



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada

Chapter ENF 11

Verifying Departure

1 What this chapter is about

This chapter focuses on verifying the departure of foreign nationals who are the subject of enforceable removal orders. It will focus on the criteria for the confirmation of departure of persons from Canada who are the subject of departure, exclusion, or deportation orders.

This chapter also outlines the procedures in which a removal order may be enforced and the requirements with which foreign nationals must comply to confirm the enforcement of such orders.

2 Program objectives

The Canadian immigration policy aims for verifying departure are:

- to verify the removal of foreign nationals efficiently and expeditiously;
- to ensure that foreign nationals required to leave Canada actually do so;
- to maintain and protect public order and security in Canada;
- to ensure that all the legal rights of foreign nationals are observed, and that removals are conducted effectively and equitably; and
- to allow the Department to update its records to indicate that a case has been concluded and no further enforcement action is required.

3 The Act and Regulations

3.1 Authorities

Officers responsible for verifying the departure of foreign nationals from Canada should be familiar with the legislative and regulatory authorities contained within the *Immigration and Refugee Protection Act* and its Regulations.

The following authorities should assist officers when verifying departure.

For information about:	Refer to:
Foreign national	A2(1)
Enforceable removal order	A48(1)
Effect of an enforceable removal order	A48(2)
When a removal order comes into force – non refugee protection claimants	A49(1)
When a removal order comes into force – refugee protection claimants	A49(2)
Return to Canada after an enforced removal order	A52(1)
Unenforced removal order - no visa shall be issued	R25
Requirements to return to Canada for a departure order	R224(1)
Departure order becoming a deportation order	R224(2)
Requirements to return to Canada for a one year exclusion order	R225(1)
Requirements to return to Canada for a two year exclusion order	R225(2)
Requirements to return to Canada for a deportation order	R226(1)
Modality of enforcement – voluntary compliance or removal by the Minister	R237
Requirements for voluntary compliance	R238(1)
Voluntary compliance - choice of country	R238(2)
Requirements for removal by the Minister	R239
When a removal order becomes enforced	R240(1)
Circumstances when a removal order is enforced outside of Canada	R240(2)
Country of removal when removed by the Minister	R241(1)
Circumstances that the Minister selects removal to another country under R241(1)	R241(2)
Mandatory removal by the Minister and the Minister selects a country of removal	R241(3)

Transferred under the <i>Mutual Legal Assistance in Criminal Matters Act</i> - not authorized to enter another country.	R242
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3.2 Transitional Provisions

Application of the *Immigration and Refugee Protection Act*: transitional provision A190(1)

Every application, proceeding or matter under the former Act that is pending or in progress immediately before the coming into force of this section shall be governed by the *Immigration and Refugee Protection Act* on that coming into force.

Decisions made under former Act: transitional provision R317(1)

A decision made under the former Act that is in effect immediately prior to the coming into force of the *Immigration and Refugee Protection Act* continues in force after the coming into force of the enforcement and removal process.

Removal orders: transitional provision R319(1)

A removal order made under the former Act that was unexecuted on the coming force of the removal process continues in force and is subject to the provisions of the *Immigration and Refugee Protection Act*.

Conditional removal order: transitional provision R319(4)

A conditional removal order made under the former Act continues in force and is subject to A49(2).

Executed removal order: transitional provision R319(5)

Section A52 applies to a person who immediately before the coming into force of this section was outside Canada after a removal order was executed against them.

3.3 Forms

The forms required are shown in the following table:

Form title	Form number
Certificate of departure	IMM 0056B
Authorization to return to Canada	IMM 1203B

4 Instruments and delegations

Officers have the designated authority to confirm departure of a foreign national both in and outside Canada.

Note: Any reference to the Minister that is addressed in the Regulations are delegated authorities which are still under review.

5 Departmental policy

Nil.

6 Definitions

Certificate of departure	This document confirms that the person named on the removal order has appeared before an officer at the port of entry to verify their departure, will depart from Canada, and has been authorized to enter their country of destination. This document also confirms the enforcement of a removal order outside of Canada.
Enforceable removal order	A removal order that has come into force and is not stayed.
Enforced removal order	A removal order is enforced only after the requirements of R240(1), or in the case of a person outside Canada, R240(2) have been met.
Foreign national	A person who is not a Canadian citizen or permanent resident, and includes a stateless person.
Removal by the Minister	The Minister must enforce a removal order where the foreign national does not or cannot avail themselves of enforcement by voluntary compliance; a negative determination is made under R238(1); or the foreign national's choice of destination is not approved under R238(2).
Removal order comes into force	A removal order made with respect to a person who is not a refugee protection claimant comes into force on the latest of the dates set out in A49(1). With respect to a person who has made a claim for refugee protection, a removal order comes into force on the latest of the dates set out in A49(2).
Stay of removal	The Minister cannot remove a person from Canada in circumstances where the <i>Immigration and Refugee Protection Act</i> or Regulations specify that the removal is prohibited or where there is a valid court order prohibiting the person's removal.
Unenforced removal order	A removal order that has not been enforced in accordance with the Act and Regulations.
Voluntary compliance	A person who is not a danger to the public, a fugitive from justice in Canada or another country, or seeking to evade or frustrate the cause of justice in Canada or another country may voluntarily comply with a removal order by appearing before an officer and satisfying the officer that the requirements of R238(1)(a),(b) and R238(2) have been met.

7 Procedure: Persons subject to departure verification

An officer, when at a Port of Entry (POE) or Canadian mission outside Canada, is responsible for verifying the departure of a foreign national ([Section 6](#)) from Canada who has been issued a:

- departure order, [ENF 6, section 3.8](#);
- exclusion order, ENF 6, section 3.8; or a
- deportation order, ENF 6, section 3.8.

In order to verify and confirm the departure of a foreign national, the removal order that has been issued to the foreign national must be enforceable, meaning that it has come into force A49 and has not been stayed.

8 Procedure: Purpose of the certificate of departure

The certificate of departure ([Section 6](#)) is otherwise known as an IMM 0056B. It is a departmental document that is issued:

- by a POE officer, a removal officer or an officer ([Section 4](#)) at a Canadian consulate outside of Canada;
- to a foreign national who is the subject of all types of enforceable removal orders (section 6) including departure, exclusion or deportation orders;
- regardless of the method of enforcement that is used to verify the departure of a foreign national through voluntary compliance or removal by the Minister;
- after a foreign national has satisfied an officer that they have met all of the departure requirements imposed by the Act and Regulations; and
- to confirm that the person named in the IMM 0056B has verified that their removal order has been enforced.

Officers must be aware of the importance and impact of the certificate of departure as it establishes a removal order has been enforced (section 6). All information required by the certificate of departure must be complete and accurate. For information on the procedures on verification of departure including the completion of the certificate of departure refer to [Section 13](#). The completed certificate of departure is placed on the persons file and in FOSS, CAIPS and NCMS (where applicable).

9 Procedure: Determining the method of enforcing a removal order

The *Immigration and Refugee Protection Regulations* outline two methods whereby a foreign national can verify their departure and enforce a removal order. The officer whether at an inland CIC or POE, must determine through interviewing the foreign national the method (or modality) of enforcing their removal order. The final determination of how the removal order is enforced rests with the officer. Under R237, a removal order can be enforced through:

- voluntary compliance by a foreign national (see [Section 10](#)); or
- the removal of a foreign national by the Minister (see [Section 11](#)).

If the person does not meet the requirements of voluntary compliance, the Minister must enforce the removal order.

10 Procedure: Voluntary compliance

The provision of voluntary compliance allows a foreign national, who is the subject of an enforceable removal order, to voluntarily remove themselves by appearing before an officer for a determination. The officer's assessment will establish whether the foreign national meets the regulatory criteria set for voluntary compliance. This determination can be made either by an officer at an inland CIC or POE.

The Regulations prescribe criteria on which an officer must be satisfied before permitting voluntary departure. Officers must be aware of the factors that will guide them in making a determination to decide whether the foreign national can depart through voluntary compliance. If a negative determination is made and the officer decides that the person does not meet all of the prescribed criteria for voluntary compliance, that person then becomes subject to removal by the Minister.

Under R238(1), an officer must be satisfied that the foreign national meets **all** of the criteria for voluntary compliance through a close examination of the oral and physical information available to the officer. In order for a foreign national to depart Canada by voluntary compliance, the foreign national must demonstrate that they:

- have the sufficient means (i.e., financial and transportation arrangements) to effect their departure to a country that will authorize their entry;
- have the intent to voluntarily comply with R240(1)(a), (b) and (c) by:
 - appearing before an officer to verify their departure;
 - obtaining a certificate of departure IMM 0056B from an officer;
 - depart from Canada; and
- will be able to act on their intention to comply with R240.

For more information, see:

Choice country of destination, [Section 10](#)

What happens after voluntary compliance requirements are met, [Section 10.2](#)

What happens when voluntary compliance requirements are not met, [Section 10.3](#)

10.1 Choice country of destination

In addition to the foreign national complying with the voluntary compliance criteria (set out above), they must submit their choice country of destination under R238(2) to the officer. This process is to ensure that the person is not a danger and is not departing Canada to flee from justice in Canada or another country. To assist the officer in making a determination on these grounds, the officer should conduct background searches (i.e., search of file information, FOSS, NCMS, CPIC, NCIC, Interpol) to determine previous, current or pending criminal involvement. During the voluntary compliance assessment, the officer must approve the chosen country of destination unless:

- in the officer's opinion, the person poses a danger to the public;
- the foreign national is a fugitive from justice in Canada or another country; or
- the foreign national is seeking to evade or frustrate the cause of justice in Canada or another country.

- If any of the criteria for voluntary compliance, including refusal of a person's choice country of destination, the foreign national must be removed by the Minister (see [Section 11](#)). This ensures that the person is removed to the appropriate country where they are wanted.

10.2 What happens after voluntary compliance requirements are met

When voluntary compliance is met at the POE, the officer should proceed to enforce the removal order and verify the departure of the foreign national from Canada. For procedures on verifying departure, refer to [Section 13](#).

When an officer at an inland CIC determines that a foreign national meets the requirements of voluntary compliance under R238, the officer should:

- counsel the person to settle their personal affairs and transportation arrangements as they are required to leave as soon as reasonably practicable;
- counsel the person on the need to report to an officer at a POE to have their removal verified;
- give the foreign national a removal order kit ([ENF 10, section 17.2](#)) that includes instructions for the foreign national to verify departure, the consequences of not verifying departure, in the case of departure orders the consequences of a deportation after the lapse of the 30-day applicable period for departure orders, and the addresses and hours of the POE's the foreign national should use;
- for control purposes, advise the appropriate POE in advance to ensure that the office is aware that the foreign national will be departing Canada through that POE on an intended date;
- for security purposes, it may be necessary to forward to the POE the removal envelope including the person's passport/travel document, IMM 0056B, etc. before the person appears at the POE to verify their departure;
- once the foreign national appears before an officer at the POE, that officer should verify the departure (section 13) of the foreign national from Canada;

Note: A foreign national who has been authorized to depart Canada voluntarily and has failed to leave as required, will be the subject of a warrant for arrest A55 and should be counselled accordingly.

10.3 What happens when voluntary compliance requirements are not met

When a foreign national does not want to depart Canada voluntarily or does not meet the requirements of voluntary compliance under R238, the officer, either at the inland office or POE:

- should consider whether arrest and detention is required for removal by the Minister pursuant to A55(2);
- should contact the appropriate law enforcement authorities if the person is fleeing justice in Canada; and
- should make further arrangements for removal by the Minister ([Section 11](#), below).

11 Procedure: Removal by the Minister

There are mandatory criteria under R239 that cause the Minister to enforce a removal order. It is necessary for officers at an inland CIC or POE to remove a foreign national and proceed with removal arrangements when:

- a foreign national did not enforce their removal order through voluntary compliance;
- an officer has determined that voluntary compliance is not allowed; or
- a foreign national's choice country of destination for voluntary compliance has not been approved because they are a danger to the public, a fugitive from justice in Canada or another country, or are seeking to evade or frustrate the cause of justice in Canada or another country.

As a guide to determining to what country the foreign national should be removed, the Minister has the authority to select and remove the foreign national to any of the countries outlined in R241(1). The countries to which a foreign national can be removed include:

- the country from which they came to Canada;
- the country in which they last permanently resided before coming to Canada;
- a country of which they are a national or citizen; or
- their country of birth.

For more information, see:

- Minister selects the country of removal, [Section 11.1](#)
- Country of removal for persons who have violated human or international rights, [Section 11.2](#)

11.1 Minister selects the country of removal

If it is determined by an officer at an inland CIC or POE that the foreign national is unable to return to a country listed in R241(1) because that country will not authorize their entry, R241(2) allows the Minister to:

- select any country that will authorize the entry of the person within a reasonable time; and
- remove the foreign national to that country.

11.2 Country of removal for persons who have violated human or international rights

In the case of a person who is the subject of a removal order based on inadmissibility grounds for violating human or international rights under A35(1)(a), the person must be removed by the Minister, in accordance with R241(3) to:

- a country that the Minister determines will authorize their entry.

This provision allows the Department to have greater control over the removal of these serious cases.

12 Procedure: Criteria for a removal order to become enforced

A removal order should be enforced at the time the foreign national departs from Canada. A POE officer or inland removal officer can enforce the removal order. These requirements do not apply for the enforcement of a removal order at a Canadian mission outside of Canada. For information on enforcing a removal order outside of Canada, refer to [Section 13.4](#).

In order for a removal order to become enforced, R240(1) specifies that a foreign national, regardless of voluntary compliance or removal by the Minister, must:

- appear before an officer at the port of entry to confirm their departure from Canada;
- obtain an IMM 0056B, certificate of departure from Canada from the Department;
- physically depart Canada; and
- have been authorized to enter their country of destination (other than for transit purposes).

