reside in a province that has sole responsibility for the selection of a foreign national under a federal provincial agreement pursuant to A9(1) must establish that they hold a document issued by the province indicating that the competent authority of the province is of the opinion that the foreign national complies with the province's selection criteria. |
| A27(1) | Residency obligation | Permanent residents must comply with the residency obligation in section A28 with respect to every five-year period. |

ENF 4 Port of entry examinations version 1

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| A29(2) | Obligations of temporary residents | Temporary residents must comply with any conditions imposed under the regulations and with any requirements under the Act and must leave by the end of the period authorized for their stay. |
| A30(1) | Work and study | A foreign national may not work or study in Canada unless authorized to do so under the Act. |
| R,6,7, 8& 9 | Permanent and temporary resident visas, work and study permits | A foreign national must apply for these documents prior to entering Canada. |
| R27 | Must appear for examination | A foreign national must appear at a port of entry for an examination or, if entering at a place other than a port of entry, must appear without delay at the nearest port of entry. |
| R28 | Making an application | Persons seeking to enter Canada are deemed to be making an application pursuant to A15(1) and must therefore submit to an examination. |
| R30 | Submit to medical examination | All foreign nationals seeking to enter Canada for more than six months who have resided or sojourned in certain countries for in excess of six months, are required to submit to a medical examination and must be in possession of a medical certificate stating that they are not inadmissible on health grounds. |
| R43 | Mandatory conditions in cases of furthered examination | <p>All foreign nationals who have been authorized to enter Canada under section A23 must comply with the following conditions:</p> <ul style="list-style-type: none"> • Reporting for an examination or an admissibility hearing; • Not working; • Not studying; and • Reporting at a port of entry if they withdraw their application to enter Canada. |
| R45 | Bonds | An officer can require a person or group of persons seeking to enter Canada to arrange for a performance bond or the deposit of a sum of money to guarantee compliance with conditions imposed on their entry. |
| R50 | Documents: applicants for permanent residence | A foreign national seeking to become a permanent resident requires a permanent resident visa as well as a passport, travel document or other document prescribed by the Regulations. |

ENF 4 Port of entry examinations version 1

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| R51 | Obligations of applicants for permanent residence | <p>A foreign national in possession of a permanent resident visa who seeks at a port of entry to become a permanent resident must inform the officer if they have become or ceased to be a spouse or common-law partner after the visa was issued or if facts have changed since the visa was issued, or were not divulged.</p> <p>The foreign national must also establish that they and their dependants, whether accompanying or not, meet the requirements of the Act and Regulations.</p> |
| R52 | Documents: temporary residents | A foreign national who seeks to enter Canada must hold a passport, travel document or other document prescribed by the Regulations. |
| R183& 185 | Conditions on temporary residents | Temporary residents must comply with conditions of their entry including the requirement to leave before expiry of their status, not to work or not to study unless authorized by the Regulations. |
| R184 | Conditions on crew members | Foreign nationals who entered Canada as crew members or to become crew members are required to join a means of transportation within the period imposed or if no period is imposed, 48 hours. Crew members must leave Canada within 72 hours after ceasing to be a crew member. |
| R186 | Requirement of a work permit | A foreign national must not work in Canada unless authorized by a work permit or the Regulations. |
| R243 | Requirement to pay removal costs | A foreign national is not allowed to return to Canada if they were removed from Canada at the expense of the Minister, and the debt incurred from removal expenses is outstanding |

3.3 Forms

The forms shown in the following table are referred to in this chapter.

| Form title | Form number |
|--|-------------|
| Immigrant Visa | [IMM 1000] |
| Confirmation of Permanent Residence | [IMM 5292] |
| Supplementary Identification Form | [IMM 5455] |
| Direction to Leave | [IMM 1217] |
| Direction to Return to the United States | [IMM1237] |
| Certificate of Departure | [IMM 0056] |
| Order for Detention | [IMM 0421] |

ENF 4 Port of entry examinations version 1

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| Canadian Temporary Resident Visa counterfoil | [IMM 1346] |
| Collective Certificate | [IMM 1393] |
| Medical Surveillance Undertaking | [IMM 0535] |
| Visitor's Record on FOSS | [IMM 1442] |
| Confirmation by Transporter Regarding Passenger(s) Carried | [IMM 1445] |
| Visitor's Record | [IMM 1097] |
| Affirmation for Visa | [IMM 1281] |
| Customs referral form (Airport) | [E311] |
| Customs referral form (Border) | [E67] |
| Customs referral form (Border: Commercial drivers) | [Y28] |

4 Instruments and delegations

No information available.

5 Departmental policy

5.1 What is an examination

Section 28 of the Regulations specifies that that a person makes an application by:

- submitting an application in writing;
- seeking to enter Canada;
- seeking to transit through Canada in airports as provided for by section 35; or
- making a refugee claim.

Under section 15(1) of the *Act*, an officer is authorized to examine any person making an application. This chapter deals only with the examination of persons seeking to enter Canada. Examinations dealing with other applications, such as those made at visa posts abroad or from within Canada, are described in other manuals.

5.2 Persons to be examined

Section 18(1) of the *Act* provides that all persons who seek to enter Canada, including Canadian citizens, must appear for an examination.

5.3 Primary and secondary examinations

All persons seeking to enter Canada must appear for an examination to determine whether they have a right to enter Canada or are or may become authorized to enter and remain in Canada. The examination process at a port of entry may include a primary and a secondary examination. An inspector from the Canada Customs and Revenue Agency (CCRA) normally conducts the primary examination. In some remote ports, a RCMP officer may complete the primary examination. These officers are designated under the Immigration Instruments to perform this function. Secondary examinations are usually conducted by an immigration officer following a referral from the customs inspector at the Primary Inspection Line (PIL). This chapter refers to both primary and secondary examinations at a port of entry.

5.4 Instructions by the Minister

Section A15(4) provides that an officer shall conduct an examination in accordance with any instructions that the Minister may give. The authority for the Minister to give instructions to officers can be used to ensure consistency in the application of the *Act* with respect to examinations. Instructions given by the Minister are not regulations (see A93) but are nevertheless binding on officers. At present there are no instructions by the Minister respecting examinations.

5.5 Duties and conduct of the officer

An officer must deal with each person being examined in a courteous, professional and efficient manner. They should ensure that those who are inadmissible or who seek to contravene the law are

prevented from entering Canada and that those who readily comply with the law are allowed to enter. Most individuals seeking entry to Canada do not pose a risk and should be allowed forward with minimal delay. Officers should carefully examine all the facts before making a decision and, where appropriate, explain the reasons for that decision to the traveller.

5.6 Point of finality of an examination

Section 37 of the regulations provides that the examination of a person seeking to enter or transit through Canada is not final until one of the following outcomes takes place.

| Outcome | Explanation |
|---|--|
| A final determination is made that the person has a right to enter Canada or is authorized to enter Canada. | The regulations provide that an examination is not final until the person has left the controlled area of the port of entry or, if no controlled area exists, has left the port of entry. An examination may be continued, for example, if during a Custom's inspection, evidence arises that indicates the person may be inadmissible to Canada. If the person's passport has been stamped or even if the person has been landed, this decision is not final and may be revisited as long as the person has not cleared the controlled area of the port of entry. |
| A person in transit departs from Canada. | Certain passengers in transit through Canada are not required to appear for examination if they remain in a controlled area pending their onward flight out of Canada. They are nevertheless considered to be subject to examination. If for any reason they seek to leave the area at an airport that is reserved for passengers who are in transit or who are waiting to depart Canada, they must report for examination. A18(2) |
| The person is allowed to leave Canada and their departure is confirmed. | An officer may determine a person to be inadmissible and allow them to leave Canada pursuant to section 42 of the Regulations. No A44(1) report is prepared or transmitted. The examination concludes once their departure is verified. If for any reason the person does not depart, then the examination resumes. |
| Entry is authorized by the Minister. | The Minister's delegate, in reviewing a report pursuant to A44(1), continues the examination of the person seeking entry. If the Minister's delegate determines the report is not founded, the person will be allowed to enter Canada and the examination will conclude. |
| A removal order is issued by the Minister. | The Minister's delegate, after reviewing a report pursuant to A44(1), may issue a removal order. This concludes the examination. |
| The Minister refers the case to the Immigration Division for an admissibility hearing. | The Minister's delegate, after reviewing a report pursuant to A44(1), may determine that the report is well founded and refer it to the Immigration Division of the IRB for an admissibility hearing. This concludes the examination. |

ENF 4 Port of entry examinations version 1

Section A23 allows an officer to authorize a person to enter Canada for the purpose of further examination. The person remains under examination until one of the above outcomes takes place.

6 Definitions

Nil

7 Primary examinations

The examination process commences upon the arrival of a person at a port of entry. This may be a land border, an airport, a marine harbour or any other place designated as a port of entry. Customs inspectors from the Canada Customs and Revenue Agency (CCRA) are delegated the authority to conduct the initial immigration examination of persons seeking entry to Canada. Customs inspectors administer legislation and programs by providing a wide range of inspection, examination and enforcement activities on behalf of many government departments and agencies including Citizenship and Immigration Canada, Canada Customs and Revenue Agency, Health Canada and Agriculture and Agri-Food Canada.

7.1 Memorandum of Understanding with Canada Customs and Revenue Agency

The administrative and operational responsibilities for the examination of persons seeking entry into Canada are outlined in a Memorandum of Understanding between the Canada Customs and Revenue Agency (CCRA) and Citizenship and Immigration (CIC) (Note: signing still pending 2002)

The Memorandum of Understanding spells out the commitment by both departments to develop regular communications at all levels to ensure the efficient and effective administration of immigration operations. This is particularly important for immigration examinations. A customs inspector designated as an immigration officer is the first point of contact for persons arriving in Canada.

7.2 Custom's Inspector's Handbook

The Custom's Inspector's Handbook provides detailed information to customs inspectors regarding the conduct of immigration examinations of persons seeking entry to Canada. The handbook is a quick reference to:

- Responsibilities of the customs officer;
- Items on the Immigration Secondary referral list;
- Inadmissibility sections of the Act;
- Documentary requirements of foreign nationals;
- Security features of documents;
- Foreign worker requirements;
- Various immigration documents for Canada and the United States; and
- Offences under the Immigration and Refugee Protection Act.

7.3 Liaison with customs inspectors

Customs inspectors designated as immigration officers are encouraged to inquire about the results of their referrals to immigration secondary. Immigration officers do not operate under the same time constraints as customs inspectors at PIL and have more time to conduct immigration examinations effectively. Immigration officers should whenever possible, provide feedback on the results of customs referrals. Liaison is a key element in developing and maintaining an effective and positive

working relationship with customs inspectors who conduct the primary portion of the examination process. In addition, discussing immigration cases allows immigration officers to give guidance to customs inspectors regarding immigration requirements. This leads to better quality referrals from PIL.

7.4 Responsibilities of primary examining officers

Custom's inspectors conducting primary examinations are responsible for:

- questioning persons and reviewing documentation to determine whether persons have a right to enter Canada (Canadians, permanent residents and registered Indians) or are foreign nationals who may be authorized to enter Canada as temporary residents;
- determining whether or not persons seeking entry to Canada are immigrants;
- authorizing persons to enter Canada, stamping passports when required and notating the length of stay;
- referring persons for a more detailed immigration examination when appropriate, in accordance with the Immigration Secondary Referral List.

7.5 Primary examination questions

Primary examination questions are designed to elicit essential information about citizenship, residency, intention, employment, length of stay and identity as quickly as possible. Normally the examining officer begins by asking one or more of the six primary questions below. Under most circumstances, a customs inspector does not need to ask all questions of all travellers.

| Issue | Question | Rationale |
|-------------|---------------------------|---|
| Citizenship | What is your citizenship? | <p>By asking this question first, the customs inspector can identify persons who may enter Canada by right. It is rare that persons who have a right to enter Canada would be referred to immigration secondary.</p> <p>If the person is not Canadian, this question enables the customs inspector to identify those persons who may require a passport or a visa to enter Canada. If the person has a machine-readable passport, the customs inspector does not necessarily have to ask about citizenship. A passport reader, however, is no substitute for a good verbal examination.</p> |

ENF 4 Port of entry examinations version 1

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| Residency | Where do you reside? | This question helps the customs inspector to determine the passport and visa requirements of foreign nationals. By determining residency, the customs inspector can eliminate from an immigration secondary examination those travellers who are permanent residents of Canada and who may enter Canada by right. If the person is a permanent resident, the customs inspector may ask the supplemental question: "How long have you been away?" A customs inspector must refer for secondary examination all permanent residents who may not comply with the residency obligation of A28, which requires permanent residents to reside in Canada for at least 730 days out of every five year period to maintain their status. The possible loss of permanent resident status under section A46 can be further explored at a secondary examination. |
| Intention | What is the purpose of your trip to Canada? | Once the customs inspector determines that the foreign national may not come into Canada by right, they must establish why the person is coming to Canada. By asking this question they can identify the need for a referral to immigration secondary for control purposes (for example, to become a permanent resident, to work or study). |
| Employment | Do you intend to take or seek employment while in Canada? | If the customs inspector has not yet determined whether the person is coming to Canada to work, this question ensures that employment opportunities for Canadians are protected and that the person will comply with relevant employment regulations. |
| Length of stay | How long do you intend to stay in Canada? | Customs inspectors may allow persons to enter Canada for a stay of up to six months and should stamp the passport of persons who are otherwise admissible. Persons who are intending to remain in Canada for longer than six months should be referred for a secondary examination |
| Identity | What is your name? | If the customs inspector has any reason to doubt the person's identity, they will ask for the person's name. A comparison can then be made with the person's documents to determine if the name given is the same as the name in the document, or in the case of an aircraft passenger, the same as the one on the CCRA E 311 form. |

The customs inspector may ask additional questions as warranted but usually PIL officers do not conduct in-depth examinations. This would create line-ups and delays for the travelling public. A customs inspector who doubts the bona fides of a person or believes that a detailed examination may be in order should refer the person to an immigration secondary examination.

7.6 Criminality

Customs inspectors do not ask a person about criminality during a PIL examination. Questions about criminality are better suited for secondary where immigration officers have more time to conduct a full examination and question a person in a more private setting. Consequently, when a customs inspector suspects through questioning, lookouts (i.e. PALS), or other indicators that a foreign national may have a criminal record, the person should be referred to immigration secondary for further examination. If there is no immigration officer on duty, the person may be asked about criminality at a secondary examination by a customs inspector. All officers should take care to ensure privacy by not questioning a person about criminality in the presence of accompanying family members or other travellers.

7.7 Immigration Secondary Referral List

The Immigration Secondary Referral List captures the categories of persons that must be referred for an immigration secondary examination. PIL customs inspectors may refer anyone else whom they believe should be examined in more detail.

Examples of types of referrals to secondary examination include cases where the Customs inspector:

- has doubts about the person's identity
- suspects the person may have a criminal record
- believes the person may require documentation such as a work or study permit
- has concerns about the length of time the person is requesting in light of their actual travel plans

7.8 Referral of persons with medical conditions

Section A38 of the Act states that foreign nationals are inadmissible to Canada on health grounds if their health condition:

- is likely to be a danger to the public;
- is likely to be a danger to public safety; or
- Might reasonably be expected to cause excessive demand on health or social services.

Referral for an immigration secondary examination is mandatory when a foreign national:

- is seeking to enter Canada in order to undergo medical treatment; or
- is obviously ill.

It is not possible, given the time constraints of the PIL examination process, to assess the health status of every foreign national seeking authorization to enter Canada. PIL customs inspectors should adopt a practical approach based partly on visual risk assessment and partly on common sense and experience.

Customs inspectors should not be consciously looking for medical problems as part of their examination but should refer for further examination those who a reasonable person would judge to be ill. Examples could include foreign nationals who:

- act abnormally
- have incoherent speech
- are on a stretcher or are accompanied by medical personnel (nurse, personal physician etc.)
- are in possession of medication which would suggest or indicate a serious illness
- exhibit obvious signs of illness

On occasion, persons who are critically ill or injured will be transported to a hospital in Canada via an ambulance. Due to the seriousness of the person's condition, customs inspectors may feel that conducting a full primary or secondary examination is not advisable at that time. The officer should not unduly delay persons where urgent medical treatment is needed. Information should be obtained from the ambulance driver regarding the name of the person and the hospital so that an officer can conduct an examination when the person's condition is more stable.

7.9 Customs referral forms

There are three CCRA forms that a PIL officer uses to refer persons to a secondary examination.

| Custom's referral forms | | |
|-------------------------|-----------------------|--|
| Form | Use | Explanation |
| E311 | Primarily airports | The E311 form is completed by passengers on airplanes destined to Canada and by some bus and train passengers. A passenger presents the form to the customs inspector at the primary inspection booth who verifies the information and codes the form. |
| E67 | Land border crossings | The E67 form is completed by a customs inspector at land borders. |
| Y28 | Land border crossings | The Y28 is completed by a customs inspector for commercial drivers. |

These forms facilitate the control and streaming of passengers, provide data for Statistics Canada and are used to refer passengers to secondary examination by immigration officers and/or Health, Agriculture or Customs inspectors.

