

form all the powers and duties of the Chairman.

(3) Subject to subsections (2) and (4), the Chairman and at least two Vice-Chairmen shall be barristers or advocates of at least five years standing at the bar of a province.

(4) The member who, immediately prior to the coming into force of this Act, was Chairman of the Immigration Appeal Board established by section 3 of the *Immigration Appeal Board Act*, as it read before it was repealed by subsection 128(1) of this Act, and each member who at that time was a Vice-Chairman of that Board, shall continue to hold such office under this Act.

62. Each member shall be paid such remuneration for his services as is fixed by the Governor in Council, and is entitled to be paid reasonable travel and living expenses incurred by him while absent from his ordinary place of residence in the course of his duties under this Act.

63. The Chairman is the chief executive officer of the Board and has supervision over and direction of the work and staff of the Board.

64. (1) The head office of the Board shall be in the National Capital Region as described in the schedule to the *National Capital Act* and the Chairman and such other members as may be designated by the Governor in Council shall live in that Region or within reasonable commuting distance thereof.

(2) The Board may sit at such places in Canada as the Chairman considers appropriate in the circumstances.

(3) The Chairman and not less than two other members, or a Vice-Chairman and not less than two other members, constitute a quorum of the Board.

65. (1) The Board is a court of record and shall have an official seal, which shall be judicially noticed.

(2) The Board has, as regards the attendance, swearing and examination of witnesses,

(3) Sous réserve des paragraphes (2) et (4), le président et au moins deux vice-présidents doivent être des avocats inscrits au barreau d'une province depuis au moins cinq ans.

(4) A l'entrée en vigueur de la présente loi, le président et les vice-présidents en exercice de la Commission d'appel de l'immigration établie par l'article 3 de la *Loi sur la Commission d'appel de l'immigration*, abrogée par le paragraphe 128(1) de la présente loi, conservent leur poste en vertu de la présente loi.

62. Le gouverneur en conseil fixe le traitement des commissaires; ceux-ci sont indemnisés des frais raisonnables de déplacement et de séjour engagés dans l'exercice de leurs fonctions en vertu de la présente loi, hors de leur lieu ordinaire de résidence.

63. Le président est le principal dirigeant de la Commission. Il en surveille les travaux et en dirige le personnel.

64. (1) La Commission a son siège dans la région de la Capitale nationale définie à l'annexe de la *Loi sur la Capitale nationale*. Le président ainsi que les commissaires désignés par le gouverneur en conseil doivent résider dans ladite région ou à une distance raisonnable pour pouvoir se rendre assez rapidement au siège.

(2) La Commission peut siéger partout au Canada aux lieux que le président juge appropriés eu égard aux circonstances.

(3) Le président, ou un vice-président, et au moins deux commissaires constituent le quorum.

65. (1) La Commission est une cour d'archives; elle a un sceau officiel dont l'authenticité est admise d'office.

(2) La Commission a, en ce qui concerne la présence, la prestation de serment et l'in-

the production and inspection of documents, the enforcement of its orders and other matters necessary or proper for the due exercise of its jurisdiction, all such powers, rights and privileges as are vested in a superior court of record and, without limiting the generality of the foregoing, may

- (a) issue a summons to any person requiring him to appear at the time and place mentioned therein to testify to all matters within his knowledge relative to a subject-matter before the Board and to bring with him and produce any document, book or paper that he has in his possession or under his control relative to such subject-matter;
- (b) administer oaths and examine any person on oath; and
- (c) during a hearing, receive such additional evidence as it may consider credible or trustworthy and necessary for dealing with the subject-matter before it.

(3) The Board may, and at the request of either of the parties to an appeal made pursuant to section 72 or 73 shall, give reasons for its disposition of the appeal.

66. (1) Where a member resigns his office or otherwise ceases to hold office, he may, at the request of the Chairman, at any time within eight weeks after such event take part in the disposition of any appeal or determination in respect of any application for redetermination previously heard or considered by him, and for any such purpose he shall be deemed to be a member.

(2) Where a person to whom subsection (1) applies or any other member by whom an appeal or an application for redetermination has been heard is unable to take part in the disposition or determination thereof or has died, the remaining members who heard the appeal or application for redetermination may make the disposition or determination and for that purpose shall be deemed to constitute the Board.

67. The Board may, subject to the approval of the Governor in Council, make rules not inconsistent with this Act governing the activities of the Board and the practice and

terrogatoire des témoins, la production et l'examen des documents, l'exécution de ses ordonnances, et toute autre question relevant de sa compétence, tous les pouvoirs, droits et privilèges d'une cour supérieure d'archives et peut notamment

- a) adresser à toute personne une citation l'enjoignant à comparaître aux date et lieu indiqués pour témoigner sur toutes questions pertinentes à la contestation et dont elle a connaissance, et à apporter et produire tout document, livre ou écrit en sa possession ou sous sa responsabilité et se rapportant à cette contestation;
- b) faire prêter serment et interroger toute personne sous serment; et
- c) recevoir, au cours d'une audition, toute preuve supplémentaire qu'elle considère digne de foi et pertinente.

(3) La Commission peut et, sur demande de l'une des parties à un appel visé aux articles 72 ou 73, elle doit faire part des motifs de sa décision.

66. (1) Le commissaire qui a cessé d'exercer ses fonctions par suite de démission ou pour tout autre motif, peut, à la demande du président et dans un délai de huit semaines après la cessation de ses fonctions, participer à toute décision sur les appels et les demandes de réexamen qu'il avait préalablement entendus ou étudiés. A ces fins, il est réputé agir en qualité de commissaire.

(2) En cas de décès ou d'empêchement du commissaire visé au paragraphe (1) ou de tout autre commissaire qui a entendu un appel ou une demande de réexamen, les autres commissaires qui ont siégé avec lui peuvent rendre la décision, et à cette fin ils sont réputés constituer la Commission.

67. La Commission peut, sous réserve de l'approbation du gouverneur en conseil, établir des règles, compatibles avec la présente loi, concernant ses activités, ainsi que la pra-

procedure in relation to appeals, applications for redetermination and applications for release made to the Board under this Act.

68. For the purposes of the *Public Service Superannuation Act* the members appointed under subsection 59(2) and the members continued under subsection 60(5) shall be deemed to be employed in the Public Service.

69. (1) The Chairman shall, before the commencement of each fiscal year, prepare and forward to the Minister a report of the operations of the Board for the preceding calendar year.

(2) The Minister shall, within thirty days following the commencement of each fiscal year or, if Parliament is not then sitting, within the first thirty days next thereafter that Parliament is sitting, lay before Parliament a copy of the report received by him from the Chairman

tique et la procédure en matière d'appel, de demande de réexamen et de demande de mise en liberté en vertu de la présente loi.

68. Aux fins de la *Loi sur la pension de la Fonction publique*, les commissaires nommés en vertu du paragraphe 59(2) ainsi que les membres de l'ancienne Commission maintenus en fonctions en vertu du paragraphe 60(5) sont réputés employés de la Fonction publique.

69. (1) Avant le début de chaque exercice financier, le président doit préparer et adresser au Ministre un rapport sur les activités de la Commission au cours de la précédente année civile.

(2) Le Ministre doit déposer devant le Parlement, dans les trente premiers jours de chaque exercice financier ou, si le Parlement ne siège pas, dans les trente premiers jours de la prochaine séance, une copie du rapport du président.

Redeterminations and Appeals

70. (1) A person who claims to be a Convention refugee and has been informed in writing by the Minister pursuant to subsection 45(5) that he is not a Convention refugee may, within such period of time as is prescribed, make an application to the Board for a redetermination of his claim that he is a Convention refugee.

(2) Where an application is made to the Board pursuant to subsection (1), the application shall be accompanied by a copy of the transcript of the examination on oath referred to in subsection 45(1) and shall contain or be accompanied by a declaration of the applicant under oath setting out

- (a) the nature of the basis of the application;
- (b) a statement in reasonable detail of the facts on which the application is based;
- (c) a summary in reasonable detail of the information and evidence intended to be offered at the hearing; and

Demandes de réexamen et appels

70. (1) La personne qui a revendiqué le statut de réfugié au sens de la Convention et à qui le Ministre a fait savoir par écrit, conformément au paragraphe 45(5), qu'elle n'avait pas ce statut, peut, dans le délai prescrit, présenter à la Commission une demande de réexamen de sa revendication.

(2) Toute demande présentée à la Commission en vertu du paragraphe (1) doit être accompagnée d'une copie de l'interrogatoire sous serment visé au paragraphe 45(1) et contenir ou être accompagnée d'une déclaration sous serment du demandeur contenant

- a) le fondement de la demande;
- b) un exposé suffisamment détaillé des faits sur lesquels repose la demande,
- c) un résumé suffisamment détaillé des renseignements et des preuves que le demandeur se propose de fournir à l'audition; et
- d) toutes observations que le demandeur estime pertinentes.

(d) such other representations as the applicant deems relevant to the application.

71. (1) Where the Board receives an application referred to in subsection 70(2), it shall forthwith consider the application and if, on the basis of such consideration, it is of the opinion that there are reasonable grounds to believe that a claim could, upon the hearing of the application, be established, it shall allow the application to proceed, and in any other case it shall refuse to allow the application to proceed and shall thereupon determine that the person is not a Convention refugee.

(2) Where pursuant to subsection (1) the Board allows an application to proceed, it shall notify the Minister of the time and place where the application is to be heard and afford the Minister a reasonable opportunity to be heard.

(3) Where the Board has made its determination as to whether or not a person is a Convention refugee, it shall, in writing, inform the Minister and the applicant of its decision.

(4) The Board may, and at the request of the applicant or the Minister shall, give reasons for its determination.

72. (1) Where a removal order is made against a permanent resident, other than a person with respect to whom a report referred to in subsection 40(1) has been made, or against a person lawfully in possession of a valid returning resident permit issued to him pursuant to the regulations, that person may appeal to the Board on either or both of the following grounds, namely,

- (a) on any ground of appeal that involves a question of law or fact, or mixed law and fact; and
- (b) on the ground that, having regard to all the circumstances of the case, the person should not be removed from Canada.

(2) Where a removal order is made against a person who

71. (1) La Commission, saisie d'une demande visée au paragraphe 70(2), doit l'examiner sans délai. A la suite de cet examen, la demande suivra son cours au cas où la Commission estime que le demandeur pourra vraisemblablement en établir le bien-fondé à l'audition; dans le cas contraire, aucune suite n'y est donnée et la Commission doit décider que le demandeur n'est pas un réfugié au sens de la Convention.

(2) Au cas où, conformément au paragraphe (1), la Commission permet à la demande de suivre son cours, elle avise le Ministre des date et lieu de l'audition et lui donne l'occasion de se faire entendre.

(3) La Commission, après s'être prononcée sur le statut du demandeur, en informe par écrit le Ministre et le demandeur.

(4) La Commission peut et, à la requête du demandeur ou du Ministre, doit motiver sa décision.

72. (1) Toute personne frappée par une ordonnance de renvoi qui est soit un résident permanent, autre qu'une personne ayant fait l'objet du rapport visé au paragraphe 40(1), soit un titulaire de permis de retour valable et émis conformément aux règlements, peut interjeter appel à la Commission en invoquant l'un ou les deux motifs suivants:

- a) un moyen d'appel comportant une question de droit ou de fait ou une question mixte de droit et de fait;
- b) le fait que, compte tenu des circonstances de l'espèce, elle ne devrait pas être renvoyée du Canada.

(2) Toute personne, frappée par une ordonnance de renvoi, qui

(a) has been determined by the Minister or the Board to be a Convention refugee but is not a permanent resident, or
 (b) seeks admission and at the time that a report with respect to him was made by an immigration officer pursuant to subsection 20(1) was in possession of a valid visa,

that person may, subject to subsection (3), appeal to the Board on either or both of the following grounds, namely,

(c) on any ground of appeal that involves a question of law or fact, or mixed law and fact, and

(d) on the ground that, having regard to the existence of compassionate or humanitarian considerations, the person should not be removed from Canada.

(3) Where a deportation order is made against a person described in paragraph (a) or (b) who

(a) is a person with respect to whom a certificate referred to in subsection 39(1) has been filed, or

(b) has been determined by an adjudicator to be a member of an inadmissible class described in paragraph 19(1)(e), (f) or (g),

that person may appeal to the Board on any ground of appeal that involves a question of law or fact, or mixed law and fact.

73. The Minister may appeal to the Board on any ground of appeal that involves a question of law or fact, or mixed law and fact, from a decision by an adjudicator that a person who was the subject of an inquiry is a person who may be granted admission or is not a person against whom a removal order should be made.

74. The Board may order that an inquiry that has given rise to an appeal be reopened before the adjudicator who presided at the inquiry or some other adjudicator for the receiving of any additional evidence or testimony, and the adjudicator who presides at the reopened inquiry shall file a copy of the minutes of the reopened inquiry, together with his assessment of such additional evidence or testimony, with the Board for its consideration in disposing of the appeal.

a) n'est pas un résident permanent mais dont le statut de réfugié au sens de la Convention a été reconnu par le Ministre ou par la Commission, ou

b) demande l'admission et était titulaire d'un visa en cours de validité lorsqu'elle a fait l'objet du rapport visé au paragraphe 20(1),

peut, sous réserve du paragraphe (3), interjeter appel à la Commission en invoquant l'un ou les deux motifs suivants:

c) un moyen d'appel comportant une question de droit ou de fait ou une question mixte de droit et de fait;

d) le fait que, compte tenu de considérations humanitaires ou de compassion, elle ne devrait pas être renvoyée du Canada.

(3) Lorsqu'une personne, visée aux alinéas (2)a) ou b), est frappée d'une ordonnance d'expulsion et

a) a fait l'objet d'une attestation visée au paragraphe 39(1), ou

b) appartient, selon la décision d'un arbitre, à une catégorie non admissible visée aux alinéas 19(1)e), f) ou g), elle ne peut interjeter appel à la Commission qu'en se fondant sur un motif d'appel comportant une question de droit ou de fait ou une question mixte de droit et de fait.

73. Le Ministre peut interjeter appel à la Commission de toute décision par laquelle un arbitre déclare qu'une personne qui a fait l'objet d'une enquête peut obtenir l'admission ou n'est pas susceptible de renvoi. Il doit invoquer un motif d'appel comportant une question de droit ou de fait ou une question mixte de droit et de fait.

74. La Commission peut ordonner la réouverture d'une enquête qui a donné lieu à un appel, par l'arbitre qui en était chargé ou par un autre arbitre à l'effet de recueillir des preuves ou des témoignages supplémentaires. L'arbitre chargé de mener l'enquête ainsi réouverte doit remettre à la Commission, pour lui permettre de statuer sur l'appel, une copie du procès verbal de l'enquête réouverte accompagnée de son appréciation des preuves ou témoignages supplémentaires.

75. (1) The Board may dispose of an appeal made pursuant to section 72

- (a) by allowing it;
- (b) by dismissing it; or
- (c) in the case of an appeal pursuant to paragraph 72(1)(b) or 72(2)(d), by directing that execution of the removal order be stayed.

(2) The Board may dispose of an appeal made pursuant to section 73

- (a) by allowing it and making the removal order that the adjudicator who was presiding at the inquiry should have made; or
- (b) by dismissing it.

(3) Where the Board disposes of an appeal made pursuant to section 73 by allowing it and making a removal order against the person, that person shall, where he would have had an appeal pursuant to this Act if such order had been made by an adjudicator after an inquiry, be deemed to have made an appeal to the Board pursuant to paragraph 72(1)(b) or 72(2)(d), as the case may be.

76. (1) Where the Board allows an appeal made pursuant to section 72, it shall quash the removal order that was made against the appellant and may

- (a) make any other removal order that the adjudicator who was presiding at the inquiry should have made; or
- (b) in the case of an appellant other than a permanent resident, direct that he be examined as a person seeking admission at a port of entry.

(2) Where the Board disposes of an appeal by directing that execution of a removal order be stayed, the person concerned shall be allowed to come into or remain in Canada under such terms and conditions as the Board may determine and the Board shall review the case from time to time as it considers necessary or advisable.

(3) Where the Board has disposed of an appeal by directing that execution of a removal order be stayed, it may, at any time,

- (a) amend any terms and conditions imposed under subsection (2) or impose new terms and conditions; or

75. (1) La Commission statuant sur un appel visé à l'article 72, peut

- a) l'accueillir;
- b) le rejeter; ou
- c) ordonner de surseoir à l'exécution de l'ordonnance de renvoi en cas d'appel fondé sur les alinéas 72(1)b) ou 72(2)d).

(2) La Commission statuant sur un appel visé à l'article 73 peut

- a) l'accueillir et prononcer l'ordonnance de renvoi que l'arbitre chargé de l'enquête aurait dû rendre; ou
- b) le rejeter.

(3) Lorsque la Commission accueille un appel visé à l'article 73 et prononce une ordonnance de renvoi, la personne visée, au cas où la présente loi lui accorderait le droit d'appel si l'ordonnance avait été rendue par un arbitre après enquête, sera réputée avoir interjeté un appel fondé sur les alinéas 72(1)b) ou 72(2)d), selon le cas.

76. (1) La Commission, en accueillant un appel visé à l'article 72, doit annuler l'ordonnance de renvoi et peut

- a) prononcer toute autre ordonnance de renvoi que l'arbitre chargé de l'enquête aurait dû rendre; ou
- b) ordonner, sauf s'il s'agit d'un résident permanent, que l'appellant soit examiné comme s'il demandait l'admission à un point d'entrée.

(2) Lorsque la Commission, en statuant sur un appel, ordonne de surseoir à l'exécution de l'ordonnance de renvoi, la personne concernée doit être autorisée à entrer ou à demeurer au Canada aux conditions que fixe la Commission. Celle-ci procédera à une révision de l'affaire chaque fois qu'elle juge opportun de le faire.

(3) Lorsque la Commission a statué sur un appel en ordonnant de surseoir à l'exécution de l'ordonnance de renvoi, elle peut, à tout moment,

(b) cancel its direction staying the execution of a removal order and

(i) dismiss the appeal and direct that the order be executed as soon as reasonably practicable, or

(ii) allow the appeal and take any other action that it might have taken pursuant to subsection (1).

a) modifier les conditions imposées en vertu du paragraphe (2) ou en imposer de nouvelles; ou

b) annuler sa décision de surseoir à l'exécution de l'ordonnance de renvoi, et

(i) rejeter l'appel et ordonner que l'ordonnance soit exécutée dès que les circonstances le permettent, ou

(ii) accueillir l'appel et prendre toute autre mesure visée au paragraphe (1).

77. Where a person against whom a removal order has been made is removed from or otherwise leaves Canada and informs the Board in writing of his desire to appear in person before the Board on the hearing of his appeal against the removal order, the Board may, if an appeal has been made, allow him to return to Canada for that purpose under such terms and conditions as it may determine.

77. La Commission peut, lorsqu'une personne ayant quitté le Canada par suite d'une ordonnance de renvoi l'avise par écrit de son désir de se présenter à l'audition de son appel relatif à ladite ordonnance, l'autoriser, à cette fin, à revenir au Canada aux conditions qu'elle fixe

78. Where a person against whom a removal order has been made files an appeal against that order with the Board but fails to communicate with the Board upon being requested to do so or fails to inform the Board of his most recent address, the Board may declare his appeal to be abandoned.

78. Lorsqu'une personne, ayant interjeté appel, auprès de la Commission, d'une ordonnance de renvoi dont elle faisait l'objet, néglige d'entrer en communication avec la Commission après y avoir été invitée ou d'informer cette dernière de son adresse la plus récente, la Commission peut déclarer que cette personne a renoncé à son appel.

Appeals by Sponsors

79. (1) Where a person has sponsored an application for landing made by a member of the family class, an immigration officer or visa officer, as the case may be, may refuse to approve the application on the grounds that

(a) the person who sponsored the application does not meet the requirements of the regulations respecting persons who sponsor applications for landing, or

(b) the member of the family class does not meet the requirements of this Act or the regulations.

and the person who sponsored the application shall be informed of the reasons for the refusal

(2) A Canadian citizen who has sponsored an application for landing that is refused

Appels interjetés par les répondants

79. (1) Un agent d'immigration ou un agent des visas peut rejeter une demande parrainée de droit d'établissement présentée par une personne appartenant à la catégorie de la famille, au motif que

a) le répondant ne satisfait pas aux exigences des règlements relatifs aux répondants, ou

b) la personne appartenant à la catégorie de la famille ne satisfait pas aux exigences de la présente loi ou des règlements.

Le répondant doit alors être informé des motifs du rejet.

(2) Au cas de rejet, en vertu du paragraphe (1), d'une demande de droit d'établissement

pursuant to subsection (1) may appeal to the Board on either or both of the following grounds, namely,

- (a) on any ground of appeal that involves a question of law or fact, or mixed law and fact; and
- (b) on the ground that there exist compassionate or humanitarian considerations that warrant the granting of special relief.

(3) The Board may dispose of an appeal made pursuant to subsection (2) by allowing it or by dismissing it, and shall notify the Minister and the person who made the appeal of its decision and the reasons therefor.

(4) Where the Minister has been notified by the Board that an appeal has been allowed pursuant to subsection (3), he shall cause the review of the application to be resumed by an immigration officer or visa officer, as the case may be, and the application shall be approved where it is determined that the person who sponsored the application and the member of the family class meet the requirements of this Act and the regulations, other than those requirements upon which the decision of the Board has been given

Release Pending Hearing

80. (1) A person who is being detained under this Act pending the hearing and disposition of an appeal made pursuant to this Act may apply to the Board for his release and the Board may order his release, except where the person is a person with respect to whom a certificate referred to in subsection 39(1) has been filed

(2) Where the Board orders the release of any person pursuant to subsection (1), it may impose such terms and conditions as it deems appropriate in the circumstances, including the payment of a security deposit or the posting of a performance bond.

(3) Where the Board orders the release of any person pursuant to subsection (1), it may direct a senior immigration officer to receive payment of any security deposit or to receive

ment parrainée par un citoyen canadien, celui-ci peut interjeter appel à la Commission en invoquant l'un ou les deux motifs suivants:

- a) un moyen d'appel comportant une question de droit ou de fait ou une question mixte de droit et de fait;
- b) le fait que des considérations humanitaires ou de compassion justifient l'octroi d'une mesure spéciale.

(3) La Commission, en statuant sur un appel visé au paragraphe (2), peut l'accueillir ou le rejeter. Elle doit notifier la décision ainsi que les motifs au Ministre et à l'appelant

(4) Le Ministre, avisé que l'appel a été accueilli en vertu du paragraphe (3), doit faire poursuivre l'examen de la demande par un agent d'immigration ou un agent des visas. Cette demande sera accueillie s'il est établi que le répondant et la personne appartenant à la catégorie de la famille satisfont aux exigences de la présente loi et des règlements, autres que celles qui ont fait l'objet de la décision de la Commission.

Mise en liberté en attendant l'audition

80. (1) Une personne, détenue en vertu de la présente loi en attendant l'audition et la décision relatives à l'appel qu'elle a interjeté en vertu de la même loi, peut demander sa mise en liberté à la Commission. Celle-ci peut ordonner la mise en liberté sauf s'il s'agit d'une personne ayant fait l'objet d'une attestation visée au paragraphe 39(1).

(2) La Commission peut assortir la mise en liberté visée au paragraphe (1) des conditions qu'elle juge appropriées eu égard aux circonstances, notamment du dépôt d'un gage ou d'un bon de garantie d'exécution

(3) En cas de mise en liberté prévue au paragraphe (1), la Commission peut désigner un agent d'immigration supérieur pour recevoir le gage ou le bon de garantie d'exécution

any performance bond required by the Board and to otherwise assist the Board in any matter relating to the release of the person.

(4) The Board may, at any time,

(a) cancel an order of release made pursuant to subsection (1) and direct that the person concerned be returned to custody; or

(b) vary or cancel any terms and conditions imposed by the Board.

et pour l'aider dans toute question relative à la mise en liberté.

(4) La Commission peut, à tout moment,

a) annuler une ordonnance de mise en liberté visée au paragraphe (1) et ordonner que la personne concernée soit remise sous garde; ou

b) modifier ou annuler les conditions qu'elle a imposées.

Notice of Hearing

81. A person who proposes to appeal to the Board shall give notice of the appeal in such manner and within such time as is prescribed by the rules of the Board.

82. An appeal to the Board shall be heard in public but if any party thereto so requests the Board may in its discretion direct that the appeal be heard *in camera*.

Avis d'appel et audition

81. La personne qui désire interjeter appel à la Commission doit donner avis de cet appel dans la forme et le délai prescrits par les règles de la Commission.

82. L'appel est entendu en audience publique; cependant, à la requête d'une partie, la Commission peut ordonner le huis clos.

Security

83. (1) Notwithstanding anything in this Act, the Board shall dismiss any appeal made or deemed by subsection 75(3) to have been made pursuant to paragraph 72(1)(b) or 72(2)(d) or pursuant to section 79 if a certificate (signed by the Minister and the Solicitor General) is filed with the Board stating that, in their opinion, based on security or criminal intelligence reports received and considered by them, it would be contrary to the national interest for the Board to do otherwise.

(2) A certificate purporting to be signed by the Minister and the Solicitor General pursuant to subsection (1) is proof of the matters stated therein and shall be received by the Board without proof of the signatures or official character of the persons appearing to have signed it unless called into question by the Minister or the Solicitor General.

Appeals to the Federal Court of Appeal

84. An appeal lies to the Federal Court of Appeal on any question of law, including a question of jurisdiction, from a decision of

Sécurité

83. (1) Par dérogation à toute autre disposition de la présente loi, la Commission doit rejeter tout appel fondé ou considéré comme tel en vertu du paragraphe 75(3), sur les alinéas 72(1)b) ou 72(2)d), ainsi que tout appel visé à l'article 79, au cas où le Ministre et le solliciteur général déclarent, dans une attestation portant leur signature et remise à la Commission, qu'à la lumière des rapports secrets qu'ils détiennent en matière de sécurité ou de criminalité, ils estiment que toute autre décision de la Commission irait à l'encontre de l'intérêt national.

