



Legal Issues for Newcomers:  
Information about Income Security  
and Government Services  
for Newcomers to Canada  
Residing in B.C.

MAY 2014

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In Canada, both federal and provincial governments offer a range of services. These often have different citizenship or residency requirements and, in some cases, the use of government services may affect an immigration application. This guide offers some basic information about important government services and how they relate to immigration status. These materials are not intended to replace legal advice; those who need help should consult a qualified legal professional.

Some referrals are provided at the end of the document.

Laws are subject to change at any given time and the most current legislation or policies should be always consulted.

# FINANCIAL SUPPORT

## Welfare

Welfare (also sometimes called social assistance or income assistance) is money and/or other benefits that the Ministry of Social Development and Social Innovation ("the ministry") in B.C. gives to people who can't afford the basics of life, like housing, food and medicine. It's mostly given to people who can't work or find a job or can only find part-time work.



To qualify for welfare benefits, a person's "family unit" must earn less than a specified amount of money per month, and have assets (money and belongings) that are worth less than a specified amount. The ministry considers a "family unit" to include an individual (the applicant), their spouse/partner, and their dependent children who live with them. For a spouse/partner and children to be included in the family unit, they must be living with the applicant and, in the case of children/dependants, must be under 19 years of age.

There are four types of welfare programs in B.C.:

- Income assistance. What most people get when they receive welfare.
- Hardship assistance. Temporary assistance for people who can't get income assistance but are in need and meet other requirements.
- Persons with persistent multiple barriers benefits. For people with a medical condition that makes it difficult to work. Recipients must have been on income assistance and/or hardship assistance for 12 out of the last 15 months to qualify.
- Persons with disabilities benefits. For people with disabilities and their family units.

A person can apply for welfare if they:

- are an adult (19 years or older, with limited exceptions);
- live in B.C.; and
- meet the citizenship requirements for welfare, meaning that they (or one adult family member living in their family unit) must be:
  - a Canadian citizen;
  - a permanent resident (with landed status),

- a convention refugee or a person in need of protection under the Canada Immigration and Refugee Protection Act;
- in Canada on a temporary resident permit; or
- subject to a removal order that can't be executed.

There is one exception to the citizenship requirements for welfare above. A single parent without any immigration status in Canada may get welfare if:

- at least one of their children is under 19, lives mostly with them, AND is a Canadian citizen;
- the parent has left an abusive spouse;
- the parent has made an application for permanent resident status in Canada; AND
- the parent cannot leave BC with their child(ren) because of one of the following:
  - another resident of BC has parenting rights (also called custody and access) or contact (visitation) rights with one or more of their children through a court order, agreement, or other arrangement, and it would probably violate the order, agreement, or other arrangement if the parent left BC with the children
  - another resident of BC is claiming parenting or contact rights with the child; OR
  - you or one of your children is being treated for a medical condition and leaving BC would be dangerous to that person's physical health.

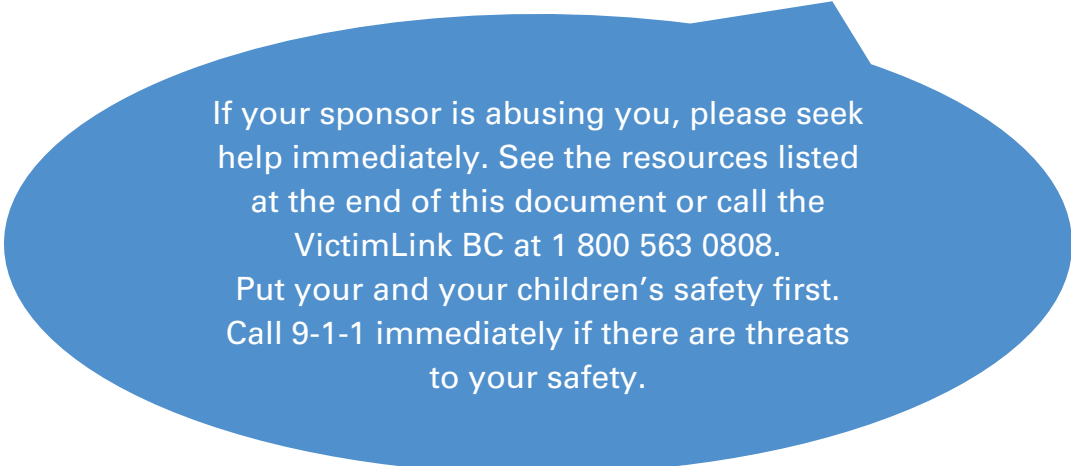
If a spouse living in the family unit doesn't meet these citizenship requirements, the ministry won't pay any welfare benefits for that spouse. In B.C., visitors, students and workers that are here on temporary work permits aren't eligible for welfare.

If a person is receiving welfare, they can't be outside B.C. for more than 30 consecutive days per year. If they break this rule without getting permission in advance, they won't be able to collect welfare unless they requalify for it. The ministry may give permission to be outside BC for more than 30 days in a row for the following reasons:

- to study at a recognized school;
- for medical treatment prescribed by a doctor; or
- for special cases where it would be unfair to prevent the person from leaving B.C.

## **Sponsored Spouses or Dependants:**

If an individual or their dependants were sponsored to come to Canada, their sponsor made a promise to support them for a certain number of years (either three or 10 years). Sponsorship is considered a legally binding contract. If a sponsored person applies for welfare during these years, they must prove to the ministry that their sponsor can't or won't support them. **The only instance where a person doesn't have to prove this is if they have been abused by their sponsor.**



If your sponsor is abusing you, please seek help immediately. See the resources listed at the end of this document or call the VictimLink BC at 1 800 563 0808. Put your and your children's safety first. Call 9-1-1 immediately if there are threats to your safety.

## **Work Search:**

Almost all people must complete a work search before they can get welfare benefits. If you or your spouse have never received welfare benefits in BC before, the work search lasts for five weeks. If you have received only hardship benefits in the past, your work search is also for five weeks. If you or your spouse have received welfare benefits in BC before, your work search lasts for three weeks.

There are some people who are not required to complete a work search before they can get welfare. These include:

- people who are leaving an abusive spouse, or other abusive relative;
- a single parent with at least one child under three years of age;
- someone with a physical or mental health problem that the ministry believes prevents them from looking for work;
- people who are 65 or over;
- family units in which at least one person has been found to be a Person with Disabilities; and
- people who can't legally work in Canada (e.g. someone seeking refugee-protection status who don't have a permit to work in Canada. In this case, the person must provide the ministry with documentation of their claim for refugee protection). If a



person is applying to waive the work search rule on the grounds that they're seeking refugee protection, but their spouse can legally work in Canada (even if they can't), then the spouse must do the work search.

## **Immediate Needs Assessment**

A person who must do a work search (either 3 or 5 weeks) usually does not get any welfare benefits until their work search has been completed.

There is one exception: if a person must do a work search but they have an immediate need for food, shelter or urgent medical attention, then:

- the ministry must schedule their eligibility interview (to see if the person is eligible for welfare) on an urgent basis;
- the ministry must give the person some help (like food vouchers if they have an immediate need for food, or referral to a shelter if they have an immediate need for shelter) while the person is waiting for their eligibility interview date; AND
- after their eligibility interview, the person may be able to receive money from the ministry called "hardship assistance" while they complete their work search.

## **Employment Plan:**

Most people who apply for and receive welfare must take part in an employment plan that assists them in their search for employment while on welfare. If you do not have to do a work search (see above) you do not have to have an employment plan. If you live with a disabled spouse or child who you must care for, this may also mean you don't have to have an employment plan.

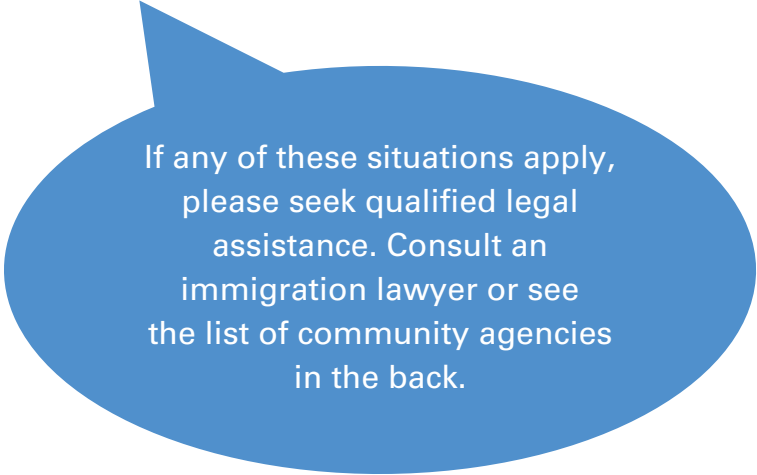
## **Thinking of Sponsoring a Family Member?**

A person can't sponsor family members to come to Canada while that individual is receiving welfare. Immigration officers can't approve a sponsorship application if the potential sponsor is receiving welfare.

Exceptions: The following people who receive welfare can still sponsor a family member to come to Canada

- 1) a person receiving people with disabilities benefits;
- 2) a convention refugee or protected person, if they are still in the process of being reunited with their dependents or spouse if;
  - i. CIC is aware of their dependents; and

- ii. the convention refugee or protected person has named their dependents on their application for permanent residence.
- 3) an overseas refugee resettled in Canada if:
- i. the resettled refugee does not know where a dependent is; and
  - ii. the resettled refugee applies within one year of their arrival to Canada under CIC's One Year Window of Opportunity rules to be reunited with their spouse or dependant child(ren).



If any of these situations apply, please seek qualified legal assistance. Consult an immigration lawyer or see the list of community agencies in the back.

### **WHEN NOT TO APPLY FOR WELFARE:**

If a person applies for permanent residency in Canada through any program other than as a convention refugee or a protected person, their immigration application will be negatively affected if they apply for and receive welfare.

If a person applies for welfare while living in Canada without legal status or has an expired visa or permit, the ministry can check that individual's immigration status, which could lead to an order for their removal from the country. A qualified legal professional should be consulted before applying for welfare, particularly if the person doesn't have proper status in Canada.

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**For more detailed information about applying for and receiving welfare, see  
"Your Welfare Rights: A Guide to Employment and Income Assistance"  
at: [resources.lss.bc.ca/pdfs/pubs/Your-Welfare-Rights-eng.pdf](https://resources.lss.bc.ca/pdfs/pubs/Your-Welfare-Rights-eng.pdf)**

**For more information about applying for income assistance, visit  
[www.eia.gov.bc.ca/bcea.htm](http://www.eia.gov.bc.ca/bcea.htm)**

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# EMPLOYMENT INSURANCE

## Regular Employment Insurance Benefits

Employment insurance (EI) is a federal program that gives people money if they lose their job so they can support themselves while looking for new work.

To be eligible and qualify for EI, a person must:

- have worked a certain number of hours during the 52 weeks before they became unemployed;
- be available for, willing to and actively looking for work;
- with some exceptions, the person must remain in Canada while collecting EI.

There are no formal residency or citizenship requirements for collecting EI; however, a person must have been working with a legal and current work authorization in Canada prior to becoming unemployed in order to qualify.

Currently in B.C. (excluding parts of northern B.C.), the required number of hours is approximately 700 (this number varies over time, and from one region to another). A person looking to collect EI must prove, through a record of employment from their former employer(s), that they worked the required number of hours in the 52 weeks before they became unemployed.

If the employer did not give the individual a record of employment, that person should still apply for EI right away using pay stubs as proof of income and hours worked. Any job where EI contributions are deducted from an employee's paycheque should count toward qualifying for EI. In some cases (for example, if an individual was hired as a contractor rather than an employee), the hours that person worked do not count toward qualifying for EI.

A person who has been working in Canada for less than two years may be considered a "new entrant into the labour force" (i.e., someone who has worked less than 490 hours in the year prior to the 52-week period). New entrants must have worked 910 hours in the 52 weeks prior to unemployment before they can collect EI.

Once a person has qualified, EI will pay a basic rate of 55% (to a maximum of \$514/week) of what that person was earning before losing their job. The payments will continue for a certain number of weeks, or until that person finds new employment. If a person has one or more children under 18 at home, and their net family income is below \$25,921 per year, they may



automatically receive an EI family supplement. With the EI family supplement, they could receive up to 80% of what the person was earning before losing their job.

The number of weeks that an individual is able to collect EI increases with the number of hours they worked in the previous 52 weeks. Currently, in B.C. (excluding parts of northern B.C.), this number ranges between 14 and 45 weeks.

There is a two-week waiting period after losing a job, for which no EI benefits are paid. A person should still apply for EI as soon as possible after losing a job. It may take up to four or even six weeks for an EI claim to be processed. Some people may qualify for a kind of welfare benefit called hardship assistance (see page 6) if the lack of income during the waiting period causes them financial difficulty.

