

Changes for Immigration and Refugee Law – COVID-19

April 28, 2020

This presentation is intended to provide general information. It is not legal advice.

Topics

- Who can enter Canada;
- Processing of refugee claims, appeals, and Federal Court
- Detention and removals
- Applications for permanent residence, temporary residence and citizenship
- Income supports

Caution about content

- This stuff is changing **EVERYDAY**
- This presentation is dated April 28, 2020
- **Do not rely on this content without also checking whether there have been any updates**

Border changes

- Restrictions for everybody travelling to Canada
- Restrictions for foreign nationals travelling internationally (except US) to Canada
- Restrictions for foreign nationals travelling from the US to Canada

Restrictions for everyone

- Whether you are a citizen, permanent resident, worker, visitor – **EVERYONE** – will not be able to board an airplane to fly to Canada if they exhibit “COVID-19 symptoms”
- Air operators doing health checks

Restrictions on international travel of foreign nationals

- These restrictions are in place until June 30, 2020
- Travelled is barred to Canada for foreign nationals, except where:
 - Travel is essential (not “optional or discretionary”)
AND
 - Fits within one of the exemptions

Exemptions to international (non-US) travel ban

- Immediate family members of citizens or PRs
- Authorized by consular officer/minister's delegate to enter Canada for family reunification
- Holder of work permit approval
- Holder of valid study permit issued before March 18, 2020
- PR approved prior to March 18, 2020
- Person's whose presence is in the "national interest"
- Exemptions for those providing medical, emergency or other essential services

Travel of foreign nationals from the U.S.

- Restrictions extended until May 21, 2020
- Travel is permitted ONLY if purpose is NOT “optional or discretionary” such as “tourism, recreation, or entertainment.”
- Whether travel is “optional or discretionary” assessed by individual CBSA agents

“optional and discretionary”?

- No clear definition of this. IRCC guidance (April 22, 2020) – essential is:
 - delivering economic services, maintaining supply chain, supporting critical infrastructure, providing immediate medical care or ensuring safety and security
 - Transiting for essential purposes
 - Employment or shopping for essential goods, medication, basic needs (border/indigenous communities)
 - Non-discretionary family reunification

New ground of inadmissibility

- April 20, 2020 – regulations amended to introduce new ground of inadmissibility
- Foreign nationals convicted for contravening an order or regulation under the Emergencies Act or Quarantine Act – e.g. failure to self-isolate
- Result would be an Exclusion Order – one year bar for re-entering

Refugees and travel restrictions

- Travel ban does not apply to protected persons
- Entering Canada
- Making in-land claims
- Resettling refugees

Refugees getting into Canada

- Increased restrictions on travel will mean there will be fewer asylum seekers who will make it to Canada by air
- If someone gets here by air (not from US), they are still able to make a claim on arrival or later inland
- If someone arrives at an official port of entry land border – they are subject to Safe Third Country Agreement (STCA) – only can enter if fit into exceptions (family member, unaccompanied minor, stateless etc.) – otherwise sent back to US
- If someone arrives irregularly (not entering through an official port of entry land border) and tries to make claim – they will be sent back to the US, unless they fit into the exceptions of the new OIC with U.S. – e.g. U.S. citizen, unaccompanied minor, stateless

Making inland refugee claims

- No in-person eligibility interviews

- Email address to make claim

IRCC.RefugeeClaim-Demandedasile.IRCC@cic.gc.ca

- Acknowledgment of claim letter provided

Proof of refugee claim

- Refugee claimant ID document (valid or expired) can be used
- IRCC not renewing expired claimant documents at this time
- Acknowledgement of Claim letter

Refugee Protection Division (RPD)

- If Basis of Claim (BOC) form due after Feb. 15, 2020 – extension until 30 days after “resumption notice” issued by RPD (notice to be posted on website)
- All RPD hearings have been suspended until at least 30 days notice prior to scheduling
- Limited number of cases may proceed without 30 days notice
- Communication via e-post system

Refugee Appeal Division (RAD)