(2) Lorsqu'elle est apparemment signée par le Ministre et le solliciteur général, conformément au paragraphe (1), l'attestation fait foi de son contenu devant la Commission, l'authenticité des signatures et le caractère officiel des signataires ne pouvant être contestés que par le Ministre ou par le solliciteur général.

Appel à la Cour d'appel fédérale

84. La décision de la Commission relative à un appel interjeté en vertu de la présente loi est susceptible d'appel à la Cour

the Board on an appeal under this Act if leave to appeal is granted by that Court based on an application for leave to appeal filed with that Court within fifteen days after the decision appealed from is pronounced, or within such extended time as a judge of that Court may, for special reasons, allow.

85. (1) When an application for leave to appeal or an appeal is made by the Minister from a decision of the Board on an appeal under this Act, the Federal Court of Appeal shall direct that all costs of and incident to the application for leave to appeal or the appeal, as the case may be, determined by that Court on a solicitor and client basis, be paid by Her Majesty.

(2) Except as provided in subsection (1), no order as to costs shall be made in respect of an application for leave to appeal or an appeal to the Federal Court of Appeal pursuant to this section.

d'appel fédérale sur toute question de droit, y compris de compétence, dans la mesure où ladite Cour accorde l'autorisation d'appel, sur demande déposée dans un délai de quinze jours du prononcé de la décision sujette à appel; ce délai peut, pour des raisons spéciales, être prorogé par un juge de ladite Cour.

85. (1) Lorsque le Ministre demande l'autorisation d'appel ou interjette appel d'une décision de la Commission statuant sur un appel en vertu de la présente loi, la Cour d'appel fédérale doit ordonner que la totalité des dépens et des frais accessoires, y compris les frais extra-judiciaires qu'elle détermine, soit payée par Sa Majesté.

(2) Sous réserve du paragraphe (1), il ne peut être rendu aucune ordonnance relative aux dépens en matière de demande d'autorisation d'appel ou d'appel interjeté à la Cour d'appel fédérale en vertu du présent article.

PART V

OBLIGATIONS OF TRANSPORTATION COMPANIES

86. (1) Subject to subsection (2), where a person

(a) is allowed to leave Canada pursuant to subsection 20(1) or 23(3), or

(b) is required to leave Canada by reason of

(i) the making of a rejection order,

(ii) the making of a direction to return to the United States pursuant to subsection 20(2) or 23(4), or

(iii) the making of a removal order,

the transportation company that brought him to Canada shall convey him or cause him to be conveyed,

(c) in the case of a person referred to in paragraph (a) or subparagraph (b)(i), to the place from which he came to Canada or to such other place as may be approved by the Minister at the request of the transportation company,

PARTIE V

OBLIGATIONS DES TRANSPORTEURS

86. (1) Sous réserve du paragraphe (2), le transporteur qui a amené au Canada une personne

a) qui est autorisée à quitter le Canada en vertu des paragraphes 20(1) ou 23(3), ou

b) qui doit quitter le Canada par suite

(i) d'une ordonnance de refoulement,

(ii) d'une directive l'enjoignant à retourner aux États-Unis en vertu des paragraphes 20(2) ou 23(4), ou

(iii) d'une ordonnance de renvoi,

doit la transporter ou la faire transporter

c) au lieu d'où elle est venue au Canada ou à tout autre lieu approuvé par le Ministre à la demande du transporteur, s'il s'agit d'une personne visée à l'alinéa a) ou au sous-alinéa b)(i),

d) aux États-Unis, s'il s'agit d'une personne visée au sous-alinéa b)(ii), ou

(d) in the case of a person referred to in subparagraph (b)(ii), to the United States, and

(e) in the case of a person referred to in subparagraph (b)(iii), to such country as is determined pursuant to subsection 54(2) or (3). 5

(2) Where a person referred to in subsection (1) has come to Canada through the United States and that country refuses to allow him to return or to be returned to it, the transportation company that brought him to the United States shall convey him or cause him to be conveyed 10

(a) in the case of a person referred to in paragraph (1)(a) or subparagraph (1)(b)(i) or (ii), to the place from which he came to the United States or to such other place as may be approved by the Minister at the request of the transportation company; and 20

(b) in the case of a person referred to in subparagraph (1)(b)(iii), to such country other than the United States as is determined pursuant to subsection 54(2) or (3). 25

87. (1) Where, pursuant to section 86, a transportation company is required to convey or cause to be conveyed any person who has not been granted admission, it is liable to pay all removal and detention costs of the person unless the person at the time of his arrival in Canada was in possession of a valid and subsisting visa. 30

(2) Where any person who is held in detention for an examination or inquiry under this Act is subsequently granted admission, the transportation company that brought him to Canada is liable to pay all detention costs of the person unless the person at the time of his arrival in Canada was in possession of a valid and subsisting visa. 35 40

(3) A transportation company is not liable to pay the removal or detention costs of any person who

- (a) is ordered removed from Canada, or
- (b) is detained

after he has been granted admission unless the person is a person referred to in section

e) au pays désigné conformément aux paragraphes 54(2) ou (3), s'il s'agit d'une personne visée au sous-alinéa b)(iii).

(2) Au cas où les États-Unis refusent de recevoir une personne entrée au Canada via les États-Unis et visée au paragraphe (1), le transporteur qui l'a amenée aux États-Unis doit la transporter ou la faire transporter 5

a) au lieu d'où elle est venue aux États-Unis ou à tout autre lieu approuvé par le Ministre à la demande du transporteur, s'il s'agit d'une personne visée à l'alinéa (1)a) ou aux sous-alinéas (1)b)(i) ou (ii); ou 10

b) à tout pays autre que les États-Unis, désigné conformément aux paragraphes 54(2) ou (3), s'il s'agit d'une personne visée au sous-alinéa (1)b)(iii). 15 20

87. (1) Le transporteur requis, en vertu de l'article 86, de transporter ou de faire transporter une personne qui n'a pas obtenu l'admission, est tenu de payer tous ses frais de renvoi et de détention, à moins qu'elle ne soit arrivée au Canada en possession d'un visa en cours de validité. 25 30

(2) Au cas où une personne, détenue aux fins d'examen ou d'enquête en vertu de la présente loi, obtient l'admission par la suite, le transporteur qui l'a amenée au Canada est tenu de payer tous ses frais de détention, à moins qu'elle ne soit arrivée au Canada en possession d'un visa en cours de validité. 35 40

(3) Le transporteur n'est pas tenu de payer les frais de renvoi ni de détention d'une personne qui, après avoir obtenu l'admission, est 35

- a) renvoyée du Canada, ou
- b) détenue.

88 or a person who came into Canada as a member of a crew and, without the approval of an immigration officer, failed to be on the vehicle when it left a port of entry.

88. Where, pursuant to section 86, a transportation company is required to convey or cause to be conveyed from Canada any person, it shall be notified thereof and given an opportunity of conveying him or causing him to be conveyed on one of its own vehicles or otherwise, but, where the transportation company, after being notified, is not prompt in furnishing transportation, the Minister may direct that arrangements be made for the removal from Canada of that person by another transportation company at the expense of Her Majesty and the obligated transportation company is liable, on demand, to reimburse Her Majesty for all removal and detention costs with respect to that person.

89. Every transportation company that is required to convey any person who is ordered removed from Canada, is rejected from Canada or is allowed or required to leave Canada shall

- (a) detain and guard safely the person concerned until he can be placed on board the vehicle on which he is to be conveyed;
- (b) accept on board such vehicle, guard safely and convey the person in accordance with the removal or rejection order or other order or direction; and
- (c) subject to any agreement between the transportation company and the person being conveyed respecting return fares, refrain from, directly or indirectly, making any charge or taking any remuneration or security in respect thereof.

90. (1) A transportation company bringing persons to Canada shall, upon the arrival of its vehicle in Canada, present each passenger seeking to come into Canada to an immigration officer for examination at such place as may be designated by a senior immigration officer and shall not allow any person to leave the vehicle

sauf s'il s'agit de la situation visée à l'article 88 ou d'une personne entrée au Canada à titre de membre d'équipage et qui, sans l'autorisation d'un agent d'immigration, a négligé de regagner son véhicule lors de son départ d'un point d'entrée.

88. Le transporteur doit être avisé lorsqu'en vertu de l'article 86, il est requis de transporter ou de faire transporter une personne; il doit avoir la possibilité de le faire avec ses propres véhicules ou autrement. Lorsque le transporteur, après avoir été avisé, ne fait aucune diligence à cet effet, le Ministre peut ordonner que des mesures soient prises pour que le transport de ladite personne soit effectué, aux frais de Sa Majesté, par un autre transporteur, auquel cas le transporteur à qui incombait le transport, est tenu de rembourser à Sa Majesté, dès qu'elle le réclame, les frais de détention et de transport.

89. Tout transporteur requis de transporter une personne renvoyée ou refoulée du Canada ou qui est autorisée ou contrainte à partir, doit

- a) détenir et garder sous surveillance la personne concernée jusqu'à ce qu'elle soit placée à bord du véhicule qui doit la transporter;
- b) prendre à bord du véhicule, garder sous surveillance et transporter ladite personne conformément à l'ordonnance de renvoi, de refoulement, ou à toutes autres ordonnances ou instructions; et
- c) s'abstenir, sous réserve d'un accord avec la personne transportée sur le prix du passage, de réclamer ou de prendre, directement ou indirectement, une rémunération ou garantie à cet égard.

90. (1) Le transporteur qui amène des personnes au Canada doit, à l'arrivée de son véhicule au Canada, présenter chaque passager désireux d'entrer au Canada, à l'examen d'un agent d'immigration, au lieu désigné par un agent d'immigration supérieur. Il doit interdire à toute personne de quitter le véhicule

(a) at any place other than that designated by a senior immigration officer; or
 (b) until permission has been granted by a senior immigration officer.

(2) The Minister may require any transportation company to provide, equip and maintain free of charge to Her Majesty buildings, accommodation or other facilities for the proper examination and detention of persons brought to Canada or to be removed from Canada on the vehicles, bridges or tunnels of the company.

91. (1) Immigration officers may board and inspect any vehicle bringing persons to Canada, examine any person carried by such vehicle, examine any record or document respecting any such person and seize and remove any such record or document for the purpose of obtaining copies thereof or extracts therefrom and may hold such vehicle until the inspection and examination are completed.

(2) An immigration officer may order the master of a vehicle to hold and detain on board the vehicle any person who arrived in Canada on that vehicle and who is not seeking to come into Canada.

92. (1) Where a medical officer is of the opinion that a person seeking to come into Canada is or may be, either pending his admission or pending his leaving Canada where admission has not been granted, suffering from sickness or mental or physical disability or has been in contact with a contagious or infectious disease, a senior immigration officer or a medical officer may direct that the person be afforded medical treatment or held for observation and diagnosis on board the vehicle by which he was brought to Canada or at an immigrant station or be taken to a suitable hospital or other place for treatment, observation and diagnosis.

(2) Any costs of treatment, medical attention and maintenance incurred with respect to a person described in subsection (1) may be recovered from the transportation company that brought the person to Canada

a) si ce n'est au lieu désigné par un agent d'immigration supérieur; ou
 b) avant qu'un agent d'immigration supérieur n'en ait donné la permission.

(2) Le Ministre peut exiger des transporteurs qu'ils fournissent, aménagent et entretiennent, sans frais pour Sa Majesté, des bâtiments, des locaux d'hébergement et autres installations convenables pour l'examen et la détention des personnes qu'ils ont amenées au Canada ou qu'ils doivent en ramener à bord de leurs véhicules ou en leur faisant emprunter leurs ponts ou tunnels.

91. (1) Les agents d'immigration peuvent monter, aux fins d'inspection, à bord de tout véhicule amenant des personnes au Canada, examiner lesdites personnes ainsi que les registres et documents qui les concernent, et saisir ces registres et documents pour en tirer des photocopies ou des extraits. Ils peuvent détenir tout véhicule jusqu'à la fin de l'inspection et de l'examen.

(2) Un agent d'immigration peut enjoindre au responsable d'un véhicule de garder et de détenir à son bord toute personne arrivée au Canada à bord dudit véhicule et qui n'est pas désireuse d'y entrer.

92. (1) La personne désireuse d'entrer au Canada qui, de l'avis d'un médecin, est susceptible, en attendant d'obtenir l'admission ou de repartir si l'admission n'est pas accordée, d'être atteinte d'une maladie ou d'une incapacité mentale ou physique, ou qui a été en contact avec une maladie contagieuse ou infectieuse, peut, sur l'ordre d'un agent d'immigration supérieur ou d'un médecin, être soignée ou gardée en observation pour diagnostic à bord du véhicule qui l'a amenée au Canada ou à un poste d'attente, ou à un hôpital ou autre lieu appropriés à ces fins

(2) Les soins médicaux et les frais d'entretien de la personne visée au paragraphe (1) peuvent être réclamés au transporteur qui l'a amenée au Canada, à moins qu'elle ne soit en possession d'un visa en cours de validité et

unless that person is in possession of a valid and subsisting visa and the transportation company establishes to the satisfaction of the Deputy Minister that that person's condition is not a result of any negligence of the transportation company

(3) A senior immigration officer or a medical officer may, where he considers it advisable for the proper care of a person referred to in subsection (1), authorize that a member of the person's family or other suitable attendant be kept with him during his period of medical attention and treatment, including, where applicable, his journey to the port of entry from which he will leave Canada, and the costs thereof shall be paid by the transportation company that brought him to Canada where the transportation company is required to pay costs of treatment, medical attention and maintenance pursuant to subsection (2).

(4) Where a person who is a member of the crew of a vehicle receives medical treatment or is hospitalized in Canada, the transportation company of whose vehicle that person is a member of the crew shall pay all costs incurred for such medical treatment or hospitalization including all costs incurred with respect to the departure from Canada of that person.

93. (1) The Deputy Minister may issue a direction to any transportation company requiring it to deposit, in prescribed manner, such sum of money or other security as he deems necessary as a guarantee that the transportation company will pay all fines and other amounts for which the transportation company may become liable under this Act.

(2) Where a vehicle owned or operated by a transportation company that has not deposited a sum of money or other security pursuant to a direction issued under subsection (1) comes into Canada, a senior immigration officer may issue a direction to the master of the vehicle or to the transportation company requiring the deposit of such sum of money or other security as he deems necessary as a guarantee that the transportation company will pay all fines and other amounts for which the transportation company may

que le transporteur n'établisse à la satisfaction du sous-ministre que l'état de santé de ladite personne n'est dû à aucune négligence de sa part.

(3) Un agent d'immigration supérieur ou un médecin peut, s'il le juge opportun pour assurer des soins convenables à la personne visée au paragraphe (1), autoriser un membre de sa famille ou toute autre personne appropriée à rester auprès d'elle au cours du traitement médical et notamment, s'il y a lieu, durant son voyage au point d'entrée d'où elle doit repartir. Les frais afférents sont à la charge du transporteur qui a amené ladite personne au Canada au cas où il doit acquitter les frais médicaux et d'entretien en vertu du paragraphe (2).

(4) Lorsqu'un membre de l'équipage d'un véhicule est soigné ou hospitalisé au Canada, le transporteur sur le véhicule duquel cette personne est membre d'équipage doit acquitter tous les frais médicaux ou hospitaliers ainsi engagés y compris les frais afférents au départ de cette personne du Canada.

93. (1) Le sous-ministre peut adresser des instructions à tout transporteur l'obligeant à déposer, dans la forme prescrite, une somme d'argent ou tout autre gage qu'il estime approprié pour garantir le paiement des amendes et autres frais qui pourraient être mis à sa charge en vertu de la présente loi.

(2) Un agent d'immigration supérieur peut adresser des instructions au responsable d'un véhicule ou au transporteur, qu'il soit propriétaire ou exploitant du véhicule, l'obligeant à déposer une somme d'argent ou autre gage qu'il estime approprié pour garantir le paiement, par le transporteur, des amendes et frais qui pourraient, du fait du véhicule, être mis à sa charge en vertu de la présente loi, et ce au cas où le transporteur n'aurait pas effectué de dépôt conformément aux instructions visées au paragraphe (1).

become liable under this Act in respect of that vehicle.

(3) Where a transportation company becomes liable to pay any fine or other amount under this Act, the Minister may direct or authorize that such fine or other amount be deducted from any sum of money deposited in accordance with a direction issued pursuant to subsection (1) or (2) or that proceedings be taken to recover such fine or other amount out of any other security so deposited.

(4) Any security deposited in accordance with a direction issued pursuant to subsection (1) or (2) may be returned or cancelled on a direction from the Deputy Minister or the senior immigration officer, as the case may be, that such security is no longer required.

94. (1) Where a transportation company, owner or master has, in the opinion of a senior immigration officer, failed to comply with any provision of this Part or any regulation made pursuant to paragraph 115(1)(p), (s), (bb), (cc), (dd), (ee), (ff) or (gg), the Minister, on giving written notice to the transportation company, may direct that there be deducted from any sum of money deposited in accordance with a direction issued pursuant to subsection 93(1) or (2) or that proceedings be taken to recover out of any other security so deposited an amount not exceeding the maximum amount that the transportation company, owner or master may be found liable to pay.

(2) Where a transportation company is given notice pursuant to subsection (1), it may, within ninety days after receiving the notice, file a notice of objection with the Minister after which the Minister shall

- (a) rescind or vary any direction made by him pursuant to subsection (1) to meet the objection; or
- (b) take such proceedings as are appropriate to determine whether or not the transportation company is liable to pay the amount that the Minister directed be deducted or recovered.

(3) Le Ministre peut ordonner ou autoriser que le montant des amendes ou des autres frais mis à la charge d'un transporteur en vertu de la présente loi, soit déduit de la somme déposée conformément aux instructions visées aux paragraphes (1) ou (2), ou que des poursuites soient engagées pour en recouvrer le montant par la réalisation du gage.

(4) Le sous-ministre ou l'agent d'immigration supérieur peut, par des instructions le déclarant sans objet, restituer ou annuler tout gage déposé conformément aux instructions visées aux paragraphes (1) ou (2).

94. (1) Au cas où un agent d'immigration supérieur estime qu'un transporteur, un propriétaire ou un responsable d'un véhicule, a contrevenu à la présente Partie ou à un règlement établi en vertu des alinéas 115(1)p), s), bb), cc), dd), ee), ff) ou gg), le Ministre peut ordonner, après avis écrit donné au transporteur, de déduire de la somme déposée conformément aux instructions visées aux paragraphes 93(1) ou (2), un montant ne dépassant pas le maximum qui pourra être mis à la charge du transporteur, du propriétaire ou du responsable d'un véhicule, ou d'engager des poursuites pour en recouvrer ledit montant par la réalisation de tout autre gage déposé.

(2) Le transporteur, dans les quatre-vingt-dix jours de la réception de l'avis visé au paragraphe (1), peut remettre un avis d'opposition au Ministre qui doit alors

- a) annuler ou modifier les instructions données en vertu du paragraphe (1) pour faire droit à l'opposition; ou
- b) engager des poursuites en vue d'établir si le montant dont le Ministre a ordonné la déduction ou le recouvrement doit être mis à la charge du transporteur.

PART VI
ENFORCEMENT

Offences and Punishment

95. Every person who

- (a) comes into Canada at any place other than a port of entry and fails to report to an immigration officer for examination as required by subsection 12(1), 5
- (b) comes into Canada or remains therein by use of a false or improperly obtained passport, visa or other document pertaining to his admission or by reason of any fraudulent or improper means or misrepresentation of any material fact, 10
- (c) is or came into Canada to become a member of a crew and, without the approval of an immigration officer, failed to be on the vehicle when it left a port of entry, 15
- (d) escapes or attempts to escape from lawful custody or detention under this Act,
- (e) knowingly fails to comply with any term or condition subject to which he was released from detention pursuant to paragraph 23(3)(b), section 80 or subsection 104(3), (5) or (7), 20
- (f) eludes examination or inquiry under this Act or, having received a summons issued by an adjudicator, fails, without valid excuse, to attend an inquiry or, where required by such summons, to produce any document, book or paper that he has in his possession or under his control relative to the subject-matter of the inquiry, 25
- (g) refuses to be sworn or to affirm or declare, as the case may be, or to answer a question put to him at an examination or inquiry under this Act, 35
- (h) knowingly makes any false or misleading statement at an examination or inquiry under this Act or in connection with the admission of any person or the application for admission by any person, 40
- (i) knowingly makes a false promise of employment or any false representation by reason of which a person is induced to seek admission or is assisted in any attempt to 45

PARTIE VI
APPLICATION

Infractions et peines

95. Toute personne

- a) qui entre au Canada à un endroit autre qu'un point d'entrée et qui ne se présente pas devant un agent d'immigration pour l'examen visé au paragraphe 12(1), 5
- b) qui entre au Canada ou y demeure soit sous le couvert d'un passeport, visa ou autre document relatif à son admission qui est faux ou obtenu irrégulièrement, soit par des moyens frauduleux ou irréguliers ou encore grâce à une représentation erronée d'un fait important, 10
- c) qui se trouve au Canada à titre de membre d'équipage ou y est entré pour le devenir et qui a, sans l'autorisation d'un agent d'immigration, négligé de regagner le véhicule lors de son départ d'un point d'entrée, 15
- d) qui, étant régulièrement en détention ou sous garde en vertu de la présente loi, s'évade ou fait une tentative d'évasion, 20
- e) qui sciemment ne respecte pas des conditions imposées pour sa mise en liberté en vertu de l'alinéa 23(3)b), de l'article 80 ou des paragraphes 104(3), (5) ou (7), 25
- f) qui se dérobe à un examen ou à une enquête prévus à la présente loi ou qui, ayant reçu de l'arbitre une citation à comparaître, néglige, sans excuse valable, d'assister à une enquête ou de produire les documents, livres ou papiers réclamés, relatifs à l'objet de l'enquête et qui se trouvent en sa possession ou sous sa responsabilité, 30
- g) qui refuse de prêter serment ou de faire une affirmation ou déclaration solennelle, ou encore de répondre à une question posée au cours d'un examen ou d'une enquête prévu par la présente loi, 35
- h) qui, de propos délibéré, fait une déclaration fautive ou trompeuse au cours d'un examen ou d'une enquête prévu à la présente loi, ou en sujet de l'admission d'une personne ou d'une demande d'admission par un tiers, 45

seek admission or by reason of which his admission is procured,

(j) for the purpose of encouraging, inducing, deterring or preventing immigration into Canada, publishes, disseminates or causes or procures the publication or dissemination of any false or misleading information or representations as to the opportunities for employment in Canada or other false or misleading information or representations, knowing that the information or representations are false or misleading,

(k) remains in Canada without the written authority of an immigration officer after he ceases to be a visitor,

(l) knowingly contravenes any existing term or condition subject to which he was granted admission or contravenes any term or condition added or as varied pursuant to subsection 17(2), or

(m) knowingly induces, aids or abets or attempts to induce, aid or abet any person to contravene any provision of this Act or the regulations,

is guilty of an offence and is liable

(n) on conviction on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both, or

(o) on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both.

96. Every person against whom a removal order is made who

(a) is removed from or leaves Canada, and

(b) comes into Canada contrary to subsection 57(1) or (2),

is guilty of an offence and is liable

(c) on conviction on indictment, to imprisonment for a term not exceeding two years, or

(d) on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both.

i) qui, de propos délibéré, fait une fausse promesse d'emploi ou une fausse déclaration, poussant ou aidant une personne à demander l'admission ou lui permettant de l'obtenir,

j) qui, en vue d'encourager, d'inciter, de décourager ou d'empêcher l'immigration au Canada, publie ou répand ou fait publier ou répandre des renseignements ou déclarations qu'elle sait faux ou trompeurs, notamment sur les possibilités d'emploi au Canada,

k) qui, n'ayant plus la qualité de visiteur, demeure au Canada sans l'autorisation écrite d'un agent d'immigration,

l) qui, de propos délibéré, ne respecte pas les conditions auxquelles elle a obtenu l'admission ou les conditions nouvelles ou modifiées qui lui ont été imposées en vertu du paragraphe 17(2), ou

m) qui, sciemment incite, aide ou encourage ou tente d'inciter, d'aider ou d'encourager une personne à enfreindre la présente loi ou les règlements, commet une infraction et est passible,

n) sur déclaration de culpabilité par suite d'une procédure par voie d'acte d'accusation, d'une amende de cinq mille dollars au maximum ou d'un emprisonnement d'une durée maximale de deux ans ou des deux peines à la fois, ou

o) sur déclaration sommaire de culpabilité, d'une amende de mille dollars au maximum ou d'un emprisonnement d'une durée maximale de six mois, ou des deux peines à la fois.

96. Toute personne, frappée d'une ordonnance de renvoi,

a) qui quitte le Canada ou en est renvoyée, et

b) qui revient au Canada en violation des paragraphes 57(1) ou (2),

commet une infraction et est passible,

c) sur déclaration de culpabilité par suite d'une procédure par voie d'acte d'accusation, d'un emprisonnement d'une durée maximale de deux ans, ou

d) sur déclaration sommaire de culpabilité, d'une amende de mille dollars au maximum ou d'un emprisonnement d'une

97. (1) Every person who knowingly engages in any employment any person, other than a Canadian citizen or permanent resident, who is not authorized under this Act to engage in that employment is guilty of an offence and is liable

(a) on conviction on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both; or

(b) on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both.

(2) For the purposes of subsection (1), a person knowingly engages in any employment a person who is not authorized to engage in that employment where, by the exercise of reasonable diligence, he would have known that the person was not so authorized.

(3) The Minister may by order direct the Unemployment Insurance Commission established under the *Unemployment Insurance Act, 1971* to issue to persons, other than Canadian citizens or permanent residents, Social Insurance Number Cards whereby the holders thereof are identified as persons who may be required by or under this Act to obtain authorization to engage or continue in employment in Canada.

