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### CANADIAN CITIZENSHIP AND IMMIGRATION INADMISSIBILITY LAW

Bellissimo

Release No. 4, December 2023

**Canadian Citizenship and Immigration Inadmissibility Law, 2nd Edition** is the only resource that provides focused guidance on the rapidly expanding area of inadmissibility law. A practical and tactical guide that combines, summarizes, and analyzes hundreds of decisions and key legislation, this publication speaks in practical terms to the key statutory framework, emerging trends, policy developments and relevant leading case law and offers practical tips and key memoranda and sample submissions. This publication includes: comprehensive analyses of the statutory framework for criminal, medical, and financial inadmissibility as well as Canadian employer compliance and the evolving area of misrepresentation law including citizenship revocation; comprehensive and detailed analysis of the distinct treatment and consequences of inadmissibility on various actors in Citizenship, Immigration, and Protected Person law; an overview of remedies; discussion of detention and release, appeals, equivalency defences, judicial reviews, and stays; and, case law annotations and detailed annotated precedents based on cases. The publication also examines exceptional remedies under the Act including humanitarian and compassionate grounds applications, temporary resident permits, rehabilitation, record suspensions, and collateral consequences of criminal convictions. In all, this publication like no other delves into the nuances of inadmissibility law from many legal and practical perspectives.

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## New In This Update

This release features updates to the commentary in Chapter 10 (Removal Order Appeals and Equivalency).

## Highlights

**Removal Order Appeals and Equivalency — Equivalency:** In the examination of equivalency, a determination is made as to whether each of the essential elements of the foreign offence is present in the Canadian equivalent. The following factors should be considered:

- If all the elements exist in both statutes, the offences are equivalent
- If the foreign enactment is more restrictive than the Canadian enactment, both offences are equivalent
- If the foreign enactment is broader than the Canadian statute, or if the text includes situations that do not lead to a criminal offence in Canada, there is no textual equivalency, and it is necessary to examine the circumstances of the offence to determine if there is equivalency nonetheless
- The hearings officer should identify which constituting element(s) of the Canadian offence is (are) not found in the text of the foreign offence.

**Removal Order Appeals and Equivalency — Emerging Trends — Government mission to adopt an “anti-racist approach” and impact on serious criminality determinations:** Bill C 31 makes several changes to the federal pardon system with the stated intention to “reduce barriers to pardons” as some of the principal changes to the Act aim to allow for a more expeditious process for those convicted of an offence to obtain a pardon. However, individuals convicted of “serious offences” will not be eligible for these more expedient timelines, including individuals convicted of sexual offences against children, terrorism related offences where a term of imprisonment of 10 years or more has been imposed, and/or offences punished by an indeterminate period of imprisonment or life in prison.

**Removal Order Appeals and Equivalency — Emerging Trends — Initiatives at the Immigration Appeal Division — New IAD Rules set out procedures to facilitate early resolution and reflect realities of working in a digital era:** New IAD Rules came into force on 14 January 2023. Key elements of the new rules include:

- documents may now be provided to the IAD by email or other electronic means
- increasing the time limit to disclose documents from 45 to 60 days after a party receives the appeal record and updating the factors to consider when deciding whether to allow disclosure when the time limit is not met
- changing the time limit to provide witness information from 45 days after a party receives the appeal record to 30 days before the hearing

- permitting a party to request a conference under Rule 72 and not just at the Division's own initiative.

### **ProView Developments**

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable