



Health Examination for Immigrants in Selected Foreign Countries

Supplement to Health Exams, Including AIDS Tests, Required of Foreign Students, LL90-82

Australia • Canada • France • Japan
New Zealand • Poland • United Kingdom

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**HEALTH EXAMINATIONS FOR IMMIGRANTS
IN SELECTED FOREIGN COUNTRIES**

<u>Country</u>	<u>General Health Examination</u>	<u>Examination for HIV (AIDS)</u>
Australia	Yes	May be tested
Belgium	Yes	Yes
Canada	Yes	Seldom tested
France	Yes	May be tested
Germany	Yes	No (exc. Bavaria)
Greece	No	No
Israel		
Italy	No	No
Japan	Yes	Yes
Mexico	No	No
Netherlands	No	No

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New Zealand	Yes	May be tested
Poland	No	No
Spain	Yes	No
Sweden	No	No
Switzerland	No	No
United Kingdom	Yes	No

AUSTRALIA

In late 1989, the government introduced a policy of AIDS testing for immigrants. Most but not all infected people have been refused entry on the grounds that they would be a charge on public funds. Short-term visitors may also be tested and can be refused entry. Testing is not compulsory and is recommended only if a person appears ill or on the basis of information supplied by a third party. Although a person refusing to be tested cannot be denied entry on legal grounds, they could still be rejected under discretionary powers available to the immigration service.*

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* Information obtained from the Australian Embassy, Washington, D.C. It should be noted that there is no legislation in place referring specifically to immigration and the AIDS virus. *See also Reuters*, October 24, 1989.

CANADA

Although it is reportedly under review in both the Department of Employment and Immigration and the Department of National Health and Welfare,¹ Canada's policy over the past several years has been to categorize persons who are known to be HIV-positive as falling within the inadmissible classes of immigrants prescribed by its Immigration Act.² Section 19 of that statute states that "[n]o person shall be granted admission who is a member of any of the following classes: (a) persons who are suffering from any disease ... as a result of the nature, severity or probable duration of which ... (i) they are likely to be a danger to public health or public safety, or (ii) their admission would cause or might reasonably be expected to cause excessive demands on health or social services."³

However, despite the fact that Canada has a policy of excluding prospective immigrants who are HIV-positive, it does not require physicians who perform the physical examinations that all prospective immigrants must undergo⁴ to test those persons for the AIDS virus. In fact, Canada's Auditor-General recently found that medical examinations of immigrants seldom include testing for AIDS.⁵ Thus, most persons who have been denied immigrant visas on account of their being HIV-positive are persons who have disclosed their condition to immigration officials or who have been very ill either when they applied for a visa or tried to enter the country.⁶

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¹ Canada's Minister of Health and Welfare announced that this review would be undertaken at the same time that he revealed that Canada would no longer give its medical officers the discretionary power to bar persons who are HIV-positive from entering the country as temporary visitors. "Policy on visitors with AIDS altered: short-term travellers won't be banned from Canada Beatty says." Canadian Press, April 15, 1991.

² This policy was confirmed by the Department of Employment and Immigration in Ottawa on August 8, 1991.

³ Immigration Act, R.S.C. ch. I-2, § 19(1) (1985), as amended by R.S.C. ch. 30, § 3 (3d Supp. 1989).

⁴ *Id.* § 11(1).

⁵ "The Auditor's Report," Toronto Globe and Mail, Oct. 31, 1990, at A6.

⁶ *Supra*, note 2.

FRANCE

Foreigners who want to visit France as immigrants rather than tourists must provide the French authorities with a medical certificate.¹ This certificate must be obtained before entering French territory and must be obtained from the Office des Migrations internationales² or in its absence from a physician approved by a French consulate. Students and other visitors who extend their stay must undergo a medical examination in France.

The French medical examination must check for illnesses that may endanger public health as defined by international health agreements, a contagious illness in a normal phase in its evolution, or check for those individuals who may endanger public order and security such as drug intoxication, mental illnesses incompatible with social life, including severe mental retardation. The doctor will make a general clinical examination, an X-ray photograph will be taken of the lungs, and a test for syphilis will be conducted. There is, however, no mandatory test for aids.³ If the clinical sign for aids are obvious without a blood test, then the physician may require one. Thus, a person who is seropositive to an aids test but does not exhibit signs that the disease is active is not barred from entering French territory. Moreover individuals who are suffering from aids can be admitted to France on a case by case basis to attend a family reunion, adopted Romanian children with aids have entered France, and those seeking medical treatment in France may be given entry permits.

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¹ Code du travail, L 341-2 (Paris, Dalloz, 1988).

² *Id.* art. 338.

³ *L'examen medical des etrangers autorisés à séjourner en France Office des migrations internationales November 1990*, provided by the French Embassy, Washington, D.C.

JAPAN

In order to be a permanent resident in Japan, a foreign national (with the exception of certain Korean and Taiwanese nationals born in Japan) must fulfill the following conditions: (1) continuous residence in Japan for five years or more, (2) sufficient assets or the ability to have an independent means of livelihood, (3) good conduct, and (4) good health.¹ When a foreign national applies for permanent residence, he is required to submit a health certificate along with other supporting documents.² If the health certificate reveals that the applicant is contaminated with AIDS and it is feared that he might contaminate a large number of people, he may be denied permanent residence.³ However, information is not available as to whether or not such a person is allowed to reside continuously in Japan.

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¹ Art. 22, Immigration Control and Refugee Determination Law, Cabinet Order No. 319, Oct. 4, 1951, as last amended by Law No. 79, 1989.

² *A Guide to Residence and Registration Procedures in Japan for Foreign Nationals* 159 (Tokyo, Japan Immigration Association, 1990).

³ Para. 11, Supplementary Provisions, *supra* note 1.

NEW ZEALAND

Section 4(2)(b) of New Zealand's Immigration Regulations, 1987 empowers New Zealand's visa officers to direct prospective immigrants "[t]o undergo such medical examination as [he or she] may require."¹ In 1988, New Zealand reportedly considered the idea of following Australia in imposing compulsory AIDS tests on immigrants,² but the officials contacted for this report have not disclosed whether such a policy was ever adopted.³

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¹ 2 [1987] S.R. No. 301.

² "New Zealand considers imposing AIDS tests on immigrants," Reuter Library Report, Aug. 31, 1989 (NEXIS).

³ Information was sought from the New Zealand Embassy in Washington, D.C. and the New Zealand High Commission in Ottawa.

POLAND

At the present time, pursuant to the Law of February 15, 1962, on Polish Citizenship,¹ no general medical examination or HIV/AIDS test is required from immigrants unless the individual applies for a student visa. It is anticipated that such a requirement will be introduced soon,² because of the sudden and unexpected influx of illegal aliens into Poland who often pose a health hazard through the spread of contagious diseases.

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¹ Ustawa z dnia 15 lutego 1962 r. o obywatelstwie polskim, *Dziennik Ustaw* (official gazette of Poland), No. 10, item 49 (1962).

² Consular Office, Embassy of the Republic of Poland.

UNITED KINGDOM

Although the government continues its policy of allowing visas to AIDS-infected visitors, the Chief Medical Officer has reportedly written a letter of guidance to the immigration service. The letter apparently requires port medical inspectors to estimate the cost of medical treatment for any immigrant suspected of being HIV-positive or of having AIDS. The information is then to be used by the immigration service in deciding whether the immigrant will be able to pay for his/her medical care while in Britain.¹ The Immigration Rules permit entry refusal if there is reason to believe an immigrant will become a charge on public funds.²

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¹ *The Independent*, July 6, 1991.

² Paras. 17, 18, 79, and 80.