



LEGISLATIVE SUMMARY



Bill C-6: An Act to amend the Citizenship Act and to make consequential amendments to another Act

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(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL C-6: AN ACT TO AMEND THE CITIZENSHIP ACT AND TO MAKE CONSEQUENTIAL AMENDMENTS TO ANOTHER ACT

1 BACKGROUND

Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act¹ was tabled in the House of Commons by the Honourable John McCallum, Minister of Immigration, Refugees and Citizenship, on 25 February 2016 **and was referred to the House of Commons Standing Committee on Citizenship and Immigration on 21 March 2016**. The bill makes changes to the legislative provisions regarding grants of citizenship by naturalization, grounds for revoking citizenship, and the Minister's authority with regard to fraudulent documents. **The House of Commons committee studied the bill from 12 April to 3 May 2016 and reported it back to the House of Commons on 5 May 2016 with two amendments.**

1.1 RECENT CHANGES TO THE *CITIZENSHIP ACT*

For the most part, Bill C-6 amends aspects of citizenship legislation that were changed in 2014 by *An Act to amend the Citizenship Act and to make consequential amendments to other Acts*² (the former Bill C-24, short title: *Strengthening Canadian Citizenship Act*). The aspects of that Act that are amended or repealed by the bill are described below.

Bill C-24 amended the then existing requirements for becoming a naturalized Canadian and also added new requirements. It clarified that "residence in Canada" means physical presence in Canada and lengthened the period of residence required from three years within four years to 1,460 days (four years) in six years. In addition, time spent in Canada prior to becoming a permanent resident – as a temporary resident or protected person – no longer counts toward meeting this requirement. Nor does time spent while under a probation order, on parole, in a penitentiary or in prison.

Bill C-24 also extended the application of the requirements that applicants seeking a grant of citizenship have adequate knowledge of English or French and adequate knowledge of Canada and "of the responsibilities and privileges of citizenship." While those aged 55 and over had previously been exempt by policy from fulfilling these requirements, as had minors, those aged 55 to 64 and 14 to 18 were made subject to these two requirements by Bill C-24.

Two new requirements for naturalization were introduced by Bill C-24. The first is that applicants fulfill any applicable requirements under the *Income Tax Act*, such as the filing of income tax returns for four of the six years before applying. The second is that applicants must intend to reside in Canada if granted citizenship.

The grounds for revoking Canadian citizenship were expanded by Bill C-24, which introduced new grounds based on national security. Prior to Bill C-24, the only basis for revoking citizenship was fraud in citizenship or permanent resident applications. Now citizenship can be revoked for presumed dual citizens convicted of certain offences related to security (for example, treason or terrorism) or who have served as a member of an armed force in an armed conflict against Canada. Section 10.4 of the *Citizenship Act*³ restricts revocation if it would render a person stateless. However, it is up to individuals facing citizenship revocation to prove that they do not have another citizenship and that they would be rendered stateless if the revocation were to occur.

All of the provisions discussed above are repealed or amended by Bill C-6.

2 DESCRIPTION AND ANALYSIS

2.1 CRITERIA FOR OBTAINING CITIZENSHIP BY GRANT (CLAUSE 1)

2.1.1 PHYSICAL PRESENCE IN CANADA (CLAUSES 1(1), 1(2), 1(3), 1(7) AND 9)

To be eligible to apply for Canadian citizenship, applicants must be physically present in Canada for a specified number of days. Clause 1(2) shortens the period required from 1,460 days (four years) over six years to a total of 1,095 days (three years) over the five years immediately prior to submitting an application for citizenship (new section 5(1)(c)(i)).

No longer are citizenship applicants required to be physically present in Canada for a minimum number of days within each year before applying. The provision requiring a presence in Canada of 183 days in each of four years in the six-year period considered for the citizenship application is repealed (clause 1(3)). This change has a consequential impact on section 14(1)(a) of the *Citizenship Act*, which provides for citizenship judges to review files where there may be concerns related to time spent in Canada (clause 8).