- If Notice of Appeal was due after January 1, 2020, timeline extended until 30 days after Resumption Notice (will be posted on IRB website)
- If appeal record was required to be perfected after January 1, 2020, timeline extended until 30 days after Resumption Notice (will be posted on IRB website)
- Communication remains by fax for now though no one is monitoring

Resettling refugees

- Applications by private sponsorship groups can still be filed but should be done by email
- Arrivals of privately sponsored refugees scheduled for March and April have been cancelled/ don't have new info on this
- Refugee travel loan payments are suspended until September 2020

Federal Court

- Cancellation of hearings, except urgent ones, until May 15, 2020
- Suspension of timelines (March 17-May 15), including filing the original filing of the notice/suspension of court filing fee
- Court online e-filing system and email service on DOJ

CBSA : Arrests and Removals

- No fresh arrests
- No in person reporting – switched to phone
- Removals paused except “serious inadmissibility” cases

Immigration Detention

- Immigration detention numbers are down
- In BC – approximate numbers: 18 at FRCC; 5 at new IHC in Surrey
- Immigration Division detention review hearings happening by telephone; docs filed by email
- [IRB.Western ID DCO-Ouest SI ODC.CISR@irb-cisr.gc.ca](mailto:IRB.Western_ID_DCO-Ouest_SI_ODC.CISR@irb-cisr.gc.ca)
- In BC – ID members are taking Covid into account as a factor to consider – not determinative

Changes to Processing of IRCC Applications

- IRCC has enacted *Novel Coronavirus (COVID-19) Program delivery* instructions
- Available here:
<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/service-delivery/coronavirus.html>

Processing of IRCC Applications - General

- General Processing Measures:
 - Applications will not be refused for non-compliance – applications will continue to be processed but may experience delays
 - No special instructions for expedited processing but can be requested – at manager’s discretion
 - Officers may request additional documentation but applicants should be given **90 days** to respond
 - In-person interviews suspended

Temporary Residence Applications – outside Canada

- All applications must be submitted online
- New applications will only be processed if the applicant is exempt from travel ban and travelling for a non-discretionary purpose
- Pending applications received prior to April 9 are suspended under April 29 unless applicant is exempt from travel ban
- Must e-mail IRCC.COVID-TravelExemptions-Exemptionsdevoyage-COVID.IRCC@cic.gc.ca

Temporary Residence Applications – In-Canada

- Can continue to submit applications to extend status from within Canada – can benefit from **implied status**
 - “Foreign nationals who are in Canada and whose temporary resident status may soon expire may apply for an extension in order to maintain their temporary resident status in Canada. As per current guidelines, applicants **must apply online** and must meet all requirements, including biometrics fees, as applicable.”
 - <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/service-delivery/coronavirus/temporary-residence/depart-canada.html>

Temporary Residence Applications – In-Canada

- Implied Status
 - If you apply to extend your permit before its expiry, you are authorized to remain in Canada on the same conditions as your expired permit
 - Can continue working under the terms and conditions of your expired work permit – per s. 186(u) of the IRPR

Temporary Residence Applications – In-Canada

- Implied Status

- *Example - Mary's employer-specific work permit expired on April 1, 2020. She applied for permanent residence under the Interim Pathway for Caregivers with an Open Work Permit. Her application package was received by IRCC on October 5, 2019. She will benefit from "implied status" and can continue working for her current employer only until she receives her open work permit.*

Temporary Residence Applications – In-Canada

- Restoration

- If status expired less than 90 days ago, may be able to apply for **restoration** – if approved, will receive visitor record (or other permit).
- If not approved, may result in enforcement action being taken (although there is a temporary suspension of removals)

Temporary Residence Applications – In-Canada

- Temporary Resident Permit (TRP)
 - Can apply if applicant is inadmissible or does not meet the requirements to remain in Canada, **if justified in the circumstances**
 - Officers will consider:
 - Is there a compelling need to enter/remain in Canada?
 - Does need for presence in Canada outweigh any risk to Canadians or Canadian society?