The forms carry a code by which the PIL officer gives the reason for referral to secondary examination.

The immigration portion of form E67 is coded with four letters (T,E,L,O). When using the E67, the PIL officer will circle the appropriate letter to indicate the reason for referral.

| TELO coding on the E67 | | |
|------------------------|---------|-------------|
| Letter | Meaning | Explanation |

ENF 4 Port of entry examinations version 1

| | | |
|---|------------|---|
| T | Time | The person intends to stay in Canada for an extended or unusual period of time. |
| E | Employment | The person has indicated an intention to seek employment in Canada. |
| L | Lookout | The person may be the subject of a “watch for” as being of interest to immigration officials |
| O | Other | This includes any other reason not covered above. In this case, the PIL officer will typically write a few words on the E67 to guide secondary examination. Officers should be cautious when recording any information on the E67 as the person who is being referred may be able to read the form. |

7.10 TELO code on the E311 form

In keeping with International Civil Aviation Organization (ICAO) standards, the E311 form used at airports does not contain the TELO coding. Instead the PIL officer writes “IMM” with the appropriate TELO code.

8 Secondary examinations

8.1 What is a secondary examination

A secondary immigration examination is usually initiated by a referral from a customs inspector at the Primary Inspection Line (PIL). It can also result from a referral from an immigration officer who has boarded and inspected an airplane, bus, train or ship before any of the passengers have presented themselves at PIL. A secondary examination is usually conducted by an immigration officer but may be conducted by a custom's inspector if no immigration officer is available at the port of entry. A secondary examination may also be conducted by telephone or other electronic means if the person is in a remote location where no officer is available.

8.2 Authority to continue an examination at secondary after a PIL referral

Section A23 authorizes a customs officer or an Immigration officer to adjourn an examination and refer the person being examined to another officer for the completion of the examination. This provision provides a legal means for referring a person from the PIL to secondary for continuation of the immigration examination.

8.3 Responsibilities of examining officers

Immigration officers conducting secondary examinations are responsible for facilitating the entry of Canadians, registered Indians and permanent residents as well as bona fide foreign nationals and for denying entry to persons who are inadmissible and/or likely to constitute a threat to the safety, security and good order of Canadian society.

Responsibilities of an officer include:

- examining persons seeking entry to Canada to determine admissibility;
- facilitating the entry of Canadians, permanent residents and registered Indians;
- authorizing foreign nationals to enter Canada as temporary or permanent residents;
- receiving refugee claims and determine eligibility;
- reporting persons who are believed to be inadmissible;
- reviewing inadmissibility reports;
- issuing removal orders, where appropriate, to inadmissible persons;
- referring cases to the Immigration Division, where appropriate, for an admissibility hearing;
- authorizing an inadmissible person to enter Canada on a permit;
- denying entry to inadmissible persons and arrange for their removal.

8.4 Right to counsel at port of entry examinations

For the purpose of an immigration examination, a person is not entitled to counsel unless formally detained. Detained persons must be informed of their right to counsel and granted the opportunity to retain and instruct counsel without delay.

The Supreme Court of Canada has held that a secondary examination by an immigration officer at a port of entry does not constitute a 'detention' within the meaning of Section 10(b) of the *Canadian Charter of Rights and Freedoms* [Dehghani v. Minister of Employment and Immigration, S.C.C., File No. 22153, March 25, 1993]. The Court determined that the principles of fundamental justice do not include the right to counsel for routine information gathering such as at port of entry examination interviews.

This court decision clarifies that the *Charter* only gives the right to counsel to those who are detained. Generally, CIC's policy is to not permit counsel at examination if detention has not occurred.

For more information on counsel, refer to immigration manual [ENF 20, Detention].

8.5 Use of interpreters

Officers regularly encounter hundreds of different languages and dialects. Often the person seeking entry will not speak French, English or any other language that the officer is familiar with. In such cases, the officer may be able to authorize entry on the basis of documentation in the possession of the traveller. In appropriate circumstances, the officer can ask accompanying friends or family members to assist in translation. At times an officer may also solicit help from staff or other persons who are familiar with the language. This is a pragmatic practice that allows an officer to facilitate the entry of travellers in cases where an official interpreter is not readily available.

An officer who is using a non-official interpreter to conduct an examination should suspend the examination if it becomes apparent that the person may be inadmissible. The examination can be continued once a competent interpreter is available. This is important for the following reasons.

When making a decision on admissibility, the officer needs a reliable and trustworthy interpreter in order to be sure that information provided by the client is accurately translated. Inaccurate translation could result in a decision detrimental to the client based on misinformation. This would constitute a breach of natural justice.

Information obtained at examination is often used as evidence in admissibility hearings and, less frequently, in criminal prosecutions. If a competent interpreter is not used, the evidence can be discredited or rendered inadmissible.

All immigration decisions relating to admissibility are subject to judicial review by the Federal Court. The Federal Court reviews the fairness of the process leading to the decision and will strike down any decision based on evidence obtained through an interpreter whose competency is in doubt.

It is to the benefit of both the client and CIC that a competent interpreter be used in examinations that may lead to a person being found to be inadmissible to Canada.

Instructions on hiring and using interpreters are contained in manual [SA 7].

8.6 Confidentiality

Fast-flow counters where officers conduct secondary examinations are designed to deal with cases expeditiously but offer limited privacy. An officer should take care to consider the sensitive nature of information that may arise during an examination and, where appropriate, should secure a private setting for the continuation of an examination. Such cases might involve personal medical information, criminality or the landing of entrepreneurs and their dependants. With regard to entrepreneurs and their dependants, it is usually necessary to impose and explain conditions relating to this class.

Information obtained in the course of a secondary examination is confidential. The *Privacy Act* requires that personal information concerning clients only be released to the client or the client's designated representative.

Subsection 8(2) of the Privacy Act contains exceptions to this requirement. For example, pursuant to subsection 8(2)(f), CIC has entered into an Memorandum of Understanding (MOU) with the United States Immigration and Naturalization Service (USINS) for the exchange of information on persons who are or there are reasonable grounds to believe may be inadmissible or subject to removal.

8.7 Pre-questioning procedures

Before questioning a traveller, an officer should:

- review the Custom's referral form to identify the reason for the referral;
- obtain the person's relevant identity documents such as a passport, travel document, citizenship card or birth certificate;
- view the airline ticket of any person travelling by air; and
- determine if the person is in possession of any immigration documents that may assist in quickly establishing the reason the person is seeking entry to Canada.

8.8 FOSS checks

Using the information on the identity document presented by the person, an officer should complete a name query in the Field Operations Support System (FOSS). It is departmental policy that a FOSS check be completed for all persons referred for an immigration secondary examination, except in the following situations where it is left to the discretion of the officer:

- Canadian citizens whose identity is not in doubt. As Canadians enter Canada by right, there is no reason to query FOSS.
- Foreign nationals coming to Canada as part of an organized group or tour. Traditionally this category of persons has not posed an enforcement problem.
- Tourists, foreign workers and students who are re-entering Canada as temporary residents and whose bona fides are not in doubt. Most of these persons have already been checked through FOSS on their initial entry.

- Persons whose identity is not in doubt and who have recently applied for and obtained certificates of rehabilitation.
- Persons whose identity is not in doubt and who have recently been authorized by a pre-clearance program to enter Canada pursuant to R38 by alternate means of examination (i.e. NEXUS, CANPASS, etc.).

8.9 Basic questioning

Basic questioning should cover the following areas, as appropriate:

| Issue | Question | Explanation |
|--------------------|---|--|
| Identity | What is your name? | This will enable an officer to identify the person. The name should be verified against the referral card, identity documents and the airline ticket. |
| Citizenship | Of what country are you a citizen? | The officer should ask this of each person being examined and ensure that the person's stated citizenship matches the identity document they present. This response will help an officer determine passport and visa requirements. If satisfied that the person is a Canadian citizen, the officer should allow the person to enter Canada without further questioning. |
| Residency | Where do you reside? | Establishing if a person is a permanent resident may enable the officer to authorize entry into Canada with minimal further delay. This question will also help an officer to determine passport and visa requirements and to verify whether the person can return to the country of residence if it is different from the country of citizenship. For example, if the person claims to be a resident of the United States but has a passport of another country, an officer may want to see their Resident Alien card before authorizing entry to Canada. |
| Intentions | What is the purpose of your trip? How long do you intend to stay in Canada? Where in Canada are you planning to go? Do you intend to look for work in Canada? Do you intend to study in Canada? | If the person is not someone who may enter Canada by right, an officer should establish the person's intention in seeking entry. Questions such as these may assist in this determination. |

ENF 4 Port of entry examinations version 1

| | | |
|-------------------------|---|---|
| Funds available | <p>May I see your ticket please?</p> <p>What sources of funds do you have access to while in Canada?</p> | <p>Questions such as these are appropriate for determining if the foreign national possesses the financial means to carry out their intended travel plan and to depart at the end of their authorized time. The officer should be satisfied that the foreign national will not take unauthorized employment or have to rely on social assistance while in Canada. Additional questioning may be required if the foreign national cannot establish how they will support themselves while in Canada. If they indicate that a friend or relative will support them, it may be advisable to contact the support person to verify this information.</p> |
| Personal history | <p>What is your occupation?</p> <p>Do you intend to visit anyone in Canada?</p> <p>Do you have any family or friends in Canada?</p> | <p>If the officer is concerned that the foreign national may not leave Canada at the end of the authorized time, further questioning may be necessary to establish ties to the person's homeland. In these cases, questions concerning the person's family both abroad and in Canada may be appropriate, including questions concerning marital status.</p> |
| Background | <p>Do you or have you had any health problems?</p> <p>Have you ever been convicted of a crime or an offence?</p> <p>Have you ever been refused entry to or removed from Canada?</p> | <p>The person's past may be relevant to admissibility. Questions such as these may be appropriate for determining whether the person is inadmissible due to ill health, criminality or previous non-compliance with immigration requirements.</p> |

See manual chapter [ENF 2, Evaluating Inadmissibility] for more information on determining admissibility.

9 Examining Canadian citizens

9.1 The right to come into Canada

A Canadian citizen within the meaning of sections 3 and 4 of the *Citizenship Act* has a right to enter and remain in Canada pursuant to section 19(1) of the *Immigration and Refugee Protection Act*.

9.2 Examination of Canadian citizens

Subsection 15(1) of the Act provides for an officer to proceed with an examination where a person makes an application to the officer in accordance with the Act.

Subsection 28(b) of the regulations provides that a person seeking to enter Canada is making an application.

Additionally, A18(1) requires every person seeking to enter Canada to appear for an examination to determine whether they have the right to enter Canada or may be authorized to enter and remain in Canada. This includes Canadian citizens.

An immigration officer will normally examine a Canadian citizen only when the PIL officer doubts the person's citizenship. An officer at a port of entry should examine Canadian citizens as expeditiously as possible. Once an officer establishes that a person is a Canadian, the examination should end and the person should be allowed to enter Canada without further delay. It is not appropriate for officers to elicit further personal information from a Canadian citizen.

Canadian citizens may be asked to willingly provide additional information if it will assist an officer in determining the admissibility of an accompanying foreign national.

9.3 Determining Canadian citizenship

The following documents are acceptable proof of Canadian citizenship:

- Canadian passport;
- Certificate of Canadian Citizenship (both large and pocket or wallet size; the smaller form now exists in two versions: one with a 44mm x 57mm (1 3/4" x 2 1/4") photograph, and the other with a 35mm X 53mm (1 3/8" X 2 1/16") photograph);
- Canadian Emergency Passport (an officer at the primary inspection line will automatically refer for secondary examination a person in possession of a Canadian Emergency Passport. Once they have verified the person's identity, the immigration officer retains the passport and forwards it to the Passport Office, Department of Foreign Affairs and International Trade, Ottawa);
- Certificate of Naturalization;
- Certificate of Registration of Birth Abroad; and
- Certificate of Retention of Canadian Citizenship.

Canadian provincial birth certificates are good evidence of Canadian citizenship but do not contain photographs. The officer must therefore be satisfied that the person is the rightful holder.

9.4 Establishing citizenship without documents

Canadians returning to Canada by air usually have to provide proof of identity and citizenship to get on the flight. Canadians arriving at land borders, however, will frequently be without satisfactory documentary proof of Canadian citizenship. In these cases, an officer should question the person until they are satisfied of their Canadian citizenship. Once satisfied that the person is a Canadian, the person must be allowed to enter Canada without further delay.

9.5 Citizenship record searches

An officer may request a search of citizenship records by emailing the Citizenship Case Processing Centre (CPC) in Sydney, Nova Scotia at:

CPC-SYDNEY-SEARCHENQUIRY@8090RNC@CIPC

The official response will be provided via email.

Where a record letter is required, an officer must follow up the email request by submitting a completed Application for Search of Citizenship Records using the Citizenship form CIT 0058. A written response will be forwarded by FAX as well as by regular mail.

Note: Citizenship searches will only reveal if a person has obtained Canadian citizenship through naturalization. The Sydney CPC does not keep records of persons who are Canadian citizens by birth. Proof of citizenship by birth can be established by a search of provincial birth certificates or baptismal records.

After a person has received Canadian citizenship, the information is entered into the citizenship database (CRS). This data is electronically fed into FOSS on a regular basis and FOSS identifies this information as an NCB (type 11 code).

9.6 *Laissez-passer*

A *laissez-passer* may be issued to Canadian citizens by Canadian missions abroad. A *Laissez-passer* is only issued when a Canadian embassy or consulate vouches for the complete reliability of the bearer and there is sufficient reason for issuing one. For this reason, an extensive examination of the holders of a *laissez-passer* should not normally be necessary at the port of entry. In rare cases, a *laissez-passer* may be issued to foreign nationals in lieu of a diplomatic or courtesy visa.

A *laissez-passer* document bears the seal of the issuing office. The officer should collect the *laissez-passer* from the bearer at the port of entry and forward it to the Canadian embassy, consulate or office that issued it.

9.7 Emergency passports

An emergency passport may be issued at a Canadian mission abroad to facilitate the return of a Canadian citizen. It can also be issued as a one-trip document for travel from a Canadian office without passport services (for example, a Canadian Honorary Consul) to another post with full passport services.

The emergency passport is approximately 8 x 10½ inches in size, printed on light green paper, and is serially numbered.

PIL officers are required to refer holders of an emergency passport to an immigration secondary examination. The Passport Office requires the surrender of an emergency passport immediately on the holder's arrival in Canada or at the destination for which the passport was issued. The examining officer should recover the emergency passport and promptly forward it to:

Passport Office
219 Laurier Ave, 11th floor
Ottawa.
K1A 0G3

A space is provided on the face of the document for a signature indicating that the passport has been received.

10 Examining registered Indians

10.1 The right to come into Canada

Section 19(1) of the Act provides that every person registered as an Indian under the Indian Act, whether or not that person is a Canadian citizen, has the right to enter and remain in Canada.

"Indian" is defined under the *Indian Act* to mean a person who is registered as an Indian or is entitled to be registered as an Indian. Section 6 of the *Indian Act* defines who is entitled to be registered as an Indian.

10.2 Determining registered Indian status

Certificates of Indian Status

A Certificate of Indian Status issued by the Department of Indian and Northern Affairs is proof of Indian status. Once an officer establishes that a person has Indian status, the officer must allow the person to come into Canada without further delay.

Certificates of Indian Status are issued on request to persons registered as Indians under the Indian Act who have reached 16 years of age. Under special circumstances, certificates can also be issued to registered Indian children under the age of 16.

The regional office of the Department of Indian and Northern Affairs is responsible for Certificates of Indian Status, including procedures for laminating certificates and for verifying that the information is consistent with the Indian Register. The certificates are normally issued by the regional district or band office charged with maintaining the field copy of the Indian Register for the band.

Certificates of Indian Status are stored in a computerized central registry at the Department of Indian and Northern Affairs. If officers require verification of Indian status or have reason to doubt the authenticity of a card being presented, they may contact the Supervisor, Registration Services, National Headquarters, Department of Indian and Northern Affairs by telephone (819-994-4028) or by facsimile (819-997-6296).

Establishing registered Indian status without documents

Registered Indians seeking entry to Canada may not be in possession of documentary proof of their status. In such cases, an officer should question the person until they are satisfied of their status. Once satisfied that the person is a registered Indian, the person should be allowed into Canada without further delay.

