



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada

OP 3

Adoptions

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Updates to chapter

Listing by date:

Date: 2009-04-03

A row was added to the table in section 1.2 with a legislative reference to CP 14.

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1. What this chapter is about

This chapter explains:

- How to process permanent resident visa applications in the case of adoptions and orphaned relatives.
- Provincial criteria for adoptions.
- The impact of the Hague Convention on adoption on immigration processing.

1.1. Which immigration category this chapter affects

The policies and guidelines on adoptions in this chapter apply primarily to applications for permanent resident visas in the family class category. However there may be information of interest to officers processing applications in other categories where the application involves dependent children that have been adopted.

1.2. Where to find other related policies and guidelines

Table 1: For information on related policies and guidelines, see appropriate references below.

Processing applications to sponsor members of the family classes	See IP 2
Processing applications for permanent resident visas by members of the family class living outside Canada	See OP 2
Processing applications for a grant of Canadian citizenship under section 5.1 of the <i>Citizenship Act</i>	See CP 14

2. Program objectives

The intent of the family class program is to facilitate the reunion in Canada of Canadian citizens and permanent residents with their close relatives. In the case of adoptions, it is also the intention to ensure that the best interests of the child are protected.

3. The Act and Regulations

Provision	Reference in Act and/or Regulations
Objective relating to family reunification	A3(1)(d)
Right to sponsor a family member	A13(1)
Right to appeal a family class refusal	A63(1)
Definition of dependent child	R2
Definition of adoption	R3(2)
Definition of guardianship	R2 Not proclaimed
Definition of Hague Convention on adoption	R2
Bad faith (relationship of convenience)	R4
Definition of a member of the family class	R117(1)
Child to be adopted	R117(1)(g)
Guardianship	R117(5) Not proclaimed
Adoption under 18	R117(2) and (3)
Adoption over 18	R117(4)
Provincial statement	R117(7)
New evidence	R117(8)
Information on the medical condition of child	R118

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Adopted sponsor	R133(5)
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4. Instruments and Delegations

Subsection A6(1) authorizes the Minister to designate officers to carry out specific powers, and to delegate authorities. It also states those ministerial authorities that may not be delegated, specifically those relating to security certificates or national interest.

Pursuant to subsection A6(2), the Minister of Citizenship and Immigration, has delegated powers and designated those officials authorized to carry out any purpose of any provisions legislative or regulatory in instrument IL 3 - Delegation and Designation.

4.1. Delegated powers

The IL 3 instrument organizes delegated powers by modules. Each module is divided into columns including Column 1: provides an item number for the described powers, Column 2: provides a reference to the sections or subsections of the Act and Regulations covered by the described powers and Column 3: provides a description of the delegated powers. For duties and powers specific to processing family class applications, consult OP 2, section 4.

4.2. Delegates/designated officers

The delegates or designated officers, specified in Column 4 of Appendices A to H, are authorized to carry out the powers described in column three of each module. Appendices are organized by region and by module. Officers should consult the list of appendices in OP 2, section 4.2

5. Departmental policy

5.1. Provincial and federal adoption authorities

In Canada, provinces and territories are responsible for adoption and child welfare. Provincial and territorial legislation and procedures protect the rights and welfare of children.

Child welfare authorities of the province to which the child is destined must not object to the proposed arrangements for the reception and care of the child if an adoption will take place in Canada or if the adoptive parents reside in Canada. Many provinces require home studies before approving international adoptions.

If the adoptive parents reside abroad and the adoption takes place abroad, provincial adoption authorities are not normally involved. (See also Section 5.5).

See Appendix A for information on province-specific legislation.

Human Resources Development Canada (HRDC), Child, Family and Community Division acts as the federal central authority under the *Hague Convention on Protection of Children and Co-operation in respect of Inter-Country Adoption* (called The Hague Convention on adoption hereinafter). In the event that visa offices encounter issues relating to the implementation of The Hague Convention on adoption, NHQ will inform HRDC.

5.2. Hague Convention on adoption and immigration processing

See also Section 6, Definitions and Section 7, Procedure.

Canada is a signatory to the *Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption*. The Hague Convention on adoption applies to immigration cases in which both Canada and a child's country of residence are signatories to the Hague Convention. Provincial authorities make a determination as to whether the Hague Convention is applicable to a particular case.

In cases in which the Hague Convention applies, there are specific requirements that must be met that may affect immigration processing. See Section 7.1 for procedures to be followed in Hague

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Convention cases. See Appendix E for the complete process for Hague Convention cases, including the role of Canadian and foreign adoption authorities.

A pamphlet entitled *The Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption* is available through Call Centres. It explains to prospective adoptive sponsors how to contact provincial authorities for information about applying to adopt, and provides information on provincial requirements.