Note: Under R242, persons who have been transferred under an order made under the *Mutual Legal Assistance in Criminal Matters Act* have not been authorized to enter their country of destination.

13 Procedure: Verifying departure

Whether an officer is at a land border, airport, or Canadian mission outside Canada, an IMM 0056B, certificate of departure, must be issued to foreign nationals to enforce the removal order. When the IMM 0056B is completed, it is essential for the officer to clearly indicate on the IMM 0056B the type of removal order that was enforced at the time of departure verification and have the foreign national subject of the removal order sign and date beside the appropriate order at the time of departure verification.

Officers must also be aware of the statutory, regulatory and court ordered stays of removal ([Section 15](#)) that affect the 30-day applicable period for determining whether the removal order is a departure or has become a deportation order. In addition, officers must also consider the calculation of the 30-day applicable period ([Section 14](#)) for departure orders. In the case of departure orders which are enforced beyond the applicable period or at a Canadian mission abroad, the departure order automatically becomes a deportation order and must be enforced as a deportation order.

- In some cases, foreign nationals who are the subject of a removal order and are departing Canada may appear at a POE with a removal order information kit ([ENF 10, section 7](#)). In other cases, the foreign national may not have any documentation relating to their removal order. Nevertheless, officers should verify the departure of a foreign national from Canada through the completion of an IMM 0056B, whether the person is at a land border, airport or mission outside Canada. When verifying departure the officer should:
- review the identity or travel documents of the foreign national;
- verify in FOSS/NCMS whether there is an outstanding bond and whether the foreign national has complied with the conditions, if relevant. If conditions are met, initiate the process of returning the bond ([ENF 8, section 7.5](#)) to the person who posted the bond;
- review the removal order and their identity documents to ensure that the person verifying departure is identified as the same person who has been issued the removal order;
- in part A of the IMM 0056B, the officer should complete the required background information of the foreign national including details of their travel document;
- assess the type of removal order being enforced. For example, in the case of a foreign national who has been issued a departure order and does not depart Canada within the 30-day applicable period, the removal order must be enforced as a deportation order. If the person is not at a POE, and if enforcement should occur outside of Canada at a mission abroad, a departure order is enforced as a deportation order through operation of law under R224(2).
- in part B of the IMM 0056B, complete all fields included and obtain a signature and date from the person concerned beside the applicable removal order that was enforced. Also, include any additional names of accompanying family members enforced under the removal order;
- complete the *Originating CIC* field in part B of the IMM 0056B to record the responsibility centre code that commenced the removal arrangements for the person. For clarification, removal arrangements are considered to be arrangements made at the time that the person is removal ready (enforceable removal order and is not subject to any legal impediments). This will likely occur from arrangements made from an office in Canada and will consist of arrangements such as the acquisition of travel documents, pre-removal interview, the itinerary, the booking of the flights, notification of Canadian mission abroad and foreign consulate, and the preparation of the removal order information kit;

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- in part C of the IMM 0056B, it is essential that the officer complete the details of the departure to indicate that the person physically left Canada. These fields include the port of exit/mission, country of destination, carrier, time, date of departure, CIC involved, and a signature of the officer who confirmed the departure;
- for clarification, if an inland CIC has verified the departure of a removal order, enter the CIC's responsibility code in the *CIC Involved* section of the IMM 0056B. Where an inland CIC has not commenced any of the removal arrangements for the person but has been involved in assisting in the transport of a person to the airport or the border, or in providing officers to the transit point or to the country of destination, the responsibility centre code for the inland CIC involved is recorded in this field;
- immediately following departure verification, officers should complete the certificate of departure screen in FOSS/NCMS. By doing this, officers must:
 - complete the status entry screen or full document entry screen as appropriate;
 - input information into all mandatory fields of the IMM 0056B in FOSS;
 - indicate the type of removal order at the time of departure verification;
 - input any additional information into the remarks screen in FOSS (ie. airline, flight number, action on bond, counselling, comments, etc.);
 - in the case of an overseas escorted removal, details of the departure verification must be entered in FOSS/NCMS within 48 hours of the removal officer's return to Canada; and
- distribute the copies of the certificate of departure accordingly, issuing copy 1 to the person concerned, copy 2 to the originating CIC office who issued the removal order, copy 3 to QRC at National Headquarters and copy 4 retained on the file of the place of departure.

It is critical that the correct data concerning removals be entered into FOSS/NCMS in a timely manner.

Note: In the case of departure verified at a Canadian mission outside of Canada, officers in Canada will receive the manually completed IMM 0056B from the officer at that mission. In these cases, it is the responsibility of the officer who issued the removal order to input the information into FOSS/NCMS and close the file. For more information, see verifying departure outside of Canada in [Section 13.4](#), below].

