



LIBRARY of PARLIAMENT
BIBLIOTHÈQUE du PARLEMENT

LEGISLATIVE SUMMARY



Bill C-6: An Act to amend the Citizenship Act and to make consequential amendments to another Act

Publication No. 42-1-C6-E
8 March 2016
Revised 8 February 2018

Julie Béchar
Sandra Elgersma

Legal and Social 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, 2018

Legislative Summary of Bill C-6
(Legislative Summary)

Publication No. 42-1-C6-E

Ce document est également publié en français.

CONTENTS

1	BACKGROUND.....	1
1.1	Recent Changes to the <i>Citizenship Act</i>	1
2	DESCRIPTION AND ANALYSIS	2
2.1	Criteria for Obtaining Citizenship by Grant (Clause 1).....	2
2.1.1	No Minimum Age to Apply for Citizenship (Clauses 1(0.1) and 1(11))	2
2.1.2	Physical Presence in Canada (Clauses 1(1), 1(2), 1(3), 1(7), 8 and 9)	2
2.1.3	Intention to Reside No Longer Required (Clauses 1(5), 1(8), 1(11.1) , 1(12) and 7)	3
2.1.4	Knowledge of an Official Language and of the Responsibilities of Being a Canadian Citizen (Clauses 1(6), 1(9), 1(10), 1(13) and 13)	3
2.1.5	Income Tax Returns (Clause 1(4)).....	4
2.1.6	Citizenship Applications for Minors (Clauses 1(7.1) and 1(11.2))	4
2.1.7	Special Cases (Clause 1(14)).....	4
2.1.8	Prohibition on Citizenship by Grant or Taking the Oath of Citizenship (Clause 10)	5
2.2	Revocation and Loss of Citizenship (Clauses 3, 4, 5, 5.1 and 26).....	5
2.2.1	Sole Grounds for Revocation of Citizenship (Clause 3(1))	5
2.2.2	New Procedure for Revocation of Citizenship (Clauses 3(2), 3(3), 4 and 5.1)	5
2.2.2.1	Notice	6
2.2.2.2	Response to the Notice	6
2.2.2.3	Referral to the Court	6
2.2.3	Effect of Citizenship Revocation (Clauses 5 and 26)	7
2.3	New Authority to Seize Documents (Clauses 11 and 12).....	7
2.4	Transitional Provisions (Clauses 14 to 24).....	7
2.5	Coming into Force (Clause 27).....	7

LEGISLATIVE SUMMARY OF BILL C-6: AN ACT TO AMEND THE CITIZENSHIP ACT AND TO MAKE CONSEQUENTIAL AMENDMENTS TO ANOTHER ACT

1 BACKGROUND

Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act¹ was tabled in the House of Commons by the Honourable John McCallum, Minister of Immigration, Refugees and Citizenship, on 25 February 2016 and was referred to the House of Commons Standing Committee on Citizenship and Immigration on 21 March 2016. The bill makes changes to the legislative provisions regarding grants of citizenship by naturalization; grounds for revoking citizenship, **including the introduction of a new revocation procedure**; and the Minister's authority with regard to fraudulent documents.

The House of Commons committee studied the bill from 12 April to 3 May 2016 and reported it back to the House of Commons on 5 May 2016 with two amendments. **Further amendments were introduced at third reading in the Senate, and the bill was referred back to the House of Commons on 3 May 2017. The House of Commons proposed different wording to the revocation procedure and the Senate agreed. Bill C-6 received Royal Assent on 19 June 2017.**

1.1 RECENT CHANGES TO THE *CITIZENSHIP ACT*

For the most part, Bill C-6 amends or repeals aspects of citizenship legislation that were changed in 2014 by Bill C-24, An Act to amend the Citizenship Act and to make consequential amendments to other Acts (short title: Strengthening Canadian Citizenship Act).² The provisions of that Act that are amended or repealed by Bill C-6 are described below.

Bill C-24 amended the then existing requirements for becoming a naturalized Canadian and also added new requirements. It clarified that "residence in Canada" meant physical presence in Canada and lengthened the period of residence required from three years within four years to 1,460 days (four years) in six years. In addition, time spent in Canada prior to becoming a permanent resident – as a temporary resident or protected person – no longer counted toward meeting this requirement. Nor did time spent while under a probation order, on parole, in a penitentiary or in prison.