Clause 1(7) introduces a new way of counting days of physical presence that takes into account time spent in Canada as a temporary resident or a protected person (new section 5(1.001)). Prospective citizens accumulate a half-day for every day spent in Canada as a temporary resident or a protected person, up to a maximum of 365 days, and one day for each day spent in Canada as a permanent resident. For example, a foreign student present in Canada for two years, who completes a masters' program and subsequently becomes a permanent resident, can count the time spent in Canada as a student (up to 365 days) towards the three-year total required. Under Bill C-6, applicants must have permanent residence at the time of submitting their application for citizenship (clause 1(1)(c)).

The *Citizenship Act* provides that, in certain situations, there are periods of physical presence in Canada that cannot be counted towards the acquisition of citizenship. Section 21 provides that time spent under a probation order, as a paroled inmate or

while serving a term of imprisonment, does not count as physical presence in Canada for this purpose. Clause 9(2) amends the provision related to imprisonment, which currently reads, “confined in or been an inmate of any penitentiary, jail, reformatory or prison,” referring instead to “serving a term of imprisonment” to encompass all forms of incarceration, which is in keeping with the language in the *Corrections and Conditional Release Act*⁴(new section 21(c)).

2.1.2 INTENTION TO RESIDE NO LONGER REQUIRED
(CLAUSES 1(5), 1(8), 1(11), 1(12) AND 7)

The requirement that a person intend to reside in Canada if granted citizenship is repealed (section 5(1)(c.1)). As a result, a number of consequential amendments are made:

- Clause 1(8) repeals the requirement for applicants to have a continuous intention to reside in Canada from the time of application (section 5(1.1)).
- Clauses 1(11) and 1(12) repeal sections of the *Citizenship Act* that provided a waiver for the intention to reside requirement for minors (section 5(3)(b)(iii)) and for individuals who were incapable of forming an intent (section 5(3)(b.1)).
- Clause 7 removes the criterion of “intention to reside” from the requirements for resumption of citizenship in section 11 of the *Citizenship Act*.

2.1.3 KNOWLEDGE OF AN OFFICIAL LANGUAGE AND OF THE
RESPONSIBILITIES OF BEING A CANADIAN CITIZEN
(CLAUSES 1(6), 1(9), 1(10), **1(13)** AND 13)

Clause 1(6) reduces the adult maximum age limit applicable for the requirements to demonstrate adequate knowledge of one of the official languages, as well as knowledge of Canada and of the responsibilities and privileges of citizenship. New sections 5(1)(d) and 5(1)(e) indicate that these requirements must be fulfilled by applicants under 55 years of age, rather than by those under 65.

Bill C-6 repeals the requirements for minors to prove their knowledge of an official language and of Canada, as clause 1(9) allows a parent or other authorized person to make an application on behalf of minors without these requirements (amended section 5(2)). Consequently, clause 1(10) removes the reference to a waiver on compassionate grounds available for minors subject to the two knowledge requirements (section 5(3)(a)). Clause 13 deletes any reference in regulations to minors regarding the knowledge criteria for a citizenship grant (section 27.2(c)).

The House of Commons committee amended clause 1 to explicitly state that the Minister must take into consideration measures that are reasonable to accommodate the needs of persons with disabilities when verifying the knowledge of an official language and the responsibilities of Canadian citizenship (new section 5(3.1) of the *Citizenship Act*).

2.1.4 INCOME TAX RETURNS (CLAUSE 1(4))

Clause 1(4) changes the existing provision requiring citizenship applicants to meet requirements under the *Income Tax Act*, matching it to the change to the period of residency in Canada. New section 5(1)(c)(iii) specifies that a person must provide income tax returns for three years within the five-year period before applying for citizenship.

2.1.5 SPECIAL CASES (CLAUSE 1(14))

Section 5(4) of the *Citizenship Act* gives the Minister discretion to grant citizenship to any person “to alleviate cases of special and unusual hardship or to reward services of an exceptional value to Canada.” The House of Commons committee amended this section to add “statelessness” as grounds for the Minister to exercise his or her discretion in granting citizenship.

2.1.6 PROHIBITION ON CITIZENSHIP BY GRANT OR TAKING THE OATH OF CITIZENSHIP (CLAUSE 10)

Under the *Citizenship Act*, an applicant may not be granted citizenship or take the Oath of Citizenship while he or she is under a probation order, is a paroled inmate or is serving a term of imprisonment. Clause 10 changes the current wording “confined in or is an inmate of any penitentiary, jail, reformatory or prison” to “serving a term of imprisonment,” a phrase that encompasses all forms of incarceration and is, as previously noted, in keeping with the language in the *Corrections and Conditional Release Act* (new section 22(1)(a)(iii)).