98. Every person who

(a) being an immigration officer or an adjudicator, wilfully makes or issues any false document or statement in respect of any matter relating to his duties under this Act or accepts, agrees to accept or induces or assists any other person to accept any bribe or other benefit in respect of any matter relating to his duties under this Act or otherwise wilfully fails to perform his duties under this Act,

(b) being an immigration officer or an adjudicator, contravenes any provision of this Act or the regulations or knowingly

durée maximale de six mois, ou des deux peines à la fois.

97. (1) Quiconque engage une personne, autre qu'un citoyen canadien ou un résident permanent, en sachant que la présente loi ne l'autorise pas à prendre un tel emploi, commet une infraction et est passible,

a) sur déclaration de culpabilité par suite d'une procédure par voie d'acte d'accusation, d'une amende de cinq mille dollars au maximum ou d'un emprisonnement d'une durée maximale de deux ans ou des deux peines à la fois, ou

b) sur déclaration sommaire de culpabilité, d'une amende de mille dollars au maximum ou d'un emprisonnement d'une durée maximale de six mois ou des deux peines à la fois.

(2) Aux fins du paragraphe (1), quiconque engage une personne non autorisée, sans exercer une diligence raisonnable pour connaître sa situation, est réputée savoir que cette personne n'était pas autorisée à prendre un tel emploi.

(3) Le Ministre peut, par ordre, enjoindre à la Commission d'assurance-chômage établie par la *Loi de 1971 sur l'assurance-chômage* de délivrer aux personnes, autres que les citoyens canadiens et les résidents permanents, des cartes portant un numéro d'assurance sociale indiquant que le titulaire peut être tenu, en application de la présente loi, d'obtenir une autorisation pour prendre ou conserver un emploi au Canada.

98. Toute personne

a) qui, ayant la qualité d'agent d'immigration ou d'arbitre, établit ou délivre délibérément un document faux, fait à dessein une fausse déclaration dans une affaire entrant dans le cadre des fonctions que lui confère la présente loi, reçoit ou accepte de recevoir un pot-de-vin ou autre avantage dans le cadre d'une telle affaire ou encore incite ou encourage une personne à en accepter, ou manque délibérément aux obligations que lui impose la présente loi,

b) qui, ayant la qualité d'agent d'immigration ou d'arbitre, enfreint la présente

induces, aids or abets or attempts to induce, aid or abet any other person to do so,
 (c) gives, offers or promises to give any bribe or consideration of any kind to, or makes any agreement or arrangement with, an immigration officer or an adjudicator to induce him in any way not to perform his duties under this Act,
 (d) not being an immigration officer or an adjudicator, personates or holds himself out to be an immigration officer or an adjudicator, or takes or uses any name, title, uniform or description or otherwise acts in any manner that may reasonably lead any person to believe that he is an immigration officer or an adjudicator, or
 (e) obstructs or impedes an immigration officer or an adjudicator in the performance of his duties under this Act,
 is guilty of an offence and is liable
 (f) on conviction on indictment, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding five years or to both, or
 (g) on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both

99. Every person who knowingly contravenes any provision of this Act or the regulations or any order or direction lawfully made or given thereunder for which no punishment is elsewhere provided in this Act is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both

100. (1) Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is

loi ou les règlements, ou incite, aide ou encourage délibérément une autre personne à les enfreindre, ou fait des tentatives à cet effet,
 c) qui donne, offre ou promet un pot-de-vin ou autre avantage quelconque à un agent d'immigration ou à un arbitre pour l'inciter de quelque manière à manquer aux obligations que la présente loi lui impose, ou conclut un accord ou un arrangement avec un tel fonctionnaire dans le même but,
 d) qui se fait passer pour un agent d'immigration ou un arbitre ou adopte ou utilise un nom, un titre, un uniforme, des attributs ou une attitude susceptibles de faire accroire qu'elle est un agent d'immigration ou un arbitre, ou
 e) qui gêne ou entrave l'action d'un agent d'immigration ou d'un arbitre dans l'exercice des fonctions que lui confère la présente loi,
 commet une infraction et est passible,
 f) sur déclaration de culpabilité par suite d'une procédure par voie d'acte d'accusation, d'une amende de dix mille dollars au maximum ou d'un emprisonnement d'une durée maximale de cinq ans, ou des deux peines à la fois, ou
 g) sur déclaration sommaire de culpabilité, d'une amende de mille dollars au maximum ou d'un emprisonnement d'une durée maximale de six mois, ou des deux peines à la fois.

99. Toute violation de la présente loi ou des règlements, ordonnances et directives régulièrement établis sous son empire, pour laquelle aucune peine n'est prévue dans la présente loi, constitue, lorsqu'elle est commise sciemment, une infraction punissable, sur déclaration sommaire de culpabilité, d'une amende de mille dollars au maximum ou d'un emprisonnement d'une durée maximale de six mois ou des deux peines à la fois

100. (1) Lorsqu'une corporation a commis une infraction à la présente loi, les dirigeants, administrateurs ou mandataires de la corporation qui ont ordonné ou autorisé la commission de l'infraction, y ont consenti, acquiescé ou participé, sont parties à cette

liable on conviction to the punishment provided for the offence whether or not the corporation is prosecuted or convicted therefor.

(2) In any prosecution for an offence under this Act it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or prosecuted for the offence, unless the accused establishes that the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission.

101. Any act or omission that would, by reason of this Act or the regulations be punishable as an offence if committed in Canada is, if committed outside Canada, an offence under this Act or the regulations and may be tried and punished in Canada.

102. (1) Any proceedings in respect of an offence under this Act may be instituted, tried and determined at the place in Canada where such offence was committed or at the place in Canada where the person charged with the offence is or has an office or place of business at the time of the institution of such proceedings.

(2) Any proceedings in respect of an offence under this Act or the regulations that is committed outside Canada may be instituted, tried and determined at any place in Canada.

103. (1) Where pursuant to any provision of this Act, other than section 93, a bond is required to be posted, the bond may be enforced in accordance with the terms thereof in the Federal Court for the face value of the bond which face value shall be deemed to be liquidated damages.

(2) All fines and forfeitures imposed or recovered under this Act belong to Her Majesty and form part of the Consolidated Revenue Fund

infraction, en sont coupables et sont passibles, sur déclaration de culpabilité, de la peine applicable à cette infraction, que la corporation ait ou non été poursuivie ou déclarée coupable.

(2) Dans toute poursuite relative à une infraction à la présente loi, il suffit, pour établir l'infraction, de prouver qu'elle a été commise par un employé ou un mandataire de l'accusé, que l'employé ou le mandataire ait ou non été identifié ou poursuivi pour l'infraction, à moins que l'accusé ne prouve que l'infraction a été commise à son insu ou sans son consentement et qu'il avait pris toutes les mesures nécessaires pour en empêcher la perpétration.

101. L'auteur d'une infraction à la présente loi ou aux règlements, même commise à l'étranger, peut être jugé et condamné au Canada.

102. (1) Les poursuites consécutives à une infraction à la présente loi peuvent être intentées, jugées et réglées au Canada, au lieu de commission de l'infraction ou à celui où, à la date de ces poursuites, l'inculpé se trouve ou bien a un bureau ou un établissement.

(2) Les poursuites consécutives à la commission d'une infraction à la présente loi ou aux règlements, commise à l'étranger, peuvent être intentées, jugées et réglées n'importe où au Canada.

103. (1) Au cas où le dépôt d'un bon de garantie est exigé en vertu des dispositions de la présente loi, à l'exception de l'article 93, la réalisation des engagements du bon de garantie pourra être poursuivie à la Cour fédérale pour la valeur nominale du bon qui sera réputée être le montant liquidé des dommages.

(2) Les amendes perçues et sommes confiscées en vertu de la présente loi appartiennent à Sa Majesté et font partie du Fonds du revenu consolidé

Arrest and Detention

104. (1) The Deputy Minister or a senior immigration officer may on reasonable grounds issue a warrant for the arrest and detention of any person with respect to whom an examination or inquiry is to be held or a removal order has been made where, in his opinion, the person poses a danger to the public or would not otherwise appear for the examination or inquiry or for removal from Canada.

(2) Every peace officer in Canada, whether appointed under the laws of Canada or of any province or municipality thereof, and every immigration officer may, without the issue of a warrant, an order or a direction for arrest or detention, arrest and detain or arrest and make an order to detain

(a) for an inquiry, any person who on reasonable grounds is suspected of being a person referred to in paragraph 27(2)(b), (e), (f), (g), (h), (i) or (j), or

(b) for removal from Canada, any person against whom a removal order has been made that is to be executed,

where, in his opinion, the person poses a danger to the public or would not otherwise appear for the inquiry or for removal from Canada.

(3) Where an inquiry is to be held or is to be continued with respect to a person or a removal order has been made against a person, an adjudicator may make an order for

(a) the release from detention of the person, subject to such terms and conditions as he deems appropriate in the circumstances, including the payment of a security deposit or the posting of a performance bond;

(b) the detention of the person where, in his opinion, the person poses a danger to the public or would not otherwise appear for the inquiry or continuation thereof or for removal from Canada; or

Arrestation et détention

104. (1) Le sous-ministre ou un agent d'immigration supérieur peut, en se fondant sur des motifs raisonnables, émettre un mandat d'arrestation et de détention visant toute personne qui doit faire l'objet d'un examen ou d'une enquête ou qui est frappée par une ordonnance de renvoi, lorsqu'il estime que ladite personne constitue une menace pour le public ou qu'à défaut de cette mesure, elle ne se présentera pas à l'examen ou à l'enquête, ou n'obtempérera pas à l'ordonnance de renvoi.

(2) Tout agent de la paix au Canada, nommé en vertu d'une loi fédérale, provinciale ou d'un règlement municipal, et tout agent d'immigration peuvent, sans mandat, ordre ou directive à cet effet, arrêter et détener ou arrêter et ordonner la détention

a) aux fins d'enquête, de toute personne soupçonnée, pour des motifs valables, de faire partie de l'une des catégories visées aux alinéas 27(2)b), e), f), g), h), i) ou j), ou

b) aux fins de renvoi du Canada, de toute personne frappée par une ordonnance de renvoi exécutoire,

au cas où ils estiment que ladite personne constitue une menace pour le public ou qu'à défaut de cette mesure, elle ne se présentera pas à l'enquête ou n'obtempérera pas à l'ordonnance de renvoi.

(3) Au cas où une personne doit faire l'objet d'une enquête ou d'un complément d'enquête ou est frappée par une ordonnance de renvoi, un arbitre peut ordonner

a) sa mise en liberté, sous réserve des conditions qu'il juge appropriées aux circonstances et notamment du dépôt d'un gage ou d'un bon de garantie d'exécution;

b) sa détention s'il estime qu'elle constitue un danger pour le public ou qu'à défaut de cette mesure, elle ne se présentera pas à toutes les phases de l'enquête ou n'obtempérera pas à l'ordonnance de renvoi; ou

c) la fixation des conditions qu'il juge appropriées aux circonstances et notamment le dépôt d'un gage ou d'un bon de garantie d'exécution.

(c) the imposition of such terms and conditions as he deems appropriate in the circumstances, including the payment of a security deposit or the posting of a performance bond.

(4) Where any person is detained for an examination or inquiry pursuant to this section, the person who detains or orders the detention of that person shall forthwith notify a senior immigration officer of the detention and the reasons therefor.

(5) A senior immigration officer may, within forty-eight hours from the time when a person is placed in detention pursuant to this Act, order that the person be released from detention subject to such terms and conditions as he deems appropriate in the circumstances, including the payment of a security deposit or the posting of a performance bond.

(6) Where any person is detained pursuant to this Act for an examination, inquiry or removal and the examination, inquiry or removal does not take place within forty-eight hours from the time when such person is first placed in detention, that person shall be brought before an adjudicator forthwith and the reasons for his continued detention shall be reviewed and thereafter that person shall be brought before an adjudicator at least once during each seven day period, at which times the reasons for continued detention shall be reviewed.

(7) Where an adjudicator who conducts a review pursuant to subsection (6) is not satisfied that the person in detention poses a danger to the public or would not appear for an examination, inquiry or removal, he shall order that such person be released from detention subject to such terms and conditions as he deems appropriate in the circumstances, including the payment of a security deposit or the posting of a performance bond.

(8) Where an adjudicator has ordered that a person be released from detention pursuant to paragraph (3)(a) or subsection (7), that adjudicator or any other adjudicator may at any time thereafter order that the person be retaken into custody and held in detention if he becomes satisfied that the person poses a

(4) Celui qui a ordonné la détention d'une personne aux fins d'examen ou d'enquête en vertu du présent article, ou le gardien de ladite personne doit immédiatement aviser un agent d'immigration supérieur de la détention et de ses motifs.

(5) Dans les quarante-huit heures de la mise en détention d'une personne en vertu de la présente loi, un agent d'immigration supérieur peut ordonner la mise en liberté de la personne détenue, sous réserve des conditions qu'il juge appropriées aux circonstances et notamment du dépôt d'un gage ou d'un bon de garantie d'exécution.

(6) Au cas où l'examen, l'enquête ou le renvoi qui, en vertu de la présente loi, ont motivé la détention, n'ont pas lieu dans les quarante-huit heures de celle-ci, la personne détenue doit être immédiatement amenée devant un arbitre aux fins de révision des motifs justifiant une détention prolongée; par la suite, la personne devra être amenée devant un arbitre aux mêmes fins, au moins une fois tous les sept jours.

(7) L'arbitre chargé de la révision prévue au paragraphe (6) doit ordonner la mise en liberté de la personne détenue, au cas où il n'est pas convaincu qu'elle constitue une menace pour le public ni qu'elle se dérobera à l'examen, à l'enquête ou au renvoi, sous réserve des conditions qu'il juge appropriées aux circonstances et notamment du dépôt d'un gage ou d'un bon de garantie d'exécution.

(8) Après qu'un arbitre ait prononcé la mise en liberté d'une personne conformément à l'alinéa (3)a) ou au paragraphe (7), cet arbitre ou tout autre arbitre peut à tout moment ordonner qu'elle soit à nouveau mise sous garde et en détention, au cas où il estime qu'elle constitue une menace pour le

danger to the public or would not appear for an examination, inquiry or removal.

public ou qu'elle se dérobera à l'examen, l'enquête ou au renvoi.

105. Where a person fails to comply with any of the terms or conditions subject to which he is released from detention under any provision of this Act, any security deposit that may have been made as a condition of his release may be declared forfeited by the Minister or the terms of any performance bond that may have been posted may be enforced, and the person may be retaken into custody forthwith and held in detention.

105. Le non-respect des conditions de la mise en liberté accordée en vertu de la présente loi, peut entraîner la confiscation par le Ministre du gage déposé, ou la réalisation des engagements du bon de garantie d'exécution. La personne en question peut immédiatement être mise de nouveau sous garde et en détention.

106. Where a warrant has been issued or an order has been made pursuant to subsection 104(1) or (3) with respect to any person who has become an inmate of any institution pursuant to the order of any court or other body, the Deputy Minister may issue an order to the warden, governor or other person in charge thereof directing him, at the expiration of the sentence or term of confinement to which such person is subject or at the expiration of his sentence or term of confinement as reduced by the operation of any statute or other law or by an act of clemency, to detain such person and deliver him to an immigration officer to take into custody.

106. En cas d'émission d'un mandat ou d'un ordre prévus aux paragraphes 104(1) ou (3), visant une personne qui se trouve détenue dans une institution en vertu d'une ordonnance d'une cour ou d'un autre organisme, le sous-ministre peut adresser au gardien, directeur, ou responsable de l'institution, une directive l'enjoignant de détenir ladite personne puis de la confier à un agent d'immigration aux fins de mise sous garde, à l'expiration de sa peine ou de sa détention, compte tenu des réductions de peine résultant d'une loi ou autre mesure statutaire ou d'une mesure de clémence.

107. Any warrant issued or order made under paragraph 12(3)(b), subsection 20(1), paragraph 23(3)(a), subsection 91(2) or 104(1), (2), (3) or (8) or section 106 or any direction made under subsection 80(4) is, notwithstanding any other law, sufficient authority to the person to whom it is addressed or who may receive and execute it to arrest and detain the person with respect to whom such warrant, order or direction was issued or made.

107. Par dérogation à toute autre loi, tout mandat ou tout ordre prévus aux alinéas 12(3)b) ou 23(3)a), aux paragraphes 20(1), 91(2) ou 104(1), (2) (3) ou (8) ou à l'article 106, ainsi que toute directive prévue au paragraphe 80(4), confèrent à son destinataire ou à la personne qui le reçoit et l'exécute, le pouvoir d'arrêter et de détenir la personne qui y est visée.

108. Where a person is detained pursuant to this Act, he shall be detained at an immigrant station or other place satisfactory to the Deputy Minister.

108. Toute détention prévue à la présente loi a lieu dans un poste d'attente ou à tout autre endroit que le sous-ministre juge approprié.

PART VII
GENERAL

*Consultations and Agreements with
Provinces*

109. (1) The Minister shall consult with the provinces respecting the measures to be undertaken to facilitate the adaptation of permanent residents to Canadian society and the pattern of immigrant settlement in Canada in relation to regional demographic requirements.

(2) The Minister, with the approval of the Governor in Council, may enter into an agreement with any province or group of provinces for the purpose of facilitating the formulation, coordination and implementation of immigration policies and programs.

Immigration Officers

110. (1) Immigration officers shall be appointed or employed under the *Public Service Employment Act*.

(2) Notwithstanding subsection (1), the Minister may designate any person or class of persons as immigration officers for the purposes of this Act and such person or class of persons shall have such of the powers, duties and functions of an immigration officer as are specified by the Minister.

111. (1) An immigration officer has the authority and powers of a peace officer to enforce any provision of this Act, the regulations or any warrant, order or direction made under this Act or the regulations respecting the arrest, detention or removal from Canada of any person.

(2) An immigration officer may

(a) require persons who seek admission, persons who make an application pursuant to subsection 9(1), section 10 or subsection 16(1), persons who are arrested pursuant to section 104 and persons against whom a removal order has been made to comply with such regulations as are prescribed providing for the identification of such persons;

PARTIE VII

DISPOSITIONS GÉNÉRALES

Consultations et accords avec les provinces

109. (1) Le Ministre doit consulter les provinces sur les mesures à prendre pour faciliter l'adaptation des résidents permanents à la société canadienne et sur la répartition au Canada des immigrants, compte tenu des besoins démographiques régionaux.

(2) Le Ministre, avec l'accord du gouverneur en conseil, peut conclure des accords avec les provinces en vue de formuler, de coordonner et de mettre en œuvre la politique et les programmes d'immigration.

Agents d'immigration

110. (1) Les agents d'immigration sont nommés conformément à la *Loi sur l'emploi dans la Fonction publique*.

(2) Par dérogation au paragraphe (1), le Ministre peut, aux fins de la présente loi, désigner toute personne ou catégorie de personnes comme agent d'immigration. Toute personne ainsi désignée exerce les pouvoirs et fonctions d'agent d'immigration qu'indique le Ministre.

111. (1) Tout agent d'immigration détient les pouvoirs et attributions d'un agent de la paix pour faire appliquer la présente loi et les règlements, ainsi que les mandats, ordres ou directives établis sous leur empire, visant l'arrestation, la détention et le renvoi du Canada.

(2) L'agent d'immigration a le pouvoir

a) d'exiger des personnes qui demandent l'admission, de celles qui font une demande en vertu du paragraphe 9(1), de l'article 10 ou du paragraphe 16(1), de celles qui sont arrêtées en vertu de l'article 104 et de celles qui ont fait l'objet d'une ordonnance de renvoi, qu'elles se conforment aux règlements prescrivant leur identification;

b) de saisir et de détenir tous documents, notamment ceux de voyage, pouvant servir

(b) seize and hold any travel or other documents that may be used for the purpose of determining whether a person may be granted admission or may come into Canada where he has reasonable grounds to believe that such action is required to facilitate the carrying out of any provision of this Act or the regulations; and

(c) seize and hold any travel or other documents in the possession of any person in Canada if he has reasonable grounds to believe that such documents have been fraudulently or improperly obtained or used or that such action is necessary to prevent the fraudulent or improper use of such documents.

(3) An immigration officer may, in cases of emergency, employ such temporary assistants as he deems necessary to enable him to carry out his duties under this Act and the regulations and such temporary assistants shall, during their employment, have the authority and powers referred to in subsection (1), but no such employment shall continue for a period exceeding forty-eight hours unless approved by the Minister.

112. Every immigration officer has the authority to administer oaths and to take and receive evidence under oath on any matter arising out of this Act

Adjudicators

113. An adjudicator has all the powers and authority of a commissioner appointed under Part I of the *Inquiries Act* and, without restricting the generality of the foregoing, may, for the purposes of an inquiry,

- (a) issue a summons to any person requiring him to appear at the time and place mentioned therein to testify with respect to all matters within his knowledge relative to the subject-matter of the inquiry and to bring with him and produce any instrument, book or paper that he has in his possession or under his control relative to the subject-matter of the inquiry;
- (b) administer oaths and examine any person on oath;
- (c) issue commissions or requests to take evidence in Canada;

à déterminer si une personne peut obtenir l'admission ou entrer au Canada, au cas où il a de bonnes raisons de croire qu'une telle mesure s'impose pour faciliter l'application de la présente loi ou des règlements; et

c) de saisir et de détenir tous documents, notamment ceux de voyage, en possession d'une personne se trouvant au Canada, au cas où il a de bonnes raisons de croire qu'ils ont été obtenus ou utilisés irrégulièrement ou frauduleusement, ou bien au cas où une telle mesure s'impose pour empêcher l'utilisation irrégulière ou frauduleuse.

(3) L'agent d'immigration peut, en cas d'urgence, s'adjoindre les assistants temporaires qu'il estime nécessaires pour lui permettre d'exercer les fonctions que lui confèrent la présente loi et les règlements. Ces assistants temporaires ne peuvent exercer les pouvoirs et attributions visés au paragraphe (1) pour plus de quarante-huit heures sans l'autorisation du Ministre.

112. Tout agent d'immigration a le pouvoir de faire prêter serment et de recevoir des témoignages sous serment dans toute affaire relevant de la présente loi

Les arbitres

113. Tout arbitre a les pouvoirs et attributions des commissaires nommés en vertu de la Partie I de la *Loi sur les enquêtes* et, aux fins d'enquête, peut notamment

- a) adresser une citation à toute personne l'enjoignant à comparaître aux date et lieu indiqués pour témoigner sur toute question dont elle a connaissance, relative à l'objet de l'enquête, et à produire tout document, livre ou écrit en sa possession ou sous sa responsabilité, qui se rapporte à l'objet de l'enquête;
- b) faire prêter serment et interroger sous serment;
- c) délivrer des commissions ou requêtes en vue de recueillir des preuves au Canada;
- d) retenir les services de conseil, d'interprètes, de techniciens, de commissaires, de

(d) engage the services of such counsel, interpreters, technicians, clerks, stenographers and other persons as he deems necessary for a full and proper inquiry; and
 (e) do all other things necessary to provide a full and proper inquiry.

nographes et du personnel qu'il estime nécessaires à la tenue d'une enquête approfondie;

e) faire tout ce qui est nécessaire à la tenue régulière d'enquêtes approfondies.

Peace Officers

114. Every peace officer and every person in immediate charge or control of an immigrant station shall, when so directed by the Deputy Minister, an adjudicator, a senior immigration officer or an immigration officer, receive and execute any written warrant or order issued or made under this Act or the regulations for the arrest, detention or removal from Canada of any person.

Agents de la paix

114. Tout agent de la paix et tout responsable immédiat d'un poste d'attente doivent, sur instruction du sous-ministre, d'un arbitre, d'un agent d'immigration supérieur, ou d'un agent d'immigration, recevoir et exécuter les mandats et ordres écrits d'arrestation, de détention ou de renvoi du Canada, émis en vertu de la présente loi ou des règlements.

