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A GUIDE TO THE LAW IN ALBERTA REGARDING



IMMIGRATION

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GENERAL

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Every year hundreds of thousands of people from around the globe become Temporary or Permanent Residents or Citizens of Canada (see official statistics at the Citizenship and Immigration Canada website).

TEMPORARY RESIDENTS

To visit Canada a person:

- a. must be healthy
- b. must respect Canadian laws
- c. will need a valid passport, or other travel documents
- d. will need a Temporary Resident Visa if he or she is from a certain country (a list is available from CIC)
- e. Must satisfy an immigration officer that he or she will leave at the end of their visit
- f. may need a letter of invitation

A person may not be admitted to Canada if he or she has a criminal record.

In some circumstances it is possible to change the conditions of a visit. This must be done before the temporary residency expires.

1. Study Permits

If a person is planning on studying in Canada for more than six (6) months, he or she must obtain a study permit. People who wish to continue their studies and do not have a study permit will have to leave Canada to apply for one, so it is advised that all students apply for a permit in advance. Study permits allow students to apply to renew their permits from within Canada. Minors already in Canada, whose parents are not “visitors” to Canada, do not need a study permit.

A student should apply for his or her study permit as soon as an acceptance letter from an educational institution is received. The time needed to process the application can vary between offices.

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Students must be authorized to work. To be employed, students must apply for and obtain a Social Insurance Number. Study permits allow students to work part-time on the campus at which they study. Some publicly funded post-secondary institutions have made off-campus employment available to students who apply for a work permit. Students at privately funded institutions may also apply for a work permit if they have a job offer confirmed by Service Canada. Spouses of students may apply for work permits.

Applicants must fill out an application form, available from CIC, and pay the application fee of \$125. Applicants must also submit proof of a valid passport, two photos, proof of acceptance from an educational institution, and proof of funds available. Applicants must also have a medical examination done if they are from a country with high health risks or if they will be studying or working in a place where protection of public health is essential, such as nurses or teachers. The visa officer may request a police certificate and/or an interview from the applicant.

Residents of certain countries (a list is available from CIC) also require Temporary Resident Visas to study in Canada. These are documents placed in a student's passport to demonstrate that he or she has met the requirements for admission to Canada. A Temporary Resident Visa and a Study Permit can be issued at the same time. A fee of \$75 (for single entry visas) or \$150 (for multiple entry visas) is required.

2. Work Permits

A work permit grants a person *temporary* residence in Canada. People who would like to immigrate to Canada must apply under the Skilled Worker Program to become a permanent resident (see below).

People who perform certain types of work do not require a work permit such as news reporters, clergy, or performing artists. There

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is also a special program for live-in Caregivers. More information is available from CIC.

To obtain a work permit, an applicant must first have a valid job offer from an employer that is confirmed by Human Resource and Skills Development Canada (HRSDC). A fee of \$150 is required.

PERMANENT RESIDENTS

A permanent resident is a person who has been granted landing in Canada, meaning the Canadian government has given permission for that person to establish residence in Canada, but he or she has not become a Canadian citizen. An immigrant must become a permanent resident before he or she becomes a citizen.

There are six methods by which an immigrant may become a permanent resident of Canada. These are:

- a. Skilled Worker Class Immigration
- b. Business Class Immigration
- c. Provincial Nomination
- d. Family Class Immigration
- e. International Adoption
- f. Quebec-Selected Immigration

note: this pamphlet will not discuss Quebec-Selection Immigration

All applicants and their dependants must pass a medical examination demonstrating they are not a danger to public health or safety nor would cause an excessive demand on health or social services in Canada. Only physicians on Canada's list of Designated Medical Practitioners can do the examination and it is only valid for 12 months.

Applicants may have to provide police certificates when they submit their applications. Police certificates provide information about an applicant's criminal record, or lack of criminal record. An

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applicant will likely need a certificate from any country in which he or she has lived for six (6) consecutive months or more.

There are fees related to medical examinations, police certificates, and language testing. There are often fees for other additional services.

Applicants must apply in their country of residence at a Canadian Visa Office. A list of offices is available at the CIC website.