2.2 REVOCATION AND LOSS OF CITIZENSHIP (CLAUSES 3, 5 AND 26)

Clause 3 repeals section 10(2) of the *Citizenship Act*, which provides the grounds for revoking citizenship related to national security.

There are many instances where references to section 10(2) are removed from other sections of the *Citizenship Act* as a consequence of this change (clause 2: renunciation of citizenship; clause 4: effect of a Federal Court declaration; clause 6: interlocutory judgments; and clause 10(3): prohibition).

The provision allowing for revocation of citizenship when the person has obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances is unchanged (section 10(1)).

The effect of citizenship revocation is also modified by Bill C-6. Clause 5 repeals the current section 10.3, which provides that a person whose citizenship is revoked in certain situations becomes a foreign national.⁵ Instead, under clause 26, a person whose citizenship is revoked becomes a permanent resident.

2.3 NEW AUTHORITY TO SEIZE DOCUMENTS (CLAUSES 11 AND 12)

Clause 11 adds new section 23.2 to the *Citizenship Act*, which allows the Minister to seize and detain any document submitted for the purposes of the Act if there are reasonable grounds to believe the document was fraudulently or improperly obtained or used. This new section also provides that a document may be seized in order to prevent its improper or fraudulent use. Clause 12 provides that the Governor in Council may make regulations regarding the procedures to be followed in relation to the seizure, storage, return and disposition of the document (new section 27(1)(i.2)).

2.4 TRANSITIONAL PROVISIONS (CLAUSES 14 TO 24)

All provisions in the *Strengthening Canadian Citizenship Act* (Bill C-24) came into force by 11 June 2015. Bill C-6 includes many transitional provisions which have the effect of applying the criteria for citizenship grants and loss of citizenship established in the bill to all applications that may have been affected by the coming into force of Bill C-24.

Most notably, persons whose citizenship has been revoked for national security reasons under section 10(2) of the *Citizenship Act* are deemed not to have lost their citizenship (clause 20).

In addition, persons who applied for citizenship on or after 11 June 2015 and have been granted citizenship before the coming into force of Bill C-6 will be deemed never to have had the requirement of the intention to reside in Canada (clause 16).

Finally, the new criteria under Bill C-6 regarding presence in Canada and age limits in relation to knowledge of Canada and knowledge of an official language apply for applications submitted after 11 June 2015, even where the relevant clause has not come into force by an Order in Council.

2.5 COMING INTO FORCE (CLAUSE 27)

Clause 27 provides four separate occasions on which the Governor in Council will order certain clauses to come into force:

- Clause 27(1) refers to the provisions that deal with status and physical presence in Canada contained in clauses 1(1), 1(3), 1(7) and 8.
- Clause 27(2) regroups clauses 1(2) and 1(4), which reflect the change in the required period of time in Canada of three years over five years.
- Clause 27(3) refers to the new age applicability for the citizenship grant requirements of demonstrating knowledge of an official language and knowledge of Canada.
- Clause 27(4) has a separate coming-into-force day for the provisions related to the new power of seizing documents.

All other clauses will come into force upon Royal Assent. These include the clauses stipulating that the intention to reside in Canada will no longer be a requirement for

the granting of citizenship and that the only ground for revocation of citizenship will be fraud. The consequential amendments to the *Immigration and Refugee Protection Act* will also come into force upon Royal Assent.

NOTES

1. [Bill C-6: An Act to amend the Citizenship Act and to make consequential amendments to another Act](#), 1st Session, 42nd Parliament.
2. [An Act to amend the Citizenship Act and to make consequential amendments to other Acts](#), S.C. 2014, c. 22.
3. [Citizenship Act](#), R.S.C. 1985, c. C-29.
4. [Corrections and Conditional Release Act](#), S.C. 1992, c. 20.
5. Under the [Immigration and Refugee Protection Act](#), S.C. 2001, c. 27 [IRPA], a foreign national can remain in Canada only if he or she has a valid status, such as a temporary resident visa (IRPA, s. 11) or temporary resident permit (IRPA, s. 24).