10.3 American Indians not registered in Canada

It is the position of both the Canadian and U.S. governments that the authorization of entry of non-citizen North American Indians is governed solely by immigration legislation and not by the Jay Treaty. The rules governing the entry of American Indians to Canada differ from those governing access to the United States by Canadian Indians.

Under the U.S. Immigration Nationality Act, Canadian Indians who can demonstrate that they have "50% or more Indian blood", by presentation of their band registration card, are entitled to permanent resident status in the United States. As a result, Canadian Indians who arrive at American ports of entry and state that they intend to work in the United States are instructed by United States Immigration and Naturalization Service officials to apply for permanent resident status on the spot. The applicants are immediately issued temporary residency cards and are entitled to work in the United States without work permits.

Under Canadian immigration law, however, North American Indians are only accorded the right to enter Canada if they are registered on the Canadian Band Lists. An American Indian can only obtain registered band status if they can establish that their mother or father was a member of a Canadian band. Therefore, American Indians coming to Canada to work or study require work or study permits.

Virtually all of the members of the Indian nations whose traditional lands straddle the border are entitled to be registered under the *Indian Act*, and once they have exercised this option, they may enter Canada by right under A19(1). Some American Indians have difficulty accepting that Canadian law requires them to be registered formally as members of a Canadian Indian band before they can legally work in Canada. Officers should deal tactfully with cases of this nature.

The question of the right of a non-registered native person to work in Canada is currently under litigation and will be determined by the courts. At present, such persons are bound by the requirements of the Act and Regulations. Given the contentious nature of the issues involved, an officer should communicate refusal of entry to American Indians who do not qualify for registered Indian status in Canada with sensitivity.

Wherever possible, port of entry officers should facilitate the entry of American Indians who wish to enter Canada as temporary residents.

11 Examining permanent residents

11.1 Permanent resident status

Section A2(1) of the Act defines a permanent resident as a person who:

- has acquired permanent resident status; and
- has not subsequently lost that status under section A46.

11.2 Rights of permanent residents

Section 27(1) of the Act provides that a permanent resident has the right to enter and remain in Canada subject to the provisions of the Act.

Section A19(2) of the Act requires an officer to allow a permanent resident to enter Canada if satisfied following an examination on their entry that they have that status.

Permanent residents who are under enforcement proceedings keep their permanent resident status and retain the right to enter Canada until a final determination of their loss of status has been made.

11.3 Verifying permanent resident status

The following documents are satisfactory proof of permanent residence:

- the original Record of Landing;
- a certified true copy of a Record of Landing document issued by CIC National Headquarters;
- a letter issued by a CIC or CIC National Headquarters verifying permanent residence;
- a permanent resident card (commonly referred to as the Maple leaf card);
- a passport duly stamped showing the date on which permanent residence was granted, if the person was granted landing before 1972.

11.4 Establishing permanent resident status without documents

Officers at ports of entry have the discretion to authorize the entry of permanent residents, even in the absence of documentation. If documentary evidence is not available, the officer must establish the person's permanent resident status through questioning and check in the Field Operations Support System (FOSS). Status of persons who became permanent residents before 1973 has to be verified by contacting the Query Response Centre at National Headquarters. Their email address is QRC in the Street Talk directory.

Once an officer is satisfied that a person is a permanent resident, the examination should be concluded and person should be allowed to enter Canada without delay.

11.5 Investigating permanent residents for inadmissibility

Officers must remain cognizant of the fact that the Act gives permanent residents of Canada the right to enter Canada at a port of entry if officers are satisfied that the permanent resident seeking entry has that status.

Port of entry (POE) officers can refuse entry to a permanent resident only when the person has already lost the status or when the conditions set out in A46 are met (such as a final determination has been made that they have failed to comply with residency obligations or when a removal order comes into effect). In other words, once a Canadian permanent resident's status is established, the person may enter Canada by right and cannot be the subject of further immigration examination.

For greater clarity, if an officer has concerns that a permanent resident has not complied with the residency obligation of A28, or is inadmissible on other grounds (such as, criminality), officers are expected to obtain as much information as is considered necessary to support the writing of an inadmissibility report. In such cases, however, when a person's permanent resident status has been established, it is necessary that officers clearly advise the permanent resident when the examination is concluded and that they are authorized to enter Canada as a permanent resident. Once this has been communicated, the officer may then request the permanent resident to remain to answer questions relating to any other inadmissibility; however, there is no obligation on the part of a permanent resident to do so.

In cases where:

- (a) permanent resident status is established;
- (b) the permanent resident refuses to provide any further information; and
- (c) the officer has serious concerns regarding admissibility,

officers should report the person (pursuant to A44(1)) if there is sufficient evidence to support an inadmissibility allegation. In the absence of sufficient evidence to support the writing of an inadmissibility report, officers may enter any available information into FOSS (date of entry, last country of embarkation, current address in Canada, etc) and forward notification of same to an INLAND office for review to determine whether an investigation is warranted.

11.6 Permanent resident card

A permanent resident card, commonly referred to as the Maple leaf card, is the status document referred to in A31(1) that indicates that the holder is a permanent resident. It replaces the IMM 1000 Record of Landing, which was issued to all permanent residents under the 1976 *Immigration Act*.

(For more information on the permanent resident card, refer to [ENF 27, Permanent resident card]).

Prescribed document

Section A148(1)(a) requires that transporters must not board persons unless they are in possession of a prescribed document. Section R259 makes the permanent resident card a prescribed document for the purpose of A148. This section, however, does not come into force until December 31st, 2003. After this date, unless a permanent resident is from a visa exempt country listed in R190, they will need to have a permanent resident card to board a vehicle bound for Canada.

In order to facilitate the transition from the IMM 1000 to the permanent resident card, transporters are permitted to board permanent residents holding the IMM 1000 until December 31st, 2003.

11.7 Permanent resident cards with one-year validity date

A one-year permanent resident card is issued to allow a permanent resident to return to Canada to file an appeal under A63 against a loss of status determination made outside Canada. If the person does not file the appeal within the prescribed period, they lose their status as a permanent resident. Even if they are still in possession of a permanent resident card, they are foreign nationals and must meet the requirements under the Act relevant to the entry of temporary residents.

Subsection 54(2) of the Regulations provides that a permanent resident card will be issued with a validity of one year instead of five if the permanent resident:

- is subject to a process set out in 46(1)(b) of the Act until there has been a final determination;
- is the subject of a report under A44(1) that is being considered by the Minister;
- is the subject of a removal order made by the Minister pursuant to A44(2); or
- is the subject of a report under A44(1) which has been referred by the Minister to the Immigration Division under A44(2).

11.8 Persons appealing loss of permanent resident status

An officer who encounters a person in possession of a permanent resident card issued with a one-year validity should check FOSS to determine whether there is a final determination that the person has in fact lost their status under A46. If the person is returning to Canada to attend an appeal of a decision made outside Canada regarding loss of status or where an appeal has yet to be filed, and the period for filing has not expired, the officer should authorize entry without delay if satisfied that no final determination has been made with respect to their loss of status. The officer should update FOSS as to their date of entry and current address.

In most cases, an officer would not prepare a new A44(1) report at the port of entry if the permanent resident already has a removal order. For more information on how to deal with permanent residents who have received a loss of status determination outside Canada but who have not been issued a removal order, see Issuing removal orders against permanent residents [section 11.13].

Upon a final determination of loss of permanent resident status, a person becomes a foreign national. Should they return to Canada, they must be assessed to determine if they meet the requirements of the Act and Regulations for entry as a temporary resident even if they still possess a permanent resident card.

11.9 Travel document

A31(3) states that a permanent resident outside Canada who is not in possession of a status document indicating permanent resident status shall, following an examination, be issued a travel document if an officer is satisfied that:

- they comply with the residency obligation under A28;
- an officer has made a determination pursuant to 28(2)(c) that humanitarian grounds exist to support the retention of permanent resident status, taking into account the best interests of the child; or

- they were physically present in Canada at least once within the 365 days before the examination and they have made an appeal under A63(4) that has not been finally determined or the period of making such an appeal has not yet expired.

The purpose of the travel document is to facilitate the return of all permanent residents to Canada. This includes those who may have accidentally lost their permanent resident card while outside Canada, as well as those who are appealing a decision made outside Canada that they failed to meet the residency obligation under A28.

The travel document will take the same form as a temporary resident visa counterfoil which is placed in a passport or travel document. It is valid for one entry to Canada simply to facilitate the permanent resident's return.

It is to be cancelled upon entry to Canada by drawing a line from the top left of the counterfoil to the bottom right and stamped: "Cancelled without prejudice." The officer would counsel the permanent resident that they may apply for a permanent resident card from within Canada.

11.10 Coding on the travel document

Permanent residents who have demonstrated that they have complied with the residency obligation listed in A28, or that humanitarian and compassionate grounds exist to support the retention of their status pursuant to A28(2)(c) will be issued counterfoils bearing the coding: "R" (resident).

In cases where the document has been issued pursuant to A31(3)(c) (where an appeal of a loss of status determination is filed, or the time for filing an appeal has not expired) the counterfoil will bear the coding: "A" (for appeals) under the **Category** heading.

Counterfoils bearing the "A" code will be mandatory referrals for customs inspectors.

If a person in possession of a counterfoil bearing the "A" coding is returning to Canada to attend an appeal of a decision made outside Canada regarding loss of status or where an appeal has yet to be filed, and the period for filing has not expired, the officer should authorize entry without delay if satisfied that no final determination has been made with respect to their loss of permanent resident status. The officer should update FOSS as to their date of entry and current address.

The principal difference between a travel document and a one-year permanent resident card is the date of validity. Where the travel document is cancelled upon return to Canada, the permanent resident card remains valid until the outcome of an appeal is decided, or until the period for making an appeal expires. In most cases, the officer would not prepare a new A44(1) report at the port of entry if the person is already in the enforcement stream.

11.11 Permanent residents holding of a Canadian Certificate of Identity

The Department of Foreign Affairs and International Trade may issue a Canadian Certificate of Identity to a permanent resident of Canada who has not acquired Canadian citizenship and who is unable to obtain other travel documents. Within the validity of the certificate, the officer must allow the holder to enter Canada.

11.12 Residency obligation for permanent residents

A28(1) states that a permanent resident must comply with a residency obligation with respect to every five-year period. A28(2) provides that they comply with this obligation if on each of a total of 730 days in that five year period, they are:

- Physically present in Canada;
- Outside Canada but accompanying a Canadian citizen spouse or common-law partner, or in the case of a child, their parent;
- Outside Canada employed on a full-time basis by a Canadian business or in the public service of Canada or of a province;
- Outside Canada accompanying a permanent resident spouse or common-law partner or, in the case of a child, their parent, who is employed on a full-time basis by a Canadian business or in the public service of Canada or a province; or
- Able to meet other conditions for compliance which are set out in the Regulations.

When an officer is assessing the residency obligation, the period considered is limited to the five years immediately preceding the examination. Where persons have been permanent residents for less than 5 years, they must be able to comply with their residency obligation in respect of the five-year period immediately after becoming a permanent resident.

For more information on loss of permanent resident status, see [ENF 23, Loss of status determinations]

11.13 Issuing removal orders against permanent residents

The decision that a permanent resident has lost their status may be made outside Canada by a visa officer or by an examining officer at a port of entry. At a port of entry, an officer would issue a 44(1) report for the allegation A41(b). If the Minister's delegate finds the report to be well-founded and no humanitarian grounds exist, the Minister's delegate shall issue a departure order pursuant to R228(2). The permanent resident has the right to appeal the decision made outside Canada or at the port of entry to the Immigration Appeal Division (IAD), pursuant to A63.

For more information, see the following chapters:

[ENF 2, Evaluating Inadmissibility]

[ENF 5, Report writing]

[ENF 23, Loss of status determinations]

[ENF 6, Administrative orders]

[ENF 19, Appeals]

11.14 Other inadmissibility allegations

If an officer believes a permanent resident is inadmissible for reasons other than failure to comply with the residency obligation, they are still required to allow the person to come into Canada. An officer should attempt to obtain sufficient information (including current address, phone number, and

employment location), to enable follow-up action from an inland office in the event an investigation ensues.

See manual chapter [ENF 2, Evaluating Inadmissibility] for more information on determining inadmissibility.

11.15 Arrest and detention of permanent residents

Arrest and detention under A55(1) should only be considered when the officer can clearly identify that a threat to the public exists or in cases where there is an active warrant. Where a warrant exists, the officer must verify the information with the Immigration Warrant Response Centre (IWRC) before executing the warrant and placing the person under arrest. For more information on arrest procedures, refer to [ENF 7]. For more information on detention, refer to [ENF 20].

11.16 Seizing permanent resident visas and permanent resident cards

Section 140(1) of the Act authorizes an officer to seize and hold a document if the officer believes on reasonable grounds that:

- it was fraudulently or improperly obtained or used;
- the seizure is necessary to prevent its fraudulent use or improper use; or
- the seizure is necessary to carry out the purposes of the Act.

An officer may seize and hold the Immigrant Visa and Record of Landing (IMM 1000) and the permanent resident card temporarily while determining through an examination whether the holder is in fact a permanent resident. If the officer authorizes entry to the permanent resident, the documents must be returned immediately.

If an officer prepares an A44(1) report against the permanent resident, the IMM 5292 and permanent resident card should be returned to the holder who will retain their permanent resident status until a final decision is made respecting their loss of status. Pending this decision, A31 requires that a permanent resident shall be provided with a status document. Section R53(1) provides that the status document is the permanent resident card.

An officer may seize these documents if they have reason to believe that they were fraudulently issued or obtained or to prevent their improper or fraudulent use. For example, if there is a final determination that the person has lost their permanent resident status, an officer may seize and retain the documents in order to prevent their improper use.

12 Examining immigrants at ports of entry

12.1 Permanent resident visas

Under the previous *Immigration Act* of 1976, a permanent resident applicant was issued an Immigrant Visa [IMM 1000] from a consulate or mission outside Canada, and would subsequently present it at a port of entry in order to be “landed” as a permanent resident.

Under the *Immigration and Refugee Protection Act (IRPA)*, permanent resident applicants are issued a Confirmation of Permanent Residence document which is to be presented at the port of entry for processing in order to become a permanent resident. Officers must be familiar with both documents as many valid IMM 1000s that were issued prior to the IRPA's coming into force remain in circulation. During the transition period, the IMM 1000 will be considered valid and will need to be processed at a port of entry.

The permanent resident visa (IMM 1000) and the confirmation of permanent residence are evidence that an officer was satisfied that, at the time of issuance, the foreign national named in the document was not inadmissible and met the selection criteria and requirements of the Act and Regulations.

Most applicants for permanent residence have applied for and obtained a permanent resident visa from a Canadian visa office outside Canada. They are required to present their document to an immigration officer on arrival in Canada.

All persons in possession of an immigrant visa seeking to establish permanent residence in Canada must be examined by an immigration officer.

12.2 Examination of foreign nationals with permanent resident visas

When an applicant in possession of a permanent resident visa applies for landing at a port of entry, the role of the immigration officer is to:

- Verify the person's identity;
- Confirm that information on the permanent resident visa is correct;
- Establish that the applicant complies with all requirements of the Act and Regulations and is not inadmissible;
- Confirm that the applicant's marital, common-law, or family status has not changed since the issuance of the permanent resident visa;
- Confirm that the applicant and their dependants (whether accompanying or not) still meet the requirements of the class of immigrants under which the permanent resident visa was issued;
- impose and explain any appropriate conditions;
- welcome the new permanent resident to Canada and provide information about programs and services available to assist in integration into Canadian society.

The Regulations require that a foreign national in possession of a permanent resident visa who is presenting themselves for landing, must inform an officer:

- if their marital status has changed since the visa was issued (R51(a)(i));

- of any other facts relevant to the issuance of the visa that have changed since the visa was issued, or that the foreign national failed to disclose at the time the permanent resident visa was issued.(R51(a)(ii)).

If an officer establishes that the foreign national is inadmissible and that a change in the relevant facts is evident, the officer may prepare a report under A44(1). For more information on report writing, refer to [ENF 5, Writing section 44(1) reports].

12.3 FOSS check

An officer should conduct a name query in FOSS (Field Operations Support System) for every foreign national in possession of a permanent resident visa who is seeking to establish permanent residence. A name query may reveal that the person has multiple FOSS client identification numbers, in which case, officer should consider merging them into a single client ID. FOSS ID numbers under which warrants were issued or Mississauga or Vegreville sponsorship files exist must be maintained as the primary ID number and should not be purged.

The officer should also ensure that there is no information recorded in FOSS that would alter the decision to grant permanent residence. For example, there may be an outstanding warrant for the applicant's arrest or the applicant may have been previously deported from Canada. An officer should review any adverse information carefully to determine whether the person satisfies all the requirements of the Act and regulations. In some cases it may be useful for the examining officer to contact the officer who issued the IMM 1000 to confirm whether this information would have altered the decision to issue a visa. In some cases, the officer may need to adjourn the examination pursuant to A23 in order to obtain more information before deciding whether to grant permanent resident status.

12.4 Documents required by foreign nationals seeking permanent resident status.

Subsection 50(1) of the regulations specify the type of passport, travel or identity document that an applicant must have in their possession to be given permanent resident status. This document is necessary to verify the identity of the person seeking permanent residence.

Subsection 50(2) of the regulations provide that protected persons who have been issued a permanent resident visa may become permanent residents when it is not possible for them to obtain a passport, identity or travel document.

12.5 Verifying information on the permanent resident visa

The officer should verify the information on the permanent resident visa by comparing it with the passport to confirm basic data, and then review the form with the person concerned to ensure that the information they initially provided has not changed. The officer then completes the fields in the permanent resident visa relevant to the granting of permanent resident status.

The examining officer should:

- examine the passport and any other identity documents provided
- use the applicant's passport and other identity documents to confirm that each name is correctly spelled and that the family and first names are clearly identified.
- verify the date of birth with the identity documents provided by the applicant. The day and month are sometimes transposed due to different international systems for displaying the date.

- correct any typographical errors by placing an asterisk beside the word and making the correction in the remarks section at the bottom of the [IMM 1000].
- check the information on sex and marital status, particularly when dealing with common-law relationships and accompanying dependants. If there has been a change in marital status it may be necessary to amend the permanent resident visa.
- in cases where there is a sponsor or accompanying dependants, confirm the familial relationship to the sponsor or head of family.
- confirm that the permanent resident visa is still valid and has not expired.
- confirm that the applicant has passed medicals and the validity has not expired.
- confirm that the applicant intends to establish permanent residence in Canada.
- ensure that a visa officer has signed the permanent resident visa.
- Confirm that the applicant, especially if in the independent category, has sufficient financial resources to support themselves and those dependant on them for care and support without the need for Adjustment Assistance Program (AAP), provincial social assistance benefits and that they do not come within the meaning of section A39. Persons who have been sponsored or persons who have been issued visas as government assisted refugees can generally be accepted as having adequate settlement arrangements that would not place them within the meaning of section A39 of the Act. Every principal applicant should have in hand, \$10,000 Canadian dollars plus \$2000 for each dependant. This includes cash, money orders and travellers cheques.
- verify the information contained on the permanent resident visa for all members of the family travelling together before authorizing permanent residence.

12.6 Confirmation of permanent residence document

Successful permanent resident applicants are issued the “Confirmation of Permanent Residence” document from a Canadian consulate or post outside Canada. This document, coupled with a facilitation counterfoil placed in the holder’s passport or travel document, replaces the Immigrant visa (IMM 1000) which was issued under the 1976 *Immigration Act*.

The Confirmation of Permanent Residence must be presented to an officer at a port of entry. The document contains a photograph of the holder as well as a box for the holder’s signature that must be completed upon entry to Canada.

The Confirmation of Permanent Residence by itself will not be sufficient in all cases to board a means of transportation to Canada. Persons holding passports or travel documents not included in the visa exempt countries listed in R190 will be issued a visa counterfoil bearing the coding “AL” “applicant for landing,” to facilitate boarding.

Once the Confirmation of Permanent Residence has been completed at the port of entry, the officer will counsel the permanent resident as to their rights and obligations under the Act and Regulations, as well as the procedures involved in applying for a permanent resident card.

For more information on the Confirmation of permanent residence document, refer to [ENF 27, Permanent resident card].

12.7 Supplementary Identification Form (IMM 5455)

The Supplementary Identification Form (IMM 5455) is issued with the IMM 1000 prior to the coming into force of the *Immigration and Refugee Protection Act*. Persons appearing at a port of entry with an IMM 1000 who do not have an accompanying IMM 5455 will be issued one by an officer. After the IRPA comes into force, the IMM 1000 and the IMM 5455 will be replaced by the Confirmation of Permanent Residence document.

12.8 Fields to be verified on the IMM 1000

In cases where a foreign national is seeking to enter Canada as a permanent resident and is in possession of a valid IMM 1000, the officer must verify the following items on the form. The fields in the IMM 1000 that must be completed by an officer are contained in the second table below.

| Immigrant visa and record of landing (IMM 1000) | | |
|---|---------------|---|
| Box # | Field | Explanation/Action |
| 1 | H./O USE ONLY | Microfiche number for archives |
| 2 | SURNAME | Verify that the spelling of the surname is the same as in the person's passport. The officer should also get the immigrant to confirm that all the bio-data on the IMM 1000 is correct. The name of the person concerned and other biographical detail on the visa should correspond to the details in the passport or travel document. |
| 3 | GIVEN NAMES | Verify the spelling of the given names. |
| 4 | NAME FLAG | This could contain the person's maiden name, an alias, or variations in the spelling of the person's name. If there is a name flag, the officer may want to run a FOSS check on the second name. Coding is as follows: 1 - Maiden name 2 - Son/daughter of 3 - Other surname, or different spelling 4 - Other given name, different spelling, or nickname 5 - Spouse's family name 6 - Intended spouse's family name |

ENF 4 Port of entry examinations version 1

| | | |
|----|---|---|
| 5 | DATE OF BIRTH | Verify the date of birth with the identity documents provided by the immigrant. The day and month are sometimes transposed due to different international systems for displaying the date. |
| 6 | PLACE OF BIRTH | |
| 7 | COUNTRY OF BIRTH | |
| 8 | SEX | |
| 9 | MARITAL STATUS | The officer should ask the client to confirm whether their marital status on the form is correct or whether there have been any changes since the visa was issued. A change in marital status may affect whether the person can be granted permanent resident status. |
| 10 | CITIZEN | |
| 11 | PASSPORT NO; VALID UNTIL | Confirm that the person's passport number is correctly entered in the IMM 1000 and that the passport is still valid. Often, immigrants will obtain a new passport after the issuance of the visa but before coming to Canada. The new passport and validity date should be entered by hand on the IMM 1000. A |
| 12 | IF APPLICABLE, COUNTRY OF ISSUE OF TRAVEL DOCUMENT | |
| 13 | FAMILY STATUS | |
| 14 | ACCOMPANYING FAMILY MEMBERS; NAME; DATE OF BIRTH; RELATIONSHIP; HAVE YOU ANY DEPENDANTS OTHER THAN THOSE LISTED ABOVE? | Ask the immigrant if they have any dependants other than those listed in this box. |
| 15 | FULL NAME, ADDRESS AND RELATIONSHIP OF PERSON WILLING TO ASSIST | |
| 16 | INTENDED OCCUPATION | This field should have been by the visa issuing office. |
| 17 | MOTHER TONGUE | This field should have been by the visa issuing office. |
| 18 | | |
| 19 | IMM.CAT. | Immigration Category |

ENF 4 Port of entry examinations version 1

| | | |
|----|-------------------------------|---|
| 20 | SPECIAL PROG. | |
| 21 | EDUC.QUAL. | |
| 22 | YEARS OF SCHOOLING | |
| 23 | EMPLOYMENT CODE | |
| 24 | OFFICIAL LANG. ABILITY | French or English |
| 25 | CLPR=COB | Country of last permanent residence/country of birth. |
| 26 | TRANS WARRANT NO | The number for CIC purchased flight tickets for an immigrant during outside of Canada processing. This is a tracking number as the fee may be repaid. |
| 27 | P.C. NUMBER | Post abroad - may use for early admission cases. CIC - Enter Privy Council (PC) number if Order-in-Council issued. |
| 28 | "S" CODE | Indicates medical surveillance. |
| 29 | MEDICAL FILE NO | The medical file number for tracking clients. (Usually in conjunction with the department of Health and Welfare) |
| 30 | TYPE OF CASE | 2 ordered landed 3 early admission 7 order in council 8 ministerial decision |
| 31 | MEDICAL VALIDITY | Immigrants are required to pass a medical examination before an IMM 1000 can be issued. Usually, the medical results are valid for one year. In most cases, the medical validity date should correspond with the visa validity date. If the medical validity date has expired, the immigrant cannot be allowed to enter Canada as a permanent resident. |
| 32 | DATE ISSUED | Date the IMM 1000 was issued by the visa office. |
| 33 | VISA VALIDITY | Confirm that the validity of the IMM 1000 has not expired. If the validity date is no longer valid, the immigrant cannot be allowed to enter Canada as a permanent resident. |
| 34 | OFFICE OF ISSUE; P.S. CODE | Name and code of the office that issued the visa. |

ENF 4 Port of entry examinations version 1

| | | |
|----|---------------------------|--|
| 35 | SIGNATURE OF VISA OFFICER | The visa officer must sign the IMM 1000 in order for it to be a valid visa. If there is no signature, the officer should contact the visa office to find out why. If the lack of a signature was due to an oversight, the visa office should be able to authorize an officer in Canada to sign the IMM 1000 on their behalf. It is not necessary to return the IMM 1000 to the visa office for a signature as the delay would greatly inconvenience the immigrant. |
| 36 | ORIGINAL ENTRY | |
| 37 | RECOMMENDED | Conditions recommended or imposed by a mission abroad |
| 38 | UTILITIES | |

12.9 Fields on the IMM 1000 to be completed by an officer

The officer must complete the following items on the IMM 1000.

| | | |
|----|---|--|
| 18 | HAVE YOU EVER BEEN CONVICTED OF A CRIME OR AN OFFENCE; REFUSED ADMISSION TO CANADA; REQUIRED TO LEAVE CANADA? YES OR NO INITIALS OF IMMIGRANT | <p>It is important to note that a person who signs the IMM 1000 is signing that all the information on it is correct. The office should remind the person of the importance that all the information on the IMM 1000 be correct.</p> <p>The officer should ask the immigrant these questions, write in “yes” or “no” according to the response, and have the person initial the answer. If the person states that they have been convicted, determine whether the conviction would make the person reportable under A36. If the person is reportable, an officer may write the report and deal with it before granting permanent residence status.</p> |
|----|---|--|

ENF 4 Port of entry examinations version 1

| | | |
|----|--|---|
| 39 | REMARKS | <p>The officer may enter remarks relevant to the granting of permanent residence. If corrections are being made on the IMM 1000, the officer should put an asterisk (*) beside the item being changed, and record the correction in the Remarks box. If more than one change, number each one. Any items changed must not have a bearing on the person's admissibility. Anything entered in the Remarks box should be entered in the remarks page when the document is status entered into FOSS.</p> <p>Officers should avoid adding remarks to the IMM 1000 which may create problems for the permanent resident on entering Canada in the future. If officers have concerns about the bona fides of a person who is landing, remarks can be made in FOSS for officers to refer to on subsequent entries. Where an officer is of the opinion that an applicant for permanent residence does not meet the requirements of the Act or Regulations or is otherwise inadmissible, the person should not be landed and a report under A44(1) should be written.</p> |
| 40 | I CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT | <p>The officer should ask the permanent resident applicant to sign here indicating that the responses given in box 18 are true.</p> |
| 41 | CARRIER/FLIGHT NO | <p>The officer should enter the appropriate type and name of transport:</p> <ul style="list-style-type: none"> • abbreviation of the airline and flight number • name of the ship and shipping company • bus/train company • "by land" if the person arrived in a private vehicle <p>If the person is a member of an in-Canada landing class, this box is left blank as there is no carrier.</p> |

ENF 4 Port of entry examinations version 1

| | | |
|----|----------------------------------|--|
| 42 | MONEY IN POSSESSION | <p>Enter the amount of funds in Canadian dollars that the person has in their possession. Enter "Nil" if the immigrant is not in possession of any funds at the time they are seeking to establish permanent residence.</p> <p>In some cases the officer should ask to see proof of the funds. For example, independent immigrants should have sufficient resources so that they will not require social assistance. If they have no funds, the officer should ask further questions to be satisfied that the immigrant is not inadmissible pursuant to A39 for financial reasons.</p> <p>Persons who have been sponsored or persons who have been issued visas as government-assisted refugees can generally be accepted as having adequate settlement arrangements that would not place them within the meaning of section A39.</p> <p>An officer may need to seek the advice of the visa officer if the applicant does not have sufficient means to be self-supporting or does not otherwise have adequate settlement arrangements by virtue of sponsorship. An officer may further the examination pursuant to A23 while seeking the advice of the visa officer and until such time as the applicant can establish that funds are forthcoming to provide for the settlement needs of the applicant and the applicant's dependants.</p> |
| 43 | CONDITIONS OF LANDING IMPOSED | List of conditions imposed at time of entry. |
| 44 | I UNDERSTAND THESE CONDITIONS | The applicant must sign this box acknowledging acceptance of the conditions. |
| 45 | LANDED ON | Enter the grant of permanent residence date and ensure that the date appears clearly on all copies of the IMM 1000. |
| 46 | AT P.S. CODE | Enter the name of immigration office and its four-digit responsibility code. Point of service code |
| 47 | SIGNATURE OF IMMIGRATION OFFICER | The officer must sign here once the information on the IMM 1000 has been verified and completed and the officer is satisfied that the person can enter Canada as a permanent resident. |

The codes used on the IMM 1000 are contained in the Immigration Coding Handbook (IH). See also the System User Guide for CAIPS. These documents are available on CIC Explore.

12.10 Discrepancies in the IMM 1000

Some biographical data may affect the granting of permanent residence of a person, such as age and marital status or additional dependent (e.g.) a new baby. In cases where a significant discrepancy is detected in biographical data, the officer may defer the granting of permanent

residence and contact the visa officer to determine if the discrepancy would have affected the decision to issue a visa. If the visa would have been issued, an officer should amend the IMM 1000. If the visa would have been refused, the officer should request the visa officer to supply a declaration to that effect and write an appropriate A44(1) report.

For cases where the officer determines that misrepresentation is involved refer to [ENF 2, Evaluating Inadmissibility] as well as [ENF 5, Writing section 44(1) reports].

12.11 Changes in marital and family status

Section 51 of the regulations requires an immigrant who has been issued a permanent resident visa as a single person to advise an officer if their marital status has changed since the visa was issued.

A report under A44(1) for A41(a) for R51 is not necessary, if the non-declaration of a marriage or common-law relationship to the visa officer does not affect the grant of permanent residence of the person in the following cases:

- Refugees and Protected Persons. An officer should grant permanent resident status to these classes of person and provide counselling regarding sponsorship of a spouse or common-law partner.
- A fiancé or fiancée who marries the sponsor after the visa is issued, but before the grant permanent residence. This change in circumstance is not material to admissibility.

The officer should assume the truthfulness of voluntary statements relating to marital status and proceed as though the immigrant were married, whether or not there is documentary proof of the marital status. The officer should usually further the examination pursuant to A23 in order consult the visa office and obtain more information and evidence about the person's marital status. In some cases, the officer may ask the visa officer to interview a non-accompanying spouse or common-law partner outside Canada to determine if they meet the requirements of the Act and Regulations and can be issued a permanent resident visa.

The procedure for authorizing permanent residence status to the immigrant and the spouse will vary from case to case, depending on the applicant's and the spouse's particular circumstances. The officer should provide a full case summary to accompany the file, so that the receiving inland CIC can follow up appropriately.

The officer should bear in mind that the immigrant's medical examination, security check and travel document may need to be updated while the spouse or common-law partner is being examined and before the grant of permanent residence can take place.

If, after the investigation, there is evidence to proceed with enforcement action, an officer may write the appropriate A44(1) report against the immigrant as well as an accompanying spouse or common-law partner.

12.12 Common-law partners

Section 1 of the Regulations provides that a common-law partner is a person who has been cohabiting with another person in a conjugal relationship for a period of at least one year.

An individual, who has been in a conjugal relationship with a person for at least one year but is unable to cohabit with the person, due to persecution or any form of penal control, may be considered a common-law partner of the person.

Tact and diplomacy should be adhered to when interviewing personal relationships as questions could be embarrassing for both officer and client.

All immigrants should be asked if their marital or common-law status has changed to include either a spouse or common-law partner.

12.13 Dependent sons and daughters with common-law partners

When verifying the marital status or common-law partnership status of dependent sons and daughters during an examination, the situation may arise whereby a son or daughter is unmarried, but may have a common-law partner. If so, similar to a married dependent son or daughter, the son or daughter may no longer be a dependent according to the established definition of "dependent son and daughter". Children in married and common-law relationships may still be dependent sons and daughters if they are full-time students and financially supported by their parents since age 19, or since they became common-law partners if this event occurred before age 19.

12.14 Procedure for dealing with dependents whose marital or family status has changed

An officer who determines that the marital status of a dependent has changed should:

- determine whether, despite the change in marital or common-law status, the person is still considered a dependant (i.e. are they a full-time student and supported by their parents since age 19 or earlier). If so, the officer should grant permanent resident status. If not and the consequence of a change in marital status or common-law partnership status can not be readily determined, the officer should further the examination under A23 with the condition that the immigrant present themselves at the appropriate inland CIC office.
- create an NCB on FOSS giving case details as well as the immigrant's complete address and telephone number.
- send an email to the inland CIC office and the mission outside of Canada that issued the immigrant visa explaining the case details, including the visa office B file number, FOSS identification number and NCB information.

12.15 Imposing conditions on permanent resident applicants

The purpose of imposing conditions on an immigrant at the time of granting permanent residence is to ensure that the permanent resident applicant complies with entry requirements.

Under the *Immigration and Refugee Protection Act*, certain conditions may be imposed by a visa officer or an examination officer while other conditions are automatically imposed by the legislation on certain classes of immigrants (for example, on entrepreneurs and their dependants). Visa officers may also impose medical conditions abroad.

The examination officer will in some cases impose conditions on an immigrant at the time of granting permanent residence and in other cases will need to explain conditions that have been imposed by the visa officer or that are automatically imposed by the regulations on a class of immigrants.

12.16 Conditions that may be imposed at a port of entry

When imposing conditions of entry or explaining conditions of entry, it is important to use the precise wording of the Regulations. Given the limited space on the permanent resident visa, the officer

should provide the full wording of the conditions to be imposed on entrepreneurs on the Acknowledgement of Conditions form. This form is available in CIC Explore. When completed and signed, this form becomes part of the applicant's landing documentation. An officer who authorizes entry to a new permanent resident upon which conditions have been imposed should refer send full details of the case to the appropriate inland CIC for follow-up.

An officer may impose a condition requiring an applicant for permanent residence

- to report for medical examination, surveillance or treatment pursuant to R32(a);
- to report for medical examination, surveillance or treatment pursuant to R32(a) at specified times and places and provide proof of compliance.

When imposing these conditions, an officer must complete a Medical Surveillance Undertaking (form [IMM 0535]). If these conditions were recommended by the visa office, the applicant will usually have the IMM0535 form with them. The officer must:

- confirm the destination address in item 6, ensuring that it is complete.
- complete item 10 on all copies.
- stamp, date and sign all copies in [sections 11 and 12].
- return copy 1 to the person concerned.
- mail copies 2 and 3 to the Medical Services address shown at the bottom of copies 2 and 3. If no address is available, counsel the applicant concerning the conditions imposed and the need to contact the CIC closest to the destination, with an address, as soon as one has been established. Mail copies 3 and 4 to the appropriate inland office, which will forward copy 3 to Medical Services once an address has been established.
- when appropriate, provide the applicant with the address of the closest inland office.

Mandatory conditions for fiancés, common-law opposite-sex and same-sex relationships

See [IP 8] regarding procedures relating to mandatory conditions to be imposed on fiancés and common-law partners.

Mandatory conditions imposed on entrepreneurs

Section 98 of the Regulations imposes mandatory conditions on all entrepreneurs and their dependents. These conditions are automatically imposed and do not need to be imposed by an officer. Nevertheless, the officer should explain these conditions to the applicant at the time of granting of permanent residence.

12.17 Dependants arriving before the principal applicant

Occasionally an officer will encounter a dependant who arrives before the principal applicant and is seeking permanent residence. Section 51(b) of the Regulations requires a permanent resident visa holder to establish that they and their dependants meet the requirements of the Act and regulations. For a dependant to meet these requirements, it is usually incumbent on the principal applicant's being admissible at the port of entry. This also holds true for the principal applicant arriving before their dependants.

An officer encountering this situation should obtain the following information from the dependant or principal applicant:

- why the dependant or principal applicant is preceding the rest of the family (for example, to seek accommodation or employment, lack of a seat on the aircraft carrying the principal applicant, etc);
- when the rest of the family is due to arrive; and
- the person's means of support.

An officer should complete the verification process but should not grant permanent residence status to the dependant. If the person has a valid immigrant visa and the officer is satisfied that the rest of the family intends to come to Canada, the officer may wish to further the examination pursuant to A23 in order to obtain more information or wait until the rest of the family arrives and may be examined.

An officer should send full details of the case to the appropriate inland CIC, and to the port of entry at which officer expects the rest of the family to arrive. The officer should enter the information into FOSS by means of an NCB watch for which indicates that the grant of permanent residence has been deferred pending the arrival of the rest of the family.

If an officer has reasonable grounds to believe that the rest of the family will not be coming to Canada, an officer should initiate enforcement action unless the person qualifies in their own right for grant permanent residence status.

12.18 Arrival of the principal applicant prior to dependants

A principal applicant may have decided to proceed to Canada in order to commence employment or to confirm that adequate settlement arrangements such as accommodation and educational facilities are available prior to the arrival of their dependants. An officer must confirm that the dependants meet the requirements of the Act or the regulations before granting permanent residence status to the principal applicant. In most instances an officer can assume that persons listed on the principal applicant's permanent resident visa meet the requirements of the Act and regulations and can grant permanent residence status to the principal applicant. If an officer has reason to believe the dependants may not have been examined, the officer may further the examination pursuant to A23 pending confirmation from the visa office that they have been examined.

12.19 Expired immigrant visas

A person who presents an expired immigrant visa (IMM 1000) cannot be authorized to enter Canada as a permanent resident. The person may be reportable under A41 by R50(1) for non-compliance with the regulation in that a foreign national may not enter Canada to remain on a permanent basis without first obtaining a permanent resident visa.

If the examination of a holder of a permanent resident visa is furthered pursuant to A23, the person may be granted permanent residence at a later date provided that they initially appeared for examination and presented their permanent resident visa within its period of validity.

12.20 Counselling new immigrants

The examining officer should counsel each immigrant on the following matters:

- the conditions of permanent residence status that have been imposed, how to comply with the conditions and how to apply for their removal;

- the residency obligation;
- the procedure for obtaining a permanent resident (Maple Leaf) card;
- the procedure for obtaining a Social Insurance Number (address of the nearest Canada Employment Centre);
- the procedure for applying for provincial health coverage;
- settlement assistance, where applicable. If it is apparent that the Canada Employment Centre is unaware of the arrival of an immigrant who is a Convention refugee or person in similar circumstances (CR1, CR5, DC1, DC5) who may need assistance, the officer should notify the CEC closest to the destination of the person concerned. For information on CR and DC coding, see the [IH manual].

The officer should give the person a "*Welcome to Canada*" package, if available.

12.21 Referral of new immigrants to Customs

After the immigrant has been allowed to enter Canada as a permanent resident, the new permanent resident should be referred to Custom's secondary. Customs inspectors will counsel the new immigrant about Custom's requirements such as goods to follow.

13 Examination of foreign nationals

Foreign nationals are authorized to enter Canada as temporary residents by privilege. Section A22 provides that a foreign national becomes a temporary resident only if an officer is satisfied that they have applied for that status, have met the obligations set out in A20(1)(b) and are not inadmissible. Temporary residents include visitors, students, workers and permit holders.

13.1 Visa requirements for temporary residents

A visa is a document issued or a stamped impression made on a document by a visa officer. All persons who are approved for temporary residence to Canada will be issued a Canadian Temporary resident visa counterfoil ([IMM 1346]) in accordance with the procedures outlined in chapter IC 3.

A temporary resident visa indicates that the foreign national has been pre-screened by a visa officer and that the visa officer is satisfied that the visa holder meets the requirements for entry to Canada.

Section A11(1) requires foreign nationals to apply for a visa before entering Canada. Section 5 of the Regulations also provides that a foreign national may not enter Canada to remain on a temporary basis without first obtaining a temporary resident visa.

13.2 Exemptions from visa requirement

Section R7(2) exempts certain foreign nationals from the requirement to obtain a visa. These include:

- Foreign nationals exempt under section R190;
- Foreign nationals who hold a temporary resident permit; or
- Foreign nationals who are authorized to re-enter Canada to remain in Canada by the Act or Regulations

See Section 190 of the Regulations for a complete list of Canada's visa exemptions for foreign nationals. This includes:

- The list of visa exempt countries in R190(1);
- Other document holders in R190(2) who are exempt from the visa requirement;
- Special categories of persons in R190(3) who are visa exempt including:
 - crew members;
 - foreign nationals in transit for refuelling;
 - provisions for transit without visa;
 - members of armed forces coming to carry out duties under of the *Visiting Forces Act*;
 - U.S. immigrant visa seekers;
 - Persons seeking re-entry to Canada after visiting only the U.S.;
 - Persons conducting inspections on flight operation procedures or cabin safety on commercial air carriers.

13.3 Re-entry to Canada on original visa

Foreign nationals who are not visa exempt and who seek to re-enter Canada must be in possession of a multiple entry temporary resident visa unless:

- since leaving Canada after being authorized to enter as a temporary resident, they have only visited the U.S. or St. Pierre and Miquelon, and are returning within the initial period authorized by an officer, R190(3)(f), or
- they are in possession of a visitor record, work permit, study permit or temporary resident permit authorizing re-entry to Canada.

13.4 Examples of visa requirements

- A foreign national in possession of a temporary resident visa valid for one year, who is subsequently issued a four-year student permit at a port of entry, may leave and return to Canada after the expiry of the visa as long as the student permit is valid for re-entry.
- A foreign national in possession of a one-entry temporary resident visa may travel in and out of Canada without the issuance of a new or multiple entry visa as long as they have been issued a document by an officer that authorizes their re-entry.

13.5 Diplomatic visa exemptions

Subsection 190(2)(a) of the regulations exempts holders of a passport that contains a “diplomatic acceptance”, “consular acceptance”, or “official acceptance” issued by the Chief of Protocol for the Department of Foreign Affairs and International Trade. They must be properly accredited diplomatic or consular agent representatives or officials of a foreign country, an agency of the United Nations or an international organization in which Canada participates from the requirement to obtain a temporary resident visa.

On the first arrival in Canada of a foreign representative or dependant whose passport bears a foreign representative acceptance counterfoil, the examining officer (normally the officer on the primary inspection line) should stamp the passport giving them six months status in Canada. During the six-month period, the persons' embassy or consulate will forward their passport to the Diplomatic Corps Service, Office of Protocol, Department of Foreign Affairs. The Office of Protocol will issue a diplomatic (D), consular (C), official (J) or international (I) acceptance, which indicates that the person is accredited to Canada and entitled to remain in Canada for the duration of their official status.

Dependent children of diplomats, consular officers, representatives or officials who are under 19 years of age and considered to be "members of the family forming part of the household" will be issued acceptances. Children over 19 years of age will be issued acceptances only if they are registered as full-time students. After 25 years of age dependants are no longer eligible to receive official acceptances, and must change their official status to a temporary resident status.

If an officer has concerns regarding persons accredited to or employed by foreign missions, they should forward any concerns through Regional management to:

Director, Case Analysis and Co-ordination, Case Management Branch, Inland Services, National Headquarters.

The director will consult the Office of Protocol, Department of Foreign Affairs. For urgent cases, an officer may contact the immigration advisor at the Office of Protocol (tel. 613-995-5957).

13.6 Affirmations for visas

An Affirmation for Visa (form [IMM 1281]) is issued to holders of diplomatic or special passports of special-category countries. When a person presents an [IMM 1281], an officer must apply the port stamp in the lower left corner of the visa (partly on the visa, partly on the page).

When the diplomatic or consular official leaves Canada, they are required to surrender copy 1 of the [IMM1281] at the port of departure. The receiving officer should compare it with copy 3 (or copy 2 where applicable), endorse it where indicated, and immediately send it to the issuing visa post.

Ports of entry and ports of departure may destroy their copies following their respective actions.

13.7 U.S. government officials

The following official U.S. government personnel assigned to temporary postings in Canada are not issued diplomatic or official acceptances in Canada:

- United States Immigration and Naturalization Service officers;
- U.S. Customs officers;
- International Joint Commission employees;
- U.S. Federal Grain Service inspectors of the U.S. Department of Agriculture; and
- other U.S. government officials in possession of official U.S. government passports and assigned to temporary postings in Canada.

U.S. government personnel arriving in Canada for the first time will, on presentation of a "letter of introduction" from the appropriate agency, identifying the assignment, its location and the number of years the employee will be assigned in Canada, be issued a work permit (fee exempt). For more information on the documentation of U.S. government employees, refer to the chapter dealing with Temporary foreign workers applications at ports of entry in the [FW] manual.

13.8 Courtesy visas

Visa officers may issue courtesy visas to persons who, although not entitled to diplomatic privileges and immunities, are by reason of their position or reason for coming to Canada considered of sufficient importance to warrant a visa to facilitate their entry.

Courtesy visas may be issued to:

- persons of diplomatic rank coming to Canada for tourism purposes;
- members of a trade mission visiting Canada; and
- well-known visiting professors coming to Canada to attend conferences.

Courtesy visas may be issued in any type of passport to foreign nationals who require visas or who are normally visa-exempt. The visa should draw an officer's attention to the fact that the individual is considered by the post abroad to warrant particularly expeditious and courteous treatment at the port of entry. Such foreign nationals are subject to normal documentation requirements and are not exempted from regular examination procedures.

13.9 Collective certificates

A Collective Certificate (IMM 1393) may be issued by a visa officer in two instances:

- to groups visiting in the United States who wish to make a brief tour of Canada and whose members require temporary resident visas, and
- to groups flying in transit to destinations other than Canada, when the aircraft is scheduled to refuel in Canada and the passengers require temporary resident visas.

A visa officer has discretion in issuing collective certificates. If there are concerns about enforcement, the visa officer should issue individual visas to members of the group who meet all immigration requirements. The organizers of these groups (such as the tour leader or airline operator) are usually well known to the visa office, are reputable, and have been properly screened. Group visas are not issued to groups of less than five members.

Foreign nationals in a group wishing to travel on a collective certificate must arrive at the port of entry together so that an officer can establish that they are included on the collective certificate. They must remain together until all immigration and customs formalities are completed. To ensure that members of the group understand this requirement, the visa officer will insert in each passport a form letter. Group members are expected to leave Canada together.

More information on Collective Certificates is available in manual [OP 11].

A foreign national authorized to enter Canada on the basis of a group visa becomes a temporary resident and is required to leave Canada within the authorized period of stay. The person may apply for an extension of that period in the normal manner and is subject to the normal cost-recovery fee for a temporary resident visa extension (see manual chapter [IR 5]).

13.10 Examination of temporary resident visas

A Canadian Temporary Resident visa contains the following fields.

| Information | Explanation |
|----------------|--|
| Issued at | The name of the visa office that issued the visa |
| Date of issue | The date on which the visa was issued |
| Expiry date | The date after which the visa cannot be presented to gain entry at the port of entry |
| No. Of entries | The number of times the visa can be presented to gain entry at a port of entry |
| Document no. | The immigration document that has been authorized for the person; FOSS may contain the actual document, which an officer can generate on the full-document entry printer |
| Category | The type of visa that has been issued: for example, student, foreign worker or immigrant |

| | |
|-------------|--|
| Surname | The family name of the person to whom the visa has been issued |
| Given name | The first name or names of the person to whom the visa has been issued |
| Passport no | The number of the passport for which the visa was issued |
| Person(s): | The number of people for whom the visa has been authorized. |

For information on security features of visas, see the Immigration Classified (IC) manual.

13.11 Expired temporary resident visas

A person seeking to enter Canada with an expired temporary resident visa is not admissible and may be reported pursuant to section A41(a) for A20(1)(b).

13.12 Notification to visa office if a visa holder is refused entry

An officer who refuses entry to the holder of a temporary resident visa should send full details of the refusal by email to the issuing visa post. This allows the visa office to review the decision to issue the visa and to deal with future representations that the person may make to the post.

The officer must begin the message with the phrase: "As requested: ENF 4", and include the following information in this order:

- (a) the name and nationality of the subject of the A44(1) report; or a person allowed to withdraw their application;
- (b) the person's date and place of birth;
- (c) the visa number, date and office of issue;
- (d) the date and port of entry where the person sought to enter Canada;
- (e) the reason for refusal, using the code letter for the reason for refusal:
 - A: seeking permanent residence;
 - B: claims Convention refugee status;
 - C: intends to seek or take employment;
 - D: intends to follow a course of study;
 - E: has insufficient funds to maintain himself or herself and dependants;
 - F: medical inadmissibility;
 - G: criminal inadmissibility;
 - H: expired temporary resident's visa, and
 - I: other.
- (f) the name and file number of the CIC responsible for follow-up enforcement action, if the CIC differs from the port of entry; and
- (g) the visa post file number (some posts include the number on the visa).

An officer should not provide any other details in the email report. This procedure allows an officer to transmit the report as an unclassified message.

If the reason for refusal was code I (other), the CIC must send a report by mail to the issuing visa post giving further details of the reason for the refusal. In the case of a statesmen or special category foreign national, the report should be mailed under secret cover.

This reporting system gives posts abroad immediate feedback on their decisions for issuing temporary resident visas and assists in monitoring the effectiveness of the temporary resident visa program.

For citizens of "Special Category" countries, an officer may also need to send another email report. Refer to Immigration Classified manual IC 1, section 54 for full instructions.

13.13 Document requirements for foreign nationals

Section 52(1) of the Regulations provides that foreign nationals seeking temporary entry to Canada must possess a valid passport, identity or travel document. The purpose of this requirement is to ensure adequate identification of the foreign national and to guarantee that person's re-entry either to the country that issued the passport, identity or travel document or to another country.

R 52(1) provides a list of acceptable passports or travel documents for foreign nationals seeking to enter Canada as temporary residents.

Visa officers should ensure that a travel document is acceptable for travel to Canada before issuing a visa. A port of entry officer can normally assume that a document containing an authentic visa is acceptable for travel to Canada, unless there is some reason to question its acceptability.

Exceptions to requirement to have a passport or travel document

R 52(2) provides a list of persons who are exempt from the requirement to have a passport or travel document to enter Canada as temporary residents.

U.S. citizens do not require a passport or travel document to visit Canada.

Persons who have been lawfully admitted to the United States for permanent residence are exempt from passport requirements when seeking to enter Canada from the United States or St. Pierre or Miquelon. It should be noted that U.S. Alien Resident Cards (ARC) are only acceptable upon presentation on contiguous territory and not valid for flights from outside of Canada unless accompanied by a valid and subsisting passport or travel document.

13.14 Examining passports

The purpose of examining a passport is to verify information that has been provided by the holder or that appears on any immigration document issued to the person. An officer should examine each passport to confirm:

- the name of the holder;
- the date of birth of the holder;
- other data such as the person's physical description, place of birth, marital status and profession;
- the country of citizenship;
- the photograph of the holder;

- the date of expiry;
- visa pages (to determine previous trips to Canada or other recent trips that may be relevant to the overall examination of the person).

If a more in-depth examination of the passport is required, see the Immigration Classified (IC) manual for information on reviewing fraudulent or altered passports. This manual is classified and therefore not available electronically.

13.15 Evidence of U.S. citizenship

The following documents may be satisfactory evidence of U.S. citizenship:

- The U.S. passport and Certificates of Citizenship and Naturalization are considered prima facie evidence and are acceptable proof of U.S. citizenship.
- A U.S. birth certificate or the U.S. Voter's Registration card, when accompanied by another document bearing a picture of the holder, are considered indicators and may be an acceptable proof of U.S. citizenship.

A U.S. military identification card, although a good supporting document, is not prima facie evidence of U.S. citizenship. The U.S. military accepts recruits who are not citizens.

Sometimes a verbal declaration may be sufficient to satisfy an officer that a person is an U.S. citizen. For example, driver's licenses, health cards, school records, credit cards are not prima facie evidence of citizenship, but are often used along with a verbal declaration to satisfy an officer of U.S. citizenship. In other circumstances, an officer may require better documentary evidence for persons claiming to be U.S. citizens.

To assist the travel industry, airlines and travel agents have been supplied with the following information:

- a U.S. passport is the best identification for U.S. citizens travelling to Canada
- U.S. citizens may travel to Canada without passports if they have other means of establishing their citizenship, such as a U.S. birth certificate or naturalization papers

U.S. citizens travelling directly to Canada from the United States may be able to satisfy claims to U.S. citizenship by presenting identification documents such as a U.S. Voter's Registration Card, medical card, credit card or educational records, and one other identification card containing the holder's photograph, such as a driver's licence.

13.16 Conditions imposed on temporary residents

Subsection 183 (1) of the regulations provides for the following general conditions that are automatically imposed on all temporary residents:

- to leave Canada before the expiry of their authorized period of stay;
- to not engage in work, unless they have been issued a work permit or are exempt from the requirement to obtain a work permit under R186 and R187; and
- to not engage in study, unless they have been issued a study permit or are exempt from the requirement to obtain a study permit under R188 and R189. An officer does not need to document these conditions on every person authorized to enter Canada as a temporary resident as they are automatically imposed. If the officer believes however that a document is necessary as a control measure or as an aid in counselling the person as to the conditions of their entry,

they may generate a Visitor's Record (IMM1097) and attach it to their passport or travel document.

13.17 Duration of temporary resident status

Subsection 183(2) of the regulations provides that the period authorized for the stay of a temporary resident is six months or any other period that an officer imposes based on the following criteria:

- the temporary resident's means of support in Canada;
- the period for which the temporary resident applies to stay; and
- the expiry of the temporary resident's passport or other travel document.

Six months entry

In most cases, an officer should routinely authorize entry for a period of six months to a foreign national requesting entry as a temporary resident, even in a case where the person requests entry for a very brief period. Six months is adequate for most purposes of travel and precludes the need for the person to request an extension. The officer should stamp the foreign national's passport or travel document, inscribe a date of expiry based on a calculation of six months from the date of entry and initial the notation. The officer should counsel the foreign national on the need to comply with general obligations for the visit and of any extension should one become necessary. For the procedures for stamping a passport, see the Immigration Classified manual (IC3).

The lack of a return ticket valid for the foreign national's stated length of stay is not in itself sufficient reason for an officer not to authorize six months' entry. Most passengers can either extend the validity of their tickets or have access to funds with which they can update the validity of their fares.

In cases of persons entering Canada on work or study permits, the officer should authorize entry to the person and to their dependants for a period of time equal to the time authorized by the study or work permit. More information on study and work permits is available in PE7 & PE8.

More or less than six months entry

An officer may limit a temporary resident's stay to less than six months if the foreign national does not have the financial means to remain in Canada for six months.

An officer may impose a period of time for a temporary resident's stay based on the period of time the foreign national asks for. If the foreign national asks for longer than 6 months, the officer should be satisfied that the person has the financial means of support for the period of time.

In no case should an officer impose a period of time for a temporary resident's stay greater than the validity of the foreign national's passport or travel document. This will not be applicable to U.S. citizens and other foreign nationals exempted under R48(2) from the requirement to be in possession of a passport or travel document.

13.18 When to document a foreign national on a Visitor's Record(IMM1097).

An officer who limits a temporary resident's stay to a period of less than six months has in essence decided that there is a need to exercise an element of control over the foreign national's length of stay. Therefore, a Visitor's Record ([IMM 1097]) must be issued. The officer should record in the remarks section the reasons why less than six months is being imposed. The only exception to this

circumstance is a person in possession of a temporary resident visa that indicates a stay of less than six months, in which case an officer could stamp and annotate the passport accordingly.

Similarly, an officer must issue a Visitor's Record ([IMM 1097]) when authorizing a period of stay greater than 6 months and indicate in the remarks section why the greater period of time is being imposed. One form is normally sufficient for a family travelling together.

An officer should document a foreign national on a Visitor's Record ([IMM1097]) if, in the officers opinion, a foreign national should be documented for control purposes regardless of the length of stay. This could include:

- a seaman who is signing off or entering to join a crew;
- a foreign national entering for medical treatment;
- a person extradited to Canada who is being allowed forward as a temporary resident;
- persons who are in transit;
- any temporary resident on whom other conditions in R185 are being imposed.

Creating a document with an electronic record in FOSS will assist in the event a person applies for an extension or enforcement action is required.

13.19 Imposing, varying or cancelling conditions on temporary residents

Section 185 of the Regulations authorizes an officer to impose, vary or cancel the following conditions individually on a temporary resident:

- the date of expiry of their authorized period of stay;
- the work that they are permitted to engage in or prohibited from engaging in, including:
 - the type of work;
 - the employer;
 - the place of work;
 - the times and periods of work;
- in the case of a member of a crew of a means of transportation, the period within which they shall join the means of transportation;
- the studies that they are permitted to engage in or prohibited from engaging in including:
 - the type of studies or course;
 - the institution of the studies;
 - the place of the studies; and
 - the times and periods of the studies;
- the area within which they are permitted or prohibited to travel in Canada; and
- the times and places at which they shall report:
 - for medical examination, surveillance or treatment; or
 - presentation of evidence of compliance with applicable conditions.

When conditions of entry are imposed, it is not necessary to state on the Visitor's Record the conditions precisely as they are worded in the Regulations. An attempt to reflect the substance and

spirit of the conditions in the Regulations and, whenever possible, the wording of R183 and R185 should be used. When an officer completes a Visitor's Record on FOSS (IMM 1442), they may select the appropriate conditions from the list that appears automatically on the screen.

An officer should not impose conditions in lieu of a negative decision by an officer or a member of the Immigration Division, nor should an officer use them as a means of discouraging a foreign national from coming into Canada. The reasons for imposing conditions on a temporary resident are to ensure that the person complies with the period and purpose for which they sought entry and to make the temporary resident aware of the need for formal authorization before extending that period or varying the purposes of the visit.

Situations where specific conditions may be considered:

- for a foreign national seeking entry to join a crew of a vehicle already in Canada, an officer should impose a condition that would require them to join the vehicle within a specified period of time, R184. This is a control measure, and the time an officer allot should be a reasonable period within which the person can join the vehicle;
- an officer might impose a condition to limit the area within which a temporary resident may travel in Canada R 185(d). This condition will impose a restriction on the person's movements. For example, an officer might want to use the condition to limit the travel of a person in transit through Canada to another country (perhaps limiting the person to the airport and surrounding area), or the travel of a person coming to Canada to stand trial or to be a witness in legal proceedings;
- an officer should impose a condition on a temporary resident who otherwise complies with the Act and Regulations, but who has a dormant health condition that could be a danger to public health if it became active. The condition should name the time and place where the temporary resident must report for medical observation and treatment while in Canada, R185(e).
- if an officer imposes conditions on a temporary resident concerning attendance at a school, working, or medical observations, an officer should also impose a condition requiring the person to furnish evidence of compliance with the conditions imposed, as a control measure, R185(e)(ii)

13.20 Performance or cash bonds

Under section R45, an officer can require a person, or group of persons seeking to enter Canada, to arrange for a performance bond or to deposit a sum of money with the Minister in order to guarantee compliance with the conditions imposed on the person or group.

The imposition of a bond is a control measure in cases where an officer believes that a temporary resident or group of temporary residents may not comply with one or more conditions being imposed. A bond should specify an amount adequate to guarantee compliance and therefore alleviate doubt regarding a temporary resident's intentions in Canada.

- the financial resources of the person or group;
- the obligations that result from the conditions imposed;
- the costs that would likely be incurred to locate and arrest the person or group, to detain them, to hold an admissibility hearing and to remove them from Canada; and
- in the case of a performance bond, the costs that would likely be incurred to enforce it.

13.21 Situations that may warrant the imposition of a bond

A bond may be warranted under R45:

- if a foreign national indicates an intention of visiting Canada for a short period yet an officer is concerned that they actually intend to remain permanently.
- if a foreign national presents themselves as a tourist and an officer believes that their true intention is to work or study in Canada. An officer could impose appropriate conditions set out in R183(1) and require the posting of a bond.
- If an officer informs a foreign national who was originally seeking entry to work or study that such conduct is not allowed and the foreign national agrees to come in as a tourist.

The decision to report the individual under A41(a) for A20(1)(b) (as a person who is unable to satisfy an officer that they will leave Canada by the end of the period authorized for their stay) would depend on the degree of doubt in an officers mind and the evidence to support a report. For more information on writing A44(1) reports, refer to [ENF 5, Writing A44(1) reports]. For more information on determining inadmissibility, refer to [ENF 2, Evaluating inadmissibility].

Consideration should also be given to the parameters of A22(2) dealing with “dual intent”, where the intention of a foreign national to become a permanent resident does not necessarily preclude them from becoming a temporary resident.

Simply because a person is not entirely sure how long they wishes to remain in Canada does not necessarily signify that the person cannot be authorized to enter Canada as a temporary resident.

Similarly, an indication that a person might want to extend their stay for as long as permitted does not render the person inadmissible, unless the officer has evidence that foreign national intends to remain permanently and will not leave at the end of the authorized period. Most foreign nationals comply with the requirements of the Act and Regulations.

An officer cannot use security deposits and performance bonds to cure an obvious inadmissibility to Canada. If an officer determines that an inadmissibility exists, they should write an A44(1) report.

13.22 Situations where a bond is not appropriate

A bond is not appropriate:

- in situations involving serious grounds of inadmissibility including:
 - A34: security;
 - A35: violation of human or international rights;
 - A36(1): serious criminality;
 - A36(2)(d): offences committed on entering Canada;
 - A37: organized crime; and
 - A38(1)(a)(b): health grounds where the publics health or safety is likely to be in danger.
- Where the person posting the performance bond does not have the ability to pay should the traveller not comply with conditions imposed;
- Where No reasonable sum of money would compel a person to comply with conditions imposed.

13.23 Acceptable bondspersons

Pursuant to R 47(1), a person who posts a performance bond and a person or group of persons who deposit a sum of money:

- must not be a signatory or co-signatory for other outstanding bonds that are in default; and
- must be able to ensure that the person or group of persons required to arrange for the posting of the bond or to deposit or arrange for the deposit of the sum of money will comply with the conditions imposed.

R47(2) states that a person who posts a performance bond must:

- be a Canadian citizen, or a permanent resident, physically present in Canada;
- have the capacity to contract in the province where the bond is posted; and
- present to an officer evidence of their ability to fulfil the obligation arising from the bond.

13.24 Bonds on inadmissible persons

A44(3) provides officers with the authority to require a performance bond or the deposit of a sum of money in cases where they do not authorize entry to a foreign national and subsequently prepare an A44(1) report. An officer may decide that a bond is necessary in order to maintain control of the person pending:

- a determination by the Minister on the validity of the A44(1) report;
- the scheduling of an admissibility hearing; or
- removal from Canada.

For more information on bonds, refer to [ENF 8, Bonds].

13.25 Issuing visitor records

Visitor records can be generated by FOSS and printed on the full-document entry printer ([IMM 1442]). If the FOSS system is not operational, an officer can complete the Visitor's Record manually and enter the information in FOSS as soon as the system is available. For detailed information on completing and coding the [IMM 1097] manually, see the [ID] and [IH] manuals.

There are no cost-recovery fees for documenting temporary residents unless a permit is granted under A24 or A25.

13.26 Counselling temporary residents

An officer should attempt to answer any questions a temporary resident has concerning their status. When an officer counsels a temporary resident, they may wish to cover the following points:

- the expiry date of the visit;
- any conditions imposed;
- procedures for applying for an extension;
- cost-recovery requirements should the person seek an extension inland;

- information about cancellation of conditions imposed and a refund if the person has been placed on a bond (see chapter [ENF 8]).

13.27 Examining minor children, foreign students and workers & members of crew

The following chapters provide more detailed procedures for the examination of specific classes of persons seeking to enter Canada:

[ENF 21, Recovering Missing and Abducted Children]. (Information, policies and procedures relating to examining children seeking to enter Canada)

[OP 12, Examining Students]

[FW, Examining Foreign Workers]

[ENF 17, Maritime Procedures]. Information on the examination of persons seeking entry as crew members or to become a member of a crew.

13.28 Dual intent

Section 22(2) of the Act states that an intention by a foreign national to become a permanent resident does not preclude them from becoming a temporary resident if the officer is satisfied that they will leave Canada by the end of the period authorized for their stay. A person's desire to await the outcome of an application for permanent residence from within Canada may be legitimate and should not automatically result in the decision to refuse entry. An officer should distinguish between such a person and an applicant who has no intention of leaving Canada if the application is refused.

In rendering a decision, an officer should consider:

- The length of time necessary required to process the application for permanent resident status;
- The means of support;
- Obligations/ties in home country;
- The likelihood of leaving Canada if the application is refused; and
- Compliance with requirements of the Act and Regulations while in Canada.

In some cases an officer may wish to issue a Visitor's Record (IMM1097) documenting the details of the trip for control purposes and provide thorough counseling regarding the conditions of entry. In cases where the applicant has already received a favourable recommendation for permanent resident status, the duration of time authorized at the port of entry should match the time required to complete the processing of the application.

13.29 Temporary resident permits

An examining officer has discretion pursuant to A24(1) to issue a temporary resident permit to an inadmissible person seeking entry to Canada if satisfied that entry is justified in the circumstances.

A temporary resident permit may also be issued to a foreign national outside of Canada to overcome a ground of inadmissibility. The foreign national does not become a temporary resident until they have been examined upon arrival in Canada A24(2). The examining officer must be satisfied that they meet all other admissibility requirements before authorizing them to enter as a temporary resident.

Pursuant to section R104, a temporary resident permit is valid until any one of the following events occurs:

- the permit is cancelled by an officer under subsection 24(1) of the Act;
- the permit holder leaves Canada without obtaining prior authorization to re-enter Canada; or
- a period of three years elapses from its date of validity.

For more information on temporary resident permits [IP 12, Temporary Resident Permits].

