



# Immigrating to Canada

on the basis of your lesbian or gay relationship  
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This booklet contains general legal information. It is not legal advice. The information is accurate as of May 4, 2000. But the law changes frequently. You should consult a lawyer for information about your particular situation.

This pamphlet outlines the steps that are necessary to submit an application for permanent residence (otherwise called "to be landed") in Canada.

Applications for permanent residence on the basis of a relationship with a gay or lesbian who is either a Canadian or a permanent resident themselves in Canada are currently processed under "humanitarian and compassionate" considerations.

Basically the procedure involves assembling the customary documentation that all immigration applicants are required to produce, and then, in addition, collecting information that will show to Immigration Canada that your relationship is a serious, permanent one: in other words, that you are not just pretending to be same sex partners to avail yourself of a chance to immigrate to Canada.

## **1. Assembling Basic Information**

All applicants for permanent residence must submit

- an IMM8 (the application form; a blank one is available from our office)
- six passport photographs of the applicant
- a criminal record check (more about this later)
- birth certificate of the applicant and the Canadian partner
- if the Canadian partner is a landed immigrant, a copy of her/his permanent residence
- copies of all the pages of the passport of the applicant
- if divorced, copy of your divorce decree
- the fees for immigration
- a document checklist

## **2. Assembling Evidence of Your Relationship**

In order to demonstrate to Immigration that your relationship is serious, we typically include:

- a letter from you and from your Canadian partner explaining how you met, how long you have been together, how you came to make the decision about Canadian immigration, whether you are out to family/friends, and so on. These letters should be warm and affectionate, rather than short and formal.
- any documentation you have that you are financially independent. This could include copies of your wills, naming each other as beneficiaries; copies of joint bank accounts, if you have them; copies of insurance policies or employment beneficiary nomination forms from your workplace naming your partner as beneficiary
- any documentation you have that shows that you have lived at the same address from time to time — for example, mail addressed to both of you, or bills addressed to each of you at the same address
- letters of support from people in the lives of each person who know you as a committed couple. See sample, later.

### **3. What about children?**

If you have children under 19, or over 19 but going to school full time and dependent on you, they can immigrate with you. Separate IMM8 forms need to be completed for each child.

### **4. Our Part**

Once the application is complete, we will prepare a cover letter on your behalf, pulling together the story of your relationship, and dealing with any areas that might be difficult: if you have been together for a short time, if you have a minor criminal record, or other areas. We will assemble the supporting documentation, and review the application, criminal record check, and other documents.

### **5. Then What?**

If you are immigrating from the United States, your application will go first to Buffalo, New York, where it will be reviewed for completeness, and a medical form will be sent to you. The application will then be forwarded to one of five centres: Seattle, Los Angeles, Atlanta, New York or Buffalo, which is where the application will be assessed and your interview will be held. We can say which of those centres we prefer.

If you are immigrating from another country, we will discuss with you where it will be best to file your application.

You take the medical form to one of the approved doctors, who will complete the history and a cursory physical examination. The results are forwarded to Ottawa for review by the medical panel there, and then sent on to meet up with your application in the consul to which you have applied.

### **6. How Long Does It Take?**

That is the \$64,000 question. The answer: somewhere between 6 months and 36 months, and it is very hard to predict where in the range your application will fall.

### **7. What are the constraints while I am waiting**

We will review with you your specific immigration status and discuss what your options are in terms of visiting Canada or staying in Canada while the application is pending. Unless you are in an unusual occupation, like journalism for example, which you can do for an employer in your home country while living here, generally you may not work in Canada while your application is pending.

## **The Interview**

An interview is generally, but not always, required. Generally both you and your partner will be expected to attend.

As a general rule an interview lasts about half an hour, and is more of a formality than anything else. No one is trying to trick you or find you out. They want to be sure that you are who you say, and that your relationship is sincere. You may find yourself discussing the weather, or the relative merits of Canada and the country you are moving here from, or your employment history, or aspects of your relationship.

Don't worry about it. Whatever else, tell the truth! Nothing is less likely to get you in trouble than the truth; nothing is more likely to get you in trouble than for them to believe that you are lying.

If there are questions you don't know how you would answer, discuss them with us.

## **What Are My Chances?**

This is the good news.

Unless you have a serious or recent criminal record, or a health care problem likely to be a drain on Canada's health care system, *your chances are essentially 100%*.

**In other words, welcome to Canada. It is not whether you will get in, it is when.**

## **Criminal Record Check**

You must get a criminal record check for every country in which you have lived for more than six months since you were 18 years old.

This involves getting fingerprinted at the local RCMP detachment, then sending your fingerprints away to the office responsible for carrying out those checks in the country you have lived in. For the United States you need both a federal check, from the FBI, and a state check, from any state you have lived in longer than six months. We will give you the address(ed) you need to send the fingerprints to, along with a copy of the letter you should send. Generally criminal record checks are back within one month of the time you request it.

## Sample Letter of Support

A letter of support should

- have the name and address of the person writing it, and the date
- say how the writer met each of you, and when
- say that they know your relationship to be one which is solid, permanent, etc.
- tell an anecdote of being with the two of you, so that the immigration officer knows the letter is not just a form letter

**For example:**

[date]

Program Manager  
Immigration Canada

Dear Sir or Madam

Re: Janis Bogdonavich and Surjit Sandhu

I write in support Janis Bogdonavich's application to immigrate to Canada on the basis of her relationship with Surjit Sandhu.

I have known Surjit since we were in high school together in Vancouver and consider her a close friend of mine. I met Janis when Janis first came to visit Surjit in Vancouver in 1996. I had heard a great deal about her before she came, though, because Janis had fallen in love with her at a conference they both attended in New Orleans in 1995.

When Janis came to Vancouver Surjit invited me and several other of her friends over to meet her. We spent many happy times together over the six weeks Janis was here. I found Janis to be a thoughtful, competent, delightful woman. She and Surjit are very obviously deeply in love with each other. Surjit showed me the maple carving of a loon that Janis had carved for her. It was delicate, and beautiful, and strong all at once, and reminded me very much of how the two of them are together. I know they plan to spend the rest of their lives together.

Yours truly

[name, address]

This pamphlet contains legal information. It is *not* legal advice. Laws change quickly, and individual situations vary. To find out how the law affects your situation, contact me. First interviews are always free of charge.

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