



The Law Society of
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SOUTH ASIAN LEGAL CLINIC OF ONTARIO

THE LAW SOCIETY OF UPPER CANADA

**FREQUENTLY ASKED QUESTIONS ABOUT THE TSUNAMI AS IT
RELATES TO IMMIGRATION**

Frequently Asked Questions about the Tsunami as it relates to Immigration

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Citizenship and Immigration Canada's Response to the Tsunami Disaster

What is Citizenship and Immigration Canada (CIC) doing to help those affected by the tsunami disaster?¹

Citizenship and Immigration Canada (CIC) has responded to the disaster in four ways:

1. CIC is speeding up the processing of Family Class applications from Canadian citizens and permanent residents who wish to sponsor close relatives who have been and continue to be affected by the disaster in a serious, personal way.
2. CIC is taking a 'case by case' approach to applications from people affected by the disaster who have relatives in Canada, but do not qualify for Family Class. These people can apply in the Skilled Worker Class. The visa officer at the mission abroad will review their cases individually.
3. CIC is waiving processing fees for **new** applications from **all** classes of applicants who have been and continue to be affected by the disaster in a serious, personal way. However, if the processing fee has already been paid, it will not be refunded.
4. CIC is waiving the Right of Permanent Residence (Right of Landing) fee for all classes of applicants who have been and continue to be affected by the disaster in a serious, personal way. This applies to both new applications and those that were being processed before the disaster. However, applicants who pre-paid their Right of Permanent Residence fee will not receive a refund.

Which Family Class relatives get priority?

First priority is being given to applications to sponsor:

- Spouses
- Common-law partners
- Conjugal partners and
- Dependent children/orphans.

Second priority is being given to applications to sponsor:

- Parents
- Grandparents and
- Others

¹ The information for this section is taken from the CIC website, *Tsunami and Earthquake Disaster Response*: <<http://www.cic.gc.ca/english/tsunami/index.html>>.

What should I do if have an outstanding Family Class application?

If you made a sponsorship application before the tsunami disaster, and your relative is seriously and personally affected by the disaster, they should contact their visa offices and state that they have been affected.

What should I do if I am making a new Family Class application?

If you are making a new Family Class application, read “[How do I apply for Family Class immigration?](#),” a document published by CIC.

How have services been affected at visa offices in South and South East Asia?²

At first, some of the visa offices affected by the disaster made it a priority to help Foreign Affairs Canada give emergency assistance to Canadian citizens and their non-Canadian spouses, common-law partners and dependent children. Now, all visa offices in the affected areas are again offering all of their normal services.

CIC is beginning to see an increase in the number of people wishing to immigrate to Canada from these areas, although they have not yet released any numbers. CIC has stated that they are watching the situation closely and are “re-deploying resources from the department as necessary to respond to any increase in demand.”

How do I contact CIC?

For general immigration information or to obtain application forms:

- visit the CIC website at www.cic.gc.ca, or
- call 1-888-242-2100 (from within Canada only).

How do I contact CIC from inside Canada about my application?

If you applied inside Canada, contact the last office that dealt with your file, in writing. If you are writing to the Case Processing Centre (CPC) in Mississauga, state your ‘HPM’ or processing fee number.

In response to the tsunami disaster, CIC has also set up an email address and a toll-free number for Canadians and permanent residents. If you have questions about family members in the areas affected by the disaster, send them to:

Email: tsunami@cic.gc.ca or

Call toll-free inside Canada: 1-800-457-5135.

² The information for this section is taken from the CIC website, *Tsunami and Earthquake Disaster Response*: <<http://www.cic.gc.ca/english/tsunami/index.html>>.

How do I contact CIC from outside Canada about my application?

If you or your family members are in a country affected by the disaster, and your application is already being processed, contact your local visa office for information on the application's status.

