

# IRPA TRAINING

## A28 PRTD

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## Permanent Resident Determination and Travel Document - PRTD A PRTD Will Be Issued If...

### WHAT CRITERIA HAS TO BE MET FOR A PRTD TO BE ISSUED?

A31(3) Officer Satisfied

- a) Residency Obligation A28
- b) H&C Assessment
- c) 1/365 (appealed) / 60 Appeal Period  
(Failed but PRTD issued)

## Permanent Resident Determination and Travel Document - PRTD Residency Obligation – A28

### 1. Meets Residency Obligation A28

**A28(1)** A permanent resident must comply with a residency obligation with respect to every five-year period

**A28(2)(a)** Compliance = at least 730 days in that 5yr period...

...SO WHAT DOES IT MEAN TO COMPLY?...

## Permanent Resident Determination and Travel Document - PRTD Residency Obligation – A28

### 1. Meets Residency Obligation A28

#### **A28(2)(a)(i)**

Physically present

#### **A28(2)(a)(ii)**

Outside Canada accompanying (R61(4)) a CDN CIT SP/CL or parent  
(R61(6))

#### **A28(2)(a)(iii)**

Outside Canada employed FT by a CDN Business, Federal/Provincial  
Public Service

#### **A28(2)(a)(iv)**

Outside Canada, accompanying a PR SP/CL or parent who is  
employed full-time by a CDN Business, Federal/Provincial Public  
Service

## Permanent Resident Determination and Travel Document - PRTD Residency Obligation – A28

**R61(1)** Definition of a Canadian business (Corporation, Enterprise, Organization – ongoing CDN operations, revenue generating, with majority control being Canadian)

**R61(2)** a Canadian business does not include a business that serves primarily to allow a permanent resident to comply with their residency obligation while residing outside Canada.

**61(3)** an employee of or under contract to provide services to, a Canadian business or the public service of Canada or of a province, and assigned full-time as a term of the employment or contract to

- (a) a position outside Canada;
- (b) an affiliated enterprise outside Canada; or
- (c) a client of the Canadian business or the public service outside Canada.

## Permanent Resident Determination and Travel Document - PRTD Employed FT by a Canadian Business?

Rosanne is a Permanent Resident and works for PEEPSRUS, a consulting firm specializing in Human Resources development and training. PEEPSRUS Inc., is a company incorporated in Canada with its HQ in Toronto.

In the spring of 2013, BIGGERNU Inc, an American computer software company based in California contracted PEEPSRUS Inc to train the employees of KNOTSOS MALL Inc., a Beijing company, on the use of their new accounting software program. Rosanne was sent for 120 days to Beijing to train the employees of KNOTSOS MALL Inc.

Can the days spent in Beijing by Rosanne be counted for the residency obligation test?

Yes.

Rosanne was assigned abroad under contract to provide services to a client of the Canadian business (BIGGERNU Inc.)

## Permanent Resident Determination and Travel Document - PRTD H&C Determination

### **2. A28 H&C Assessment**

And if they fall short of 730?

**PFL / Solicit for H&C considerations**

A28(2)(c) a determination by an officer that humanitarian and compassionate considerations relating to a permanent resident, taking into account the best interests of a child directly affected by the determination, justify the retention of permanent resident status overcomes any breach of the residency obligation prior to the determination.

## Permanent Resident Determination and Travel Document - PRTD Case Study - 1

Two sisters came from South Africa (SA) with their parents to Canada as PRs in July 1994. They returned to SA with their parents for business reasons in 6mths later. The family made short visits to Canada in 1995, 96, 98 and 2000 but never stayed to reside in Canada.

In 2015 when the sisters were aged 24 and 25, their parents renounced PR status in order to visit Canada. The sisters applied in 2016 for relief from meeting the residency obligation on H&C grounds. The application was dismissed by an officer – appealed to the IAD (Immigration Appeals Decision).

**... WHAT WOULD BE YOUR DECISION?....**



## Permanent Resident Determination and Travel Document - PRTD Case Study - 1

The IAD said the seriousness and breach of the residency obligation was significant, but that it was not the decision of the sisters, then minors, to leave Canada, although the H&C would have been more substantial if applied when the sisters became age of majority.

The IAD stated that the sisters “now seek the relative political and economic stability of Canada” and that a failure to provide the relief would be unfair and possibly “dangerous or cruel”. The IAD said by remaining in SA, the sisters would face general hardships that could only be alleviated by allowing the appeal.

## Permanent Resident Determination and Travel Document - PRTD Case Study - 1

The Minister appealed and said that the IAD erred when they minimized the breach of the residency obligation, failed to consider the complete failure of the sisters to establish in Canada and unreasonably assessed hardship

The Federal judge ruled that the IAD's analysis of hardship lacked justification, transparency and intelligibility. He was concerned with the depth of analysis on the issue of hardship given the IAD's firm conclusions that failure to provide relief would be "unfair" and even "dangerous" and "cruel. The IAD also did not seem to weigh that the family appeared to have built successful lives in SA with no personal affect from security or racist concerns.