Regulations

115. (1) The Governor in Council may make regulations

(a) providing for the establishment and application of selection standards based on such factors as family relationships, education, language, skill, occupational experience and other personal attributes and attainments, together with demographic considerations and labour market conditions in Canada, for the purpose of determining whether or not an immigrant will be able to become successfully established in Canada;

(b) prescribing classes of persons whose applications for landing may be sponsored by Canadian citizens and prescribing classes of persons whose applications for landing may be sponsored by permanent residents;

(c) exempting members of the family class from any of the requirements of the regulations and prescribing, in substitution for such regulations, special regulations for the purpose of determining the ability and willingness of persons who sponsor applications for landing to assist such members in becoming successfully established in Canada;

(d) designating classes of persons for the purposes of subsection 6(2);

Règlements

115. (1) Le gouverneur en conseil peut établir des règlements

a) prévoyant l'établissement et l'application de normes de sélection, fondées sur des critères tels que la parenté, l'instruction, la langue, la compétence, l'expérience professionnelle et autres qualités et conditions personnelles, et tenant compte des facteurs démographiques et de la situation du marché du travail au Canada, dans le but de déterminer si un immigrant pourra s'établir avec succès au Canada;

b) établissant les catégories de personnes dont la demande de droit d'établissement pourra être parrainée par des citoyens canadiens et celles dont la demande pourra l'être par des résidents permanents;

c) affranchissant les personnes appartenant à la catégorie de la famille des exigences réglementaires et prévoyant des règlements spéciaux aux fins d'apprécier la capacité et la volonté des répondants de les aider à s'établir avec succès au Canada;

d) désignant les catégories de personnes visées au paragraphe 6(2);

e) dispensant les réfugiés au sens de la Convention et les catégories de personnes visées à l'alinéa d) des exigences réglementaires et prévoyant des règlements spéciaux pour leur admission;

- (e) exempting Convention refugees and classes of persons designated pursuant to paragraph (d) from any of the requirements of the regulations and prescribing, in substitution for such regulations, special regulations relating to the admission of Convention refugees and such classes of persons; 5
- (f) prescribing a system of priorities for the processing of applications made by immigrants; 10
- (g) prescribing universities, colleges and other institutions not described in paragraph 10(a) for the taking of any academic, professional or vocational training course at which visitors may not be granted entry and prescribing courses at any such university, college or other institution for the taking of which authorization may not be obtained under section 10, 15 20
- (h) prescribing the circumstances in which a returning resident permit shall be issued to a permanent resident who makes an application therefor pursuant to subsection 25(1); 25
- (i) specifying the documentation that may be required in respect of any class of visitors; 25
- (j) prohibiting persons or classes of persons, other than Canadian citizens and permanent residents, from engaging or continuing in employment in Canada, specifying the type of employment in which such persons or classes of persons may engage or continue and placing restrictions upon such persons or classes of persons relating to their engaging or continuing in employment in Canada; 30 35
- (k) requiring any person to deposit security with the Minister to guarantee the performance by that person of any obligation assumed by him with respect to the admission of any other person, 40
- (k.1) where a person or organization seeks to facilitate the admission or arrival in Canada of a Convention refugee or a person who is a member of a class designated pursuant to paragraph (d) or where a person seeks to facilitate the admission of an immigrant who is related to him, establishing the requirements to be met by any such person or organization including the provision of an undertaking 45 50
- f) prévoyant un système de priorités pour l'examen des demandes faites par des immigrants;
- g) indiquant les universités, collèges et autres institutions non visés à l'alinéa 10a), dont les cours de formation théorique ou professionnelle ne permettront pas aux visiteurs qui les suivent d'obtenir l'autorisation de séjour et les cours desdites institutions pour lesquels l'autorisation ne sera pas accordée en vertu de l'article 10; 5
- h) fixant les circonstances d'attribution d'un permis de retour aux résidents permanents qui en font la demande en vertu du paragraphe 25(1); 15
- i) précisant les pièces qui peuvent être exigées d'une catégorie de visiteurs; 15
- j) interdisant à certaines personnes ou à certaines catégories de personnes, à l'exception des citoyens canadiens et des résidents permanents, de prendre ou de conserver un emploi au Canada, indiquant le genre d'emploi qu'elles peuvent prendre ou conserver et leur imposant des restrictions à ce sujet; 20 25
- k) exigeant d'une personne le versement d'un gage au Ministre pour garantir qu'elle exécutera les obligations qu'elle a assumées à l'occasion de l'admission d'un tiers, 25
- k.1) fixant les exigences auxquelles doit satisfaire toute personne ou organisation cherchant à faciliter l'admission ou l'arrivée au Canada d'un réfugié au sens de la Convention ou d'une personne appartenant à une catégorie désignée en vertu de l'alinéa 10a), ou auxquelles doit satisfaire toute personne cherchant à faciliter l'admission d'un immigrant avec lequel elle a un lien de parenté, y compris l'obligation de fournir l'engagement d'aider ce réfugié, cette personne ou cet immigrant à s'établir avec succès au Canada; 30 35
- l) indiquant les critères à retenir pour déterminer si une personne constituée ou est susceptible de constituer un danger pour la santé ou la sécurité publiques, ou bien si une personne, du fait de son admission, entraînerait ou pourrait vraisemblablement entraîner un fardeau excessif pour les services sociaux ou de santé; 40 45 50
- m) prescrivant ou autorisant l'examen de personnes se trouvant à l'étranger pour déterminer si elles doivent être autorisées à

- to assist any such Convention refugee, person or immigrant in becoming successfully established in Canada;
- (l) prescribing the factors to be considered in determining whether any person is or is likely to be a danger to public health or to public safety or whether the admission of any person would cause or might reasonably be expected to cause excessive demands on health or social services;
- (m) requiring or authorizing the examination of persons outside Canada for the purpose of determining whether such persons shall be allowed to come into Canada or may be granted admission;
- (n) requiring persons referred to in paragraph 111(2)(a) to provide photographs of themselves or to be fingerprinted or photographed or both;
- (o) prescribing the costs and expenses to be included in determining removal and detention costs;
- (p) requiring transportation companies to ensure, in prescribed circumstances, that immigrants and visitors being carried to Canada by them are in possession of valid visas where required;
- (q) establishing the procedures to be followed at an inquiry and prescribing the circumstances in which an inquiry may be reopened pursuant to subsection 35(1) and the circumstances in which an inquiry that has been adjourned may be resumed by an adjudicator other than the adjudicator who presided at the adjourned inquiry;
- (r) prescribing the manner in which a person who has been determined by the Minister not to be a Convention refugee may make an application to the Board for a redetermination;
- (s) prohibiting transportation companies from knowingly carrying to Canada persons, other than Canadian citizens or permanent residents, who are, in the opinion of the Minister, members of any of the classes described in subsection 19(1);
- (t) authorizing the Minister to make loans for any of the purposes referred to in subsection 121(1) and prescribing the rate of interest, if any, to be charged on such loans and the manner in which the terms
- entrer au Canada ou si elles peuvent obtenir l'admission;
- n) exigeant des personnes visées à l'alinéa 111(2)a) qu'elles fournissent leurs photos ou qu'elles se soumettent à la prise d'empreintes digitales et de photographie ou à l'une de ces formalités;
- o) indiquant les frais et dépenses à retenir dans le calcul des frais de détention et de renvoi;
- p) enjoignant aux transporteurs de s'assurer, dans les cas prescrits, que les immigrants et les visiteurs qu'ils amènent au Canada sont en possession d'un visa valable lorsque celui-ci est obligatoire;
- q) établissant la procédure à suivre en matière d'enquête, indiquant les cas donnant lieu à réouverture d'enquête en vertu du paragraphe 35(1) et les cas où une enquête ajournée peut être reprise par un autre arbitre que celui qui l'a commencée;
- r) établissant la procédure à suivre par une personne à qui le Ministre n'a pas reconnu le statut de réfugié au sens de la Convention, pour demander à la Commission le réexamen de son statut;
- s) interdisant aux transporteurs d'effectuer sciemment le transport à destination du Canada de personnes, autres que des citoyens canadiens ou des résidents permanents, qui, de l'avis du Ministre, appartiennent à l'une des catégories visées au paragraphe 19(1);
- t) autorisant le Ministre à consentir des prêts aux fins du paragraphe 121(1) et fixant le taux d'intérêt, s'il y a lieu, et les modalités de remboursement;
- u) exigeant de toute personne, autre qu'un avocat inscrit au barreau d'une province, l'obtention, sur demande, d'une autorisation délivrée par les autorités visées aux règlements, pour comparaître devant un arbitre ou la Commission en qualité de conseil rétribué;
- v) autorisant la délivrance de visas aux représentants de gouvernements étrangers et d'organisations internationales visés aux règlements et précisant les catégories de personnes qui peuvent délivrer ces visas;
- w) établissant la procédure à suivre lors des examens;

of repayment of such loans shall be determined,

(u) requiring any person, other than a person who is a member of the bar of any province, to make application for and obtain a licence from such authority as is prescribed before he may appear before an adjudicator or the Board as counsel in exchange for any fee, reward or other form of remuneration whatever;

(v) authorizing the issuance of visas to such representatives of foreign governments and international organizations as are prescribed and prescribing the classes of persons by whom such visas may be issued;

(w) establishing the procedures to be followed at examinations;

(x) prescribing the manner in which immigration officers shall carry out their duties and exercise their powers, whether in Canada or elsewhere;

(y) prescribing the manner in which an application may be made under subsection 15(2) or 16(1) and the information to be provided therewith;

(z) requiring any person or class of persons, other than a Canadian citizen, to be in possession of a valid and subsisting passport or other travel document;

(aa) providing for the return or other disposition of any travel or other document that has been seized and held pursuant to paragraph 111(2)(b) or (c),

(bb) requiring a transportation company to collect and give to an immigration officer any written report required to be made to an immigration officer by any person leaving Canada,

(cc) specifying the manifests, bills of health or other records or documents concerning persons carried by vehicles to or from Canada that shall be maintained and carried on vehicles;

(dd) requiring the identification, supervision and detention of persons to be carried in transit through Canada

(ee) specifying the obligations and duties of transportation companies and members of crews to safeguard persons on board vehicles, to report the escape of persons in

x) régissant la manière dont les agents d'immigration doivent remplir leurs fonctions et exercer leurs pouvoirs au Canada ou à l'étranger;

y) établissant la procédure de présentation de demandes visées aux alinéas 15(2) ou 16(1) et les renseignements qu'elles doivent contenir;

z) exigeant que toutes personnes ou catégories de personnes, à l'exception des citoyens canadiens, soient en possession d'un passeport ou autre document de voyage en cours de validité;

aa) fixant le sort et, notamment, la restitution de tout document de voyage ou autre, saisi et détenu en vertu des alinéas 111(2)b) ou c);

bb) obligeant un transporteur à recueillir et à remettre à un agent d'immigration tout rapport écrit que les personnes quittant le Canada doivent faire à celui-ci;

cc) prévoyant la tenue, à bord des véhicules transportant des personnes à destination ou en provenance du Canada, de manifestes, bulletins de santé ou autres registres et documents relatifs à ces personnes;

dd) exigeant l'identification, la surveillance et la détention des personnes en transit au Canada;

ee) imposant aux transporteurs et aux membres d'équipage l'obligation d'assurer la sécurité à bord des véhicules, de signaler l'évasion des personnes placées sous leur garde et de prendre les précautions nécessaires pour éviter leur entrée en fraude au Canada, et de s'assurer du départ des personnes placées sous leur garde et qui doivent quitter le Canada en vertu de la présente loi;

ff) obligeant les responsables de véhicule à faire un rapport écrit à un agent d'immigration sur les passagers clandestins se trouvant à bord d'un véhicule qui arrive au Canada et à les détenir sous garde à bord du véhicule;

gg) obligeant le propriétaire ou le responsable d'un véhicule à tenir et à fournir à un agent d'immigration supérieur la liste des membres d'équipage ainsi que les renseignements concernant leur congédiement,

their custody and to take such precautions as may be required to prevent such persons from unlawfully coming into Canada and, in the case of persons in their custody who are required under this Act to leave 5 Canada, from failing to leave Canada;

(~~ff~~) requiring the master of a vehicle to make a written report to an immigration officer in respect of any person who has secreted himself in or on a vehicle coming 10 to Canada and to hold such person in custody on the vehicle;

(~~gg~~) requiring the owner or master of a vehicle to maintain and provide a senior immigration officer with lists and other 15 information concerning the members of the crew of the vehicle and their discharge, transfer, desertion or hospitalization in Canada and to notify a senior immigration officer of any such discharge, transfer, 20 desertion or hospitalization in Canada;

(~~hh~~) providing for the disposition of property carried by persons who die in Canada while at an immigrant station or other place in the custody or under the supervi- 25 sion of an immigration officer; and

(ii) prescribing any matter required or authorized by this Act to be prescribed.

(2) The Governor in Council may by regulation exempt any person from any regula- 30 tion made under subsection (1) or otherwise facilitate the admission of any person where the Governor in Council is satisfied that the person should be exempted from such regulation or his admission should be facilitated for 35 reasons of public policy or due to the existence of compassionate or humanitarian considerations.

(3) No regulation made under paragraph (1)(a), (b) or (c) shall come into force until 40 thirty days after it has been published in the *Canada Gazette*, and the text of such regulation shall be laid before Parliament as soon as practicable.

(4) For the purpose of this Act and the 45 regulations, whenever a person is granted landing and terms and conditions are imposed, no such term or condition may specify the area in which that person shall reside

leur mutation, leur défection ou leur hospitalisation au Canada, et à porter ces faits à la connaissance de cet agent;

hh) prévoyant le sort des biens amenés par les personnes qui décèdent dans un poste 5 d'attente ou à tout autre lieu au Canada alors qu'elles sont sous la garde ou la surveillance d'un agent d'immigration; et

ii) régissant tout sujet qui, aux termes de la présente loi, peut ou doit l'être par 10 règlement.

(2) Lorsqu'il est convaincu qu'une personne devrait être dispensée de tout règlement établi en vertu du paragraphe (1) ou que son admission devrait être facilitée pour 15 des motifs de politique générale ou des considérations d'ordre humanitaire, le gouverneur en conseil peut, par règlement, dispenser cette personne du règlement en question ou 20 autrement faciliter son admission.

(3) Les règlements établis en vertu des alinéas (1)a), b) ou c) entreront en vigueur au plus tôt trente jours après leur publication dans la *Gazette du Canada* et leur texte sera 25 déposé devant le Parlement dès que possible.

(4) Aux fins de la présente loi et des règlements, lorsqu'une personne obtient le droit d'établissement à certaines conditions, aucune de ces dernières ne peut indiquer dans quelle région cette personne doit 30 résider.

Orders

116. The Minister may, by order,
 (a) establish such forms as he deems
 necessary for the purposes of the adminis-
 tration of this Act other than forms relat-
 ing to appeals, applications for redetermi-
 nation and applications for release made to
 the Board; and
 (b) designate ports of entry and immi-
 grant stations for the purposes of this Act.

Landings Authorized by Minister

117. Notwithstanding any other provision
 of this Act or the regulations, the Minister
 may quash a deportation order that was
 made against any person under the authority
 of the *Immigration Act* as it read before the
 13th day of November 1967 and authorize
 the landing of any such person, where the
 order has not been executed.

Evidence

118. (1) Every document purporting to be
 a removal order, rejection order, departure
 notice, warrant, order, summons, direction,
 notice or other document signed by the Min-
 ister, the Minister of National Health and
 Welfare, the Deputy Minister, an adjudica-
 tor, an immigration officer, a master or other
 person authorized or required by or under
 this Act to make such document is, in any
 prosecution or other proceeding under or
 arising out of this Act, evidence of the facts
 contained therein without proof of the signa-
 ture or the official character of the person
 appearing to have signed the document,
 unless called into question by the Minister or
 any person acting for him or for Her
 Majesty.

(2) Every form purporting to be a form
 established by the Minister shall be deemed
 to be a form established by the Minister
 under this Act unless called into question by
 the Minister or any person acting for him or
 for Her Majesty.

Ordres

116. Le Ministre peut, par ordre,
 a) établir les formulaires qu'il juge néces-
 saires pour l'application de la présente loi,
 autres que ceux relatifs aux appels,
 demandes de réexamen et demandes de
 mise en liberté soumis à la Commission; et
 b) désigner, aux fins de la présente loi, des
 points d'entrée et des postes d'attente.

*Droit d'établissement accordé par le
Ministre*

117. Par dérogation à toute autre disposi-
 tion de la présente loi ou des règlements, le
 Ministre peut annuler toute ordonnance d'ex-
 pulsion non exécutée, rendue en vertu de la
Loi sur l'immigration dans sa teneur avant le
 13 novembre 1967, et accorder le droit d'éta-
 blissement à la personne qui en fait l'objet.

Preuve

118. (1) Tout document ayant l'apparence
 d'une ordonnance de renvoi ou de refoule-
 ment, d'un avis d'interdiction de séjour, d'un
 mandat, ordre, citation à comparaître, ins-
 truction, avis ou autre document signé par le
 Ministre, le ministre de la Santé nationale et
 du Bien-être social, le sous-ministre, un arbi-
 tre, un agent d'immigration, un responsable
 de véhicule ou toute autre personne qui peut
 ou qui doit les établir en vertu de la présente
 loi, fait foi de son contenu dans toute pour-
 suite ou autre procédure relevant de la pré-
 sente loi, sans qu'il soit nécessaire d'établir
 l'authenticité des signatures ni le caractère
 officiel de la personne l'ayant apparemment
 signé; cette authenticité et ce caractère offi-
 ciel ne peuvent être contestés que par le
 Ministre ou par une personne agissant en son
 nom ou au nom de Sa Majesté.

(2) L'authenticité des formulaires appa-
 remment établis par le Ministre en vertu de
 la présente loi ne peut être contestée que par
 le Ministre ou par une personne agissant en
 son nom ou au nom de Sa Majesté.

119. No security or criminal intelligence report referred to in subsection 39(1), 40(1) or 83(1) may be required to be produced in evidence in any court or other proceeding.

119. Nul ne peut, devant une Cour ou dans une procédure quelconque, exiger la production des rapports secrets en matière de sécurité ou de criminalité, visés au paragraphe 39(1), 40(1) ou 83(1).

5

Recovery of Payments, Costs and Fines

Répétition des paiements et recouvrement des frais et des amendes

120. (1) Where any person or organization gives an undertaking to the Minister to assist any immigrant in becoming successfully established in Canada, that undertaking may by notice in writing be assigned by the Minister to Her Majesty in right of any province and any payments of a prescribed nature made directly or indirectly to that immigrant that result from a breach of that undertaking may be recovered from the person or organization that gave the undertaking in any court of competent jurisdiction as a debt due to Her Majesty in right of Canada or in right of any province to which the undertaking is assigned.

120. (1) Au cas où une personne ou une organisation s'engage auprès du Ministre à aider un immigrant à s'établir avec succès au Canada, le Ministre peut, par avis écrit, céder à Sa Majesté du chef d'une province ses droits découlant de cet engagement; les paiements réglementaires effectués directement ou indirectement à l'immigrant, par suite d'une violation de l'engagement, peuvent être répétés, devant tout tribunal compétent, auprès de la personne ou de l'organisation qui s'est engagée, à titre de créance de Sa Majesté du chef du Canada ou du chef de la province à qui la cession a été faite.

(2) All costs of removal or detention incurred by Her Majesty for which any person is liable under this Act and all fines and court costs that may be imposed on any person under this Act may be recovered as a debt due to Her Majesty.

(2) Les frais de renvoi et de détention qui incombent à une personne en vertu de la présente loi et qui sont supportés par Sa Majesté ainsi que les amendes et frais de justice incombant à une personne en vertu de cette loi peuvent être recouverts comme créances de Sa Majesté.

(3) All payments made and all costs of removal or detention incurred by Her Majesty in right of Canada or in right of any province for which any person or organization is liable under this Act and all fines and court costs that may be imposed on any person or organization under this Act shall, until payment thereof, be a charge upon the property of the person or organization and may be enforced or collected by the seizure and sale of such property or a portion thereof under the warrant or order of a superior, county or district court.

(3) Sa Majesté détient un privilège sur les biens de toute personne ou de toute organisation à qui incombent, en vertu de la présente loi, les paiements, les frais de renvoi ou de détention supportés par Sa Majesté du chef du Canada ou d'une province ainsi que les amendes et les frais de justice pouvant être mis à la charge de cette personne ou de cette organisation; la répétition de ces paiements et le recouvrement de ces frais et amendes peuvent être effectués par voie de saisie et de vente totale ou partielle de ces biens par suite d'un mandat ou d'une ordonnance d'une cour supérieure, d'une cour de comté ou d'une cour de district.

Loans to Immigrants

Prêts aux immigrants

121. (1) The Minister of Finance may, from time to time, advance to the Minister out of the Consolidated Revenue Fund such

121. (1) Le ministre des Finances peut, sur le Fonds du revenu consolidé, avancer au Ministre les sommes qu'il demande pour

sums as the Minister may require to enable him to make loans to immigrants and such other classes of persons as may be prescribed for the purpose of

- (a) paying the costs of establishing that they and their families may be granted admission;
- (b) paying the costs of obtaining transportation to Canada and transportation from the port of arrival to the place of destination in Canada for them and their families; and
- (c) paying the reasonable living expenses of such persons and their families and such other expenses as are prescribed in order to assist those persons in establishing themselves successfully in Canada.

(2) The Minister shall pay to the Receiver General all moneys he receives by way of repayments of loans made under subsection (1) and all payments of interest thereon.

(3) The total amount of outstanding advances to the Minister under this section shall not at any time exceed twenty million dollars.

(4) The Minister shall, within three months following the commencement of each fiscal year or, if Parliament is not then sitting, within the first fifteen days next thereafter that Parliament is sitting, lay before Parliament a report setting out the total number and amount of loans made under subsection (1) during the preceding fiscal year.

Assistance on Leaving Canada

122. The Minister may direct that the costs of transportation from Canada and any related expenses be paid out of moneys appropriated by Parliament in the case of a person

- (a) whose costs of transportation are not, under this Act, payable by a transportation company,
- (b) who should, in the opinion of the Minister, be assisted in leaving Canada in order to avoid separation of a family or for other good cause, and
- (c) who is, in the opinion of the Minister, unable to defray, without hardship, his own costs of transportation

faire des prêts aux immigrants et aux catégories de personnes prescrites, en vue de leur permettre d'acquitter

- a) les frais afférents à la preuve de leur admissibilité et de celle de leur famille;
- b) le coût du voyage au Canada et les frais de transport du point d'arrivée au point de destination au Canada, pour eux-mêmes et pour leur famille; et
- c) les frais raisonnables de leur séjour et de celui de leur famille ainsi que les autres frais prévus par les règlements pour les aider à s'établir avec succès au Canada.

(2) Le Ministre doit verser au receveur général les sommes qu'il reçoit à titre d'intérêts et de remboursement des prêts visés au paragraphe (1).

(3) Le montant total des avances faites au Ministre en vertu du présent article et non encore remboursées, ne pourra à aucun moment dépasser vingt millions de dollars.

(4) Le Ministre doit déposer devant le Parlement, dans les trois premiers mois de chaque exercice financier ou, si le Parlement ne siège pas, dans les quinze premiers jours de la prochaine séance, un rapport indiquant le nombre et le montant des prêts consentis en vertu du paragraphe (1) au cours de l'exercice financier précédent.

Aide au départ du Canada

122. Le Ministre peut ordonner de payer, au moyen de fonds votés par le Parlement, les frais de transport pour quitter le Canada et les dépenses afférentes d'une personne

- a) dont les frais de transport ne sont pas à la charge d'un transporteur en vertu de la présente loi,
- b) qu'il estime devoir aider à quitter le Canada pour éviter qu'elle ne soit séparée de sa famille ou pour toute autre raison valable, et
- c) qui, à son avis, ne peut pas, sans privations, acquitter ses frais de transport

Delegation

123. The Minister or the Deputy Minister, as the case may be, may authorize such persons employed in the Public Service of Canada as he deems proper to exercise and perform any of the powers, duties and functions that may or are required to be exercised or performed by him under this Act or the regulations, other than the powers, duties and functions referred to in paragraphs 19(1)(e) and 19(2)(a), subsections 39(1) and 40(1), paragraph 42(b) and subsection 83(1), and any such duty, power or function performed or exercised by any person so authorized shall be deemed to have been performed or exercised by the Minister or Deputy Minister, as the case may be.

Transitional

124. (1) Where a person who was a member of a prohibited class designated in section 5 of the *Immigration Act*, as it read before it was repealed by subsection 128(1) of this Act, is, upon the coming into force of this Act, not in an inadmissible class and is the holder of a permit issued by the Minister under that Act for a period of twelve months, he may make an application for landing in Canada.

(2) Where a person has been granted landing pursuant to an application made under subsection (1), that person shall, for the purpose of the *Citizenship Act*, be deemed to have been granted landing on the earlier of the day on which he came into Canada under the authority of the permit referred to in subsection (1), or, where he is and has been in Canada under the authority of such a permit for a continuous period of time in excess of twelve months, the first day of that continuous period of time.

125. (1) The Immigration Appeal Board established by section 3 of the *Immigration Appeal Board Act* as it read before, it was repealed by subsection 128(1) of this Act and the Board established by this Act are hereby declared for all purposes to be one and the same body.

Délégation

123. Le Ministre ou le sous-ministre peut, lorsqu'il le juge nécessaire, déléguer à des employés de la Fonction publique du Canada les pouvoirs et fonctions que lui confèrent la présente loi ou les règlements, à l'exception de ceux qui sont visés aux alinéas 19(1)e) et 19(2)a), aux paragraphes 39(1) et 40(1), à l'alinéa 42b) et au paragraphe 83(1). Les actes accomplis par lesdits fonctionnaires sont réputés l'avoir été par le Ministre ou le sous-ministre, selon le cas.

Dispositions transitoires

124. (1) Toute personne qui faisait partie d'une catégorie interdite visée à l'article 5 de la *Loi sur l'immigration*, abrogée par le paragraphe 128(1) de la présente loi, et qui, à l'entrée en vigueur de la présente loi, ne fait pas partie d'une catégorie non admissible et est titulaire d'un permis émis par le Ministre en vertu de la précédente loi pour une période de douze mois, peut présenter une demande de droit d'établissement au Canada.

(2) La personne qui a obtenu le droit d'établissement à la suite d'une demande présentée en vertu du paragraphe (1) est réputée, aux fins de la *Loi sur la citoyenneté*, l'avoir obtenu soit le jour de son entrée au Canada sous le couvert du permis visé au paragraphe (1), soit, si elle séjourne au Canada depuis une période ininterrompue de plus de douze mois sous le couvert d'un tel permis, le premier jour de ladite période; la plus ancienne de ces deux dates étant retenue.

125. (1) La Commission d'appel de l'immigration établie par l'article 3 de la *Loi sur la Commission d'appel de l'immigration* avant son abrogation par le paragraphe 128(1) de la présente loi et la Commission instituée par la présente loi sont, à toutes fins, déclarées par les présentes constituer une seule et même institution.

(2) All rules made by the Immigration Appeal Board under section 8 of the *Immigration Appeal Board Act* as it read before it was repealed by subsection 128(1) of this Act that were in force immediately before the coming into force of this Act shall be deemed to have been made under section 67 of this Act and shall, to the extent that they are not inconsistent with this Act, continue in force until revoked or altered by the Immigration Appeal Board by rules made under the authority of that section.

(3) Every proceeding taken before the Immigration Appeal Board before the coming into force of this Act shall be taken up and continued under and in conformity with this Act.

126. For greater certainty,

(a) a deportation order made under the *Immigration Act*, as it read before it was repealed by subsection 128(1) of this Act, shall be deemed to be a penalty, forfeiture or punishment within the meaning of paragraph 36(e) of the *Interpretation Act*;

(b) a person who was granted admission as a non-immigrant under the *Immigration Act* as it read before it was repealed by subsection 128(1) of this Act, other than a person who was granted admission pursuant to paragraph 7(2)(c) of that Act, shall be deemed to have been granted admission as a visitor; and

(c) when a report concerning a person has been made under section 22 of the *Immigration Act*, as it read before it was repealed by subsection 128(1) of this Act, and a further examination or an inquiry, as the case may be, has not been held concerning that person pursuant to that Act, the report shall be deemed to have been made to a senior immigration officer pursuant to paragraph 20(1)(a) of this Act.

127. Where a person acquired Canadian domicile in accordance with the *Immigration Act* as it read before it was repealed by subsection 128(1) of this Act and did not lose Canadian domicile before the coming

(2) Toutes les règles établies par la Commission d'appel de l'immigration en vertu de l'article 8 de la *Loi sur la Commission d'appel de l'immigration* avant son abrogation par le paragraphe 128(1) de la présente loi et qui étaient en vigueur avant l'entrée en vigueur de celle-ci, sont réputées avoir été établies en vertu de l'article 67 de la présente loi et, dans la mesure où elles ne sont pas incompatibles avec la présente loi, restent en vigueur jusqu'à leur abrogation ou leur modification par la Commission d'appel de l'immigration, aux termes des règles établies sous l'empire de cet article.

(3) Toute procédure engagée devant la Commission d'appel de l'immigration avant l'entrée en vigueur de la présente loi doit être reprise et poursuivie en vertu et en conformité de la présente loi.

126. Pour plus de certitude, il est précisé que

a) toute ordonnance d'expulsion rendue en vertu de la *Loi sur l'immigration*, abrogée par le paragraphe 128(1) de la présente loi, est réputée constituer une peine, confiscation ou punition au sens de l'alinéa 36e) de la *Loi d'interprétation*;

b) toute personne qui a obtenu l'admission à titre de non-immigrant en vertu de la *Loi sur l'immigration*, abrogée par le paragraphe 128(1) de la présente loi, à l'exception de celle qui a obtenu l'admission en vertu de l'alinéa 7(2)c) de la loi abrogée, est réputée l'avoir obtenue à titre de visiteur; et

c) le rapport, visé à l'article 22 de la *Loi sur l'immigration*, abrogée par le paragraphe 128(1) de la présente loi, concernant une personne qui n'a pas fait l'objet d'une enquête complémentaire ou d'une enquête en vertu de la loi abrogée, est réputé avoir été fait à un agent d'immigration supérieur conformément à l'alinéa 20(1)a) de la présente loi.

127. Toute personne ayant acquis la domici- cile canadien en vertu de la *Loi sur l'immigration*, abrogée par le paragraphe 128(1) de la présente loi et qui n'a pas perdu sa domici- cile canadien avant le jour de l'entrée en vigueur de la présente loi, ne l'a pas

into force of this Act, a deportation order may not be made against that person on the basis of any activity carried on by him before the coming into force of this Act for which a deportation order could not have been made against him under the *Immigration Act* as it read before it was repealed by subsection 128(1) of this Act.

Repeal

128. (1) The *Immigration Aid Societies Act*, being chapter 146 of the Revised Statutes of Canada, 1952, the *Alien Labour Act*, being chapter A-12 of the Revised Statutes of Canada, 1970, the *Immigration Act*, being chapter I-2 of the Revised Statutes of Canada, 1970, and the *Immigration Appeal Board Act*, being chapter I-3 of the Revised Statutes of Canada, 1970, are repealed.

(2) The Acts or parts of Acts set out in the schedule to this Act are repealed or amended in the manner and to the extent indicated in that schedule.

Commencement

129. This Act shall come into force on a day to be fixed by proclamation.

perdu, ne peut faire l'objet d'une ordonnance d'expulsion motivée par des activités antérieures à l'entrée en vigueur de la présente loi et qui ne constituaient pas un motif d'expulsion en vertu de la loi abrogée par le paragraphe 128(1) de la présente loi.

Abrogation

128. (1) Sont abrogées la *Loi sur les sociétés auxiliaires de l'immigration*, chapitre 146 des Statuts révisés du Canada de 1952, la *Loi sur le travail des aubains*, chapitre A-12 des Statuts révisés du Canada de 1970, la *Loi sur l'immigration*, chapitre I-2 des Statuts révisés du Canada de 1970 et la *Loi sur la Commission d'appel de l'immigration*, chapitre I-3 des Statuts révisés du Canada de 1970.

(2) Les lois ou dispositions de lois visées à l'annexe de la présente loi sont abrogées ou modifiées de la manière et dans la mesure indiquées à cette même annexe.

Entrée en vigueur

129. La présente loi entre en vigueur à la date fixée par proclamation.

SCHEDULE

Act Affected	Amendment
Canada Business Corporations Act 1974-75-76, c. 33	Paragraph (c) of the definition "resident Canadian" in subsection 2(1) is repealed and the following substituted therefor: "(c) a permanent resident within the meaning of the <i>Immigration Act, 1976</i> and ordinarily resident in Canada, except a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he first became eligible to apply for Canadian citizenship;"
Canada Manpower and Immigration Council Act R.S., c. C-4	Subsection 20(2) is repealed and the following substituted therefor: "(2) The Advisory Board on the Adjustment of Immigrants shall consider and report to the Council on any matter within the Minister's responsibilities in relation to the adjustment to Canadian life of persons who have been granted lawful permission to come into Canada to establish permanent residence."
Canada Shipping Act R.S., c. S-9	(1) All that portion of subsection 113(1) preceding paragraph (a) thereof is repealed and the following substituted therefor: "113. (1) Every person who is a Canadian citizen and every person who is a permanent resident within the meaning of the <i>Immigration Act, 1976</i> is, on application to the Minister, entitled to" (2) Subsection 113(2) is repealed and the following substituted therefor: "(2) A certificate issued to a permanent resident pursuant to subsection (1) shall be valid for such period as the Minister may fix." (3) Paragraph 120(a) is repealed and the following substituted therefor: "(a) after the holder thereof has ceased to be a British subject or, in the case of a holder who is not a British subject, after he has ceased to be a permanent resident within the meaning of the <i>Immigration Act, 1976</i> otherwise than by becoming a Canadian citizen, or" (4) Subsection 126(2) is repealed and the following substituted therefor:

SCHEDULE—Continued

em	Act Affected	Amendment
		<p>Open only to British subjects and permanent residents</p> <p>“(2) Examinations for certificates of competency as masters, mates or engineers shall be open only to persons who are British subjects or permanent residents within the meaning of the <i>Immigration Act, 1976</i>.”</p>
	<p>Canada Student Loans Act R.S., c. S-17; c. 42 (1st Supp.), s. 1(3)</p>	<p>Subparagraph (a)(ii) of the definition “qualifying student” in subsection 2(1) is repealed and the following substituted therefor:</p> <p>“(ii) is a permanent resident within the meaning of the <i>Immigration Act, 1976</i> and has been resident in Canada for a period of not less than one year.”</p>
	<p>Citizenship Act 1974-75-76, c. 108</p>	<p>(1) All that portion of paragraph 5(1)(b), preceding subparagraph (i) thereof, is repealed and the following substituted therefor:</p> <p>“(b) has been lawfully admitted to Canada for permanent residence, has not ceased since such admission to be a permanent resident pursuant to section 24 of the <i>Immigration Act, 1976</i>, and has, within the four years immediately preceding the date of his application, accumulated at least three years of residence in Canada calculated in the following manner:”</p> <p>(2) Paragraph 5(2)(a) is repealed and the following substituted therefor:</p> <p>“(a) to any person who, not being a citizen, has been lawfully admitted to Canada for permanent residence, has not ceased since such admission to be a permanent resident pursuant to section 24 of the <i>Immigration Act, 1976</i> and is the minor child of a citizen if an application for citizenship is made to the Minister by a person authorized by regulation to make the application on behalf of the minor child; or”</p> <p>(3) Paragraph 10(1)(c) is repealed and the following substituted therefor:</p> <p>“(c) has been lawfully admitted to Canada for permanent residence after having ceased to be a citizen, has not ceased since such admission to be a permanent resident pursuant to section 24 of the</p>

SCHEDULE—Continued

en)	Act Affected	Amendment
		<p><i>Immigration Act, 1976</i> and has resided in Canada since such admission for at least one year immediately preceding the date of his application "</p> <p>(4) Paragraph 20(1)(c) is repealed and the following substituted therefor:</p> <p>"(c) if he requires but has not obtained the consent of the Minister of Manpower and Immigration, under subsection 57(1) of the <i>Immigration Act, 1976</i>, to be admitted to and remain in Canada as a permanent resident."</p> <p>(5) Paragraph 33(6)(a) is repealed and the following substituted therefor:</p> <p>"(a) prohibits and annuls or restricts the taking or acquisition directly or indirectly of, or the succession to, any interest in real property located in a province by a permanent resident within the meaning of the <i>Immigration Act, 1976</i>;"</p> <p>Paragraphs 3(1)(a), (b) and (c) are repealed and the following substituted therefor:</p> <p>"(a) is a Canadian citizen; or</p> <p>(b) is a person who</p> <p>(i) is a permanent resident within the meaning of the <i>Immigration Act, 1976</i>, or</p> <p>(ii) in prescribed circumstances, is a visitor in Canada or the holder of a permit in Canada within the meaning of the <i>Immigration Act, 1976</i> "</p>
	Family Allowances Act, 1973 1973-74, c. 44	<p>Subparagraph 16(b 1)(i) is repealed and the following substituted therefor:</p> <p>"(i) in the case of an individual, only to a Canadian citizen or to a permanent resident within the meaning of the <i>Immigration Act, 1976</i>."</p>
	Farm Credit Act R.S., c. F-2, 1972, c. 19, s. 3(2)	<p>(1) Paragraph 9(2)(a) is repealed and the following substituted therefor:</p> <p>"(a) a person who is neither a Canadian citizen nor a permanent resident within the meaning of the <i>Immigration Act, 1976</i>,"</p>
	Federal Business Development Bank Act 1974-75-76, c. 14	

SCHEDULE—Continued

am	Act Affected	Amendment
		<p>(2) Paragraph 9(2)(c) is repealed and the following substituted therefor:</p> <p>“(c) a permanent resident within the meaning of the <i>Immigration Act, 1976</i> who has been ordinarily resident in Canada for more than one year after the time at which he first became eligible to apply for Canadian citizenship.”</p>
	Foreign Investment Review Act 1973-74, c. 46	<p>(1) Paragraph (a) of the definition “non-eligible person” in subsection 3(1) is repealed and the following substituted therefor:</p> <p>“(a) an individual who is neither a Canadian citizen nor a permanent resident within the meaning of the <i>Immigration Act, 1976</i> and includes</p> <p>(i) a Canadian citizen who is not ordinarily resident in Canada and who is a member of a class of persons prescribed by regulation for the purposes of this definition, and</p> <p>(ii) a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he first became eligible to apply for Canadian citizenship.”</p> <p>(2) Subsection 3(5) is repealed and the following substituted therefor:</p> <p>“(5) With respect to any shares of a corporation of a particular class that, according to the relevant records that the corporation is required to keep under the law of the place of its incorporation, are held by individuals each of whom holds not more than 1% of the total number of issued shares of the corporation of that class, the Minister shall, in the absence of any evidence to the contrary, accept as evidence that such shares are owned by individuals who are either Canadian citizens or permanent residents within the meaning of the <i>Immigration Act, 1976</i> (other than Canadian citizens who are not ordinarily resident in Canada and who are members of a class of persons prescribed by regulation for the purposes of the definition “non-eligible person” in subsection (1) and permanent residents who have been ordinarily resident in Canada for more than one year after the time at which they first became eligible to apply for</p>

SCHEDULE—Continued

Act Affected	Amendment
Parole Act R.S., c. P-2; 1974-75-76, c. 93	<p>Canadian citizenship), a statement signed by the president, secretary or treasurer of the corporation, or by any other officer or person thereunto duly authorized by the board of directors or other governing body of the corporation, indicating</p> <p>(a) that according to those records the individuals who hold the shares are individuals having addresses in Canada; and</p> <p>(b) that the person by whom the statement is signed has no knowledge or reason to believe that the shares are not owned by individuals who are either Canadian citizens or permanent residents within the meaning of the <i>Immigration Act, 1976</i> (other than Canadian citizens who are not ordinarily resident in Canada and who are members of a class of persons prescribed by regulation for the purposes of the definition "non-eligible person" in subsection (1) and permanent residents who have been ordinarily resident in Canada for more than one year after the time at which they first became eligible to apply for Canadian citizenship)."</p> <p>Subsection 13(3) is repealed and the following substituted therefor:</p> <p>Effect for purposes of <i>Immigration Act, 1976</i> "(3) Notwithstanding subsection (1), for the purposes of subsection 52(2) of the <i>Immigration Act, 1976</i>, the term of imprisonment of a paroled inmate shall, while the parole remains unrevoked and unforfeited, be deemed to be completed."</p>
Pilotage Act 1970-71-72, c. 52	<p>(1) Paragraph 15(2)(b) is repealed and the following substituted therefor:</p> <p>"(b) a permanent resident within the meaning of the <i>Immigration Act, 1976</i> who has not been ordinarily resident in Canada for six years or who has been ordinarily resident in Canada for six years or more and satisfies the Authority that he has not become a Canadian citizen as a result of circumstances beyond his control"</p> <p>(2) Subsection 15(3) is repealed and the following substituted therefor:</p>

SCHEDULE—*Concluded*

Act Affected	Amendment
Western Grain Stabilization Act 1974-75-76, c. 87	<p data-bbox="790 555 1345 663">“(3) Every licence or pilotage certificate issued to a permanent resident ceases to be valid five years from the date the licence is issued unless he becomes a Canadian citizen before that date.”</p> <p data-bbox="766 678 1345 734">Paragraph 7(1)(a) is repealed and the following substituted therefor:</p> <p data-bbox="812 745 1345 826">“(a) he is a Canadian citizen or a permanent resident within the meaning of the <i>Immigration Act, 1976</i>; or”</p>

the Immigration Regulations, 1978



"Convention refugee seeking resettlement" means a Convention refugee who has not become permanently resettled and is unlikely to be voluntarily repatriated or locally resettled;
(réfugié au sens de la Convention cherchant à se rétablir)

"daughter", with respect to any person, means a female who is

- (a) the issue of a marriage of that person and who would possess the status of legitimacy if her father had been domiciled in a province of Canada at the time of her birth,
- (b) the issue of a woman who

- (i) is a permanent resident or a Canadian citizen resident in Canada, or
- (ii) may be granted landing and accompanies the issue to Canada to become a permanent resident, or

- (c) adopted by that person before she attains thirteen years of age; (filie)

"dependant", with respect to a person, means the spouse of that person and any unmarried son or daughter of that person or of the spouse of that person who is less than twenty-one years of age; (personne à charge)

"designated occupation" means an occupation in a locality or area in Canada designated by the Minister, after consultation with the relevant provincial authority, as a locality or area in which workers in that occupation are in short supply; (profession désignée)

"employment authorization" means a document issued by an immigration officer whereby the person to whom it is issued is authorized to engage or continue in employment in Canada; (permis de travail)

"entrepreneur" means an immigrant who intends and has the ability

- (a) to establish or to purchase a controlling interest in the ownership of a business in Canada whereby

- (i) employment opportunities will be created in Canada for more than five Canadian citizens or permanent residents, or
- (ii) more than five Canadian citizens or permanent residents will be continued in employment in Canada, and

- (b) to participate in the daily management of that business; (entrepreneur)

"fiancée" includes a fiancé; (fiancée)

"National Employment Service" means the employment service referred to in Part VII of the Unemployment Insurance Act, 1971; (service national de placement)

"nephew", with respect to any person, means the son of a brother or sister of that person and includes a son born outside of marriage to a sister of that person; (neveu)

"niece", with respect to any person, means the daughter of a brother or sister of that person and includes a daughter born outside of marriage to a sister of that person; (nièce)

REGULATIONS RESPECTING ADMISSION AND REMOVAL FROM CANADA OF
PERSONS WHO ARE NOT CANADIAN CITIZENS

Short Title

1. These Regulations may be cited as the Immigration Regulations, 1978.

Interpretation

2. (1) In these Regulations,

"accompanying dependant", with respect to a person, means a dependant of that person to whom a visa is issued at the time a visa is issued to that person for the purpose of enabling the dependant to accompany or follow that person to Canada; (personne à charge qui l'accompagne)

"Act" means the Immigration Act, 1976;(Loi)

"adopted" means adopted in accordance with the laws of any province of Canada or of any country other than Canada or any political subdivision thereof where the adoption created a relationship of parent and child; (adopté)

"assistance loan" means a loan to enable the person to whom it is made to pay his reasonable living expenses, including those of his dependants in Canada and any expenses incurred or to be incurred by him and his dependants in Canada for medical care or medical insurance or that are reasonably necessary to enable the person to engage or continue in employment; (prêt d'aide à l'établissement)

"assisted relative", with respect to any person who has given a written undertaking to the Minister to assist the relative, means a relative, other than a member of the family class, who is an immigrant and is

(a) a brother or sister, a grandfather or grandmother, a father or mother, a son or daughter, or an unmarried niece or nephew less than twenty-one years of age, or

(b) an aunt or uncle, a grandson or granddaughter, a married niece or nephew or a niece or nephew twenty-one or more years of age; (parents aidés)

"aunt", with respect to any person, means a sister of the father or mother of that person; (tante)

"brother", with respect to any person, includes a half-brother who is a son of the father or mother of that person; (frère)

"case presenting officer" means an immigration officer who has been designated by the Minister to represent the Minister at inquiries; (agent chargé de présenter le cas)

"orphan" means a person whose lawful father and mother are both deceased; (orphelin)

"person concerned", with respect to an inquiry, means the person who is the subject of the inquiry and includes any member of that person's family who may be included in any deportation order or departure notice that may be made against or issued to that person; (personne en cause)

"retired person" means an immigrant who has attained at least fifty-five years of age and does not intend to seek or accept employment in Canada; (retraité)

"self-employed person" includes an immigrant who intends to establish a business in Canada that will create opportunities for employment in Canada of himself and not more than five Canadian citizens or permanent residents or who will make a significant contribution to the cultural and artistic life of Canada; (travailleur autonome)

"sister", with respect to any person, includes a half-sister who is a daughter of the father or mother of that person; (soeur)

"son", with respect to any person, means a male who is

- (a) the issue of a marriage of that person and who would possess the status of legitimacy if his father had been domiciled in a province of Canada at the time of his birth,
- (b) the issue of a woman who

- (i) is a permanent resident or a Canadian citizen resident in Canada, or
- (ii) may be granted landing and accompanies the issue to Canada to become a permanent resident, or

- (c) adopted by that person before he attains thirteen years of age; (fil)

"sponsor" means a person who sponsors an application for landing made by a person described in any of paragraphs 4(a) to (h) or by a person described in subsection 5(1) or (2); (répondant)

"spouse", with respect to any person, means the person recognized under the laws of any province of Canada as the husband or wife of that person; (conjoint)

"student authorization" means a document issued by an immigration officer whereby the person to whom it is issued is authorized

- (a) to attend a university or college authorized by statute or charter to confer degrees, or
- (b) to take an academic, professional or vocational training course at a university, college or other institution not described in paragraph (a); (permis de séjour pour étudiant)

"transportation loan" means a loan to enable the person to whom it is made to obtain transportation for himself or his dependants or both to the place of final destination in Canada and to pay the reasonable living expenses necessarily incurred during the course of the journey; (prêt de transport)

"uncle", with respect to any person, means a brother of the father or mother of that person; (oncle)

"unmarried", with respect to any person, means that the person is not married and has never been married. (non marié(e))

(2) For the purpose of paragraph 19(2)(c) of the Act, "family" with respect to any visitor includes any accompanying relative who is dependent on that visitor or on whom that visitor is dependent for support.

(3) For the purpose of paragraph 27(1)(f) of the Act, "family" with respect to any person includes those persons who were granted admission as members of the family class or assisted relatives of that person.

(4) For the purpose of subsection 33(1) of the Act and subsection 27(1) of these Regulations, "family" includes any relative who is dependent for support on the member of the family against whom a deportation order is or may be made or to whom a departure notice is or may be issued.

Priority Processing

3. Applications for immigrant visas shall be processed in the following order of priority:

- (a) members of the family class, Convention refugees seeking resettlement and members of classes of persons designated pursuant to paragraph 115(1)(d) of the Act;
- (b) persons who are qualified for and are willing to engage in employment in a designated occupation;
- (c) persons who have arranged employment in Canada and are able to meet the criteria set out in paragraphs (a) to (c) of item 5 of Schedule I in column II thereof;
- (d) entrepreneurs;
- (e) retired persons and self-employed persons;
- (f) persons who are awarded more than eight units of assessment on the basis of the factor set out in item 4 of Schedule I;
- (g) persons who are awarded at least four but not more than eight units of assessment on the basis of the factor set out in item 4 of Schedule I; and
- (h) all other immigrants not referred to in any of paragraphs (a) to (g).

Members of the Family Class

4. Every Canadian citizen and every permanent resident may, if he is residing in Canada and is at least eighteen years of age, sponsor an application for landing made

- (a) by his spouse;
- (b) by his unmarried son or daughter under twenty-one years of age;
- (c) by his father, mother, grandfather or grandmother sixty years of age or over;
- (d) by his father, mother, grandfather or grandmother under sixty years of age if the father, mother, grandfather or grandmother and his or her spouse are incapable of gainful employment or if the father, mother, grandfather or grandmother is widowed;
- (e) by any brother, sister, nephew, niece, grandson or granddaughter of his who is an orphan, under eighteen years of age and unmarried;
- (f) by his fiancée;
- (g) by any child under thirteen years of age whom he intends to adopt and who is

- (i) an orphan,
- (ii) an abandoned child whose parents cannot be identified,
- (iii) a child born outside of marriage who has been placed with a child welfare authority for adoption, or
- (iv) a child whose parents are separated and who has been placed with a child welfare authority for adoption; and

(h) where he does not have a spouse, son, daughter, father, mother, grandfather, grandmother, brother, sister, uncle, aunt, nephew or niece

- (i) who is a Canadian citizen,
 - (ii) who is a permanent resident, or
 - (iii) whose application for landing he may otherwise sponsor,
- by one relative regardless of his age or relationship to him.

5.(1) A Canadian citizen who is residing in Canada and is at least eighteen years of age may sponsor an application for landing made by his father or mother, whether or not the father or mother is a father or mother referred to in paragraph 4(c) or (d).

(2) Where the application for landing of a relative is sponsored by a Canadian citizen or permanent resident pursuant to paragraph 4(h) and that relative is unable to meet the requirements of the Act or these Regulations or dies, the Canadian citizen or permanent resident may, pursuant to that paragraph, sponsor the application for landing of another relative.

6.(1) Where a member of the family class makes an application for an immigrant visa, a visa officer may issue an immigrant visa to him and his accompanying dependants if

- (a) he and his dependants, whether accompanying dependants or not, meet the requirements of the Act and these Regulations;
- (b) the sponsor

- (i) has given a written undertaking to the Minister to make provision for lodging, care and maintenance for the member of the family class and his accompanying dependants for a period to be determined by an immigration officer not exceeding ten years,
 - (ii) is not in default in respect of any obligations assumed by him under any other undertaking given by him with respect to any member of the family class or assisted relative, and
 - (iii) will, in the opinion of an immigration officer, be able to fulfil the undertaking referred to in subparagraph (i);

- (c) in the case of an orphan described in paragraph 4(e) or a child described in paragraph 4(g), the child welfare authority of the government of the province in which the orphan or child is to reside has stated in writing that it has no objection to the proposed arrangements for the reception and care of that orphan or child; and

- (d) in the case of a fiancée, there are no legal impediments to the proposed marriage of the sponsor and the fiancée under the laws of the province in which the sponsor and the fiancée intend to reside and they have agreed to marry each other within ninety days after the admission of the fiancée.

(2) For the purpose of forming an opinion as to whether a sponsor will be able to fulfil the undertaking referred to in subparagraph (1)(b)(i), an immigration officer shall take into account the Low Income Cutoff figures published by Statistics Canada under the authority of the Statistics Act.

(3) Subparagraph (1)(b)(iii) does not apply where a member of the family class who makes an application for an immigrant visa is

- (a) the spouse of the sponsor and does not have any accompanying sons or daughters under twenty-one years of age who have issue; or
- (b) an unmarried son or daughter under twenty-one years of age of the sponsor and does not have any issue.

Convention Refugees Seeking Resettlement

7.(1) Where a visa officer has determined that a person is a Convention refugee seeking resettlement, the visa officer, for the purpose of determining whether that Convention refugee and his dependants will be able to become successfully established in Canada, shall take into consideration

- (a) each of the factors listed in column I of Schedule I;
- (b) whether any person in Canada is seeking to facilitate the admission or arrival in Canada of that Convention refugee and his accompanying dependants; and
- (c) any other financial or other assistance available in Canada for such Convention refugees.

(2) A person who is,

(a) in the case of an individual, a member of a group of not less than five individuals, each of the members of which is a Canadian citizen or permanent resident, has attained at least eighteen years of age and resides in the expected community of settlement, or

(b) in the case of a corporation, a corporation incorporated under the laws of Canada or any province thereof and having representatives in the expected community of settlement,

may seek to facilitate the admission or arrival in Canada of a Convention refugee seeking resettlement where

(c) each member of the group or the corporation has given a written undertaking to the Minister to make provision for lodging, care, maintenance and resettlement assistance for the Convention refugee and his accompanying dependants for a period of one year,

(d) each member of the group or the corporation is not in default with respect to any other undertaking given with respect to any other Convention refugee or his dependants, and

(e) the members of the group or the corporation, in the opinion of an immigration officer,

- (i) will make or have made adequate arrangements in the community of expected settlement for the reception of the Convention refugee and his accompanying dependants, and
- (ii) have sufficient financial resources and expertise to fulfil the undertaking referred to in paragraph (c).

(3) Where a Convention refugee seeking resettlement makes an application for an immigrant visa, a visa officer may issue an immigrant visa to him and his accompanying dependants if he and his accompanying dependants

- (a) meet the requirements of the Act and these Regulations; and
- (b) in the opinion of the visa officer, will be able to become successfully established in Canada.

