

REFUGEE CLAIMANTS IN BRITISH COLUMBIA // **FAQs**

October 2018



SECTION 1 // Making A Refugee Claim

1. Who can make a claim for refugee status in Canada?

Every person is entitled to protection from persecution. Canada has recognized this basic human right since 1951 when it signed the Convention relating to the Status of Refugees (the Geneva Convention). The right to life, liberty and security of the person is also enshrined in the Canadian Charter of Rights and Freedoms.¹



The IRB decides who is a Convention Refugee or a person in need of protection. Convention Refugees are outside their home country or the country they normally live in. They are not able to return because of a well-founded fear of persecution based on:

- » race
- » religion
- » political opinion
- » nationality, or
- » membership in a social group, such as women or people of a particular sexual orientation.

A person in need of protection is a person in Canada who cannot return to their home country safely. This is because if they return, they would be subject to a:

- » danger of torture
- » risk to their life, or
- » risk of cruel and unusual treatment or punishment.

Officers who review the initial refugee claim will decide if it will be referred to the Immigration and Refugee Board of Canada (IRB). The IRB is an independent board that decides immigration and refugee matters. For a list of refugee claims that may not be eligible to be referred to the IRB, refer to the IRCC webpage *“Find out if you’re eligible – Refugee status from inside Canada.”*²

The Canadian Council for Refugees (CCR) has compiled comprehensive information about the refugee claim process in Canada: *“Refugee Determination System: A practical guide.”*³ This guide serves as an introduction to the process, including background information on Canada’s refugee claim system.

2. When and where can a refugee claim be made?

A refugee claim may be made at a Canadian port of entry or at an inland IRCC or CBSA office, at any time during the administrative or admissibility hearing process, provided a removal order has not been issued. Once in Canada, government agencies such as CBSA (Canadian Border Services Agency) or IRCC (Immigration Refugees and Citizenship Canada) will screen the claimant’s identity to complete security checks. For those who cannot prove their identity or have criminal convictions for serious crimes, they will be held in detention until they can prove they are not a risk or they may be deported.



For applying for refugee status from inside Canada, visit the IRCC webpage⁴ for a complete list of steps.

UNHCR Canada has released an info-graphic on *“What happens when you make an asylum claim at the border,”*⁵ along with an info-graphic on *“Who can make an asylum claim at the border.”*⁶

For information on irregular border crossing and refugee claims in Canada, visit the IRCC webpage⁷ on this topic.

3. What is involved in the refugee claim process?

In making a refugee claim, the case will be processed depending on how the individual arrives to Canada. The claimant will need to make a claim at the airport or at the office at the border crossing to CBSA. If arriving from the port of entry, CBSA will determine if a claim is eligible. If the claim is found eligible, the claimant will be given the following:



- » A refugee claimant identity document, which includes the Interim Federal Health Program (IFHP)
- » A date for a refugee hearing at the Immigration and Refugee Board (IRB)
- » A basis of Claim (BOC) form to be completed in 15 days
- » A conditional removal order.⁸

Once a refugee claimant has submitted the BOC and opened their refugee claim, they receive the Refugee Protection Claimant document. With that document they are able to do the Immigration Medical Exam (IME), receive the medical certificate and become eligible for provincial social assistance, a work permit, as well as a temporary social insurance number. Refugee claimants are eligible for IFHP that provides them with basic and supplemental health services including the coverage of one IME.

The BC Refugee Hub has released an info-graphic with a timeline of the Refugee Claim Process in BC.⁹

The UNHCR has released an info-graphic on making an Asylum or Refugee Claim in Canada: *UNHCR Canada: Making an asylum claim in Canada*.¹⁰

For help in making a refugee claim, what is involved and completing the proper paperwork, Settlement Orientation Services (SOS)¹¹ in Vancouver can help with Orientation, Information and Referrals. SOS also helps with:

- » Assistance to navigate refugee claims
- » Immigration applications
- » Work permit process
- » Support with social assistance
- » Housing search support and referrals
- » Accessing health services and information
- » Community connections