Bill C-24 also extended the application of the requirements that applicants seeking a grant of citizenship have adequate knowledge of English or French and adequate knowledge of Canada and "of the responsibilities and privileges of citizenship." While those aged 55 and over had previously been exempt by policy from fulfilling these requirements, as had minors, those aged 55 to 64 and 14 to 18 were made subject to these two requirements by Bill C-24.

Two new requirements for naturalization were introduced by Bill C-24. The first was that applicants fulfill any applicable requirements under the *Income Tax Act*, such as the filing of income tax returns for four of the six years before applying. The second requirement was that applicants intend to reside in Canada if granted citizenship.

The grounds for revoking Canadian citizenship were expanded by Bill C-24, which introduced new grounds based on national security. Prior to Bill C-24, the only basis for revoking citizenship was fraud in citizenship or permanent resident applications. Following this change, citizenship could be revoked for presumed dual citizens convicted of certain offences related to security (for example, treason or terrorism) or who served as members of an armed force in an armed conflict against Canada. Bill C-24 amended the *Citizenship Act*³ to restrict revocation if it would render a person stateless (section 10.4). However, it also required individuals facing citizenship revocation to prove that they did not have another citizenship and that they would in fact be rendered stateless if the revocation were to occur.

All of the provisions discussed above are repealed or amended by Bill C-6.

2 DESCRIPTION AND ANALYSIS

2.1 CRITERIA FOR OBTAINING CITIZENSHIP BY GRANT (CLAUSE 1)

2.1.1 No MINIMUM AGE TO APPLY FOR CITIZENSHIP (CLAUSES 1(0.1) AND 1(11))

Clause 1(0.1) of Bill C-6 repeals section 5(1)(b) of the *Citizenship Act*, which required a person to be 18 years of age or over to apply for citizenship. This change allows more flexibility, permitting minors who do not have a parent or legal guardian to apply for citizenship themselves.

Clause 1(11) repeals section 5(3)(b)(i) that allowed waivers in relation to the age requirement set out in section 5(1)(b), as it is no longer needed.

2.1.2 PHYSICAL PRESENCE IN CANADA (CLAUSES 1(1), 1(2), 1(3), 1(7), 8 AND 9)

To be eligible to apply for Canadian citizenship, applicants must be physically present in Canada for a specified number of days. Clause 1(2) shortens the period required from 1,460 days (four years) over six years to a total of 1,095 days (three years) over the five years immediately prior to submitting an application for citizenship (new section 5(1)(c)(i)).

No longer are citizenship applicants required to be physically present in Canada for a minimum number of days within each year before applying. The provision requiring a presence in Canada of 183 days in each of four years in the six-year period considered for the citizenship application is repealed (clause 1(3)). This change has a consequential impact on section 14(1)(a) of the *Citizenship Act*, which provides for

citizenship judges to review files where there may be concerns related to time spent in Canada (clause 8).

Clause 1(7) introduces a new way of counting days of physical presence that takes into account time spent in Canada as a temporary resident or a protected person (new section 5(1.001)). Prospective citizens accumulate a half day for every day spent in Canada as a temporary resident or a protected person, up to a maximum of 365 days, and one day for each day spent in Canada as a permanent resident. For example, a foreign student present in Canada for two years who completes a master's program and subsequently becomes a permanent resident can count the time spent in Canada as a student (up to 365 days) towards the three-year total required. Under Bill C-6, applicants must have permanent residence at the time of submitting their application for citizenship (clause 1(1)(c)).