Citizenship and Immigration Canada does not require an applicant to have representation. However, an applicant is free to choose to use the services of a representative. Anyone can act as a representative except in Federal Court where only lawyers licensed to practice in Canada may represent someone. CIC can only provide information on an applicant's file to people who are Canadian citizens, permanent residents of Canada, or people who are physically present in Canada. This means people who live outside Canada and are neither Canadian citizens nor permanent residents can act as an applicant's representative.

1. Skilled Worker Class Immigration

The Skilled Worker Class is based upon a point system that is designed to identify those applicants who are able to become economically established in Canada. Applicants receive points for skills, education, and other selection criteria. If they receive enough points and can show that they have a certain amount of work experience and financial savings, they are eligible to become permanent residents of Canada. The rules for applying as a skilled worker can change, therefore it is important for an applicant to access current information.

Married couples or adult interdependent persons must choose a principal applicant. The other person will be considered a dependant in the application. For the purposes of immigration, adult interdependent persons are defined as two people who have

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lived in a conjugal relationship for at least one year. Couples may be either opposite-sex or same-sex.

First, applicants to the skilled worker class must meet the minimum work experience requirements. They must have at least one (1) year of full-time paid work experience within the last 10 years. This work experience must have been of a certain type. The National Occupation Classification (NOC) system categorizes jobs in the Canadian Economy. Applicants must have work experience of Skill Type 0 (Management), or Skill Level A (University Education) or B (College Education or Apprenticeship Training). Many occupations are included in this list such as teachers, nurses, firefighters, cooks, drycleaners, and most trades people. A complete list is available from Citizenship and Immigration Canada. Sometimes, certain occupations are restricted because there are already too many people with those skills in Canada. In May 2008, no occupations were restricted.

Second, applicants to the skilled worker class must show that they have enough money to support themselves and their dependants once they arrive in Canada. An applicant cannot borrow this money from another person. The Government of Canada does not provide financial support to new skilled worker immigrants. If an applicant has arranged employment in Canada, he or she does not have to demonstrate that they have sufficient funds.

The amount of funds required is based on family size. In May of 2008 a family of one person was required to have \$10,601 in Canadian dollars and a family of 7 or more was required to have \$28,055. Current breakdowns are available from Citizenship and Immigration Canada.

Third, applicants to the skilled worker class must receive 67 or more points from among the six (6) selection factors. These include:

- a. Education – maximum of 25 points

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- b. Official Language Proficiency – maximum of 24 points
- c. Employment Experience – maximum of 21 points
- d. Age – maximum of 10 points
- e. Arranged Employment in Canada – maximum of 10 points
- f. Adaptability – maximum of 10 points

Points awarded for education are based on type of education completed (such as a University degree, diploma, trade certificate, or high school) and years of full-time study (years of education). 25 points are awarded for a Master's Degree or Ph.D. and at least 17 years of full-time study while only five (5) points are awarded for the completion of high school.

Language proficiency refers to the ability of the applicant to communicate and work in one or both of Canada's official languages, English and French. Points are granted for an applicant's ability to listen, speak, read, and write in an official language. To demonstrate language ability, an applicant can either take an official language test by an approved organization or provide other written documentation that supports such a claim. The CIC *strongly* recommends an applicant take an official test if French or English is not his or her native language. If an applicant does choose to provide other written documentation it must indicate what level of language proficiency he or she is claiming for each skill as well as proof of that proficiency. For example, an applicant might include an explanation of his or her training, work experience, or common use of English and/or French. 24 points are awarded for a high proficiency in all four areas (listening, speaking, reading, and writing) in both official languages. High proficiency in one language yields 16 points.

Points are awarded for employment experience based on the number of years of paid experience an applicant has completed in one of the approved employment categories as discussed above. Four (4) years of experience yields the maximum number of points, 21. One (1) year yields 15 points.

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Any applicant between the ages of 21 and 49 years of age will receive 10 points in the age category. Two (2) points are deducted for every year over the age of 49 or under the age of 21.

For arranged employment in Canada an applicant will receive 10 points if he or she has a permanent job offer that has been confirmed by Human Resources and Skills Development Canada.

Adaptability refers to an applicant's, or his or her dependants', ability to easily adapt to life in Canada. Adaptability factors include previous study or work in Canada, arranged employment, relatives in Canada, or an applicant's spouse or adult independent partner's level of education.

