



Citizenship and  
Immigration Canada

Citoyenneté et  
Immigration Canada

# ENF 15

## Obligations of Transporters

# ENF 15 Obligations of Transporters version 2

<b>1</b>	<b>What this chapter is about</b>	<b>1</b>
<b>2</b>	<b>Program objectives</b>	<b>2</b>
<b>3</b>	<b>The Act and Regulations</b>	<b>3</b>
3.1	Required forms	3
<b>4</b>	<b>Instruments and delegations</b>	<b>4</b>
<b>5</b>	<b>Departmental policy</b>	<b>5</b>
5.1	Obligations and liabilities of transporters	5
5.2	Presenting and holding persons for examination	5
5.3	Persons not to be carried by a transporter	5
5.4	Examining passenger documents	6
5.5	Authority for transporter to hold passenger documents	6
5.6	Improperly documented foreign nationals	6
5.7	Providing Advance Passenger Information (API) and Passenger Name Record (PNR) information	7
5.8	Providing passenger information after arrival in Canada	8
5.9	Liability for medical costs	8
5.10	Obligation to provide facilities	8
<b>6</b>	<b>Definitions</b>	<b>9</b>
<b>7</b>	<b>Administration fees</b>	<b>10</b>
7.1	Amount of fee	10
7.2	Procedures for assessing administrative fees	10
7.3	Detention costs covered by administrative fees	11
<b>8</b>	<b>Memoranda of understanding</b>	<b>12</b>
8.1	Performance standards in a MOU	12
8.2	Contents of an MOU	12
8.3	Transit without visa provisions in MOU's	13
<b>9</b>	<b>Removal of foreign nationals by transporters</b>	<b>14</b>
9.1	Liability to remove inadmissible foreign nationals	14
9.2	Notification to transporters of requirement to convey a person from Canada	14
9.3	Requirement for transporter to make removal arrangements	15
9.4	Removal arranged by an officer	15
9.5	Unacceptable travel arrangements	15
9.6	Liability for removal costs	16
9.7	Notifying NHQ Transportation Unit of removal costs	16
<b>10</b>	<b>Security deposits</b>	<b>17</b>
10.1	Security related to a specific case	17

10.2	General security	18
10.3	Additional security	18
<b>11</b>	<b>Ensuring transporter compliance with their obligations</b>	<b>19</b>
11.1	Detention of a vehicle or prescribed good	19
11.2	Seizure of a vehicle or prescribed good	19
11.3	Disposition of seized vehicle or prescribed good	20
11.4	Storage and security of a seized vehicle or good	20
11.5	Registry of a certificate in the Federal Court	20

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**1 What this chapter is about**

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This chapter describes the obligations and liabilities of transporters with respect to the persons they carry and may not carry to Canada and the enforcement measures which the department may take against transporters failing to comply with their obligations.

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### **2 Program objectives**

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The program's objectives are to ensure that transporters fulfil their role of facilitating and controlling travellers across international boundaries in a way that serves the best interests of Canada and to ensure that transporter bear some of the costs incurred when inadmissible persons are transported to Canada.

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### 3 The Act and Regulations

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A148 to A150 include obligations respecting transportation companies. R259 to R287 provide procedural rules governing transporters.

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#### 3.1 Required forms

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The forms required are shown in the following table:

Form Name	Number
Official receipt – Cash Security Deposit by a Transporter Company	IMM0410B
Costs Payable by Transporters	IMM0459B
Confirmation by Transporter Regarding Passenger(s) Carried	IMM1445B
Notice of Detention or Seizure of Vehicle or Prescribed Good (Pursuant to Subsection 148(2) of the Act)	IMM5266B

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**4 Instruments and delegations**

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No information available.

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### 5 Departmental policy

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#### 5.1 Obligations and liabilities of transporters

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Under the *Immigration and Refugee Protection Act (IRPA)* and its Regulations, transporters have several obligations, including:

- refusing to provide transportation to persons who are improperly documented;
- presenting the persons who they carry for immigration examination and holding them until completion of examination;
- carrying persons from Canada who have been ordered removed;
- paying administration fees, medical costs and removal costs for certain classes of inadmissible persons;
- complying with directions to deposit security; and
- providing, equipping and maintaining adequate facilities at ports of entry for examining, detaining and removing inadmissible persons.

