

Permanent Resident Card or Travel Document Renewals

Permanent residents who are planning to travel outside Canada but whose permanent resident (PR) cards are about to expire must apply for renewal well in advance of the intended travel date. As in the case with most immigration-related applications, processing delays are very common and should therefore be expected and planned for.

The longer processing time for PR card renewals has been partly attributed to stricter scrutiny being conducted by Immigration, Refugees and Citizenship Canada (IRCC) of the applicant's compliance with PR residency requirements. The prevalence of fraudulent citizenship and PR card residency claims have unfortunately prejudiced everybody else, even those not guilty of similar activity, who are left to endure lengthier processing times.

However, there is a possible remedy in some cases. If a permanent resident needs to travel urgently and the PR card cannot be issued before one has to leave Canada, IRCC can try to expedite processing if the application is submitted at least three weeks before departure and no issues arise during processing.

If the expedited processing request fails for any reason, there is still the option of applying for a permanent resident travel document (PRTD) from a visa office outside Canada. Again, this application could be subject to processing delays for various reasons hence there is no guarantee or certainty when a PR could be issued a PRTD that will authorize reentry to Canada.

Permanent residents who have foreign-based businesses or employment, or are simply frequent travelers, are unfortunately most affected by this recent trend. Worse, some of them learn too late that the validity of a PR card does not ensure the maintenance of one's permanent resident status.

When PR cards were created under the *Immigration and Refugee Protection Act (IRPA)*, many erroneously thought that as long as they possess valid PR cards, their status as permanent residents will be safe. This is not necessarily true. Conversely, the lack of a valid PR card will not necessarily negate one's permanent resident status.

As a general rule, permanent residents are required to meet the residency obligation of two years (or 730 days) within every five-year period to maintain their PR status.

Some fail to realize that the two-year within every five-year period residency requirement to maintain PR status is a rolling requirement, i.e. the five-year period refers to the five years from the date of entry, hence it changes every time a PR reenters Canada. Moreover, the residency requirement only becomes subject of scrutiny if one reenters Canada, applies for a PR card renewal or for a PRTD.

Under current law, the residency obligation may be satisfied in any of the following ways:

1. actual physical presence in Canada;
2. if outside Canada accompanying a Canadian citizen spouse or common-law partner or is a child accompanying a parent;
3. if outside Canada and employed full-time by a Canadian business or in the public service of Canada or a province; and
4. if an accompanying spouse, common-law partner or child of a permanent resident who is employed full-time by a Canadian business or is in the public service of Canada or a province.

Although the residency requirement has become less stringent than the former six-months-for-every-year rule, there are other areas where longer physical presence may be important for permanent residents. One of these areas is that of maintaining provincial health insurance coverage. In Ontario, the required physical presence in Canada to maintain provincial health insurance coverage is at least 153 days (approximately five months) every year.

It must also be noted that with the recent stricter assessment of PR card applications, the burden of proving that one has satisfied the residency requirement falls on the PR card applicant. Thus, if there is no adequate evidence provided to support one's residency claim, this could result in longer processing delays (as more documentation will be required by CIC) or worse, a refusal of the application and consequent revocation of one's PR status. The revocation of PR status can be appealed to the Immigration Appeal Division (IAD) of the Immigration and Refugee Board. Aside from questions of law and possible denial of natural justice, the IAD also has jurisdiction to consider humanitarian and compassionate grounds in light of all the circumstances of the case. However, the chances of succeeding on appeal will depend on the evidence presented and the presiding board member's weighing of all factors involved.

A situation or action that could spell doom for one's permanent resident status, PR card or PRTD renewal, is misrepresentation. If it turns out that there was any misrepresentation of a material fact made in one's application for a PR card, PRTD or in the PR application itself, this can be used as a ground to initiate admissibility proceedings and may eventually lead to removal from Canada. Some common examples of misrepresentation involve falsified residence or travel history, undisclosed marital status or criminal records.

These issues should serve as a reminder that permanent residence in Canada is not as permanent as some might think. Clearly, the Canadian government may take steps to revoke one's permanent residency whenever certain conditions are not met or based on relevant legal or public policy considerations.

Whether you need to renew a PR card or are trapped outside of Canada because you cannot obtain a PRTD, the advice of an experienced immigration legal professional may be invaluable in helping you understand and navigate the ever-changing and complex immigration laws, rules and regulations.

This article is meant for legal information purposes only and not intended to provide specific legal advice. You should consult a legal professional to discuss your particular circumstances.

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