Skilled worker applicants must pay a non-refundable application fee when they apply. In May of 2008 this fee was \$550 for the applicant and each family member. Also, applicants must pay a right of permanent residence fee that is refundable if the applicant cancels his or her application, if CIC does not issue him or her a visa, or the applicant does not use his or her visa. This fee must be paid before CIC can issue a permanent resident visa. In May of 2008 this fee was \$490 for the principal applicant and his or her spouse or partner. This fee does not apply to dependent children or protected persons.

2. Business Class Immigration

The Business Class Program is designed to attract experienced business people to Canada. Business immigrants are expected to make a \$400,000 investment in Canada or to own and manage business in the country. There are three classes of business immigrants:

- a. investors;
- b. entrepreneurs; and
- c. self-employed persons.

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Investors must be able to demonstrate that they have business experience, have a legally obtained minimum net worth of \$800,000, and that they will make a \$400,000 investment in Canada. Sufficient business experience consists of at least two (2) years of experience managing a qualified business, or businesses, within the last five (5) years. The \$400,000 investment is administered by the CIC and used to create jobs and to help the economy grow. The investment will be returned within approximately five years and two months without interest. The investment should generally be made within 30 days of the visa office processing the application and should be through one of the CIC's approved facilitators.

Entrepreneurs must be able to demonstrate that they have business experience, have a legally obtained minimum net worth of \$300,000, and that they commit to managing and owning at least one-third of a business for at least one year within three years of landing in Canada.

The Self-Employed Person Program focuses on applicants with experience in culture, athletics, or farm management who are willing to use those skills to make a significant contribution in Canada.

Business Class applicants must also obtain a minimum of 35 points on the selection grid explained under the Skilled Worker Class.

Business Class applicants must pay a fee, in May 2008 this fee was \$1,050. Family members over the age of 22, or under the age of 22 but married or in a common-law relationship, must pay \$550. Family members under the age of 22 and not married or in a common-law relationship must pay \$150.

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3. Provincial Nomination

Most provinces and territories (excluding Ontario, the Northwest Territories, and Nunavut) have an agreement with the Government of Canada to allow them to select immigrants who have a specific interest in immigrating to that province. The province will consider an immigrant's application based on their immigration needs and their genuine interest in settling in that province.

Applicants must contact the province to become a provincial nominee. If an immigrant does become a nominee they must then make a separate application to Citizenship and Immigration Canada. Applicants are not selected based on the six selection factors listed above for the Skilled Worker's Program.

In Alberta, the Provincial Nomination Program (PNP) is employer-driven. This means that employers (business owners) in Alberta present their need to recruit foreign candidates to fill skilled positions or they may apply to nominate individuals already working in Alberta under a Temporary Foreign Worker Authorization. Immigrants must therefore be connected with an employer who is approved by the Provincial Nomination Program.

Successful PNP candidates nominated by the Government of Alberta will be required to meet Federal requirements including health examinations, police certificates, and application fees.

4. Family Class Immigration

Canadian citizens and permanent residents living in Canada may sponsor family members who also wish to immigrate to Canada. There are specific guidelines about which family members can be sponsored. Family members that can be sponsored are:

- a. spouses, common-law or conjugal partners 16 years of age or older;
note: to qualify as common-law partners, two people (of any gender) must have lived together for a

continuous 12-month period and must be able to provide documents that demonstrate they have combined their affairs and have set up their household as one home

note: to qualify as conjugal partners, two people (of any gender) must be able to demonstrate they have had a mutually dependent relationship for at least one year with some permanence and the same level commitment as marriage or a common-law union but have been impeded, against their choice, from living together or getting married

- b. parents and grandparents;
- c. dependent children, including adopted children;
note: a dependent child is a son or daughter:
 - i. *under the age of 22 who is not married or in a common-law relationship;*
 - ii. *who is a fulltime student and is substantially dependent on a parent for support since before the age of 22 or since becoming a spouse or common-law partner if this happened before the age of 22; or*
 - iii. *who has been dependent on a parent since before the age of 22 because of a disability*
- d. children under 18 years of age whom the sponsor intends to adopt;
- e. brothers, sisters, nephews, nieces, or grandchildren who are orphans, under the age of 18 and not married or in a common-law relationship; and
- f. any other relative only if the sponsor has none of the above relatives in Canada or abroad

The sponsor must promise to support the family member(s) for a period of between three to ten years depending on their age and relationship to the sponsor. Therefore, a sponsor will have to meet certain income requirements. If sponsored relatives have received social assistance, their sponsor may not be allowed to sponsor another person. A sponsor must sign an Undertaking

with the Minister of Citizenship and Immigration as well as a Sponsorship Agreement with the sponsored relative that outlines each person's mutual commitments to one another. Once someone is being sponsored they must then apply for immigration.

