



**A Guide
to Humanitarian
and Compassionate
Applications
(H&C)**

MOSAIC



**Legal
Services
Society**

British Columbia
www.lss.bc.ca



1720 Grant St.
Vancouver BC V5L 2Y7
604-254-9626
mosaic@mosaicbc.com
www.mosaicbc.com
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Original publication: May 2004
Author: **Bediako Buahene, LLB. Immigration and Citizenship Lawyer.**
Revised: November 2008
Updated by: Miriam Jurigová, LLB, MOSAIC Legal Advocacy Program
Legal support and review: Shane Molyneaux, LLB, immigration and citizenship lawyer, Elgin
Cannon and Associates

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What is H&C?

An H&C application is a Humanitarian and Compassion application.

Applying for H&C lets immigrants ask for special permission to stay in Canada (for humanitarian and compassionate reasons) while their permanent residence application is processed. Usually H&C is a last attempt to stay in Canada.

This guide tells you what to consider before applying and how to apply for H&C.

Please note: Humanitarian and Compassionate applications are abbreviated as H&C throughout this guide.

What risks do I face in applying for H&C?

Before you apply to stay in Canada for humanitarian and compassionate reasons, please be aware of the four risks you face:

An H&C application **does not** prevent you from being deported, unless you're waiting for a Pre-Removal Risk Assessment (PRRA).

1. The chances of succeeding in an H&C application are **low** — less than 20%.
2. You must **prove** you deserve to have your H&C application approved — you alone are responsible for providing the **appropriate information and documentation**.
3. Applying for H&C is **expensive**: \$550 per adult and \$150 per child (unless the child is a Canadian citizen)¹. If you decide to hire a lawyer to help with your application, the cost will likely be high due to the amount of work involved. Before you apply for H&C, decide whether it is worth the expense.

If you decide to apply for H&C despite the risks and expenses, you must ensure your application forms and documents present a convincing case for you to stay in Canada. **It's up to you** to ensure your application is complete — immigration officers are not obliged to inform you of any missing information and may simply deny your claim.

If your H&C application is denied, your only option is to apply to the Federal Court of Canada for a judicial review or appeal. Going to Federal Court is difficult. You must either represent yourself or be prepared to hire a lawyer to represent you. Friends, relatives, immigration consultants and community workers are not allowed to speak for you.

¹ Children born in Canada are Canadian citizens, with some exceptions (such as children born to diplomats).

For what reasons would I apply for H&C?

People usually apply for H&C for **two main reasons: hardship and risk.**

Hardship

“Hardship” refers to a situation that would cause you serious problems or suffering. You may decide to apply for H&C if you would face hardship if forced to leave Canada and return to your home country.

Please note: If you are already established in Canada and can't return to your home country because you are not recognized as a citizen there or there is no government in charge, you should apply for H&C.

Medical hardship

Medical problems do not usually make your case stronger, unless you or a family member risks death because your home country does not offer adequate or appropriate medical treatment. If this is your situation, you must include information about the medical condition in your H&C application, as well as medical information from experts in your home country confirming the danger you or your family member faces if forced to return to your home country.

Proving hardship

To prove you would face hardship if deported to your home country you must show you are already well-established in Canada. Consider the following factors that contribute to your level of establishment in Canada. And remember: each case is different. It's your responsibility to present your case as best you can.

- The amount of time you have lived in Canada (the longer the better)
- The amount of time you have spent collecting welfare (it is highly recommended you never collect welfare — an immigration officer can use this as a reason to deny your claim)
- Your language skills in English/French and your efforts to improve them
- Your efforts to improve your education and skills while in Canada
- The number of family members/relatives you have in Canada (the more the better)²
- How much contact you have with family in Canada (the more the better)
- How much contact you have with family in your home country (having many close relatives in your home country suggests less hardship if you returned)
- Canadian-born children (good) or children still living in your home country (not good)

² If you are married to a permanent resident or Canadian citizen you should be submitting a sponsorship application under the Family Class, however, may need additional H&C considerations.

- Contacts in Canada other than family
- Jobs you have had in Canada and taxes you have paid
- Your present job and the length of your employment
- Your assets in Canada, including your family home, RSPs, RESPs, bank accounts, investment accounts, business vehicles (the more assets the better)
- Your assets abroad (the less the better)
- Your community involvement (religious or non-religious) and volunteer work
- Positive reference letters from people in your workplace, school, volunteer organization, religious community, etc.
- Your financial or cultural contributions to Canada
- The specific hardships you/your family face in your home country
- If you are a woman, the difficulties you face in your home country

Risk

“Risk” means a serious possibility any of the following might happen to you if you are forced to leave Canada for your home country. You must prove you face one or more of these risks.

