

Citizenship & Immigration Changes for Exclusion



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2008: Ministerial Powers

- Budget Bill C-50: gave Minister of Immigration broader power to issue instructions (enshrined in s. 87.3 of the *Immigration & Refugee Protection Act*) to change or cancel many IRPA programs.

2015... 4 years in... 4 years out

- On April 1, 2015, new federal government rules will set the stage for the largest set of deportations in Canada's history.
 - Temporary foreign workers will be forced to leave after four years of employment to give way to priority hiring for Canadian employees.
 - Temporary foreign workers will be allowed to re-apply to come back to Canada after leaving and staying out for 4 years.
 - **Possible Detention before Deportation?**

Ministerial Instruction 14 (MI14)

Effective as of November 30, 2014

- Limits PR applications made by live-in caregivers (LICs) who originally came to work as a caregiver under a positive LMIA (Canada-approved job offer)
- Those applications that are not accompanied by a positive LMIA will be returned to the applicant.
- CIC has created two categories under which applicants can apply for permanent residence:
 1. Caring for Children Pathway
 2. Caring for People with High Medical Needs Pathway

How Does This Affect Existing LICs?

Existing LICs: If LICs holding LIC work permits and living in their employers homes wish to move out, their employer must apply for new LMIA through either the Childcare, or High Medical Needs pathways.

New Applicants: Must apply under either of the 2 new streams.

Ministerial Instruction 15

Express Entry Program

- Repeals all processing eligibility criteria for new applications in Skilled Worker, Skilled Trades and Canadian Experience Classes.
- From **January 2015, only the Express Entry (EE) system, score out of 1200:**
 - 1. Skills and experience
 - 2. Spouse or common-law partner factors
 - 3. Skills transferability
 - 4. Additional points for provincial nomination or valid LMIA job offer (worth 600 points alone!)

Humanitarian & Compassioned Application

Refused claimants must wait for 12 months before applying for H&C.

Claimants from safe countries or DCO have to wait for 36 months before applying for H&C.

If an H&C application is submitted and the applicants are removed or leave Canada, the application is sent back.

It is not possible to include dependence in the H&C application if they are outside Canada.

Removals to Haiti and Zimbabwe

- On December 1, 2014, the Minister of Public Safety lifted the Temporary Suspension of Removals on Haiti and Zimbabwe
- On November 26, 2014, the Minister signed a temporary policy for nationals of Haiti and Zimbabwe affected by the lifting of the TSR:
 - Given applicants 6 months to apply for a Humanitarian and Compassionate Grounds application
 - and deferring the removal until the application is processed.



Assisted Voluntary Returns Program by CBSA

*Not receiving new applications since January 2015
IOM is closing operation in March 2015*

Changes under the *Faster Removal of Foreign Criminals Act*

- Since November 2014
- Expedites the removal of foreign criminals from Canada,
- Make it harder for those “who pose a risk to Canadians” to enter the country
- Increases the penalty for misrepresentation:
 - from a two- to a five-year period of inadmissibility,
 - five-year ban on applying for permanent resident status
 - Bars temporary entry to immediate family members of those who are inadmissible to Canada on the most serious grounds



CIC Changes for Exclusion Affecting Refugees



FCJ Refugee Centre
January 2015

Change in Work Permit Fees

Effective in February 2014, the fee for the processing of a Canadian temporary permit increase

TRV: Single or Multiple entry= \$100

Study Permit= \$150

Work Permit= \$155

In February 2015, an extra fee of \$100 for open work permit



Changes to the Definition of a “Dependent Child”

Effective August 1, 2014, the definition of a dependent child has changed for CIC’s immigration programs

- A child **under 19** will be considered a dependant, reduced from under 22
- For refugee cases, the old dependent child definition follow the date of making the refugee claim.
- A child will continue to be considered dependant, regardless of age, if they have depended on their parents for financial support because of a mental or physical condition



Court challenge to IFH cuts for Refugee Claimants

- On 4 July 2014, the Federal Court struck down the cuts to Interim Federal Health (IFH) as unconstitutional.
- The government has appealed the ruling.