5.3. Regulatory requirements for adoption to be valid for immigration purposes

Requirement	Adoption under 18	Adoption over 18	To be adopted	References in OP 3
Home study	Yes	No	No	Section 5.4, Section 7.4
Consent of biological parents	Yes	No	No	Section 5.14
Genuine parent-child relationship	Yes	Yes	No	Section 5.9
Adoption in accordance with local laws	Yes	Yes	No	Section 5.7
Letter of no-objection	Yes	No	Yes	Section 5.6
Meet requirements or spirit of Hague Convention on adoption	Yes	No	Yes	Section 5.12, Section 6
Adoption in accordance with laws of country of residence of adoptive parents	Yes	No	No	Section 5.11
No evidence undue gain/ child trafficking	Yes	No	Yes	Section 5.12
Not a relationship of convenience	Yes	Yes	Yes	Section 5.8, Section 7.8
Adoptive parents have signed statement stating that they have information on child's medical condition	Yes	No	Yes	Section 5.13, Section 7.7
Child placed for adoption	No	No	Yes *	

*In non-Hague cases

5.4. Home study conducted by a competent authority

An assessment of prospective parents with respect to their suitability to adopt is undertaken by provincial and territorial authorities as a pre-condition to an adoption.

For immigration purposes, the Regulations require that in the case of an adoption a home study be conducted. Therefore, officers must ensure that a favourable home study conducted by a competent authority is available. In Canada, a competent authority includes provincial or territorial authorities and individuals authorized by those authorities, such as an accredited social worker.

A private adoption may take place outside Canada without a proper home study being done, even when the child is destined to Canada. This usually results in a letter of no-involvement by the provincial or territorial authorities.

See Section 7.4 for procedures if a home study has not been provided.

5.5. Provincial notification letters

The following table describes the types of provincial notification letters.

Type of Letter	Description
Letter of no-objection	The province or territory where the child will live must state in writing that it does not object to the adoption. This letter is commonly called a "no-objection letter." R117(1)(g)(iii)(B) and R117(3)(e) require that authorities in the province of destination state in writing that they have no objection to the adoption.

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	With respect to adopted children, the requirement for a letter of no-objection applies only to children adopted abroad by sponsors residing in Canada. If a sponsor resides abroad and an adoption takes place abroad, provincial authorities will not provide a letter of no objection.
Letter of no-involvement	Some provinces and territories issue a letter of no-involvement ("no-involvement letter") if an adoption is finalised abroad prior to the adopted child's arrival in Canada. The purpose of the letter of no-involvement is to inform the visa office abroad that an adoption order, which is in accordance with the laws of the place where the adoption took place, will be recognised by the adopting parents' province or territory of residence. Letters of "no-objection" or "no involvement" satisfy the requirement that adoption is recognised in the place of residence of the adopting parents and fulfil the requirements of R117(1)(g) (iii)(B) and R117(3)(e). Information about responsible authorities in the provinces and territories can be found in Appendix B. Province specific information can be found in Appendix A.
Letter (or notice) of agreement	In Hague Convention on adoption cases, the concerned provincial or territorial authorities will forward a letter (notice) of agreement to the visa office, with a copy to the central authority of the applicant's country of residence, indicating that the province and adoptive parents agree to the adoption. The letter of agreement fulfils the requirements of R117(1)(g)(ii), R117 (3)(f) and (g).

5.6. Provincial statement

If provincial or territorial authorities have issued a statement of no-objection to an adoption, R117(7) requires that any such statement be accepted by a visa officer as evidence that the requirements described in R117(7)(a), (b) and (c) have been met. This only applies after the visa officer determines that the adoption does not fall under the bad faith provision at R4 or R117(1)(g)(i). If the visa officer concludes that the adoption is described in either R4 or R117(1)(g)(i), the child is not a member of the family class and the officer must refuse the application.

5.7. Laws of the place where the adoption took place

The onus is on the adopting parent to provide evidence in respect of the minor's adoption that establishes that the adoption was in accordance with the laws of the place where it took place as required by R117(3)(d). In most cases, this evidence will be in the form of an adoption order issued by the competent authority. In general, the submission of a valid adoption order issued by the competent authority would, unless there is some information to the contrary, be satisfactory evidence that the applicable foreign adoption-law requirements have been met.

Officers should be particularly vigilant in assessing adoptions where:

- registration of the adoption order is not a legal requirement;
- the requirements of adoption laws are not strictly followed;
- the country does not authorize international adoptions.

In any of these circumstances, an officer should carefully consider whether the adoption fully complies with the laws of the country where it took place, creates a genuine parent-child relationship, is fraudulent or is otherwise an adoption of convenience. (See Section 5.8 and Section 5.9).

Adoptions legally recognized where they occur are recognized in all provinces of Canada, except in Quebec. In Quebec, tribunals must grant recognition after the child arrives in Canada. This provincial process does not have any impact on immigration processing.

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An application may be refused if an adoption does not comply with the laws of the country where it occurred. In such cases, a child is not adopted and is not a member of the family class.

5.8. Adoption of convenience

Officers must assess the authenticity of relationships between adopting parents and adopted children. If there are reasonable grounds to believe that an adoption was undertaken primarily in order to gain a status or privilege under the Act in Canada for the applicant, the application must be refused.