Selection Criteria

8.(1) For the purpose of determining whether an immigrant and his dependants, other than a member of the family class or a Convention refugee seeking resettlement, will be able to become successfully established in Canada, a visa officer shall assess that immigrant or, at the option of the immigrant, the spouse of that immigrant,

(a) in the case of an immigrant, other than an immigrant described in paragraph (b), (c), (d) or (e), on the basis of each of the factors listed in column I of Schedule I;

(b) in the case of an immigrant who intends to be a self-employed person in Canada, on the basis of each of the factors listed in column I of Schedule I, other than the factor set out in item 5 thereof;

(c) in the case of an entrepreneur, on the basis of each of the factors listed in column I of Schedule I, other than the factors set out in items 4 and 5 thereof;

(d) in the case of an assisted relative, on the basis of each of the factors listed in column I of Schedule I, other than the factors set out in items 5, 6, 8 and 10 thereof; and

(e) in the case of a retired person, on the basis of

(i) the location in which the immigrant intends to reside,

(ii) the presence of friends or relatives of the immigrant in the locality in which he intends to reside, and

(iii) the potential of the immigrant for adjusting to life in Canada, his motivation and whether he has sufficient financial resources to support himself and his accompanying dependants without receiving any financial social benefits that may be paid to him by any department or agency of a municipal, provincial or federal government in Canada.

(2) A visa officer shall award to an immigrant who is assessed on the basis of factors listed in column I of Schedule I the appropriate number of units of assessment for each factor in accordance with the criteria set out in column II thereof opposite that factor, but he shall not award for any factor more units of assessment than the maximum number set out in column III thereof opposite that factor.

(3) Ten units of assessment shall be subtracted from the total number of units of assessment awarded to an immigrant on the basis of all of the factors listed in Schedule I applicable to him

(a) where he is assessed on the basis of the factor set out in item 5 of Schedule I and is not awarded any units of assessment for that factor; or

(b) where he is an assisted relative and would not be awarded any units of assessment for the factor set out in item 5 of Schedule I if he were assessed on the basis of that factor.

(4) Where a visa officer assesses an immigrant who intends to be a self-employed person in Canada, he shall, in addition to any other units of assessment awarded to that immigrant, award ten units of assessment to the immigrant if, in the opinion of the visa officer, the immigrant will be able to become successfully established in his occupation or business in Canada.

9. Where an immigrant, other than a member of the family class, an assisted relative or a Convention refugee seeking resettlement, makes an application for a visa, a visa officer may, subject to section 11, issue an immigrant visa to him and his accompanying dependants if

- (a) he and his dependants, whether accompanying dependants or not, meet the requirements of the Act and these Regulations; and
- (b) on the basis of his assessment in accordance with section 8
 - (i) in the case of an immigrant other than a retired person or an entrepreneur, he is awarded at least fifty units of assessment, or
 - (ii) in the case of an entrepreneur, he is awarded at least twenty-five units of assessment.

10.(1) Where an assisted relative makes an application for an immigrant visa, a visa officer may, subject to section 11, issue an immigrant visa to him and his accompanying dependants if

- (a) he and his dependants, whether accompanying dependants or not, meet the requirements of the Act and these Regulations;
- (b) on the basis of his assessment in accordance with section 8,
 - (i) in the case of an assisted relative referred to in paragraph (a) of the definition "assisted relative" in subsection 2(1)
 - (A) he is awarded at least twenty units of assessment and a Canadian citizen who is resident in Canada and at least eighteen years of age has given a written undertaking to the Minister to make provision for lodging, care and maintenance for the assisted relative and his accompanying dependants for a period of five years, or
 - (B) he is awarded at least twenty-five units of assessment and a permanent resident who is resident in Canada and at least eighteen years of age has given a written undertaking to the Minister to make provision for lodging, care and maintenance for the assisted relative and his accompanying dependants for a period of five years, or
 - (ii) in the case of an assisted relative referred to in paragraph (b) of the definition "assisted relative" in subsection 2(1),
 - (A) he is awarded at least thirty units of assessment and a Canadian citizen who is resident in Canada and at least eighteen years of age has given a written undertaking to the Minister to make provision for lodging, care and maintenance for the assisted relative and his accompanying dependants for a period of five years, or
 - (B) he is awarded at least thirty-five units of assessment and a permanent resident who is resident in Canada and at least eighteen years of age has given a written undertaking to the Minister to make provision for lodging, care and maintenance for the assisted relative and his accompanying dependants for a period of five years; and
- (c) the person who has given the written undertaking referred to in paragraph (b)
 - (i) is not in default in respect of any obligations assumed by him under any other undertaking given by him with respect to any member of the family class or assisted relative, and

(ii) will, in the opinion of an immigration officer, be able to fulfil that undertaking.

(2) For the purpose of forming an opinion as to whether a person will be able to fulfil the undertaking given by him referred to in paragraph (1)(b), an immigration officer shall take into account the Low Income Cutoff figures published by Statistics Canada under the authority of the Statistics Act.

11. (1) Subject to subsection (3), a visa officer shall not issue an immigrant visa pursuant to section 9 or 10 to an immigrant who is assessed on the basis of factors listed in column I of Schedule I and is not awarded any units of assessment for the factor set out in item 3 thereof unless the immigrant

- (a) has arranged employment in Canada and has a written statement from the proposed employer verifying that he is willing to employ an inexperienced person in the position in which the person is to be employed, and the visa officer is satisfied that the person can perform the work required without experience; or
- (b) is qualified for and is prepared to engage in employment in a designated occupation.

(2) Subject to subsection (3), a visa officer shall not issue an immigrant visa pursuant to section 9 or 10 to an immigrant other than an entrepreneur or a self-employed person unless the units of assessment awarded to that immigrant include at least one unit of assessment for the factor set out in item 4 of column I of Schedule I or the immigrant has arranged employment in Canada or is prepared to engage in employment in a designated occupation.

(3) A visa officer may

- (a) issue an immigrant visa to an immigrant who is not awarded the number of units of assessment required by section 9 or 10, or
- (b) refuse to issue an immigrant visa to an immigrant who is awarded the number of units of assessment required by section 9 or 10,

if, in his opinion, there are good reasons why the number of units of assessment awarded do not reflect the chances of the particular immigrant and his dependants of becoming successfully established in Canada and those reasons have been submitted in writing to, and approved by, a senior immigration officer.

Examination of Immigrants at Ports of Entry

12. Notwithstanding the issuance of a visa to an immigrant pursuant to subsection 6(1), 7(3), section 9 or subsection 10(1) or 11(3), when that immigrant appears for examination at a port of entry as required by subsection 12(1) of the Act, he shall, if his marital status has changed since a visa was issued to him, satisfy the immigration officer examining him that he and his dependants, whether accompanying dependants or not, at the time of the examination meet the requirements of the Act and these Regulations.

Visitors' Visas

13. (1) A visitor who is a person referred to in Schedule II, other than a person who

- (a) is required to obtain a student authorization or an employment authorization to enter Canada, or
- (b) is ordinarily resident in Rhodesia,

is not required to make an application for and obtain a visa before he appears at a port of entry.

(2) A visa officer may issue a visitor's visa to any person who meets the requirements of the Act and these Regulations if that person establishes to the satisfaction of the visa officer that he will be able

- (a) to return to the country from which he seeks to come to Canada; or
- (b) to go from Canada to some other country.

(3) A diplomatic or consular officer of Canada may, while he is outside Canada, issue a visa to any person who in Canada may be granted privileges or immunities in accordance with the law of Canada as a representative or official of a foreign government or international organization.

(4) Every visitor who is required to obtain a visa, student authorization or employment authorization before he appears at a port of entry shall be in possession of a valid visa, student authorization or employment authorization, as the case may be, when he appears at a port of entry.

Passports and Travel Documents

14. (1) Every immigrant and every visitor shall be in possession of

- (a) an unexpired passport issued to him by a proper issuing authority of the country of which he is a citizen or national; or
- (b) an identity or travel document of a class specified by order of the Minister.

(2) Subsection (1) does not apply to

- (a) a Convention refugee who is in possession of a valid and subsisting immigrant visa where, in the opinion of the visa officer who issued the immigrant visa, it would be impractical to require that person to obtain a passport or an identity or travel document;

- (b) a visitor seeking entry from the United States who

- (i) is a citizen of that country, or
 - (ii) has been lawfully admitted to that country for permanent residence; or

- (c) a member of the armed forces of any country seeking entry to carry out his duties under the Visiting Forces Act.

(3) Every visitor seeking entry may be required to produce sufficient documentary evidence to establish to the satisfaction of an immigration officer that he will be able to return to the country from which he seeks entry or to go from Canada to some other country.

Student Authorizations

15. (1) Every application for a student authorization shall be accompanied by

- (a) a letter from a university, college or other institution referred to in paragraph 10(a) or (b) of the Act accepting the applicant to attend or to take any specified course at the university, college or other institution; and

(b) sufficient documentation to enable an immigration officer to satisfy himself that the applicant has sufficient financial resources available to him, without engaging in employment in Canada,

- (i) to pay his tuition fees,
- (ii) to maintain himself and any dependants who will come into Canada during the period for which he seeks a student authorization, and
- (iii) to pay the transportation costs to and from Canada for himself and any dependants referred to in subparagraph (ii).

(2) A person who seeks entry for a purpose referred to in paragraph 10(a) or (b) of the Act is not required to obtain a student authorization before he appears at a port of entry if he is the spouse or unmarried son or daughter of

- (a) any diplomat, consular officer, representative or official properly accredited of a country, other than Canada, or of the United Nations or any of its agencies or of any intergovernmental organization in which Canada participates, coming to or in Canada to carry out his official duties or any member of the staff of any such diplomat, consular officer, representative or official;
- (b) a member of any military force coming to or in Canada for training or for any other purpose in connection with the defence or security interests of Canada or under any treaty or agreement between Canada and another country;
- (c) a clergyman or member of a religious order coming to or in Canada for the temporary carrying out of his religious duties;
- (d) an employee of a foreign news company coming to or in Canada for the purpose of reporting on Canadian events;
- (e) a person coming to or in Canada to engage in athletic or other sport activities or events as a player, manager, coach, trainer or administrative employee for a Canadian-based team, group or organization or a person engaged as a referee, umpire or other similar official with respect to any athletic or other sport activity or event in Canada;
- (f) a person in possession of a valid and subsisting student authorization; or
- (g) a person in possession of a valid and subsisting employment authorization.

16.(1) A visitor in Canada may make an application pursuant to subsection 16(1) of the Act for the purpose of obtaining a student authorization if he is

- (a) a person referred to in subsection 15(2); or
- (b) a person in possession of a valid and subsisting student authorization.

(2) For the purposes of paragraphs (1)(b) and 15(2)(f), a person who was granted entry as a person described in paragraph 7(1)(f) of the Immigration Act, as it read before it was repealed by subsection 128(1) of the Act, shall be deemed to be a person in possession of a valid and subsisting student authorization if

- (a) he is lawfully in Canada;
- (b) before the repeal of the Immigration Act, he complied with all the requirements of that Act and the regulations made thereunder; and
- (c) after the repeal of the Immigration Act, he has complied with all the requirements of the Immigration Act, 1976 and the regulations made thereunder.

17.(1) A student authorization may not be obtained by any person under section 10 or subsection 16(1) of the Act for the taking of any academic, professional or vocational training course of less than six months duration or involving less than twenty-four hours of instruction per week at any university, college or other institution not described in paragraph 10(a) of the Act unless the course is recommended for that person by a minister of the Government of Canada, other than the Minister of Employment and Immigration, or by a minister of the government of any province or by any agency of the Government of Canada or the government of any province.

(2) No visitor may be granted entry for the purpose of taking any academic, professional or vocational training course at any university, college or other institution listed in Schedule III.

Employment Authorizations

18.(1) Subject to subsection 19(1), no person, other than a Canadian citizen or permanent resident, shall engage or continue in employment in Canada without a valid and subsisting employment authorization.

(2) No person who is in possession of a valid and subsisting employment authorization shall continue in employment in Canada unless he complies with each of the terms and conditions specified in the authorization.

19.(1) Subsection 18(1) does not apply to a person who seeks entry for the purpose of engaging in employment or a person in Canada who seeks to engage or continue in employment if he is

- (a) coming to or in Canada to carry out his official duties as a diplomat, consular officer, representative or official properly accredited of a country, other than Canada, or of the United Nations or any of its agencies or of any intergovernmental organization in which Canada participates or as a member of the staff of any such diplomat, consular officer, representative or official;
- (b) a member of any military force coming to or in Canada for training or for any other purpose in connection with the defence or security interests of Canada or under any treaty or agreement between Canada and another country;
- (c) a clergyman or member of a religious order coming to or in Canada for the temporary carrying out of his religious duties;
- (d) coming to or in Canada to engage in employment with a group of persons as a performing artist or a member of the staff of a performing artist where the number of performing artists in the group and their staff is not less than twenty;

- (e) coming to or in Canada to engage in employment as a member of the crew of a vehicle of foreign ownership or foreign registry engaged predominantly in the international transportation of goods or passengers;
- (f) an employee of a foreign news company coming to or in Canada for the purpose of reporting on Canadian events;
- (g) a representative of a business carrying on activities outside of Canada or of a foreign government coming to or in Canada for the purpose of purchasing goods or services;
- (h) a representative of a business carrying on activities outside of Canada or of a foreign government coming to or in Canada for a period of less than ninety days for the purpose of selling goods where that representative will not be engaged in making sales to the general public or to persons who operate retail outlets;
- (i) an employee of a corporation, union or other organization carrying on business or operating outside of Canada who is coming to or in Canada for a period of less than ninety days for the purpose of consulting with other employees or members of, or inspecting a Canadian parent or subsidiary corporation or a Canadian branch office on behalf of that corporation, union or other organization;
- (j) coming to or in Canada to render emergency medical or other services for the preservation of life or property in Canada;
- (k) coming to or in Canada as a member of a non-Canadian-based team to engage or assist in athletic or other sport activities or events or as an individual participant to engage in athletic or other sport activities or events other than as a referee, umpire or other similar official; or
- (l) a person who is in possession of an employment visa issued to him pursuant to the Immigration Regulations, Part I, as they read before the coming into force of these Regulations, where that employment visa would be a valid and subsisting employment visa but for the revocation of those Regulations.

(2) Notwithstanding subsection (1), no person described in that subsection may engage or continue in employment in Canada in any secondary employment without an employment authorization.

(3) A person in Canada may make an application for the purpose of obtaining an employment authorization if he is

- (a) a person referred to in paragraph (1)(a), (b), (c), (f) or (l), or the spouse or unmarried son or daughter of such a person in Canada;
- (b) a person who is in possession of a valid and subsisting student authorization or the spouse or unmarried son or daughter of that person;
- (c) a person who is in possession of a valid and subsisting employment authorization;
- (d) a person engaged in athletic or other sport activities or events as a player, manager, coach, trainer or administrative employee for a Canadian-based team, group or organization or the spouse or unmarried son or daughter of that person, or a person engaged as a referee, umpire or other similar official with respect to any athletic or other sport activity or event in Canada;
- (e) a person who has made an application for landing that has not been disposed of;
- (f) a person who has made a claim that he is a Convention refugee or a Canadian citizen, which claim has not been finally determined;

- (g) a Convention refugee who is not a permanent resident;
- (h) a person with respect to whom execution of a removal order has been stayed by the Board;
- (i) a person referred to in paragraph 52(1)(b) of the Act with respect to whom the Minister has stayed the execution of a removal order or a person whose presence in Canada is required in any criminal proceedings;
- (j) a person awaiting the final determination of judicial proceedings commenced with respect to a removal order made against him; or
- (k) a person against whom a removal order has been made that cannot be executed.

(4) For the purposes of paragraph (3)(b), a person who was granted entry as a person described in paragraph 7(1)(f) of the Immigration Act, as it read before it was repealed by subsection 128(1) of the Act, shall be deemed to be a person in possession of a valid and subsisting student authorization if

- (a) he is lawfully in Canada;
- (b) before the repeal of the Immigration Act, he complied with all the requirements of that Act and the regulations made thereunder; and
- (c) after the repeal of the Immigration Act, he has complied with all the requirements of the Immigration Act, 1976 and the regulations made thereunder.

20.(1) An immigration officer shall not issue an employment authorization to a person if,

- (a) in his opinion, employment of the person in Canada will adversely affect employment opportunities for Canadian citizens or permanent residents in Canada; or
- (b) the issue of the employment authorization will affect
 - (i) the settlement of any labour dispute that is in progress at the place or intended place of employment, or
 - (ii) the employment of any person who is involved in such a dispute.

(2) An immigration officer shall not issue an employment authorization to any person who has previously engaged in employment in Canada without proper authorization or has contravened the terms or conditions of a previous employment authorization unless the immigration officer is satisfied that the previous engagement or contravention was unintentional or was excusable for any other reason.

(3) In order to form an opinion for the purposes of paragraph (1)(a), an immigration officer shall consider

- (a) whether the prospective employer has made reasonable efforts to hire or train Canadian citizens or permanent residents for the employment with respect to which an employment authorization is sought;
- (b) the qualifications of the applicant for the employment for which the employment authorization is sought; and
- (c) whether the wages and working conditions offered are sufficient to attract and retain in employment Canadian citizens or permanent residents.

(4) For the purpose of considering the questions set out in paragraphs (3)(a) and (c), an immigration officer shall consult an officer of the office of the National Employment Service serving the area in which the person seeking an employment authorization wishes to engage in employment.

(5) Notwithstanding paragraph (1)(a), an immigration officer may issue an employment authorization to

- (a) a person described in any of paragraphs 19(3)(e) to (k);
- (b) a person coming to or in Canada pursuant to an agreement with a foreign country entered into by or on behalf of the Government of Canada;
- (c) a person coming to or in Canada under contract to fulfil a single or continuous guest engagement in the performing arts, except where

- (i) the engagement is merely incidental to a commercial activity that does not limit itself to artistic presentation, or
- (ii) the engagement constitutes employment in a permanent position in a Canadian organization;

(d) a person whose employment is related to a research, educational or training program approved by the Minister; or

(e) a person in respect of whom paragraph (1)(a) should not, in the opinion of the immigration officer, be applied for the reason that

- (i) his employment will create or maintain significant employment, benefits or opportunities for Canadian citizens or permanent residents,
- (ii) he is to be employed by a Canadian religious or charitable organization without remuneration, or
- (iii) his employment would result in reciprocal employment of Canadian citizens in other countries.

Medical Examinations

21.(1) The following classes of visitors shall undergo a medical examination by a medical officer:

- (a) persons seeking to engage or continue in employment in an occupation in which protection of public health is essential;
- (b) persons seeking to engage or continue in employment when the aggregate period of time of such employment is in excess of ninety days;
- (c) persons seeking authorization for a purpose referred to in paragraph 10(a) or (b) of the Act who have resided or sojourned, at any time during the five year period immediately preceding the date of seeking authorization, in an area that in the opinion of the Minister of National Health and Welfare has a higher incidence of tuberculosis, intestinal parasitic disease or any serious communicable disease than Canada; and

(d) persons seeking entry or to remain in Canada for an aggregate period of time in excess of ninety days who have resided or sojourned, at any time during the five year period immediately preceding the date of seeking entry or to remain in Canada, in an area that in the opinion of the Minister of National Health and Welfare has a higher incidence of tuberculosis, intestinal parasitic disease or any serious communicable disease than Canada.

(2) Every person referred to in subsection (1) shall be in possession of a valid certificate of medical assessment stating that the person is not a person described in paragraph 19(1)(a) of the Act.

22. For the purpose of determining whether any person is or is likely to be a danger to public health or to public safety or whether the admission of any person would cause or might reasonably be expected to cause excessive demands on health or social services, the following factors shall be considered by a medical officer in relation to the nature, severity or probable duration of any disease, disorder, disability or other health impairment from which the person is suffering, namely,

- (a) any reports made by a medical practitioner with respect to the person;
- (b) the degree to which the disease, disorder, disability or other impairment may be communicated to other persons;
- (c) whether medical surveillance is required for reasons of public health;
- (d) whether sudden incapacity or unpredictable or unusual behaviour may create a danger to public safety;
- (e) whether the supply of health or social services that the person may require in Canada is limited to such an extent that
 - (i) the use of such services by the person might reasonably be expected to prevent or delay provision of those services to Canadian citizens or permanent residents, or
 - (ii) the use of such services may not be available or accessible to the person;
- (f) whether medical care or hospitalization is required; and
- (g) whether potential employability or productivity is affected.

Terms and Conditions of Admission

23. Where terms or conditions may be imposed

- (a) by an immigration officer pursuant to paragraph 14(2)(a), subsection 14(3) or (4) or paragraph 17(2)(b) of the Act,
- (b) by a senior immigration officer pursuant to paragraph 23(1)(a) or subsection 23(2) of the Act, or
- (c) by an adjudicator pursuant to paragraph 32(3)(a) or subsection 32(4) of the Act,

only terms or conditions of the following nature may be imposed, namely,

(d) in the case of an immigrant,

(i) where he has been landed by reason of his application for landing having been sponsored by his fiancée, the condition that his marriage to his fiancée take place within ninety days after he has been so granted landing,

(ii) the time when and place where he shall report for medical observation or treatment, and

(iii) the time when and place where he shall furnish evidence of compliance with the terms or conditions imposed, and

(e) in the case of a visitor,

(i) a prohibition against engaging in employment in Canada,

(ii) a prohibition against attending any university, college or other institution and against taking any academic, professional or vocational training course at any university, college or other institution,

(iii) attendance in a course of instruction and at a university, college or other institution specified by the immigration officer,

(iv) the type of employment in which he shall engage,

(v) the employer with whom he shall engage and continue in employment,

(vi) the period of time within which he shall leave Canada,

(vii) the area within which he may travel in Canada,

(viii) where he is granted entry to become a member of a crew, the period of time within which he shall join the vehicle of which he is to become a member of the crew,

(ix) the time when and place where he shall report for medical observation or treatment or for any other purpose, and

(x) the time when and place where he shall furnish evidence of compliance with the terms or conditions imposed.

24. (1) Every application made by a person pursuant to subsection 15(2) or 16(1) of the Act shall be in writing and shall set forth

(a) the names and addresses of the applicant and each member of his family,

(b) the dates and places of birth of the applicant and each member of his family,

(c) the citizenship of the applicant and each member of his family,

(d) the dates and places of landing or entry of the applicant and each member of his family,

(e) the original terms or conditions imposed on the applicant and each member of his family,

(f) the variation requested of the terms or conditions, and

(g) the reasons for which the variation is requested,

and, when applicable, shall be accompanied by

(h) the documentation referred to in subsection 15(1), and

(i) any other documentation or other information that the applicant considers relevant.

(2) Every visitor who makes an application pursuant to subsection 16(1) of the Act shall be present at the time his application is presented to an immigration officer.

(3) Where an application has been made pursuant to subsection 15(2) or 16(1) of the Act, the immigration officer examining the application may request that the applicant present himself for a personal interview.

Deposits and Bonds

25.(1) Where the Deputy Minister issues a direction to a transportation company pursuant to subsection 93(1) of the Act,

(a) any sum of money required to be deposited shall be in Canadian currency; and

(b) any other security required to be deposited shall be

(i) bearer bonds issued by the Government of Canada,
(ii) registered Government of Canada bonds transferred to the Receiver General in accordance with the Domestic Bonds of Canada Regulations, or

(iii) a guarantee bond acceptable to the Minister naming the transportation company as principal and a surety company as surety.

(2) Where a senior immigration officer requires any person or group or organization of visitors to make a deposit or post a performance bond pursuant to any provision of the Act, he shall provide to that person or group or organization of visitors a receipt or other documentary record specifying the circumstances in which the deposit may be forfeited or the bond enforced.

Returning Resident Permits

25.(1) When a permanent resident intends to leave Canada for any period of time or is outside Canada, he may make an application, orally or in writing, to an immigration officer for a returning resident permit.

(2) Subject to subsection (3), an immigration officer shall issue a returning resident permit to a permanent resident who has made an application therefor where the permanent resident

(a) has provided the immigration officer with two clearly identifiable photographs of himself;

(b) has appeared for an interview if requested by the immigration officer; and

(c) intends to leave or left Canada

(i) for the purpose of carrying out his duties as a representative or employee of a corporation or business organization established in Canada or as a representative or employee of the Government of Canada or of a province or a municipality in Canada,

(ii) for the purpose of upgrading his professional, academic or vocational qualifications,

(iii) for the purpose of accompanying a member of his family who is a Canadian citizen or has been issued a returning resident permit, or

(iv) in any circumstances not referred to in subparagraphs (i) to (iii) that the immigration officer deems appropriate.

(3) A returning resident permit shall not be issued to any person who in the opinion of an immigration officer, concurred in by a senior immigration officer, has ceased or will cease to be a permanent resident under subsection 24(1) of the Act.

(4) An immigration officer may, pursuant to subsection (2), issue a returning resident permit

- (a) valid for a period not exceeding twelve months; or
- (b) with the approval of a senior immigration officer, valid for a period not exceeding twenty-four months.

Inquiries

27. (1) Where the case presenting officer at an inquiry may request that any dependent member of the family be included in any deportation order or departure notice that may be made against or issued to the person who is the subject of the inquiry, he shall, at the commencement of the inquiry, inform the adjudicator accordingly, and the adjudicator shall satisfy himself that each such member of the family or his representative is aware

- (a) of the time and place of the inquiry;
- (b) that he may obtain counsel at his own expense to represent him at the inquiry; and
- (c) that he may participate at the inquiry by examining evidence, cross-examining witnesses and presenting evidence.

(2) Subject to subsection (1) and before any evidence is presented at the inquiry, the adjudicator shall satisfy himself that

- (a) the requirements of subsection 30(1) of the Act have been complied with;
- (b) where applicable, a copy of the report made pursuant to subsection 20(1), 27(1) or 27(2) of the Act has been made available to the person concerned; and
- (c) the person concerned is able to understand and communicate in the language in which the inquiry is being held.