A fee must accompany each sponsorship application; in May 2008 this fee was \$75. The principal applicant must pay \$475, unless he or she is under the age of 22 and not married or in a common-law relationship, then the fee is \$75. Family members of the principal applicant who is over the age of 22, or under 22 but married or in a common-law relationship, must pay \$550 while a family member under the age of 22 and not married or in a common-law relationship must pay \$150.

5. International Adoption

Canadian citizens and permanent residents can adopt children from other countries. Canadians adopt approximately 2,000 children from other countries every year. Government agencies are concerned with protecting a child's best interests; as a result the adoption process may appear time consuming and bureaucratic. Children's Services of Alberta suggest that most international adoptions take an average of 1-2 years to complete and cost an average of \$18,000.

There are two processes to go through when adopting a child, the citizenship process and the immigration process.

People attempting to adopt must comply with the rules for adoption in their own province. In Alberta this includes having a Home Study done by Adoption Services. Alberta also requires adoptive parents to complete an International Adoptive Parent Preparation Course. The adoption laws of the child's country of origin must also be followed. It is important to understand the adoption process in both countries before anything is initiated.

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Adoptive parents may adopt a child through the government of the other country or may adopt privately. However, government adoptions are the only option for countries that have adopted the *Hague Convention on Intercountry Adoptions*. An applicant must complete an International Adoption Registration Form that is available from adoption agencies.

6. Living in Canada as a Permanent Resident

Permanent Residents have most of the rights contained in the *Charter of Rights and Freedoms*, as do Canadian citizens.

Canadian citizens, however, have the right to vote and run in elections, apply for a Canadian passport, enter and leave Canada freely, and to be eligible for additional pension benefits.

Permanent residents do not have these rights. Permanent residents do enjoy many personal rights and freedoms as well as children's, women's, and seniors' rights.

Permanent Residents may obtain a Permanent Resident Card that acts as a proof of status document for re-entry into Canada. Permanent Residents may also obtain a limited use travel document for re-entry.

Permanent Residents must comply with certain residency obligations. They must accumulate two years of physical presence in Canada in every five-year period. Being outside of Canada for certain reasons can count as Canadian residency, such as when a resident is employed by a Canadian business or is a child accompanying a Canadian-citizen parent. Permanent Residents who do not comply with these obligations may lose their permanent resident status. It is up to the Resident to provide all evidence of compliance with these obligations.

CITIZENSHIP

People born in Canada are citizens of Canada.

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People born after February 14, 1977 to a Canadian citizen outside of Canada are citizens. They can apply for a citizenship certificate. If someone was born outside of Canada and his or her parent was also born outside Canada to a Canadian citizen, he or she must take steps to keep citizenship before the age of 28. This is called retention of Canadian citizenship. However, persons who will reach the age of 28 after April 17, 2009 will no longer need to take steps to retain citizenship. More details and application kits are available from CIC.

A permanent resident may apply to become a Canadian citizen. He or she must:

- a. be 18 years of age or older;
- b. be a permanent resident of Canada;
- c. have lived in Canada for at least three (3) of the four (4) years before applying;

note: each day a person lived in Canada before becoming a permanent resident counts as a half day. A residence calculator is available on the CIC website, a printed version of which may be included in a citizenship application.

- d. be able to communicate in either English or French;
- e. know about Canada; and
- f. know about the rights and responsibilities of citizenship

A permanent resident under the age of 18 may become a Canadian citizen if an adult who is already a citizen applies on their behalf or if a family is applying for citizenship together. Children do not need to have lived in Canada for three (3) years before applying or write the citizenship test.

Applicants between the ages of 18 and 54 do have to write and pass the citizenship test. The citizenship test covers various topics about Canada including its history, geography, and political and justice systems, as well as the rights and responsibilities of a Canadian Citizen.

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Application forms, available from CIC, are sent in by mail and must be accompanied by a \$200.00 fee for adults, and a \$100.00 fee for children. It usually takes several months for a person to become a citizen.