- Persecution (e.g. being treated badly due to your political or religious beliefs)
- Torture
- Risk to life
- Risk of cruel or unusual punishment

Please note: If you are applying for H&C, you can't give the same reasons you gave at a refugee hearing held after **June 28, 2002**.

Risk of persecution

A Pre-Removal Risk Assessment (PRRA) officer will review any H&C application containing information about the risks of having to leave Canada. You will not be deported until the PRRA officer has reviewed your application and made a decision.

Please note: If your refugee hearing was held after June 28, 2002, and your H&C application states you face a risk of persecution in your home country, this information must be new and must not have been submitted at your refugee hearing. Also, the risk of persecution must be specific to you/your family. Information about the general poor human rights record of your home country is not enough. You must show how you are personally affected.

For reliable information on current conditions in various countries, you may consult the following websites:

BBC News: www.news.bbc.co.uk

Amnesty International: www.amnesty.org

Human Rights Watch: www.hrw.org

Immigration and Refugee Board Documentation Centre: www.irb.gc.ca (under Country of Origin Research)

Poor educational facilities and the possibility of unemployment in your home country are not proof of risk.

To determine risk, PRRA officers will only consider new evidence. They can, however, consider important evidence that was not available at the time of your refugee hearing, including medical evidence of torture or evidence of conditions in your home country that affect you.

If you are at risk of persecution but have not made a refugee claim, consider making one now. In addition to Convention refugees, Canada protects people who may not fit the UN refugee definition. (Get qualified legal advice if you believe this to be the case.)

Children

If you have children, include opinion letters about them in your H&C application. School counsellors, community health workers, family doctors, teachers, social workers or psychologists can write letters about the negative mental/physical effects returning to your home country would have on your children.

The officer who reads your application must consider “the best interests of the child,” i.e. whether your child/children are better off staying in Canada or going back to your home country with you. The officer will determine how close your children’s ties are to Canada based on whether or not they were born in Canada, whether or not they attend(ed) school in Canada and whether or not they have ever been to your home country.

What information will weaken my H&C case?

The following reasons and information will weaken your case for staying in Canada:

Your ties to Canada are based mainly on having worked here and paid taxes
You have been on welfare for most of your time in Canada
You have a criminal record

Please note: If you are applying for H&C to stay in Canada, you must disclose this information even though it may weaken your case and, in some instances, prevent you from obtaining permanent residence. Citizenship and Immigration Canada always requires medical checks, criminal record checks, financial information, etc. You cannot avoid these checks. If one of the above reasons applies to you, you may wish to consider its impact on your application before applying for H&C and paying all the associated expenses. You may wish to seek qualified legal assistance if you have concerns about providing this information.

How do I apply for H&C?

If you decide to apply for H&C after reading this guide, follow these steps:

1. Obtain the application guide called **Applying for Permanent Residence within Canada — Humanitarian & Compassionate Cases** by visiting www.cic.gc.ca or phoning Citizenship and Immigration Canada at 1-888-242-2100.
2. Follow the guide very closely and complete all the required forms. Make sure you answer all the questions.
3. If you are applying as a failed refugee, do not include the Canadian medical exam or police clearance — you already submitted these with your refugee claim. If you are accepted, Citizenship and Immigration Canada will ask you for a new medical exam and police clearance.
4. Before you send the application to Citizenship and Immigration Canada, make a copy of all the documents for your records.
5. Send the application by registered mail or express post so you can confirm when it is received.

Please note: The Legal Services Society (LSS) does accept legal aid requests for H&C applications in certain limited circumstances. If you can't afford a lawyer, consult with LSS to see if you qualify for coverage under legal aid. Visit LSS in person (find an office at http://www.lss.bc.ca/legal_aid/legalAidOffices.asp, or phone 604-408-2172 (Lower Mainland) or 1-866-577-2525 (toll-free outside Lower Mainland)).

If you **can** afford a lawyer, please find out if he/she will take your case. If you need to find an immigration lawyer, phone the Lawyer Referral Service at 604-687-3221 (Lower Mainland), or 1-800-663-1919 (toll-free outside Lower Mainland).