



LIBRARY of PARLIAMENT
BIBLIOTHÈQUE du PARLEMENT

LEGISLATIVE SUMMARY



Bill C-75: An Act to amend the Citizenship Act and to make a consequential amendment to another Act

**Publication No. 41-2-C75-E
29 June 2015**

Justin Mohammed

Economics, Resources and International Affairs Division
Parliamentary Information and Research Service

Library of Parliament **Legislative Summaries** summarize government bills currently before Parliament and provide background about them in an objective and impartial manner. They are prepared by the Parliamentary Information and Research Service, which carries out research for and provides information and analysis to parliamentarians and Senate and House of Commons committees and parliamentary associations. Legislative Summaries are revised as needed to reflect amendments made to bills as they move through the legislative process.

Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

© Library of Parliament, Ottawa, Canada, 2015

Legislative Summary of Bill C-75
(Legislative Summary)

Publication No. 41-2-C75-E

Ce document est également publié en français.

CONTENTS

1	BACKGROUND.....	1
1.1	Context.....	1
2	DESCRIPTION AND ANALYSIS	2
2.1	Requirement to Take the Oath (Clause 3).....	2
2.2	Waiver (Clauses 3 and 6(1))	2
2.3	Abandonment of Application (Clause 2)	2
2.4	Transitional Provision (Clause 4)	3

LEGISLATIVE SUMMARY OF BILL C-75: AN ACT TO AMEND THE CITIZENSHIP ACT AND TO MAKE A CONSEQUENTIAL AMENDMENT TO ANOTHER ACT

1 BACKGROUND

Bill C-75, An Act to amend the Citizenship Act and to make a consequential amendment to another Act (short title: Oath of Citizenship Act), was introduced in the House of Commons on 19 June 2015 by the Honourable Tim Uppal, Minister of State for Multiculturalism, on behalf of the Honourable Chris Alexander, Minister of Citizenship and Immigration.

The bill requires those who take the oath of citizenship to do so aloud, with the face uncovered, during the citizenship ceremony. It also authorizes the Minister of Citizenship and Immigration (“the Minister”) to make regulations specifying the time, manner, justification and evidence needed to support a request to waive these requirements, and authorizes the Minister to treat an application for citizenship as abandoned if an applicant does not take the oath in accordance with the *Citizenship Act*.¹

1.1 CONTEXT

Bill C-75 responds to the 2015 decision of the Federal Court of Canada in *Zunera Ishaq v. The Minister of Citizenship and Immigration*.² Zunera Ishaq, a Pakistani Muslim who has been resident in Canada since 2008, challenged a requirement in the Citizenship and Immigration (CIC) policy manual stating that “[c]andidates wearing face coverings are required to remove their face coverings for the oath taking portion of the ceremony.”³ This policy would require Zunera Ishaq to remove her *niqab* (a veil covering most of the face) when taking the oath of citizenship.

Justice Boswell held the portions of the policy dealing with face coverings to be unlawful. He found that the directive concerning face coverings in the policy manual was written in mandatory (rather than permissive) language; as a result, citizenship judges did not have the discretion to disregard the policy. He reasoned that the imposition of this mandatory duty conflicted with section 17(1) of the *Citizenship Regulations*,⁴ which requires the citizenship judge to allow “the greatest possible freedom in the religious solemnization or the solemn affirmation thereof.” Justice Boswell concluded that a citizenship judge could not allow the greatest possible freedom in the religious solemnization while simultaneously requiring a Muslim woman to remove her *niqab*.

Justice Boswell’s order striking down the policy extends “to any similar directives in the most up-to-date version of the [CIC policy] Manual.”⁵ The CIC policy manual continues to state that the clerk of a citizenship ceremony must not provide a citizenship certificate to a person who is “not seen taking the Oath [including] if this is due to not removing a face covering.”⁶ The government is seeking to appeal the Federal Court decision.⁷

2 DESCRIPTION AND ANALYSIS

2.1 REQUIREMENT TO TAKE THE OATH (CLAUSE 3)

Clause 3 of Bill C-75 states that persons who are “required” by the *Citizenship Act* to take the oath of citizenship must do so “out loud and with their face uncovered.” Not all persons applying for the grant or resumption of citizenship are required to take the oath. (Those who are exempted include minors under the age of 14, a stateless person born to a Canadian citizen, or a person for whom the Minister has waived the requirement.)