For applications from Sri Lanka or the Maldives, contact the visa office in Colombo:

Mission Tel.: (94-11) 522-6296
Immigration Tel.: (94-11) 522-6296
Mission Fax: (94-11) 522-6299
Immigration Fax: (94-11) 522-6298

For applications from Indonesia, contact the visa office in Jakarta:

Mission Tel.: (62-21) 2550-7800
Immigration Tel.: (62-21) 2550-7848
Mission Fax: (62-21) 2550-7811
Immigration Fax: (62-21) 2550-7816

For applications from India, contact the visa office in New Delhi:

Mission tel.: 91-11-5178-2000 or
91-11-5178-2050
fax: 91-11-5178-2031

For applications from Thailand, contact the visa office in Bangkok:

Mission tel.: 66-2-636-0540
fax: 66-2-636-0567

If you are applying from Indonesia, Myanmar or Thailand, you can also contact the visa office in Singapore:

Mission Tel.: (65) 6325-3200
Immigration Tel.: (65) 6325-3240
Mission Fax: (65) 6325-3297
Immigration Fax: (65) 6325-3291

For applications from Somalia, contact the Canadian High Commission in Nairobi, Kenya:

Mission Tel: (011 254-20) 366 3000
Fax: (011 254-20) 366 3900
Email: nrobi@dfait-maeci.gc.ca

The Canadian Immigration Process

There are four 'classes' or categories that a person affected by the tsunami disaster could immigrate to Canada:

- Family Class

- Skilled Worker Class
- Refugee Class
- Business Class.

Family Class

Canadian citizens and permanent residents can apply to sponsor the following family members:

- spouses (one person to whom you are legally married)
- common-law partners (one person, same-sex or opposite-sex, with whom you have lived in a marriage-like relationship for at least one year)
- conjugal partners (one person, same-sex or opposite-sex, with whom you have had a marriage-like relationship for at least one year, even if you have not been able to marry legally or live together as common-law)
- dependant children
- parents or grandparents
- orphaned brothers or sisters under 18 years of age
- orphaned nieces or nephews under 18 years of age
- orphaned grandchildren under 18 years of age.

Both the sponsor and the person wishing to immigrate must meet certain requirements and submit application forms to Citizenship and Immigration Canada (CIC).

To find out more about Family Class immigration, read “Frequently Asked Questions about Sponsoring a Family Member,” a document available from CIC.

For more information and to get application forms:

- visit www.cic.gc.ca/english/sponsor/index.html or
- call CIC toll-free (from within Canada only): 1-888-242-2100.

Note: If you have a relative affected by the tsunami disaster who does not qualify for the Family Class, read the information about the Skilled Worker Class.

Skilled Worker Class

These immigrants are selected for their potential to contribute to the Canadian labour market. CIC awards points based on factors such as occupation, education, language skills, experience and age. Normally, immigrants are accepted if they have enough points. CIC is taking a case-by-case approach to applications from people affected by the tsunami disaster, based on a review by the visa officer at the mission abroad.³

If you are a Canadian citizen or permanent resident, and you have a relative affected by the tsunami disaster who does not qualify for the Family Class, they can fill out the

³ The information for this section is taken from the CIC website, *Tsunami and Earthquake Disaster Response*: <<http://www.cic.gc.ca/english/tsunami/index.html>>.

Skilled Worker application, or you can complete the forms for them here. Include with the application:

- a letter that explains how the tsunami disaster has affected or continues to affect the applicant in a serious and personal way
- a letter from a Canadian relative offering financial help to the applicant.

For more information about applying as a Skilled Worker, visit:

- www.cic.gc.ca/english/skilled/index.html

To get an application, go to:

- www.cic.gc.ca/english/tsunami/faq-applications.html or
- call CIC toll-free (from within Canada only) 1-888-242-2100.

Refugee Class

Under Canadian law, to be entitled to refugee protection, a person must meet the definition of a **Convention Refugee** or a **‘person in need of protection’**.

A **Convention Refugee** is someone who has a *well-founded* fear of being persecuted *in all areas* of their own country *because of* their race, religion, nationality, membership in a particular social group, or political opinion.