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#### 5.2 Presenting and holding persons for examination

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A148(1)(b) requires transporters to present all persons they carry to Canada for examination and to hold them until the examination is completed. The point at which an examination ends is prescribed in R37. Section R261 further clarifies that a transporter has complied with the obligation to hold a person for examination when:

- an officer informs the transporter that the examination of the person is completed;
- the person is authorised to enter Canada for further examination pursuant to A23;
- the person is detained under any Canadian law.

Persons must be held on the vehicles on which they arrive unless facilities for the examination and holding of persons are available at the port of entry. At international airports, therefore, transporters normally hold their passengers inside the terminal building provided its passengers are not in transit. Persons arriving aboard cargo ships, however, must always be held aboard until examinations are completed.

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#### 5.3 Persons not to be carried by a transporter

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A148(1)(a) provides that a transporter is prohibited from carrying to Canada any person who an officer has directed it not to carry. For example, an Immigration Control Officer (ICO) may direct an airline not to carry a person at an airline check-in counter or departure gate whose documents are suspected of being fraudulent or who is inadmissible on criminal or security grounds.

A transporter is also prohibited from carrying to Canada any person who does not hold the necessary passport, travel document or visa required for entry to Canada. The prescribed documents are listed in R259. These include:

- a travel document issued to a permanent resident abroad to facilitate their return to Canada;



## ENF 15 Obligations of transporters version 2

- passports and travel documents referred to in R50(1) and R52(1);
- a travel document issued by Canada to protected persons; and
- visas referred to in R6 and R7 required by foreign nationals to enter Canada.

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### 5.4 Examining passenger documents

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A transporter must, at the time of boarding, examine the documents of all persons it carries to Canada to ensure that they are the documents prescribed in R259. The transporter must refuse to allow any improperly-documented person to board a vehicle destined for Canada.

A transporter must require any person who is exempt from the need for a passport and visa, such as a person claiming to be a citizen of Canada or the U.S.A., to produce sufficient evidence of their identity and citizenship.

Transporters who bring inadmissible persons to Canada are liable for their removal and for costs associated with removal. Section R279 also provides for the assessment of administration fees against commercial transporters who bring improperly documented persons to Canada.

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### 5.5 Authority for transporter to hold passenger documents

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A148(1)(b) requires a transporter to ensure that the documents referred to in R259 are available for the officer to whom the person is presented for examination. R260 clarifies that a transporter who has grounds to believe that the prescribed documents of a passenger may be disposed of prior to arrival must hold the documents for presentation to the examining officer in Canada. Likewise, the transporter should hold a person's documents whenever directed to do so by an ICO or other officer. The transporter is required to issue a receipt for any documents held and to present a copy thereof to the examining officer. The type of receipt used is at the transporter's discretion.

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### 5.6 Improperly documented foreign nationals

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Officers should complete the Transporter Violation field of a FOSS report whenever a foreign national who is subject of an inadmissibility report was improperly-documented or otherwise inadmissible.

#### **Evidence establishing transporter liability**

The following documents should be kept on case files as evidence that a transporter has brought inadmissible foreign nationals to Canada:

- airline tickets;
- flight passenger manifest;
- boarding passes;
- baggage tags, duty free bags or paper napkins with an airline logo;
- the passenger's declaration;
- an airline print-out of the passenger's travel itinerary;
- a disembarkation screening report;

- a Confirmation by Transporter Regarding Passengers Carried form IMM 1445B signed by a representative of the transporter.

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### 5.7 Providing Advance Passenger Information (API) and Passenger Name Record (PNR) information

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API information consists of the bio-data contained in the machine readable zone (MRZ) of most passports and travel documents and includes:

- surname, first name and initial;
- date of birth;
- country that issued the passport or travel document or if no passport or travel document is available, their citizenship or nationality;
- gender;
- passport number or, if no passport is available, the number on the travel document that identifies them;
- reservation record locator or file number.

