



IMMIGRATION Canada

Rehabilitation For Persons Who Are Inadmissible to Canada Because of Past Criminal Activity

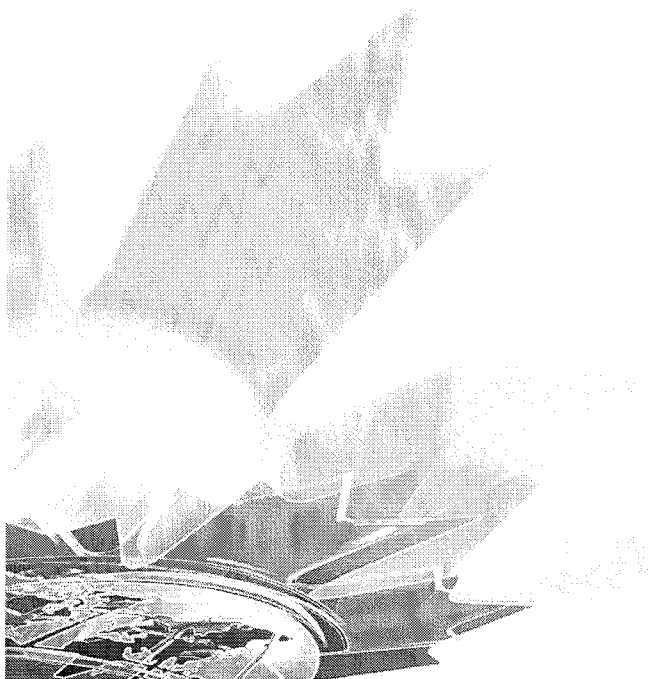


Table of Contents

Overview	3
Determining Inadmissibility	4
Overcoming Criminal Inadmissibility	5
Eligibility for Rehabilitation	7
Coming to or Remaining in Canada Without Approval of Rehabilitation	8
Completing the Form (IMM 1444)	9
Paying the Processing Fee	12
Submitting Your Application	12
What Happens Next?	13

Attachments:

Forms:

- Application For Criminal Rehabilitation (IMM 1444)
- Use of a Representative (IMM 5476)
- Fees for Immigration Services
- Approval of Rehabilitation (IMM 5310)
- Document Checklist (IMM 5507)

**Cette trousse est également
disponible en français**

Contact Information

Web site

For more information on the programs offered by Citizenship and Immigration Canada, visit our Web site at www.cic.gc.ca. For some types of applications you can inform us of a change of address and find out what is happening with your application through on-line services on the Web site.

Within Canada

If you are in Canada, you can also phone our **Call Centre**. An automated telephone service is available seven days a week, 24 hours a day and is easy to use if you have a touch-tone phone. You can listen to pre-recorded information on many programs, order application forms, and for some types of applications the automated service can even update you on the status of your case.

When you call, have a pen and paper ready to record the information you need. Listen carefully to the instructions and press the number for the selection you want. At any time during your call, you may press * (the star key) to repeat a message, **9** to return to the main menu, **0** to speak to an agent, or **8** to end your call. If you have a rotary phone, wait for an agent to answer you.

If you need to speak to an agent, you must call Monday to Friday between 8 a.m. and 4 p.m. local time.

From anywhere in Canada, call

1-888-242-2100 (toll-free)

Using a text telephone?

Call our TTY service from Monday to Friday between 8 a.m. and 4 p.m. local time at: **1-888-576-8502** (toll-free).

Outside Canada

If you are outside Canada, you can contact a Canadian embassy, high commission or consulate. Consult our Web site for addresses, phone numbers and Web site addresses of our visa offices.



This is not a legal document. For legal information, refer to the *Immigration and Refugee Protection Act and Regulations* or the *Citizenship Act and Regulations*, as applicable.

This publication is available in alternative formats upon request.

Overview

Under Canada's *Immigration and Refugee Protection Act*, temporary residents and applicants for permanent residence in Canada may not be able to come to Canada if they have been involved in criminal activity. This guide explains when people might be considered inadmissible and under what conditions they can apply to overcome the inadmissibility. An application for rehabilitation and instructions on how to complete it are also included.

