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## **Key Changes to Canada's *Citizenship Act***

*By Warren L. Creates and Jacqueline J. Bonisteel*

In June 2014, just before breaking for the summer, Canada's parliament passed major amendments to the federal *Citizenship Act*. While many of the changes have not yet come into force, potential citizenship applicants should be paying close attention.

### **Residency Requirement**

Previously, to apply for citizenship, a Canadian permanent resident needed to meet a "three years out of four" residency requirement. Also, time physically spent in Canada prior to becoming a permanent resident could be applied as a credit towards the citizenship residency requirement.<sup>1</sup>

Significantly, "residency" was not necessarily defined as "physical presence" prior to these new amendments. As detailed in [our earlier article on this subject](#), the pre-existing legislation gave citizenship judges' discretion to grant citizenship in deserving cases based on "establishment in Canada" as opposed to "physical presence" alone.

The new legislation eliminates this discretionary authority to equate "residency" with "establishment in Canada". Citizenship will now only be granted if the residency requirement is met by way of physical presence. The residency requirement is also being made much more onerous:

- Citizenship applicants must be physically present in Canada for four years out of six years (1,460 days) prior to the date of application;
- At least 183 days per calendar year must be spent on Canadian soil each year. This requirement must be met for four of the six calendar years preceding the date of application;
- At least four Canadian tax returns must have been filed during the relevant period; and
- Time spent in Canada prior to permanent residence will no longer be counted towards the residency requirement.

These changes to residency requirements are expected to come into force in spring 2015. Until then, the pre-existing provisions continue to apply. As such, a person with three years of residency in Canada, based either on physical presence or "establishment in Canada", can still apply for citizenship for the time being.

If the residency requirement and other existing eligibility requirements (e.g. language ability) are met, potential Canadian citizenship applicants are well-advised to apply without delay.



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## **Intent to Reside**

A new “intent to reside in Canada” provision is being introduced with the new legislation. It is still somewhat unclear how this will be applied in practice. However, we can anticipate that it may be necessary to provide stronger evidence of ties to Canada and lack of ties to other countries. As well, if an applicant declares intent to reside in Canada and then resides elsewhere upon obtaining citizenship, allegations of misrepresentation could arise.

The “intent to reside” requirement is not yet in force, and the Canadian government has not announced when the change will be implemented. Again, potential citizenship applicants who meet existing eligibility criteria are advised to apply as soon as possible. Applicants who apply now may avoid this additional requirement.

## **Language Requirements**

Previously, adults aged 18-54 needed to meet the language requirements for citizenship. The new legislation expands the language requirement: applicants aged 14-64 must prove language ability.

As well, the pre-existing legislation allowed for the knowledge test for citizenship to be taken with the assistance of an interpreter. This option is now being eliminated. The test must be completed in English or French without assistance.

The more onerous language requirements are not yet in force, and the Canadian government has not confirmed when implementation will occur. Any potential Canadian citizenship applicants concerned about meeting the expanded language requirements should consider applying now if existing eligibility requirements are met.

The Immigration Law Group at Perley-Robertson, Hill & McDougall LLP/s.r.l. has the expertise to assist potential applicants with evaluating eligibility for Canadian citizenship, preparing comprehensive application packages, addressing any potential complications, and advising on the changing rules and requirements. Having accurate information and proper legal advice is key in this challenging environment. Please contact us to set up a consultation appointment.

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<sup>i</sup> For time in Canada prior to permanent residence, one day in Canada counts as one half day of residency.