The API data elements are captured at the time of check-in by swiping the machine-readable zone (MRZ) of the passport. If the passport reader is not available, the data is entered manually. Any information not found within the MRZ will be collected using electronic links to the Passenger Name Record (PNR) or the DCS (Departure Control System).

#### **Requirement to provide API information**

R269(1) requires a commercial transporter, on request of an officer, to provide advance passenger information (API) on all passengers and crew members travelling by vehicle. The information would be sent electronically or by fax on departure of the vehicle from the last point of embarkation before arriving in Canada. This enables criminality, security and FOSS checks to be conducted prior to the arrival of the vehicle.

The API is sent upon 'wheels up' of the air carrier's departure (actual departure time) and sent to a central database where the various security checks are then conducted.

#### **Requirement to provide access to reservation system information**

R269(2) requires a commercial transporter to provide access to its reservation system or, on request of an officer, provide in writing all reservation information held by the transporter on passengers to be carried to Canada.

The Passenger Name Record (PNR) information available in a transporter's reservation system may be quite extensive and each transporter will capture different data elements in their reservation system. The use of the acronym PNR is predominantly for the airline carriers. All other modes within the travel industry may refer to their respective reservation systems using various terms.

#### **Passenger Analysis Units (PAU's)**

Passenger Analysis Units (PAU's) analyse API and PNR information and ensure that port of entry officers and Disembarkation and Response Teams (DART) have detailed advance information on persons who may be inadmissible to Canada. The PAU's will also have the decision-making ability

## ENF 15 Obligations of transporters version 2

to flag an individual before their arrival into Canada at the Primary Inspection Line for referral to immigration secondary.

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### 5.8 Providing passenger information after arrival in Canada

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R264 requires a transporter to provide without delay the following documents on request of an officer, provided the request is made within 72 hours after the presentation for examination of the person in Canada:

- copy of any ticket issued to a person;
- the person's itinerary, including the place of embarkation and dates of travel; and
- information about the number and type of passport, travel or identity document used by the passenger.

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### 5.9 Liability for medical costs

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Under A148(1)(c), a transporter must, when directed to do so by an officer, arrange for the medical examination, treatment and observation of any foreign national it brought to Canada who is made subject to an A44(1) report or who entered Canada as or to become a member of a crew. R263 provides that a transporter is not liable for medical costs if the foreign national is a holder of a visa, provided that the transporter demonstrates that the foreign national's medical condition is not a result of its negligence.

#### **Billing of medical costs to transporters**

When a transporter is liable for medical costs, medical service providers should bill the costs to the transporter directly. These costs should not be billed to CIC.

The transporter's liability continues for as long as:

- the foreign national requires medical treatment and has not been authorized to enter Canada as a temporary or permanent resident; or
- their crew member remains in Canada.

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### 5.10 Obligation to provide facilities

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A148(1)(e) requires a transporter to provide, equip and maintain facilities for the holding and examination of persons at ports of entry, if directed to do so by the Minister. R271 clarifies that this applies to commercial transporters and transporters who operate an airport, international bridges or tunnels.

The Minister may also:

- require a transporter to make improvements to the facility and to post signs appropriate for its operation or safe use;
- continue to use the facility for as long as required; and
- require a transporter to undertake construction or repairs to render the facility adequate for its purpose and, if the transporter refuses, to contract the work and recover the costs from the transporter.

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**6 Definitions**

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R2 defines the following terms:

Term	Definition
Agent	includes any person in Canada who provides services as a representative of vehicle owners, charterers or vehicle operators and owners of reservation systems.
Commercial transporter	a transporter who operates a commercial vehicle.
Commercial vehicle	a vehicle that is used by a commercial transporter for commercial purposes
Transporter	Includes a person who owns, operates, charters or manages a vehicle or a fleet of vehicles, a person who owns or operates an international tunnel or bridge, or a designated airport authority, and an agent for that person.
Vehicle	a means of transportation that may be used for transportation by water, land or air.

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**Note:** The concept of transporter under the Regulations includes transportation companies but also includes private owners of vehicles transporting themselves or other passengers to Canada.