Before You Apply

- Read **all** of the instructions carefully before you begin to complete the application forms.
- Ensure you are eligible to apply.
- Gather all of the necessary documents, which are listed in the *Document Checklist*.
- Photocopy the blank forms and use one as a working copy. Keep the working copy for your records.
- Fill in the forms carefully, completely and legibly, using black ink.
- Include the processing fee.
- Sign and date your forms.

Determining Inadmissibility

Are you inadmissible because of past criminal activity?

In general, temporary residents and applicants applying for permanent residence are considered to be criminally inadmissible if the person:

- was convicted of an offence in Canada;
- was convicted of an offence outside of Canada that is considered a crime in Canada;
- committed an **act** outside of Canada that is considered a crime under the laws of the country where it occurred and would be punishable under Canadian law; and/or,
- failed to act when it was their duty under the laws of the country to do so and this failure to act would be punishable under Canadian law. **This failure to act is called an omission.**

Note: In order to determine inadmissibility, foreign convictions, acts, and omissions are equated to Canadian law as if they had occurred in Canada.

Have you been charged, discharged or pardoned?

If you have been charged, discharged or pardoned, this chart will help you determine if you are inadmissible:

Outcome of Charges/ Convictions	Offence Occurred In Canada	Offence Occurred Outside Canada
Charges Withdrawn or Dismissed	You are not inadmissible.	You may be inadmissible. *
Absolute or Conditional Discharge	You are not inadmissible.	You may be inadmissible. *
Pardon Granted	If pardoned under the <i>Criminal Records Act</i> in Canada, you are not inadmissible.	You may be inadmissible. *

*You must provide an officer with complete details of charges, convictions, court dispositions, pardons, photocopies of applicable sections of foreign law(s), and court proceedings to allow the officer to determine whether or not you are inadmissible to Canada.

Were you convicted as a juvenile?

In Canada, a juvenile offender is someone who is 12 years of age or older but less than 18 years of age.

You are **not** inadmissible if:

- you were convicted in Canada under the Young Offenders Act
- you were treated as a young offender in a country which has special provisions for young offenders, or
- you were convicted in a country which does not have special provisions for young offenders but the circumstances of your conviction are such that you would have been treated as a juvenile in Canada.

You are inadmissible if:

- you were convicted in adult court in a country that has special provisions for young offenders.
- you were convicted in a country which does not have special provisions for young offenders but the circumstances of your conviction are such that you would have been treated as an adult in Canada

Overcoming Criminal Inadmissibility

A. Convictions/Offences outside Canada

If you were convicted of or committed a criminal offence outside Canada, you may overcome this criminal inadmissibility by:

applying for rehabilitation or

you may be deemed to have been rehabilitated if ten years have passed since you completed the sentence imposed upon you or since you committed the offence, if the offence is one that would, in Canada, be an indictable offence punishable by a maximum term of imprisonment of less than ten years.

If the offence is one that would, in Canada, be prosecuted summarily and if you were convicted for two or more such offences, that period is five years after the sentence imposed was served or to be served.

B. Convictions/Offences in Canada

If you have a criminal conviction in Canada, you must seek a pardon from the National Parole Board of Canada before you will be admissible to Canada. Do not complete the forms in this kit. You can request a *Pardon Application Guide* or additional information from:

Clemency and Pardons Division, National Parole Board

410 Laurier Avenue West

Ottawa , Ontario, Canada

K1A 0R1

Telephone: 1-800-874-2652 (Callers in Canada and the United States only)

Fax: 1-613-941-4981

Web site: www.npb-cnrc.gc.ca (The instructional guide and application forms can be downloaded from the Web site)

In order to be considered for a pardon under the *Criminal Records Act*, a specified period of time must pass after the end of the sentence imposed. The sentence may have been payment of a fine, period of probation, or imprisonment. The usual waiting period for offences:

- if prosecuted by indictment is five years.
- if punishable on summary conviction is three years.

Once you have a copy of the pardon, send a photocopy to a Canadian visa office or Citizenship and Immigration Centre. If you are travelling to Canada carry a copy of the pardon with you.