Refugees Claimants and access to social assistance

- In December 2014, Bill C-43 received Royal Assent:
 - This bill allows provinces to deny social assistance to newly arrived refugee claimants by imposing minimum residency requirements.
 - the measures will not take effect unless a province decides to impose a residency requirement for refugee claimants.

People smuggling, Supreme Court and Humanitarian Work

- The Supreme Court had a series of cases in February dealing with people smuggling from BC – and inadmissibility for organized criminality – s. 37
- Smuggling does not include an exception for humanitarian work

Designated Countries of Origin (DCO)... here for short time

- The Minister can designate countries of origin
- The nationals of these countries have reduced rights in the refugee process
- Countries can be designated on the basis of quantitative factors or on the basis of the Minister's opinion that the country has an independent judiciary, democratic rights, etc.

Designated Foreign Nationals (DFN)... We do not see them.

- The Minister of Public Safety designates groups of people as “irregular arrivals” if:
 - the group cannot be examined in a timely manner, or
 - suspects that the group might have been smuggled for profit
- Individuals in the group are subject to:
 - **mandatory detention** (all over 16 years of age) and
 - a **bar on applying for permanent residence for five years** even if they are accepted by the IRB.
 - a reduction of their rights and some **differences in terms of the refugee claim process**

Refugee Hearing at IRB

(backlog and post-reform statistics for 2014)

- 13,652 claims were referred to IRB
- 19,960 were finalized
 - 9,869 (49%) were positive
 - 7,756 (39%) were negative
 - 864 (4%) were declared abandoned
 - 1,471 (7%) claims were withdrawn or were otherwise resolved
- 15,807 claims were pending at the end of 2014 (9,877 backlog, 5,930 new claims)
 - Backlog cases more time for refugee hearing
 - New claims gradually will take longer and longer for Refugee hearings

CIC and CBSA Involvement at Refugee Hearings

- **CICs participation:**

- Usually participate only through written submissions, sometimes will participate in the hearing
 - Under “Protecting the integrity of the system e.g. Undermining an applicant’s credibility

- **CBSAs participation:**

- Participates in some hearings to argue that claimant should be excluded from refugee protection (for example; on the basis of war crimes, crimes against humanity or serious criminality)

Are you a refugee claimant?



You are invited to participate in a tour of one of the IRB-RPD refugee hearing rooms in Toronto!

What is going to happen during my hearing?

How can I be ready for my refugee hearing?

Who is going to be there?

What is the place like where I have to go for my hearing?



LEARN

- ➔ How to navigate the refugee hearing process
- ➔ What is a refugee hearing
- ➔ What to expect at the hearing
- ➔ Who might participate at the hearing

READY tours take place twice a month at 74 Victoria Street, Toronto, ON the 4th Floor.
Registration: www.readytour.ca
E-mail: info@readytour.ca
First Contact toll-free phone number 1-866-902-49 93
Refugee Hearing Guide available at: <http://www.kinbrace.ca>

READY Tour is hosted by the Coalition of Service Providers for Refugee Claimants in Southern Ontario and the Canadian Red Cross First Contact program in partnership with the United Nations High Commissioner for Refugees and the Refugee Protection Division of the Immigration and Refugee Board of Canada.

CIC Changes for Exclusion & the Refugee Appeal Div.