In the context of the Hague Convention on adoption, adoptions of convenience should occur rarely because of the requirement for extensive involvement of appropriate authorities in both the sending and receiving countries. However, if after examining the facts of the case an officer is convinced that it is an adoption of convenience, the application should be refused notwithstanding the fact that it is a Hague Convention case.

See also Section 7.7 for procedures.

5.9. Genuine parent-child relationship

The existence of a parent-child relationship is most appropriately examined in the context of adoptions of convenience.

R117(3)(c) requires that an adoption create a genuine parent-child relationship. In order to meet this criterion, an adoption order must create a genuine parent-child relationship both in law and in fact.

To assess whether an adoption has created a genuine relationship of parent and child, officers should look closely at the effect of the adoption in order to determine:

- Whether the adoption completely severed the adopted child's former legal ties with their biological parents and created a new legal parent-child relationship;
- the authenticity of relationships between adoptive parents and adopted children. The primary purpose of an adoption must be to establish a parent-child relationship and not be for the purpose of assisting that child to gain admission to Canada; and
- whether the adoption was in accordance with the laws of the place where the adoption took place and the laws of the place of residence of the adoptive parent (See Section 5.7 and Section 5.11).

5.10. Best interests of the child

The term "best interests of the child" is a concept found in many legal instruments that deal with children's issues, such as the Hague Convention on adoption and the *Canada Divorce Act*.

The Regulations require that provincial/territorial authorities or another competent agency provide documentary evidence to satisfy a visa officer that qualified individuals have determined that an adoption is in the best interests of the child. This requirement is satisfied by a letter of no-objection issued by provincial or territorial child-welfare authorities which signifies that the requirements set out in R117(3) must be met in order for an adoption to be considered to be in the best interests of a child.

See also OP 4, Humanitarian and compassionate (H&C) grounds.

5.11. Laws of the country of residence of the adopting parents

R117(3)(e) requires that adoptions conform with the laws of the country of residence of the adopting parents.

As a starting point, officers must determine the adopting parents' "country of residence." In the majority of cases, it will be a province or territory in Canada. When it is not clear that the adopting parents' country of residence is Canada, officers must determine residency based on an assessment of all the circumstances of the case. The following factors should be taken into consideration:

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- whether it can be said that a particular country of residence is the place where adopting parents regularly, normally or customarily reside; or
- whether a particular country of residence is the country in which adopting parents have centralized their mode of existence.

Country of residence of the adopting parents: Canada

Where the adopting parents' country of residence is a province or territory in Canada, the adoption must comply with the province or territory's applicable adoption laws. See Appendix A for information on adoption legislation in specific provinces and territories.

Parents reside outside Canada

If a child is adopted abroad by parents who reside abroad, provincial or territorial authorities will not provide a letter of no-objection. However, the adoption must meet the requirements of the Act and Regulations, including that it is in accordance with the laws in the jurisdiction in which it took place.

5.12. Child trafficking and undue gain

Even if the Hague Convention on adoption does not apply an adoption must have been undertaken in accordance with the intent and spirit of the Hague Convention on adoption. Even though the Hague Convention on adoption applies in few cases, there are two guiding principles that should be considered in **all** adoption cases. If an officer has evidence that child trafficking has taken place or that there was undue gain in the process (a child was sold or that improper financial gain took place), the officer should refuse the case on the basis that the requirements were not met according to the spirit and intent of the Hague Convention on adoption. (R117(1)(g)(ii) and (iii)(A) and R117(3)(g)).

Child trafficking and undue gain contravene the laws of most countries and should be very rare, both in Canada and in the country where the adoption takes place. Child trafficking and undue gain are illegal in most jurisdictions so such cases would therefore not meet the requirements of R117(1)(g)(ii) and (iii)(A) and R117(3)(g) and must be refused.

5.13. Parents fully and reliably informed about all aspects of a child's medical condition

R118 requires that adoptive parents provide a written statement to the visa office confirming that they have obtained information regarding the child's medical condition. Adoptions have failed in the past and even resulted in child abandonment when the prospective family was ill equipped to deal with a particular medical condition, or had been misinformed.

See Section 7.7 for procedures.

5.14. Consent of the biological parents

In all cases of adoption, the genuine and informed consent of the biological parents (where applicable) must be provided (R117(3)(b)).

If both parents are alive, both should give consent. In the event that only one parent gives consent to an adoption officers must be satisfied that the second parent has no legal rights with respect to the child.

5.15. Natural parents cannot be sponsored

An adoption severs a child's legal relationship to birth parents R3(2). An adopted child cannot later sponsor a birth parent. Officers at the CPC will try to verify that sponsors submitting IMM 1344AE for parents or grandparents are not in this situation.

If there are doubts, check for an immigration file for the sponsor.

Inform the CPC if a child who was adopted outside the family has sponsored a birth parent. CPC staff will tell such sponsors they are ineligible, as the parents/grandparents are not members of the family class.

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5.16. Revocation of an adoption

Foreign or Canadian authorities may revoke foreign adoptions. If it is evident that revocation occurred in order to facilitate sponsorship, the sponsor is not eligible (R133(5)).