The *Citizenship Act* provides that, in certain situations, there are periods of physical presence in Canada that cannot be counted towards the acquisition of citizenship. Section 21 provides that time spent under a probation order, as a paroled inmate or while serving a term of imprisonment, does not count as physical presence in Canada for this purpose. Clause 9(2) amends the provision related to imprisonment by replacing the wording “confined in or been an inmate of any penitentiary, jail, reformatory or prison,” with “has served a term of imprisonment” (new section 21(c)). This has the effect of encompassing all forms of incarceration, which is in keeping with the language in the *Corrections and Conditional Release Act*.⁴

2.1.3 INTENTION TO RESIDE NO LONGER REQUIRED (CLAUSES 1(5), 1(8), **1(11.1)**, 1(12) AND 7)

Clause 1(5) repeals the requirement that a person intend to reside in Canada if granted citizenship (section 5(1)(c.1)). As a result, a number of consequential amendments are made:

- Clause 1(8) repeals the requirement for applicants to have a continuous intention to reside in Canada from the time of application (section 5(1.1)).
- Clauses **1(11.1)** and 1(12) repeal sections of the *Citizenship Act* that provided a waiver for the intention to reside requirement for minors (section 5(3)(b)(iii)) and for individuals who were incapable of forming an intent (section 5(3)(b.1)).
- Clause 7 removes the criterion of “intention to reside” from the requirements for resumption of citizenship in section 11 of the *Citizenship Act*.

2.1.4 KNOWLEDGE OF AN OFFICIAL LANGUAGE AND OF THE RESPONSIBILITIES OF BEING A CANADIAN CITIZEN (CLAUSES 1(6), 1(9), 1(10), 1(13) AND 13)

Clause 1(6) reduces the adult maximum age limit applicable for the requirements to demonstrate adequate knowledge of one of the official languages, as well as knowledge of Canada and of the responsibilities and privileges of citizenship. New sections 5(1)(d) and 5(1)(e) indicate that these requirements must be fulfilled by applicants under 55 years of age, rather than by those under 65. **To make clear that minors are not subject to knowledge and language testing, new**

sections 5(1)(d) and 5(1)(e) indicate that those testing requirements only apply to applicants aged 18 to 54.

Bill C-6 repeals the requirements for minors to prove their knowledge of an official language and of Canada, as clause 1(9) allows a parent or other authorized person to make an application on behalf of minors without these requirements (amended section 5(2)). Consequently, clause 1(10) removes the reference to a waiver on compassionate grounds available for minors subject to the two knowledge requirements (section 5(3)(a)). Clause 13 deletes any reference in regulations to minors regarding the knowledge criteria for a citizenship grant (section 27.2(c)).

Clause 1(13) adds a new section to explicitly state that the Minister must take into consideration measures that are reasonable to accommodate the needs of persons with disabilities when verifying the knowledge of an official language and the responsibilities of Canadian citizenship (new section 5(3.1) of the *Citizenship Act*).

**2.1.5 INCOME TAX RETURNS
(CLAUSE 1(4))**

Clause 1(4) changes the existing provision requiring citizenship applicants to meet requirements under the *Income Tax Act*, matching it to the change to the period of residency in Canada. New section 5(1)(c)(iii) specifies that a person must provide income tax returns for three years within the five-year period before applying for citizenship.

**2.1.6 CITIZENSHIP APPLICATIONS FOR MINORS
(CLAUSES 1(7.1) AND 1(11.2))**

Clause 1(7.1) adds new section 5(1.04) to the *Citizenship Act*, setting out who can make a citizenship application for a minor. Sections 5(1.04)(a) and 5(1.04)(b) provide that the application must be made by a person who has custody of the minor, and if the minor is 14 years of age at the time of the application, the minor must sign the application. These notions, in simpler form, existed in the *Citizenship Regulations, No. 2*.⁵

New section 5(1.05) allows the minor to make a citizenship application if the Minister waives the requirement at section 5(1.04) under new section 5(3)(b)(v) (clause 1(11.2)).

**2.1.7 SPECIAL CASES
(CLAUSE 1(14))**

Section 5(4) of the *Citizenship Act* gives the Minister discretion to grant citizenship to any person “to alleviate cases of special and unusual hardship or to reward services of an exceptional value to Canada.” Clause 1(14) amends this section to add “statelessness” as grounds for the Minister to exercise his or her discretion in granting citizenship.