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**EI can only be applied for online, at:**

**[www.servicecanada.gc.ca](http://www.servicecanada.gc.ca)**

**Information and assistance is available by phone at 1-800-206-7218**

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## **Lapsed Work Permits**

Temporary foreign workers with an employer-specific work permit or an open work permit are required to pay taxes while working in Canada and, along with their employers, pay into EI. If an individual is unemployed because their work authorization in Canada isn't valid, and they're in the process of applying for a new work authorization, they *may* be able to get EI benefits, if they:

- are available for, willing to and actively looking for work.
- can prove they have access to a new work authorization (i.e., they must have applied for one and only administrative delays out of their control are preventing them from possessing a current work authorization).

This type of case is often rejected at first instance by the EI Commission; individuals who find themselves in this situation may have to apply for reconsideration of the decision or appeal it to the Social Security Tribunal with more evidence proving that they will receive or, by the time it goes to appeal, have received a new work authorization. It is strongly suggested that people in this situation seek qualified legal assistance.

## **Other Special Employment Insurance Benefits**

If an individual has enough hours to qualify, they may be able to collect special EI benefits that include:

- Sickness benefits for those who can't work due to a very ill family member.

- To collect EI due to illness, an applicant must obtain a medical certificate from a doctor stating that they can't work, and may also have to undergo a medical exam.
- The maximum number of weeks one can collect EI due to illness is 15; pregnancy is also 15 weeks; and caring for a newborn (either parent) is 35 weeks.
- If a family member has a serious medical condition and a "significant risk" of dying within 26 weeks, people can collect compassionate care benefits from EI for six weeks in order to care for their relative. In some cases, people may collect this benefit if they have to leave Canada to care for a close relative.
- Please note: anyone who wishes to collect EI in any of these circumstances must still meet the hours worked requirements, which differ from regular EI hours-worked requirements.

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**For more information about applying for EI, visit**  
**[www.servicecanada.gc.ca/eng/ei/publications/process.shtml](http://www.servicecanada.gc.ca/eng/ei/publications/process.shtml)**

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## SENIORS INCOME SECURITY

Canada offers several income security programs for seniors. Three of the most commonly used programs are the Canada Pension Plan (CPP), Old Age Security (OAS) and the Guaranteed Income Supplement (GIS). Service Canada administers all three of these programs.



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**For information on income security programs for seniors, visit  
[www.servicecanada.gc.ca/eng/audiences/seniors/index.shtml](http://www.servicecanada.gc.ca/eng/audiences/seniors/index.shtml)**

**Information for seniors is available at  
[www.canadabenefits.gc.ca/f.1.2cl.3st@.jsp?geo=1&catid=11&searchallcats=52,53](http://www.canadabenefits.gc.ca/f.1.2cl.3st@.jsp?geo=1&catid=11&searchallcats=52,53)**

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### Canada Pension Plan

CPP operates throughout Canada. The province of Quebec administers its own program, called the Quebec Pension Plan (QPP), for workers in that province. The two plans work together to ensure all contributors are protected, no matter where they live.

To qualify for a CPP benefit, a person must have paid premiums to the CPP program through their employment. CPP provides basic benefits when a person become disabled or retires. If that person then dies, CPP may pay some benefits to their surviving spouse/partner and children.

There are three kinds of CPP benefits:

1. Retirement pension;
2. Disability benefits (for contributors with a disability and their dependant children); and
3. Survivor benefits (this includes the death benefit, the survivor's pension and the children's benefit).

### CPP Retirement Pension

People who have made at least **one valid contribution** (payment) to CPP qualify for a CPP retirement pension. To get a full CPP pension, the person must be at least 65 years old. A person can start to receive a reduced CPP pension between the ages of 60 and 64. How

much a person will receive in monthly CPP retirement benefits depends on how much, and for how long, the person contributed to CPP while working.

CPP retirement pensions do **not** start automatically. People **must apply** for their retirement pension. The only exception is if someone already receives CPP disability benefits and turns 65. In that case, their disability benefits automatically change (convert) to a retirement pension.

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**For more information about CPP retirement benefits, visit**  
**[www.servicecanada.gc.ca/eng/services/pensions/cpp/retirement/index.shtml](http://www.servicecanada.gc.ca/eng/services/pensions/cpp/retirement/index.shtml)**

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## **CPP Disability Benefits**

People who are unable to work due to a serious physical or mental disability may qualify for CPP disability benefits. The amount of the benefit depends on how much, and for how long, the person contributed to the CPP while working. If a person receives disability benefits, some benefits for their children are also available.

To get CPP disability benefits:

- an applicant must be under 65 years of age; and
- the person must have become disabled within certain deadlines of when they last worked and contributed to the CPP.

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**For more information about disability benefits, visit**  
**[www.servicecanada.gc.ca/eng/services/pensions/cpp/disability/index.shtml](http://www.servicecanada.gc.ca/eng/services/pensions/cpp/disability/index.shtml)**

**CLEO's publication, "CPP Disability Pensions," can be found at**  
**[www.cleo.on.ca/en/publications/cppdisability](http://www.cleo.on.ca/en/publications/cppdisability)**

## **CPP Survivor Benefits**

Survivor benefits may be paid after a person who contributed to the CPP dies. There are four kinds of survivor benefits, each with different eligibility criteria.

### **A) Allowance for the Survivor:**

The CPP allowance for the survivor is a monthly amount that can be paid to someone aged 60 to 64 who was the spouse or common law partner of a CPP contributor when they died. In 2014, the maximum monthly amount of the allowance for the survivor is \$1,172.65. The actual

amount that someone may qualify for depends on how much, and for how long, the deceased person contributed to CPP.

To qualify, the survivor must also:

- have a low income (in 2014, under \$22,512);
- live in Canada;
- be a Canadian citizen or legal resident;
- have lived in Canada for at least 10 years since they turned 18; and
- be single (not re-married or living common law with someone else).

## **B) Survivor's Pension:**

A CPP survivor's pension is a monthly amount that can be paid to a person who was the spouse or common law partner of a CPP contributor when they died. How much a surviving spouse or partner will receive, and when, depends on:

- how much, and for how long, the deceased person contributed to CPP;
- how old the surviving spouse or partner is when the CPP contributor dies; and
- whether the surviving spouse or partner is disabled or raising children under 18 that they had with the deceased person.

To receive a survivor's pension before turning 65 or becoming disabled themselves, a surviving spouse or common law partner must be either:

- at least 35 years of age, or
- under 35 and either disabled OR raising dependent children.

## **C) Death Benefit:**

The CPP death benefit is a one-time payment intended to help with funeral expenses. In 2014 the maximum death benefit amount is \$2,500. The amount someone may actually qualify for depends on how much, and for how long, the deceased contributed to CPP.

To qualify for a death benefit, the deceased contributor must have contributed to CPP for at least 3 years, and often more. The death benefit is usually paid to a CPP contributor's estate, or the person who paid for the funeral expenses.

## **D) Children's Benefit:**

The CPP children's benefit is a monthly amount that can be paid to the dependant children of someone who receives CPP disability benefits, or who contributed enough to CPP and has



died. Children can be either biological or adopted children, or a child who was in the care and custody of the disabled or deceased adult.

To qualify, the child must be under 18, or else between 18 and 25 and in full-time studies at a recognized school or university

In 2014, the maximum rate for the children's benefit is \$230.72 per month. The amount a child may actually qualify for depends on how much, and for how long, the parent contributed to CPP.

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**For more information about survivor benefits, visit**  
**[www.servicecanada.gc.ca/eng/services/pensions/after-death.shtml](http://www.servicecanada.gc.ca/eng/services/pensions/after-death.shtml)**

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## **International Benefits**

Canada has agreements with many other countries for people who worked and lived outside of Canada. If such an agreement exists between Canada and the other country or countries where the person worked, they may be able to receive a pension or benefits from **Canada and/or the other** country(ies). Through the agreement, contributions they made in the other country(ies) may be added to their CPP contributions to meet minimum eligibility criteria. If they didn't live or work long enough in one of the countries to qualify, the time they spent in the other country may be added to meet the residency requirement for benefits.

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**For more information, visit**  
**[www.servicecanada.gc.ca/eng/services/pensions/international/index.shtml](http://www.servicecanada.gc.ca/eng/services/pensions/international/index.shtml)**

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## **Old Age Security Program**

The Old Age Security Program offers retirement income to most Canadian seniors. Benefits include the basic Old Age Security Pension (OAS), the Guaranteed Income Supplement (GIS) and Allowance.

### **Old Age Security Pension (OAS)**

OAS is a monthly benefit available to most Canadians 65 years or over. To receive the full OAS benefit, a person must have resided in Canada for at least 40 years after they turned 18. If they do not meet that requirement for the full benefit, they may still qualify for partial OAS if they have lived in Canada for at least 10 years after they turned 18 years of age. Employment

history is not a factor for OAS eligibility. OAS doesn't start automatically – it must be applied for.

## **Guaranteed Income Supplement (GIS)**

GIS provides additional money to OAS to low-income seniors in Canada. To be eligible for GIS, applicants must receive OAS and meet income requirements. GIS doesn't start automatically – like OAS, it must be applied for.

The amount of GIS a person receives is based on a person's annual income or the combined annual income of the applicant and their spouse/partner. Since annual income can change from year to year, applicants must renew their GIS annually. If they file taxes with the Canada Revenue Agency prior to April 30, they will receive the reapplication form in the mail.

## **Allowance and Allowance for Surviving Spouse**

The Allowance and Allowance for Surviving Spouse are both monthly benefits for low income people who are aged 60 to 64. The Allowance is paid to the spouse or common law partner of a low income person who receives OAS (i.e. who is 65 years old or more) and who is eligible for GIS. To be eligible, the spouse or common law partner must be a legal resident or citizen of Canada, and have lived in Canada for at least 10 years after they turned 18. In addition, the couple's combined annual income (not including OAS pension amounts) must be less than a specific amount (for example, in January 2014 this amount was \$30,912 per year). As of January 2014, the maximum amount of the Allowance is \$1,047.43 per month. The Allowance does not start automatically – it must be applied for.

The Allowance for Surviving Spouse is for people aged 60 to 64 whose spouse or common law partner has passed away. To qualify, the person must be single (not remarried or living with a new common law partner), and must be a legal resident or citizen of Canada. In addition, the person must have lived in Canada for at least 10 years since their 18th birthday, and their annual income must be below a certain amount (for example, in January 2014 this amount was \$22,512 per year). As of January 2014, the maximum amount of the Allowance for Surviving Spouse is \$1,172.65 per month.

Both the Allowance and the Allowance for Surviving stop when the recipient becomes eligible for an OAS pension at age 65. Recipients must re-apply annually. The Allowance and Allowance for Surviving Spouse are not considered income for income tax purposes. The Allowance and Allowance for Surviving Spouse are not payable outside Canada beyond a period of six months, regardless of how long the person lived in Canada.

## Sponsored Immigrants and the Old Age Security Program

A sponsored immigrant is not eligible for GIS, the Allowance or the Allowance for Surviving Spouse during their sponsorship period unless the person has lived in Canada for 10 years or more since their 18th birthday. However, a sponsored immigrant is eligible for OAS benefits during their sponsorship period, if they meet all the criteria for OAS. In addition, a sponsored immigrant may be eligible for GIS, the Allowance or the Allowance for Surviving Spouse during their sponsorship period if their sponsor:

- declares bankruptcy;
- is jailed for more than six months;
- is convicted of abusing the sponsored immigrant; or
- dies.

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**For more information about the OAS program, visit**  
**[www.servicecanada.gc.ca/eng/services/pensions/oas/index.shtml](http://www.servicecanada.gc.ca/eng/services/pensions/oas/index.shtml)**

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## Senior's Supplement

The senior's supplement is a provincial monthly payment from the Ministry of Social Development and Social Innovation to seniors whose total income from federal pensions or other earned income is below a level guaranteed by the province. It's paid out automatically (no need to apply) to people who receive OAS and GIS. More information on how to apply to receive this benefit is available at [www.eia.gov.bc.ca/factsheets/2005/seniors\\_supp.htm](http://www.eia.gov.bc.ca/factsheets/2005/seniors_supp.htm).

