



Operational Bulletin 639 – July 5, 2017

Amendments to the *Immigration and Refugee Protection Regulations*: Ministerial Relief Applications

Effective date	Expiry date, if any
March 10, 2017	n/a

Summary

This Operational Bulletin (OB) describes amendments to the *Immigration and Refugee Protection Regulations* (IRPR) that are intended to bring greater clarity and consistency to the Ministerial Relief (MR) application process. Key changes include the introduction of a mandatory application form ([BSF766 \(http://www.cbsa-asfc.gc.ca/publications/forms-formulaires/bsf766-eng.html\)](http://www.cbsa-asfc.gc.ca/publications/forms-formulaires/bsf766-eng.html)) and specific parameters regarding when an application for a declaration of relief may be submitted and when it may be closed.

Background

Under subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA), foreign nationals may make an application for a declaration from the Minister of Public Safety and Emergency Preparedness (the Minister) that the matters referred to in section 34, paragraphs 35(1)(b) or (c), or subsection 37(1) of the IRPA do not constitute inadmissibility in their case.¹ The granting of an exception from inadmissibility related to these grounds (security, human or international rights violations, and organized criminality, respectively) cannot be delegated, and is commonly known as Ministerial relief.

The Canada Border Services Agency (CBSA) conducts an assessment of MR applications and develops a recommendation for the Minister. In the past, no formal MR application process existed: foreign nationals could submit a request at any time, in any format, and there were no regulatory requirements governing the MR application process.

Regulatory Amendments

Amendments to the IRPR came into force on March 10, 2017. The new regulatory framework institutes the following:

Provision	Subject	Impact
R24.1	Application	Establishes parameters regarding when an application for a declaration of relief may be submitted.
R10(1)(a) and R24.2	Form and content of application and required information	Requires the use of a specific application form, and sets out the information that must be included in the application.
R24.3	Return of application	Allows an application to be returned, unprocessed, if it does not meet the prescribed requirements.
R24.4	Closing of file	Allows the closure of an application in specific circumstances (i.e., the applicant obtains permanent resident status; the application is withdrawn; the applicant seeks judicial review of their inadmissibility determination or removal order; or, the applicant fails to respond within 60 days to a CBSA notice requiring that they confirm their intent to proceed with their MR application).
R24.5	Change in contact information	Requires applicants to provide updated contact information while MR applications are in process.

An MR application may only be submitted when inadmissibility has been determined and all rights of judicial review of that decision have been exhausted or expired. Inadmissibility is considered to be established when an immigration application (for temporary or permanent resident status) has been refused or when a removal order has been issued.

For MR applications received prior to the coming-into-force of these regulations, transitional provisions limit the applicability of these amendments to the requirement to provide up-to-date contact information and the closure of files under the above-specified circumstances (except seeking judicial review of their inadmissibility determination or removal order). An additional transitional provision stipulates that an MR application received prior to the coming-into-force of these regulations will be closed following a final decision – including that all rights of judicial review have been exhausted or expired – that the applicant is not inadmissible on the grounds for which the applicant sought relief.

General MR Program Reminders

A request for Ministerial relief must be initiated by the applicant and is a separate process from an immigration application. Where inadmissible foreign nationals enquire about MR, they should be directed to the online application form ([Application for a Declaration of Relief under Subsection 42.1\(1\) of the Immigration and Refugee Protection Act \(IRPA\) \[BSF766\]](http://www.cbsa-asfc.gc.ca/publications/forms-formulaires/bsf766-17-eng.pdf)) - available for free on the CBSA's external website), which contains information regarding the MR process.

A pending MR application does not stay a removal order.

All MR applications are received and processed by the Ministerial Relief Unit (MRU) at the CBSA. In order to ensure a streamlined approach when responding to process and/or case enquiries, it is requested that all correspondence and submissions regarding MR be forwarded to the MRU at:

Ministerial Relief Unit
 Canada Border Services Agency
 100 Metcalfe Street, 10th floor
 Ottawa, Ontario K1A 0L8
Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca (mailto:Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca)

For foreign nationals who are outside of Canada, and who do not have a representative acting on their behalf in Canada, visa offices will in most cases continue to act as liaison between the applicant and the CBSA MRU. While these individuals may submit applications and submissions to the responsible visa office or to the CBSA directly, visa offices will retain primary responsibility for disclosing draft recommendations to applicants and communicating the decisions made by the Minister.

For more information, consult the [Guide to Applying for a Declaration of Relief under Subsection 42.1\(1\) of the Immigration and Refugee Protection Act](http://www.cbsa-asfc.gc.ca/travel-voyage/gadr-gddd-eng.html) (<http://www.cbsa-asfc.gc.ca/travel-voyage/gadr-gddd-eng.html>).

Footnote

- 1 With the June 19, 2013 coming-into-force of Bill C-43, the *Faster Removal of Foreign Criminals Act* (FRFCA), the separate MR provisions under subsections 34(2), 35(2), and 37(2) of IRPA were repealed and replaced by section 42.1. Please refer to [QB 533](#) ([/CICExplore/english/guides/bulletins/2013/533-eng.aspx](http://CICExplore/english/guides/bulletins/2013/533-eng.aspx)) – *Coming into Force of Bill C-43 – Ministerial Relief Provisions*.

Manual chapter(s) to be updated	CBSA NHQ contact
Either a new manual chapter or program delivery instructions will be published in the near future.	Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca (mailto:Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca)
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