**2.1.8 PROHIBITION ON CITIZENSHIP BY GRANT
OR TAKING THE OATH OF CITIZENSHIP
(CLAUSE 10)**

Under the *Citizenship Act*, an applicant may not be granted citizenship or take the Oath of Citizenship while he or she is under a probation order, is a paroled inmate or is serving a term of imprisonment. Clause 10 changes the wording “confined in or is an inmate of any penitentiary, jail, reformatory or prison” to “serving a term of imprisonment,” a phrase that encompasses all forms of incarceration (new section 22(1)(a)(iii)). As previously noted, this is in keeping with the language in the *Corrections and Conditional Release Act*.

**2.2 REVOCATION AND LOSS OF CITIZENSHIP
(CLAUSES 3, 4, 5, 5.1 AND 26)**

**2.2.1 SOLE GROUNDS FOR REVOCATION OF CITIZENSHIP
(CLAUSE 3(1))**

Clause **3(1)** repeals section 10(2) of the *Citizenship Act*, which provided the grounds for revoking citizenship related to national security.

There are many instances where references to section 10(2) are removed from other sections of the *Citizenship Act* as a consequence of this change (clause 2: renunciation of citizenship; clause 4: effect of a Federal Court declaration; clause 6: interlocutory judgments; and clause 10(3): prohibition).

The provision allowing for revocation of citizenship when the person has obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances is unchanged (section 10(1)).

This is now the only grounds for revocation of citizenship.

**2.2.2 NEW PROCEDURE FOR REVOCATION OF CITIZENSHIP
(CLAUSES 3(2), 3(3), 4 AND 5.1)**

After Bill C-24 became law in 2015, most cases of revocation based on fraud were decided by the Minister of Citizenship and Immigration and senior decision-makers to whom the authority was delegated. Oral hearings were held at the discretion of the decision-maker (i.e., if the individual’s credibility was an issue). The Federal Court of Canada heard cases of revocation based on fraud related to inadmissibility on the grounds of security, human rights violation and organized crime.

Clauses 3(2), 3(3), 4 and 5.1 of Bill C-6 set out a new procedure for the revocation of citizenship.

2.2.2.1 NOTICE

Clause 3(2) replaces section 10(3) of the *Citizenship Act* outlining the content of the written notice that must be sent to the individual who may lose his or her citizenship through revocation. In particular, the notice must not only set out the specific grounds and reasons for the revocation, but also include reference to materials the Minister is relying upon (new section 10(3)(c)). Furthermore, new section 10(3)(d) requires the notice to inform the person that the case will be referred to the Federal Court unless she or he requests that the case be decided by the Minister.

2.2.2.2 RESPONSE TO THE NOTICE

The person who receives a notice regarding the revocation of her or his citizenship may, within 60 days of the notice being sent, make written representations to explain why she or he warrants special relief, including the best interest of a child directly affected, or if the revocation would render the individual stateless (new section 10(3.1)(a)). These written representations may also request that the Minister make the decision on the revocation of citizenship (new section 10(3.1)(b)).

2.2.2.3 REFERRAL TO THE COURT

Clause 3(3) creates new section 10(4.1), which states that all cases of revocation of citizenship must be referred to the Federal Court unless the person has made a request that the Minister make the decision under new section 10(3.1)(b), in which case, the Minister must consider the written representations received from the person before making a decision. If the Minister is satisfied on a balance of probabilities that the person did not obtain her or his citizenship fraudulently or that the person's circumstances do warrant relief, the case will not be referred to the Federal Court (new section 10(4.1)(a)).

If such a request has not been received, the Minister must commence an action seeking a declaration from the Federal Court that the person has obtained her or his citizenship fraudulently (clause 4(1), new section 10.1(1)). The Court's declaration has the effect of revoking a person's citizenship (clause 4(2), new section 10.1(3)).

Clause 4(3) states that although the fraud may relate to facts that render a foreign national inadmissible to Canada, such as espionage (section 34 of the *Immigration and Refugee Protection Act* [IRPA]),⁶ war crimes (section 35 of IRPA) or organized criminality (section 37 of IRPA), the proof required before the Court need only be about the fraud (new section 10.1(4)). However, clause 5.1 states that if the Minister of Public Safety and Emergency Preparedness and the Minister of Immigration, Refugees and Citizenship ask the Court to make a ruling on the inadmissibility on the above-mentioned grounds, it is possible to obtain a single judgement that would both revoke citizenship and constitute a deportation order (new section 10.5(1) with section 10.5(3)).