A **‘person in need of protection’** is someone who could be tortured, killed, or suffer cruel and unusual punishment if they had to return to their country. To meet this definition, the person must show that:

- they cannot get protection from their own government *and*
- the risk is not a result of valid government laws *and*
- the risk is not a result of inadequate medical care *and*
- the risk affects them personally. (The risk cannot be a general risk faced by others in your country, such as a natural disaster.)⁴

Being affected by the tsunami disaster **will not qualify a person to come to Canada seeking refugee protection**. Refugee claimants must meet all of the elements of the definition for either a Convention Refugee or a ‘person in need of protection’.

Note: If you have applied for, and failed to get, refugee status in Canada, and you are from an area affected by the tsunami disaster, you should get legal advice about your options for staying in Canada.

For more information, visit: www.cic.gc.ca/english/refugees/index.html.

⁴ This information is taken from CLEO, *IMMIGRATION AND REFUGEE FACT SHEET: Making a Refugee Claim* (Ontario: Community Legal Education Ontario (CLEO), September 2004). Note: Portions of this publication were copied or adapted, with permission, from fact sheets on immigration and refugee law published by Community Legal Education Ontario (CLEO). The accuracy and currency of this publication is the sole responsibility of the Law Society of Upper Canada. Please check CLEO’s web site at <www.cleo.on.ca> to order or view publications currently being produced by CLEO.

Business Class

This class is intended for immigration applicants who have experience investing or running businesses. For more information, visit:

- www.cic.gc.ca/english/business/index.html or
- call CIC toll-free (from within Canada only) 1-888-242-2100.

Sponsoring a Family Member⁵

Who can be sponsored as Family Class?

The person you wish to sponsor must be a member of the Family Class. The Family Class includes your:

- spouse, common-law partner or conjugal partner
- dependant children
- parents and grandparents
- orphaned brothers, sisters, nephews, nieces, or grandchildren under the age of 18.

Definitions

Spouse: A person to whom you are legally married and is 16 years of age or older.

Common-law partner: A person of either sex with whom you have a marriage-like relationship, and with whom you have lived with for at least one year, or a person whom you have had a marriage-like relationship for at least one year but could not live with because of persecution.

Conjugal partner: A person of either sex with whom you have had a marriage-like relationship for at least one year, although you have been unable to marry or live together. This person must be living outside Canada when you apply. He or she must be 16 years of age or older.

Dependant children

Dependant children include your biological children and children you have legally adopted. They are your 'dependants' if they have been getting most of their financial support from you **and**:

- they are under the age of 22 and single
- they are older than 22 but have been studying full time with your financial support
- they married or lived common law before turning 22, but are studying full time with your financial support
- they are physically or mentally disabled and have depended on you for financial support since before the age of 22.

⁵ Information on sponsoring your family is taken from CLEO, *IMMIGRATION AND REFUGEE FACT SHEET: Sponsoring a Member of the Family Class* (Ontario: Community Legal Education (CLEO), November 2004), online at <<http://www.cleo.on.ca/english/pub/onpub/PDF/jan05/sponsor.pdf>>; and from CIC's website: <<http://www.cic.gc.ca/english/sponsor/index.html>>.

Orphans

An orphan is a person who has lost both parents. You may sponsor orphaned brothers, sisters, nephews, nieces, or grandchildren, if they are:

- under the age of 18 and
- not married or living common law.

Can any other relatives be sponsored?

If you have no one in Canada and no one anywhere else in the world that would qualify as a member of the Family Class, you may be able to sponsor another relative.

Other than those categories listed above, you cannot sponsor any other relatives or family members to come to Canada. This means you cannot sponsor your brothers, sisters, cousins, aunts, uncles, family friends, or neighbours.

However, if you have a relative that has been seriously and personally affected by the tsunami and does not fall under the family class, you can fill out a skilled worker application on their behalf and explain how they have been affected by the tsunami.

How do I prove my relationship to the person I sponsor?

Try to get as many documents as you can that prove the relationship, such as a marriage certificate, birth or baptismal certificates, identity documents, school records, or hospital records.

If you are not able to get such documents, you may be able to use sworn statements by people who can confirm the relationship between you and the person you wish to sponsor.

Do Family Class applicants have to pass any other requirements?

Yes. Family Class applicants must meet basic health and character standards. The person you wish to sponsor will have to pass criminal and security checks. People who have been involved in crime may not be allowed to come to Canada.