Clause 3 also states that those who are required to take the oath of citizenship must do so at the citizenship ceremony when the oath is administered to applicants. This requirement appears to be aimed at ensuring that the oath is “sworn or affirmed publicly and openly.”⁸

2.2 WAIVER (CLAUSES 3 AND 6(1))

Clause 3 of Bill C-75 further provides that the requirement to take the oath of citizenship aloud and with the face uncovered can be waived by the Minister if he or she is satisfied that the citizenship applicant is unable to do so because of a mental or physical disability. The Minister can waive either or both requirements.

Clause 6(1) of the bill amends section 27.2(d) of the *Citizenship Act* to authorize the Minister to make regulations specifying the time, manner, justification and evidence needed to support a request to waive the requirements to take the oath of citizenship aloud and with the face uncovered.⁹ Under current section 27.2(d) of the *Citizenship Act*, the Minister already has the authority to make regulations concerning requests to waive certain requirements for a grant (section 5(3)) or renunciation (section 9(2)) of Canadian citizenship; clause 6(1) of Bill C-75 adds the waiver concerning the oath of citizenship to this list.

Clauses 5 and 6(2) of Bill C-75 would have done the same as clause 6(1) if this bill had come into force before, or on the same date as, section 26 of the *Strengthening Canadian Citizenship Act*. However, section 26 of the *Strengthening Canadian Citizenship Act* came into force on 11 June 2015, rendering clauses 5 and 6(2) of this bill obsolete.¹⁰

2.3 ABANDONMENT OF APPLICATION (CLAUSE 2)

Section 13.2(1) of the *Citizenship Act* stipulates the circumstances under which the Minister may treat an application for citizenship as abandoned; these include a failure to provide certain information and a failure to appear and take the oath of citizenship without reasonable excuse. Clause 2 of Bill C-75 adds the failure to “take the oath in accordance with this Act” as an additional ground for which the Minister may treat an application for citizenship as abandoned. Therefore, a failure to take the oath aloud with the face uncovered could result in the Minister deeming an application for citizenship to have been abandoned.

2.4 TRANSITIONAL PROVISION (CLAUSE 4)

Clause 4 of Bill C-75 is a transitional provision. It states that, upon entry into force of the bill, the requirements under this bill apply to all applicants for a grant or resumption of citizenship who have not yet taken the oath of citizenship. In other words, having applied for a grant or resumption of citizenship before the entry into force of this bill will not exclude an applicant from the requirements to take the oath of citizenship during the citizenship ceremony aloud and with the face uncovered.

NOTES

1. [Citizenship Act](#), R.S.C. 1985, c. C-29.
2. [Zunera Ishaq v. The Minister of Citizenship and Immigration](#), 2015 FC 156.
3. Ibid., para. 5.
4. [Citizenship Regulations](#), SOR/93-426.
5. *Zunera Ishaq v. The Minister of Citizenship and Immigration*, para. 69.
6. Government of Canada, [Oath of Citizenship](#).
7. Federal Court of Appeal, "[Additional Information on A-124-15](#)," *Proceedings Queries*.
8. Government of Canada, "[Harper Government Introduces Oath of Citizenship Act](#)," News Release, 19 June 2015.
9. Section 27.2(d) of the *Citizenship Act* was enacted under s. 26 of the *Strengthening Canadian Citizenship Act*.
10. [Order Fixing June 11, 2015 as the Day on which Certain Provisions of the Act Come into Force](#), SI/2015-46, 4 June 2015, in *Canada Gazette*, Part II, Vol. 149, No. 12, 17 June 2015.