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### 7 Administration fees

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R279 provides that a transporter may be required to pay an administration fee in respect of any foreign national:

- who is inadmissible for failing to be in possession of the documents required for entry;
- who the transporter was directed not to carry to Canada ;
- who is exempt from the requirement to hold a passport or travel document but who fails to be in possession of sufficient evidence of their identity;
- who failed to appear for an examination on arrival in Canada; or
- who entered as or to become a member of a crew and who is inadmissible.

R279(2) provides that administration fees are waived in respect of any foreign national:

- who is authorized to enter and remain in Canada on a temporary basis, other than a foreign national who entered as or to become a member of a crew;
- who is allowed to withdraw their application to enter and who leaves Canada immediately;
- who is subject to a removal order issued on their arrival at a port of entry and who leaves Canada immediately;
- who returns to Canada as a result of a refusal of another country to allow them entry after they were removed from or otherwise left Canada under a removal order;
- who returns to Canada under a transfer order made under the *Mutual Legal Assistance in Criminal Matters Act* and who, immediately before being transferred to a foreign state, was subject to an unenforced removal order; and
- who is in possession of refugee travel papers issued by the Minister of Foreign Affairs that are valid for return to Canada.

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#### 7.1 Amount of fee

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Administration fees represent a portion of the total average costs incurred by the government with respect to the examination, detention and processing of inadmissible foreign nationals carried by a transporter. R280(1) provides that the administrative fee is \$3200 unless a memorandum of understanding is in effect between CIC and the transporter, in which case fees are assessed at the rates prescribed in R280(2).

Administration fees are assessed by the Transportation Unit on the basis of SSI reports transmitted to NHQ from ports of entry or inland offices.

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#### 7.2 Procedures for assessing administrative fees

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Upon receipt of an SSI report, the Transportation Unit sends a notice of assessment to the transporter. Shown on the notice is the date by which the transporter may contest the assessment by filing a submission. A submission is normally based on the transporter's contention that it did not carry the person concerned on the date and flight shown on the notice of assessment.

## ENF 15 Obligations of transporters version 2

Pursuant to R282(1), any submission must be filed within 30 days of receipt of the preliminary assessment. If the Transportation Unit does not receive a submission within the 30-day period, the assessment automatically becomes final.

If the Transportation Unit receives a submission before the deadline, the assessment is either confirmed or cancelled by the Minister upon consideration of the submissions and the decision is communicated to the transporter by means of a written notice.

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**Note:** SSI is the acronym for the Support System for Intelligence used in reporting details of transporter violations to NHQ. Instructions for using this system are found in the SSI manual.

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### 7.3 Detention costs covered by administrative fees

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Transporters have no direct liability for detention costs. The administration fees paid by transporters are intended to offset a portion of the Department's overall average detention costs.

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### 8 Memoranda of understanding

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R280(2) provides that Memoranda of Understanding (MOUs) between transporters and the Minister may include reductions in the administrative fee rate as an incentive for transporters to reduce the number of improperly-documented persons arriving in Canada. In exchange for undertakings agreed to by transporters under these agreements, administration fees assessed against transporters are reduced by 25% to 100%. By signing an MOU, a transporter automatically benefits from fee reductions of 25%. Further reductions of 50%, 75% and 100% correspond to the three performance standards established for the transporter in each MOU. Performance standards relate to the number of administration fees assessed during each six-month monitoring period.

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#### 8.1 Performance standards in a MOU

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Performance standards in a MOU would consist of three ascending numbers (for example, 284-426-568) corresponding to fee reductions of 100%, 75% and 50% respectively. This means that if the number of fees assessed during the monitoring period was equal to or less than 284, all fees assessed against the transporter during the subsequent six-month period would be assessed at the rate of \$0.00, regardless of how many improperly-documented passengers the transporter brings to Canada during that period. Likewise, if the number of fees assessed was equal to or less than 426, all fees in the subsequent monitoring period would be assessed at the rate of \$800. If the number of fees assessed was equal or less than 568, all fees in the subsequent monitoring period would be assessed at the rate of \$1,600. If the number of assessments exceeded 568, all fees in the subsequent monitoring period would be assessed at the rate of \$2,400. Fees may only be reduced, however, if the transporter is able to demonstrate that it was complying with the MOU when it brought the improperly-documented passenger to Canada.