14 Persons allowed into Canada by law

14.1 Persons under removal order who are refused entry to another country

Persons who leave Canada but are not granted legal permission to be in any other country and subsequently are returned to Canada by force of circumstances shall be allowed to enter Canada pursuant to R39.

These persons are subject to examination upon their return to Canada and, if found to be inadmissible, are subject to removal. The examining officer should ensure that the person is in possession of documentation confirming that they have been refused entry to the country to which they were seeking entry. If there has been a lengthy delay between the person's departure and return, the officer should investigate to ensure that the person has not been authorized to legally enter another country. It is reasonable to expect that the person should be returning to Canada on the next available flight from the country to which they had attempted to effect their departure.

If the officer is satisfied that the person was not legally authorized to enter another country, the officer should counsel the person that they are still under removal order and that any bonds or conditions remain in effect. The officer may impose new conditions or detain the person A55(2) for removal if satisfied that the person is a danger to the public or would be unlikely to appear for removal. If the person had been in detention prior to departure, it may be appropriate to detain them again pending further removal arrangements.

For more information refer to manual chapter [ENF 11, Verifying Departure].

14.2 Persons with certificates of departure who are refused entry to another country

If a person has been issued a certificate of departure (forms [IMM 0056] or FOSS-generated [IMM 1442]) on departing Canada and is not granted entry to another country, the officer should delete the certificate of departure from FOSS and create an NCB indicating that the person was refused entry to that country and was allowed back into Canada pursuant to R38(a). The FOSS remarks should state that the person was not authorized to legally enter another country and has not met the requirements of the departure order. The order remains outstanding and the person is still required to leave Canada. If the 30-day period has not lapsed, the officer may consider whether detention is appropriate or whether the person can and will voluntarily affect their departure.

For guidelines on certificate of departure cases, see [ENF 11, Verifying Departure].

Seizure of documents

If the person is in possession of any travel or identity documents, the officer should consider whether it is appropriate to seize the documents to facilitate their future removal from Canada. The documents would be forwarded to the office handling the removal. See [ENF 25] for procedures relating to the seizure of documents.

14.3 *Mutual Legal Assistance in Criminal Matters Act*

Under R 39(b), foreign nationals returning to Canada in accordance with a transfer order made under the *Mutual Legal Assistance in Criminal Matters Act* (MLACM Act) shall be allowed to enter

Canada. This applies only to persons who, immediately before being transferred to a foreign state under the transfer order, were subject to an unexecuted removal order

The *MLACM Act* and treaties implemented under its authority are used by prosecutors, police agencies and other government investigative agencies responsible for the investigation and prosecution of criminal offences. Assistance provided on a reciprocal basis may include activities such as locating and questioning witnesses, obtaining search warrants, locating suspects and fugitives from justice, obtaining evidence, and transferring persons in custody for the purposes of assisting in investigations or testifying in criminal proceedings.

The *MLACM Act*, proclaimed on October 1, 1988, enables Canada to implement treaties, signed with foreign states, that oblige Canada to provide legal assistance in the investigation, prosecution and suppression of criminal offences. The Minister of Justice is responsible for the implementation of treaties and for the administration of the *MLACM Act*.

The provisions of the *MLACM Act* prevail over those of the *Immigration and Refugee Protection Act*, except for statutes limiting or prohibiting the disclosure of information. The effect on CIC's operations of the *MLACM Act* and any treaties that flow from the *MLACM Act* are limited to three areas:

- facilitating the transfer of persons at ports of entry
- taking enforcement action against persons who are allowed to enter Canada for the purposes of mutual legal assistance and who violate any of the conditions of an authorization to enter Canada granted by the Minister of Justice, and
- exchanging information.

The *MLACM Act* allows for testimony in a foreign state by officers who, during the performance of their duties, encounter persons wanted for crimes in a foreign state or involved in a criminal activity. Requests for officers to testify in the United States are usually made by the Office of International Affairs, which is a branch of the US Department of Justice, to the Canadian Department of Justice. The appropriate course to follow in these cases is set out in the Mutual Legal Assistance in Criminal Matters Act, the Canada-United States treaty implementing this Act and the related government policies and procedures. Officers who are called to testify should be aware of the Privacy Act which prohibits the disclosure of personal information unless an international agreement or arrangement exists. There is also a Statement of Mutual Understanding between CIC and USINS which allows participants to assist each other in the administration and enforcement of their respective immigration laws by providing information which might otherwise be prohibited under the Privacy Act.

Whenever possible, the Minister of Justice will provide notice to the responsible immigration representative, of the place, date and time of arrival of a person coming to Canada for the purposes of mutual legal assistance. The representative will in turn notify the port of entry concerned to ensure that an officer is present to facilitate that person's movement through the port of entry.

Authorizations to enter Canada

Under section 40 of the *MLACM Act*, the Minister of Justice has the authority to authorize an inadmissible foreign national to enter Canada.

An officer on the PIL must refer for a secondary examination any person seeking to come into Canada under the authority of an Authorization to Enter Canada issued by the Minister of Justice of Canada.

Persons arriving at ports of entry and seeking to come forward under an authorization signed by the Minister of Justice do not come within the department's jurisdiction. Such persons are not subject

to normal passport and visa requirements, nor can an officer examine them to determine admissibility or detain them.

Law-enforcement officers will always escort incarcerated persons from one institution to the other. Persons who are not incarcerated in a foreign state and who are coming to Canada in compliance with a request made by a Canadian investigative or prosecuting authority will be met at the port of entry by a police officer.

In both cases, the escorting officer or the police officer will present an immigration officer with a copy of the authorization issued by the Minister of Justice. The authorization will indicate the person's name, citizenship, the destination, the specific period of time during which the person is authorized to remain in Canada and any additional conditions that the Minister of Justice deems appropriate [MLACM Act, s. 40(1)]. The conditions may include reporting to immigration officials during the person's stay and may be varied by the Minister of Justice, particularly with respect to the granting of any extension of the time period for which the person is authorized to remain in Canada.

When an immigration officer receives the immigration copy of the authorization to enter Canada granted by the Minister of Justice, the officer must forward it directly to the Regional representative responsible for enforcement. The Regional representative will ensure that the authorization is sent on for monitoring purposes to the responsible CIC office in whose area the person concerned is authorized to stay.

A person who comes into Canada under a Minister of Justice's authorization, and who fails to comply with the conditions set out in the authorization, is deemed for the purposes of the *Immigration and Refugee Protection Act* to be a person who entered Canada as a temporary resident and who remains after ceasing to be a temporary resident. In such a case, an officer has jurisdiction to report the person concerned under A44 and to proceed with an admissibility hearing or removal action [MLACM Act, s. 40(3)].

Assistance and information

An inadmissible foreign national who is unescorted may approach a port of entry claiming to be coming to Canada for mutual legal assistance purposes. If so, and no police officer is on site to meet the person, an officer should immediately contact the International Advisory Group, Department of Justice, Ottawa to request confirmation and advice before proceeding with the case (tel: 613-957-4758 or 613-957-4768).

Information regarding persons arriving in Canada under the *MLACM Act* is considered sensitive. Interception by unauthorized persons may endanger the safety of the escort officer, inmate or other persons. It is imperative that all information regarding these cases be transmitted through secure channels.

14.4 Court transfer orders

A Canadian court can make a transfer order at the request of a foreign state. The Minister of Justice may approve the transfer of a sentenced inmate from a Canadian prison to a foreign jurisdiction where the inmate is required to testify in a foreign court or can otherwise assist in the investigation of a crime. The transfer order specifies the name and citizenship of the detainee, the place in Canada at which the term of imprisonment is being served and the date on or before which the detainee is expected to be returned to the original place of confinement in Canada.

A PIL officer must refer for a secondary examination any person seeking to come into Canada on a Transfer Order of a Canadian court.

Persons returning to Canada under the authority of a transfer order who are not the subject of an unexecuted removal order are subject to examination. The examination officer should complete a Detention Order (form [IMM 0421]), indicating the person's place of confinement before they left Canada. The transfer order will provide this information. A copy of the form [IMM 0421] should be given to the escorting officer.

In the case of a non-Canadian detainee who is a sentenced prisoner in Canada, the escorting officer will give the immigration officer a copy of the transfer order on the person's return to Canada. The officer must forward this copy of the order to the Regional representative of Enforcement, who will ensure that it is forwarded to the responsible inland CIC for monitoring and follow-up as necessary. The inland CIC maintains the copy of the transfer order on file, in case evidence is required in the future to the effect that any subsisting removal order at the time of a detainee's transfer to a foreign state was not executed by reason only of the person's transfer.

14.5 Persons extradited to Canada from countries other than the U.S.

When examining a person who is coming to Canada under extradition proceedings from a country other than the U.S., an officer should obtain (at a minimum) the following information for control purposes, either from the person being extradited or from the person's escort:

| Status | Required Information |
|--------------------|---|
| Canadian citizen | <ul style="list-style-type: none"> • person's name • proof of citizenship |
| Permanent resident | <ul style="list-style-type: none"> • person's name • date of birth • country of citizenship • date of landing in Canada • place where the trial is to be held |
| Foreign national | <ul style="list-style-type: none"> • person's name • date of birth • country of citizenship • place of permanent residence • place where the trial is to be held |

If the extradited person is not a Canadian citizen, an officer should forward a memorandum containing all information relevant to the person's entry requirements (including a copy of a temporary residence permit, if applicable) to the CIC office nearest the place where the trial is to be held, with a copy to the Director of Enforcement in that region.

15 Examining persons who may be medically inadmissible

15.1 Foreign nationals seeking entry for medical treatment

Persons coming to Canada for medical treatment are expected to produce evidence of an agreement with the treating physicians and institutions that clearly indicates the medical condition being treated, the proposed course of treatment and arrangements for payment.

The person must satisfy the examination officer that all associated costs, including travel and accommodations will be paid for without cost to Canadian health or social services.

Applicants who provide satisfactory evidence that they will pay the costs of their treatment (usually through an agreement with the Canadian treating physician and medical institution) and who meet all other requirements for temporary residence, do not require a Temporary Resident Permit to enter Canada.

Where it is determined that the applicant's circumstances and ability to pay have changed since the letter of agreement was issued, the examination officer may ask for evidence that the care provider in Canada is aware of the new circumstances and that payment arrangements are not affected.

Pursuant to Article 22 of the Canada/Quebec Accord, Quebec's prior consent is required with respect to foreign nationals entering that province to receive medical treatment.

A foreign national who cannot satisfy an officer that they will be able to pay for medical services and treatment may be inadmissible pursuant to one of the following allegations:

| Section | Explanation |
|-----------------|---|
| A38(1)(c) | Might reasonably be expected to cause excessive demand on health or social services |
| A39 | Financial inadmissibility |
| A41(a) x A16(1) | Non-compliance: Unable to produce all relevant evidence and documents that an officer reasonably requires |

See [ENF 5] for more information on procedures for dealing with section 44(1) reports on inadmissible persons.

See also [ENF 2, Evaluating Inadmissibility] for more information on determining inadmissibility.

Note: Foreign nationals who are assessed as likely to be a danger to public health or safety are inadmissible under A38. They do not need to be offered an opportunity to demonstrate that they can meet the costs of treatment unless consideration is being given to issuing a Temporary Resident Permit to allow entry to Canada despite the potential danger to public health or safety. For example, a person suffering from active tuberculosis would remain

inadmissible even if they had made all the necessary arrangements for treatment of a medical condition unrelated to their tuberculosis.

15.2 Foreign nationals who appear ill

The following is an appropriate line of questioning when dealing with a foreign national who appears unwell:

- Are you unwell?
- Have you been treated by a physician recently?
- What were you treated for?
- When were you treated?
- Will you require further treatment during your visit?
- Will you be seeing a physician in Canada?

If an officer is satisfied that the person will not require treatment in Canada, the foreign national may be authorized to enter Canada provided there are no other grounds for inadmissibility.

If the officer is not satisfied with the responses and the foreign national insists that they are well, the officer may want to consult with a health specialist. Where appropriate and with prior consultation with an health official, an officer may refer the individual for medical assessment or provide an opportunity for the person to withdraw their application. Where an immigration medical examination is performed, a medical officer will provide an assessment under A38(1).

Officers can access a health specialist by telephone at

(613) 957-8739 Monday to Friday, 8:30 to 4:30 EST or

(613) 791-1027 after hours or on weekends.

15.3 Foreign nationals living with HIV/AIDS and the excessive demands criteria

It is CIC's policy that persons with HIV/AIDS do not represent a danger to public health. Therefore, a foreign national with HIV/AIDS seeking entry to Canada would not, in the absence of contrary evidence, be inadmissible pursuant to A38(1) and an officer would not normally request a medical examination based on concerns about danger to public health or safety. However, persons living with HIV/AIDS may be medically inadmissible if they have an associated medical condition that is considered a public health risk such as active tuberculosis.

Another concern is the excessive demand that may be placed on health or social services by any applicant experiencing severe or chronic illness. As with any other foreign national making application to enter Canada, persons with HIV/AIDS would not normally be expected to place a demand on health services. It is therefore departmental policy that a diagnosis of HIV/AIDS is not in itself a barrier to visiting Canada. When making a determination, officers should only consider whether it is likely that the person will require hospitalization during their visit. The carrying of medication used in the treatment of HIV/AIDS is not grounds for denying temporary residence.

Where the applicant is obviously very ill, officers should get the information needed to determine the likelihood of hospitalization during their visit and any medical arrangements that have been made. If required, the CIC Health Programs Division can be contacted for advice or information. It would

be rare that an applicant living with HIV/AIDS would need to be referred to an Immigration medical examination and rarer still that such a person would be assessed as medically inadmissible. If an officer follows the line of questioning outlined above, there should be no need to directly examine any foreign national on their HIV/AIDS status.

16 Inadmissibility and further examination

An officer has a variety of options available when an examination cannot be completed or when a person is believed to be inadmissible.

16.1 Further examination

Situations or circumstances may arise where an adjournment is necessary to ensure a proper immigration examination. For example, an officer may require an interpreter or additional documents, information or evidence to determine admissibility. The facilities may be inadequate or personnel may not be readily available to deal with volumes.

Section A23 authorizes an officer to allow a person to enter Canada for the purpose of further examination. Section 42(2) of the regulations clarifies that persons who are authorized to enter Canada for further examinations do not acquire temporary resident status.

Mandatory conditions to be imposed

Where an officer adjourns an examination under section A23; the regulations require that mandatory conditions be imposed. These are:

1. to report in person at the time and place specified for the completion of the examination or the admissibility hearing;
2. to not engage in any work in Canada;
3. to not attend any educational institution; and
4. to report in person to an officer at a port of entry if the person withdraws their application.

Persons whose examination has been furthered and who fail to report as required for continuation of their examination are reportable for non-compliance under A41(a).

16.2 Direction to leave Canada

Section 40 of the regulations states that an officer who is unable to examine a person who is seeking to enter Canada at a port of entry, shall direct the person in writing to leave Canada. This does not apply to protected persons or refugee claimants. The decision to direct a person to leave is applicable in cases where a person cannot be properly examined due to circumstances within their control (such as physical impairment due to alcohol or drugs).

The officer must serve a copy of the Direction to Leave [IMM 1217] on the person concerned and on the transporter who brought them to Canada. This document may be generated through the use of FOSS full document entry or by completing a manual form which would then be status entered into FOSS.

The direction ceases to have effect when the person appears again at a port of entry and an officer proceeds to examine the person.

16.3 Direction to return to the United States

Section 41 of the regulations authorizes an officer to direct a foreign national or permanent resident seeking to enter Canada from the United States to return to the United States if

- no officer is able to complete an examination;
- the Minister is not available to consider, under subsection 44(2) of the Act, a report made with respect to the person; or
- an admissibility hearing cannot be held by the Immigration Division.

The foreign national would be issued an IMM1237 (Direction to Return to the United States). The date and location of the examination, Minister's consideration of the Section 44(1) report or admissibility hearing is specified on the document.

A person who has been directed to return to the U.S. pending an admissibility hearing by the Immigration Division who seeks to come into Canada for reasons other than to appear at that hearing is considered to be seeking entry. If such a person remains inadmissible for the same reasons, and if a member of the Immigration Division is not reasonably available, the person may be again directed to return to the U.S. to await a member of the Immigration Division. In these circumstances it is not necessary to write a new A44(1) report.

An officer should bear in mind that time may be required by the person to allow for travel to the location to appear before a member of the Immigration Division and the circumstances may warrant authorizing the person forward at an appropriate time in advance of the scheduled date.

16.4 Detention for examination

A permanent resident or foreign national may be detained on entry to Canada pursuant to A55(3)(a) if the officer considers it necessary to do so in order for the examination to be completed. Persons being detained for examination must be informed of the reason for detention and of their right to counsel.

See [ENF 20, Detentions] for more information on the procedures to be followed when detaining a person seeking entry to Canada.

16.5 Allow to withdraw

Allowing a person to withdraw their application to enter Canada is frequently used where an officer believes a foreign national is inadmissible to Canada.

Under R42, an officer who examines a foreign national who is seeking to enter Canada and who has indicated that they want to withdraw their application to enter Canada shall allow the foreign national to withdraw their application unless R42(2) applies.

R42(2) provides that a foreign national shall not be allowed to withdraw their application to enter Canada where a report under subsection A44(1) is being prepared or has been prepared unless the Minister does not make a removal order or refer the report to the Immigration Division for an admissibility hearing.

R42(3) provides that foreign nationals who are allowed to withdraw must appear without delay at a port of entry to verify their departure from Canada. Sometimes a person who is being allowed to withdraw is furthered into Canada pursuant to A23 when a flight is not immediately available to effect

their departure. R37(1)(c) provides that the examination of the foreign national ends only when an officer verifies their departure from Canada.

16.6 Examinations that may lead to prosecution

The examination of a person seeking entry to Canada should relate to admissibility and not be used to gather information for possible prosecution. Once the examining officer has determined the person to be admissible, any further questioning that could result in prosecution should be undertaken only after the person has been advised of their right to counsel. The department has been unable to prosecute several cases because of failure to advise the person concerned of their right to counsel.

Example of examinations that may lead to prosecution

A woman was seeking to come into Canada as a permanent resident. During the course of the examination, the examining officer detected that one of the pages of the passport appeared to have been altered. The officer questioned the person concerning these findings. The person admitted to the officer that the passport had in fact been altered. The examining officer contacted the RCMP. On arriving at the port of entry the RCMP advised the person of her right to counsel under section 10(b) of the Canadian Charter of Rights and Freedoms. The person exercised her right and contacted a lawyer who advised her not to continue to answer questions.

The RCMP presented the case to the Crown prosecutor to have charges laid under the Act. The Crown prosecutor advised the RCMP that charges could not be laid because the rights of the person concerned under the *Charter* had been violated by the examining officer. The Crown prosecutor based this decision on the following factors:

- the altered passport did not affect the person's right to enter Canada as a permanent resident
- the examining officer determined that the person concerned had not ceased to be a permanent resident
- after having made the decision that the person concerned should be allowed to come into Canada by right, the examining officer continued to ask her questions with the intent of gathering information for a possible prosecution

Once the examining officer had determined that the person concerned had the right to come into Canada and that the altered passport did not affect that decision, the examination should have been concluded. All other questioning from that point should have been undertaken only after the person had been advised of her rights under the Charter.

Immigration offences warranting prosecution

For the most part, immigration infractions result in enforcement action leading to removal. Serious immigration offences, however, may be dealt with by way of prosecution. If officers are aware of or have evidence about an immigration offence that could warrant prosecution, they should advise their supervisor. If the supervisor concurs, the Immigration and Passport Section of the RCMP should be notified about the details of the case. The RCMP are responsible for investigating and preparing prosecutions relating to offences found in sections 117 – 137 of the Act.

17 Unauthorized border crossings

An immigration officer who becomes aware that a person is attempting an unauthorized border crossing should first notify the RCMP. The primary responsibility for patrolling the border rests with the RCMP.

The officer should also notify the Canada Customs and Revenue Agency (CCRA) as customs inspectors may wish to investigate whether smuggled goods may be involved. Ports of entry should work out local action plans with law-enforcement agencies if plans are not already in place.

If no law-enforcement agency is available to assist, the port of entry manager or officer in charge must decide whether to conduct an investigation outside the port. The operational requirements of the port of entry retain priority but if officers are available, they may be sent to investigate. This would be considered an inland investigation and the policies and procedures relating to in-Canada investigations would apply. See the manual [IC 3] for more information relating to in-Canada investigations.

Some points to remember are:

- An officer should not attempt to investigate an unauthorized border crossing or to apprehend a person when alone.
- An officer is not obliged to perform duties in a situation where a threat to personal safety exists. officers should request police assistance where there is such a risk.
- officers should use communication equipment to keep in contact with the port of entry should they require assistance.
- officers should not assume the role of a border-patrol officer to perform surveillance.
- officers may give consideration to requesting that the RCMP lay charges under A124 if an investigation determines that a person has eluded examination or entered Canada by improper means.

18 Reciprocal Arrangement between Canada and the United States

18.1 Persons being removed from the United States to Canada

Under the terms of the Reciprocal Arrangement, CIC National Headquarters may issue a letter of consent conditional on the manager at a port of entry being satisfied as to the authenticity of the documents and the identity of the deportee, when the deportee and documents are presented by USINS officials.

Accepting deportees at Canadian ports of entry

On accepting a deportee from the USINS, the officer in charge or someone on their behalf will:

- satisfy themselves that the deportee may be accepted;
- ensure by personal count and inspection that all items for which they sign have, in fact, been turned over; and
- sign the appropriate receipts for the USINS.
- When a letter of consent is presented on behalf of a deportee from the U.S., the examining officer will:
 - affix the port stamp and record on the letter the deportee's destination, details of transportation and funds in their possession, as appropriate; and
 - mail the letter of consent directly to the issuer for completion of the file, retaining a copy for the CIC port file, as appropriate.

18.2 Deportation from the U.S. through Canada to other countries

A person who is deported from the U.S. through Canada to another country is in transit while in Canada. An escort officer of the USINS must accompany the person to the Canadian port of departure. The escort officer is not required if the deportee is carried by aircraft merely stopping at a Canadian airport en route to the third country, or if the deportee is on board a ship en route to a third country. The USINS will provide appropriate advance information. Deportees in transit through Canada to a third country must meet normal temporary resident visa requirements.

18.3 Where no letter of consent required

Subject to this provision of the Reciprocal Arrangement, the following classes of persons may be returned to Canada from the U.S. without a letter of consent:

- **persons authorized to depart voluntarily:** a person who is authorized by the USINS to depart the U.S. before the commencement of deportation proceedings or after a deportation hearing.
- **Canadian citizens:** in the case of a Canadian citizen, verbal notice of the deportee's return to Canada will be accepted if:

- citizenship can be satisfactorily established through presentation of a birth or baptismal certificate, a certificate of Canadian citizenship, a valid or expired passport, or verifiable evidence of citizenship; and
- the deportee does not require institutional care or treatment because of a mental or physical condition.

18.4 Where medical care is required

In the case of Canadian citizens who require medical care, written notice of the deportee's return must be accompanied by the written opinion of a competent authority (that is, a medical doctor or an official of a medical institution) confirming the need for care or treatment. The advance written notice will provide Canadian immigration officials with a description of the facts and circumstances of the case. At the same time as notice is given, or as soon as possible thereafter, the U.S. will notify Canada of the deportee's travel arrangements.

If a citizen of Canada requires institutional care or treatment because of a mental or physical condition, or if evidence of citizenship cannot be satisfactorily established through documentation, advance written notice of the deportee's return to Canada must be provided by the USINS to the Director of Immigration in the region where the port of return is located.

The USINS provides notices (written or verbal, as appropriate) regarding the removal of Canadian citizens to the appropriate regional Director, Immigration, of responsible for:

- the area of the deportee's destination in cases involving special arrangements for reception (that is, deportees in need of medical care or institutionalization), and
- the port of entry at which the deportee is to arrive in Canada in those cases where no special arrangements for reception are necessary.

On receipt of notification, regions will verify the individual's Canadian citizenship through birth or naturalization records. In cases of persons needing care upon arrival, the acceptance of responsibility for such care by relatives, other persons or institutions will also be verified.

18.5 Persons being extradited from the U.S. to Canada

To ensure that Canada's interests are protected under the terms of the Reciprocal Arrangement, an officer should examine all persons coming to Canada under extradition proceedings. Particular attention should be given to extradited U.S. resident aliens, because under U.S. immigration law such persons would not have an automatic right of return to the United States.

Inadmissible foreign nationals should not be issued temporary resident permits as this would give them legal status in Canada and prevent their return to the U.S. under the Reciprocal Arrangement. This advice does not apply to citizens or nationals of the United States. They have the right of return to the United States, their removal from Canada, if necessary, would not be problematic.

For persons who are admissible at the time of extradition, officers may consider issuing a Visitor Record for control purposes. Information concerning the individual should be forwarded to the CIC in the area to which the person is destined.

19 Disembarkation screening

19.1 Disembarkation and Roving Team (DART)

Passenger screening refers to the rapid verification by immigration officials that passengers possess travel documents. Under A15(3) an officer has authority to board and inspect a vehicle and to examine and record documents carried by a person on board a vehicle.

The purpose of screening passengers is to identify and segregate persons not in possession of passports or travel documents, from the normal flow of passengers.

Screening also enables an officer to identify which airline has carried an unidentified passenger to Canada and ensures that CIC can assess transportation costs against a liable carrier. When two international flights arrive within a brief period of time, for example, passengers from each flight may intermingle at the PIL. This situation makes it difficult to determine which carrier brought an improperly documented passenger to Canada.

Screening by DART teams should be completed as quickly and efficiently as possible and should not unduly disrupt the disembarkation of the bona fide travelling public.

19.2 Passenger screening procedures

DART officers should notify CCRA, Transport Canada and RCMP officials of the flight they intend to screen, with as much lead time as possible. The port of entry manager should also liaise with the applicable airline to alert it to disembarkation screening intended for a particular flight. Experience has shown that the notification should be given to the airline once the flight is en route. This advance notice allows the airline to notify passengers that they must produce their documentation at disembarkation.

Screening is conducted on board the aircraft or at a point as close to the exit as possible, depending on local arrangements. Normally officers will proceed down the aisle and allow passengers whose documents have been verified to leave the aircraft.

The officer should make note of the aircraft identification number in a notebook as this information will be important if an officer is later called to testify in court.

If an undocumented passenger is discovered, the officer must prepare a Confirmation of Passengers Carried form [IMM 1445] at the earliest opportunity, either during disembarkation screening, or as soon as the undocumented passenger has been escorted through the PIL to the immigration examination area. The local airline representative must also sign the form. If the airline representative refuses to sign the form, the DART officer should note that fact accordingly.

Since passengers normally have documents at the time of boarding, it is likely that an undocumented passenger has hidden or destroyed their documents en route. Undocumented passengers should be presented to the PIL for completion of Customs' formalities and then escorted to the immigration examining area for a complete examination.

If an officer discovers an improperly documented person during a secondary examination, complete the same [IMM 1445] form.

19.3 Operational principles

To ensure that the travelling public is not unduly delayed, the port of entry manager should normally assign at least six officers to screen passengers.

While all carriers should be the target of periodic disembarkation screening, those carriers with a history of carrying undocumented passengers may be subject to more frequent screening.

It is essential that carriers understand and support the screening program. Port of entry managers should initiate clear and frequent communications with local airline managers when introducing the screening program. The purpose, procedures and legislative foundation for disembarkation screening should be clearly described. The [DART Standard Operating Procedures] contains a sample letter to airline managers explaining disembarkation screening

CCRA, Transport Canada, the RCMP and airline representatives at the port of entry should also be consulted to obtain their cooperation in developing any changes to operational procedures caused by the introduction of disembarkation screening and to minimize disruption of normal operations.

Regional officials should consult CCRA, the Transport Canada and the airlines when developing procedures that affect the configuration of local facilities.

For audit purposes, ports of entry must keep a record of the flights where screening has taken place. The record must reflect the reason the flights were selected and the number of undocumented passengers identified.

For more information on DART teams, see the [DART Standard Operation Procedures].

20 Alternate means of examination

Section 38 of the regulations provides for alternate means of examination as an alternative to appearing before an officer at a port of entry.

20.1 Advanced screening programs

Advanced screening programs and procedures are tools that enhance the orderly flow of large volumes of persons seeking entry to Canada. Prescreening programs such as CANPASS, NEXUS, EPPS, API and CDRP are increasingly available to low risk pre-approved foreign nationals. Programs currently in operation benefit US and Canadian citizens and permanent residents but technological advances may soon make advanced screening more widely available. Successful applicants are issued entry documentation such as photo identity cards. Persons holding these documents are still applying for entry but their examination may be expedited as background checks regarding criminality and previous immigration and customs infractions have been completed.

20.2 CANPASS

CANPASS is a pre-approved permit program designed for low-risk, frequent travellers to Canada. CANPASS holders have access to dedicated customs lanes at some airports and high-volume land ports so they can enter Canada without routine customs questioning, unless stopped for a random check.

CANPASS has automated systems developed through advanced technology. These systems confirm that travellers are registered and have passed security checks. CANPASS travellers with goods to declare put their traveller declaration card in a drop-box. Any customs' duties and taxes owing are automatically charged to their credit card.

Boaters and snowmobilers who cross the border may also apply for pre-approved permits to allow them to report only once per season unless they have goods to declare or are stopped for a random check by customs.

20.3 NEXUS

The NEXUS program is implemented jointly by Canada Customs and Revenue Agency (CCRA), Citizenship and Immigration (CIC), United States Customs Service (USCS), and United States Immigration and Naturalization Service (USINS). NEXUS is designed as a harmonized joint application for simplified entry by land into Canada and the USA. It expedites border crossings for pre-approved low risk travellers. To qualify, a person must be a citizen, national, or permanent resident of the United States or Canada. Successful applicants are issued photo identification cards and their entry is facilitated through the use of dedicated lanes or booths at border crossings.

20.4 Expedited Passenger Processing System (EPPS)

At airports, pre-approved air travellers will be able to take advantage of the Expedited Passenger Processing System (EPPS). Positive identification will be confirmed by using biometric technology. There will be automated kiosks for declaring and paying duties and taxes. This innovation allows travellers to proceed through customs without officer contact, unless stopped for a random check.

20.5 Commercial Drivers Registration Program (CDRP)

Canada Customs and Revenue Agency (CCRA) and CIC are cooperating in this program to streamline customs and immigration clearance at border crossings for low-risk commercial drivers. Successful applicants receive a photo registration card that enables them to clear themselves and their commercial loads more quickly.

20.6 Eligibility for pre-clearance programs

Preclearance programs are available to persons who:

- are citizens or permanent residents of Canada or the United States;
- meet the normal temporary resident requirements (i.e., good health, not otherwise inadmissible, able to support themselves).

Persons will not qualify if:

- the information provided in the application is false or incomplete;
- the applicant has been found guilty of a criminal offence;
- the applicant has been charged with a customs or immigration offence;
- the applicant has been declared inadmissible to Canada or the United States.

These pre-screening methods are examples of alternate means of conducting a primary examination. They facilitate examinations at ports dealing with large volumes of travellers. Customs inspectors may still refer persons participating in these programs for a secondary immigration examination if they feel it is warranted. Random referrals of program participants can also be an important means of monitoring and ensuring the integrity of these programs.

More information can be found on the Canada Customs and Revenue Agency (CCRA) website <http://www.ccra-adrc.gc.ca/customs/individuals/menu-e.html>

21 Advance Passenger Information (API) and Passenger Name Record (PNR) information

21.1 API information

For API, section R269(1) requires a commercial transporter, on request of an officer, to provide advance passenger information (API) on all passengers and crew members travelling by vehicle. The information would be sent electronically or by fax on departure of the vehicle from the last point of embarkation before arriving in Canada. This enables criminality, security and FOSS checks to be conducted prior to the arrival of the vehicle.

API information consists of the bio-data contained in the machine readable zone (MRZ) of most passports and travel documents and includes:

- Surname, first name and initial;
- Date of birth;
- Country that issued the passport or travel document or if no passport or travel document is available, their citizenship or nationality;
- Gender;
- Passport number or, if no passport is available, the number on the travel document that identifies them;
- Reservation record locator or file number.

The API data elements are captured at the time of check-in by swiping the machine-readable zone (MRZ) of the passport. If the passport reader is not available, the data would be entered manually. Any information not found within the MRZ will be collected using electronic links to the PNR or the DCS (departure control system).

The API is sent upon 'wheels up' of the air carrier's departure (actual departure time) and sent to a central database where the various security checks are then conducted.

21.2 PNR information

Section 288(2) of the Regulations requires a commercial transporter to provide access to its reservation system or, on request of an officer, provide in writing all reservation information held by the transporter on passengers to be carried to Canada.

The PNR information available in a transporter's reservation system may be quite extensive and each transporter will capture different data elements in their reservation system. The use of the acronym PNR is predominantly for the airline carriers. All other modes within the travel industry may refer to their respective reservation systems using various terms.

21.3 Passenger Analysis Units (PAU's)

Passenger Analysis Units (PAU's) analyze API and PNR information and ensure that port of entry officers and Disembarkation and Response Teams (DART) have detailed advance information on persons who may be inadmissible to Canada. The PAU's will also have the decision-making ability

to flag an individual before their arrival into Canada at the Primary Inspection Line for referral to immigration secondary.