## Welfare

A senior may be eligible for provincial welfare if they don't qualify for federal benefits. More information about such benefits and entitlements is available from:

- the Legal Services Society's publication *Your Welfare Rights* at [www.lss.bc.ca/publications/pub.php?pub=167](http://www.lss.bc.ca/publications/pub.php?pub=167); and
- the People's Law School of BC publication, "*When I'm 64: Benefits*" at [www.publiclegaled.bc.ca/when-im-64-benefits/](http://www.publiclegaled.bc.ca/when-im-64-benefits/)

## Shelter Aid for Elderly Renters (SAFER)

SAFER is a provincial program that can help reduce rent costs for B.C. seniors with low-to-moderate incomes. To be eligible for SAFER, a person must:

- be aged 60 or over;
- have lived in British Columbia for at least 12 months right before they apply for SAFER;
- rent their home. People who live in subsidized housing or a public residential care facility, or who own shares in the co-op where they live, are not eligible.
- Meet the residency requirements. Any spouse or common-law partner they live with must also meet the immigration status requirements.
- Pay **more** than 30% of their gross (before tax) monthly household income on rent. If the person owns and lives in a manufactured home (trailer), the amount of pad rental they pay is included in the rent.
- Not be receiving any welfare benefits from the ministry, except "medical services only."

### **Immigration status requirements:**

To be eligible for SAFER, a person must live permanently in BC when they apply. A person will not be eligible for SAFER if they are a sponsored immigrant and the period of their sponsorship is not over yet (unless their sponsorship has broken down). In addition, the person, and anyone they live with, must be:

- a Canadian citizen;
- a person lawfully admitted into Canada for permanent residence;
- an applicant for refugee status; or
- a person who was sponsored, but whose sponsorship has broken down.

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**For questions and concerns regarding elderly adults,  
please visit the BC Centre for Elder Advocacy and Support  
at [www.bcceas.ca](http://www.bcceas.ca).**

**BCCEAS's Seniors' Abuse and Information Line:  
Phone: 604 437 1940 or 1-866-437-1940 (toll free)**

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# EMPLOYMENT

## Employment Standards

B.C.'s Employment Standards Branch (ESB) has laws to ensure employees work in safe environments and receive all the benefits they're entitled to. The BC Employment Standards Act requires employers to provide workers with the following (please note: many of these rules are different for farm workers and live-in caregivers; see below for contacts specific to farm workers and domestic workers):



- a \$10.25/hour minimum wage (the liquor server minimum wage is \$9 per hour);
- payment twice per month;
- a 30-minute unpaid meal break for every five consecutive hours of work;
- regular wage plus half for every hour worked over eight hours a day and twice regular wage for every hour worked over 12 hours a day;
- after one year of employment, two weeks paid vacation per year; and
- if employment is terminated without cause (where the employee is not at fault) after three months of employment, the employer must give severance pay or advance notice of termination. The amount of severance or length of notice required depends on the length of employment.

These are just a few examples of the rights workers have, and are subject to change. For more information visit [www.labour.gov.bc.ca/esb](http://www.labour.gov.bc.ca/esb) or call the ESB's information line at 1-800-663-3316. ESB office locations can be found at [www.labour.gov.bc.ca/esb/contact/welcome.htm](http://www.labour.gov.bc.ca/esb/contact/welcome.htm).

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**A useful resource by the People's Law School,  
"Working in BC: Your Legal Rights and Responsibilities,"  
is available at  
[www.publiclegaled.bc.ca/working-in-bc/](http://www.publiclegaled.bc.ca/working-in-bc/)**

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If an employer has not met the required employment standards, there are steps workers can take to resolve the problem. The ESB Self-Help Kit can help employees discuss the problem with their employer and inform their employer about their legal responsibilities. The kit is available at <http://www.labour.gov.bc.ca/esb/self-help>.

Employees who can't solve the problem themselves may file a complaint with the ESB. (using the self-help kit is not the same as filing a complaint). Complaints may be filed up to six months after the problem took place or after employment was terminated.

Individuals within 30 days of the end of the six-month period should file their complaint with the ESB first, and then use the self-help kit later to try to resolve the problem.

People are not required to use the self-help kit if:

- they are under 19 years of age;
- the complaint is related to pregnancy leave, parental leave, family responsibility leave, bereavement leave or jury duty;
- the business has closed or the landlord or bailiff has locked the doors, or the employee is concerned that assets may be removed;
- the person is a farm, textile or garment worker, or a live-in caregiver;
- they have significant language or comprehension abilities;
- they provide a letter that they have already sent to their employer identifying the issue or dispute under the Act and requesting a resolution; or
- the sole issue is that the final paycheque has not been received.

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**File ESB complaints online at**  
**[www.labour.gov.bc.ca/esb/facshts/complaint.htm](http://www.labour.gov.bc.ca/esb/facshts/complaint.htm)**

**or visit your local ESB office.**

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After a complaint has been filed, the ESB will decide whether the employer has provided the employee with the wages and benefits they are entitled to. If the employer has not met the employment standards requirements, they may be required to pay the employee compensation for lost wages or other benefits.

## Foreign Workers

Foreign workers in B.C. may be covered by the Employment Standards Act and are entitled to overtime pay, statutory holidays and holiday pay, annual vacations and vacation pay and minimum wage. An employer cannot provide goods or services in lieu of wages.

Foreign workers cannot be charged any fee to get help finding a job or be provided with information about prospective work.

A foreign worker CANNOT be required to:

- pay for immigration assistance as a condition of being placed in a job;
- post a bond or pay a deposit to ensure they will finish a work term or employment contract, or pay a penalty if they do not; or
- pay back any costs the employer paid to an employment agency or anyone else to recruit the worker.

An employer may only deduct wages as required by law (e.g., income tax, CPP, EI premiums, union dues). An employer can't ask the worker to pay any portion of a business cost, but the employer may deduct advances and overpayments from wages if the worker has given written authorization.

An employer or an employment agency can't force a foreign worker to return to their country of origin if they terminate the worker's employment contract before the work permit expires or if the worker finds employment with another employer. Only the federal government can legally remove a person from Canada.

Foreign workers with language difficulties are not required to use the Self-Help Kit before filing an Employment Standards complaint.

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**There are specific employment standards rules that apply  
to farm workers and live-in caregivers.**

**For more information visit:**

**[www.labour.gov.bc.ca/esb/domestics/](http://www.labour.gov.bc.ca/esb/domestics/)**

**[www.labour.gov.bc.ca/esb/agriculture](http://www.labour.gov.bc.ca/esb/agriculture)**

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**Farmworkers and domestic workers can contact  
the following organizations for legal help:**

|   |  |
|---|--|
| <p><b>West Coast Domestic<br/>Workers Association</b><br/>302-119 West Pender Street<br/>Vancouver, B.C. V6B 1S5<br/>604-669-4482 or toll-free at 1 888 669 4482<br/><a href="http://www.wcdwa.ca">www.wcdwa.ca</a></p> | <p><b>PICS Agricultural Workers<br/>Legal Advocacy Program</b><br/>205-12725 80th Avenue<br/>Surrey, B.C. V3W 3A6<br/>604-596-7722<br/><a href="http://pics.bc.ca/legal-advocacy-program/">http://pics.bc.ca/legal-advocacy-program/</a></p> |
|---|--|

## Legal Work Authorization

Working without legal work authorization doesn't preclude a person from requesting money from their employer through Employment Standards; however there are risks that need to be addressed and weighed against a person's lack of immigration status.

When you're working in Canada without a work authorization, especially in B.C., people risk exposing themselves to exploitation and failing to pursue other possible immigration avenues that may be available.

People who work without status or under the table are working without a social insurance number (SIN) and are not eligible for any status workers' benefits like workers' compensation and EI. Without legal status, workers don't receive any opportunity for medical services and will be billed privately should they require medical assistance. If a worker working without status comes into conflict with the law and is asked to provide ID documents, they will trigger exposure to Canadian authorities.

*What options do workers without legal status have if they are not paid their wages?* Working without legal status doesn't prevent a person from filing a complaint with the Employment Standards Branch (ESB) for unpaid wages (see above). In fact, using the ESB to seek a remedy may be one of the only legal avenues available. Once a complaint is filed with the ESB, it's strictly confidential and subject to privacy. No one but the parties to the complaint will be informed. The ESB takes all complaints seriously and will attempt to resolve the issue through its complaints mechanisms.

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**For more information visit**

**[www.labour.gov.bc.ca/esb/facshts/complaint\\_resolution.htm](http://www.labour.gov.bc.ca/esb/facshts/complaint_resolution.htm)**

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*What are the risks to filing a complaint with the ESB?* Although the complaint process is private and confidential, as explained above, there are associated risks for those who lack immigration status. The biggest risk comes from the employer; it is possible that the employer will try to avoid paying the outstanding wages by informing *Canadian Border Services Agency* ("CBSA") of the worker's existence as an "illegal" living in Canada. In similar situations that have actually taken place, it has become a race to the finish to see if the employee gets paid before being removed from Canada. With this apparent reality, people must decide if they will continue to pursue a complaint with the ESB and have *some possibility* of leaving Canada with the money owed to them.

Once CBSA is informed of someone's lack of immigration status, the immigration consequences for a non-status worker include:

**REMOVAL ORDERS:** If a removal order has been issued, the person may be required to leave Canada. They will be informed of the reasons for the removal and given a copy of the order.

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Family members in Canada who are dependants and are also without status (spouse and/or children) may be included in the removal order if they are not Canadian citizens or permanent residents 19 years of age or over. There are two types of removal orders that apply in this scenario:

**DEPARTURE ORDERS:** The person must leave Canada within **30 days** after the order becomes effective and must confirm their departure with CBSA and be issued a certificate of departure. They can return to Canada without restrictions. ***A departure order automatically becomes a deportation order if the person does not leave within 30 days or confirm their departure with CBSA.***

**EXCLUSION ORDER:** The person can't return to Canada for one full year. However, they can try to get permission from CIC to return sooner.

Any one of these removal orders is a very dark mark on someone's Canadian immigration record. No matter what remedy is sought, there's a greater likelihood that the person may be barred from entering Canada in the future as CIC visa-issuing officers have full discretion to deny entry visas and/or border officials may deny entry at a port of entry.

For more help with one's rights as a temporary foreign worker or one without proper immigration status consult (farm workers and domestic workers: see the above-mentioned agencies on page 19):

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**MOSAIC Legal Advocacy Program**  
**1720 Grant Street, 2nd floor**  
**Vancouver, B.C. V5L 2Y7**  
**Phone: 604-254-9626; fax: 604-629-0061**

**[www.mosaicbc.com/settlement-services/general-support/legal-advocacy](http://www.mosaicbc.com/settlement-services/general-support/legal-advocacy)**

## **Workers' Unions**

Depending on a person's profession and place of employment, a worker may be required or able to join a workers' union, which is an organization that represents employees when dealing with employers. A union negotiates employment terms and standards with the employer to cover all unionized employees; this is known as a collective bargaining agreement and, in all cases, the terms and standards negotiated are equal or better to those required by employment standards laws. Employees, their union and their employer are legally required to follow the terms set out in the collective bargaining agreement; the laws are set out by the Labour Relations Code as opposed to the Employment Standards Act.

Collective bargaining agreements differ greatly, so it's important to find out what rights and responsibilities one has as an employee and union member. If a worker believes their rights under the collective bargaining agreement have been breached, they can contact their union representative and file a complaint known as a "grievance." Though methods for filing and processing grievances vary, all unions are legally required to take grievances seriously and make an honest decision on the matter. If the union determines that the employer has breached the terms of the collective bargaining agreement, they will contact the employer to negotiate a resolution.

**Please note: unionized workers should consult their union representative rather than the ESB when faced with a problem with their employer.**

## WorkSafeBC

### Workers' Compensation

In B.C., the *Workers' Compensation Act* regulates payment to employees or their families for work-related injuries or diseases. WorkSafeBC administers the program in B.C.

Visit [www.worksafebc.com/claims](http://www.worksafebc.com/claims) for information on the program and instructions for claims.

To be eligible for benefits from WorkSafeBC, workers must have been hurt or developed an illness while working, and the injury or illness must have been caused by something to do with the job.

Most people working in B.C. – whether full time, part time, on contract or as casual labour – are covered by WorkSafeBC. As a worker, you're covered even if your employer didn't register with WorkSafeBC.

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**WorkSafeBC**  
**[www.worksafebc.com](http://www.worksafebc.com)**

**Call Centre: 604-231-8888 (Metro Vancouver)**  
**1-888-967-5377 (within B.C.)**

There are WorkSafeBC local offices in Courtenay, Nanaimo, Victoria, Abbotsford, Burnaby, Coquitlam, North Vancouver, Surrey, Vancouver, Kamloops, Kelowna, Nelson, Fort St. John, Prince George and Terrace. Locations and contact information can be found at [www.worksafebc.com/contact\\_us/default.asp](http://www.worksafebc.com/contact_us/default.asp)

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For more information about claims with WorkSafeBC, see

[www.worksafebc.com/publications/how\\_to\\_work\\_with\\_the\\_wcb/Assets/PDF/CM025.pdf](http://www.worksafebc.com/publications/how_to_work_with_the_wcb/Assets/PDF/CM025.pdf)

Other WorkSafeBC publications for workers are available at

[www.worksafebc.com/publications/how\\_to\\_work\\_with\\_the\\_wcb/default.asp#workers](http://www.worksafebc.com/publications/how_to_work_with_the_wcb/default.asp#workers)

The Prevention Information Line makes available workplace-related information on health and safety regulations and worker and employer responsibilities, and can also be called to report an accident or incident.