If an officer is satisfied that revocation was not undertaken in order to facilitate the sponsorship of a member of the family class, the sponsorship may proceed. If a visa officer believes that the reason for revocation was to allow sponsorship of a member of the family class and more evidence is required in order to support a refusal of the application, inform the CPC for referral to a local CIC for investigation.

In some jurisdictions, an adoption cannot be revoked. Check with the visa office responsible for the country in which the adoption took place to determine whether revocation is possible.

5.17. Guardianship

The regulations on guardianship have not been proclaimed as provincial and territorial governments are not in a position to implement the regulations. No cases may be processed under the guardianship provisions until such time as the regulations are proclaimed.

5.18. Orphaned relatives

Orphaned relatives may be sponsored provided that they are under 18 years of age, unmarried and not in a common-law relationship and are the sponsor's brother or sister, nephew or niece or grandchild. (R117(1)(f)).

In all cases of orphaned relatives, officers must request written consent of the appropriate authorities in the country of residence of the child, before the child may be removed from that country. Written consent of any legal guardians must also be obtained.

Service aux garants et aux candidats à l'immigration may approve "engagements" for orphans on receipt of a positive recommendation from a *Centre Jeunesse*. The *Centre Jeunesse* does a home study before making a recommendation.

5.19. Sponsorships of unnamed children

CPC-M treats applications to sponsor unnamed children the same way as those for named children. Upon approval of the sponsorship, CPC-M informs sponsors that they must provide full particulars to the provincial authorities when a child has been identified. It will also instruct sponsors to submit an application for permanent residence to the visa office responsible for the child's country of residence, when a child is identified.

5.20. Processing priorities

With respect to processing priorities, visa offices should be mindful that cases involving adoption may involve minors who have been abandoned and placed with child-welfare authorities and, as a result, are without parental care. Priority should be given to dealing with such cases.

5.21. Adult adoptions

R117(4) provides for sponsorship of a person who was adopted after reaching the age of 18. In such cases the following requirements must be met:

- The adoption must be in accordance with the laws of the place where it took place;
 - A genuine parent-child relationship must have been established before the applicant turned 18 years of age and continues to exist; and
 - The adoption was not undertaken primarily in order to gain status or privilege under the Act in Canada.
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6. Definitions

Adoption	An adoption, for the purposes of the Regulations, means an adoption
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	that creates a legal parent-child relationship and severs the pre- existing legal parent-child relationship. (R3(2))
Dependent child	The definition of dependent child includes someone who has been legally adopted regardless of their age at the time of the adoption. (R2)
Hague Convention on adoption	<p><i>Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption</i> sets minimum standards and procedures for adoptions between countries. The Hague Convention is intended to end unethical adoption practices. It also promotes cooperation between countries and puts in place procedures that minimize the chance of exploitation of children, birth parents or adoptive parents during the adoption process.</p> <p>Under the Hague Convention, states designate "central authorities" that administer inter-country adoptions in a manner consistent with the provisions of the Convention. In the case of Canada, the provinces/ territories regulate adoptions so each has designated such authorities. It is the provincial/territorial authorities who must determine whether the Hague Convention on adoption applies to a particular case.</p> <p>The Hague Convention requires that the authorities in the child's country (sending country) ensure that:</p> <ul style="list-style-type: none"> • the child is legally free for adoption; • the birth parents have consented to the adoption in the child's best interest and understand the consequences for their parental rights; and • the decision to place a child for adoption is not motivated by financial gain. <p>The central authority in the adoptive parent's country (receiving country) must ensure that:</p> <ul style="list-style-type: none"> • the adoptive parents are eligible and suitable to adopt; and • the appropriate authorities have decided that the child will be allowed to enter and live permanently in the country. <p>In a Hague Convention case, an adoption may be finalized only after the sending and receiving countries have verified the above information. A list of countries signatory to the Convention can be found in Appendix C.</p>
Adoption under 18	See R117(2) and (3) and R117(1)(b).
Guardianship	See R117(1)(2) and R117(5). Note: regulation not proclaimed
Adoption over 18	See R117(4) and R117(1)(b).
Child to be adopted	See R117(1)(g).

7. Procedure

7.1. How to proceed in Hague Convention on adoption cases

See also Section 5.2, Section 5.3, Section 6 and Appendix E.

Provincial adoption authorities are responsible for the identification of cases in which The Hague Convention on adoption applies. The provincial letter authorizing the adoption under the Hague Convention replaces the letter of no-objection (See Section 5.5).

In Hague Convention cases, adoptions may be finalized only when the child meets all requirements for obtaining permanent resident status in Canada.

When an application is received in the case of an adoption to which the Hague Convention on adoption applies and a notice of agreement is received from provincial authorities, visa offices must do the following:

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- match up the sponsorship with the application form and notice of agreement from the province or territory;
- issue the medical examination form IMM 1017E, as appropriate;
- when the child meets immigration requirements (see section 5.3), promptly notify the provincial central authority (see list of central authorities in Appendix B) by faxed letter (see Appendix D). This notification will enable the central authority in the country of origin to finalize the adoption; and
- when the visa office has been notified that adoption procedures or the child's transfer to the adoptive parents is complete, the visa office must verify that the sponsors have authority to take the child to Canada. That authority may be either the final adoption order if the adoption has taken place, or a custody order if the adoption will occur in Canada.