Many important decisions concerning removal functions will be made on the basis of the data retrieved from the certificate of departure screen in FOSS/NCMS.

13.1 Verifying departure at airports

An IMM 0056B should be given to the foreign national only after they sign the certificate of departure just prior to boarding the aircraft. The officer should witness the departure of the aircraft from the airport departure gate in order to confirm that the foreign national has actually departed from Canada. FOSS/NCMS should be updated immediately.

13.2 Verifying departure to the U.S from airports with pre-clearance facilities

If a foreign national is departing Canada for the United States from an airport with pre-clearance facilities, it is preferable that an officer issue an IMM 0056B, after U.S. officials have pre-screened and accepted the foreign national. This process may not be possible because of the physical layout of some POE's, but the Department strongly recommends this approach where facilities permit.

If officers issue the IMM 0056B before the foreign national is screened at pre-clearance, officers at POE's should make arrangements locally with the United States Immigration and Naturalization Services (USINS). Officers should advise USINS to notify a CIC officer at the airport if the foreign national is refused entry or leaves the inspection area without approval.

13.3 Verifying departure at land borders

Officers at a land border POE, should issue an IMM 0056B at the point where the foreign national physically departs Canada for the United States. Specifically, in the case of:

- foreign nationals who are either U.S citizens or a U.S. resident alien, an IMM 0056B can be completed and signed by an officer at a port of entry; or
- foreign nationals without U.S. status, an officer should obtain an address of the destination and/or a fax number where the IMM 0056B can be sent. Mailing or faxing the IMM 0056B will act as a safeguard to ensure the foreign national receives the certificate of confirmation of departure from Canada **after** being lawfully admitted into the U.S.

Officers should counsel the foreign national to proceed to the U.S. port of entry to seek entry.

13.4 Verifying departure by an officer outside Canada

Pursuant to R25, an officer shall not issue a visa to a foreign national who is the subject of an unenforced removal order.

The *Immigration and Refugee Protection Regulations* have codified the concept of verifying an unenforced removal order from a CIC mission outside of Canada. In effect, this will give officers at missions outside of Canada the authority to verify departures and enforce removal orders in a very specific and narrow set of circumstances. The intention is not to create an additional avenue of appeal to the removal process but simply addresses an oversight of the foreign national verifying their departure at a POE.

Officers should keep in mind that CIC's overriding priority is to maintain control of the removal process and that care must be taken to ensure that the person verifies their departure at the time that they physically depart from Canada at a POE. Counselling a foreign national on their obligation to follow departure requirements is the responsibility of the officer who issues the removal order. The enforcement of a removal order outside of Canada is not to be encouraged, but used for facilitative purposes where the person is only applying for a visa or authorization to return to Canada.

In order for a foreign national to enforce their removal order outside of Canada, they must be the subject of an unenforced removal order making an application to an officer for a:

- permanent resident visa;
- temporary resident visa; or

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- authorization to return to Canada by an officer, IMM 1203B under A52(1).

Note: For the purposes of verifying departure outside of Canada, a departure order will be enforced as a deportation order since the person did not comply with all of the departure requirements under R240(1)(a), (b) and (c). In cases where the departure order requirements are not met, the departure order becomes a deportation order, by operation of law, under R224(2).

During the examination, the officer ([Section 4](#)) at the mission outside of Canada must enforce the removal order under R240(2) after the foreign national has illustrated that they have met all of the verification requirements. The following criteria are mandatory requirements that must be established in order to enforce the removal order and satisfy an officer that:

- the person is the same person described in the removal order;
- the person has been granted lawful permission to be in the country in which they are physically present and have that permission when the application for a visa or authorization is made; and
- the person is not inadmissible on grounds of security under A34, human or international rights violations under A35, serious criminality under A36(1), or organized criminality under A37.

The onus of proving that the verification criteria have been met rests with the person concerned. If the officer (section 4) is satisfied that all three criteria have been met, they shall enforce the removal order through the issuance of an IMM 0056B.

Foreign nationals must provide proof that they have been granted lawful permission to be in the country where they are being examined. Sufficient proof could include passport entry stamps, resident documents, citizenship records, etc. Persons who have been determined to be illegal in the country of application will remain the subject of an unenforced removal order. To return to Canada, such persons should be counselled to apply for a visa or authorization to return to Canada from within a country that will lawfully permit their entry.

In addition, foreign nationals who have been found inadmissible of serious criminality and other security concerns in R240(2)(c) will not be eligible for visa and will not be eligible to have their removal order enforced.