Temporary Residence Applications – In-Canada

- Open Work Permit for Vulnerable Workers
 - Available to temporary foreign workers who are facing abuse in their employment
 - Physical, sexual, financial or psychological abuse
 - Must have an employer specific work permit or applied to extend it
 - No application fee
 - In-person interviews are currently suspended - currently seeing long delays

Temporary Residence Applications – In-Canada

- Students - changes due to COVID-19
 - Students can work more than 20 hours per week **only if working in essential services** - health care, critical infrastructure, or the supply of food or other critical goods.
 - Announcement: <https://www.canada.ca/en/immigration-refugees-citizenship/news/2020/04/removing-barriers-for-international-students-working-in-essential-services-to-fight-covid-19.html>
 - Complete list of eligible jobs/functions: <https://www.publicsafety.gc.ca/cnt/ntnl-scr/crtcl-nfrstrctr/esf-sfe-en.aspx>

Permanent Residence Applications

- Can continue to submit new applications
- If missing documents, IRCC will retain and review in 90 days – must explain how affected by service disruptions from COVID-19, otherwise may be returned under R10
- COPR or PRV holders may inform IRCC if unable to travel - can reopen and review in 90 days.
- Complete PR applications with valid biometrics and medical may be finalized

Permanent Residence Applications

- Impacts for workers with pending applications or who are intending to apply for permanent residency
 - Job loss / reduced hours may impact eligibility for certain kinds of applications
 - E.g.: Express Entry (with job offer), Provincial Nominee Program, Home Care Provider / Home Support Worker Pilot
- May need to update your application / inform IRCC of changes

Permanent Residence Applications

- B.C. Provincial Nominee Program
 - Can still submit new registrations and applications but if you no longer meet the criteria, consider declining and reapplying
 - If you have already applied, you may need to update your employment status if you have been laid off
 - If you have already received a nomination and applied for PR, you need to update the BCPNP about any changes in employment/personal status. This includes layoffs/business closure/reduced hours/etc.

Citizenship Applications

- Tests, interviews, ceremonies have all been cancelled until further notice – will receive notice when appointments resume
- Additional 90 days to provide documents to IRCC once notify local office of COVID-19 impact
- Days spent outside of Canada due to COVID-19 **do not count as days in Canada**. Applicants must meet the physical presence requirements as per normal procedure.

Income supports during COVID-19

- Income supports available to work/study permit holders:
 - EI and CERB
<https://www.canada.ca/en/services/benefits/ei/cerb-application/questions.html>
 - B.C. Emergency Benefit for Workers:
<https://www2.gov.bc.ca/gov/content/employment-business/covid-19-financial-supports/emergency-benefit-workers>
 - BC Temporary Rental Supplement (BC-TRS) Program:
<https://www.bchousing.org/BCTRS>

Income supports during COVID-19

- Additional income supports:
 - Climate Action Tax Credit:
<https://www2.gov.bc.ca/gov/content/taxes/income-taxes/personal/credits/climate-action/enhanced-july-2020-payment>
 - GST/HST Credit
<https://www.canada.ca/en/revenue-agency/services/child-family-benefits/covid-19-gsthstc-increase.html>
 - Canada Child Benefit
<https://www.canada.ca/en/revenue-agency/campaigns/covid-19-update/covid-19-ccb-payment-increase.html>
 - Relief from BC Hydro, ICBC, FortisBC
<https://www2.gov.bc.ca/gov/content/employment-business/covid-19-financial-supports>

Income supports during COVID-19

- Temporary health care coverage:
 - Available to individuals who had a work/study permit, were enrolled with MSP, but their permit is now expired
 - Includes people on implied status and people who cannot leave Canada due to COVID-19
 - Contact Health Insurance BC to register: 1 800 663-7100 (toll free) or 604 683-7151
 - More information:
<https://www2.gov.bc.ca/gov/content/health/health-drug-coverage/msp/bc-residents/msp-covid-19-response>

Income supports during COVID-19

- Applying for EI – not considered to be social assistance
- IRCC has stated that receiving CERB will not negatively impact immigration processes or status.
- Relevant for:
 - Sponsors including of parents/grandparents
 - People who have been sponsored by a family member

Contact Information

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Questions?