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#### 8.2 Contents of an MOU

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Pursuant to R280(3), all memoranda of understanding must include mandatory provisions respecting:

- document screening;
- the training of personnel in document screening;
- the use of technological aids;
- fraud prevention;
- gate checks;
- information exchange;
- performance standards in respect of document screening, the number of administration fee assessments, and interdiction rates of inadmissible foreign nationals;
- compliance monitoring of the provisions of the MOU;
- holding documents;
- providing API/PNR information;
- stowaways; and

- security screening of members of a crew.

If one of the above-mentioned provisions is not applicable to the transporter concerned, it must nevertheless be listed in the MOU and identified as a provision which is not applicable.

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### **8.3 Transit without visa provisions in MOU's**

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R190(3)(c)(i) provides that MOU's with airlines may also contain provisions for allowing foreign nationals from certain countries to transit through Canada without a visa. This provides authority for the transit without visa (TWOV) programs in place in several airports in Canada.



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### 9 Removal of foreign nationals by transporters

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#### 9.1 Liability to remove inadmissible foreign nationals

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A148(1)(f) requires transporters to carry from Canada any inadmissible foreign nationals they transported to Canada. R273 clarifies that this applies to foreign nationals who:

- are directed to leave pursuant to R40(1);
- are directed back to the United States pursuant to R41;
- are allowed to withdraw their application to enter Canada pursuant to R42; or
- who are subject to an enforceable removal order.

R273 provides that transporters must transport the foreign national who is subject to an enforceable removal order from wherever the foreign national is situated in Canada to the vehicle in which they will be carried from Canada.

#### **Exception**

R277 provides that a transporter is not required to carry from Canada any foreign national who was authorized to enter Canada as a permanent or temporary resident or who held a visa. However, a transporter is always required to carry from Canada a foreign national carried to Canada as or to become a member of a crew, regardless of whether entry was authorized.

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#### 9.2 Notification to transporters of requirement to convey a person from Canada

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R276 requires an officer to notify a transporter of its obligation to carry a foreign national from Canada. There are two types of notification required.

#### **Preliminary notification R276(1)(a)**

When a transporter brings an inadmissible foreign national to Canada who is made subject to a removal order that is not yet enforceable, the officer must inform the transporter that it is or might be required to carry the person from Canada. This would be done in the case of refugee claimants or where there is a stay and a removal order cannot be immediately enforced.

#### **Notification of removal R276(1)(b)**

When a removal order becomes enforceable, an officer must inform the transporter that it must carry the foreign national from Canada and advise whether escorts are required.

There is no time limitation with respect to a transporter's liability to carry an inadmissible foreign national from Canada. It remains in effect until a removal order becomes enforceable, regardless of when the transporter brought the foreign national to Canada.

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### 9.3 Requirement for transporter to make removal arrangements

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R276 requires a transporter, when notified of the requirement to carry a foreign national from Canada, to advise an officer without delay of the arrangements it makes to carry the foreign national from Canada.

The transporter must carry the person from Canada within 48 hours of advising an officer of the arrangements made.

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### 9.4 Removal arranged by an officer

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R276 provides for an officer to make arrangements to remove a foreign national from Canada under the following circumstances:

- the transporter fails to advise an officer without delay of its arrangements after having been notified of the requirement to carry the foreign national;
- the transporter fails to carry the foreign national from Canada within 48 hours of having advised an officer of its arrangements;
- the transporter has previously advised the Department in writing that it does not require notification because it is unwilling or unable to carry inadmissible foreign nationals from Canada aboard its vehicles;
- the officer finds the arrangements proposed by the transporter to be unacceptable.

Transporters such as shipping companies may be unwilling or unable to carry inadmissible foreign nationals from Canada aboard their ships. They may, therefore, not wish to be notified each time a foreign national who they brought to Canada is ready to be conveyed. If so, they should advise the Department of this in writing, after which officers will no longer be required to provide them with notification each time a removal order becomes enforceable.

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### 9.5 Unacceptable travel arrangements

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The travel arrangements made by a transporter to carry and escort a foreign national from Canada must be acceptable to an officer. Section R276 provides that the arrangements a transporter makes to carry a foreign national from Canada must meet the following criteria:

- the foreign national must not be inadmissible in the country of destination or any countries of transit;
- the safety of persons on the vehicle must be ensured;
- escorts must be used if requested by an officer.