The person you wish to sponsor must also have a medical examination. People who have serious physical or mental health problems may not be allowed to come to Canada. This rule does not usually apply if you sponsor a spouse or dependant child.

Do I have to promise to support the relatives I sponsor?

Yes. You have to sign a 'sponsorship undertaking' that says you will provide, for a certain number of years (usually from 3-10 years), for the basic living needs of the person you sponsor and any family members they are allowed to bring. You will have to meet basic financial requirements to show that you can afford to do this. You **may** not have to meet **all** of the financial requirements if you are sponsoring:

- your spouse, common-law partner or conjugal partner, who has no dependant children or
- your spouse, common-law partner or conjugal partner, if their dependant children have no children of their own, or
- your dependant child, if they have no dependant children.

If you sponsored a family member in the past and that person went on social assistance benefits before the end of the 'sponsorship undertaking' you will have to fully repay the benefits if you ever want to sponsor another family member.

Who can be a sponsor?

To sponsor a family member you must be:

- 18 years of age or older
- a Canadian citizen or permanent resident
- living in Canada.

Exception: You do not have to be living in Canada **if** you will be living in Canada when your family member becomes a permanent resident **and** you are sponsoring:

- a spouse, common-law partner or conjugal partner or
- a dependant child who has no dependents of his or her own.

Who cannot be a sponsor?

You cannot sponsor a member of the family class if:

- you are in jail, facing criminal charges, or facing removal from the country
- you have been convicted of a sexual offence or of an attempt or a threat to commit this kind of offence
- you have been convicted of threatening to commit, or committing, a criminal offence that results in bodily harm to a member of your family or your life partner's family
- you have not made court-ordered support payments
- you are bankrupt at this time
- you are on social assistance (**Exception:** You can apply to sponsor if you are on social assistance for a disability.)
- you have not paid back a loan from CIC
- you owe money to CIC on a performance bond (a bond you posted to get someone out of detention, who did not obey the conditions of release)
- you sponsored a family member who received social assistance benefits before the end of your 'sponsorship undertaking', unless you have fully repaid the benefits.

How to apply to sponsor a member of the Family Class who is affected by the tsunami disaster

Follow these steps to apply to sponsor a member of your family as a Family Class immigrant to Canada:

1. Get the application forms from Citizenship and Immigration Canada.
 - Call CIC at 1-800-457-5035 (in Canada only) or
 - download the forms from CIC's website at www.cic.gc.ca.
2. Fill out the application forms and attach all of the documents needed.
3. Write a letter saying how the family members you wish to sponsor were affected by the disaster, and how they continue to be seriously affected. Give as much information and detail as you can.
4. Put this letter on top of the application documents you are submitting.
5. Do not send any fee with your application. If CIC decides that the family members you wish to sponsor are seriously affected by the disaster, they will waive the application fees.
6. Write "Tsunami Disaster" on the cover of the envelope.⁶
7. Mail the completed application to:

Case Processing Centre – CPC-Mississauga
P.O. Box 3000, Station A
Mississauga, Ontario L5A 4N6

Getting Legal Help with an Immigration Problem

When do I need a lawyer?

You do not need a lawyer when you first apply to CIC. CIC will not give priority or special treatment to applicants who have legal help.

If you are applying to sponsor a family member affected by the tsunami disaster, it is a good idea to have a lawyer who practices immigration and refugee law.

⁶ The information for this section is taken from the CIC website, *Tsunami and Earthquake Disaster Response*: <<http://www.cic.gc.ca/english/tsunami/index.html>>.

If your application has been refused, you may want to find out if the decision can be reviewed or appealed. In this case, you should get legal help as soon as you can.

Community legal clinics give free legal advice to people with low incomes. Not all clinics deal with immigration issues. To find a clinic near you that deals with immigration, see the list below.

My application was refused. What should I do?

You should get legal advice as soon as you can, if you want to appeal the decision.

