



# Blaneys on Immigration

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This newsletter is designed to highlight new issues of importance in immigration related law. We hope you will find it interesting, and welcome your comments.

Feel free to contact any of the lawyers who wrote or are quoted in these articles for more information, or call the head of our Immigration Law Group, Ian Epstein at 416.593.3915 or iepstein@blaney.com.

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## GOVERNMENT OF CANADA PROPOSES SIGNIFICANT AMENDMENTS TO THE CITIZENSHIP ACT

Henry J. Chang

### Overview

On February 6, 2014, Citizenship and Immigration Minister (the “Minister”) Chris Alexander unveiled Bill C-24, the *Strengthening Canadian Citizenship Act*, which will be the first significant amendment to the *Canadian Citizenship Act*<sup>1</sup> since 1977. Among other things, Bill C-24 makes the following amendments to the *Citizenship Act*:

1. It clarifies the meaning of being resident in Canada for naturalization purposes;
2. It changes the period during which a permanent resident must reside in Canada before they may apply for citizenship;
3. It expedites access to citizenship for persons who are serving in, or have served in, the Canadian Armed Forces;
4. It requires an applicant for citizenship to demonstrate knowledge of Canada, knowledge of the responsibilities and privileges of citizenship, and knowledge of one of Canada’s official languages;

5. It specifies the minimum age at which an applicant for citizenship must demonstrate the above knowledge;
6. It requires that an applicant meet any applicable requirement under the *Income Tax Act*<sup>2</sup> to file an income tax return;
7. It confers citizenship on certain individuals and their descendants who may not have acquired citizenship under prior legislation;
8. It extends an exception to the first-generation limit to citizenship by descent to children born to or adopted abroad by parents who were themselves born to or adopted abroad by Crown servants; and
9. It requires, for a grant of citizenship to an adopted person, that the adoption not have circumvented international adoption law.

Amendments to the *Citizenship Act*’s security and fraud provisions also include the following changes:

1. It expands the prohibition against granting citizenship to include persons who are charged outside Canada for an offence that, if committed in Canada, would constitute an indictable offence under an Act of Parliament or who are serving a sentence outside Canada for such an offence;

<sup>1</sup> R.S.C., 1985, c. C-29.

<sup>2</sup> R.S.C., 1985, c. 1 (5th Supp.).

*“Bill C-24 ... increases the period during which a person is barred from applying for citizenship after their citizenship has been revoked.”*



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2. It expands the prohibition against granting citizenship to include persons who engaged in certain actions contrary to the national interest of Canada while they were permanent residents;
  3. It aligns the grounds related to security and organized criminality on which a person may be denied citizenship with those grounds that currently exist in the *Immigration and Refugee Protection Act*<sup>3</sup> and extends the period during which a person is barred from acquiring citizenship on that basis;
  4. It expands the prohibition against granting citizenship to include persons who misrepresent material facts in the course of their application and prohibits new applications by those persons for a specified period;
  5. It increases the period during which a person is barred from applying for citizenship after having been convicted of certain offences;
  6. It increases the maximum penalties for offences related to citizenship, including fraud and trafficking in documents of citizenship;
  7. It provides for the regulation of citizenship consultants;
  8. It establishes a hybrid model for revoking a person's citizenship in which the Minister will decide the majority of cases and the Federal Court will decide the cases related to inadmissibility based on security grounds, on grounds of violating human or international rights or on grounds of organized criminality;
  9. It increases the period during which a person is barred from applying for citizenship after their citizenship has been revoked;
  10. It provides for the revocation of citizenship of dual citizens who, while they were Canadian citizens, engaged in certain actions contrary to the national interest of Canada, and permanently bars these individuals from reacquiring citizenship; and
  11. It authorizes regulations to be made respecting the disclosure of information.
- Amendments to the provisions governing the processing of applications and the review of decisions include the following:
1. It requires that an application must be complete to be accepted for processing;
  2. It expands the grounds and period for the suspension of applications and provides for the circumstances in which applications may be treated as abandoned;
  3. It limits the role of citizenship judges in the decision-making process, subject to the Minister periodically exercising his or her power to continue the period of application of that limitation;
  4. It gives the Minister the power to make regulations concerning the making and processing of applications;
  5. It provides for the judicial review of any matter under the *Citizenship Act* and permits, in certain circumstances, further appeals to the Federal Court of Appeal; and

<sup>3</sup> S.C. 2001, c. 27.

