



# Refugee family reunification: Practical Guide

## Introduction

This practical guide provides basic information for those assisting refugees in reuniting with immediate family members (spouse and dependent children).

The processes are different depending on whether the person seeking to reunite with family:

- A. Was accepted as a refugee in Canada (after making a refugee claim) – see **Section A** below.
- B. Was resettled as a refugee to Canada, as a Government-Assisted Refugee, a Privately Sponsored Refugee, a Blended Visa Office Referred Refugee or a Joint Assistance Sponsorship (JAS) – see **Section B** below (page 4).

**Section C** (page 6) provides some practical tips that apply to both categories.

## A. Family reunification for accepted refugees in Canada

This section applies to refugees accepted in Canada who have family members overseas.

By refugees accepted in Canada, we mean people:

- who made a refugee claim that was accepted by the Immigration and Refugee Board (IRB) or
- who received a positive decision in a Pre-Removal Risk Assessment (PRRA).

### Process for accepted refugees to reunite with family members overseas

Under the Immigration and Refugee Protection Act, accepted refugees have the status of “Protected Persons”. This status allows them to apply for permanent residence in Canada.

Accepted refugees who are adults can include in their permanent residence application their immediate family members (or dependants), whether they are in Canada or overseas.

Dependants are defined in the regulations, but in summary they are:

- Spouse (by marriage or common law)
- Unmarried biological or adopted children who were under 22 years on the date the refugee claim was made.<sup>1</sup>

Overseas dependants of refugees are coded as **DR2s** by Immigration, Refugees and Citizenship Canada (IRCC).

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<sup>1</sup> See [ccrweb.ca/en/age-dependants](http://ccrweb.ca/en/age-dependants) and [www.cic.gc.ca/english/immigrate/sponsor/aod-tool.asp](http://www.cic.gc.ca/english/immigrate/sponsor/aod-tool.asp)

## Applying for permanent residence and family reunification

- Review the [forms and the guide for applying for permanent residence](#).
- Protected persons can be landed (i.e. receive their permanent residence) as soon as processing is complete: no need to wait for examination of family members.
- Family members of protected persons cannot be landed until the principal applicant is landed.<sup>2</sup>

## Who is a dependant: issues to check

- Age of dependants: children can be included if they were **under 22 years on the date at which the refugee claim was made** (the lock-in date). This does not apply if the claim was made before 1 August 2014. See [ccrweb.ca/en/age-dependants](http://ccrweb.ca/en/age-dependants)
- If a child was adopted, there must have been a formal, legal adoption, before the parent came to Canada.
- There are likely to be problems if the family member was not listed on the Basis of Claim Form (see a lawyer).
- It is important to take care regarding common-law relationships, as the **definition** (based on one year cohabitation) is not obvious. People may need to work out whether they have a common-law partner. People in same-sex relationships may not realize that Canadian law recognizes that relationship and in fact requires that the common-law partner be disclosed.

## Family members who are not dependants under the regulations

It is possible to request inclusion on humanitarian grounds of a family member who does not meet the definition in the regulations. For example:

- A child who is slightly over the age of dependants
- A child who is not the biological or legally adopted child, but who has grown up as part of the family.

To make the humanitarian request, the person includes the ineligible family member in their application for permanent residence. A letter is added to the application acknowledging that the family member does not meet the regulations, but asking that they be considered anyway, on Humanitarian and Compassionate grounds (“H&C”) (Section 25 of the Immigration and Refugee Protection Act). The letter must be accompanied by detailed submissions explaining why humanitarian discretion should be exercised in favour of the ineligible family member. These H&C submissions should normally be prepared with the assistance of an experienced immigration lawyer, or at least with a lawyer reviewing the submissions before they are finalized.

People considering whether to include ineligible family members should be made aware that processing of the applications of all family members overseas may be delayed if H&C submissions need to be reviewed. For example, if a family has two younger children who meet the age of dependants, and two children who are

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<sup>2</sup> A person is “landed” when the person receives permanent residence.

“over-age”, the visa office may decide that they need to interview the older siblings, leading to extra delays. The visa office does not generally issue the visas for the younger siblings in the meantime.

### **Splitting the files to expedite processing of children**

Occasionally, in cases where both parents are in Canada and accepted as Protected Persons, it may be advisable to split the files to expedite processing.

For example,

- Sonia and Alberto, married, are both found to be refugees by IRB.
- They have children overseas.
- Sonia is facing issues in her security screening, causing delays in finalization of her permanent residence application.
- Ask for Alberto to be granted permanent residence first, so that the children abroad can come as Alberto’s dependants, without waiting for finalization of Sonia’s permanent residence processing.

### **One Year Window**

The one year window of opportunity (OYW) is well-known for resettled refugees, but far fewer people realize that it also applies to Protected Persons landed in Canada (accepted refugee claimants).

It may apply to cases where family members’ whereabouts were not known, or for some reason they did not plan to come immediately to Canada.

