

October 7, 2026 | Immigration and Refugee Protection Act, S.C. 2001, c. 27

1. Framework and who does what

IRPA sets the framework and the IRPR (SOR/2002-227) supplies the detail. Part 1 covers immigration to Canada (Divisions 1 to 10), Part 2 covers refugee protection, Part 3 covers enforcement and offences, and Part 4 creates the Immigration and Refugee Board (IRB).

Provision	Rule
s.3(1) / (2) / (3)	Immigration objectives, refugee objectives, and interpretation consistent with the Charter and Canada's international human rights obligations
s.4	Minister of IRCC administers the Act; Minister of Public Safety handles ports of entry, enforcement, arrest, detention and removal; Minister of Employment handles LMIs
s.6	Ministers may designate officers and delegate powers, except the power to issue security certificates and some danger opinions
s.10.1	Express Entry: a foreign national may apply for PR in certain economic classes only after receiving an invitation to apply (ITA)
s.87.3	Ministerial Instructions: the Minister can set processing priorities, caps and categories, including category-based Express Entry draws

2. Entry, status and selection (Part 1, Divisions 1 to 3)

Provision	Rule
s.11(1)	A foreign national must apply for a visa or other document before entering. The officer issues it if the person is not inadmissible and meets the Act
s.11.2	An officer may not issue a visa if the applicant no longer meets the selection criteria on the date of issue (Express Entry ranking and similar)
s.12	Selection classes: family (s.12(1)), economic (s.12(2)) and refugee (s.12(3))
s.13	Sponsorship by a citizen or PR, including for Convention refugees by groups
s.15	Officer may examine; the person must appear for examination and medical exam if required
s.16	Duty to answer truthfully and produce all relevant evidence, including biometrics
s.18 / s.19	Everyone seeking entry must be examined. Citizens and registered Indians have a right to enter; PRs enter once examined
s.20(1)	FN must prove they hold the required visa and, for temporary entry, will leave by the end of the authorized period
s.20.1	Designated foreign national (DFN) from an irregular arrival: no PR application for 5 years, no RAD appeal, mandatory detention
s.21(1)	FN becomes a PR once satisfying the officer they meet selection and admissibility criteria
s.21(2)	A protected person becomes a PR unless inadmissible on serious grounds
s.22(1) / (2)	FN becomes a TR if they meet the criteria; dual intent: wanting PR later does not bar temporary status
s.22.1	Minister may declare a FN ineligible for TR status for up to 36 months on public policy grounds
s.24	Temporary Resident Permit (TRP) for an inadmissible person where justified. No TRP request within 12 months of a refused, withdrawn or abandoned refugee claim (s.24(4))
s.29	TR may enter and stay for the authorized period and must leave at its end

s.30(1)	FN may not work or study without authorization; employers must meet conditions or face penalties (s.30(1.41)–(1.43))
s.31(3)	PR outside Canada without a PR card needs a PR travel document (PRTD)

3. PR rights and the residency obligation

s.27: a PR has the right to enter and remain in Canada and must meet the residency obligation in s.28.

s.28(2) — 730 days in every 5-year period. Days outside Canada also count if the PR is:

- accompanying a Canadian citizen spouse, common-law partner or parent (child)
- employed full-time outside Canada by a Canadian business or by the federal or a provincial public service, or accompanying a PR who is
- (within the first 5 years) on track to meet 730 days by the end of the 5-year period

Assessment window: if the PR has been one for 5 years or more, the 5 years before the examination; otherwise from the date of landing. H&C factors can overcome a breach (s.28(2)(c)), and an IAD appeal is available (s.63(4)).

s.46(1) — PR status is lost when: the person becomes a citizen; a final determination finds a residency breach; a removal order comes into force; refugee protection ceases under s.108(1)(a)–(d); or the person voluntarily renounces PR status. An officer's finding of breach alone does not end PR status until it is final.

4. Humanitarian and compassionate relief

Provision	Rule
s.25(1)	FN or PR may request an exemption from any criterion or obligation on H&C grounds, including the best interests of a child directly affected
s.25(1.1)	Request must be made with the fee
s.25(1.2)	No H&C while a refugee claim is pending, or within 12 months of a negative or abandoned RPD/RAD decision
s.25(1.21)	The 12-month bar does not apply where removal would risk the person's life through lack of medical care, or affect the best interests of a child
s.25(1.3)	Officer does not consider s.96/97 risk factors but must consider hardship
s.25.1 / s.25.2	H&C on the Minister's own initiative; public policy exemptions (e.g., special measures for crises)

Leading case: *Kanthasamy v. Canada* (SCC 2015) — H&C decisions must weigh all relevant factors to see if the circumstances would excite a reasonable person to relieve another's misfortune. Unusual and undeserved or disproportionate hardship is a guide, not a strict test.

5. Inadmissibility (ss.33–43)

s.33: the facts constituting inadmissibility need only meet the "reasonable grounds to believe" standard. That standard is more than suspicion but less than a balance of probabilities, and covers facts that have occurred, are occurring or may occur.

Section	Ground	Key test
s.34	Security	Espionage, subversion by force, terrorism, danger to Canada's security, violence endangering people in Canada, or membership in an organization that engages in these

s.35	Human or international rights violations	War crimes or crimes against humanity; senior official of a designated regime
s.35.1	Sanctions	Subject to sanctions under Canadian law (e.g., Special Economic Measures Act)
s.36(1)	Serious criminality (FN and PR)	Conviction in Canada of an offence with a maximum of at least 10 years, or a sentence of more than 6 months imposed; foreign conviction or act outside Canada equivalent to a 10-year offence
s.36(2)	Criminality (FN only)	Indictable conviction in Canada; two convictions not arising from a single occurrence; foreign indictable equivalent; act outside Canada
s.36(2)(d)	Criminality on entry	Committing a prescribed offence (e.g., certain driving offences) on entering Canada
s.37	Organized criminality	Membership in a criminal organization; people smuggling, trafficking or money laundering
s.38(1)	Health	Danger to public health or safety, or excessive demand on health or social services
s.39	Financial	Unable or unwilling to support self and dependants, without satisfactory arrangements
s.40	Misrepresentation	Direct or indirect misrepresentation or withholding of material facts that could induce an error
s.40.1	Cessation	Refugee protection ceased under s.108(1)
s.41	Non-compliance	Breaching the Act, including the PR residency obligation
s.42	Inadmissible family member	Accompanying family member is inadmissible, or the applicant accompanies an inadmissible family member

s.36(3) rules: a hybrid offence is treated as indictable even if prosecuted summarily; a record suspension, final acquittal or deemed rehabilitation removes the ground; Youth Criminal Justice Act offences do not count; and s.36 does not cover acts under s.35.

Rehabilitation (IRPR R17–18.1): deemed rehabilitated 10 years after completing the sentence for one foreign indictable equivalent (not serious), or 5 years for two or more summary equivalents. Otherwise, apply for individual rehabilitation 5 years after the sentence ends.

Foreign equivalency: compare the elements of the foreign offence with the Canadian one by reading the statutes, by looking at the evidence, or both (*Hill*, FCA 1987).

s.38(2) exemptions: excessive demand does not apply to sponsored spouses, common-law partners, conjugal partners and dependent children, or to Convention refugees, protected persons and their dependants. Excessive demand is set at 3 times the average Canadian per capita health and social services cost (IRPR R1).

s.40 misrepresentation: applies even if the person did not know of the misrepresentation (e.g., by a consultant). Bar of 5 years from the final determination or the enforcement of the removal order (s.40(2)(a)); during that time the FN may not apply for PR (s.40(3)). The innocent mistake exception is narrow: the person must honestly and reasonably believe they were not withholding material information.

s.42(1) exception: a protected person is not inadmissible solely because of a non-accompanying inadmissible family member.