Prevention information lines (WorkSafeBC)

Lower Mainland: 604-276-3100

Provincial: 1-888-621-7233

After hours: 604-273-7711 or 1-866-922-4357

[www.worksafebc.com/contact\\_us/prevention\\_information\\_line](http://www.worksafebc.com/contact_us/prevention_information_line)

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## Reporting an Injury

If a person is injured at work, they must report their injury to their employer immediately, and to WorkSafeBC. They should also see a doctor right away and tell the doctor the injury or illness is work-related. It's illegal for an employer to tell a worker not to report an injury or disease to WorkSafeBC or to try to talk a worker out of reporting it to WorkSafeBC.

## Workers' Advisers

Workers' advisers help workers who are having problems accessing workers' compensation in B.C. They do not work for WorkSafeBC and the service they provide is free.

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For more information about the Workers Advisers Office, visit

[www.labour.gov.bc.ca/wab](http://www.labour.gov.bc.ca/wab)

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# PUBLIC MEDICAL INSURANCE

## Medical Services Plan (MSP)

In Canada, health and medical services are provided through a public health insurance system. Each province runs its own separate system.

In B.C., health and medical services insurance is provided through Health Insurance BC. To qualify, one must enroll in MSP and pay a monthly fee. If a person's previous year's income was below a certain amount, they will not be required to pay the monthly fee.

People who are new to B.C. must apply to Health Insurance BC in order to qualify for health insurance. New residents or people re-establishing residence in B.C. are eligible for coverage after completing a waiting period that normally consists of the balance of the month of arrival plus two months. Because of the waiting period, it is important to apply as soon as possible after arriving in B.C.

To qualify for health insurance, people must meet specific residency requirements:

- they are a "resident," which in this case means a Canadian citizen or a person legally admitted to Canada as a permanent resident;
- they make their home in B.C.; and
- they are physically in B.C. for six months of the year.

**Please note: one does not need to wait six months before applying for health insurance. People can apply as soon as they meet the other two requirements. Once insured, an individual must meet the six-month rule to keep the insurance.**

People who are not Canadian citizens or permanent residents may still be able to get health insurance. If they meet the two other rules above, and are in one of the following situations, they are "deemed" to have residency:

- they have a valid student or work visa of six months or more or are the spouse or child of someone in this position;
- they are the spouse or child of a Canadian citizen or permanent resident, have applied for permanent residence and their application has not been decided (**the application must be open and active with Citizenship and Immigration Canada**);
- they are a child being adopted by a Canadian citizen or permanent resident; or



- they applied for permanent residence status and were issued a permit by the Minister of Citizenship and Immigration Canada known as a Temporary Resident Permit issued on medical inadmissibility grounds. In this situation, not only the person who holds the Temporary Residence Permit may have deemed residency, but also their spouse and children. This is a category that is not well known. People in this situation may need help advancing their case from a qualified legal professional.

In most cases, a person maintains their health insurance if they live in B.C. for six months of the year. In a few cases one is able to keep their insurance when they are outside B.C. for more than six months. If a person is studying full time at a school outside B.C. that is recognized by the government, they can keep their insurance. The person must have lived in B.C. for six months of the year before leaving for school. The person's spouse and children will also keep their insurance if they are with the person when they are studying. If the person stops full-time studies and does not return to BC, they will lose their insurance one month after they are no longer a full-time student. If a person is leaving B.C. for more than six months in a year for work or vacation, they may be able to keep their insurance for up to 24 months. This requires:

- approval from the government before leaving;
- not becoming a resident of another province or country; and
- that the person lived in Canada for six months in the 12 month period before their departure.

**Please note: There are limits on the number of times that a person can be “deemed eligible” within a given period, so pre-approval is highly advised for each out-of-province trip. Also, if one remains outside of Canada for longer than what they were pre-approved for, when they return they will be required to fulfill a waiting period before they can start receiving coverage again. Contact MSP directly to get specific questions answered.**

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**Contact information can be found at  
[www.health.gov.bc.ca/msp/infoben/contacts.html](http://www.health.gov.bc.ca/msp/infoben/contacts.html)**

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If a person has an occupation that requires them to travel routinely outside B.C. for more than six months in the calendar year, they can still keep their insurance if they:

- get prior approval from the government;
- do not establish residency outside B.C.;
- keep B.C. as the base location for their job; and
- are present in B.C. once a month, or enough for the government to believe they still reside in B.C.

## Premium Assistance

B.C. provides a program for those who can't afford the monthly insurance payments (premiums) for health insurance. The Premium Assistance Program is only available to people who have lived in Canada for the previous 12 months and were citizens or permanent residents during that time. **Also, people recognized as convention refugees and who have obtained their permanent residence status are not required to pay the insurance premium for the first 12 months they are in Canada or until they get a job, whichever comes first. If a person receives welfare (see above), they do not have to pay premiums.**

If the government believes someone has left B.C. permanently, that person will lose their insurance:

- at the end of the month that they leave B.C., if they are moving outside Canada; or
- two months after the end of the month that they leave B.C., if they are moving within Canada.

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**For more information about Health Insurance BC, visit**  
**[www.health.gov.bc.ca/msp](http://www.health.gov.bc.ca/msp)**

**For information about health insurance coverage**  
**while studying, travelling or working outside B.C., visit**  
**[www.health.gov.bc.ca/msp/infoben/leavingbc.html#absence](http://www.health.gov.bc.ca/msp/infoben/leavingbc.html#absence)**

## Interim Federal Health Program (IFHP)

This is a temporary health-care benefits program for the following people who are not yet eligible for provincial MSP coverage:

- protected persons, including resettled refugees;
- refugee claimants; and
- certain other groups.

The IFHP does not cover services or products that a person may claim under a private insurance plan.

### Benefits

The IFHP provides three basic types of benefits:

- health-care coverage;

- expanded health-care coverage; and
- public health or public safety health-care coverage.

## Health-Care Coverage

This coverage is for:

- protected persons who are not receiving income support through the Resettlement Assistance Program (RAP) and have not yet qualified for MSP, including:
  - most Privately-Sponsored Refugees (PSRs);
  - refugees recognized as Convention Refugees; and
  - most individuals who have received a positive decision on a Pre-Removal Risk Assessment (PRRA);
- refugee claimants who are not from a Designated Country of Origin (DCO); and
- refugee claimants from a DCO who filed their claim before December 15, 2012.

People who are eligible for health-care coverage through IFHP and who need medical attention for a disease, symptom, complaint or injury, can receive:

- hospital services;
- services of a doctor or registered nurse;
- laboratory, diagnostic and ambulance services; and
- medications and vaccines **only when they required to prevent or treat a disease that poses a risk to public health, or to treat a condition of public safety concern.**

Once someone is eligible for MSP or health coverage from another province, they are no longer eligible for IFHP.

## Expanded Health-Care Coverage

This coverage is for:

- people who are or were receiving income support through the Resettlement Assistance Program (RAP) or its equivalent in Quebec, including:
  - Government-Assisted Refugees, and
  - Joint Assistance Sponsorship Program Refugees.
- people who are or were receiving income support through the RAP, including:

- Visa Office-Referred Refugees who are part of populations nominated for blended funding arrangements where the government and private sponsors jointly provide funding support,
- certain people who are being resettled in Canada as a result of a public policy or humanitarian and compassionate considerations on the Minister's own initiative, and
- certain refugees sponsored by organizations with whom the department has entered into cost-sharing agreements.
- victims of human trafficking who have a valid temporary resident permit under section 24(3) of the Immigration and Refugee Protection Act.

People who are eligible for expanded health care coverage through IFHP and who need medical attention for a disease, symptom, complaint or injury, can receive:

- hospital services;
- services of a doctor or registered nurse; and
- laboratory, diagnostic and ambulance services.

In addition, if still under support of the RAP or Private Sponsorship, a person may be eligible for:

- prescribed medications and other pharmacy products;
- limited dental and eye care;
- prosthetics and devices to assist mobility;
- home care and long-term care;
- psychological counselling provided by a registered clinical psychologist; and
- post-arrival health assessments.

## **Public Health or Public Safety Health-Care Coverage**

This coverage is for rejected refugee claimants and

- Refugee claimants from Designated Countries of Origin who filed their refugee claim after December 15, 2012.

People who are eligible for Public Health or Public Safety Health-Care Coverage through IFHP are only eligible for the following services **if** they require *diagnosis, prevention or treatment of a disease that poses a risk to public health or a condition of public safety concern*:

- services of a doctor or registered nurse;
- laboratory and diagnostic services; and



- medications and vaccines.

## **Immigration Medical Examination**

IFHP also covers the cost of the Immigration Medical Examination for all refugee claimants as their claim is being processed.

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**For a summary of services, visit**

**[www.cic.gc.ca/english/refugees/outside/summary-ifhp.asp](http://www.cic.gc.ca/english/refugees/outside/summary-ifhp.asp)**

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# IMMIGRATION STATUS

## Canadian Citizenship

Canadian citizens enjoy all the rights, freedoms and protections of the ***Canadian Charter of Rights and Freedoms***. They have the right to have a Canadian passport and to re-enter Canada no matter how long they have been out of the country. They cannot be forced to leave Canada for any reason, unless they obtained their Canadian citizenship or permanent resident status by not telling the truth.



Rules surrounding citizenship are found in the *Citizenship Act*.

## Permanent Resident Status

### Permanent Residents

Permanent residents are immigrants, refugees and protected persons who have been given the right to live permanently in Canada. Permanent residents have more rights than visitors to Canada, but they do not have all the rights that Canadian citizens have (for example, they cannot vote).

Rules surrounding permanent resident status are found in the *Immigration and Refugee Protection Act*.

### Rights of Permanent Residents

Permanent residents have the right to enter and live in Canada. They also have ***most*** of the rights set out in the *Canadian Charter of Rights and Freedoms* (commonly called the *Charter*). These rights include the freedom of religion and legal rights.

Rights of permanent residents include the right to:

- receive most social benefits, including health-care coverage;
- live, work and study anywhere in Canada;
- apply for citizenship; and
- protection under Canadian law and the Charter.

Responsibilities include:

- paying taxes; and
- respecting all laws.

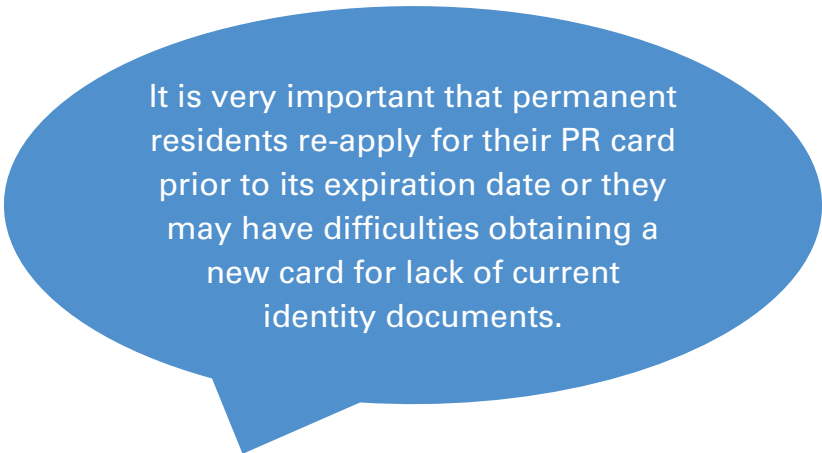
Permanent residents cannot:

- vote or run for political office;
- hold certain jobs; or
- remain in Canada if they are inadmissible, have been ordered to leave Canada and had their appeal of that order dismissed.

## **Permanent Resident Card**

In 2002, CIC began to issue Permanent Resident cards as proof of status. The card is also called a “PR card.” It enhances the paper “Record of Landing” document. The card is valid for five years.

As of December 2007, most permanent residents must have the card if they are re-entering Canada in a commercial carrier (for example, a plane, bus or boat) or crossing the border by car. Since the card is only issued in Canada, permanent residents should get it before leaving Canada. If they do not have a card, they can go to a Canadian embassy or consulate and get a temporary travel document to re-enter Canada.



It is very important that permanent residents re-apply for their PR card prior to its expiration date or they may have difficulties obtaining a new card for lack of current identity documents.