Under the One Year Window, the spouse, common-law partner or dependent child of the Protected Person can be granted permanent residence as a family member if:

- they were named in the refugee’s permanent residence application (but no fees were paid, or they were listed as “non-accompanying”), and
- they file an application for permanent residence within one year of the refugee receiving permanent residence.

To start the process, the refugee in Canada must write to the relevant office (CPC-Mississauga) to inform them that they want their family member to come (within the one-year time limit). CPC-M will verify that the family member was named in the original application for permanent residence. CPC-M will then notify the responsible visa office in order to initiate processing.

### **IRCC guidelines**

Immigration, Refugees and Citizenship Canada (IRCC) provides the following guidelines to officers:

[www.cic.gc.ca/english/resources/tools/perm/protect/index.asp](http://www.cic.gc.ca/english/resources/tools/perm/protect/index.asp)

The instructions specifically relating to processing of family members overseas are:

[www.cic.gc.ca/english/resources/tools/perm/protect/family.asp](http://www.cic.gc.ca/english/resources/tools/perm/protect/family.asp)

### **Practical tips**

See Section C below (page 6) for some practical tips.

## B. Family reunification for resettled refugees

This section applies to resettled refugees who have immediate family members overseas.

By resettled refugees, we mean people who were accepted as a refugee by the Canadian government before they came to Canada. They were resettled to Canada as:

- a Government-Assisted Refugee;
- a Privately Sponsored Refugee;
- a Blended Visa Office Referred Refugee; or
- a Joint Assistance Sponsorship (JAS) case.

### Process for resettled refugees to reunite with family members overseas: One year window

In theory, Canada aims to resettle all members of an immediate family together, but in practice it often happens that some family members (spouse or dependent children) do not travel with the refugee to Canada. This might be because the family was separated for reasons beyond their control in two different countries, or because a family member was missing and their location is unknown.

In such cases, the person in Canada may be able to reunite with family members through the One Year Window (OYW).

### One Year Window

Under the One Year Window of opportunity (OYW), family members (dependants) of a resettled refugee can be granted permanent residence in Canada if:

- they were named in the refugee's permanent residence application, or declared before departure to Canada<sup>3</sup>, and
- they file an application within one year of the resettled refugee receiving permanent residence (usually the date on which they arrived in Canada).

Dependants are defined in the regulations, but in summary they are:

- Spouse (by marriage or common law)
- Unmarried biological or adopted children who were under 22 years on the date:
  - the UNHCR made the referral to Canada (in the case of a Government Assisted Refugee or a Blended Visa Office Referred Refugee (BVOR)), or
  - the government (federal or Quebec) received the sponsorship undertaking (in the case of a privately sponsored refugee).<sup>4</sup>

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<sup>3</sup> According to IRCC procedures, the refugee “must have, at some point during their application, told IRCC about their relationship with the principal applicant. For example, this may have been done on any of the forms, on the refugee referral form from the UNHCR or during the interview.” See [Procedure](#).

<sup>4</sup> See [ccrweb.ca/en/age-dependants](http://ccrweb.ca/en/age-dependants) and [www.cic.gc.ca/english/immigrate/sponsor/aod-tool.asp](http://www.cic.gc.ca/english/immigrate/sponsor/aod-tool.asp)

The OYW program does not mean that the family members will be in Canada within one year. There is no official processing time for OYW applications and it often takes more than a year for family members to arrive.

### Applying for family reunification through OYW

- Find the **forms and the guide**.
- If the refugee is privately sponsored, the additional family members must be included on a sponsorship undertaking. If the family members were not previously included, they must be added to the undertaking.
- In the case of resettled refugees in Quebec, applications for family reunification through OYW need to be made to the **Quebec government**.

For more information, consult the **IRCC Procedure: One-year window of opportunity provision – Government assisted and privately sponsored refugees**.

### OYW versus Family Class sponsorship

A refugee who has permanent residence may choose to reunite with family members through a Family Class sponsorship, rather than through a one year window application. If a year has already passed since the person received permanent residence, a Family Class sponsorship is necessary.

The following are some of the differences between the two family reunification avenues:

#### OYW:

- There is no Family Class sponsorship required. This means that the refugee is not **affected by bars** to sponsorship.
- However, if the refugee was privately sponsored (including a BVOR), an undertaking from the private sponsor is required, and the family members will be the responsibility of the private sponsor for their first year in Canada.
- Processing of OYW applications can be slow.
- OYW applicants benefit from the advantages of being categorized as refugees. This means, for example, that the visa office may be able to issue travel documents if the family members are outside the home country. Travel loans may be available to cover the cost of travel and transportation can be facilitated by IOM.

#### Family Class

- A Family Class sponsorship is required and the **sponsor must be eligible**.
- The sponsor must **provide for the basic needs of the family members** for their first three years in Canada (for family members sponsored to Quebec, **the length of sponsorship varies**).
- Processing may be quicker than for OYW (but IRCC will likely show less flexibility if an applicant fails to meet deadlines).
- **Fees must be paid**, including the \$490 right of permanent residence fee (for spouses)

## C. Practical tips for family reunification

### Caution on forms where spouse and children overseas

If one parent is accepted as a refugee in Canada and the other parent and children are overseas, a standard procedure is for the other parent to complete a form as a principal applicant and include the children as dependants of that person. While usually this is fine, it can become a problem if there should ever be a barrier to the spouse coming to Canada, because the children's applications are dependent on this parent.