Examples of arrangements that would not be acceptable are where the transporter proposes:

- an itinerary which involves a stop-over in a country that may not allow or has refused to allow transit of a person being removed;
- conveyance on a commercial flight without segregation from other travellers in the case of dangerous person or security risk;
- to use inexperienced or unqualified escorts or to use measures of restraint which are inconsistent with departmental policy and procedures.

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### 9.6 Liability for removal costs

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A transporter that is required to carry from Canada a foreign national it brought to Canada is also liable to reimburse all removal costs (and, if applicable, attempted removal) incurred by CIC in respect of that person. R278 provides that the various types of removal costs for which a transporter may be liable are:

- expenses incurred within or outside Canada with respect to the foreign national's accommodation and transport;
- accommodation and travel expenses incurred by any escorts;
- fees paid in obtaining documents for the foreign national and any escorts;
- the cost of meals, incidentals and other related expenses;
- regular and overtime wages paid to escorts and other personnel accompanying the foreign national; and
- costs or expenses for interpreters, medical or other personnel assisting with the removal.

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### 9.7 Notifying NHQ Transportation Unit of removal costs

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The recovery of removal costs for which transporters are liable falls under the mandate of the Manager, Transportation Unit, Enforcement Branch, CIC Headquarters.

Removal costs are reported on an IMM 0459B and should be:

- mailed to the Transportation Unit, Enforcement Branch, Citizenship and Immigration Canada, 300 Slater Street, 8th Floor, Ottawa, Ontario, K1A 1L1;
- faxed to the Transportation Unit at (613) 954-2381;
- sent to an officer of the Transportation Unit as an e-mail attachment.

At times, information about removal costs may be sent informally to the Transportation Unit by e-mail or telephone.

The Transportation Unit reviews all records of removal costs submitted by CIC field offices to ensure that they are accurate and complete. The Unit may require field offices to provide additional information or copies of supporting documents such as travel expense claims. When satisfied that all applicable costs have been reported, the Unit transmits them in a standardised format to Accounting Operations at CIC Headquarters for billing to the liable transporter. The Manager of the Transportation Unit may authorise Accounting Operations to deduct some or all of these costs from any security deposited by the transporter.

Accounting Operations at CIC Headquarters is responsible for the actual invoicing, accounting and collection procedures related to the recovery of removal costs. These activities are beyond the mandate of regional finance and administration units.

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### 10 Security deposits

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A148(1)(h) gives broad authority to require security from transporters to ensure compliance with its obligations including the obligation:

- not to carry inadmissible persons to Canada;
- to present persons for examination and hold them until the examination is completed;
- to arrange for medical examination and treatment;
- to provide API and PNR information;
- to provide facilities for the holding and examination of persons being carried to Canada;
- to remove inadmissible persons they bring to Canada; and
- to pay removal, examination, medical and other costs for which they are liable.

R283 provides that the Minister may require commercial transporters to post security. The security may relate to a specific inadmissible foreign national or be general security from which fees and costs incurred by the commercial transporter may be deducted. Criteria for determining the amount and type of security are prescribed in R283 as follows:

- the frequency and regularity of arrival, or anticipated arrival, of the transporter's vehicles carrying persons to Canada;
- the number of persons carried, or anticipated to be carried, to Canada aboard the transporter's vehicles;
- the fact that the transporter carried an inadmissible foreign national to Canada; and
- the anticipated risk of inadmissible foreign nationals being carried to Canada by the transporter.

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#### 10.1 Security related to a specific case

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R283(3) relates to specific security that may be required as a result of a transporter carrying an inadmissible person to Canada. This type of security must always be in cash. The deposit is held in the Immigration Guarantee Fund which does not generate interest. Any amounts for which the transporter becomes liable in respect of that person are automatically deducted from this security.

Shipping agents may be required to deposit security in respect of inadmissible foreign nationals who arrive in Canada aboard vessels as stowaways or crew members. Airlines which have not deposited general security may be required to deposit security when they make unscheduled landings in Canada for the purpose of disembarking passengers who are ill or who were a threat to flight security. Railway companies and bus lines may be required to deposit security in respect of any inadmissible foreign national they bring to Canada's land border.

The authority for requiring transporters to deposit special purpose security is delegated to officers in Regions. The amount of special purpose security must be high enough to cover an administration fee of \$3,200 and the estimated average costs of a removal under escort. The minimum amount required in each case is established by National Headquarters at \$15,000 per person. However, officers may and should direct transporters to deposit larger amounts where warranted. For example, the amount of security for a stowaway from Africa should be greater than the amount for

## ENF 15 Obligations of transporters version 2

a stowaway from Europe given the significantly higher costs of removals to Africa. Therefore, a minimum of \$25,000 is recommended in respect of African stowaways.

Directions for cash security deposits should be in writing. When security is received, a departmental official must complete the official receipt form IMM 0410 and give the original to the transporter, distributing the copies as indicated.

Security relating to a specific case is retained until all enforcement action against the inadmissible foreign national has been finalized and until all amounts for which the transporter is liable have been paid.

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### 10.2 General security

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Most airlines engaged in the international transportation of passengers to and from Canada are required to deposit general security in the form of cash. In some cases, alternatives such as an irrevocable, revolving standby letter of credit may be accepted. The authority for requiring transporters to deposit general security is delegated to the managerial level at National Headquarters.

The deposit of general security is a prerequisite for any Memorandum of Understanding (MOU) between a transporter and the Minister. The MOU stipulates whether general security is to be deposited in cash or in another form such as a letter of credit. Only transporters who have an MOU with CIC are eligible to deposit general security in the form of a letter of credit. All other transporters must pay cash.

The amount of general security is determined in accordance with R283(2) based on the transporter's compliance with the Act and the anticipated risk of inadmissible foreign nationals being carried to Canada. The minimum amount currently required is \$50,000.

Normally, general security must be in the form of cash which is deposited in an interest-bearing account. R283(3) provides, however, that transporters with an MOU may provide another form of security if they demonstrate that there is no significant risk of a debt not being paid. This would apply to well-established transporters with a good credit rating, a good payment record and regularly-scheduled year-round operations in Canada who may be allowed to deposit security in the form of an irrevocable, revolving standby letter of credit issued by a Canadian bank.

General security is not returned to a transporter which ceases to operate in Canada until enforcement action against all inadmissible foreign nationals previously brought to Canada by that transporter has been completed and until all amounts for which the transporter is liable have been paid.

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### 10.3 Additional security

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R283 allows the Minister to require a transporter, at any time, to deposit additional security if the amount initially deposited is no longer considered adequate or if it has been depleted due to deductions on the basis of the criteria for the original requirement for security. Furthermore, the transporter may be required to replace an irrevocable, revolving standby letter of credit deposited as general security by an equivalent or higher amount in cash if the criteria in R283 change. For example, the amount of security required may be increased based on the transporter's non-compliance with the Act, a greater risk of inadmissible foreign nationals being transported to Canada, or higher estimated removal costs. A letter of credit may no longer be acceptable if the transporter can no longer demonstrate that there is no significant risk of a debt not being paid.

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### 11 Ensuring transporter compliance with their obligations

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The following enforcement measures may be taken against a transporter that fails to comply with a direction to deposit security or fails to pay fees or costs for which it is liable.

- detention, seizure or forfeiture of a vehicle or other prescribed good under A148(2)
- registry of a certificate in the Federal Court under A146

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#### 11.1 Detention of a vehicle or prescribed good

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Under A148(2), the detention of a vehicle is an enforcement option when a vehicle or prescribed good is physically located in Canada and is still being operated by the transporter. R284 clarifies that a prescribed good is any good that is not land, a building or a transportation facility. The authority to detain a vehicle is delegated to the Director General, Enforcement.

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**Note:** The detention of a vehicle involves the use of the Notice of Detention or Seizure of Vehicle or Prescribed Good form IMM 5266B. Managers at National Headquarters may request Regions to detain vehicles in order to obtain payment of overdue administration fees and removal costs.