If a person came to Canada as a permanent resident before June 2002, the card replaces the original landing papers.

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**For information on the PR card call 1-800-255-4541 (in Canada only) or visit [www.cic.gc.ca/english/information/pr-card](http://www.cic.gc.ca/english/information/pr-card)**

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## Residency Obligation

Permanent residents must meet a residency obligation in order to maintain permanent resident status. They must meet the obligation for two out of every five years that they are a permanent resident. This means that the person must live in Canada for at least two years (730 days) in any five-year period. It does not have to be two years in a row.

If they have been a permanent resident for more than five years, only the last five years will be looked at.

People can meet their residency obligations while living abroad in the following circumstances:

- they are accompanying a spouse or common-law partner who is a Canadian citizen abroad;
- they are a child accompanying a Canadian parent;
- they work full-time for a Canadian business or the Canadian government;
- they are accompanying a spouse or common-law partner who is a permanent resident **AND** works full time for a Canadian business or the Canadian government; or
- they are a child with a parent who is a permanent resident **AND** works full time for a Canadian business or the Canadian government.

## Conditional or Loss of Permanent Resident Status

### Two-Year Conditional Permanent Residence for Sponsored Spouses

A sponsored spouse who filed an application for permanent residence after October 25, 2012, is subject to conditional permanent residence. This conditional permanent residence applies to:

- spouses, **common-law** or **conjugal** partners in a relationship of two years or less with their sponsor; and
- couples that have **no children in common** with their sponsor at the time they submit their sponsorship application.

The sponsored spouse must **live together** in a real relationship with their sponsor for two years from the day on which they receive their permanent resident status in Canada. If they do not remain in the relationship, the sponsored spouse's status could be revoked.

Other than the conditional two-year requirement, the sponsored permanent resident does not differ from normal permanent residence. These sponsored spouses have the same rights and benefits as other permanent residents. They are allowed to work and study without a work or

study permit, are not subject to different tuition fees in post-secondary schools and have the same access to health coverage and social benefits, including social security.

However, if the relationship breaks down, the sponsor remains financially responsible until the end of the three-year undertaking period, irrespective of the cause of the breakdown.

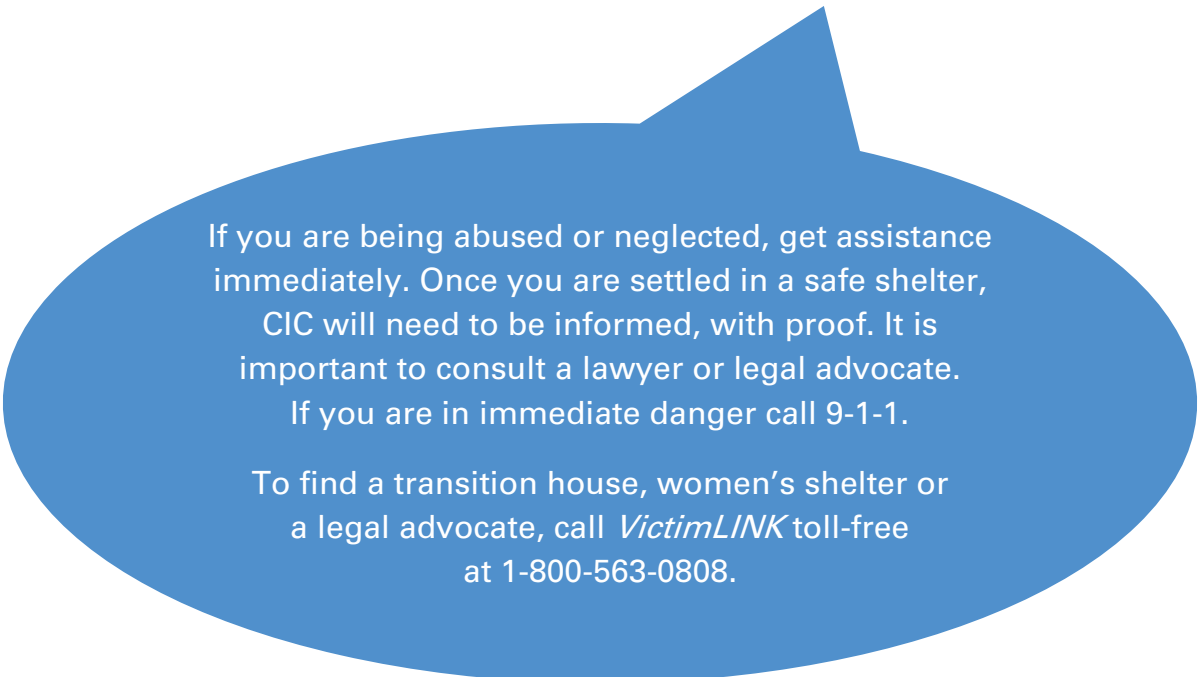
### **EXCEPTIONS to Two-Year Conditional Permanent Residence:**

#### ***Exception for death of the sponsor***

- The condition does not apply if the sponsor dies during the two-year conditional period and the sponsored spouse remained in a real, co-habiting relationship with the sponsor until the sponsor's death. CIC will need to be informed with proof; it is important that a lawyer or legal advocate is consulted in this situation.

#### ***Exception for abuse or neglect of the sponsored person***

- Conditional permanent residence also does not apply if there is abuse or neglect by the sponsor or a failure to protect from abuse or neglect by a person related to the sponsor, **whether that person is living in the household or not during the two-year conditional period.**
  - Abuse can be: physical abuse, forcible confinement: sexual abuse, sexual contact without consent, psychological abuse, threats and intimidation or financial abuse, including fraud and extortion.
  - Neglect can be: failing to provide the necessities of life such as food, clothing, medical care or shelter and any other omission that results in a risk of serious harm.



If you are being abused or neglected, get assistance immediately. Once you are settled in a safe shelter, CIC will need to be informed, with proof. It is important to consult a lawyer or legal advocate. If you are in immediate danger call 9-1-1.

To find a transition house, women's shelter or a legal advocate, call *VictimLINK* toll-free at 1-800-563-0808.

## Not Meeting Residency Requirements

A person who does not meet the residency obligations may lose their permanent resident status. A person does not lose their permanent resident status immediately and has the right to appeal to the Immigration Appeal Division and should get legal help as soon as possible, as an appeal must be filed within 60 days after receiving a decision from CIC.

Even if there is a failure to meet the residency obligation, CIC may determine that humanitarian and compassionate considerations justify the retention of resident status.

## Inadmissibility

Permanent residents may also lose their permanent resident status if they are found to be inadmissible. **Permanent residents** may be inadmissible due to/for:

- security concerns;
- human rights violations;
- criminality;
- organized crime;
- financial reasons; or
- misrepresentation.

## Criminality

Permanent residents are inadmissible if they have been convicted of a serious offence either in or outside of Canada.

Permanent residents are inadmissible if they are involved with organized crime, which is defined as “a pattern of criminal activity planned and organized by a number of persons acting in concert.” It includes people-smuggling, trafficking in persons and money laundering.

## Misrepresentation

Permanent residents are inadmissible if they lied to CIC either by giving false **information or not providing all relevant information**.

If a sponsor misrepresented themselves then sponsored family members may be deemed inadmissible as well.

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**For more information about inadmissibility, visit  
[www.cic.gc.ca/english/information/inadmissibility/who.asp](http://www.cic.gc.ca/english/information/inadmissibility/who.asp)**

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**If you believe there are reasons for you to be considered inadmissible, consult with a lawyer immediately.**

## PROTECTION

There are two types of refugees: inland refugees and overseas refugees. Overseas refugees are selected and sponsored by the Canadian government from outside of Canada. They fall within the *Refugee and Humanitarian Resettlement Program*. The majority of resettled refugees come to Canada with their permanent residence or, in some cases, with a Temporary Residence Permit. However, some refugees arrive in Canada on their own and seek asylum at the border, an airport or an immigration office. These refugees are said to be claiming refugee status.



### Overseas Refugees

#### Refugee and Humanitarian Resettlement Program

CIC selects people from refugee camps around the world to move to Canada. Resettlement is the legal process of bringing a refugee to Canada to live as a permanent resident. CIC relies on the United Nations High Commissioner for Refugees (UNHCR) as well as other referral organizations and private sponsorship groups to identify and refer refugees for resettlement in Canada.

People in this program have to go through medical, security and criminal screenings and, in most cases, arrive as Permanent Residents.

If an overseas refugee is in need of urgent resettlement with some outstanding medical screening, they would arrive in Canada under a Temporary Resident Permit – a status they must keep valid until they are able to apply for Permanent Residence.

There are three overseas refugee classes:

- **Convention Refugees Abroad class:** People who are outside their home country (or the country in which they normally reside) and cannot return to that country due to a well-founded fear they will be persecuted because of race, religion, political opinion, nationality or membership in a social group (e.g., women or those who have a different sexual orientation).
- **Country of Asylums class:** People who are in a refugee-like situation but do not qualify as Convention Refugees, who are outside their home country (or the country in which they normally reside), are seriously and personally affected by a conflict or violation of



human rights, cannot find an adequate solution to the problem within a reasonable amount of time and will be privately sponsored or able to support themselves.

- **Source Country class:** Person lives in a country that he/she normally lives in and this country is labelled as a source country for refugees by CIC.

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**For more information, visit**  
**[www.cic.gc.ca/english/refugees/outside/index.asp](http://www.cic.gc.ca/english/refugees/outside/index.asp)**

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## **Government-assisted Refugee Program (GAR)**

Government-assisted refugees are Convention Refugees Abroad. Resettlement in Canada is entirely supported by the Government of Canada or with support coming from CIC-supported non-governmental agencies. The support usually lasts up to one year from the date of arrival.

### Urgent Protection Program (UPP)

The UPP ensures Canada is able to respond to urgent requests by refugees facing the threat of being returned home or direct threats to their lives.

In 1988 Canada created the **Women at Risk Program** for refugee women in desperate circumstances. These women do not have family or friends to support or protect them and they may be at risk of rape or other violence.

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**More information on the GAR Program is available at**  
**[www.cic.gc.ca/english/refugees/outside/resettle-gov.asp](http://www.cic.gc.ca/english/refugees/outside/resettle-gov.asp)**

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## **Sponsoring Refugees Overseas**

Organizations and individuals can sponsor refugees who live abroad and are seeking resettlement in Canada. CIC can match refugees with groups interested in sponsoring refugees. Sponsors must be Canadian citizens or permanent residents and at least 18 years of age. **Refugee claimants who are already in Canada do not qualify for this type of sponsorship.**

Sponsoring groups must support the refugees for one year. This support includes housing, clothing and food. In special cases the sponsorship period can be extended for up to three years.

## Inland Refugees

### Protected Persons

A protected person is either a Person in Need of Protection or a Convention Refugee. All protected persons are granted refugee protection in Canada.

### Persons in Need of Protection

Persons in need of protection are people who would face danger (torture, threat to life or risk of cruel and unusual treatment or punishment) if they were to return to their home country.

### Convention Refugees

A convention refugee fits the *United Nations Convention Relating to the Status of Refugees* definition of refugee.

Canada's *Immigration and Refugee Protection Act* defines a Convention Refugee as:

- *a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,*
  - (a) is outside each of his/her countries of nationality and is unable or, by reason of that fear, unwilling to avail him/herself of the protection of each of those countries; or*
  - (b) not having a country of nationality, is outside the country of his/her former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.*

People asking for Convention Refugee status or protection in Canada are called **Refugee Claimants**.

### Refugee Claimants

Most refugees travel to Canada on their own to make a refugee protection claim at the border, an airport or a CIC office. These refugees have no status when they arrive and must make a claim for refugee status.

## Legal Counsel

Refugee claimants have the right to be represented, at their own expense, by legal counsel during the claim process. Limited legal-aid funding may be available for refugee claimants who cannot afford a lawyer.

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**For information about legal aid in B.C., visit  
[legalaid.bc.ca/legal\\_aid/immigrationProblems.php](http://legalaid.bc.ca/legal_aid/immigrationProblems.php)**

**For more information on referrals for immigration problems,  
or to apply for legal aid, call the  
legal aid immigration line at 604-601-6076  
or toll-free 1-888-601-6076**

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## Change of Address

Claimants who change residences must report their new address to the Immigration and Refugee Board of Canada (IRB) and CIC. If they do not report a change of address, they could miss important letters from either organization, which could lead to their claim being declared abandoned.

## Social Insurance Number (SIN)

Refugee claimants can apply for a SIN – a nine-digit number used as personal identification for government programs that is needed to work in Canada. Employers must ask to see an employee's SIN card. In order to get a SIN, refugee claimants must have a work permit.

