

CHAPTER EIGHTEEN: CITIZENSHIP

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CHAPTER EIGHTEEN: CITIZENSHIP

NOTE: This chapter is not a complete work on citizenship law. It is primarily intended as a short guide for students assisting clients with the basic process of obtaining a citizenship grant. For more detailed information refer to the Citizenship Act, R.S.C. 1985, c. C-29 (hereinafter Citizenship Act) and Regulations.

The Citizenship Act is under review by the federal government and significant changes are expected to take place in the near future. Make sure you have the most up-to-date information before giving advice by checking the Citizenship and Immigration Canada web site at www.cic.gc.ca or by calling the Citizenship and Immigration Canada Call Centre (see Section II and XI- Referrals).

I. INTRODUCTION

The governing legislation in this area of law is the Citizenship Act. The Act is relevant where a client wishes to obtain, resume, or retain their citizenship, or to determine how it may be forfeited. Under the Citizenship Act, citizenship is granted after certain requirements are met, thus making it a right that cannot be arbitrarily withheld as was possible under its predecessor, the Canadian Citizenship Act, R.S.C. 1970, c. C-19. For the purposes of this Chapter, some words have specific definitions:

Citizen:	A Canadian citizen.
Ceremony Room:	An office of the Department of Citizenship and Immigration or other place where a citizenship judge performs his or her duties under the Act.
Citizenship Judge:	Any citizen appointed by the Governor in Council to be a citizenship judge and to perform duties as the Minister prescribes for carrying into effect the purposes and provisions of the Act under s. 26.
Minister:	The Minister of Citizenship and Immigration of Canada.
Minor:	A person who has not attained the age of 18 years.
Parent:	The father or mother of a child, whether or not the child is born in wedlock. This includes an adoptive parent.
Registrar:	The Registrar of Canadian Citizenship.

II. GOVERNING STATUTES, REGULATIONS, POLICY GUIDELINES AND RESOURCES

Citizenship Act, R.S.C. 1985, c. C-29 (Citizenship Act).

CITIZENSHIP AND IMMIGRATION WEB SITE

www.cic.gc.ca

CITIZENSHIP AND IMMIGRATION ONLINE MANUALS

www.cic.gc.ca/manuals-guides/english/index.html

CITIZENSHIP AND IMMIGRATION CANADA CALL CENTRE

Please call agents Monday to Friday 8 a.m. – 4 p.m.

Toll Free in Canada: 1-888-242-2100

CITIZENSHIP OFFICE - VANCOUVER

877 Expo Boulevard

Suite 200

Vancouver, B.C

V6B 8P8

CITIZENSHIP OFFICE – SURREY

13450 – 102ND Avenue

Suite 290

Surrey, B.C.

V3T 5X3

CASE PROCESSING CENTRE

CITIZENSHIP AND IMMIGRATION CANADA

P.O. Box 7000

Sydney, Nova Scotia

B1P 6V6

III. WHO IS A CANADIAN CITIZEN

A student should check to determine whether the client is a Canadian citizen. Section 3 of the Act defines a citizen as any person who:

- was born in Canada;
- was born outside of Canada after February 14, 1977 and at the time of his birth one of his parents, other than a parent who adopted him, was a citizen;
- was a citizen immediately before February 15, 1977
- has been granted citizenship or has acquired citizenship pursuant to Section 5 or 11 of the Act

A. *Grant of Citizenship vs. Proof of Citizenship*

A person who already is a Canadian citizen by virtue of being born in Canada or being born outside of Canada to a Canadian parent may apply for **proof of citizenship**. This requires sending a completed “Application for a Citizenship Certificate” to the Processing Center in Sydney, Nova Scotia. If it is a person’s first time applying for a citizenship certificate, that person must send original or certified copies of all documents. To receive proof of citizenship, it is not necessary to pass the test or to take the oath of citizenship.

Persons who are living outside Canada should contact the Canadian Embassy in that country.

