

## **Recent Changes to Canada's Immigration Programs**

Just this month, Citizenship and Immigration Canada (CIC) has issued a number of press releases introducing more significant changes to the Immigration and Refugee Protection Act and its implementing regulations.

### *Changes to Address Spousal Sponsorship Fraud*

As a way of addressing the growing problem of spousal sponsorship fraud and marriages of convenience, CIC has imposed a five-year bar for sponsored spouses and common-law partners from submitting spousal sponsorship applications in favor of subsequent spouses or partners. The five-year period is counted from the day that the sponsored person became a permanent resident. Thus, even if the marriage or common-law relationship has broken down in less than five years from obtaining permanent residence and the sponsored person has entered into a genuine marriage, common-law or conjugal partnership with another, the former cannot sponsor the new spouse or partner until after the five-year period has elapsed. This change took effect on 2 March 2012.

A few days later, CIC published another proposed significant change to the program – the grant of conditional permanent residence to sponsored spouses and partners. The conditional permanent residence will be for a period of two years from the time that the sponsored person obtains permanent residence in Canada.

However, the conditional permanent residence will not apply to all sponsored spouses and partners but only to those who have been married or in common-law relationships with their sponsors for less than two years and who have no common children at the time that the spousal sponsorship application was submitted.

Again, this change is meant to discourage marriages or relationships of convenience that are entered into simply for purposes of obtaining permanent resident status in Canada. This change was not without its critics however, as it was seen as potentially causing serious prejudice to sponsored persons who are affected by various forms of domestic abuse. To address this concern, the proposed change has granted an exemption for the following situations: a) death of the sponsoring spouse or partner; and b) situations where there is evidence of abuse or neglect of the sponsored persons and their dependents suffered in the hands of the sponsoring spouse or partner.

### *Changes Towards a “Fast and Flexible Immigration System”*

The CIC Minister had also announced upcoming major changes to permanent residence applications under the federal skilled worker category. Aside from putting further emphasis on admitting those with skills that are in “high demand” in Canada's labour market, CIC plans

to give Canadian employers a more active role in determining which applicants deserve to be admitted as permanent residents under this category.

There are also indications that the current points system will likely be given a major overhaul in that language ability will not only be given greater weight but that different competency levels will be required depending on the type of the applicant's occupation.

The CIC Minister has expressed a keen interest in attracting more investors and entrepreneurs who will be the "next Steve Jobs" or "the next Bill Gates" and who will help boost the Canadian economy by generating more jobs particularly "in the areas like technology, energy and environmental innovations."

All of these changes are meant to fulfil the goal of creating a "fast and flexible immigration system" while trying to reduce the tremendous backlogs at visa offices worldwide.

#### *Changes to the Refugee Protection Program*

The present government has also recently tabled Bill C-31 or "Protecting Canada's Immigration System Act" which is actually a revival of a previous bill meant to overhaul Canada's refugee protection system.

In a nutshell, Bill C-31 seeks to fast track refugee applications from designated countries of origin which will be determined solely by the CIC Minister. There will also be very strict and speedy timelines within which refugee claims will be heard and there will be restrictions on the right to appeal for those coming from designated countries.

In an attempt to discourage human smuggling, the Bill also proposes to detain refugee claimants for at least a year, restrict refugees and protected persons from applying for permanent residence on humanitarian and compassionate grounds and grant them conditional permanent resident status in Canada for a period of five years.

Although the intention of discouraging false refugee claims is laudable, the overall effect of the Bill in its present form is unfortunately perceived as an attack on real refugees. Advocates are therefore seeking reforms that will not cause serious prejudice to genuine refugees and persons seeking protection from various forms of persecution in their homeland, nor violate Canada's avowed commitment to human rights as embodied in the Charter of Rights and other relevant legislation.

The present CIC Minister's serious and diligent efforts to implement changes meant to address the problems in Canada's immigration system are greatly appreciated. However, it is hoped that these changes will not only be based on economic considerations but will continue to reflect fairness, respect and compassion, in accordance with Canada's proud humanitarian tradition.

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