SIN numbers that begin with the number "9" are given to people who are not Canadian citizens or permanent residents. All new 900-series SIN cards have an expiry date that matches the expiry date on the card holder's immigration documents.

## Work Permit

Refugee claimants can hold an open work permit, which does not require a job offer. An open work permit is not limited to a specific job or employer.

Once a claim has been referred to the refugee protection division of the IRB and a medical exam has been completed, most refugee claimants can apply to CIC for a work permit.

However, if a refugee claimant is from a designated country of origin, they cannot apply for work permits until either their refugee claim is accepted or 180 days have passed since their claim was referred to the IRB.

If a claimant has been ordered removed but the Canada Border Services Agency cannot enforce the order, the claimant may be able to get a work permit.

## **English Classes**

A student permit is not normally needed to take English classes. Convention Refugees and Persons in Need of Protection can take government-sponsored ESL classes through English Language Services for Adults (ELSA). For more information, visit [www.elsanet.org/index.html](http://www.elsanet.org/index.html).

Refugee claimants are **NOT** eligible for ELSA classes. Refugee-serving agencies may offer free ESL classes for refugee claimants or may be able to refer refugee claimants to free or low-cost ESL classes in the community.

## **Temporary Residents**

Temporary residents are people who come to Canada for a limited time to visit, work or study.

## **Visas and Permits**

Visas and permits are NOT the same. A visa allows a foreign national to come into Canada while a permit allows a foreign national to perform an activity such as working or studying something in particular while in Canada.

For example, a foreign national who wants to study in Canada may need a visa to come to Canada (though some countries are visa exempt) and a study permit to attend school in Canada. There are, however, some exceptions where visitors can study in Canada without a study permit.

## **Visitor Visa**

Generally, visitors need a valid passport that will not expire until they leave Canada.

Also, visitors must apply for a visa to travel to Canada unless they are from a visa-exempt country (visit [www.cic.gc.ca/ENGLISH/visit/visas.asp](http://www.cic.gc.ca/ENGLISH/visit/visas.asp)).

Canada does not pay for hospital or medical services for visitors. Visitors should buy travel insurance.

If visitors want to stay in Canada longer, they must apply to extend their temporary resident status before their status expires. They can do this from within Canada.

Usually, individuals cannot come to Canada as visitors and then convert their visitor visa into a work permit. These individuals will likely need to apply for a work permit from outside of Canada.

## **Work Permit**

In addition to applying for a visa (if not from a visa-exempt country), a person needs to apply for a work permit if they intend to work in Canada temporarily.

Foreign workers need work permits and must leave Canada when their temporary resident status expires.

In most cases, foreign workers need a job offer from an employer in order to obtain a work permit.

With some exceptions, foreign workers must apply for work permits from outside of Canada.

Usually, foreign workers can apply from within Canada to extend their work permits (if done before the original permit expires).

## **Student Permit**

Foreign students need a student permit for any studies longer six months or longer.

If students have valid study permits, they may be able to:

- work on campus at their college or university; and
- apply to renew their study permit from within Canada if they want to continue studying in Canada.

To be eligible to study in Canada the person applying for a student permit must:

- have been accepted by a school, college, university or other educational institution in Canada;
- prove they have enough money to pay for their tuition fees, living expenses and return transportation;
- be a law-abiding citizen with no criminal record and not be a risk to the security of Canada;
- be in good health and willing to complete a medical examination if necessary; and
- satisfy an immigration officer that they will leave Canada when they have completed their studies.

## Staying Permanently

People usually CANNOT come to Canada as temporary residents and automatically convert their temporary status into permanent residence status. In most cases, they must apply for permanent resident status outside of Canada. They can submit their permanent resident application to a visa post abroad while they continue to study or work in Canada.

However, qualified temporary residents may be able to apply for permanent resident status inside Canada under the **Canadian Experience Class** provided they meet specific criteria. This new immigration class was implemented in 2008 for certain skilled temporary workers and international students who possess a Canadian education and Canadian work experience.

### Canadian Experience Class (CEC)

Foreign nationals who are international students and temporary foreign workers are now able to apply for permanent residence inside of Canada.

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For more information, visit

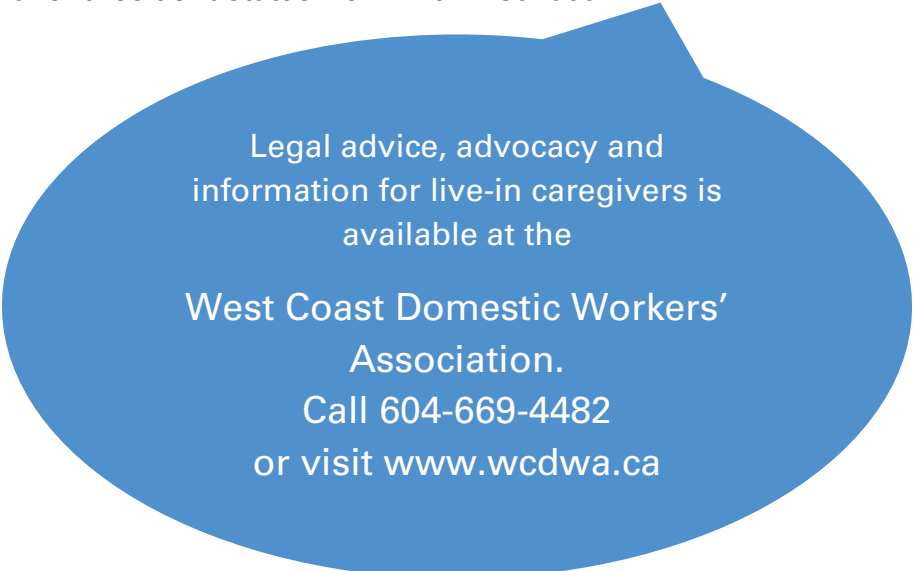
[www.cic.gc.ca/english/immigrate/cec/index.asp](http://www.cic.gc.ca/english/immigrate/cec/index.asp)

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### Live-in caregivers

Live-in caregivers provide care for children, elderly people or people with disabilities in the home of the person being cared for (i.e., the employer's house).

A person interested in this program must first get a temporary work permit that allows them to work in Canada as a live-in caregiver. After working in Canada for two years, the live-in caregiver may apply for permanent resident status from within Canada.



Legal advice, advocacy and  
information for live-in caregivers is  
available at the

West Coast Domestic Workers'  
Association.

Call 604-669-4482  
or visit [www.wcdwa.ca](http://www.wcdwa.ca)

To get a temporary work permit, live-in caregivers must meet the following conditions:

- successful completion of high school (or equivalent);
- at least six months of training or one year of paid work experience in a related field;
- can speak, read and understand sufficient English or French to communicate effectively in an unsupervised setting;
- must have an employment contract with their future employer; and
- must have a work permit before entering Canada.

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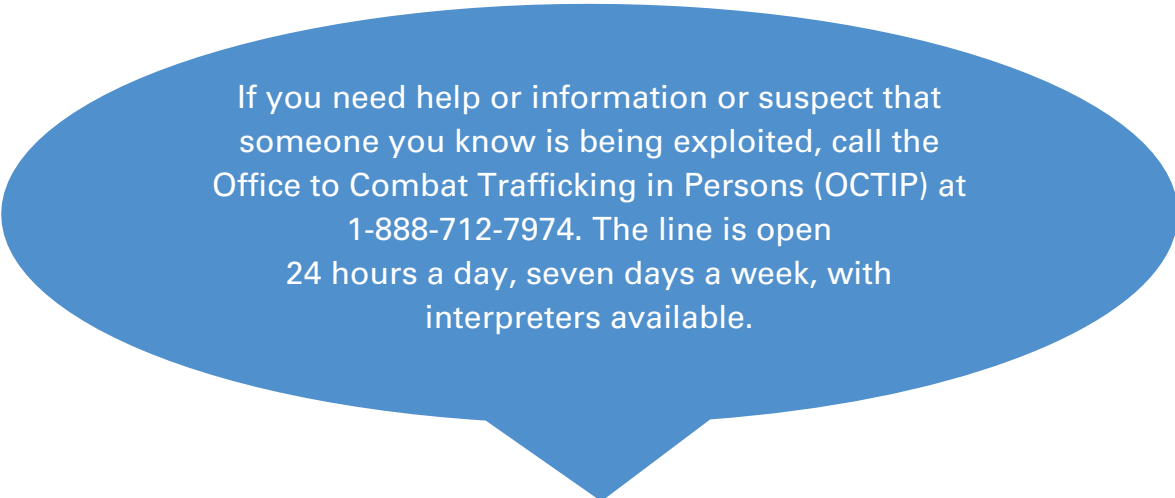
**CIC provides detailed information about the Live-in Caregiver Program at**  
**[www.cic.gc.ca/english/work/caregiver/index.asp](http://www.cic.gc.ca/english/work/caregiver/index.asp)**

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### **Assistance for Victims of Human Trafficking**

Victims of human trafficking should visit their closest CIC office. If they need immediate help, they should contact the police.

Victims of human trafficking may be eligible for a 180-day temporary resident permit that can be renewed depending on the circumstances.



If you need help or information or suspect that someone you know is being exploited, call the Office to Combat Trafficking in Persons (OCTIP) at 1-888-712-7974. The line is open 24 hours a day, seven days a week, with interpreters available.

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**For more information, visit**  
**[www.cic.gc.ca/english/information/applications/trp.asp](http://www.cic.gc.ca/english/information/applications/trp.asp)**

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## EDUCATION

### Public School (Kindergarten to Grade 12)

According to the law in British Columbia all children between the ages of five and 16 who live in B.C. must attend school. If a child is an “ordinarily resident” of B.C., the government must provide a spot for that child in a public school, free of charge. The government will provide education free of charge if:



- the child is a Canadian citizen or permanent resident;
- the child is a refugee claimant or convention refugee;
- the child’s parent has been admitted to Canada for permanent residence or has applied for permanent residence from within Canada and can prove this with documentation from CIC; or
- the child’s parent has been admitted for temporary residence in Canada for a term of one year or more and holds a student authorization or employment authorization from CIC.

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**For more information about public education in BC  
go to the government website below and click on “Education”:**

**[www2.gov.bc.ca](http://www2.gov.bc.ca)**

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B.C.’s public education program is divided into school districts. Parents must enrol their children in a school within the district they live in. Parents must provide the school district with the following documents:

- immigration or citizenship documents for parents and child;
- a birth certificate, family register or other document showing the child's birth date and parents’ names;
- proof of residence in the school district (rental agreement, lease, purchase agreement or property tax statement);
- immunization records; and
- previous report cards.



If any of these documents are not in English, a certified translation is required. Procedures and deadlines for enrolment vary between school districts (the local school district office or school can provide more information). People can find out which school district they live in by visiting the Ministry of Education's website at [www.bced.gov.bc.ca/apps/imcl/imclWeb/Home.do](http://www.bced.gov.bc.ca/apps/imcl/imclWeb/Home.do).

Once a child starts attending school, parents are entitled to be informed about their child's attendance, performance and behaviour, as well as to become part of the parents' advisory council at their child's school. This council advises the school's principal and staff on various matters relating to education and the functioning of the school.

## Student Aid BC

If someone wishes to study at a college or university, the government of B.C. offers loans to help finance tuition costs. There are several basic eligibility requirements in order to qualify for a loan, including that the applicant must be:

- a Canadian citizen, permanent resident, convention refugee or protected person;
- a resident of B.C.; and
- registered to study at an educational institution recognized by Student Aid BC.

Eligibility for student loans is based on the residency of the applicant, not the location of the college or university. If a BC resident intends to study outside of B.C. or Canada, they should still apply for a loan in B.C.

The residency requirement for student loans varies depending on whether the applicant is considered a dependent or independent student. A person is considered an independent student if they:

- are married, separated, divorced or widowed;
- have been cohabiting in a marriage-like relationship for 12 months;
- are a parent;
- have been out of high school for four years;
- have worked full time for two separate 12-month periods; or
- have no parents or can show that they have been disowned by their parents.

An independent student meets the residency requirement if B.C. is the last province they lived in for 12 consecutive months (discounting time spent as a full-time post-secondary student). If the student has not lived in any province for 12 months, they must be living in B.C. when applying for a loan in order to qualify.

If a student does not meet the requirements for an independent student, they are considered a dependent student and a resident if B.C. is the last province in which their parents or

sponsor lived for 12 consecutive months. The student may also be considered a resident if they don't have a parent or sponsor living in Canada.