Permanent Residents of Canada who have fulfilled the necessary requirements can apply for and may be **granted** citizenship.

IV. CITIZENSHIP GRANTS: HOW TO BECOME A CANADIAN CITIZEN

A. *Requirements For Adults*

Before applying for a citizenship grant, applicants must meet the required qualifications (as set out in section 5(1) of the Citizenship Act). An applicant must:

1. make an application for citizenship;
2. be 18 years of age or over; and
3. have been a permanent resident (landed immigrant) of Canada for at least three of the four years immediately preceding the date of his or her application.

NOTE: For every day **after** a person becomes a permanent resident, the person is considered to have accumulated one whole day of residence in Canada. For every day **before** a person becomes a permanent resident, (e.g. studying in Canada) the person is considered to have accumulated **half** a day of residence in Canada.

Therefore, a client that was a temporary resident in Canada, as a student, worker or visitor prior to becoming a permanent resident, may count that time in Canada as half time. In other words, if a client had lived in Canada as a student for one year, that counts as six months towards the residency requirement. A maximum of two years may be counted as one year towards fulfilling the residency requirement. The other two years required to fulfil the residency obligation must be accumulated as a permanent resident.

For example, if a person arrived in Canada on a student visa in June 1994 and then became a landed immigrant (received permanent resident status) three years later in 1997, and that person applies for citizenship in June 1999, he or she can become a citizen even though that person has not been a permanent resident for three years. Two years as a permanent resident count as full time, and he or she can use the two years prior to that to make up one more year (those years are only worth half of a year each). In this example, the first year, 1994, would not count because it is five years before the application date and the Department will only go back four years.

4. have an adequate knowledge of either French or English;
5. have an adequate knowledge of Canada and of the responsibilities and privileges of citizenship; and
6. not be under a removal order (e.g. order of deportation).

B. *Prohibitions*

1. Persons will not be granted citizenship under ss. 5 or 11 of the Citizenship Act, or take the oath of citizenship, if the person:
 - a) is under a probation order;

- b) is a paroled inmate;
- c) is confined in, or is an inmate of, any penitentiary, jail, reformatory or prison,
- d) is charged with, on trial for, subject to, or a party to an appeal relating to an offence under the Citizenship Act or any indictable offence under any Act of Parliament;
- e) requires but has not obtained the consent of the Minister of Citizenship and Immigration, under s. 52(1) of the Immigration and Refugee Protection Act, S.C. 2001, c.27, to be admitted to and remain in Canada as a permanent resident;
- f) is under investigation by the Minister of Justice, the R.C.M.P., or the Canadian Security Intelligence Service or charged with, on trial for, a party to an appeal, or has been convicted of an act or omission referred to in s. 7(3.71) of the Criminal Code (war crimes or crimes against humanity); or
- g) in the three year period immediately preceding the date of the citizenship application, or during the period between the date of the application and the date citizenship would be granted or the oath of citizenship would be recited, the person has been convicted of an offence under s. 29(2) or (3) or of an indictable offence under any Act of Parliament.

Time spent in a prison, on parole or on probation does not count towards fulfilling the residency requirement

2. Citizenship will not be granted where there are reasonable grounds to believe that a person will engage in activity that:
 - a) constitutes a threat to the security of Canada; or
 - b) is part of a pattern of criminal activity planned and organized by a number of persons acting in concert to commit any offence that is punishable by indictment under any Act of Parliament.

Persons not approved for these reasons will have any applications or appeals rejected and this declaration will have effect for three years after the date on which it has been made.

C. Minors

The three year residency requirement does not apply to children under the age of 18. There is no residency requirement for children.

Parents who are citizens may apply for citizenship for their child as soon as the child becomes a permanent resident. However, parents who are not citizens must wait until they are eligible to apply for citizenship and may include their minor children to be processed concurrently with their application. Children are not required to write the citizenship test, children who are 14 and over are required to take the oath.

A legal guardian other than a parent may apply for citizenship on behalf of a minor only when the parent is already a citizen of Canada. For example, if a parent was a citizen but is now deceased, or resides in another country, a legal guardian may apply for citizenship for the child. However, if neither of the child's parents are citizens and are not applying to become citizens, the child cannot become a citizen.

If a child turns 18 before the end of application process, he or she cannot be granted citizenship as a minor, even though they were under the age of 18 at the time of application. They must submit an adult application of citizenship.

D. Special Cases

In some specific cases, the Minister may, at his discretion, waive on compassionate grounds,

1. the requirements of language and knowledge of Canada or of the responsibilities and privileges of citizenship; and
2. in the case of any person who is prevented from understanding the significance of taking the oath of citizenship by reason of mental disability.

Section 5(4) waives some of the requirements for applicants who face unusual hardship or to reward services of an exceptional value to Canada.

V. ADVANTAGES OF BEING A CITIZEN

Permanent residents may wish to apply to become citizens because:

- A. citizens have the right to vote;
- B. citizens have the right to apply for a Canadian Passport;
- C. citizens may receive preference over non-citizens for certain jobs within the government; and
- D. citizens cannot be deported from Canada.

However, there is no requirement that a permanent resident become a Canadian citizen.

VI. HOW TO APPLY FOR A CITIZENSHIP GRANT

A. The Process

1. Phone/Mail-in Process

An application for citizenship has to be mailed in on the proper forms provided by the Department of Citizenship and Immigration. The new forms are easy to understand and to complete. Students should advise their clients not to seek help from persons who charge fees for the service.

The Department's office staff does not interview prospective citizens. To order a citizenship package, phone the Call Centre at 1-888-242-2100. This number is only accessible in Canada. All appropriate application forms and accompanying literature will be mailed directly to the client. The forms are also available on the Citizenship and Immigration Canada web site at www.cic.gc.ca.

The Department of Citizenship and Immigration publishes a book that gives general information regarding the right to vote in elections and the right to run for elected office, voting procedures, and chief characteristics of Canadian physical and political geography. The book is called "A Look at Canada". It will help the applicant answer questions in the written test he or she must take to become a citizen. This book is mailed to the applicant after the application for a citizenship grant has been received at the case processing centre located in Sydney, Nova Scotia. See Section II of this Chapter for the mailing address.

An application should be completed as fully as possible. Only the full legal names of the person seeking citizenship will appear on the certificate of citizenship. The name on the permanent resident document will appear on the certificate of citizenship unless legal name change documents have been provided.

2. Materials Required with Application

LSLAP clinicians should encourage clients to carefully fill in all the forms they receive in the mail or from the website. Those forms will be the most current.

The application will list the documents that are needed, which will vary depending on the applicant's particular situation. Any document that is not in English or French must be accompanied by the English or French translation and by an affidavit from the person who completed the translation. Documents that are usually required with all applications are:

- a) a birth certificate or other satisfactory proof of the applicant's date and place of birth;
- b) Record of Landing or Permanent Resident Card;
- c) satisfactory proof of entry into Canada and of lawful admission for permanent residence. This could include passport(s) or a Certificate of Identity; and
- d) a Certificate of Marriage if the applicant's name has recently changed or legal name change document.

In addition to these documents, the applicant must supply two identical photographs that:

- a) have been taken within the last twelve months;
- b) show a full front view of the head and shoulders without head covering, unless a head covering is worn for religious purposes; and
- c) must be 35 mm (1-3/8") by 53 mm (2 1/16") plus a 10 mm (3/8") white signature strip at the bottom.

NOTE: **These photos are smaller than passport photos, and, are different than those required for Permanent Resident Cards.** Check to make sure that the applicant has signed his or her photographs and the signature matches the applicant's signature on the application.

3. Fees

The fee is \$200 for an adult grant. This amount includes a \$100 processing fee and a \$100 Right of Citizenship fee. The fee for children under 18 is only the \$100 processing fee. The processing fee is not refundable unless the applicant withdraws his or her application before processing begins. The Right of Citizenship fee is refundable if the applicant is not approved for citizenship.