All adoption cases under the Hague Convention on adoption must be approved by the central authorities of the country of origin and the receiving province/territory before a permanent resident visa may be issued. Instances of children being adopted without approval from central authorities should occur only very rarely. If an adoption ever takes place without approval from the central authorities, sponsors should be advised to refer the case to the central authorities for their consideration. If the central authorities do not approve the adoption, the visa officer must refuse the application because it does not comply with R117(1)(g)(ii) or R117(3)(f). There is no right of appeal for the sponsor because the child to be adopted is not a member of the family class.

7.2. How to proceed in non-Hague Convention on adoption cases

See also Section 5.3.

When application forms and a sponsorship have been received in a non-Hague Convention case, visa offices should do the following:

- issue medical instructions, as appropriate;
- verify that a home study has been conducted or approved by provincial, territorial or other competent authorities;
- ensure that a letter of no-objection from provincial or territorial authorities is on file where the parent resides in Canada;
- if there is no letter of no-objection, ask the sponsor to contact CPC-M to request that they follow up with provincial authorities; and
- verify that the child has a valid travel document.

In cases of adoption in which the Hague Convention on adoption does not apply, the spirit of the Hague Convention on adoption should be respected by officers, particularly as it pertains to child trafficking and undue gain.

The requirements of R117(1)(g) and R117(2) and (3) must be met.

7.3. Processing orphaned relatives

When an application is received from an orphaned relative, the visa office must:

- verify that the child is an orphan, under 18 years of age on the date CPC-M received the IMM 1344EA including correct and complete cost recovery (processing) fees, is unmarried and not a common-law partner, and is related to the sponsor as set out in R117(1)(f);
- issue medical instructions.

Note: The question of guardianship arises in the case of young foreign nationals who are not accompanied or are not destined to a legal guardian. For the child's protection and well-being, officers should counsel sponsors to obtain legal guardianship of the child upon the child's arrival in the province of residence. This will ensure that the sponsor has legal obligations towards the sponsored child.

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7.4. Home study

See also Section 5.4 and CPC procedure for request of letter of no-objection, in Section 7.5.

If an officer does not have evidence that a home study has been done, the officer should:

- request the sponsor to provide proof that a home study has been conducted by an accredited social worker in the province or territory of residence of the parents. Provincial/territorial authorities can provide a list of accredited social workers.
 - if the parents reside outside Canada and adopt outside Canada, ask the sponsor to provide proof that a home study was conducted and approved by the local child welfare authorities or accredited social workers where the parents reside.
 - if it is clear that a home study was not done, officers may request that the sponsor obtain one from the competent authority or accredited social worker in the place of residence of the adopting parents.
 - if no such service is available, the sponsor should be refer to International Social Services in the country of residence of the parents and arrange for a home study to be conducted to determine the suitability of the adopting parents.
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7.5. CPC procedure for request of letter of no-objection

CPC-M does not require letters of no-objection/involvement to process undertakings. After reviewing a sponsorship application, CPC-M staff sends a letter to the provincial or territorial authority requesting issuance of either a letter of no-objection (non-Hague Convention for Adoption cases) or a notification of agreement (Hague Convention for Adoption cases) to the adoption proposal. The provincial or territorial authorities will make the determination between the two types of cases and inform the mission accordingly. The provincial authorities will contact the visa office directly.

If sponsors live in Quebec, CPC-M forwards undertakings to the *Service aux garants et aux candidats à l'immigration*. It also sends a letter to sponsors instructing them to contact the *Service aux garants et aux candidats à l'immigration* to sign an "engagement." The latter assesses sponsors. It sends copies of the "engagement" to the sponsor. The *Secrétariat à l'adoption internationale du Québec* is responsible for issuing letters of no-objection. It sends them directly to adopting parents.

7.6. Provincial confirmation

A visa officer may receive a letter of no objection from a province or territory for a case but the officer has evidence that provincial requirements in the Immigration Regulations have not been met. In such cases R117(8) requires that the officer refer the case back to the responsible province along with an explanation of the regulatory requirement that has not been met. The province must review the information and confirm whether the letter of no objection still stands.

Processing of the application should be suspended until a response from the province is received.

If the province confirms that the letter of no objection is still valid, the officer must determine whether to issue a visa or refuse the case.

See also Section 5.6.

7.7. Information on child's medical condition

Adoptive parents must provide a written statement in which they acknowledge that they have obtained medical information about the child they have or intend to adopt. A visa officer must be in receipt of this statement before a permanent resident visa may be issued. A standard medical acknowledgement letter will be issued to sponsoring parents with other permanent resident application material. They will be instructed to sign and return the letter to the mission when they have medical information concerning their child. (R118)

7.8. Identifying an adoption of convenience

See also Section 5.8.