Officers outside of Canada should review all criteria related to the enforcement of a removal order under R240(2) to ensure that all facts are known. Although it is the responsibility of the foreign national to satisfy an officer, it may be necessary in some circumstances for the officer at the CIC mission to contact the responsible CIC office or mission to obtain and verify any available information about the case.

For further information, see:

Positive decision to enforce a removal order outside of Canada, [Section 13.5](#)

Negative decision to enforce a removal order outside of Canada, [Section 13.6](#)

13.5 Positive decision to enforce a removal order outside of Canada

The details of the enforced removal order must be entered into CAIPS/FOSS upon confirming that the foreign national has met all of the required criteria. Remarks should be added electronically in the authorization to return and/or visa to indicate:

- that the foreign national has had their removal order enforced outside of Canada;
- the document number of the IMM 0056B;
- the date, time and mission location where the removal order was enforced; and
- any other circumstances that have resulted from the verification procedures (ie. visa issuance or authorization to return to Canada granted).

The IMM 0056B is a serialized document that is individually recorded prior to completion. The IMM 0056B should be manually completed including any details in the remarks section and placed on the file. The copies should be distributed accordingly, issuing copy 1 to the person concerned, copy 2 to the originating CIC office who issued the removal order, copy 3 to QRC at National Headquarters and copy 4 retained on the file of the CIC mission. In a memo to the originating office who issued the removal order, the officer should place notes accompanying the IMM 0056B to indicate that the document requires input into FOSS/NCMS. Upon receipt, the CIC office who issued the removal order must input the IMM 0056B and other case details in FOSS/NCMS to close the file.

If the removal order is a deportation order, exclusion order (within the excluded period) or a departure order that has become a deportation order through operation of law, the applicant should always obtain the authorization to return to Canada under A52(1) prior to the visa issuance. This is to avoid the contradicting situation of a person appearing at a POE with a visa and not having an authorization to return to Canada by an officer under A52(1). After authorization to return is granted, officers outside of Canada should contact the Immigration Warrant Response Centre (IWRC) to determine if a warrant exists and to cancel the outstanding immigration warrant as the grounds no longer exist. For procedures on cancelling an immigration warrant, refer to [ENF 7, section 15.8](#).

13.6 Negative decision to enforce a removal order outside of Canada

If the person making the application does not fulfil their onus to satisfy an officer ([Section 4](#)) that they meet all verification requirements, they would not be eligible to verify their departure from outside of Canada and the removal order will remain unenforced. The person who is the subject of an unenforced removal order will not be eligible to return to Canada to enforce their removal order and is not entitled to obtaining a visa or authorization to return to Canada. The officer should counsel the person that they are ineligible for a visa due to the outstanding removal order against them and that if they attempt to re-enter Canada they will be subject to arrest. The officer should also note the particulars of the interview in their reasons for the negative decision in CAIPS/FOSS.

14 Procedure: Calculation of the applicable period for departure orders

Under R224(2), a foreign national who is issued a departure order must meet the requirements set out in R240(1)(a), (b) and (c) within 30 days after the order becomes enforceable. Failing to comply with the departure requirements within 30 days will automatically result in the departure order becoming a deportation order.

To ensure that the 30-day applicable period is applied consistently, officers must become familiar with the calculation periods and aware that the calculation of the applicable period is suspended when:

- the removal order against the person is stayed; or
- the person is detained under the *Immigration or Refugee Protection Act*.

Under R224(3), the 30-day applicable period is suspended until the foreign national's release or when the stay is lifted. The applicable period resumes the day following the release or the removal of the stay. The number of days during the applicable period before the detention or stay is subtracted from the time remaining in the original 30-day applicable period.

For further information refer to:

Detained in Canada on a departure order in [Section 16](#).

15 Procedure: Stay of removal orders

The enforcement of removal orders can be stayed through the statutory and regulatory provisions of the *Immigration and Refugee Protection Act* as well as stays imposed by a court order. A stay of removal ([ENF 10, section 3.1](#) and [ENF 10, section 3.2](#)) can be applied to a departure, exclusion or deportation order. When a stay of removal is applied, the stay renders the removal order not enforceable under A48(1). It is essential for the FOSS/NCMS systems to be updated when a stay of removal is in place and when it is lifted. Accuracy of information is paramount to ensure that a person is not removed who is the subject of a stayed removal order.

15.1 Stay of removal on a departure order

If a foreign national is the subject of a departure order that is stayed, the officer must consider whether the person is on a valid stay or whether the stay has been lifted. If the stay has been lifted, the officer must calculate the 30-day applicable period during the time there was no stay of removal in effect. After considering the applicable stay period and if the person's time in Canada exceeds 30 days, the order becomes a deportation order. If the time period is within the 30-day applicable period, the order remains a departure order.