(3) Where the adjudicator presiding at an inquiry is not satisfied with respect to any of the matters referred to in subsection (1) or (2), he shall adjourn the inquiry to enable the case presenting officer to obtain sufficient evidence to satisfy the adjudicator that the requirements of subsection (1) and paragraphs (2)(a) and (b) have been complied with or to obtain the services of an interpreter, as the case may be.

28. Where the services of an interpreter are required at an inquiry to enable the person concerned to understand and communicate at the inquiry,

- (a) the interpreter shall be provided at no cost to that person; and
- (b) the adjudicator presiding at the inquiry shall administer an oath to the interpreter whereby the interpreter swears to translate accurately to the best of his ability all the questions asked, answers given and statements made at the inquiry and any documents submitted to the adjudicator in the course of the inquiry.

29. (1) When the requirements of sections 27 and 28 have been met, the case presenting officer at the inquiry shall,

- (a) when a report has been made pursuant to paragraph 20(1)(a) of the Act or a direction has been made pursuant to subsection 27(3) of the Act, read to and file with the adjudicator as an exhibit the report or the direction and a copy of the report on the basis of which the direction was made; and
- (b) where the person concerned has been arrested pursuant to subsection 104(2) of the Act, inform the adjudicator of the allegations that have been made against that person for the purposes of the inquiry.

(2) When the requirements of subsection (1) have been met, the adjudicator presiding at the inquiry shall inform the person concerned of the reasons for the inquiry, of the allegations that have been made and of the possible consequences of the inquiry.

30. Each person who gives evidence at an inquiry shall take an oath to tell the truth and to answer to the best of his ability all questions asked of him at the inquiry that are considered relevant by the adjudicator.

31.(1) When the requirements of section 29 have been met, the case presenting officer shall present such evidence as he deems proper and the adjudicator allows to establish the allegations that have been made against the person concerned.

(2) The person concerned or his counsel shall be given a reasonable opportunity to examine any evidence and to cross-examine any witnesses presented by the case presenting officer.

32. (1) When the case presenting officer has concluded presenting the evidence referred to in subsection 31(1), the person concerned or his counsel shall be given a reasonable opportunity to present such evidence as he deems proper and the adjudicator allows.

(2) The case presenting officer shall be given a reasonable opportunity to examine any evidence and to cross-examine any witnesses presented by the person concerned or his counsel.

33. When the person concerned or his counsel has concluded presenting evidence, the case presenting officer shall be given a reasonable opportunity to present such evidence in reply to the evidence presented by the person concerned or his counsel as he deems proper and the adjudicator allows.

34. (1) Notwithstanding the requirements of sections 31 to 33, the adjudicator may require or permit evidence to be adduced at an inquiry in such manner as he deems appropriate having regard to all the circumstances of the case including the burden of proof and presumption referred to in subsections 8(1) and (2) of the Act.

(2) After the evidence has been presented at an inquiry, the case presenting officer and the person concerned or his counsel shall be given a reasonable opportunity to make such submissions as they deem proper in the circumstances and the adjudicator allows.

35.(1) The adjudicator presiding at an inquiry may adjourn the inquiry at any time for the purpose of ensuring a full and proper inquiry.

(2) Where an inquiry is adjourned pursuant to these Regulations or subsection 29(5) of the Act, it shall be resumed at such time and place as is directed by the adjudicator presiding at the inquiry.

(3) Where an inquiry has been adjourned pursuant to the Act or these Regulations, it may be resumed by an adjudicator other than the adjudicator who presided at the adjourned inquiry with the consent of the person concerned or where no substantive evidence has been adduced.

(4) Where substantive evidence has been adduced at an adjourned inquiry and the person concerned refuses to consent to the resumption of the inquiry by an adjudicator other than the adjudicator who presided at the adjourned inquiry, the inquiry shall be recommenced.

36.(1) Where, at the conclusion of an inquiry, the adjudicator makes a removal order against or issues a departure notice to a person, the order or notice shall be dated and signed by the adjudicator and shall set forth the basis on which the order was made or the notice was issued.

(2) Where a removal order is made or a departure notice is issued in the presence of the person concerned, a copy of the order or notice shall be served personally on the person concerned and his counsel, if any.

(3) Where a removal order is made or a departure notice is issued in the absence of the person concerned, a copy of the order or notice shall be served on the person concerned and his counsel, if any, personally or by sending it by ordinary prepaid mail addressed to the person concerned and to his counsel, if any, at their latest known addresses.

(4) Where, at the conclusion of an inquiry, the adjudicator does not make a removal order against or issue a departure notice to a person, the adjudicator shall, at the request of the case presenting officer or the person concerned, provide written reasons for his decision.

37.(1) Where an inquiry is adjourned or where an adjudicator makes a removal order against the person concerned, the case presenting officer, in the event that detention or continued detention of the person is in his opinion justified, shall request that the adjudicator make an order for the detention or continued detention of the person concerned and shall inform the adjudicator of the reasons for the request.

(2) Where a request for detention or continued detention is made pursuant to subsection (1), the person concerned or his counsel shall be given a reasonable opportunity to reply to the request and make submissions with respect thereto.

38. Where a removal order is made against a person, a senior immigration officer shall so inform the transportation company that is required to convey or cause to be conveyed from Canada that person and serve that transportation company with a notice requiring it to convey or cause to be conveyed from Canada that person and specifying whether the transportation company is liable to pay the costs of such conveyance.

39. An inquiry may be reopened by an adjudicator pursuant to subsection 35(1) of the Act at the written request or with the written permission of the person concerned or where the decision made at the inquiry will be amended to the benefit of the person concerned.

Redetermination of Refugee Claims

40.(1) A person who claims to be a Convention refugee and who has been informed in writing by the Minister pursuant to subsection 45(5) of the Act that he is not a Convention refugee may, within seven days after he is so informed, make an application in writing to the Board in accordance with section 70 of the Act for a redetermination of his claim that he is a Convention refugee.

(2) An application for a redetermination referred to in subsection (1) may be delivered to an immigration officer who shall forthwith forward the application to the Board.

Refusal of Sponsored Applications

41.(1) Where an immigration officer refuses to approve an application for landing that has been made by a member of the family class and has been sponsored, the immigration officer shall,

(a) where the refusal to approve the application is made on the grounds referred to in paragraph 79(1)(a) of the Act, provide to the sponsor, or

(b) where the refusal to approve the application is made on the grounds referred to in paragraph 79(1)(b) of the Act, provide to the member of the family class

a summary of the information on which his reason for refusal is based.

(2) Where an application for landing made by a member of the family class has been refused pursuant to subsection 79(1) of the Act, an immigration officer shall inform the sponsor in writing that if he is a Canadian citizen he has a right of appeal to the Board, pursuant to subsection 79(2) of the Act.

Removal and Detention Costs

42. The costs and expenses to be included in determining removal and detention costs are

- (a) expenses incurred by the Canada Employment and Immigration Commission in locating any person who came into Canada as or to become a member of a crew and, without the approval of an immigration officer, failed to be on the vehicle when it left a port of entry;
- (b) expenses incurred in the identification for removal of the person who is to be removed from Canada;
- (c) expenses incurred in procuring travel documentation for the person who is to be removed from Canada;
- (d) expenses incurred in providing an escort for the person who is to be removed from Canada to the place to which that person is to be removed, including the transportation expenses incurred for the escort to return to Canada;
- (e) the costs of accommodation, meals, guard service, medical treatment and hospital care incurred while a person is detained under the Act; and
- (f) any expenses incurred within or outside Canada with respect to the transportation of the person who is removed from Canada.

Photographs and Fingerprints

43. Every person who is required under the Act to obtain a visa or to obtain authorization for a purpose referred to in section 10 of the Act shall provide with his application for the visa or authorization two clearly identifiable photographs of himself.

44.(1) Any person against whom a removal order is made may be required by an immigration officer to be photographed or fingerprinted or both.

(2) Where an immigration officer is not satisfied with respect to the identity of any person who

- (a) makes an application for a visa or for an authorization for a purpose referred to in section 10 of the Act,
- (b) seeks admission,
- (c) makes an application pursuant to subsection 16(1) of the Act, or
- (d) has been arrested pursuant to section 104 of the Act,

he may require that person to be photographed or fingerprinted or both.

Transportation Loans and Assistance Loans

45.(1) The Minister may make transportation loans to immigrants and to persons who are

- (a) Canadian citizens or permanent residents residing in Canada who have made an application to the Minister for financial assistance to obtain, for dependants who are seeking landing, transportation to Canada and transportation from their port of arrival to their place of destination in Canada;
- (b) seeking landing and are in possession of a permit; or

(c) Convention refugees or members of a class of persons designated pursuant to paragraph 115(1)(d) of the Act who are in Canada, are seeking landing and have made an application to the Minister for financial assistance to obtain, for dependants who are seeking landing, transportation to Canada and transportation from their port of arrival to their place of destination in Canada.

(2) The Minister may make assistance loans to permanent residents, Convention refugees and persons who are lawfully in Canada and seeking landing.

46.(1) Where a loan is made to a person pursuant to section 45, it shall, subject to section 47, be repaid in full by consecutive monthly instalments commencing

(a) in the case of a transportation loan, on the first day of the month following the month in which the person for whose benefit the loan was made arrives in Canada; and

(b) in the case of an assistance loan, on the first day of the month following the month in which the proceeds of the loan are paid to or for the benefit of that person.

(2) A loan made to a person pursuant to section 45 is, subject to section 47, repayable

(a) where the amount of the loan is \$500 or less, during a period of twelve months,

(b) where the amount of the loan is more than \$500 but less than \$1000, during a period of twenty-four months, or

(c) where the amount of the loan is \$1000 or more, during a period of thirty-six months,

commencing on the day on which the first monthly instalment is payable.

(3) Where the employer of a person to whom a loan is made pursuant to section 45 is willing to institute repayment of the loan by means of a payroll deduction scheme, the Minister may require repayment by such means.

47. (1) Where a loan is made pursuant to section 45 to a Convention refugee or to a member of a class of persons designated pursuant to paragraph 115(1)(d) of the Act, an immigration officer may defer commencement of repayment of the loan for a period not exceeding twenty-four months if, in his opinion, earlier commencement of repayment would result in undue hardship to that person or his dependants in Canada.

(2) Where a loan is made pursuant to section 45 to a person not referred to in subsection (1), and that person satisfies an immigration officer that by reason of his income, assets and liabilities he cannot reasonably repay the loan in accordance with the requirements of section 46, the immigration officer may defer payments or extend the period of time during which payments are to be made for a period of not more than six months.

48.(1) Where a loan is made pursuant to section 45 to a person not referred to in subsection 47(1), the loan shall, subject to subsection (2), bear interest at a rate equal to the rate established by the Minister of Finance for loans made by that Minister to Crown corporations and in effect on the first day of January of the year in which the loan was approved, computed from the first day of the month following the day on which that person arrives in Canada.

(2) Where a loan is made pursuant to section 45 to any person who has previously obtained a loan under that section that has not been repaid, the loan shall bear interest at a rate equal to the rate of interest payable on the loan that was previously obtained.

Return or other Disposition of Seized Documents

49.(1) Subject to subsection (2), where any travel or other document has been seized and held pursuant to paragraph 111(2)(b) of the Act, it shall,

(a) where the person from whom it was seized is granted admission or allowed to come into Canada, be returned immediately to that person; or

(b) where the person from whom it was seized is not granted admission or allowed to come into Canada, be returned as soon as practicable to that person.

(2) Where it has been determined that any travel or other document seized and held pursuant to paragraph 111(2)(b) or (c) of the Act has been fraudulently or improperly obtained, it shall be returned to the rightful holder thereof or the proper issuing authority.

(3) Where any travel or other document was seized pursuant to paragraph 111(2)(c) of the Act to prevent the fraudulent or improper use of such document or where the rightful holder or the proper issuing authority of any travel or other document seized pursuant to paragraph 111(2)(b) or (c) of the Act cannot be determined, such document may be destroyed.

Obligations of Transportation Companies

50.(1) Transportation companies conveying immigrants or visitors to Canada shall ensure that all immigrants and visitors who are required to obtain a visa before they appear at a port of entry are in possession of valid visas.

(2) When the Minister informs a transportation company that a named person, who is not a Canadian citizen or a permanent resident, is, in his opinion, a member of any of the classes described in subsection 19(1) of the Act, the transportation company shall not carry that person to Canada.

51. Where any person who is required under the Act to be held in custody by a transportation company or member of a crew escapes from custody, the transportation company or member of a crew into whose custody that person was released or placed shall forthwith make a written report with respect to the escape to an immigration officer.

52. Where any person has secreted himself in or on a vehicle coming to Canada, the master shall

(a) forthwith after the arrival of the vehicle in Canada make a written report with respect to that person to an immigration officer; and

(b) hold that person in custody on the vehicle unless a senior immigration officer has given written permission to the master to release that person.

53. (1) Where a ship of foreign registry with a crew of more than ten members arrives in Canada, the master shall forthwith provide a senior immigration officer with a list of the members of the crew.

(2) The master of a ship referred to in subsection (1) shall, at the time of the departure from Canada of the ship, provide a senior immigration officer with a list of the members of the crew indicating thereon any changes from the list provided pursuant to subsection (1).

(3) Where, at any time after the arrival in Canada of a vehicle of foreign registry and before the departure thereof from Canada, any member of the crew

(a) is discharged or hospitalized or seeks to come into Canada, or

(b) deserts or fails to rejoin the vehicle at the time required,

the master shall forthwith make a report with respect to that member of the crew to a senior immigration officer.

54. (1) When, after the commencement of a calendar year, a ship of Canadian registry with a crew of more than ten members first arrives in Canada, the master shall forthwith provide a senior immigration officer with a list of the members of the crew.

(2) Where at the time of any arrival in Canada, after the first arrival in any calendar year, of a ship referred to in subsection (1), any change from the list provided pursuant to subsection (1) exists, the master shall forthwith provide a senior immigration officer with a list of the members of the crew.

(3) At the time of the last arrival in Canada in any calendar year of a ship referred to in subsection (1), the master shall provide a senior immigration officer with a list of the members of the crew.

(4) Where, at any time after the arrival in Canada of a vehicle of Canadian registry and before the departure thereof from Canada, any member of the crew

(a) is discharged or hospitalized or seeks to come into Canada, or

(b) deserts or fails to rejoin the vehicle at the time required,

the master shall forthwith make a report with respect to that member of the crew to a senior immigration officer.

Property of Deceased Persons

55. Where a person, other than a Canadian citizen or permanent resident, dies in Canada at an immigrant station or at some other place while he is under the control and supervision of an immigration officer, a senior immigration officer shall

(a) prepare a written report accounting for all moneys and personal property belonging to the person at that station or place,

and, unless otherwise directed by the Minister,

(b) where a relative of the person is known by the senior immigration officer to be in Canada, deliver the moneys and personal property and a copy of the written report referred to in paragraph (a) to the relative and obtain a receipt therefor, or

(c) in any case not referred to in paragraph (b), deliver the moneys and personal property and a copy of the written report referred to in paragraph (a) to the consular authorities in Canada of the country of which that person was a citizen or resident and obtain a receipt therefor.

SCHEDULE I

<u>Column I</u>	<u>Column II</u>	<u>Column III</u>
<u>Factors</u>	<u>Criteria</u>	<u>Maximum Units</u>
1. Education	One unit of assessment shall be awarded for each year of primary and secondary education successfully completed.	12
2. Specific Vocational Preparation	To be measured by the amount of formal professional, vocational, apprenticeship, in-plant, or on-the-job training specified in the Canadian Classification and Dictionary of Occupations, printed under the authority of the Minister, as necessary to acquire the information, techniques and skills required for average performance in the occupation in which the applicant is assessed under item 4. Units of assessment shall be awarded as follows: (a) when the amount of training required is less than thirty-one days, one unit; (b) when the amount of training required is thirty-one days or more and less than three months, three units;	15

<u>Factors</u>	<u>Criteria</u>	<u>Maximum Units</u>
	(c) when the amount of training required is three months or more and less than six months, five units;	
	(d) when the amount of training required is six months or more and less than twelve months, seven units;	
	(e) when the amount of training required is twelve months or more and less than two years, nine units;	
	(f) when the amount of training required is two years or more and less than four years, eleven units;	
	(g) when the amount of training required is four years or more and less than ten years, thirteen units; and	
	(h) when the amount of training required is ten years or more, fifteen units.	
3. Experience	Units of assessment shall be awarded for experience in the occupation in which the applicant is assessed under item 4 or, in the case of an entrepreneur, for experience in the occupation that the entrepreneur is qualified for and is prepared to follow in Canada, as follows:	8
	(a) when the Specific Vocational Preparation time needed is less than three months, two units for the first year of experience;	

<u>Factors</u>	<u>Criteria</u>	<u>Maximum Units</u>
	(b) when the Specific Vocational Preparation time needed is three months or more and less than twelve months, two units for each year of experience not exceeding two years;	
	(c) when the Specific Vocational Preparation time needed is one year or more and less than four years, two units for each year of experience not exceeding three years; and	
	(d) when the Specific Vocational Preparation time needed is four years or more, two units for each year of experience.	
4. Occupational Demand	Units of assessment shall be awarded on the basis of employment opportunities available in Canada in the occupation that the applicant is qualified for and is prepared to follow in Canada, such opportunities being determined by taking into account labour market demand on both an area and national basis.	15
5. Arranged Employment or Designated Occupation	Ten units shall be awarded if, in the opinion of the visa officer, (a) the person has arranged employment in Canada that, based on the information provided by the National Employment Service, offers reasonable prospects of continuity and wages and working conditions sufficient to attract and retain in employment Canadian citizens or permanent	10

<u>Factors</u>	<u>Criteria</u>	<u>Maximum Units</u>
	residents,	
	(b) based on information provided by the National Employment Service, employment of the person in Canada will not adversely affect employment opportunities for Canadian citizens or permanent residents in Canada, and	
	(c) the person will likely be able to meet all federal, provincial and other applicable licensing and regulatory requirements related to the employment, or	
	if, in the opinion of the visa officer,	
	(d) the person is qualified for and is prepared to engage in employment in a designated occupation,	
	(e) based on information provided by the National Employment Service, employment in the designated occupation offers reasonable prospects of continuity and wages and working conditions sufficient to attract and retain in employment Canadian citizens or permanent residents, and	
	(f) the person will likely be able to meet all federal, provincial and other applicable	

<u>Factors</u>	<u>Criteria</u>	<u>Maximum Units</u>
	licensing or regulatory requirements related to employment in the designated occupation.	
6. Location	Five units of assessment shall be awarded with respect to a person who intends to proceed to an area that has been designated by the Minister in consultation with the relevant provincial authority as one that has a sustained and general need for people at various levels in the employment strata and the necessary infrastructures to accommodate population growth. No units of assessment shall be awarded with respect to a person who intends to proceed to an area that has not been so designated. Five units of assessment shall be subtracted from the total number of units of assessment awarded with respect to a person on the basis of all of the other factors listed in this Schedule where the person intends to proceed to an area that has been designated by the Minister in consultation with the relevant provincial authority as one that does not have a sustained and general need for people at	5

<u>Factors</u>	<u>Criteria</u>	<u>Maximum Units</u>
	various levels in the employment strata or the necessary infrastructures to accommodate population growth.	
7. Age	Ten units of assessment shall be awarded with respect to a person who is at least eighteen years of age and not more than thirty-five years of age. Where a person is more than thirty-five years of age one unit shall be subtracted from the maximum of ten units for each year by which the person exceeds thirty-five years of age.	10
8. Knowledge of English and French Languages	(a) Ten units of assessment shall be awarded with respect to a person who reads, writes and speaks fluently both the English and French languages. (b) Five units of assessment shall be awarded with respect to a person who reads, writes and speaks fluently only one of the English or French languages. (c) Four units of assessment shall be awarded with respect to a person for each of the English and French languages that the person speaks fluently and reads well. (d) Two units of assessment shall be awarded with respect to a person for each	10

<u>Factors</u>	<u>Criteria</u>	<u>Maximum Units</u>
	of the English and French languages that the person speaks fluently.	
	(e) One unit of assessment shall be awarded with respect to a person for each of the English and French languages that the person speaks with difficulty.	
	(f) Two units of assessment shall be awarded with respect to a person for each of the English and French languages that the person reads well.	
	(g) One unit of assessment shall be awarded with respect to a person for each of the English and French languages that the person reads with difficulty.	
9. Personal Suitability	Units of assessment shall be awarded on the basis of an interview with the person to reflect the personal suitability of the person and his dependants to become successfully established in Canada based on the person's adaptability, motivation, initiative, resourcefulness and other similar qualities.	10
10. Relative	Where a person is a member of the family class, other than a fiancée, or would be an assisted relative if an undertaking to assist had been provided by a relative in Canada and an immigration officer	5

Factors

Criteria

Maximum Units

is satisfied that the relative in Canada is willing to assist him in becoming established but is not prepared or is unable to complete the necessary formal documentation to bring the person to Canada, the person shall be awarded five units of assessment.

SCHEDULE II

1. Citizens of
Andorra, Argentina, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Bolivia, Botswana, Brazil, Chile, Costa Rica, Cuba, Cyprus, Denmark, Dominican Republic, Ecuador, El Salvador, Fiji, Finland, France, Gambia, Federal Republic of Germany, Ghana, Greece, Grenada, Guatemala, Guyana, Haiti, Honduras, Iceland, India, Ireland, Italy, Jamaica, Japan, Kenya, Lesotho, Liechtenstein, Luxembourg, Malawi, Malaysia, Malta, Mauritius, Mexico, Monaco, Mauru, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Paraguay, Peru, Portugal, San Marino, Seychelles Republic, Sierra Leone, Singapore, Spain, Sri Lanka, Surinam, Swaziland, Sweden, Switzerland, Tanzania, Tonga, Trinidad and Tobago, Turkey, Uganda, United States, Uruguay, Venezuela, Western Samoa and Zambia.
2. Citizens of the United Kingdom and Colonies with the right of abode in the United Kingdom.
3. Citizens of the United Kingdom and Colonies who derive their citizenship through birth, descent, registration or naturalization in one of the British dependent territories of Belize, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Gilbert Islands, Hong Kong, Montserrat, Pitcairn, St. Helena, Turks and Caicos Islands and Tuvalu or one of the West Indies Associated States of Antigua, Dominica, St. Kitts-Nevis-Anguilla, St. Lucia and St. Vincent.
4. Persons holding passports or travel documents issued by the Holy See.
5. Persons lawfully admitted into the United States for permanent residence coming to Canada direct from the United States.
6. Members of a crew whether such persons seek to enter Canada for shore leave or for some other legitimate and temporary purpose and persons seeking entry to become members of a crew.
7. Persons in transit through Canada up to four days.
8. Members of the armed forces of member states of the North Atlantic Treaty Organization when such members of the armed forces of member states present documents prescribed by the North Atlantic Treaty Organization and consented to by Canada relevant to movement of personnel between member states.
9. Persons coming to Canada from the United States for an interview with a United States consular officer concerning a United States immigrant visa where they are in possession of evidence satisfactory to an immigration officer that they will be granted re-entry to the United States.

SCHEDULE III

1. Upsala Agricultural Bible School, Upsala,
Ontario
2. General Welding School, 61 Jarvis Street,
Toronto, Ontario
3. The Mohyla Institute (1958), 1240 Temperance
Street, Saskatoon, Alberta

NEW DIRECTIONS

—A Look at Canada's Immigration Act and Regulations—



PREFACE

Every year, millions of people enter Canada at airports, sea or inland ports, and border crossings. Some are visitors -- tourists, business people, foreign students, workers and other travellers -- who come to stay for only a short time. Others are Canadian citizens or permanent residents returning from trips abroad. And still others are immigrants, coming to make Canada their new home.

All of these people are affected in some way by Canada's new immigration law, as expressed in the 1976 Immigration Act and Regulations, proclaimed in April 1978. The purpose of this booklet is to present the highlights of the new law in a way that will help Canadians and others more easily understand its major provisions and overall objectives.

However, this is not a legal document. Readers who require legal interpretations should consult the 1976 Immigration Act and Regulations, available from the Department of Supply and Services, 45 Sacré Coeur Blvd., Hull, Québec, Canada.

APRIL 1978

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A BACKWARD GLANCE: Genesis of a New Law

The Need for Modern Legislation

Canada has needed a new immigration law for a long time. The previous Immigration Act, adopted in 1952, was an outgrowth of legislation dating back to the turn of the century and, understandably, reflected many of the attitudes, circumstances and conditions of an earlier era.

The old Act contained many archaic provisions -- it prohibited the admission of groups such as epileptics and the mentally ill; it took a harsh approach to deportation; and it permitted refusal of immigrants on the basis of nationality, citizenship, ethnic group, occupation, class or geographical area. Though most of these provisions had been abandoned in practice for many years, they were still, in theory at least, enforceable.

Also, the previous legislation did not envision the threats to peace and security posed by international terrorism and organized crime. And, of course, hijackers were still an unknown hazard.

Canada's new Immigration Act introduces the changes needed to deal with these problems and brings our immigration policy and programs up-to-date with the realities and attitudes of modern-day Canada. It was written around such fundamental principles as non-discrimination; family reunion; humanitarian concern for refugees; and the promotion of Canada's social, economic, demographic, and cultural goals.

The new Act is the product of more than four years of intensive study and cooperative effort by all levels of government. It incorporates the thinking of thousands of individual Canadians and organizations who offered suggestions to the Minister or participated in hearings seminars and conferences held in communities from coast to coast.

Development of the Act

In September 1973, the federal government began an in-depth review of immigration policy as the first step towards a new national immigration policy for Canada. During the review, briefs and letters submitted by national organizations, provincial authorities and members of the public were studied, and a series of discussion documents, referred to collectively as the Green Paper on Immigration, was prepared.

The Green Paper explained the 1952 law and discussed domestic and international challenges facing future immigration programs. It became the focal point for an unprecedented national debate on immigration objectives and policy.