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Officers must form an opinion on factors which, taken together, could make a reasonably prudent person conclude that an adoption has taken place to circumvent the Immigration and Refugee Protection Act and Regulations. (R4) No formal criteria exist for deciding whether or not an adoption is *bona fide*. Rather, an officer must consider all relevant information, which typically might include:

- the circumstances of the adoption;
- the whereabouts of the child's natural parents and the nature of their personal circumstances;
- who was included in the child's household before and after the adoption? (e.g., did the child continue to live in the same household as the natural parents even after the adoption?);
- do the adoptive parents provide financial and emotional support?;
- what reasons for the adoption did the child, the natural parents and the adoptive parents give?;
- the prevailing social and legal practices governing adoption in the child's home country; and
- in a case where the adoption took place a long time ago, is there evidence the child has lived with and been cared for by the adoptive parents?

If there is no documentary evidence, clearly explain in case notes why it is believed that the relationship is one of convenience.

If an officer suspects an adoption of convenience, interview the adoptive parents and, if applicable, the biological parents separately to identify discrepancies. Be fair to the applicants. Inform them of any doubts and give them a chance to allay them.

Note: Most missions have information about adoption in their territories. Consult with them for information about unfamiliar laws or practices.

7.9. Cost recovery and changing a child's name on the IMM 1344EA

If a sponsored child is no longer available for adoption, sponsors may ask CPC-M to replace the name on the IMM 1344EA with the name of another child. CPC-M must provide the new name to the visa office and the provincial adoption authority.

If the visa office is contacted first they should advise the sponsor to provide the name of the new child to CPC-M and the provincial adoption authority.

If the name change results in a file transfer, sponsors must pay the fee for this service.

7.10. Improperly documented arrivals –adoptions

See ENF 4, Port of entry examinations manual.

7.11. Establishing identity and relationship

See OP 2.

7.12. Identity and relationship documents

In cases of adoption the following documents must be provided to the visa office:

- identity documents for the child;
- documents that include names of the biological parents of the child; and
- final adoption order.

Assessment of relationship refers not only to the legal relationship between the adoptive family and the child, but also to the relationship of the child to their biological family.

Officers should request documents such as a birth certificate in order to ascertain who the biological parents of the child are.

See also OP 2.

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7.13. Visa issuance

Officers may not issue a permanent resident visa in a Hague Convention for Adoption case without notification of agreement from the provincial central authority.

When a child meets all immigration requirements:

- in a case in which the Hague Convention for Adoption applies, advise the provincial central authorities that an permanent resident visa will be issued. (See Appendix D)
- verify that the child has a travel document before issuing an permanent resident visa. If the sponsors have the authority to take the child to Canada and the child has a travel document, officers may issue a visa.
- if the child is to be adopted in the country of origin, use code FC9 (child adopted abroad). If the adoption is to take place in Canada, in the province of destination, use code FC6 (child to be adopted in Canada).
- if it is a Hague Convention for Adoption case, enter the abbreviation HAG for the special program in box 20 of the Confirmation of Permanent Residence (IMM 5292B). The numerical code is 60. LIDS, IDSO, CAIPS, STAIRS have been programmed to identify all adoption cases governed by the Hague Convention on adoption. Identification is necessary because Canada has an obligation to report the number of adoption cases dealt with under the Hague Convention on adoption.

7.14. Inadmissible cases

If an adopted child or a child to be adopted is inadmissible to Canada, the application should be refused. See the following table for more details.

Reason for admissibility/inadmissibility	Details
Medical	A child who has been adopted outside Canada or who will be adopted in Canada cannot be found to be inadmissible on the basis of a condition that may cause an excessive demand on health or social services (A38(2)(a)). In the case of an adoption under the Hague Convention on adoption, the Hague Convention on adoption requires that immigration requirements be met. If a child is inadmissible for medical reasons, the child does not meet immigration requirements and the adoption cannot be finalized. The provincial central authority and the sponsor must be notified.
Provincial no-objection	See also Section 5.5. If a case does not comply with the requirement that the province issue a letter of no-objection as per R117(1)(g)(iii)(B), or R117(3)(e) there is a right of appeal for the sponsor. However, because the child to be adopted is not a member of the family class as described in R117(1), the IAD will not consider humanitarian grounds (A65).
Adoption of convenience	In the case of an adoption of convenience, the officer refuses the application on the basis of R4 and explain in a refusal letter that the applicant does not comply with the definition of "adopted" and is not a member of the family class. R117(1)(g)(i) provides the basis for refusal if the sponsorship is for a child whom the sponsor intends to adopt in Canada. See also Section 5.8 and Section 7.8.
Not a member of the family class	If an applicant is not a member of the family class as defined in R117(1), the application must be refused.

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Appendix A Province-specific information for counselling

This section provides a quick overview of legislation in place in Alberta, British Columbia and Ontario that has a direct impact on the processing of adoption cases. This information is part of the counselling to be provided to parents.

Alberta

Bill 52 in Alberta contains legislation related to private international adoptions.