For more detailed information on how to make a refugee claim and the specific forms needed, refer to the SOS webpage: How to Make a Claim.¹²

SOS has released short video on this topic: Overview of the Refugee Claim Process in BC.¹³

IRB has also put together a Refugee Claim Toolkit¹⁴ which includes the following topics:

- » Making a Claim
- » Providing the Basis for your Claim
- » Gathering and submitting evidence
- » Attending your hearing
- » Receiving your decision

Resources

- 1 canadavisa.com/canadian-immigration-refugee-status.html#gs.w_FheG4
- 2 canada.ca/en/immigration-refugees-citizenship/services/refugees/claim-protection-inside-canada/eligibility.html
- 3 ccrweb.ca/en/refugee-determination-practical
- 4 canada.ca/en/immigration-refugees-citizenship/services/refugees/claim-protection-inside-canada/apply.html
- 5 unhcr.ca/wp-content/uploads/2018/01/Making-a-Claim-ENG.pdf
- 6 unhcr.ca/wp-content/uploads/2018/01/STCA-New-ENG.pdf
- 7 canada.ca/en/immigration-refugees-citizenship/campaigns/irregular-border-crossings-asylum.html
- 8 canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/refugee-protection/canada/claims-refugee-protection-intake.html
- 9 bcrefugeehub.ca/wp-content/uploads/2018/10/Refugee-Claim-Process.pdf
- 10 unhcr.ca/wp-content/uploads/2018/01/Claim-Flowchart-Eng.pdf
- 11 sosbc.ca/en
- 12 sosbc.ca/en/refugee_claim_process/how-to-make-a-claim
- 13 sosbc.ca/en/overview-of-the-claim-process-in-bc
- 14 irb-cisr.gc.ca/en/applying-refugee-protection/Pages/index.aspx

First 24 Hours



After walking across the border, refugee claimants themselves contact or are picked up by either police or directly by CBSA (Canada Border Services Agency) or they make their claim at an IRCC (Immigration, Refugees and Citizenship Canada) office.



Upon arrival at YVR, the individual expresses their need for protection to a CBSA officer. They are interviewed and an intake form is completed as well as security checks. They may be asked to come back the next day if more time is needed. If necessary, an interpreter will be called (either in person or over the phone).



CBSA or IRCC officers screen the identity of the refugee claimant and complete security checks which can take up to 8 hours for each person.



Emergency care is provided if needed. Depending on need and availability, food and blankets are also provided.

Next Two Weeks



CBSA has 72 hours to decide if they are eligible to make a refugee claim. If eligible, their case is referred to the IRB (Immigration and Refugee Board of Canada) and they have 15 days to submit the Basis of Claim (BOC) form to IRB.



For those who cannot prove their identity or have criminal convictions for serious crimes, they are detained until they can prove that they are not a risk, or they will be deported.



During this time, claimants can go to SOS (Settlement Orientation Services) for assistance with their paperwork, referral to legal aid, support with the claim process and housing search. Housing referrals are made to several shelters and transitional housing centres including: Journey Home Community, Inasmuch Community Society and Kinbrace Community Society.



Once a refugee claimant has submitted the BOC and opened their refugee claim, they receive the Refugee Protection Claimant document. With that document they are able to do the Immigration Medical Exam (IME), receive the medical certificate and become eligible for provincial social assistance, a work permit, as well as a temporary social insurance number.



Refugee claimants are eligible for IFHP (Interim Federal Health Program) that provides them with basic and supplemental health services including the coverage of one Immigration Medical Exam (IME). Claimants can access specialized primary health care e.g. The Welcome Centre Medical Clinic.

Next 2 Months and Beyond



IRB hears most claims within 12 months (sometimes longer due to backlog). Refugee claimants access help preparing for their hearings through refugeeclaim.ca (READY Tours and the Hearing Preparation Guide), the VAST "Getting Through It" weekly group and the SOS Health & Settlement Orientation weekly groups. If the claim is accepted, the person receives the Protected Person Status and can apply for Permanent Residence (PR).