If you have had two or more summary convictions in Canada, you may be deemed rehabilitated and no longer inadmissible if:

- 5 years have passed since the sentence imposed was served or to be served,
- you have had no subsequent convictions **and**
- you have not been refused a pardon.

See Table 1 for a summary of the type of offences and length of rehabilitation periods.

C. Convictions in Canada and Convictions/Offences Outside of Canada

If you have convictions in Canada **and** convictions/offences outside of Canada, **both** an approval of rehabilitation and a pardon are required to overcome your inadmissibility.

Note: Your request for rehabilitation **cannot** be made until you have first obtained a pardon, except if you have **only one** summary conviction **in Canada**. In such instances, you may submit an application for rehabilitation if you can provide evidence that you have submitted an application for a pardon to the National Parole Board.

Table 1- Eligibility for Rehabilitation

The following table gives a summary of the type of offences and length of rehabilitation periods.

Conviction or offence	Rehabilitation period	
	When deemed rehabilitated ¹	When eligible to apply for rehabilitation ¹
Conviction of an offence outside Canada that, if committed in Canada, would be an indictable offence punishable by a maximum term of imprisonment of less than ten years	At least ten years after completion of the sentence imposed	Five years after completion of the sentence imposed
Commission of an offence outside Canada that, if committed in Canada, would be an indictable offence punishable by a maximum term of imprisonment of less than ten years	At least ten years after commission of the offence	Five years after commission of the offence
Conviction or commission of an offence outside Canada, that, if committed in Canada, would be punishable by a maximum term of imprisonment of ten years or more	Not applicable	Five years from completion of the sentence or commission of the offence
Two or more summary conviction offences committed outside Canada	Five years after the sentence imposed is served or to be served	Not applicable
Two or more indictable offences committed in Canada	Five years after the sentence imposed is served or to be served.	Must apply for a pardon

¹The person must not have committed or been convicted of a subsequent offence.

Eligibility for Rehabilitation

What is rehabilitation?

Rehabilitation removes the grounds of criminal inadmissibility. Rehabilitation means that you lead a stable lifestyle and that you are unlikely to be involved in any further criminal activity.

Are you eligible to apply for rehabilitation?

You are eligible to apply for rehabilitation if you have:

- committed an act or omission outside of Canada and five years have elapsed since the act or omission.
- been convicted outside of Canada and five years have passed since the end of the sentence imposed. As there are different types of sentences, use the following table to calculate the five-year waiting period.

Type of Sentence	Determining the Eligibility Date
Suspended Sentence	Count five years from the date of the conviction.
Suspended Sentence with a fine	Count five years from the date the fine was paid. In the case of varying payment dates, the rehabilitation period starts on the date of the last payment.
Imprisonment but the sentence is suspended. *	Count five years from the end of the jail sentence.
Imprisonment without Parole	Count five years from the end of the term of imprisonment.
Imprisonment and Parole	Count five years from the completion of parole.
Probation	Probation is not considered part of a sentence or a conviction. Therefore, count five years from the date of sentencing. Even if conditions were imposed, probation should not be used in calculating the five year period, which begins on the day of sentencing.
Suspended Driver's License	Count five years from the end date of the suspension or the date your driver's licence was reinstated. If there was a term of imprisonment, the period of rehabilitation begins at the end of the completed sentence or at the end of the period of suspension, whichever is later.

The following are three examples of how to calculate the five years waiting period:

Example 1: You were convicted on September 2, 2002 and received a jail sentence of two years, but served only nine months. Count two years as the sentence would have been completed on September 2, 2004. Add five years to this date. You are eligible to apply for rehabilitation on September 2, 2009.

Example 2: You were convicted on July 1, 2002 and received a fine and suspension of your driver's license for three years. The sentence imposed will end July 1, 2005. You are eligible to apply for rehabilitation on July 1, 2010.

Example 3 *: You were convicted on June 2, 2002 and received a jail sentence of three months which was suspended for two years. Count the three months jail sentence which would be September 2, 2002 and then add five years to this date. You will be eligible to apply for rehabilitation on September 2, 2007.