Section 58.(3) states:

"No petition for an adoption order shall be filed in respect of a child unless the child is a Canadian citizen or has been lawfully admitted to Canada for permanent residence". Therefore, residents of Alberta are unable to obtain an adoption order on behalf of a child who is not a permanent resident of Canada. A child who comes to Canada on a temporary resident permit, a temporary resident visa or a student visa cannot be adopted in Alberta. A Canadian or permanent resident couple who has a legal guardianship order for a child cannot obtain an adoption order, if the child has not obtained a permanent resident visa or Canadian citizenship prior to arrival in Canada. This legislation addresses long-standing concerns that birth parents' rights are being circumvented in adoption placements. By requiring the adoption to be completed prior to arrival in Alberta, or by having the adoption arrangements reviewed by an officer outside Canada, Alberta is seeking to ensure that all legal and birth-parent issues are addressed prior to the child's arrival in the province

British Columbia

Section 48.(1) of *British Columbia's Adoption Act* states:

"Before a child who is not a resident of British Columbia is brought into the province for adoption, the prospective parents must obtain the approval of the superintendent (of Adoptions) or an adoption agency." The adoption agency must be one licensed by the province.

Section 48.(2) states:

"that the superintendent or the adoption agency will grant approval if:

- the birth parent or other guardian placing the child for adoption has been informed about adoption and the alternatives to adoption;
- the prospective adoptive parents have been provided with information about the medical and social history of the child's biological family;
- a home study of the prospective adoptive parents has been completed in accordance with the regulations and the prospective adoptive parents have been approved on the basis of the home study, and;
- the consents have been obtained as required in the jurisdiction in which the child is resident".

Parents who have not obtained the approval prior to bringing the child to British Columbia are in contravention of the Act and such offence is punishable under the Offences and Penalties section of the Act. Exceptions to section 48 of the *Adoption Act* are made for a child brought into British Columbia for adoption by a relative of the child or by a person who will become an adoptive parent jointly with the child's birth parent, or if the child is a permanent ward of an extra-provincial agency. It is clear that the adoption of a foreign child brought into British Columbia without the approval of the Ministry is vastly restricted.

Ontario

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The *Ontario Inter-Country Adoption Act 1998* was proclaimed in full on March 8, 2000. Under the requirements for Ontario, the prospective adoptive parent(s), including those adopting relatives, must:

- Make an application to adopt with an international adoption agency that is licensed by the Ontario Ministry of Community and Social Services;
- Have an adoption home study completed by an adoption practitioner approved by a Ministry Director; and
- Obtain the Ministry Director's approval of their eligibility and suitability to adopt based on the home study report.

It is an offence for an Ontario resident to leave the province to adopt internationally or finalize an international adoption without satisfying each of these requirements. The penalty for contravention of this provision is, on conviction, a fine of up to \$2,000 or imprisonment for up to two years, or both.

Only international adoption agencies licensed by the Ministry of Community and Social Services under the *Inter Country Adoption Act* can operate in Ontario to facilitate international adoptions finalized outside Ontario. It is an offence for any other person or organization to provide this service.

In cases where the child's country requires Ontario's approval before the adoption can be finalized, the proposed adoption placement requires the approval of the Ministry Director.

Appendix B Provincial/territorial information and contacts for adoption cases

Province/Territory	Contact information (Central Authority)	Licensed Agency
Alberta (Hague)	Program Manager Adoption Services Alberta Children's Services 9th Floor, Seventh Street Plaza 10030-107 Street Edmonton, Alberta T5J 3E4 Tel: (780) 422-5641 Fax: (780) 427-2048 E-mail: anne.scully@gov.ab.ca	No
British Columbia (Hague)	Manager Adoption Branch Ministry for Children and Families P.O. Box 9705, Stn. Prov. Govt. Victoria, British Columbia V8W 9S1 Tel: (250) 387-3660 Fax: (250) 356-1864 E-mail: cheryl.fix@gems8gov.bc.ca	Yes
Manitoba (Hague)	Adoption Initiative Specialist Family Services and Housing Child Protection and Support Services Suite 201 - 114 Garry Street Winnipeg, Manitoba R3C 4V5 Tel: 204-945-1186 Fax: 204-945-6717	No

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	E-mail: Jashcroft@gov.mb.ca	
New Brunswick (Hague)	Provincial Adoption Coordinator Office for Family and Prevention Services Department of Family and Community Services 4th Floor, Carleton Place 520 King Street Fredericton, New Brunswick E3B 5G8 Tel: 506-444-5970 Fax: 506-453-2082 E-mail: joan.mix@gov.nb.ca	No
Newfoundland (Non- Hague)	Program Consultant Child, Youth and Family Services Health and Community Services Confederation Building P.O. Box 8700 St. John's, Newfoundland A1B 4J6 Tel: 709-729-5134 Fax: 709-729-6382 E-mail: edemsey@mail.gov.nf.ca	No
Northwest Territories (Hague)	Consultant, Adoptions Children and Family Services Health and Social Services 7th Floor , Centre Square tower Box 1320 Yellowknife, Northwest Territories X1A 2L9 Tel: (867) 873-7943 Fax: (867) 873-7706 E-mail: mary_beauchamp@gov.nt.ca	No
Nova Scotia (Hague)	Manager of Adoption and Foster Care Nova Scotia Department of Community Services P.O. Box 696 Halifax, Nova Scotia B3J 2T7 Tel: (902) 424-5367 Fax: (902) 424-0708 E-mail: DRYSDASM@gov.ns.ca	No
Nunavut Territory (Hague)	Population Health Department of Health and Social Services Box 800 Iqaluit, Nunavut X0A 0H0 Tel: (867) 975-5750 Fax: (867) 975-5705 E-mail: mirniq@gov.nu.ca	No
Ontario (Hague)	Coordinator, Private & International adoptions Adoption Unit, Central Services Management Support Branch Ministry of Community and Social Services 2 Bloor St. W, 24th Floor Toronto, Ontario M7A 1E9 Tel: (416)327-4730	Yes