The final step to becoming a Canadian citizen is the citizenship ceremony and the oath of citizenship.

1. Barriers to Citizenship

Certain people cannot become Canadian citizens. This includes people who:

- a. are under a removal order;
- b. are now charged with an indictable criminal offence;
- c. have been convicted of an indictable criminal offence in the past three years;
- d. are now in prison, on parole, or on probation;
- e. are being investigated for or have been convicted of war crimes; or
- f. had their citizenship revoked in the last five years.

2. Rights and Responsibilities

Many of the rights and freedoms of a Citizen are defined in the Canadian Charter of Rights and Freedoms. Some of the rights of Canadian citizens include:

- a. legal rights;
- b. equality rights;
- c. mobility rights;
- d. freedom of thought;
- e. freedom of speech;
- f. freedom of religion;
- g. the right of peaceful assembly;
- h. the right to apply for a passport;
- i. the right to run in elections; and
- j. the right to vote in elections

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Many of the above rights are also available to permanent residents of Canada but only citizenship gives people the rights to apply for a passport, run in elections, and vote in elections.

Some of the responsibilities of a citizen include:

- a. to obey Canadian law;
- b. to express opinions freely while respecting the rights and freedoms of others;
- c. to help others in the community;
- d. to care for and protect Canadian heritage and the environment;
- e. to eliminate discrimination and injustice; and
- f. to vote in elections.

3. Dual Citizenship

When a person is recognized as a citizen in more than one country they have what is called dual citizenship. Canada has allowed Canadian citizen's to take on additional citizenship since February 14, 1977. A Canadian citizen who became a citizen of a foreign country before that date should contact CIC. Permanent residents applying for Canadian citizenship should check the rules of their country of origin concerning dual citizenship.

4. Citizenship Certificate

A citizenship certificate is a wallet-sized card with the bearer's photograph that acts as proof of citizenship. New Canadians are automatically granted a certificate and any other citizen can apply for one from Citizenship Services. This office can also search for records of citizenship.

SETTLING IN CANADA

There are various resources available to newcomers to Canada.

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The Immigrant Settlement and Adaptation Program pays for services offered by immigrant-serving organizations. These organizations provide:

- a. referrals to economic, social, health, cultural, education, and recreational services;
- b. tips on banking, shopping, managing a household, and other everyday tasks;
- c. interpreters or translators;
- d. non-therapeutic counselling; and
- e. help preparing a resume and learning job-searching skills

Free language training is available in Canada for adult permanent residents. This program is called Language Instruction for Newcomers to Canada. Some centers offer free childcare during classes.

The Host Program matches newcomers with volunteer Canadians. The Canadian will help the newcomer practice English or French as well as help with everyday activities such as shopping for groceries, registering children in school, taking public transit, or setting up utilities.

APPEALS

The Immigration Appeal Division on the Immigration and Refugee Board of Canada hears appeals on immigration matters. It hears appeals concerning:

- a. sponsorship
- b. removal orders
- c. residency obligations

If an appeal is allowed, depending on the situation, CIC will resume processing the sponsorship application, a removal order will be removed, or a permanent resident will be allowed to remain in Canada. If an appeal is dismissed, a person may ask to apply for judicial review by the Federal Court of Canada.

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REFUGEES

Convention refugees are people who have a well-founded fear of persecution for reasons of race, religion, political opinion, nationality, or membership in a particular social group, in their country of residence. Canada offers a safe haven for such people. Canada also offers help to persons in need of protection because they face the possibility to torture, risk to life, or risk of cruel and unusual treatment or punishment in their country of residence. Both Convention refugees and persons in need of protection are referred to as protected persons.

1. Asylum

A person who is afraid to return to their country of residency may make a claim for protection. A CIC officer will decide if a claimant is eligible to be considered a refugee and then send the claim to the Immigration and Refugee Board for a decision on the risk of return. The Board will determine if that person is a Convention refugee or a person in need of protection.

Some claimants will not be referred to the Board:

- a. persons recognized as Convention refugees by another country to which they can return;
- b. persons already determined to be protected persons under the *Immigration and Refugee Protection Act* or its regulations;
- c. persons who arrived in Canada, directly or indirectly, from a country that is designated by the *Immigration and Refugee Protection Act* regulations but that country is not their country of nationality or former habitual residence;
- d. persons who were determined to be inadmissible on grounds of security, human rights violations, serious criminality, or organized criminality;
- e. persons who had a previous refugee protection claim rejected by the Board;

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- f. person who had a previous refugee protection claim determined to be ineligible for referral to the Board; or
- g. person who had a previous refugee protection claim withdrawn or abandoned.

2. Resettlement Program

The Refugee and Humanitarian Resettlement Program helps refugees resettle in Canada and begin to rebuild their lives. CIC selects refugees for resettlement. The department relies on referrals from the United Nations High Commissioner for Refugees (UNHCR) and private organizations. Residents of certain countries, called “source countries”, can apply directly to Canada for resettlement. In May 2008 there were six (6) source countries: DR Congo, Sudan, El Salvador, Guatemala, Colombia, and Sierra Leone.

CIC will make sure that a person considered for the Resettlement Program cannot return to their country of residence or cannot stay in the country where he or she has been given asylum. Refugees must not have another resettlement option available to be eligible for the program. Refugees selected must undergo medical and security checks. These people must be able to demonstrate that they will be able to re-establish themselves in Canada.

3. Financial Assistance

The Resettlement Assistance Program helps some refugees pay for temporary accommodation and help finding permanent accommodation, basic household items, income support for up to one year, and general help orientating to Canadian life. Certain refugees have their entire resettlement supported by the Government through non-governmental agencies. Support can last for up to one year. It includes funds for accommodation, clothing, food, and help finding employment.

The Immigration Loans Program provides loans to certain refugees to pay for medical examinations, travel documents, and

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transportation to Canada. Assistance loans are also given to newcomers to help pay for housing rental, telephone deposits, and work tools. Recipients must pay back the loans with interest. They are approved according to one’s need and ability to repay.

Refugees are eligible to receive benefits under the Interim Federal Health Program until provincial health coverage begins. Supplemental coverage under this program may also be granted to cover emergency dental, vision, and pharmaceutical care.

Private groups may also support refugees through the Private Sponsorship of Refugees Program. The Joint Assistance Sponsorship Program enables CIC and private groups to work together to support refugees. There are other programs available to help various refugees settle in Canada.

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REFERRAL NUMBERS AND WEBSITES

Citizenship and Immigration Canada 1-888-242-2100
www.cic.gc.ca

Alberta's Provincial Nomination Program (780) 427-6419
www.alberta-canada.com/pnpl

Immigration and Refugee Board of Canada
. (780) 292-6134 (Edmonton office)
www.irb-cisr.gc.ca

Immigration Appeal Division
www.irb-cisr.gc.ca/en/media/infosheets/iadfacts_e.htm

International Adoption

Alberta's Children's Services, Adoption Services (780) 422-5641
www.child.alberta.ca/home/606.cfm

Immigrant-Serving Organizations in Edmonton

Catholic Social Services (780) 424-3545
www.catholicsocialservices.ab.ca

Changing Together – A Center for Immigrant Women
. (780) 421-0175
www.changingtogether.com

Indo-Canadian Women's Association (780) 490-0477

Assist Community Services Centre (780) 429-3111
www.assistcsc.org

Edmonton Immigrant Services Association (780) 474-8445
www.eisa-edmonton.org

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Edmonton Mennonite Centre for Newcomers (780) 424-7709
www.emcn.ab.ca

Millwoods Welcome Centre for Immigrants (780) 462-6924
www.mwci-edmonton.net

New Home Immigration and Settlement
www.newhomecentre.org

Language Classes in Edmonton

Centre for Canadian Language Benchmarks
www.language.ca/assess/ab.html

Language Assessment Referral and Counselling Centre (LARCC)
. (780) 424-3545

Norquest College, CLBA/LA (780) 422-9061
www.norquest.ab.ca/index.htm

Legal Services

Student Legal Services (780) 492-2226
www.slsedmonton.com

Edmonton Community Legal Centre (780) 702-1725
www.eclc.ca

Dial-a-Law 1-800-332-1091

Legal Aid (780) 427-7575
www.legalaid.ab.ca

Lawyer Referral Service 1-800-661-1095
www.lawsocietyalberta.com/publicservices/lawyerReferralService.cfm

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A-Link 451-1801
www.acjnet.org/alink/default.aspx

Additional Services 211