Following the release of the Green Paper, a Special Joint Committee of the Senate and House of Commons was set up to conduct a country-wide program of hearings, conferences and seminars and report its findings to Parliament. Over 90 per cent of the

Committee's recommendations were later incorporated into the Immigration Bill, which was tabled before Parliament on November 24, 1976.

After second reading, followed by clause-by-clause analysis, and, subsequently, third and final reading, the Bill was passed by the House of Commons and the Senate. On August 5, 1977, the Bill received Royal Assent from the Governor-General, and came into effect upon proclamation in early April, 1978.

AT FIRST SIGHT: Highlights of the 1976 Act

The 1976 Immigration Act and Regulations brings Canada's immigration policy and practices into much sharper focus than ever before -- introducing many new features and reinforcing, expanding or clarifying parts of the previous law that were still valid and useful.

At a glance, the new Act:

- * states, for the first time in Canadian law, the basic principles underlying immigration policy -- non-discrimination, family reunion, humanitarian concern for refugees, and the promotion of national goals;
- * links the immigration movement to Canada's population and labour market needs;
- * provides for an annual forecast of the number of immigrants Canada can comfortably absorb, to be made in consultation with the provinces and other groups;

- * establishes a "family class", allowing Canadian citizens to sponsor a wider range of close relatives;
- * confirms Canada's commitment and responsibilities to refugees under the United Nations Convention and establishes a new "refugee class";
- * requires immigrants and visitors to obtain visas or authorizations abroad, and prohibits visitors from changing their status from within Canada;
- * introduces security measures to protect Canada from international terrorism and organized crime;
- * safeguards the civil rights of immigrants and visitors through an improved inquiry and appeal system;
- * provides less drastic alternatives to deportation for cases involving minor violations of immigration law; and
- * states in specific terms the powers granted to the government and its officials.

A CLOSER LOOK: The Act in More Detail

In the following pages, we will examine these highlights in more detail and see how the Act, while providing definite guidelines for immigration policy and procedures, is flexible enough to adapt to changing circumstances in Canada's social and economic climate.

Managing The Volume of Immigration

Establishing Levels

Nowhere is the flexibility of the Act more evident than in its approach to managing the level of immigration to Canada.

The 1952 Act remained silent on how many immigrants Canada could comfortably absorb during any given period of time. As a result, the number of immigrants admitted from year to year fluctuated widely, ranging from a high of 282,000 in 1957 to a low of just over 70,000 in the early sixties. Such variations contributed to problems in labour market planning and increased the strain on housing, schooling and other community services in some areas.

To help solve these problems, the new Act contains provisions relating immigration to Canada's labour market needs and long-term planning for the size, rate of growth, and geographic distribution of our population. Section 7 of the Act requires the Minister -- after consulting with the provinces and other appropriate organizations and institutions -- to announce annually the number of immigrants Canada plans to admit over a specified period.

This target figure will be flexible enough to be modified, if necessary, to adapt to changing circumstances, such as increased unemployment or new trends in population distribution.

One important thing to understand about the annual level is that it is a global limit, not a country-by-country quota. People with comparable qualifications from anywhere in the world where it has been possible to establish immigration offices have an equal chance to settle in Canada -- providing, of course, they can meet Canadian selection and admission standards.

Consultation and Agreements with the Provinces

Immigration accounts for much of Canada's population growth and geographic development, and can have a strong impact on regional and provincial planning.

For these reasons, section 109 of the new Act provides a legal base for the federal government to consult the provinces regarding the distribution and settlement of immigrants in each area of the country. This will enable immigration to correspond more closely to local requirements. This section of the Act also permits formal federal-provincial agreements to be made on other aspects of immigration policy and programs.

Who Can Immigrate to Canada

Sections 3, 5, and 6 of the Act state that the principles concerning admission of immigrants to Canada are to be applied without discrimination on grounds of race, national or ethnic origin, colour, religion or sex. However, applicants must apply abroad and will continue to be selected according to universal standards designed to assess their ability to adapt to Canadian life and settle successfully.

Because hundreds of thousands of applications are received from prospective immigrants each year, a broad processing priority system has been established. Under this system, and in keeping with the principles of family reunion and compassion for refugees, immediate family members and refugees receive the highest priority.

Admissible Classes

Section 6 of the Act sets forth three basic classes of admissible immigrants -- the family class, Convention refugees, and independent and other immigrants who apply on their own initiative.

I - Family Class - the family class is roughly the same as the sponsored class in the previous law. The major difference is that Canadian citizens may now sponsor parents of any age or circumstance, not just those who are over 60, widowed or unable to work.

Anyone who is at least 18 and is a Canadian citizen or permanent resident may sponsor certain close relatives under the family class. Relatives eligible to apply under this class include the sponsor's:

- . spouse and spouse's accompanying unmarried children under 21;
- . unmarried children under 21;
- . parents or grandparents 60 or over, plus any accompanying dependants (Canadian citizens over 18 may sponsor parents of any age);

- . parents or grandparents under 60 who are widowed or incapable of working, plus any accompanying dependants;
- . unmarried orphaned brothers, sisters, nephews, nieces, or grandchildren under 18; and
- . fiancé(e) and accompanying unmarried children under 21.

Others eligible to apply include:

- . any child under 13 who is an orphan, abandoned child, or child placed with a child welfare authority whom the sponsor intends to adopt; or
- . one relative, regardless of age or relationship to the sponsor, plus accompanying dependants, if the sponsor has no close relatives living in Canada and cannot otherwise sponsor anyone.

Family class applicants are not assessed under the point system, but they must meet the basic standards of good health and character. And, before an immigrant visa can be issued, the sponsoring relative in Canada is required to sign a statement promising to provide for the lodging, care and maintenance of the applicant and accompanying dependants, for a period of up to ten years.

II - Convention Refugees - the newly-created refugee class is based on the following definition from the United Nations Convention and Protocol Relating to the Status of Refugees:

A "Convention refugee" is "any person who by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion, (a) is outside the country of his nationality and is unable or, by reason of such fear, is unwilling to avail

himself of the protection of that country,
or (b) not having a country of nationality,
is outside the country of his former habitual
residence and is unable or, by reason of such
fear, is unwilling to return to that country."

In addition to establishing a refugee class, the Act confirms in domestic law Canada's international obligations to protect refugees under the UN Convention. The key provisions of that Convention, reflected in sections 45 to 47 and 55 of the Act, are:

- . Convention refugees legally in Canada may not be removed unless they are a threat to national security or public order.
- . Any decision to remove a Convention refugee must be reached in accordance with due process of law.
- . Unless they are a danger to Canada's security or have been convicted of a serious crime, Convention refugees cannot be removed to a country where their lives or freedom would be threatened on account of race, religion, nationality, political opinion, or membership in a particular group.

Convention refugees seeking resettlement in Canada are assessed according to the same factors used to select independent applicants, but they do not receive a point rating. Instead, the assessment is used to evaluate their general ability to adapt successfully to Canadian life. This, and the amount of settlement assistance available to them from government or private organizations in this country, determines whether or not they can be admitted to Canada under the refugee class.

In order for their assistance to be taken into consideration during the selection process, non-government organizations offering to help Convention refugees come to Canada, or get settled here, must promise to provide them with food and shelter for a period of one year.

Recognizing that there are many persecuted and displaced people around the world who do not technically qualify as refugees under the UN definition, section 6 of the Act reflects Canada's humanitarian tradition by authorizing their admission under relaxed selection criteria in times of crisis. This enshrines in law the policy which has permitted the admission of groups such as the Ugandan Asians, Lebanese, and people affected by the war in Cyprus.

III - Independent and Other Immigrants - the third class of admissible immigrants corresponds to the nominated and independent classes of the previous Act and includes assisted relatives, retirees, entrepreneurs, the self-employed, and other independent immigrants applying on their own initiative.

Assisted relatives are people, other than members of the family class, who have kin in Canada willing to help them get established here. Relatives eligible to apply under this category include the Canadian resident's brothers and sisters, parents and grandparents, children and grandchildren, aunts and uncles, nieces and nephews, and any dependants accompanying these relatives.

To immigrate as an entrepreneur, a person must intend to operate a business in Canada that will employ five or more Canadian citizens or permanent residents, and be able to establish a controlling interest in that business. A self-employed person, on the other hand, is someone who intends to establish a business that will employ five or fewer Canadian residents, or who will contribute to the cultural and artistic life of Canada. To qualify as a retiree, a person must be at least 55 years of age and have no intention of working in Canada.

Except for retirees, immigrants in this class are assessed against selection criteria in the point system.

The Point System

Immigration selection criteria, authorized under section 115 of the new Act and detailed in the point system, are much the same as in the previous legislation, but the composition and weighting of various factors have been revised to bring immigration more in line with Canadian labour market needs. More emphasis is placed on practical training, experience and capability, so that employment-related factors now account for almost half of the total possible rating points that can be awarded.

Not every independent applicant has to meet all ten selection criteria. Applicants are assessed only according to those factors which actually relate to their ability to become successfully established in Canada. For example, entrepreneurs, who create jobs for Canadians, are not assessed on occupational demand or arranged employment factors.

And, immigrants who intend to be self-employed are not required to meet the arranged employment factor. In fact, any self-employed person whom the visa officer feels will become successfully established in business in Canada may receive ten extra rating points.

Assisted relatives are not rated on the arranged employment, location, or language factors, because they have relatives in Canada who have signed statements promising to support them for a period of five years.

Also, retired persons, though considered part of this third class, are not evaluated on any of the point-rated standards; instead, they are selected under general criteria regarding their intended destination in Canada, presence of friends' or relatives there, language proficiency, personal suitability and financial stability. All other immigrants in the third class are rated on all factors in the point system.

In order to be admitted to Canada as a permanent resident, every immigrant selected according to the point system must receive a minimum number of assessment points. Entrepreneurs must be awarded at least 25 points. Assisted relatives must earn 20 to 35 points, depending on how they are related to the Canadian resident who has promised to help them. All other applicants rated under the point system must earn 50 points, out of a possible 100, before they can be issued immigrant visas.

In addition to earning a minimum number of points, applicants must meet certain mandatory requirements regarding the job experience and occupational demand factors. For example, any applicant who does

not receive at least one point for the job experience factor must either have a pre-arranged job in Canada and a signed statement of the prospective employer's willingness to hire an inexperienced person, or be qualified and prepared to work in a designated occupation (one in an area of Canada identified as having a shortage of workers in that occupation).

Furthermore, except for entrepreneurs and the self-employed, immigrants selected under the point system must be awarded at least one point for occupational demand -- unless they have arranged employment in Canada or are willing to work in a designated occupation.

The following chart, adapted from the Regulations, summarizes the point system.

IMMIGRATION SELECTION CRITERIA*

- A Summary of the Point System -

FACTORS	CRITERIA	MAX. POINTS	APPLICABLE TO*			
			self-employed	entrepreneurs	assisted relatives	others
1. Education	One point for each year of primary and secondary education successfully completed.	12	X	X	X	X
2. Specific Vocational Preparation	To be measured by the amount of formal professional, vocational, apprenticeship, in-plant or on-the-job training necessary for average performance in the occupation under which the applicant is assessed in item 4.	15	X	X	X	X
3. Experience	Points awarded for experience in the occupation under which the applicant is assessed in item 4 or, in the case of an entrepreneur, for experience in the occupation that the entrepreneur is qualified for and is prepared to follow in Canada.	8	X	X	X	X
4. Occupational Demand	Points awarded on the basis of employment opportunities available in Canada in the occupation that the applicant is qualified for and is prepared to follow in Canada.	15	X		X	X
5. Arranged Employment or Designated Occupation	Ten points awarded if the person has arranged employment in Canada that offers reasonable prospects of continuity and meets local conditions of work and wages, providing that employment of that person would not interfere with the job opportunities of Canadian citizens or permanent residents, and the person will likely be able to meet all licensing and regulatory requirements; or the person is qualified for, and is prepared to work in, a designated occupation and meets all the conditions mentioned for arranged employment except that concerning Canadian citizens and permanent residents.	10				X

* Members of the family class and retirees are not selected according to these criteria; Convention refugees are assessed against the factors listed in the first column but do not receive a point rating.

IMMIGRATION SELECTION CRITERIA*

- A Summary of the Point System -

FACTORS	CRITERIA	MAX. POINTS	APPLICABLE TO:				
			self-employed	entrepreneurs	assisted relatives	others	
6. Location	Five points awarded to a person who intends to proceed to an area designated as one having a sustained and general need for people at various levels in the employment strata and the necessary services to accommodate population growth. Five points subtracted from a person who intends to proceed to an area designated as not having such a need or such services.	5	X	X			X
7. Age	Ten points awarded to a person 18 to 35 years old. For those over 35, one point shall be subtracted from the maximum of ten for every year over 35	10	X	X	X	X	
8. Knowledge of English and French	Ten points awarded to a person who reads, writes and speaks both English and French fluently. Five points awarded to a person who reads, writes and speaks English or French fluently. Fewer points awarded to persons with less language knowledge and ability in English or French.	10	X	X			X
9. Personal Suitability	Points awarded on the basis of an interview held to determine the suitability of the person and his/her dependants to become successfully established in Canada, based on the person's adaptability, motivation, initiative, resourcefulness and other similar qualities.	10	X	X	X	X	
10. Relative	Where a person would be an assisted relative, if a relative in Canada had undertaken to assist him/her, and an immigration officer is satisfied that the relative in Canada is willing to help him/her become established but is not prepared, or is unable, to complete the necessary formal documentation to bring the person to Canada, the person shall be awarded five points.	5	X	X			X

* Members of the family class and retirees are not selected according to these criteria; Convention refugees are assessed against the factors listed in the first column but do not receive a point rating.

How the Act Affects Visitors

Visas and Authorizations

Foreign students, temporary workers, tourists, business people and others visiting Canada for legitimate purposes continue to be welcome under sections 5 and 14 of the new Act. However, under section 9, some visitors need a visitor's visa to enter the country. And, section 10 requires most visitors coming to Canada as students or temporary workers to have both a special authorization and a visa.

It is the responsibility of potential visitors to check with a Canadian government office abroad to find out how they may be affected by visa regulations. In most cases, those needing visas or authorizations must obtain them from a Canadian government officer abroad before coming to Canada.

When applying for a visa abroad, potential visitors should be prepared to present a valid passport or other authorized travel document to immigration officials. In addition, people applying for student authorizations must be able to show evidence of their acceptance at a university, college or other institute of learning, and be able to demonstrate that they have enough money to support themselves in Canada while studying. Temporary workers must submit a bona fide job offer from a Canadian employer for a job which cannot be filled by a Canadian citizen or permanent resident, before an employment authorization will be issued.

Change of Status

Once admitted, visitors may not normally change their status. For example, a person admitted as a tourist may not take a job or become a student or permanent resident. Similarly, temporary workers cannot change jobs, and foreign students cannot change schools or courses of study without first applying for an amended authorization. And, all visitors who stay in Canada after their authorized period of stay has expired will be in violation of the Act and subject to removal.

What Happens at the Port of Entry

Interviews and Examinations

Under section 12 of the Act, all people seeking to come into Canada -- whether visitors, immigrants, or returning residents -- are to be questioned by an immigration officer at the port of entry. In the case of immigrants seeking permanent resident status, or visitors intending to study or work temporarily in Canada, a more in-depth interview and a medical examination may be required before admission will be granted.

It should be noted that possession of a visa and/or authorization does not guarantee admission to Canada. The examining officer at the port of entry must be satisfied that the visa or authorization is valid, that circumstances regarding the individual have not changed since the visa/authorization was issued, and that the visitor's presence in Canada will not contravene any of the provisions of the Immigration Act or Regulations.

Security Deposits

When in doubt concerning the intention of a visitor to live up to the terms and conditions of admission, the examining officer may still grant entry, if the visitor, or someone acting in that person's behalf, can deposit a sum of money or other security to guarantee that the terms of admission will be met. The deposit will be returned as soon as possible after all entry conditions have been fulfilled.

Inadmissible Classes

Section 19 of the Act prohibits the admission of people who pose a threat to public health, safety, order, or national security. Also refused entry are those who fail to meet selection criteria and other requirements, such as having a visible means of support and valid travel documents.

The new Act does away with many of the prohibited classes in the previous Act and substitutes objective standards that reflect modern conditions and attitudes. For example, exclusions on health grounds are now based solely on danger to public health or safety, or excessive demands on health or social services in Canada.

And, a new objective standard has been established to determine inadmissibility on criminal grounds, based on the sentence that could be given for equivalent offences under Canadian law, and taking into account the possibility of admission following rehabilitation.

Section 19 of the Act also protects the Canadian public by providing for the exclusion or removal of participants in organized crime and would-be terrorists and highjackers.

Controlling Illegal Immigration

To discourage people from coming to Canada as visitors with the intention of residing and working here illegally, section 10 of the Act requires most visitors wishing to work or study in Canada to obtain authorization from a visa officer abroad before seeking admission. And, with very few exceptions, visitors already in Canada are not eligible to apply for employment or enroll in educational institutions. Any visitor who does so can be required to leave Canada.

Further, it is an offence for a Canadian employer to knowingly hire anyone not authorized to work here. This ties in with Canada's Social Insurance Number system, which identifies people who are not citizens or permanent residents, thereby alerting the employer that such people must possess valid employment authorizations to work legally in Canada.

Who May be Asked to Leave

Any temporary worker, foreign student, other visitor, or permanent resident who does not fulfill the conditions of a visa or authorization, or is in violation of the Immigration Act and Regulations or any other Canadian law, may be asked to leave Canada.

Deportation and Alternatives

While the 1976 Act retains deportation as a means by which people can be expelled from Canada, in sections 20, 32 and 57, it introduces two less drastic alternatives -- the exclusion order and the departure notice.

This means that, instead of deporting a person at the border for some minor offence, such as improper or incomplete identification, the immigration officer can allow the person to leave voluntarily or request that an exclusion order be issued, barring that person's admission for one year. Or, if a visitor already in Canada has committed a minor infraction of immigration law, a departure notice may be issued in lieu of a deportation order. Once that person has fulfilled the terms of the departure notice, it has no further effect, and the person may reapply for entry at any time.

Deportation -- a permanent bar to future admission (unless removed by the Minister) -- is now reserved for those who commit serious violations of the Immigration Act or other Canadian laws.

Loss of Permanent Resident Status

Under section 4 of the new Act, permanent residents (people who have been granted landing but have not become Canadian citizens) still have the right to re-enter and remain in Canada after a temporary absence. However, as stipulated in section 24, they can lose this right by committing deportable offences under immigration law, or by abandoning their Canadian residency.

Permanent residents will be presumed to have abandoned Canadian residence if they spend more than a total of 183 days outside Canada in any twelve-month period -- unless they can satisfy an immigration officer that they did not intend to abandon Canada. Permanent residents who expect to be travelling, studying, or on business away from Canada for extended periods are advised to apply for a Returning Resident Permit, provided for in section 25 of the Act.

Possession of a Returning Resident Permit is not mandatory, but if presented at the border, and in the absence of evidence to the contrary, it is accepted as proof that the holder did not intend to abandon permanent residency in Canada. After 183 days outside the country, returning residents without a permit may lose their permanent resident status and/or be refused re-entry to Canada.

Inquiries and Appeals

The Role of Adjudicators

Anyone refused entry to Canada, or asked to leave once here, has the right to be heard at an immigration inquiry. Such inquiries, authorized by sections 23, 27 and 28 of the Act, are presided over by adjudicators -- officers specially trained in immigration and related elements of civil and criminal law and hired to conduct immigration hearings.

After carefully weighing the evidence presented by both the government's case presenting officer and the person concerned, the adjudicator renders an objective decision in accordance with the provisions of the Immigration Act and Regulations.

Under section 32 of the Act, if the adjudicator rules in favour of the subject of the inquiry, that person will be permitted to come into or remain in Canada. If, on the other hand, the decision goes against the subject, the adjudicator will issue that person a deportation order, departure notice, or exclusion order. In certain cases, the person concerned may appeal the adjudicator's decision to the Immigration Appeal Board.

The Immigration Appeal Board

Section 59 of the new Act preserves the independent status and functions of the Immigration Appeal Board, a group of seven to 18 members appointed by the Governor-in-Council, charged with the responsibility of hearing and determining all immigration appeals. However, some changes have been introduced in the appeal system and composition of the Board.

Under section 72 of the Act, anyone possessing a valid immigrant or visitor visa, who is seeking admission to Canada, can appeal a removal order issued at the port of entry. This section also gives Convention refugees and permanent residents the right to appeal an exclusion or deportation order.

Section 79 allows Canadian citizens to appeal a refusal to admit relatives in the family class whom they have sponsored. And under section 70, persons denied refugee status by the Minister may now seek a redetermination of their status from the Board, independent of any appeal against a removal order.

Special Security Provisions

The growth of international terrorism and organized crime in recent years has posed a new and serious threat to Canada's security. Therefore, sections 39 to 42 of the 1976 Act introduce provisions permitting the exclusion or removal of people who threaten to disrupt public order and national security.

If the Minister responsible for immigration and the Solicitor General of Canada have information about visitors or prospective immigrants involving subversive, criminal, or terrorist activities, and if the information cannot be revealed at a public inquiry because it would endanger national security or information sources, they may jointly file a certificate to that effect. When the certificate is verified by an adjudicator, it constitutes sufficient evidence to issue a removal order. The Act requires that any such use of Ministerial certificates must be reported to Parliament.

Security provisions relating to permanent residents contain special safeguards. If the Minister and the Solicitor General are both satisfied that confidential information in their possession cannot be publicly revealed, and that it makes a permanent resident subject to removal because of subversion, serious criminality or terrorism, they can so report to a newly-established three-member Special Advisory Board.

The three-member Board, one member of which must be a retired Superior Court judge, reviews the information, gives the person concerned an opportunity to be heard, and recommends to Cabinet whether or not the person should be deported. These procedures would be invoked against a permanent resident only in the most serious cases.

Safeguarding Law and Order

Offences and Punishment

Section 95 of the Act lists specific immigration offences which are punishable, on conviction, by a fine, a term of imprisonment, or both. For example, it is an offence to enter Canada at any place other than a port of entry without reporting to an immigration officer, or to gain admission through the use of a false or improperly obtained passport, visa or other document. It is also an offence to violate the terms or conditions under which entry was granted, or to knowingly make any false or misleading statements at an immigration examination or inquiry.

And, as already mentioned, it is a serious offence for a Canadian employer to knowingly hire any person who is not a Canadian citizen or permanent resident and is not authorized to work legally in Canada.

Arrest and Detention

Persons awaiting examination, inquiry or execution of removal orders who, in the opinion of the Deputy Minister or a senior immigration officer, pose a danger to the public or would fail to appear, may be arrested and detained until immigration proceedings begin.

IN PERSPECTIVE: Some Concluding Remarks

The Canadian government feels that the 1976 Immigration Act is a fair and just law which recognizes that, in any immigration policy, there are obligations on the part of both the host country and the immigrant or visitor. Under the Act, Canada welcomes both immigrants and visitors and ensures that, once they become permanent residents, immigrants have access to the same opportunities as native-born Canadians.

But, at the same time, the Act works in the interest of Canada -- to tie the number and distribution of immigrants more closely to national and regional population goals and labour market needs, and to protect the health and safety of Canadian residents from those who would threaten it.

A DEFINITIVE VIEW: Glossary of Immigration Terms

adjudicator - a person employed under the Public Service Employment Act to preside over immigration hearings.

assisted relatives - immigrants, other than members of the family class, with close kin in Canada willing to help them become established in this country (see the section entitled "admissible classes" for a list of eligible relatives).

authorization - see "employment authorization" or "student authorization".

Canadian citizen - a person who was born in Canada or who has applied through the Department of the Secretary of State and has received a citizenship certificate.

Convention refugee - anyone who fits the following UN definition, "any person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion, (a) is outside the country of his nationality and is unable or, by reason of such fear, is unwilling to avail himself of the protection of that country, or, (b) not having a country of nationality, is outside the country of his former habitual residence and is unable, or by reason of such fear, is unwilling to return to that country."

designated occupation - an occupation in a locality or area in Canada designated by the Minister, after consultation with the relevant provincial authority, as a locality or area in which workers in that occupation are in short supply.

departure notice - a notice issued to a visitor in Canada, who has committed a minor infraction of immigration law, asking that person to leave the country, but permitting reapplication for admission.

dependants - the spouse and unmarried children under 21 of a potential immigrant or visitor to Canada.

deportation order - a removal order issued to someone who has committed a serious violation of Canadian law, permanently barring future admission to Canada unless removed by ministerial consent.

employment authorization - a document issued by an immigration officer, authorizing a visitor to work temporarily in Canada.

entrepreneur - an immigrant who intends to operate a business in Canada that will employ five or more Canadian citizens or permanent residents, and has the ability to establish a controlling interest in that business.

exclusion order - a removal order issued to someone at the border for a minor offence, such as incomplete documentation, barring readmission for one year.

family class - the class of admissible immigrants made up of close relatives of a sponsor in Canada (see the section entitled "admissible classes" for a list of specific family class members).

immigrant - a person who seeks landing in Canada.

landing - lawful permission to come into Canada to establish permanent residence.

permanent resident - someone who has been granted landed status but has not become a Canadian citizen.

refugee - see "Convention refugee".

removal order - an exclusion or deportation order, requiring someone to leave Canada.

retired person - an immigrant who is at least 55 years of age and does not intend to seek or accept employment in Canada.

self-employed person - an immigrant who intends to establish a business in Canada that will employ five or fewer Canadian citizens or permanent residents, or who will contribute to the cultural and artistic life of Canada.

sponsor - a person who sponsors an application for landing made by a member of the family class.

student authorization - a document issued by an immigration officer authorizing a visitor to take an academic, professional, or vocational training course at a Canadian university, college or other institution.

visitor - a person, other than a Canadian citizen or permanent resident, who is lawfully in Canada, or seeks to come to Canada, for a temporary purpose.

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