

Fact Sheet

REMOVALS

Snapshot

As part of the enforcement of the *Immigration and Refugee Protection Act*, Canada Border Services Agency (CBSA) may remove from Canada any person who has been issued a removal order for breaching the Act. There are three types of removal orders and each has different consequences. A removal order can be appealed in certain situations. People cannot be removed from Canada if they have appealed a removal order and the appeal has not been decided, if they are involved in another legal proceeding, or if they have been found to be people in need of protection.

Who is responsible

CBSA officers carry out removals. In some cases, RCMP officers or medical personnel may assist them. Depending on the type of removal order required, it is issued either by an officer or by a member of the Immigration Division of the Immigration and Refugee Board (IRB), which is independent of CBSA. The IRB's Immigration Appeal Division (IAD) hears appeals of removal orders. The Federal Court Trial Division may review the IAD's ruling.

Type of removal orders

If either an officer or a member of the Immigration Division determines that a person has breached the *Immigration and Refugee Protection Act*, they may issue one of the following removal orders:

Departure order A departure order requires that the person leave Canada within 30 days after the order becomes enforceable and that they confirm their departure with CBSA.

Exclusion order A person who has been removed as a result of an exclusion order cannot return to Canada for one year unless the written permission of an officer is obtained. However, people who are issued exclusion orders for misrepresentation cannot return for two years without written authorization from an officer.

Deportation order A person who has been removed as a result of a deportation order is permanently barred from returning to Canada. Such people may never return unless they receive written permission from an officer.

A departure order automatically becomes a deportation order when someone who has been issued a departure order does not leave Canada as required or leaves Canada without confirming the departure with CBSA.

Departure and exclusion orders are usually issued for less serious violations.



If a person files a claim for refugee protection and is issued a removal order, that removal order does not come into force until the claim has been decided. If the claim for protection is accepted, the removal order is cancelled. Unsuccessful claimants who had conditional departure orders issued against them must leave within 30 days of the final determination of the claim.

In all cases, the individuals and their representatives are informed of the reasons for the removal and are given a copy of the order. Family members in Canada who are dependants of these people may be included in the removal order provided they are not Canadian citizens or permanent residents 19 years of age or over.

Removal: How

Once a removal order has been issued, CBSA carries out the removal as soon as possible. CBSA can assign an escort if there is concern that the person in question will not obey the removal order. If the individual is considered very dangerous or a threat to the health or safety of other travellers, the RCMP or a medical officer may assist CBSA in escorting them out of the country.

Appealing a removal order

Some foreign nationals with permanent resident visas, permanent residents and protected persons who have had removal orders issued against them at an examination or admissibility hearing, can appeal to the IRB's Immigration Appeal Division (IAD.) Those who cannot appeal removal orders are foreign nationals, permanent residents and protected persons who are found inadmissible because they:

- are security threats;
- have violated human or international rights;
- have received a sentence of at least two years for criminal activity;
- are, or have been, involved in organized crime; or
- have made a misrepresentation, except in cases where the person is the sponsor's spouse, common-law partner or child.

An appeal can be launched by the person who was ordered removed or by CBSA on behalf of the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness. The IAD can stay removal orders.

The IAD of the IRB hears appeals. If the appeal is rejected, the person can ask the Federal Court Trial Division to review the IAD's decision. The Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness can also request a review.

Removals: Reasons for delays

Sometimes there are delays between the issuance of a removal order and the time the person actually leaves. The reasons for this can include the following:

Appeals and legal proceedings The person has appealed the removal order or may be involved in other legal proceedings, such as a criminal trial.

Claims for protection The person claims to be a person in need of protection and the case has not been heard or decided.

Travel documents CBSA may have difficulty obtaining passports or visas to permit the person to enter another country.

Identity The person's identity or citizenship cannot be confirmed.

Failure to appear The person does not appear for removal at the proper time or location, and CBSA must issue an immigration arrest warrant.

Temporary suspension of removals Dangerous conditions exist that make it impossible to safely return the person to the country of origin.

What changed with the introduction of the *Immigration and Refugee Protection Act* on June 28, 2002

Streamlining the removal process Under the proposed Regulations, officers can issue deportation orders when the evidence is straightforward and does not require extensive analysis. Officers will now be able to issue deportation orders to foreign nationals convicted of criminal offences in Canada and to people who have been previously removed and who return without authorization. They will also be able to issue departure orders to permanent residents who are inadmissible because they fail to meet residency requirements.