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	Fax: (416) 327-0573 E-mail: rich.partridge@css.gov.on.ca	
Prince Edward Island (Hague)	Provincial Adoption Consultant Department of Health and Social Services Box 2000, Charlottetown, Prince Edward Island C1A 7N8 Tel: (902) 368-6514 Fax: (902) 368-6136 E-mail: vjmaceachern@ihis.org	No
Saskatchewan (Hague)	International/Inter-country Program Saskatchewan Social Services, Child and Family Services Division Adoption Program 1920 Broad Street Regina, Saskatchewan S4P 3V7 Tel: (306) 787-5698 Fax: (306) 787-0925 E-mail: janice.krumenacker@gov.sk.ca	No
Yukon (Hague)	Supervisor Family and Children's Services Health and Social Services Box 2703 (H-10) Whitehorse, Yukon Y1A 2C6 Tel: (867) 667-3473 Fax: (867) 393-6204 E-mail: maxine.kehoe@gov.yk.ca	No

See our Web site address: <http://www.cic.gc.ca/english/irpa/fs%2Dadoption.html>

Appendix C List of countries that have implemented the Hague Convention

List of countries that have implemented the Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption

See our Web site address: <http://www.cic.gc.ca/english/pub/you-asked/section-32.html>

Appendix D Sample letter the visa office sends to the provincial/territorial central authority

Date

Canadian Embassy

Immigration Section

Provincial Central Authority

Address

Dear Sir, Madam:

Subject: ***Child's name, date of birth, country of origin, file number. Prospective adoptive parents' names***

This refers to the application for permanent residence in Canada of "child's name" that "prospective parents names" intend to adopt.

As agreed with your Ministry with respect to the processing of an adoption case governed by the Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption, please be informed that "child's name" now meets the requirements of the *Immigration*

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and Refugee Protection Act and Regulations. We invite you to contact the Central Authority in the child's country of origin and the prospective adoptive parents to initiate the legal procedures for adoption/custody of the child. Please send us your notification of agreement to the adoption proposal if it has not been done already. A permanent resident visa will be issued to the child when we receive the travel document and the adoption order, if the child is adopted in the country of origin, or a confirmation that the transfer of the child to Canada has been authorized, if the adoption will take place in your province.

Please be assured that the permanent residence application of "child's name" will receive priority processing.

Yours sincerely,

Visa Officer
c.c. Sponsor

Appendix E Process for adoption – Hague Convention on adoption – Parents in Canada

- Sponsor submits sponsorship application to CPC-M indicating intention to adopt. Sponsorship names child to be adopted, or if the child has not been identified, indicates the country where the adoption will take place.
- CPC-M advises the adoption authority in the province/territory of intended destination of the sponsor's intent to adopt, provides information related to the child or country where adoption will take place and requests letter of no-objection or notice of agreement.
- Provincial adoption authority requests a home study of parents from a competent authority
- When the home study is received by province/territory, adoption authority prepares report on the competency of the parents and forwards it to the central adoption authority in the country where the child resides.
- The central adoption authority in the country where the child resides will review report and information on adoptive parents, match adoptive parents to a child, prepare an adoption proposal and forward the proposal to the adoption authorities in the province of destination.
- The provincial adoption authorities will review and assess information related to the child, provide provincial agreement and submit information to prospective parents for their approval.
- A notice of agreement signed by the parents and prepared by the province is forwarded by the province to the visa office and central adoption authority in the child's country of residence.
- The visa office will match information on the immigration application, the sponsorship information downloaded from CPC-M and the notice of agreement to form a complete file and application.
- The notice of agreement should be considered as fulfilling the requirements of R117(2) unless visa office has reasonable grounds to believe that the process of the central adoption authority in the child's country of residence lacks integrity and/or competency. (See also OP 3, section 6).
- If visa office is satisfied with the notice of agreement, it should then assess the child (applicant) against eligibility criteria and inform the provincial adoption authority of the results (applicant meets requirements). It in turn will inform the central adoption authority in the child's country of residence.
- Adoption procedures will be completed by the central adoption authority and adoption papers will be issued and forwarded to the visa office
- Once the adoption procedures have been completed and the final adoption order received, the visa officer may complete the immigration process and issue a visa.