6. Reports, hearings and removal (ss.44–53)

Provision Rule

s.44(1)	An officer who believes a PR or FN in Canada is inadmissible may prepare a report and send it to the Minister's delegate
s.44(2)	The delegate may refer the report to the Immigration Division (ID) or, in prescribed cases, issue the removal order directly
s.45	After an admissibility hearing, the ID grants status, authorizes entry, or makes the removal order

s.47	TR loses status at the end of the authorized period, on breaching the Act, or when a TRP is cancelled
s.48	An enforceable removal order must be enforced as soon as possible; the person must leave immediately
s.49(1)	Removal order comes into force on the day made if there is no right of appeal, when the appeal period ends, or on final determination of the appeal
s.49(2)	For refugee claimants, the order is conditional and comes into force only after the claim is finally rejected, abandoned or withdrawn
s.50	Removal order is stayed where a court order conflicts, while serving a sentence in Canada, or during a Minister's stay
s.51	A removal order is void if the FN becomes a PR
s.52(1)	After removal, the person needs an Authorization to Return to Canada (ARC); if the order is set aside, they may return at the Minister's expense

Removal order	Effect	Return to Canada (IRPR)
Departure order	Must leave within 30 days after it becomes enforceable and confirm departure	No ARC if left on time; otherwise becomes a deportation order (R224)
Exclusion order	Removed from Canada	ARC needed for 1 year; 5 years if for misrepresentation (R225)
Deportation order	Removed from Canada	ARC needed permanently (R226)

7. Detention (ss.55–61)

Grounds (s.55, s.58): a person may be arrested and detained where they are a danger to the public, unlikely to appear for examination, hearing or removal (flight risk), their identity has not been established, or they are inadmissible on security or serious rights grounds.

Reviews (s.57): the ID reviews detention within 48 hours, then within the next 7 days, then at least once every 30 days. DFNs are reviewed within 14 days, then every 6 months (s.57.1).

Release and alternatives: the ID may order release on conditions such as a deposit or guarantee (s.58(3)). Factors in IRPR R244–248 include the length of past and expected detention, delays, and alternatives to detention. Minors are detained only as a last resort, and the best interests of the child must be considered (s.60).

8. Immigration Appeal Division (ss.62–71)

Appeal	Who can appeal	Key point
Sponsorship refusal	Sponsor (s.63(1))	Filed within 30 days of receiving the written reasons (IAD Rules)
Removal order	PR, protected person, or FN with a PR visa (s.63(2)–(3))	Filed within 30 days; IAD may stay the order (s.68)
Residency obligation	PR (s.63(4))	Within 30 days if made in Canada; within 60 days if made outside Canada
Minister's appeal	Minister (s.63(5))	Against an ID decision at an admissibility hearing

No appeal right (s.64): security, human or international rights violations, organized criminality, or serious criminality punished by a prison term of at least 6 months. A sponsor cannot appeal a misrepresentation refusal unless the applicant is their spouse, common-law partner or child (s.64(3)).

Sponsorship and H&C (s.65): the IAD may consider H&C only if the foreign national is found to be a member of the family class and the sponsor is a sponsor under the regulations.

Outcomes (s.66–69): the IAD allows the appeal for an error in law or fact, a breach of natural justice, or sufficient H&C grounds considering the best interests of a directly affected child (s.67). It may instead stay the removal order with conditions (s.68), and the stay is cancelled by law if the person is convicted of another s.36(1) offence (s.68(4)). Otherwise, it dismisses the appeal (s.69).

H&C factors in removal appeals: the *Ribic* factors (endorsed in *Chieu*, SCC 2002): seriousness of the offence, rehabilitation, time in Canada, family in Canada and dislocation, community support, and hardship on return.

Reopening (s.71): a FN who has not left Canada may apply to reopen an appeal only where the IAD failed to observe a principle of natural justice.

