

HUMANITARIAN AND COMPASSIONATE (H&C) APPLICATIONS FOR PERMANENT RESIDENCE

What is an H&C Application?

An H&C application is an exceptional measure that allows someone to apply for permanent residence (PR) from inside Canada on humanitarian and compassionate grounds.

Generally, immigration law says that you have to apply for PR from outside Canada, unless you are eligible for one of the application streams that allow you to apply from inside. In exceptional cases, if you have temporary or no status, have no other way to get PR from inside Canada, and will face hardship if you have to go back to your home country to apply, you may be able to get PR through an H&C application.

Note: Just because you can apply for H&C while being out of status does not mean you can stay in Canada while your H&C is processing. You could still be removed from Canada, but you may be able to return once your application is approved.

Who can apply?

You can apply for permanent residence on humanitarian and compassionate grounds if you:

- Are living in Canada and are not a Permanent Resident or Citizen.
- Need an exemption from the normal requirements of immigration law to be able to apply for permanent residence from inside Canada.

• Are unable to apply for permanent residence from inside Canada through the following programs:

- Spouse or Common-Law Partner Sponsorship ;
- Caregiver programs
- Refugees;
- Temporary Resident Permit (TRP)
- Economic class ex. Skilled worker, Canadian experience class, provincial nominee

What are some humanitarian and compassionate grounds that are considered in an H&C application?

In assessing an H&C application, an officer will generally consider how much hardship you will face if you had to go back to your home country to apply for PR and how established you are here in Canada.

Common factors that are considered:

- How established you have become in Canada ex. Having a job, a Canadian education, having a home, being part of a community, having lived in Canada for many years and/or being a member of a religious organisation.
- Your ties to Canada ex. Having a child, family and/or friends in Canada.
- The best interests of any children affected (this is a key consideration in many H&C applications).
- Medical conditions and whether there is treatment available in your home country.
- Family violence/Intimate Partner violence/Domestic abuse.
- Consequences of your separation from a relative.
- Conditions of your country of origin, such as war, natural disasters, political instability, violence, discrimination, unemployment.

If you have made a refugee claim and failed the arguments you made in your refugee claim, those points might not be considered by an immigration officer in your H&C application unless something new or different has happened since then.

Note: If you cannot return to your home country because of fear of persecution or risk to your life, you should seek refugee protection instead of applying under H&C grounds. Speak to a lawyer to figure out which option is better for you.

You cannot apply for an H&C IF:

- You are already a permanent resident or citizen of Canada.
- You have a pending refugee claim.
- Your refugee claim was not eligible to proceed to a hearing and you have a pending pre-removal risk assessment (PRRA) application.
- It has not yet been 12 months since the last decision on your refugee claim (this is known as the 12 month bar. You can apply for an exception from the 12 month bar if your H&C is based on medical reasons or the best interests of the child).

How to Apply:

To apply for permanent residence from within Canada on humanitarian and compassionate grounds (H&C) you must do so online. You will be guided to:

- Complete a Generic Application Form for Canada (IMM 0008) found on the IRCC Website.
- Complete other forms that IRCC requires.
- Gather all the documents that IRCC requires (you will find a document checklist on the IRCC website).
- Explain why IRCC should accept your application and include evidence that supports your application. Evidence can include:
 - Your own letter or affidavit explaining your story
 - Photos documenting your life and ties in Canada
 - Support letters from family, friends, your doctor and community members etc.

- Doctor's reports.
 - Documents such as articles and news coverage about conditions in your country.
 - Family court documents that relate to your child, and other evidence of your child's establishment in Canada and why it would be in their best interest to stay in Canada.
- Pay the processing fee

Application Fees:

- Your application processing fee
- The application processing fees for others included in your application (ex: spouse/partner, "dependent" children – immigration law will tell you who "dependent" children are)
- Right of Permanent Residence fee for you and others included in your application (which can be paid when you apply or later)

Note: PR applicants have to pay the application fee in order for their application to be processed. If you do not pay the application fee when you apply, your application is likely to be returned. You can pay the Right of Permanent Residence fee when you apply or later, when requested by IRCC.

Can I use Humanitarian and Compassion arguments in Other Immigration Applications?

You can ask IRCC to consider H&C factors in other applications such as spouse or partner sponsorship or one of the economic classes. This is usually done when someone is seeking to come to Canada that may not be admissible ex. if they have a criminal history.