If you applied to sponsor a Family Class relative, you may be able to appeal the decision to the Immigration Appeals Division. The appeal must be filed **no later than 30 days** after you received written reasons for the refusal.⁷

For most other negative immigration decisions, your lawyer can apply for ‘leave’ or permission to take your case to federal court. Your lawyer must be a member of a Canadian law society. **The application for leave must be filed within 15 days from the date on the decision.**⁸

You may also reapply to CIC at any time with a new application to immigrate.

If you need legal help, but you do not have money to pay for a lawyer, you may qualify for free legal advice through Legal Aid Ontario. The following is a list of Legal Aid clinics in Ontario that deal with immigration matters. Choose a clinic close to you and call first to find out if they can help you.

Community legal services that deal with immigration

East Toronto Community Legal Services

1320 Gerrard Street East
Toronto M4L 3X1
Telephone: (416) 461-8102
Fax: (416) 461-7497

Flemingdon Community Legal Services

49 The Donway West
Suite 205
Don Mills M3C 3M9
Telephone: (416) 441-1764
Fax: (416) 441-0269

Jane Finch Community Legal Services

⁷ *Immigration and Refugee Protection Act, Immigration Appeal Division Rules*, SOR/2002-230, s 3(2).

⁸ *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s 72(2)(b).

1315 Finch Avenue West
Suite 409
Downsview M3J 2G6
Telephone: (416) 398-0677
Fax: (416) 398-7172

Kensington-Bellwoods Community Legal Services

489 College Street
Suite 205
Toronto M6G 1A5
Telephone: (416) 924-4244
Fax: (416) 924-5904

Neighbourhood Legal Services

333 Queen Street East
Toronto M5A 1S9
Telephone: (416) 861-0677
Fax: (416) 861-1777

Parkdale Community Legal Services Inc.

1266 Queen Street West
Toronto M6K 1L3
Telephone: (416) 531-2411
Fax: (416) 531-0885

Rexdale Community Legal Clinic

The Woodbine Centre
500 Rexdale Boulevard
Toronto M9W 6K5
Telephone: (416) 741-5201
Fax: (416) 741-6540

South Etobicoke Community Legal Services

5353 Dundas Street West, Suite 210
Toronto M9B 6H8
Telephone: (416) 252-7218
Fax: (416) 252-1474

West Toronto Community Legal Services

672 Dupont Street
Suite 315
Toronto M6G 1Z6
Telephone: (416) 531-7376
Fax: (416) 531-0032

York Community Services

1651 Keele Street
Toronto M6M 3W2
Telephone: (416) 653-5400
Fax: (416) 653-8049

Willowdale Community Legal Services

245 Fairview Mall Drive
Suite 106
Willowdale M2J 4T1
Telephone: (416) 492-2437
Fax: (416) 492-6281

Downtown Legal Services

655 Spadina Avenue
Toronto M5S 2H9
Telephone: (416) 978-6447

Community and Legal Aid Services Program

Osgoode Hall Law School, York University
4700 Keele St, Room 125
Downsview M3J 1P3
Telephone: (416) 736-5029

South Asian Legal Clinic of Ontario

2 Carlton Street, Suite 820
Toronto M5B 1J3
Telephone: (416) 542-9146

Metro Toronto Chinese & Southeast Asian Legal Clinic

180 Dundas Street West
Suite 1701
Toronto M5G 1Z8
Telephone: (416) 971-9674
Fax: (416) 971-6780

Barrie Clinic

150 Dunlop Street East, Suite 104
Barrie
Telephone: 1-800-461-8953
Telephone: (705) 737-3400

Orillia Clinic

71 Colborne Street East

Orillia
Telephone: 1-800-461-8953
Telephone: (705) 326-6444

South Ottawa Community Legal Services – Ottawa
1355 Bank Street, Suite 406
Ottawa
Telephone: (613) 733-0140

West End Legal Services of Ottawa – Ottawa
1299 Richmond Road
Ottawa
Telephone: (613) 596-1641

Mississauga Community Legal Clinic – Mississauga
130 Dundas Street East, Suite 501
Mississauga
Telephone: (905) 896-2050

North Peel & Dufferin Community Legal Services - Brampton
24 Queen Street East, Suite 601
Brampton
Telephone: (905) 455-0160