

CAPIC Submission on Part 16: Immigration and Refugee Protection Regulations (IRPR)

CAPIC SUBMISSION-PART 16: IMMIGRATION AND REFUGEE
PROTECTION REGULATIONS (IRPR)



Contents

Introduction	2
Preamble.....	2
Opinion/Input on Detention	2
Recommendations for consideration:	3
IRPR Part 16: 252 – 258 Seizure	3
Conclusion.....	5



Introduction

The Canadian Association of Professional Immigration Consultants (CAPIC) is the national advocacy group for Regulated Canadian Immigration Consultants (RCICs), founded on the pillars of Education, Information, Lobbying and Recognition. CAPIC's mandate includes providing continuing professional education about Canadian immigration matters and programs to their members, ensuring that they are better able to serve their clients and that consumer confidence is maintained. CAPIC Members are offered the best continuing Professional Development Education in the Industry. As the professional association for RCICs, CAPIC leads, connects, protects and develops the profession.

Preamble

The Canada Border Services Agency (CBSA) has launched consultation on Part 16 of the Immigration & Refugee Protection Regulations (IRPR) as relating to Seizure. The consultations directly reflect the importance that the Canada Border Services Agency places on stakeholders in contributing and developing the policy process. The CBSA is considering amending Part 16 of IRPR to address inaccuracies, errors, and inconsistencies to yield a fairer and efficient process. The Canadian Association of Professional Immigration Consultants will be focusing on the *IRPR Part 16 as relating to Seizure* and respectfully recommends changing some provisions to yield a fairer and more transparent process of dealing with seizure.

Opinion/Input on Detention

The Canadian Association of Professional Immigration Consultants having reviewed the IRPR Part 16 pertaining to Seizure, commends the CBSA for the proactive initiatives it is taking in ensuring and adapting policies to ensure both reflect the dignity of persons and the integrity of the immigration system.

CAPIC fully supports the consultation and review process and respectfully request that the following modifications be taken into consideration when devising the final policies. It is our view that by considering the points below in the final policy, CBSA will produce a policy that is very sound, clear in process and fair to all stakeholders in the process while maintaining program integrity and a highly efficient adjudicative system.



Recommendations for consideration:

IRPR Part 16: 252 – 258 Seizure

- Under R253 (1) (b) of IRPR where it reads: “give the lawful owner written notice of....reasons for seizure”

Recommendation: CAPIC respectfully recommends to add the following to **R253(1)(b)** ‘list of seized items.’

- **253 (2) Disposition after seizure**

(2) Subject to subsection (3), a thing seized shall be disposed of as follows:

- **(a)** if it was fraudulently or improperly obtained, by returning it to its lawful owner unless section 256 applies;
- **(b)** if it was fraudulently or improperly used, by disposing of it under section 257 unless section 254, 255 or 256 applies;
- **(c)** if the seizure was necessary to prevent its fraudulent or improper use
 - **(i)** by returning it to its lawful owner, if the seizure is no longer necessary for preventing its fraudulent or improper use, or
 - **(ii)** by disposing of it under section 257, if returning it to its lawful owner would result in its fraudulent or improper use; or
- **(d)** if the seizure was necessary to carry out the purposes of the Act, by returning it to its lawful owner without delay if the seizure is no longer necessary to carry out the purposes of the Act.

Recommendation: Under **R253 (2)** kindly request that there be provided a clear definition of “lawful owner” and applicable provisions where such lawful owner cannot be identified. Moreover, kindly do the same for **R255 (2)**. A plain reading of the current Part 16 can leave the reader unsure as to the intention of the legislature, for example, “the person from whom it was seized” and “the lawful owner” in the case of a foreign passport the lawful owner is the issuing foreign country, not the person from whom it was seized. Returning a seized passport to the issuing country and not the traveller, would leave the traveller in Canada in major difficulty. Additionally, CAPIC strongly recommends to revise this policy to ensure efficiency and transparency with seized or retained documents by retaining the seized document for a reasonable time while determining the authenticity, and thus returned to the individual from whom it was seized without delay.



➤ **Disposition of documents**

R257 (3) *If a document is not returned to its lawful owner or the person from whom it was seized, the document shall be retained for as long as is necessary for the administration or enforcement of Canadian laws, after which it is subject to the applicable laws relating to the disposal of public archives.*

Recommendation: For greater clarity CAPIC recommends having defined what the “applicable laws relating to the disposal of public archives” are and the associated time interval.

- **255 (1)** *For the purposes of paragraph 253(2) (b), a person who claims to be the lawful owner of a seized thing may apply in writing for its return within 60 days after the seizure.*
- **256 (1)** *If a thing was seized on the ground that it was fraudulently or improperly obtained or used, a person from whom it was seized may apply in writing within 30 days after the seizure for its return.*

Recommendation: Kindly consider an alternative suggestion such as timelines for the “lawful owner” to run from time notification was given, and such notification should be made in writing and preferably by registered mail. In order for the lawful owner to respond on time, kindly consider at least 60 days as the minimum time interval for the lawful owner and the person it was seized from, as opposed to 30 days.



Conclusion

CAPIC-ACCPI commends the CBSA's proactive approach of seeking stakeholder input via consultation sessions and the ability to provide submissions. We have recommended slight modifications which we hope the CBSA will give due consideration to incorporating in the final policy of *IRPRs Sections 252-258 as relating to Seizure*.

The Canadian Association of Professional Immigration Consultants (CAPIC-ACCPI) as a stakeholder appreciates CBSA's ongoing collaboration and dialogue/consultation with the stakeholders in an effort to collectively address issues and policies for continued effectiveness of IRPR to address inaccuracies, errors, and inconsistencies to yield a fairer and efficient process.

We thank CBSA for the opportunity to provide this input in the drafting of important policy.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to be 'DI'.

Donald Igbokwe
President
CAPIC – ACCPI