Coming to or Remaining in Canada Without Approval of Rehabilitation

If you need to come to Canada, but cannot apply for rehabilitation because five years have not passed since the end of the sentence imposed or you are not eligible to apply for a pardon for convictions in Canada, you may ask an officer for special permission to enter or remain in Canada. Complete the Application for Criminal Rehabilitation, but check the box that states, "For Information Only." Attach the documents outlined in the *Document Checklist*. After reviewing the form and looking at the nature of the offences, number of offences, when they happened and your current situation, the officer may:

At Canadian visa offices outside of Canada

- advise that they do not recommend that you travel to Canada; **or**,
- advise that you could apply for special permission (temporary resident's permit) to enter Canada*.

At Ports of Entry (airport, marine or land)

(Contact your nearest Canadian visa office **before** travelling to Canada.)

- advise that you will not be allowed to enter Canada and ask you to return immediately to your country of departure;
- take enforcement action (arrest, detention and/or removal); **or**,
- advise that you could apply for special permission (temporary resident's permit) to enter Canada*.

In Canada

- ask that you leave Canada voluntarily;
- take enforcement action (arrest, detention, and/or removal from Canada); **or**
- advise that you could apply for special permission (temporary resident's permit) to remain in Canada*.

*There will be processing fees for applications for special permission to come into or remain in Canada. You will be advised of the processing fees at the time or you can refer to our Web site for further details.

Completing the Forms

You must provide truthful and accurate information. The information provided may be verified. Providing false or misleading information will likely result in a refusal of your application and may permanently bar your admission to Canada.

Application For Criminal Rehabilitation (IMM 1444)

As most of the form is self-explanatory, supplementary instructions have only been provided where necessary. Attach a separate sheet of paper if you need more space and indicate the section, number and title of the question you are answering.

Section A

Box 1: If you have determined that you are eligible to apply for rehabilitation, print a check in the box ()

Box 2: If you are not eligible to apply, but would like to discuss options for entering Canada (See *Coming to or Remaining in Canada Without Approval of Rehabilitation*), print a check in the box ()

Section B

Box 1: Print your name as it appears in your passport or on your travel document or other valid identity document. Do not use initials; print names in full.

For people living in the People's Republic of China, also print names in pin yin.

Box 2: State your date of birth in the following format: Day/Month/Year.

Box 5: If you are a citizen of more than one country, print the names of all the countries.

Box 7: Print all the names that you have ever used, including different spellings of your name. Explain what these names are, example, Maggie – nickname, Smith – previous married name, Leroux – birth/maiden name, Smith, John –change of name on 11 August, 2000, Chicago, IL, USA.

Box 14: Print a list of offences that you have committed. Include the name of the offence, the name and section of law, the date of your conviction, the city, province/state/county and country where it occurred, and the sentence that was imposed. If you were not convicted of the offence, print “no conviction” and enter the date of the offence instead of the date of conviction, and include the date the courts dealt with your case and the disposition (i.e. not guilty, dismissed).

Box 15: Describe the events that led to your committing the offence(s). Include a description of your actions, explain if weapons, drugs or alcohol were involved, why you did it, and how your actions affected others (specify any physical or emotional injuries). Be clear, concise and complete. **You must complete this question in detail.**

Box 16: If you are applying to come to Canada as a temporary resident, indicate the dates of your proposed travel and describe the purpose of your trip.

If you are in Canada, state the date of your arrival in Canada and describe the purpose of your trip.

If you are applying to live in Canada permanently, indicate what type of application you will make. i.e. spouse or parent of a Canadian citizen or permanent resident, business person, refugee, skilled worker, etc. Print the names of all your immediate family members in Canada.

Box 17: Tell us why you consider yourself rehabilitated. Provide as much information as possible, e.g. attended drug rehabilitation program, employment history, community service, etc. **You must complete this question in detail.**

Box 20: Read this section carefully and sign the form.

Section C

Do **not** complete this section; it is for office use only. However, include it with your application.

Use of a Representative (IMM 5476)

You **must** complete this form if:

- you are paying a representative to help you complete your application; and/or
- you authorize us to discuss your application with someone other than yourself.

All the information you require to complete your application is in this application kit. If you have questions or need clarification, you may contact us (see the Contact Information section). You may also choose to obtain the help of a representative if you need additional advice or support. We will process your application in the same manner, whether or not you have a representative.