Federal Court Decision  
JR of IAD decision on Jessica Ma / Michelle Ma  
06OCT17

<https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/235802/index.do>

## Permanent Resident Determination and Travel Document - PRTD Residency Obligation A28 – Designated Officer

### DESIGNATED OFFICER?

MAY 2018

“Be satisfied that a PR meets the requirements; issue PRTD”

IL3 Item 46 - Migration Officer and DIO

“Determine PRC does not reflect the status of the person”

IL3 Item 45 - Migration Officer and DIO

“Determine whether H&C considerations justify retaining status”

IL3 Item 44 - Migration Officer

“Issue or refuse to issue a PRTD” (Insufficient H&C)

IL3 Item 47 - Migration Program Managers

## Permanent Resident Determination and Travel Document - PRTD Eligibility Failed: PRTD Issued

### **3. 1/365 Within 60 Day Appeal Period**

*Present in Canada at least 1/365 +*

- *Appeal Decision Pending or*
- *60 day Appeal Period not expired – A31(3)(c)*

***Two Other Reasons where a PRD would be FAILED; but an officer would issue a PRTD***

- *IAD calls for applicant to testify - A175(2)*
- *IAD overturns the refusal, PR status upheld*

## Permanent Resident Determination and Travel Document - PRTD Renunciation

### RENUNCIATION

**A46(1)(e):** A person loses permanent resident status on approval by an officer of their application to renounce their permanent resident status

- App to voluntarily Renounce PR Status (IMM5782)
- PDI on Processing Renunciations of PR status
- Must have PR/CIT in another country: (can not be rendered stateless)
- Minors need signatures from ALL who share custody

#### IL3 Item 26

“Approve / refuse an application to renounce PR status” :  
*Migration Officers, DIO, NIO*

## Permanent Resident Determination and Travel Document - PRTD Lost or Stolen – Reported at Mission

### **LOST OR STOLEN PR CARD PROCEDURE:**

#### **ENF 27 – 9.2**

PRs may occasionally report a lost or stolen PR card to a visa office abroad, to an IRCC office in Canada, or to the Call Centre.

Officers receiving reports of lost or stolen PR cards must immediately notify PRC-Sydney-Urgent@cic.gc.ca so that the necessary updates to GCMS can be made.

PRs must report their lost or stolen PR cards through official channels by completing and signing a solemn declaration to CPC-PRC [IMM 5451E] if in Canada or at a visa office if outside Canada – and along with their PRTD application, if this is their reason for requiring a PRTD. A police report may be submitted along with the solemn declaration .

Permanent Resident Determination and Travel Document - PRTD  
Exercise 1a

Kuldip Lal is applying for a PRTD. He, his spouse, and their nine children received PR status 2 years ago today. Kuldip's family stayed in Canada. Kuldip left for India 21 days after landing to sell the family farm. He tells you that prices have been depressed and it's taking longer than he expected to get an acceptable offer for his property. Meanwhile, he admits he's farming as usual while waiting to receive a decent offer. He wants to travel back to Canada over Xmas/NewYears to be with his family.

A28(1):	Review period:	12JUN17 – 11JUN22 – 730 days required
A28(2)(a)(i):	Days in Canada:	21 DAYS
A28(2)(a)(ii):	Days outside Canada with CC Spouse:	0 DAYS
A28(2)(a)(iii):	Days working for Canadian Employer:	0 DAYS
A28(2)(a)(iv):	Days outside Canada with PR Spouse:	0 DAYS
A28(2)(b)(i):	Potential Future Days in Canada:	1095 DAYS
	TOTAL :	1116 DAYS
A28(2)(a):	Residency obligation Met/Not Met:	MET
A28(2)(c):	H&C Assessment Required?	NO

Permanent Resident Determination and Travel Document - PRTD

Exercise 1b

Kuldip Lal is applying for a PRTD. He, his Canadian Citizen spouse, and their nine children received PR status 5 years ago today. Kuldip's family stayed in Canada. Kuldip left for India 21 days after landing to sell the family farm. He has spent 30 days over each XMAS the last 4 years in Canada with his family. Last year his spouse came and spent 12 mths with him on the farm before returning to Canada. Lal is still waiting to get a profitable offer on his farm, in the mean time, he's cultivating crops and has just bought new farm equipment.

A28(1):	Review period:	12JUN14 – 12JUN19 – 730 days required	
A28(2)(a)(i):	Days in Canada:	141 DAYS	
A28(2)(a)(ii):	Days outside Canada with CC Spouse:	365 DAYS	
A28(2)(a)(iii):	Days working for Canadian Employer:	0 DAYS	
A28(2)(a)(iv):	Days outside Canada with PR Spouse:	0 DAYS	
A28(2)(b)(i):	Potential Future Days in Canada:	0 DAYS	
	TOTAL:	506 DAYS	
A28(2)(a):	Residency obligation Met/Not Met:	NOT MET	
A28(2)(c):	H&C Assessment Required?	???	



# Permanent Resident Determination and Travel Document - PRTD