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The vehicle is detained as soon as an officer delivers a signed IMM 5266 to the master or any other person in charge of the vehicle. The delivery of the notice triggers the detention. As soon as the notice of detention has been delivered, the officer should transmit copies to the following local authorities, as applicable, to ensure that the vehicle will be prohibited from leaving:

- Canada Customs and Revenue Agency;
- Canada Coast Guard Vessel Traffic;
- local vessel pilotage authority; and
- airport control tower.

The vehicle must be released as soon as the transporter remits the sum of money required or complies with its obligation. When the vehicle is released, the above-mentioned authorities must be immediately notified.

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#### 11.2 Seizure of a vehicle or prescribed good

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Although a vehicle may be seized without it first being detained, seizure should be used as a last resort. A vehicle which is detained remains in the possession of the transporter. By seizing a vehicle, however, CIC takes possession of the vehicle and thereby becomes liable for the costs of handling, maintaining and disposing of it.

The authority to seize a vehicle under A148(2) is delegated to the executive level at National Headquarters.

R286(1) provides that, following a seizure, the Minister shall make reasonable efforts to give notice of the seizure to the lawful owner.

## ENF 15 Obligations of transporters version 2

The seizure of a vehicle involves the use of the Notice of Detention or Seizure of Vehicle or Prescribed Good form IMM 5266B. The vehicle is seized as soon as an officer delivers a signed IMM 5266 to the master or any other person in charge of the vehicle. As soon as the notice of seizure has been delivered, the officer should transmit copies of the notice to the local authorities, as applicable.

The officer should transmit a copy of the IMM 5266 to the harbour-master (for a ship) or the control tower (for an aircraft) giving specific details, such as the vehicle identification (ship's name and registry, or flight number or type of aircraft and registration number), the name of the transporter and the authority for seizing. This notification is necessary in order that the harbour-master or control tower can deny the vehicle permission to leave port or take off.

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### 11.3 Disposition of seized vehicle or prescribed good

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R286(2) provides that a vehicle or good seized under A148(2) be sold and the amount payable by the transporter deducted from the proceeds of the sale unless the transporter secures the object's release by providing:

- an amount equal to the value of the object at the time of seizure and any expenses incurred in the seizure or detention;
- the security required under the Act or any costs and fees for which the transporter is liable, including the expenses incurred in seizing and detaining the object; or
- evidence that the transporter is in compliance with its obligations and has reimbursed the government for any expenses incurred in the seizure or detention.

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### 11.4 Storage and security of a seized vehicle or good

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When a vehicle or good is seized, CIC should consult the transporter to the greatest extent possible to ensure that the vehicle is handled properly. A manager directing the seizure of the vehicle or good should commission an insurance appraisal to establish the value and condition at the beginning of the seizure period. Officers should ensure that CIC is responsible for ensuring procedures are in place to protect the seized objects. These procedures often involve:

- arranging to have a vehicle towed to another location;
- hiring a temporary crew to move the object;
- ensuring the security of the object by contracting a security firm;
- safeguarding the vehicle's log books;
- taking preventive steps, if necessary, to protect the object from damage in cold weather.

For further information on seizures, see chapter ENF 12, which deals with seizures under A140 but has information concerning the disposition and disposal of seized goods that is applicable to seizures under A148(2).

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### 11.5 Registry of a certificate in the Federal Court

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If the transporter does not have vehicles or goods in Canada that may be seized, the amount payable by the transporter may be collected by registering a certificate in the Federal Court pursuant to A146.

## ENF 15 Obligations of transporters version 2

The authority to certify before the Court that an amount payable by a transporter has not been paid is delegated to the executive level of National Headquarters. Certificates are normally signed by the Director General, Enforcement Branch.

Regional officers who cannot detain a vehicle to enforce a direction for the deposit of security have the option of reporting the transporter's non-compliance to the Transportation Unit in order for the amount payable to be registered.

Once registered, the certificate has the same effect as if it were a Federal Court judgment. This means that the Department may issue what is known as a writ of *fiery facias* to a sheriff who can then execute the judgment against assets of the company for the amount payable. In practice, this usually involves the seizure of the amount payable from the transporter's bank account.

The transporter is liable for the costs of registering a certificate.