Support services received after IRB acceptance include IRCC funded settlement, employment and language (LINC) programs and services, including: orientation and information, language assessment, employment program accessibility, trauma therapy, and connections to facilitate integration into their communities. Vancity also provides loans for the PR application process, if needed.

IRB Rejected Claims



Refugee claims that have been rejected by the IRB will have a chance to appeal to the Immigration Appeal Division (IAD). BC is one of the provinces that continues to provide supports during the appeal process.



If the appeal is rejected, individuals have 30 days to leave voluntarily before the federal government issues a removal order.

SECTION 2 // The Refugee Claim Hearing

1. What is involved in a refugee claim hearing?

Currently, IRB hears most claims within 12 months (sometimes longer due to a backlog). IRB will provide the claimant with a hearing date. During this time, the claimant can prepare for the hearing with The Ready Tours (see below); SOS can support with weekly group sessions "Health and Settlement Orientation"; VAST provides the weekly group sessions "Getting Through It".



The purpose of the hearing is to verify who the claimant is and why they need protection in Canada. The claimant will be asked questions about anything stated in their BOC and why they fear returning to their home country. They may also ask about how the claimant came to Canada. The hearing will last approximately 3.5 hours. Claimants have a right to legal counsel e.g. a lawyer, to represent them during the Refugee hearing. If the claimant does not speak English or French fluently, the IRB will provide an interpreter. By law, IRB hearings are held in private. The information shared by the claimant in the hearing will not be shared with the authorities of their home country. For more detailed information about this process, please refer to the SOS webpage: At the Hearing.¹

A resource for the refugee claim hearing is: *Ready for my Refugee Hearing – Ready Tours Guide*² – This refugee hearing preparation guide is a step-by-step guide for refugee claimants. This guide is available in 11 languages. Also included is the Ready Tours, which provides refugee claimants the opportunity to tour a hearing room, understand the refugee hearing process and learn about the people involved.

IRB has released an informational video: *An Introduction to Canada's Refugee Determination System*.³

2. What happens after the hearing?

Once the hearing is completed, the claimant will receive a notice of decision. If the claim is accepted (a positive decision), the claimant receives the "protected person status" and can apply for permanent residency.



IRCC Application for Permanent Residence in Canada: Protected Persons and Convention Refugees.⁴

3. How long will it take to have a decision about a refugee claim?

Processing times vary significantly depending on the applicant's country of origin. For Protected persons and Convention Refugees in Canada, the processing time is 32 months. For the most up-to-date processing times, visit the IRCC website⁵.



4. What can a claimant do if they are refused?

If the claim is rejected, the claimant would have the right to remain in Canada while they apply for an appeal. During the appeal process, the claimant can continue to receive social assistance.



It is strongly recommended that the claimant seek legal counsel to look into options.

If the appeal is rejected, options include:

- » Judicial review at the federal court
- » PRRA or pre-removal risk assessment
- » Apply for humanitarian and compassionate consideration.

The IRB's Appellant's Guide⁶ is for individuals who are appealing decisions of the Refugee Protection Division (RPD) to the Refugee Appeal Division (RAD) of the Immigration and Refugee Board of Canada (IRB).

IRB has released several information videos on the appeal process:

- » **Part 1:** *An Introduction to Canada's Refugee Appeal System*⁷
- » **Part 2:** *How to appeal to the Refugee Appeal Division (RAD)*⁸
- » **Part 3:** *How to Complete your Appeal to the Refugee Appeal Division*⁹

There are other resources listed on the CCR Refugee Determination Practical Guide.¹⁰

5. How can a refugee claimant gain legal counsel?

It is very important that refugee claimants seek legal counsel as the process is complicated. Legal counsel can be found through legal aid offices when applicable or through other legal clinics and community resources. Many claimants will need to seek legal aid to cover the costs of being represented by a lawyer. Legal aid is a provincial jurisdiction. Claimants can apply for legal aid at the following organizations in BC:



- » **Legal Services Society:** Legal aid / 1-866-577-2525 / 604-408-2172 (Greater Vancouver) / lss.bc.ca
- » **Law Students' Legal Advice Program:** Free legal counsel / (604) 822-5791 / lslap.bc.ca
- » **Access Pro Bono Society:** Free legal counsel / 1-877-762-6664 or 604-878-7400 (Greater Vancouver) / accessprobono.ca

Resources

- 1 sosbc.ca/en/refugee_claim_process/at-the-hearing
- 2 refugeeclaim.ca
- 3 irb-cisr.gc.ca/en/refugee-claims/Pages/index.aspx
- 4 cic.gc.ca/english/information/applications/refugee.asp
- 5 canada.ca/en/immigration-refugees-citizenship/services/application/check-processing-times.html
- 6 irb-cisr.gc.ca/Eng/RefApp/Pages/RefAppKitTro.aspx
- 7 youtu.be/GP3dqIZTeJ0
- 8 youtu.be/ReNjq0_-BjA
- 9 youtu.be/J_tEe5BqWEs
- 10 ccrweb.ca/en/refugee-determination-practical

SECTION 3 // Refugee Claimant Settlement Needs

1. Do refugee claimants have the right to work in Canada while the claim is processed?

Yes, the refugee claimant will have to apply for a work permit before starting to work. Once the claimant receives their medical certificate document, they can apply for a work permit while waiting for the hearing date. A work permit is not only mandatory to work, but it is also required to get a Social Insurance Number (SIN).



Who can apply?

- » Claimants whose claim has been found eligible
- » Rejected refugee claimants
- » Individuals who have:
 - A positive judicial review
 - A positive Refugee Appeal Division decision
 - A positive decision on Pre-Removal Risk Assessment (PRRA)
 - An unenforceable removal order, including people whose claims are found ineligible but are eligible for PRRA
 - Been accepted under Humanitarian & Compassionate grounds

Refugee claimants with a claim in process and those found to be refugees do not pay a fee for the work permit. This also applies to those who have received a positive decision on a Pre-Removal Risk Assessment. However, rejected refugee claimants must pay the fees even if:

- » There is a pending appeal;
- » A decision has been made in Federal Court that refers them back to IRB;
- » They have been accepted on Humanitarian & Compassionate grounds.

SOS has released a short video on this topic: Work Permit Applications¹

2. Can the children of refugee claimants go to school while the claim is processed?

Yes. Children of refugee claimants can attend public elementary and high schools free of charge.²

3. Can a refugee claimant apply for child tax subsidy while the claim is processed?

No. According to the Income Tax Act, eligibility for child benefits is restricted to Canadian citizens, permanent residents, accepted refugees belonging to the humanitarian designated class, “temporary residents” who have lived in Canada for an 18-month period at the time of the application, or the spouse or common-law partners of any of those people. Temporary residents (work, study or visitor permits) are eligible the month following 18 months of continuous residency in Canada, as long as there are valid permits for the entire period and those permits continue to be valid the 19th month of residency.³



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4. Can a refugee claimant (and their family in Canada) receive medical treatment while the refugee claim is processed?

When refugee claimants receive the Refugee Protection Claimant Document (RCPD), they also have access to the IFHP, as the RCPD serves as a health card. This is an extended health benefit that allows claimants to access: basic coverage, hospital services, medical doctors, laboratory, diagnostic and ambulance services, supplemental coverage: limited vision, dental care, healthcare practitioners, counselling, physiotherapy, prescription drugs, coverage of the Immigration Medical Examination (IME).



All refugee claimants need to do the IME by an IRCC accredited medical provider within 30 days after the RCPD is issued. Settlement workers can provide a list of accredited medical providers and make a referral. The IME is needed for the claimant to receive their medical certificate which allows them to apply for provincial social assistance, work permit and other applications. Once the claimants have applied for social assistance and a work permit, they can request to have a personal health number (PHN) at a social assistance office. A settlement worker can provide more information on activating the PHN. Claimants will not automatically be given the MSP care card and will need to apply for one.