9. Refugee protection (Part 2)

Provision	Rule
s.95	Refugee protection is conferred by an RPD or RAD decision, a positive PRRA, or as a resettled refugee
s.96	Convention refugee: well-founded fear of persecution for race, religion, nationality, membership in a particular social group, or political opinion; unable or unwilling to seek state protection
s.97	Person in need of protection: danger of torture, or a personal risk to life or of cruel and unusual treatment not faced generally by others and not caused by lawful sanctions or inadequate health care
s.98	Exclusion under Refugee Convention Article 1E (status in another country) or 1F (crimes against peace or humanity, serious non-political crimes)
s.99	Claims made at a port of entry or inland; not available to a person already subject to a removal order
s.100	Officer decides eligibility within 3 working days; otherwise the claim is deemed referred to the RPD
s.101	Ineligible: prior claim in Canada, protected elsewhere, Safe Third Country Agreement (STCA), inadmissible on serious grounds, or a prior claim in a country Canada shares immigration information with
s.104	Notice from an officer can suspend or end RPD proceedings when ineligibility is found later
s.106	RPD must consider the lack of identity documents in assessing credibility
s.107(2) / s.107.1	No credible basis finding; manifestly unfounded (clearly fraudulent) finding — both remove RAD access
s.108(1) / (4)	Cessation: re-availing protection, re-acquiring nationality, a new nationality, re-establishment, or changed circumstances. Compelling reasons exception for past atrocious persecution
s.109	Vacation: protection obtained by misrepresentation is nullified on the Minister's application

Basis of Claim (BOC): inland claimants submit it with the claim; port-of-entry claimants file it with the RPD within 15 days of referral.

RAD (ss.110–111): the appeal is filed within 15 days and perfected within 30 days of receiving the RPD's written reasons (RAD Rules). No appeal for DFNs, manifestly unfounded or no credible basis claims, STCA-exception claimants, or vacation and cessation decisions (s.110(2)). The RAD decides on the RPD record, and new evidence is limited to evidence that arose after the rejection or was not reasonably available (s.110(4)). A hearing is held only where new evidence raises a central, serious credibility issue that would justify the decision (s.110(6)). The RAD may confirm, set aside and substitute, or refer back to the RPD (s.111). Standard of review is correctness (*Huruglica*, FCA 2016).

PRRA (ss.112–114): applies to a person subject to an enforceable removal order. Barred within 12 months of a final negative RPD, RAD or previous PRRA decision, and for STCA-ineligible claimants (s.112(2)). Only new evidence is considered (s.113(a)). A positive PRRA usually confers protection; for restricted applicants (security, rights violations, organized criminality, serious criminality with a sentence of 2 years or more, or 1F exclusion), only s.97 risk is assessed and the result is a stay of removal (s.112(3), s.114(1)(b)).

Non-refoulement (s.115): a protected person is not removed to a country where they risk persecution, torture or cruel treatment, unless a danger opinion applies (s.115(2)).

10. Security certificates (ss.76–87)

Both Ministers sign a certificate declaring a PR or FN inadmissible on security, human rights, serious criminality or organized criminality grounds and refer it to the Federal Court (s.77). The judge decides whether the certificate is reasonable; if so, it becomes a removal order (s.80). Special advocates protect the person's interests in closed hearings (s.85.1). Detention reviews are held at least every 6 months (s.82).

11. IRB and judicial review

Provision	Rule
s.162	Each division has sole and exclusive jurisdiction over questions of law and fact; proceedings are informal and quick, consistent with fairness
s.165 / s.167	Powers of a commissioner under the Inquiries Act; right to counsel at the person's own expense; minors and those unable to appreciate the process get a designated representative
s.170	RPD: may receive any evidence it considers credible or trustworthy and take notice of judicially noticeable facts
s.173 / s.175	ID and IAD are not bound by legal or technical rules of evidence
s.72(1)	Judicial review of any decision under the Act requires leave from the Federal Court
s.72(2)	Exhaust any appeal first. File within 15 days if the matter arose in Canada, 60 days if outside Canada
s.74(d)	No appeal to the Federal Court of Appeal unless the judge certifies a serious question of general importance

Standard of review: reasonableness is the presumption (*Vavilov*, SCC 2019). Procedural fairness questions are reviewed on a correctness-like basis (*Baker*, SCC 1999).

12. Representation and offences

Paid representation (s.91): only lawyers and paralegals in good standing with a provincial law society, Quebec notaries, and CICC licensees may represent or advise for consideration, at any stage including before an application is filed. A student-at-law acting under supervision is also allowed. Unauthorized paid representation is an offence (s.91(9)); maximum on indictment is a fine of \$100,000 and/or 2 years.

Section Offence

s.117	Organizing human smuggling; up to life imprisonment and fines up to \$1,000,000 for 10 or more people
s.118	Human trafficking; up to life imprisonment and fines up to \$1,000,000
s.122	Possessing, using or dealing in forged or improperly obtained documents
s.124	Employing a foreign national without authorization; due diligence is a defence
s.126	Counselling misrepresentation
s.127	Misrepresentation; penalties in s.128 (indictable: up to \$100,000 and/or 5 years)

13. Common IRPR links tested with IRPA

IRPR provision	Rule
R4	Bad faith: the relationship is not genuine or was entered primarily for status (either test is enough)
R117(9)(d)	An undisclosed, unexamined family member is permanently excluded from the family class
R130(3)	A sponsor who was sponsored as a spouse or partner cannot sponsor a new spouse or partner for 5 years after becoming a PR
R132	Undertaking length: 3 years for a spouse or partner; 10 years or until age 25 for a dependent child; 20 years for parents and grandparents

R133	Sponsor bars: default on an undertaking or support, social assistance (except disability), criminal convictions, bankruptcy, removal order
R2	Dependent child: under 22 and not a spouse or partner, or 22 or older, financially dependent since before 22, and unable to support themselves due to a condition
R1(1)	Common-law partner: cohabiting in a conjugal relationship for at least 1 year

14. Key numbers

Number	What it is	Provision
730 days in 5 years	PR residency obligation	s.28(2)
10 years / > 6 months	Serious criminality: maximum sentence / sentence imposed	s.36(1)
≥ 6 months	Prison term that removes the IAD appeal right	s.64(2)
2 years	Sentence that makes a PRRA restricted	s.112(3)
5 years	Misrepresentation bar	s.40(2)
10 / 5 years	Deemed rehabilitation: one indictable / two or more summary	R18
48 hrs / 7 days / 30 days	Detention review schedule	s.57
3 working days	Refugee eligibility determination	s.100
15 days	BOC for POE claimants	IRPR
12 months	PRRA, H&C and TRP bars after a negative refugee decision	s.112, s.25(1.2), s.24(4)
15 / 30 days	RAD: file / perfect the appeal	RAD Rules
30 / 60 days	IAD: sponsorship and removal / residency outside Canada	IAD Rules
15 / 60 days	Federal Court JR: in Canada / outside Canada	s.72(2)
30 days	Leave Canada under a departure order	R224
1 / 5 years / permanent	ARC needed: exclusion / exclusion for misrep / deportation	R225–226

15. Exam traps

- Inadmissibility uses "reasonable grounds to believe", not a balance of probabilities (s.33).
- Criminality under s.36(2) applies only to foreign nationals; PRs are caught only by serious criminality under s.36(1).
- A hybrid offence counts as indictable, even if the Crown proceeded summarily (s.36(3)(a)).
- Serious criminality is "more than 6 months" for inadmissibility (s.36(1)) but "at least 6 months" for losing the IAD appeal (s.64(2)).
- Misrepresentation by a representative still makes the client inadmissible under s.40(1)(a).
- Excessive demand does not apply to sponsored spouses, partners or dependent children (s.38(2)).
- An IAD sponsorship appeal over misrepresentation is limited to spouses, partners and children (s.64(3)).
- The IAD has no H&C jurisdiction until the applicant is shown to be a member of the family class (s.65).
- PR status is not lost when an officer finds a residency breach; it ends only on final determination (s.46(1)(b)).
- A departure order becomes a deportation order if the person does not leave within 30 days.
- RAD is not available to claims found manifestly unfounded or with no credible basis, or to STCA-exception claimants.
- Judicial review needs leave, and any IAD or RAD appeal must be exhausted first (s.72(2)(a)).