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**For more information on how to apply for a student loan in B.C., visit**  
**[www.studentaidbc.ca/](http://www.studentaidbc.ca/)**

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# TAX

## Residency Requirements

Everyone who earns income in Canada must pay income tax. However, the rules about what income is taxed and at what rate vary depending on whether a person is considered a resident of Canada. While residents are taxed on their worldwide income, non-residents are only taxed on income earned in Canada. **This residency requirement is unique to the tax system and is not directly linked to the immigration process or residency requirements for other government programs.** The law is set out in the *Income Tax Act of Canada*.



There are two types of residents: *factual* and *deemed*. Canadian courts have held that a person will be considered a *factual* resident if, "Canada is the place where they, in the settled routine of their life, regularly, normally or customarily live." In order to determine this, Canada Revenue Agency looks for residential ties, the most significant of which are owning or renting a residence or having a spouse, common-law partner or children living in Canada. Even if these conditions do not exist, a person can still be considered a resident if enough secondary residential ties are found. While a single, secondary residential tie is rarely enough for a person to be considered a resident, a combination of several can be. Secondary residential ties include having:

- personal property in Canada (furniture, cars, etc.);
- social ties in Canada (membership in Canadian organizations);
- economic ties with Canada (employment, Canadian bank accounts, retirement savings plans, credit cards, etc.);
- permanent resident status or work authorization;
- medical insurance from a province or territory;
- a vehicle registered in a province or territory;
- a driver's licence from a province or territory;
- a seasonal dwelling place or leased dwelling place;
- a Canadian passport; or
- membership in a Canadian union or professional organization.

These residential ties are used to determine when a person becomes a resident and when they stop being a resident for the purposes of the Canadian tax system. In order to become a

resident, residential ties must be established; to become a non-resident, all significant residential ties must be severed.

A person may still be *deemed* a resident for tax purposes if **(and only if)** they are not considered a factual resident. The main difference between factual and deemed residents is that deemed residents are not considered residents of any Canadian province and therefore do not have to pay provincial income tax. A deemed resident does have to pay a federal surtax, which may be more or less than provincial income tax. That person cannot also collect provincial tax credits or benefits. If the person does not establish residential ties but stays in Canada for more than 183 days per year, they may be deemed a resident for the entire year.

If a person lives overseas and works for the Canadian Armed Forces, a federal or provincial government agency (if that person was a resident before beginning their employment) or on an international development project of the Canadian International Development Agency (if they were a resident before beginning their employment), that person is considered a deemed resident and their dependent children are also considered deemed residents.

The last type of deemed resident is someone who receives a substantial tax exemption through a tax treaty from the country in which they reside because a family member is a resident of Canada.

In a limited number of circumstances, a person who would otherwise be considered a factual or deemed resident can be deemed a non-resident. If they are considered a resident of both Canada and another country and Canada and that country have signed a tax treaty, that person may be deemed a non-resident of Canada if they are a resident of the other country under the tax treaty.

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**To apply for a residency determination from the Canada Revenue Agency  
and to get more information about residency for tax purposes, visit  
[www.cra-arc.gc.ca/tx/nrrsdnts/cmmn/rsdncy-eng.html](http://www.cra-arc.gc.ca/tx/nrrsdnts/cmmn/rsdncy-eng.html)**

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## Child Tax Benefits

The Canada Child Tax Benefit (CCTB) is a monthly payment administered through the national tax system to low-income families with children under the age of 18. To qualify, an individual must meet the following requirements:

- must live with a child under the age of 18;
- must be the person primarily responsible for the care of the child;
- must be a resident of Canada for tax purposes; and

- both they, and any spouse or common law partner they live with, must be a Canadian citizen, permanent resident, convention refugee, protected person or a temporary resident who has resided in Canada for the previous 18 months and has a valid permit for at least the 19th month.

**Note:** If someone receives CCTB benefits when they are not entitled to them (for example, if they don't have the required immigration status), they will have to pay the benefits they receive back to the government.

If both mother and father are living with the child, the mother is usually considered the primary caregiver and should be the one who applies for CCTB. If the father is the primary caregiver and wishes to apply, a note from the mother stating he is the primary caregiver is required.

In order to receive CCTB, **both the applicant and their spouse or common-law partner** must file income tax returns every year, regardless of whether they have earned any income.

The amount of the monthly CCTB payment is determined based on the following factors:

- family income;
- number of qualifying children;
- province of residence; and
- the child's eligibility for disability benefits.

## Universal Child Care Benefit

A Universal Child Care Benefit is available to families with children under the age of six. It provides \$100 per month per child to help pay for child-care expenses. If a person applies for CCTB, they will automatically be considered for the Universal Child Care benefit (no application is required).

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**For more information on child and family tax benefits  
and to obtain the application forms for the Canada Child Tax Benefit,  
visit the Canada Revenue Agency at  
[www.cra-arc.gc.ca/bnfts/menu-eng.html](http://www.cra-arc.gc.ca/bnfts/menu-eng.html)**

**More detailed information about both CCTB  
and the Universal Child Care Benefit can be found at  
[www.cra-arc.gc.ca/E/pub/tg/t4114/t4114-e.html](http://www.cra-arc.gc.ca/E/pub/tg/t4114/t4114-e.html)**

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## Child and Spousal Support

Separation and divorce can give rise to financial rights and obligations for children and spouses. In Canada, both parents are financially responsible for their child's upbringing. After a separation, if a child lives mostly with one parent, the other parent is required to pay child support to bear the costs of raising the child. Child support is used to cover such expenses as school fees, food and clothing for the child.

### Child Support

Parents have a legal duty to take care of their child, and that includes financial support.

If a person has stood in place of a parent (e.g., a step-parent), they may also have an obligation to pay child support.

When parents separate, one parent has to pay money to the parent with whom the child primarily resides. This money pays for the day-to-day needs of the child and is called **child support** or **maintenance**.

A parent cannot deny access to the other parent just because the other parent fails to pay or falls behind on child support payments.

The *Federal Child Support Guidelines and Tables* apply to all separated parents, including married and common-law couples. The Guidelines and Tables set out the usual amount of child support a parent must pay, based on the parent's gross annual income.

If the parents have shared custody and the child is with the other parent for 40% or more of the time, the amount of child support may be reduced below the usual amount. Other factors that may justify a reduction in child support include the financial hardship to the paying parent, high costs of access visits, and duties to support other children or disabled relatives.

### Entitlement

Child support is the right of the child, not the parent.

Children in B.C. are entitled to support if they are younger than 19. Once a child turns 19, they may still be entitled to support IF they need financial support due to illness, disability or another cause (e.g., attending a full-time post-secondary educational institution, such as college or university).

### Legal Parents (Step-parents)

Step-parents may be considered **legal parents** and may have an obligation to pay child support after separation. A step-parent is a person who lived with the child's parent and

helped the child's parent(s) with the cost of raising the child for at least one year. Married spouses and common-law partners can be considered legal parents.

A parent of a child who wants to get child support from a step-parent must act quickly. The parent must apply to the court ***within one year*** of the last contribution to the support of the child by the step-parent. If a step-parent is ordered to pay child support, the amount may be less than the usual amount in the Federal Child Support Guidelines.

## Child Support Guidelines

The *Federal Child Support Guidelines and Tables* are rules used to make sure families in similar situations pay and receive the same amount of child support. The *Federal Child Support Guidelines* consider how much money the paying parent earns and how many children need support. Parents who wish to sort out a child-support arrangement themselves should refer to the *Guidelines and Tables*, which set out the amount of child support to be paid in situations where the paying parent has the child(ren) for less than 40% of the time.

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**The courts *must* follow the *Federal Child Support Guidelines*, which are available at:**  
**[www.justice.gc.ca/eng/rp-pr/fl-lf/child-enfant/guide](http://www.justice.gc.ca/eng/rp-pr/fl-lf/child-enfant/guide)**

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## Enforcement

**If a parent has a court order or filed separation agreement that requires the other parent to pay child support, the parent can enforce it through the Family Maintenance Enforcement Program (FMEP).** FMEP is a provincial government program that collects money owing under child and spousal support orders and separation agreements. Any resident of BC with a support order or filed agreement can enroll it with FMEP for free.

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**For more information about FMEP,  
including how to enroll an order or agreement with them, see**  
**[www.fmep.gov.bc.ca](http://www.fmep.gov.bc.ca)**

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### FMEP InfoLine:

**Greater Vancouver: 604-775-0796**

**Greater Victoria: 250-356-5995**

**Elsewhere in B.C.: 1-800-668-3637**

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## Extraordinary Expenses

Under the *Federal Child Support Guidelines*, in addition to basic child support, there may be other extraordinary expenses that need to be paid. Such expenses include child care expenses, private-school fees, expensive sporting activities, medical and dental expenses, and costs for college, university or other post-secondary education. These expenses are shared proportionate to each parent's income. To calculate each parent's income in this situation, spousal support is included in the income of the parent who receives it, and deducted from the income of the paying parent.

## Child Support, Spousal Support, and Welfare

There are government rules for parents who receive welfare and who either receive, or have a legal claim to, child and/or spousal support. They must sign a form that gives the Ministry of Social Development and Social Innovation ("MSDSI") the right to take legal action on child-support and spousal support issues. This is called "assigning authority" to the ministry. It means the ministry can go to court to get a child-support or spousal support order or to change the order. The ministry can also decide how to collect the money from the other parent if that becomes necessary.

**If the relationship between the parents was abusive, it is very important to tell MSDSI this.** If MSDSI agrees that contacting the other parent about child or spousal support would put the person at risk, MSDSI will not contact them.

Child-support and spousal support payments are counted as income for a parent who applies for or receives welfare. This means any support payments received are deducted from the amount of the person's welfare cheque.

## Income Tax Rules

Child-support payments are NOT an income tax deduction for the paying parent and are NOT reported as income by the parent who receives them<sup>1</sup>.

The Canada Revenue Agency has more information about child support payments and taxes on its website at:

**[www.cra-arc.gc.ca/supportpayments](http://www.cra-arc.gc.ca/supportpayments)**

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<sup>1</sup> The rules around income tax and child support changed on May 1, 1997. If a child-support order was made before May 1, 1997, then the payments ARE a tax deduction for the paying parent and ARE reported as income by the receiving parent.



## Spousal Support

Spousal support is money paid by one spouse to the other to help meet their basic living expenses. Spousal support is also sometimes called *maintenance* or *alimony*. Spousal support is usually an amount that is paid every month. The provincial *Family Law Act* and the federal *Divorce Act* both state that the court can order one spouse to pay spousal support to the other spouse.

Those who were sponsored for immigration by the other spouse should bring their sponsorship agreement and undertaking to the attention of their lawyer, mediator and/or judge.

Spousal support may be available to people who:

- a. are or were married;
- b. have lived together for at least two years; or
- c. who have lived together for less than two years but who have a child together.

This applies to both opposite sex, and same sex relationships. There are deadlines for applying to court for a spousal support order. A married spouse must apply for spousal support within two years after getting a divorce or annulment. Spouses who lived together for two years or more, or who had a child with someone they lived with for less than two years, must apply to court for a spousal support order within two years of the date they separated. Not all spouses have the right to receive spousal support. Both spouses have a responsibility to try to become self-sufficient after separation. Sometimes spousal support is ordered for a year or two, to allow one spouse to return to school, retrain or otherwise upgrade their skills so they can become self-supporting. If, however, self-sufficiency is not possible due, for example, to an extended absence from the workforce or disability, then spousal support may continue indefinitely.

There are spousal-support advisory guidelines that help determine the duration and amount of spousal support that should be paid if a person is found to have a right to receive spousal support. People should consult family duty counsel or a lawyer to find out more about the spousal-support guidelines.

Couples can agree on spousal support themselves or with the assistance of a mediator, or have a judge decide for them. In each case the terms should be written down either as an agreement or an order and filed in court. Once filed, the agreement can be enrolled with FMEP for enforcement.

In making a determination on the issue of spousal support, judges will look at a number of factors. However, the behaviour of one spouse will not affect the amount of support ordered. The reasons for the breakdown of a relationship do not change the amount of the spousal support that must be paid.

Judges use the spousal-support guidelines to decide how much spousal support should be paid.

Spousal-support orders can be enforced if the ex-spouse does not make payments when required.

## **Income Tax Rules**

The person paying spousal support can deduct the same amount for income-tax purposes. The person receiving the support must declare it as income. All child support that is payable **must** be fully paid before any amounts paid as spousal support can be claimed as a deduction.

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**Canada Revenue Agency Support Payment:**  
**[www.cra-arc.gc.ca/supportpayments](http://www.cra-arc.gc.ca/supportpayments)**

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## **Changing Orders or Agreements**

Separated spouses may need or want to change their separation agreement or court order if there is a change in their situation (e.g., the person who receives spousal support no longer needs it).

## **Changing an Agreement**

If the separated spouses can come to an agreement about the changes, they can sign a new agreement setting out the changes they have agreed to and file it in court. If the couple does not agree, then they must go to court and ask a judge to change the agreement and make an order.

