

Immigration and Citizenship Law Updates

Immigration Law Update: “Dependent Child” Age Increased

The government has made changes to Canada’s immigration law that will benefit people who want to bring their children to Canada.

In most cases, the law allows a person to include “dependent children” in their application for permanent residence. The law also allows Canadian citizens and permanent residents to sponsor their dependent children to come to Canada.

The definition of “dependent child” for Canada’s immigration laws changed on October 24, 2017, and is now a child under 22 years of age.

As we reported previously, between August 1, 2014 and October 23, 2017, the maximum age for a dependent child was under 19 years. The government has now reinstated the maximum age for a dependent child to under 22 years.

Children who are 22 years of age or older and who are dependent on the parent because of a disability are still considered dependent children. Other children 22 years of age or older are not considered dependent, even if they are full-time students.

This change to the age of dependent children only applies to permanent resident applications made on or after October 24, 2017. It does not apply to any application in process at the time of the change; however, the government has introduced a special public policy that will allow many people to add a young adult child to an application that was in process on October 24, 2017, or to an application that was finalized between May 3, 2017 and October 23, 2017.

The special public policy applies to people who:

- have or had an application for permanent residence in process at any time between May 3, 2017 and October 23, 2017 and;
- have a child who is unmarried/not a common-law partner and was:
 - 19, 20, or 21 years old on May 3, 2017 (if the application was submitted before that date), or
 - 19, 20, or 21 years old when the permanent residence application was received (if the application was submitted between May 3, 2017 and October 23, 2017).

To add a child under the special public policy, people must notify Immigration, Refugees, and Citizenship Canada (IRCC) by January 31, 2018 by using the IRCC form found online at:

<https://secure.cic.gc.ca/enquiries-renseignements/canada-case-cas-eng.aspx>

The child added under the special public policy can be:

- processed as part of the parent's application, if it is not yet finalized, or
- sponsored in the Family Class within one year of the parent being granted permanent residence.

Families whose child turned 22 before May 3, 2017 will not benefit from this special public policy. People with applications in process who cannot use the special public policy may consider withdrawing the application and re-applying, or requesting the addition of the dependent child to the application on humanitarian grounds.

It can be complicated to determine who meets the definition of dependent child or whether a child might be eligible to be added to an application under the special public policy.

We encourage people living with HIV in Ontario to contact HALCO for free legal advice (see page 4).

(Information above was adapted from the Canadian Counsel for Refugees website: <http://ccrweb.ca/sites/ccrweb.ca/files/age-dependants-practical-2017.pdf>)

Citizenship Law Update

On June 19, 2017, the Federal government passed Bill C-6, which made several changes to make it easier for permanent residents to become citizens.

Some of the changes came into effect on June 19, 2017, but many of the most important changes came into effect on October 11, 2017.

Some of the most important changes are:

- **Change to the length of residence in Canada required:** As of October 11, 2017, applicants now have to be physically present in Canada for three years (1,095 days) out of the last five years before applying for citizenship. Under the previous law, permanent residents had to be physically present in Canada for four years (1,460 days) within the last six years before applying for citizenship.
- **Reinstatement of the credit for time physically present in Canada before permanent residence:** As of October 11, 2017, each day a person has spent in Canada as a temporary resident or protected person (Convention refugee) can count as a half-day toward meeting the physical presence requirement for citizenship, to a maximum of 365 days. This change means that people who have spent time in Canada as a temporary resident or protected person could be eligible to apply for citizenship as early as 2 years after they become permanent residents. Under the previous law, people could not count the time they spent in Canada before becoming a permanent resident towards the physical presence requirement.
- **Change to who is required to meet the language and knowledge requirements for citizenship:** As of October 11, only applicants between 18 and 54 years must meet the language and knowledge requirements, which include writing the citizenship test. Under the previous law, applicants between 14 and 64 had to meet the language and knowledge requirements for citizenship.

Some Other Citizenship Law Changes

Applicants for citizenship no longer have to state an intention to reside in Canada after they become citizens. Applicants are still required to file a tax return for three tax years within the five years immediately before applying for citizenship (if required by the Income Tax Act). Permanent residents who are in jail, on probation, or serving a conditional sentence are not allowed to take the citizenship oath or count that time towards the physical presence requirement. Permanent residents are also not allowed to take the citizenship oath while they are facing criminal charges. Minor children (under age 18 years) can qualify for citizenship without having a Canadian parent.

Refugees: Important Information about Applying for Canadian Citizenship

It is important to get legal advice before you apply for Canadian citizenship if you were accepted as a refugee in Canada and:

- you have been back to the country that was the basis of your refugee claim or you have applied for a passport from that country,
- you were accepted as refugee by another country, or
- you misrepresented or did not disclose significant facts that were relevant to your refugee claim in Canada.

If you were accepted as a refugee in Canada, you should not travel to your country or apply for a passport from your country until you get legal advice.

This update contains general legal information for people in Ontario. The law and policies can change. If you have a legal question or problem, you need legal advice.

If you are living with HIV in Ontario, please call HALCO for free legal advice about this or other legal issues at 416-340-7790 or toll-free 1-888-705-8889 (www.halco.org).

Others in Ontario can contact their local community legal clinic for information and referrals. You can find your local legal clinic using the Legal Aid Ontario website:

English: www.legalaid.on.ca/en/getting/type_civil-clinics.asp

French: www.legalaid.on.ca/fr/getting/type_civil-clinics.asp

(HALCO 2017November)