*Example: The spouse/father outside Canada was sick. The children travelled on their visas to Canada without their parent and at Pearson were told they could not be landed, because they had been processed as dependants of the father, who had not arrived. In order to be landed, they needed their father to arrive in Canada or they would have to submit new permanent residence applications.*

### Establishing family relationship

It is necessary to establish the family relationship, which can be difficult in refugee situations, where documentation is often difficult or impossible to obtain.

It is best to submit as much evidence as possible upfront to prove the family link, in order to minimize delays and the risk of being asked to do DNA testing. A wide range of evidence can be submitted to support the relationship when there is inadequate documentation: letters from family and friends, affidavits, old photos, proof of correspondence, proof of financial support, etc.

One option is to do DNA testing in advance if evidence to prove the relationship is weak.

### Separated children at risk

In response to advocacy from the CCR, IRCC instructions include provisions relating to children separated from both parents:

#### ***Protected persons' minor children who are at risk***

When both parents are protected persons in Canada, or if only one parent is in Canada and the other parent is deceased or their whereabouts are unknown, officers must be aware of the risks to which these children may be exposed if there are delays in finalizing the application in Canada for permanent residence. The situation may be particularly acute if the children are residing without the care and protection of an adult guardian, such as an older sibling, aunt, uncle or grandparent, in an area where a civil or international armed conflict is occurring.

Officers should arrange for the expedited medical examination of children (under the age of 18 years) when the particular circumstances increase the risk to their physical safety. Once the medical examination is completed, or where rapid medical clearance is not feasible and the child is at risk, visa officers should consider the option of early admission to Canada through the use of a temporary resident permit.<sup>5</sup>

Despite these instructions, it is rare that visa officers issue Temporary Resident Permits in such cases.

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<sup>5</sup> IRCC, [Protected persons – Processing applications for permanent residence – Stage 2: family members overseas](#)

## Excluded or non-declared family member

It is extremely important for refugees to name in their permanent residence application ALL immediate family members (as defined by Canadian immigration legislation). The law is very severe if family members are not declared before the person becomes a permanent resident:

- Regulation 117(9)(d) – This rule states that a person is not a family member if they were not examined by a visa officer when the person sponsoring them immigrated to Canada.
- Regulation 141 – One Year Window only applies where the family member was named.

For more information, see the CCR [practical guide on Excluded Family members](#).

## Parental consent

If the children will be reunited with only one parent in Canada, it is necessary to address parental consent. This may be straightforward if the other parent can sign the [consent form](#) or if there is a death certificate available for the other parent.

Things are more complicated if the other parent:

- Will not sign the consent;
- Cannot be reached;
- Is believed to be dead but there is no death certificate.

If the situation is complicated, it is a good idea to start addressing the issue early, as it can take time to get the consent from the other parent, or collect evidence of why it cannot be obtained.

## Make sure IRCC has the family's up-to-date and functioning addresses

IRCC is increasingly communicating through email. Sometimes communications from the visa office to family members overseas are missed because “they aren’t using that email any more”.

Make sure the parents understand how IRCC will communicate with them and the need to provide any changes of address: [www.cic.gc.ca/english/information/change-address.asp](http://www.cic.gc.ca/english/information/change-address.asp)

## Travel documents

If the family members are still in their country of origin, they will need passports to travel (and also for the medical exams).

If the family members are outside the country of origin, the visa office may issue them [travel documents](#). This is not an option if they are still in the country of origin.

## Exit issues

There may be barriers to leaving the country the family members are living: the family will be responsible for overcoming these.

Some countries (e.g. Eritrea) make it difficult for their own citizens to leave. In some cases, children may not be allowed to leave without parental consent being provided to the satisfaction of the home government.

Some countries impose exit visas: people in the country without status may not be eligible for an exit visa (or may need to pay a hefty fine). There are often exceptions for refugees but they must have registered, e.g. with the UNHCR. Find out if there are any barriers to departure.

### **Preparing for travel**

It is worth thinking in advance about how the costs of travelling to Canada will be covered. Refugees can apply to IRCC for a travel loan, but (in the case of refugees accepted in Canada) it lengthens the wait time because they can only apply once the visa is issued (and there is no guarantee it will be granted).

If young children are travelling alone, you will need to think about escorts. If there is no friend or family member who is available, IOM Ottawa can often help. Some airlines have also offered escorts for children at reasonable cost.

Children who are travelling without their parents, or with only one parent, need to have proof of consent from both parents. Relevant information and a template letter can be found at [travel.gc.ca/travelling/children/consent-letter](http://travel.gc.ca/travelling/children/consent-letter).