Example: Stay of departure order

A departure order becomes enforceable on January 2, 2003;

The departure order is stayed on January 8, 2003; and

The stay is lifted on March 21, 2003.

From January 2, 2003 to January 8, 2003, there are 6 days that are counted against the departure order. From January 8 to March 21, 2003 there are 72 days where the removal was stayed. This period is not calculated as part of the 30-day applicable period. The clock resumes on March 22, 2003 and the foreign national has 24 days remaining from this date to depart Canada and enforce their departure order. The departure order must be enforced by April 14, 2003 in order to avoid a deportation order against the foreign national.

When departure is verified, It is important for officers to accurately indicate on the IMM 0056B and in FOSS/NCMS whether the removal order is a departure or deportation order.

16 Procedure: Detained in Canada and on a departure order

In cases where a foreign national is the subject of a departure order and has been detained in Canada under the *Immigration and Refugee Protection Act*, the 30-day applicable period is suspended under R224(3) until the foreign national's release from detention. Once the foreign national is released, the remaining time, if any, resumes the day following the person's release.

It is very important that the FOSS/NCMS systems are updated when a person is detained or released under the *Immigration and Refugee Protection Act*.

Example: Detained on a departure order within the 30-day applicable period

A departure order becomes enforceable on August 6, 2003;

The foreign national is detained under the Act on August 21, 2003; and

The foreign national is then released from detention on September 2, 2003.

From August 6, 2003 to August 21, 2003, there are 15 days that are counted against the departure order. The clock resumes on September 3, 2003 and the foreign national has 15 days remaining to depart Canada and enforce the departure order. The detention period is not calculated as part of the 30-day applicable period. The foreign national should enforce their departure order by September 17, 2003 in order to avoid a deportation order.

Example: Detained on a departure order within the 30-day applicable period

A departure order becomes enforceable on July 1, 2003;

The foreign national is detained under the Act on July 10, 2003;

The foreign national is released from detention on August 31, 2003.

Even though the foreign national was detained for a period of more than 30 days, the person is not considered to be under a deportation order. From July 1, 2003 to July 10, 2003, there are 9 days that are counted against the departure order. The clock resumes on September 1, 2003 and is day 10 of the applicable period. The foreign national has 20 days to depart from Canada before the departure order becomes a deportation order.

- When departure is verified, It is important for officers to accurately indicate on the IMM 0056B and in FOSS/NCMS whether the removal order is a departure or deportation order.

17 Procedure: Persons refused entry to their country of destination after a certificate of departure has been issued

When a foreign national who has been issued an IMM 0056B, certificate of departure and is subsequently refused admission to another country, they remain the subject of an unenforced removal order ([Section 6](#)). When refusal occurs and the person appears back at the port of entry, officers should:

- examine the person in accordance with A18(1);
- delete the IMM 0056B if it has not been microfilmed or after it has received a microfilm number, contact FOSS Quality Data Control at National Headquarters to delete the IMM 0056B from FOSS;
- create a general information NCB (non-computer-based) entry in FOSS and notate that the removal order has not been enforced. Also include any circumstances surrounding their refusal into another country;
- in the case of a departure order, counsel the person of the time remaining before the order becomes a deportation order. The departure order remains enforceable and can be enforced like any other removal order. Under R224(2), if a departure order is not enforced within 30 days, the foreign national has not complied with the departure requirements under R240(1) and the order becomes a deportation order;
- advise the foreign national that after being refused entry to yet another country, they will be allowed back into Canada, but the removal order against them remains unenforced;
- later, when the person departs Canada, the officer should issue a new IMM 0056B, certificate of departure.

18 Procedure: Options available after being refused entry to another country

When a foreign national has been previously issued a certificate of departure and has been refused entry to another country, the officer at the POE must conduct an interview to determine the method of enforcing the removal order ([Section 9](#)). Although this assessment was previously determined before the foreign national departed Canada, they are subject to a new determination since circumstances surrounding their removal may have changed. In addition, officers should keep in mind that the removal order is unenforced and that the foreign national must comply with the criteria for a removal order to become enforced ([Section 12](#)). The following options are available to officers after a person has been refused entry to another country and is being examined under the authority of A18(1).

1. Allow the person to proceed into Canada

Officers should interview the person to determine the person's ability and intent to depart Canada, and in the case of a departure order, the likelihood of the person's leaving Canada within the 30-day applicable period (if any). When an officer believes that the person will continue to make every effort to leave Canada as soon as reasonably practicable or within the time remaining of their 30-day applicable period, they should allow the person to enter Canada under R38(a). Before the foreign national is allowed to proceed into Canada, the officer should:

- obtain information that would be useful to investigators, such as the person's Canadian address and the addresses of relatives and friends in Canada;
- remind the foreign national of the importance of leaving Canada and that they remain the subject of an enforceable removal order;
- counsel the person that under A55, they may be arrested for removal if they fail to depart Canada, in the case of a departure order, within the 30-day applicable period or in all other cases, as soon as reasonably practicable;
- counsel the person that they will have to appear before an officer at a POE to verify their departure from Canada;
- amend FOSS/NCMS to reflect the action taken: for example, make an NCB (non-computer-based) entry indicating that the person has returned to Canada, and give other information concerning the person's travel plans.