*“Bill C-24 [has the] ability ... to revoke the Canadian citizenship of dual citizens (both Canadian-born and naturalized citizens) if they are convicted of terrorism, treason or spying abroad.”*

6. It transfers discretionary power to grant citizenship in special cases to the Minister.

#### **Key Changes**

Bills C-24 proposes to streamline the citizenship application process by reducing the decision-making process from three steps to one and will eliminate the role of citizenship judges in such applications. The Government of Canada states that this change should bring the average processing time for citizenship applications down to under a year by 2015-2016. It also states that the current backlog will be reduced by more than 80% by 2015-2016.

The Government of Canada states that current citizenship application fees only cover 20% of the cost of processing a citizenship application. Bill C-24 will impose a new \$300 CAD application fee for citizenship applicants, which should cover the entire cost of processing a citizenship application.

Bill C-24 will increase the period of required residence for citizenship eligibility. The current rules allow a permanent resident to seek Canadian citizenship after being resident in Canada for at least three years during the four years preceding the filing of the application. The proposed rules will instead require four years of residence in Canada during the six years preceding the filing of the application.

Bill C-24 will specifically require applicants to have been physically present in Canada for at least 183 days out of each of their four years of residence in Canada. This addresses the conflicting

federal court decisions that have attempted to define the meaning of “resident in Canada” for the purposes of citizenship eligibility.

Bill C-24 will require applicants to have met any applicable requirement under the *Income Tax Act* to file an income tax return for the four taxation years during which they claim to have been resident in Canada. This requirement does not exist under the current *Citizenship Act*.

Bill C-24 will broaden the range of applicants who will be required to satisfy the official language and knowledge tests. Under the current *Citizenship Act*, applicants ages 18 to 54 must speak English or French and pass a Canadian knowledge test. The proposed amendments will increase the maximum age to age 64.

One of the most controversial changes contained in Bill C-24 is the ability of the Canadian Government to revoke the Canadian citizenship of dual citizens (both Canadian-born and naturalized citizens) if they are convicted of terrorism, treason or spying abroad. It will also allow the Government of Canada to revoke the Canadian citizenship of dual citizens who are part of an “organized armed group engaged in armed conflict in Canada,” or block citizenship applications from such people. Although the proposed law prohibits the Canadian Government from revoking the Canadian citizenship of persons who would otherwise become stateless, critics have pointed out that many Canadians may unknowingly possess citizenship in another country through a parent, even though they have no connection to that country and have never previously claimed that country's citizenship.

**Conclusion**

Although Bill C-24 contains several welcome changes to the Citizenship Act, it also contains several controversial provisions that are certain to prompt a heated debate in Canada. ■

### CANADIAN VISITORS TO BE AUTOMATICALLY CONSIDERED FOR MULTIPLE ENTRY VISAS

Henry J. Chang

As of February 6, 2014, visitors to Canada will automatically be considered for multiple-entry temporary resident visas (“TRVs”). A multiple-entry TRV will allow a visitor to enter Canada on multiple occasions, during the validity period of the visa, without having to reapply each time.

The fee for a TRV will also be reduced from \$150 CAD to \$100 CAD, for the processing of either a single- or multiple-entry visa. Citizenship and Immigration Canada has also increased other temporary resident application fees as of February 6, 2014. These changes include the following:

- There will be a \$25 CAD increase for study permits and renewals;
- There will be a \$5 CAD increase for work permits and renewals;

- There will be a \$25 CAD increase for extensions to remain in Canada as a visitor;
- The maximum fee for a family to apply for TRVs will increase by \$100 CAD to \$500 CAD; and
- The maximum work permit fee for a group of performing artists and their staff will increase by \$15 CAD to \$465 CAD. ■

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