2.2.3 EFFECT OF CITIZENSHIP REVOCATION (CLAUSES 5 AND 26)

The effect of citizenship revocation is also modified by Bill C-6. Clause 5 repeals section 10.3 of the *Citizenship Act*, which provided that a person whose citizenship is revoked in certain situations becomes a foreign national.⁷ Instead, clause 26 amends IRPA to provide that a person whose citizenship is revoked under the *Citizenship Act* becomes a permanent resident.

2.3 NEW AUTHORITY TO SEIZE DOCUMENTS (CLAUSES 11 AND 12)

Clause 11 adds new section 23.2 to the *Citizenship Act*. This new section allows the Minister to seize and detain any document submitted for the purposes of the Act if there are reasonable grounds to believe the document was fraudulently or improperly obtained or used. It also provides that a document may be seized in order to prevent its improper or fraudulent use. Clause 12 provides that the Governor in Council may make regulations regarding the procedures to be followed in relation to the seizure, storage, return and disposition of the document (new section 27(1)(i.2)).

2.4 TRANSITIONAL PROVISIONS (CLAUSES 14 TO 24)

All provisions in Bill C-24 came into force by 11 June 2015. Bill C-6 includes many transitional provisions which have the effect of applying the criteria for citizenship grants and loss of citizenship established in the bill to all applications that may have been affected by the coming into force of Bill C-24.

Most notably, persons whose citizenship was revoked for national security reasons under section 10(2) of the *Citizenship Act* are deemed not to have lost their citizenship (clause 20).

In addition, persons who applied for citizenship on or after 11 June 2015 and were granted citizenship before the coming into force of Bill C-6 are deemed never to have had the requirement of the intention to reside in Canada (clause 16).

Finally, the new criteria under Bill C-6 regarding presence in Canada and age limits in relation to knowledge of Canada and knowledge of an official language apply to applications submitted after 11 June 2015, even where the relevant clause has not come into force by an Order in Council.

2.5 COMING INTO FORCE (CLAUSE 27)

Clause 27 provides **five** separate occasions on which the Governor in Council will order certain clauses to come into force:

- Clause 27(1) refers to the provisions that deal with status and physical presence in Canada contained in clauses 1(1), 1(3), 1(7) and 8.

- Clause 27(2) regroups clauses 1(2) and 1(4), which reflect the change in the required period of time in Canada of three years over five years.
- Clause 27(3) refers to the new age applicability for the citizenship grant requirements of demonstrating knowledge of an official language and knowledge of Canada.
- **Clause 27(3.1) refers to the provisions of the procedure for revocation such as the notice and the referral to the Federal Court in the great majority of cases.**
- Clause 27(4) has a separate coming-into-force day for the provisions related to the new power of seizing documents.

All other clauses come into force upon Royal Assent. These include the clauses stipulating that the intention to reside in Canada is no longer a requirement for the granting of citizenship and that the only ground for revocation of citizenship is fraud. The consequential amendments to IRPA also come into force upon Royal Assent.

NOTES

1. [Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act](#), 1st Session, 42nd Parliament (S.C. 2017, c. 14).
2. [Bill C-24, An Act to amend the Citizenship Act and to make consequential amendments to other Acts](#) (short title: Strengthening Canadian Citizenship Act), 2nd Session, 41st Parliament (S.C. 2014, c. 22).
3. [Citizenship Act](#), R.S.C. 1985, c. C-29.
4. [Corrections and Conditional Release Act](#), S.C. 1992, c. 20.
5. [Citizenship Regulations, No. 2, SOR/2015-124, ss. 4\(a\) and 4\(b\)](#).
6. [Immigration and Refugee Protection Act](#), S.C. 2001, c. 27 [IRPA].
7. Under IRPA, a foreign national can remain in Canada only if he or she has a valid status, such as a temporary resident visa (section 11) or temporary resident permit (section 24).