2. Impose conditions and/or a security deposit or guarantee for compliance

An officer may impose any conditions against a person subject to a removal order, including the deposit of cash bond or performance bond pursuant to A44(3). The purpose of the bond is to encourage compliance with the Act after the officer is satisfied that the person will leave Canada. For further information on the taking of a security deposit, refer to [ENF 8, section 7.1](#) and taking a guarantee for compliance refer to [ENF 8, section 7.3](#). After an officer issues a bond or guarantee for compliance, the officer should follow the procedures outlined in Option 1 above. It is important that all bond information, including the conditions that are imposed, be inputted into FOSS/NCMS.

3. Arrest and detention for removal

Where an officer has reasonable grounds to believe that the foreign national who is the subject of a removal order will not depart Canada and present themselves before an officer to verify their departure from Canada, the officer may arrest and detain the person under A55(2). For an officer to arrest and detain the person, they must have reasonable grounds to believe ([ENF 7, section 6](#)) that the person is inadmissible and poses a danger to the public or is unlikely to appear for removal from

Canada. After a foreign national has been arrested and detained, the information should be inputted into FOSS/NCMS. For procedures on making an arrest, see [Section 16](#).

19 Procedure: Person departs Canada without obtaining a certificate of departure

A foreign national who leaves Canada and does not comply with the departure requirements in R238 cannot be said to have enforced their removal order. In these cases, the order remains unenforced.

In the case of a departure order where a foreign national does not meet the requirements under R240(1)(a),(b) and (c) within the prescribed period of time, the order becomes a deportation order by operation of law under R224(2).

If a foreign national subject of a departure order departs from Canada, does not comply with the requirements under R240(1)(a),(b) and (c) and re-appears before an officer at a POE within the applicable period, officers should enforce the removal order as a departure order. In these cases, the person is appearing before an officer at a port of entry to verify their departure and must comply with all requirements set out in R240(1)(a),(b) and (c).

20 Procedure: Counselling the effect of the enforcement of removal orders Canada

It is essential that when an officer verifies the departure of a foreign national and enforces the removal order that the person is made aware of their requirements should they want to return to Canada. It is suggested that remarks that the person was counselled on the effect of the removal order and their requirements to return be included on the IMM 0056B and also inputted into FOSS and NCMS.

During counselling, officers should consider the following circumstances that are prescribed to the type of removal order that has been enforced.

20.1 Requirements to return for deportation orders

Under R226(1), deportation orders always require a foreign national to obtain the authorization to return to Canada under A52(1). This requirement extends any time after the deportation order was enforced.

Officers outside of Canada are reminded that a departure order becomes a deportation order, through operation of law, under R224(2) if the foreign national does not meet the requirements to enforce their removal order under R240(1)(a),(b) and (c) within 30 days after the order becomes enforceable. For the purposes of enforcing a removal order outside of Canada, see [Section 13.4](#) above.

20.2 Requirements to return for exclusion orders

There are two types of exclusion orders:

- Exclusion orders issued for a one year ban; and
- Exclusion orders issued for a two year ban.

Exclusion orders with a one year ban under R225(1) require a foreign national to obtain authorization to return to Canada under A52(1) if they wish to return to Canada within one year after their removal order was enforced.

Exclusion orders with a two year ban under R225(2) require a foreign national to obtain authorization to return to Canada under A52(1) if they wish to return to Canada within two years after their removal order was enforced.

20.3 Requirements to return for departure orders

Departure orders that have been enforced at a POE within the 30-day applicable period under R224(1) do not require a foreign national to obtain an authorization to return to Canada under A52(1). Officers should ensure that, if a removal order information kit is issued in Canada, the person is fully counselled that they must meet the requirements of R240(1)(a),(b) and (c) and presents themselves before an immigration officer at a POE. The person should be counselled that failure to meet these requirements, will result in the departure order becoming a deportation order under R224(2).

20.4 Requirements to return for accompanying family members

Foreign nationals included in removal orders (exclusion or deportation orders) that have been made on the basis that the person is an accompanying family member under A42(b) will not require the authorization to return to Canada under A52(1). Officers should counsel these persons accordingly pursuant to R225(4) and R226(2).