Payment Options:

- a) The application kit includes a blank receipt. Once the client determines the fees to be paid, he or she should fill out the blank receipt. Citizenship and Immigration Canada has made arrangements with most financial institutions to accept fee payments and therefore **fee payments should not be sent with the application**. The service is free, so there will not be a banking charge to pay. However, **it is the client's responsibility to ensure the financial institution accepts payments for this purpose**.

The financial institution will electronically forward the details of the payment to Citizenship and Immigration Canada, but keep the bottom portion of the receipt. The client should keep the top portion for his or her records and attach the second portion to his or her application.

NOTE: Students should advise clients that **photocopies of this receipt are unacceptable** because only an original receipt with a unique serial number may be submitted. One receipt may be used for the whole family if the family is being processed together.

- b) Payment may also be made online at www.cic.gc.ca

4. Filing

After the application form is correctly completed and the client collects all the required materials (documents and photographs), the form, all documents, and fee receipt should be sent to the Case Processing Centre in Sydney, Nova Scotia. If a family wishes to be processed together, all applications should be submitted in the same envelope.

5. After Filing the Application

Once the Registrar receives the application and supporting documents, the Department will begin processing the application and determine whether the applicant meets the requirements of the Act. When it has been determined that an applicant is eligible to apply for citizenship, and they have passed the required clearances, they are scheduled for a citizenship test. If the applicant is between the ages of 18 and 55, he or she must pass a test about Canada's history, geography and the rights and responsibilities of citizenship. The applicant is given at least 7 days (usually 2-3 weeks) written notice prior to the date of the examination.

If the applicant is **55 years or older** he or she **does not have to write the test**.

Where an applicant has failed to provide all materials relating to the application, the Registrar will give notice to the applicant to provide the appropriate materials. If the

applicant fails to comply with this notice, the Registrar will send a second notice. Failure to comply with the second notice will result in the abandonment of the application, and the applicant will have to file a new application.

B. The Tests

1. Written Test

Where an applicant has no language problem, meets the residency requirements, and has no suspected prohibitions, he or she will be required to take a written examination. An applicant has no language problem if he or she is able to fill out the citizenship application without a translator. The examination is multiple choice and tests knowledge of Canada and the rights and responsibilities of citizenship. **It is mandatory for citizenship applicants to correctly answer** two questions related to s. 15(a) of the Citizenship Regulations and one question related to s. 15(b). Subsection 15(a) sets out the right to vote and run for elected office and ss. 15(b) deals with voting procedures. If the applicant passes the test, he or she returns later for the citizenship ceremony.

NOTE: A local non-profit organization, the B.C. Civil Liberties Association, recently published The Citizenship Handbook, a free guide intended to help introduce new Canadians to the country's political process. The handbook is available in English, Chinese, Spanish, Vietnamese and Punjabi. Call (604) 687-2919 for more information.

2. Oral Interview/Hearing

In particular situations where the person is illiterate, does not meet the residency requirement, is suspected of some prohibition, or fails the written test, he or she will be requested to attend an oral hearing with a Citizenship Judge. The oral interview offers a second chance to those who fail the written examination.

The purpose of the hearing is to determine whether or not the applicant fulfils the requirements of the Citizenship Act to become a citizen. Friends and relatives of the applicant may ask to attend the hearing but it is up to the judge's discretion to allow them to attend. Clients should bring all relevant documents, such as passport(s), IMM1000 (record of landing), confirmation of permanent residence, permanent resident card, and separation or divorce papers, and in addition proof of residency in Canada to the hearing.

During the interview, the judge will ask the applicant simple oral questions based on the instructional materials to decide if the applicant has an adequate knowledge of French or English. The applicant must show that his or her vocabulary in the language is appropriate for conducting day-to-day activities with the general public and that he or she comprehends simple, spoken sentences in the past, present and future tenses and can express him or herself similarly. The judge will also evaluate whether the applicant has adequate knowledge of Canada and the rights and responsibilities of citizenship, especially the right to vote and participate in the country's political life.

If your client is nervous or needs help preparing for the interview, various school boards, community colleges, and voluntary organizations, such as the Immigration Services Society of B.C., provide training courses for this purpose. This series of learning classes, held once or twice weekly, is conducted in English or bilingually, so a basic understanding of English

is essential to benefit from it. Have your client phone these organizations for more information.

The applicant must inform the citizenship office if he or she is unable to attend the scheduled hearing. If the applicant does not appear, the file will be held for 60 days. If, at the end of 60 days, the applicant has still not contacted the citizenship office and provided a valid reason for failing to show up, a second notice is sent to the applicant by registered mail. If the applicant still fails to show; the file will be considered abandoned. In the event of abandonment, the applicant must make a new application and pay a new fee, as no further action will be taken with respect to the old one.

C. *The Oath of Citizenship and the Citizenship Ceremony*

If an application is approved, successful applicants are notified in writing to attend a formal ceremony to receive their citizenship certificates. Most ceremonies are held at the citizenship office. Successful applicants must bring their original (or certified) Immigration Record of Landing (not a photocopy or reproduction) or Permanent Resident card and the Records of any minor children who are becoming citizens with them. Immediately before taking the Oath of Citizenship, the Record of Landing will be stamped, updating the applicant's status from permanent resident to Canadian citizen.

If the Record of Landing has been lost or stolen, the applicant must notify police immediately. When successful applicants come to their ceremony, they must bring satisfactory evidence that they have reported the loss or theft to police.

NOTE: If the applicant forgets to bring the Record of Landing or evidence of a reported loss or theft, local office staff will make arrangements for the applicant to return with the necessary papers to another ceremony or, where applicable, exercise their discretion to allow the applicant to participate in a ceremony with the understanding that he or she will become a citizen, but only receive the commemorative document at that time. In that case, the applicant's file with the citizenship card will be kept in the local office until the applicant brings or sends the Record of Landing to be stamped, or provides evidence that a police report has been filed.

Citizenship ceremonies are open to the public. Applicants who are 14 years of age or over on the day they are granted citizenship are required to take the oath of citizenship, which is repeated after a judge.

OATH OR AFFIRMATION OF CITIZENSHIP

"I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian Citizen."

D. *Appeals*

Where an application has not been approved, the applicant will be notified of the decision, of the reasons for the decision, and of his or her right to appeal. All appeals are to the Trial Division of the Federal Court of Canada.

If an applicant decides to appeal, a notice of appeal must be filed in the Court Registry within 60 days of the date the notice of refusal was received. All decisions of the Federal Court are final. However, applicants are free to reapply at any time.

VII. LOSS OF CITIZENSHIP

There are few reasons for losing Canadian citizenship under the current Citizenship Act. These are outlined in Part II of the Act. The exceptions are:

- A. before February 14, 1977, a person lost Canadian citizenship if he or she took out citizenship of another country because Canada did not allow dual citizenship. If a person lost his or her citizenship in this manner that person can now get it back through resumption. Since February 14, 1977 Canada has allowed dual citizenship;
- B. where a person renounced his or her citizenship by application;
- C. where a person has been lawfully admitted to Canada for permanent residence by false representation, fraud, or by knowingly concealing material circumstances; or
- D. where a person who is born outside of Canada after February 14, 1977 is a citizen for the reason that at the time of his or her birth one of his or her parents was a citizen who was also born outside of Canada to a Canadian parent, that person ceases to be a citizen on attaining the age of 28 years unless that person:
 - 1. makes application to retain his or her citizenship; and
 - 2. registers as a citizen and either resides in Canada for a period of at least one year immediately preceding the date of his or her application or establishes a substantial connection with Canada

VIII. RESUMPTION OF CITIZENSHIP

A person who was a Canadian citizen in the past, but who lost citizenship, may apply for a **grant** of citizenship (resumption) under s. 11(1) of the Citizenship Act. A former Canadian citizen may resume citizenship if that person:

- A. was a citizen and lost citizenship by means other than revocation;
- B. became a permanent resident after the loss of citizenship;
- C. has lived in Canada as a permanent resident for at least one year immediately before the application;
- D. is not under a prohibition for certain criminal charges and convictions;
- E. is not under a removal order (e.g. deportation); and
- F. does not present a security risk.