## **Changing a Court Order**

Couples who had their separation issues decided by the court or set out their agreement in a consent order must return to court to make changes to the order. Changing a court order is called **varying** an order.

The couple must show the judge they have a good reason to vary an order about custody, access or support. A good reason, for example, is that one parent's income has changed significantly. Some support orders have time limits. Applications to vary or extend such an order must be made before the order expires.

## **Property Division**

Court orders about property division are almost never changed by a judge.

Agreements about property division will only be changed by a judge if unfair to one party; however, if the two individuals had independent legal advice that resulted in the original agreements, the judge will usually not change them. If you want to change an order or agreement about property division, see a lawyer for legal advice.

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**For more information on Family Law matters, visit:**

**[www.familylaw.lss.bc.ca](http://www.familylaw.lss.bc.ca)**

**The Guide to the New Family Law Act in B.C. can be found at:**

**[resources.lss.bc.ca/pdfs/pubs/Guide-to-the-New-BC-Family-Law-Act-eng.pdf](http://resources.lss.bc.ca/pdfs/pubs/Guide-to-the-New-BC-Family-Law-Act-eng.pdf)**

**Legal Service Society Family Telephone Advice Lawyers**

**Family law lawyers will give brief “next step” advice over the telephone:**

**Call 604-408-2172**

**or toll-free (in B.C.) 1-866-577-2525.**

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## LEGAL RESOURCES

### **BC Civil Liberties Association**

Provides direct assistance to individuals with complaints about civil liberties violations by government, employers or other organizations.

550-1188 West Georgia Street  
Vancouver, B.C. V6E 4A2  
Phone: 604-687-2919  
[www.bccla.org](http://www.bccla.org)



### **BC Centre for Elder Advocacy and Support**

Legal Advocacy Program and Elder Law Clinic for senior adults 55+ unable to access justice due to low income and other barriers. Referrals are taken through the Seniors Abuse and Information Line.

1199 West Pender Street  
Vancouver, B.C. V6E 2R1  
[www.bcceas.ca](http://www.bcceas.ca)

Seniors Abuse and Information Line:  
1-866-437-1940

BCCEAS Business line:  
604-688-1927

### **BC Human Rights Coalition**

Offers information, education, training, consultation, investigation, mediation, research and advocacy for human rights.

1202-510 West Hastings Street  
Vancouver, B.C. V6B 1L8  
Lower Mainland: 604-689-8474  
Elsewhere in B.C.: 1-877-689-8474  
[www.bchrcoalition.org](http://www.bchrcoalition.org)

### **BC Public Interest Advocacy Centre (BCPIAC)**

A non-profit society that advances the interests of groups generally unrepresented or underrepresented in issues of major public concern.

Suite 208-1090 West Pender Street  
Vancouver, B.C. V6E 2N7  
Phone: 604-687-3063  
[www.bcpiac.com](http://www.bcpiac.com)

### **Employment Standards General Enquiries**

Call toll-free in B.C.: 1-800-663-3316  
[www.labour.gov.bc.ca/esb/contact/welcome.htm](http://www.labour.gov.bc.ca/esb/contact/welcome.htm)

### **Community Legal Assistance Society (CLAS)**

Litigates test cases and seeks to reform laws relating to people who are economically, socially, physically and mentally disadvantaged. Processes EI appeals, WorkSafeBC appeals and judicial reviews for welfare tribunal appeals and charitable tax law.

Suite 300-1140 West Pender Street  
Vancouver, B.C. V6E 4G1  
Phone: 604-685-3425  
Toll-free: 1-888-685-6222  
[www.clasbc.net](http://www.clasbc.net)

### **Court Information Program for Immigrants (CIPI)**

The Justice Education Society provides information and referral to Chinese, Vietnamese and South Asian immigrants and refugees who may be appearing in court as victims, witnesses, accused or as parties involved in a civil suit.

Vancouver Provincial Court  
222 Main Street  
Vancouver, B.C. V6A 2S8

Chinese and Vietnamese worker: 604-660-6087  
South Asian worker: 604-760-5727  
[www.lces.ca/CIPI2](http://www.lces.ca/CIPI2)

**Dial-a-Law**

This telephone service provided by the Canadian Bar Association is a library of tapes that give people information about family law in B.C. The scripts of the tapes can be downloaded and printed. Scripts are available in Chinese and Punjabi.

Lower Mainland: 604-687-4680  
Elsewhere in B.C.: 1-800-565-5297  
[www.dialalaw.org](http://www.dialalaw.org)

**Justice Education Society**

Offers orientations at courthouses around the province and information about the Canadian justice system.

260-800 Hornby Street  
Vancouver, B.C., V6Z 2C5  
Phone: 604-660-9870  
Fax: 604-775-3470  
[www.JusticeEducation.ca](http://www.JusticeEducation.ca)

**Law Student's Legal Advice Program (LSLAP)**

Free legal clinics operated by UBC law students and supervised by lawyers. Clinics at various locations throughout the Lower Mainland provide legal assistance.

Phone: 604-822-5791  
[www.lslap.bc.ca](http://www.lslap.bc.ca)

**Lawyer Referral Service**

Provides names and telephone numbers of a lawyer; makes an appointment with a lawyer for 30 minutes, for \$25 plus tax.

Lower Mainland: 604-687-3221  
Elsewhere in B.C.: 1-800-663-1919  
[www.cbabc.org/Advocacy/Initiatives/Lawyer-Referral-Service](http://www.cbabc.org/Advocacy/Initiatives/Lawyer-Referral-Service)

**Legal Services Society (LSS) – Legal Aid**

Provides legal aid for people who cannot afford a lawyer. Legal aid is only available for serious legal problems under limited circumstances affecting one's life and livelihood and only in the areas of law such as family, criminal, refugee and immigration. Also offers many booklets and brochures about the law and has legal information outreach workers. There are many legal aid offices throughout B.C.

Lower Mainland: 604-408-2172  
Elsewhere in B.C.: 1-866-577-2525  
[www.lss.bc.ca](http://www.lss.bc.ca)

### **MOSAIC Legal Advocacy Program**

Provides advice, legal representation and referral to *low-income* newcomers (regardless of status), immigrants and refugees in immigration, employment standards and poverty law.

1720 Grant Street, 2<sup>nd</sup> floor  
Vancouver, B.C. V5L 2Y7  
Phone: 604-254-9626; fax: 604-629-0061  
[www.mosaicbc.com](http://www.mosaicbc.com)

### **Multilingolegal.ca**

Lists B.C.'s public legal education materials offered in nine different languages (Arabic, Chinese, English, French, Korean, Persian, Punjabi, Spanish and Vietnamese). The publications are available for downloading.

[www.multilingolegal.ca](http://www.multilingolegal.ca)

### **People's Law School**

Provides free classes and produces booklets about the law. Offers services and publications in different languages.

150-900 Howe Street  
Vancouver, B.C. V6Z 2M4  
Phone: 604-331-5400  
[www.publiclegaled.bc.ca](http://www.publiclegaled.bc.ca)

### **PICS Agricultural Workers' Legal Advocacy Program**

This program is designed to help agricultural workers with multiple barriers and assists them in dealing with legal issues related to Employment Insurance, Workers Compensation Board, Old Age Security, Guaranteed Income Supplement and Disability Cases; also with non-payment of wages.

205-12725 80<sup>th</sup> Avenue  
Surrey, B.C. V3W 3A6  
604-596-7722  
[www.pics.bc.ca](http://www.pics.bc.ca)

### **Workers' Advisor Office**

Provides help for workers who are having problems with WorkSafeBC compensation claims.

Phone: 1-800-663-4261  
[www.labour.gov.bc.ca/wab](http://www.labour.gov.bc.ca/wab)

**Access Pro Bono**

Promotes access to justice by offering free services in B.C.

Phone: 604-482-3195  
[www.accessprobono.ca](http://www.accessprobono.ca)

**Victoria Law Centre (UVIC Law Students)**

Provides advice, assistance and representation to clients who cannot afford a lawyer.

225-850 Burdett Ave.  
Victoria, B.C. V8W 0C7  
Phone: 250-385-1221  
[www.thelawcentre.ca](http://www.thelawcentre.ca)

**West Coast Domestic Workers Association**

WCDWA is a non-profit association that provides free legal assistance in the form of advocacy, support and counselling to live-in caregivers based in British Columbia.

302-119 West Pender Street  
Vancouver, B.C. V6B 1S5  
Phone: 604-669-4482  
Toll-free: 1-888-669-4482  
[www.wcdwa.ca](http://www.wcdwa.ca)



## COMMUNITY AGENCIES

*This is not a complete list of British Columbia's services and organizations for newcomers.*

AMSSA, Enquiry BC, Service Canada, the Red Book, the Victim Information Line and PovNet can all provide information about available services and organizations.



### **Affiliation of Multicultural Societies and Service Agencies of BC (AMSSA)**

AMSSA is a coalition of over 80 organizations providing multicultural programs and immigrant settlement services throughout B.C. AMSSA can refer you to a settlement agency in your community.

Lower Mainland: 604-718-2780  
Elsewhere in B.C.: 1-888-355-5560  
[www.amssa.org](http://www.amssa.org)

### **Battered Women Support Services**

BWSS provides support, advocacy, information and accompaniment to women who have experienced violence and who are involved in the legal system. The BWSS Legal Advocacy Program also provides advocacy with other systems, including social assistance and child protection. The BWSS Legal Advocate does not give legal advice.

Crises and Intake Line: 604-687-1867  
Business Line: 604-687-1868  
TTY: 604-687-6732  
[www.bwss.org](http://www.bwss.org)

### **Service BC**

Service BC can help you find a program, service or person within the B.C. government.

Lower Mainland: 604-660-2421  
Victoria: 250-387-6121  
Elsewhere in B.C.: 1-800-663-7867  
TDD – Lower Mainland 604-775-0303  
TDD – Elsewhere in B.C.: 1-800-661-8773  
[www.servicebc.gov.bc.ca](http://www.servicebc.gov.bc.ca)

### **MOSAIC Multicultural Victim Assistance Program**

The Victim Services Program delivers multilingual, culturally sensitive support to victims of crime, whether or not the police/justice system are involved. They provide immigrants, refugees and newcomers of all backgrounds the following services: justice-related information, advocacy, accompaniment and public education. The workers give **emotional support** by listening and helping you deal with trauma.

1720 Grant Street, 2<sup>nd</sup> floor  
Vancouver, B.C. V5L 2Y7  
Phone: 604-254-9626; fax: 604-254-3932  
[www.mosaicbc.com](http://www.mosaicbc.com)

### **MOSAIC Stopping the Violence Counselling Program**

The STV Counselling Program provides free individual and group counselling to women experiencing abuse. The STV program is for women enduring physical and/or sexual violence; and women dealing with the long term effects of childhood trauma, including childhood abuse. STV counsellors have the knowledge and skills to provide aid and support to women who have endured traumatic violence and abuse. They are also specially trained to work within multicultural communities, with women from different language and cultural backgrounds.

1720 Grant Street, 2<sup>nd</sup> floor  
Vancouver, B.C. V5L 2Y7  
Phone: 604-254-9626; fax: 604-254-3932  
[www.mosaicbc.com](http://www.mosaicbc.com)

### **REACH Community Health Centre Multicultural Family Centre (MFC)**

(604) 254 6468  
1145 Commercial Drive, Vancouver, BC V5L 3X3  
General e-mail: [info@reachcentre.bc.ca](mailto:info@reachcentre.bc.ca)  
[www.reachcentre.bc.ca](http://www.reachcentre.bc.ca)

### **BC 211**

Online guide to community, social and government agencies and services across the Lower Mainland.

[www.bc211.ca](http://www.bc211.ca)

### **Service Canada**

Service Canada is a delivery network for federal government services and information.

[www.servicecanada.gc.ca](http://www.servicecanada.gc.ca)

## **Vancouver & Lower Mainland Multicultural Family Support Services Society**

5000 Kingsway Plaza III  
#306-4980 Kingsway, Burnaby  
B.C. V5H 4K7  
Phone: 604-436-1025 Fax: 604-436-3267  
[www.vlmfss.ca](http://www.vlmfss.ca)

## **VictimLink BC**

Informs victims of crime about local community agencies.

Toll-free: 1-800-563-0808  
TTY: 604-875-0885 or text 604-836-6301  
VictimLINK: [www.victimlinkbc.ca](http://www.victimlinkbc.ca)

## **PovNet Advocacy Resources**

Provides a comprehensive list of community based advocates in British Columbia, as well as resources to advocates, community groups and the public.

[www.povnet.org](http://www.povnet.org)