

2016

CAPIC Submission on Conditional Permanent Residence

CAPIC SUBMISSION ON CONDITIONAL PERMANENT RESIDENCE

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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

Conditional permanent residence was added to the Immigration Refugee Protection Regulations (IRPR) on October 25, 2012. The objective of conditional permanent residence was to deter individuals from applying – using false pretenses – under the spouse/common-law partner categories of the family reunification program.

The Canadian Association of Professional Immigration Consultants will focus on whether Section 72.1 of IRPR – which required two years cohabitation as a condition for permanent residence for sponsored spouses and partners/conjugal partners, who at the time of their application, have been in the relationship for two years or less and have no children in common – should be eliminated. CAPIC will focus on whether the repeal of the 2 year conditional requirement on permanent residence is likely to be an effective strategy in aiding vulnerable persons in abusive relationships and will provide recommendations to prevent individuals from taking advantage of any changes to the regulations.

Opinion/Input

The Canadian Association of Professional Immigration Consultants having reviewed both the *Immigration and Refugees Protection Act (IRPA)* and the Immigration and Refugee Protection Regulations (IRPR), fully supports the consultation and review process and respectfully requests that the following modifications be taken into consideration when devising the final Regulations. It is our view that by considering the points below in the final Regulations, Immigration Refugees and Citizenship Canada (IRCC) 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 system.



Recommendations for consideration:

CAPIC strongly supports having a mechanism to aide vulnerable spouses who may be in abusive relationships with their spouses. However, CAPIC strongly concurs with having a strict enforcement mechanism supported with strong evidence that spouses have been mistreated by their sponsors before they apply for an exception to the 2 year conditional permanent residence regime.

CAPIC notes that there will always be individuals ready to engage in fraudulent marriages for the benefit of either the spouse or the sponsor. However, eliminating the requirement for conditional permanent residence without strict enforcement mechanisms such as strong supporting evidence of the relationship and without requiring alternative conditions for both spouse and sponsor who have not been in a long-standing relationship or who do not have children in common may increase the number of individuals ready to exploit the family reunification program, especially when IRCC's stated goal of speeding up the processing of applications of this type is considered.

Reflecting on the data for the three years since the amendments to the regulations were introduced in 2012, the number of spouses who requested an exception to the requirement was 307. Of those 260 cases 79% were approved. CAPIC believes that spouses should be protected from abuse, however, this is less than 1% of the total number of applications within those three years in the relevant categories What CAPIC would like to highlight is that perhaps there have been cases that have fallen through the cracks because a spouse or sponsor was unaware of their rights and/or do not report abuse since they fear losing their status. We kindly recommend that when sponsors and spouses have their applications assessed they both be informed of their rights and entitlements, whether that be via the visa officer assessing the application, and/or through another channel of communication. That way spouses who may be living in an abusive environment will be aware of their rights and will know that they will receive government support rather than being re-victimized and deported if they complain.

CAPIC also recommends looking at the United Kingdom to see a different approach to how a robust and effective system, albeit a stringent one, has been put in place for spouses/partners and sponsors, while still allowing for a decrease in processing times for these types of applications. The United Kingdom effectively approves these types of applications very quickly, which accords with Canada's desire to reduce the processing time for these applications considerably. The UK does not however issue a permanent resident visa at that point – in effect, although there is an accelerated route for those who are married/have children, it can take 5 years until an application for indefinite leave to remain (equivalent to permanent residence) can be made. Effectively, the United Kingdom imposes a lengthy upfront period during which the couple must live together, and also requires evidence of successful settlement following that. While it does not fall within the mandate of CAPIC to comment on the legislation in the United Kingdom, and CAPIC does not support extending these types of conditions to spousal/common-law/conjugal partner applications in Canada, CAPIC believes that the desired shortening of processing times in these categories which IRCC has indicated they seek is, of itself, a negative factor for program integrity, and argues against the elimination of the requirement for conditional permanent residence.



Conclusion

CAPIC-ACCPI commends IRCC's proactive approach of seeking stakeholder input via consultation sessions and the ability to provide submissions. We have recommended an approach which we hope IRCC will give due consideration to incorporating in the final policy it decides to adopt.

The Canadian Association of Professional Immigration Consultants (CAPIC-ACCPI) as a stakeholder appreciates IRCC's ongoing collaboration and dialogue/consultation with the stakeholders in an effort to collectively address issues and policies for continued effectiveness of the immigration process and program integrity.

We thank IRCC 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