FCJ Refugee Centre
January 2015

Representation and RAD Members

Representation:

Lawyer: 80%

Immigration Consultant: 9%

Self-Represented: 11%

No-Fee: 1%

In 2015, more “Legacy” Members will be joining RAD, bringing total to 16 in Central, 7 in Eastern and 4 in Western

Creation of the RAD

2014: 2,386 appeals were filed

1,930 were finalized

364 were allowed (60 appeals from the Minister)

161 were referred back to RPD

(More pressure for scheduling of refugee hearings)

1,507 were denied

59 were withdrawn or abandoned

Who can't appeal? s. 110(2) IRPA

Several applicant groups barred access to RAD:

- Designated Foreign Nationals
- No Credible Basis (NCB) or Manifestly Unfounded (MUC)
- Safe Third Country Agreement
- Designated Country of Origin (DCO)
- Claim withdrawn or abandoned
- Claim referred to RPD before December 15, 2012



**FREE ORIENTATION FOR REFUGEE CLAIMANTS
APPEALING THEIR NEGATIVE DECISION TO THE
REFUGEE APPEAL DIVISION (RAD) OF THE
IMMIGRATION AND REFUGEE BOARD (IRB)**

I received a
negative decision
in my hearing,
what should I do?

Am I eligible
to appeal?

Where should I
go if I want to
appeal?

Who can help
me to prepare
an appeal?

RAD Info-session

RAD information session

RAD information sessions will provide the Appellant with a FREE opportunity to be better prepared for the submission of their appeal before the RAD:

- What you need to do to appeal your negative decision?
 - The documents you need for your appeal
- What happens during an appeal to the RAD?

REGISTRATION

<http://www.fcjrefugeecentre.org>

E-mail: Carolina Teves

cteves@fcjrefugeecentre.org

RAD info-sessions are hosted by the Coalition of Service Providers for Refugee Claimants in Southern Ontario in partnership with the Refugee Appeal Division of the Immigration and Refugee Board of Canada.

FCJ Refugee Centre

Cessation / Vacation

- The 2012 changes said:
 - People in Canada who have refugee (protected person) status can lose their permanent resident status as well as their refugee status,
 - if the IRB determines that they no longer need refugee protection (cessation) due to:
 - Visit the country of origin as PR
 - Obtain/Renew passport from country of origin

CIC Changes for Exclusion & Detention



FCJ Refugee Centre
March 2015

Detention

- CBSA has adopted new national standards requiring that detention centre bathrooms are segregated by gender
- This will be implemented first in Toronto. The national standard will eventually take effect in Montreal, but there is no contract expiring soon in Montreal.

Changes that impact Most LGBTQ+ Refugee Claimants

- ❑ Expedited timelines in the refugee process undermines the ability of LGBTQ+ claimants to present their case
- ❑ Cessation clause
- ❑ New limits on humanitarian and compassionate (H&C) applications, particularly partner outside Canada
- ❑ Enforcement, particularly in detention, no acknowledgement of multiple genders

CIC Changes for Exclusion & Citizenship



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March 2015

Application for Canadian Citizenship

- **New processing fee (\$530) plus the Right of Citizenship fee (\$100), for a total of \$630**
- **Other changes:**
 - 4 out of 6 of the last years, time spent before residency does not accumulate towards 4 years
 - Intention to Reside in Canada must be declared prior to being granted citizenship
 - **Applicability of Knowledge & Language Test**
- **Application for citizenship are use for cessation**

Increase in Penalties for Faulty Info

- Misrepresentation (fraudulent or negligent) leading to citizenship – bars application for 5 years
- Foreign Criminality: PRs who have been convicted abroad are barred indefinitely from applying for Citizenship
- Income Tax Requirement: Applicants must file under the Income Tax Act to be eligible

Revocation of Citizenship

Allows Canada to revoke citizenship of dual-citizens who have committed certain actions in Canada or abroad:

- TBD my Minister, HWVR FC
determination is based on war crimes, crimes against humanity, security issues, human rights violations, and organized criminality
- Membership in group engaged in armed conflict against Canada (ie. ISIS fighters.)

How to provide better service

Recognize the **intersecting identities** that clients present and how this mark their experiences (intersecting identities increase vulnerability):

Immigration status

Experiences with violence

Language Ability

Gender Identity

Sexual Identity

Cultural barriers



Questions?