There are two types of representatives:

Unpaid representatives

- Organizations that do not charge a fee for providing immigration advice or assistance.
- Friends and family who do not charge a fee for their assistance.

See Section B if you want us to deal with your unpaid representative.

Paid representatives

If you want us to conduct business with a representative you hired, he or she must be authorized to represent you. **Authorized representatives are:**

- lawyers who are members in good standing of a Canadian provincial or territorial law society;
- notaries who are members in good standing of the Chambre des notaires du Québec; or
- immigration consultants who are members in good standing of the Canadian Society of Immigration Consultants (CSIC).

If you hire an unauthorized paid representative, your application may be returned. For more information on using a representative, visit our Web site. To find out if your representative is a member in good standing, visit the CSIC Web site at www.csic-scci.ca or the Federation of Canadian Law Societies Web site at www.flsc.ca.

A. Use of a Paid Representative

Complete **Section A** if you are paying a representative to help you complete your application.

B. Appointment of a Representative

If you have a representative and you give him or her permission to receive information on your case and to act on your behalf, print the representative's name and sign in the box provided. Privacy laws prevent us from discussing your application with anyone else unless you give us permission. With your authorization, we will be able to release information to your representative, such as the status of your application. He or she will also be able to make amendments to your application, such as a change of address.

Your representative must be a:

- Canadian citizen,
- permanent resident of Canada, or
- a person physically present in Canada.

C. Your Representative's Contact Information

Complete this section if you are using a paid representative or you authorize us to discuss your application with someone other than yourself.

Paying the Processing Fee

If you are applying for approval of rehabilitation from within Canada:

Follow the instructions on the form *Fees for Immigration Services, Approval of Rehabilitation (IMM 5310)*.

If you are applying for approval of rehabilitation from outside Canada:

If the *Fees for Immigration Services, Approval of Rehabilitation (IMM 5310)* is attached, follow the instructions on the form. If it is not attached, consult the Canadian visa office responsible for the area in which you live.

Are processing fees refundable?

Processing fees are **not** refundable regardless of the final decision on your application. If your application is refused and you decide you want to apply again, a new processing fee will be required.

What if you do not pay enough money or enclose too much money?

If you do not enclose the required fee or if your credit card payment is refused, your application will **not** be processed. It will be returned to you with a letter requesting the correct payment. If you pay too much money, your application will be processed and a refund for the overpayment will be mailed to you within 4 to 6 weeks after the refund request is processed.

If you are sending in the form for information only (see the section Coming to or Remaining in Canada Without Approval of Rehabilitation):

Do **not** send a processing fee. An officer will review the form and advise how you should proceed.

Submitting Your Application

In Canada: Mail your application to the Canada Immigration Centre responsible for your area. Addresses may be obtained by phoning the Call Centre listed in the *Contact Information*.

Outside Canada: Mail your application to the Canadian visa office which has jurisdiction for the area in which you live. Addresses may be obtained by consulting your local telephone directories or by visiting our Web site.

What Happens Next?

Upon receipt of your application an officer will review it and any supporting documents. If you are eligible to apply, the officer will make a positive or negative recommendation and forward the application to the authority who can approve or refuse applications for rehabilitation. For less serious offences, the authority is usually the manager of the local office. For more serious offences, the Minister of Citizenship and Immigration will make the decision.

The following are some of the factors that will be taken into consideration when your application is reviewed:

- the number of offences and the circumstances and seriousness of each offence;
- your behaviour since committing the offence(s);
- your explanation of the offences and why you are not likely to re-offend;
- any support you receive from your community;
- why you think you are rehabilitated and
- your present circumstances.

Note: The authority who approves or refuses applications for rehabilitation does not have to follow the recommendation made by the immigration officer.

Applications for rehabilitation can take over a year to process. You will be advised in writing of the decision made on your application.

Receiving approval to overcome a criminal inadmissibility is only one part of determining whether or not you can enter or remain in Canada. Once you have been approved for rehabilitation, you will need to meet the requirements for applicants seeking entry as a temporary resident or permanent resident. For more information, contact a Canadian visa office, visit our Web site, or if you are in Canada, contact the Call Centre as indicated in the Contact Information section of this guide.