If the client is a woman who lost her citizenship by a law in force before January 1, 1947 because of her marriage or because her husband acquired foreign nationality, she can resume her citizenship as soon as she notifies the Minister of her intention and produces satisfactory evidence to prove she meets the requirements

of s. 11(2). The applicant should provide the reasons she wants another certificate of citizenship and should surrender all previous certificates either at the time of application or when she receives her new certificate. Where the applicant has lost or destroyed her certificate of naturalization or citizenship, she must provide the details of that loss or destruction.

IX. PROOF

The miniature wallet sized certificate of citizenship is the most satisfactory proof of Canadian citizenship. However, if you are born in Canada, a birth certificate or baptismal certificate can be proof if it indicates place and date of birth. To obtain a miniature certificate or to replace one, applications should be made to the case processing centre in Sydney, Nova Scotia. The fee for Proof of Citizenship is \$75.

X. SEARCH OF CITIZENSHIP RECORD

The search of record service verifies the citizenship status of citizens and non-citizens. There are three basic reasons someone would request a “record letter”:

- A. the applicant does not have proof of citizenship;
- B. the applicant had proof, but needs a letter that outlines when and how he or she became a citizen;
- C. a third party asks for citizenship confirmation.

All persons requiring a record letter must make an application for search of citizenship records and pay a \$75 fee. All search applications are processed at the centre in Sydney, Nova Scotia. After a search, if no record is found, the applicant will be given a “no record” letter, but if a record of citizenship is found, a numbered record letter is issued, which is valid for a specific purpose and stated length of time. Generally, the letter is valid for one month, but it might be valid for a maximum of three months. In situations where a client is not sure if he or she was registered as a Canadian citizen in the past, that person should make applications for proof of citizenship and search of citizenship record at the same time and pay only one fee (\$75). If the search of citizenship record is positive, the client is already in line to receive a certificate of citizenship.

XI. REFERRALS

IMMIGRANT SERVICES SOCIETY OF B.C.

504H – 333 Terminal Avenue

Vancouver, B.C.

V6A 2L7

Telephone: (604) 684-2561

Fax: (604) 684-2266

E-mail: immserv@issbc.org

Web site: www.issbc.org

ISS is a non-profit organization committed to identifying the needs of immigrants and refugees and to developing and providing programs which meet those needs.

INLAND REFUGEE SOCIETY OF B.C.

101 – 225 East 17th Avenue

Vancouver, B.C.

V5V 1A6

Telephone: (604) 873-6660

Fax: (604) 873-6620

E-mail: inland@vcn.bc.ca

Web site: www.vcn.bc.ca/inland/

The Society facilitates the landing in Canada of people whose refugee claims are in process or who need to file a claim. Their services include assisting in claim process, providing counselling during claim period, and providing basics like shelter, food, and clothing.

MOSAIC

1720 Grant St., 2nd Floor

Vancouver, B.C.

V5L 2Y7

Telephone: (604) 254-9626

E-mail: mosaic@mosaic.bc.com

Web site: www.mosaicbc.com

Mosaic is a multilingual non-profit organization that addresses issues affecting immigrants and refugees in the course of their settlement and integration into Canadian society.

S.U.C.C.E.S.S.

Head office: 28 West Pender Street

Vancouver, B.C.

V6B 1R6

Telephone: (604) 684-1628

Web site: www.success.bc.ca

S.U.C.C.E.S.S. is a non-profit social service agency that provides assistance to newly-arrived immigrants and refugees. The agency provides instruction in Cantonese and Mandarin on how to fill out citizenship forms and study for the citizenship test.