

New Citizenship Rules In Effect

The controversial Bill C-24, or the "Strengthening Canadian Citizenship Act", was introduced last year and became law on 19 June 2014. However, most of the new provisions which will substantially affect the qualifications of Canadian citizenship applicants have just entered into force this month, on 11 June 2015.

Among other changes which already took effect last year, the Canadian citizenship processing fee had been increased to \$530 per adult and \$100 per child plus a right of citizenship fee of \$100, which adds up to a whopping \$630 fee per adult application. This is more than triple the previous cost of citizenship applications which was only \$200 per applicant.

With the rest of the Bill C-24 provisions taking effect this month, among the significant changes include stricter residency requirements. Under the former Citizenship Act, an applicant for Canadian citizenship only needed to be physically residing in Canada as permanent residents for three of the last four years from submitting the application. However, since credit was also given for half the time spent in Canada as a worker or student for a maximum of one year, many permanent residents used to qualify for Canadian citizenship after only two years from receipt of their permanent resident status.

Under the current Citizenship Act, applicants must be physically present in Canada for at least 1,460 days (or four years) during the six years before the date of their application. In addition, they must be physically present in Canada for at least 183 days in each of the four calendar years within the qualifying period.

A second major change is the inclusion of more applicants required to undergo language and knowledge testing. Under the old Citizenship law, only applicants from 18 to 54 years old were required to take the knowledge test and meet language requirements. Under the current law, the age limit had been expanded to citizenship applicants between 14 and 64 years old.

A third significant change is the requirement to submit income tax filings for the qualifying period (i.e. four of the last six years). There was no such requirement under the old citizenship law.

A fourth key change is the "intent to reside" requirement. This is one of the most controversial and least understood provisions in the new citizenship law. Under the new citizenship law, adult applicants must declare their intent to reside in Canada once they become citizens. The new rules require that the person's intention must be continuous from the date of his/her application until they take the oath of citizenship. Aside from the

subjective nature of this requirement, it is still unclear how this will be implemented and enforced.

The intent to reside requirement was never an issue under the old citizenship law. In the past, even if citizenship applicants traveled and stayed outside Canada for long periods of time shortly after submitting their citizenship applications, there was no fear that their citizenship application will be refused as long as they met the physical residence requirement upon submission of the application. Under the new citizenship law, a citizenship applicant's act of leaving Canada soon after filing the citizenship application may be interpreted as a misrepresentation and contrary to the declaration that one has the "intent to reside" in Canada.

A further significant change relates to the effect of foreign criminal convictions on citizenship applications. It used to be that only applicants with Canadian criminal charges and convictions for indictable offences within three years of the application were disqualified. Under the new law, those with foreign criminal charges and convictions within four years of the application date, for an offence that if committed in Canada would amount to an indictable offence, will not qualify for Canadian citizenship.

The new citizenship law has also increased the penalties for fraud and misrepresentation from the former maximum fine of \$1,000 and/or one year in prison, to the present maximum fine of \$100,000 and/or up to five years in prison.

Lastly, the government has made it easier and simpler to revoke the Canadian citizenship of dual citizens who are convicted of terrorism, high treason, treason or spying offences by allowing the Citizenship and Immigration Minister to be the sole decision-maker in most revocation cases.

I think that these changes will give rise to many problematic cases whereby long-term residents of Canada who have established their lives here and have lost any and all connection to their or their ancestors' home countries, will be unjustly thrown out to an unfamiliar territory. Sadly, the changes to Canada's citizenship law appear to be more punitive and discriminatory rather than a constructive tool to promote nation-building.

Thankfully, there are still existing laws which can hopefully reverse the tide of exclusion and unfairness that these changes tend to foster. The spirit behind the Canadian Charter of Rights and Freedoms and human rights statutes, as well as Canada's deep-seated values of humanity and compassion, should in appropriate cases, still prevail.

The author is a Filipino-Canadian immigration lawyer and may be reached at deanna@santoslaw.ca or tel. no. 416-901-8497. This article is meant for information purposes only and not intended to provide specific legal advice. It is strongly recommended that you consult with a trusted legal professional to discuss your particular circumstances.