



January 28, 2023

Letter to CAPIC Members Regarding The Issue of Non-Canadian Citizens and Permanent Residents Becoming RCICs

Dear Members:

On behalf of CAPIC, your professional organization, I would like to address your concerns over the removal of the eligibility requirement of Canadian citizen or permanent resident status for Regulated Canadian Immigration Consultants (RCIC).

Your concerns and worries are valid, and I fully understand you. The inauguration of the College of Immigration and Citizenship Consultants (the College) signalled the establishment of RCICs as a reputable profession. It is the fruit of your collective good work over the years. This is a profession that not only helps Canada welcome eligible foreign nationals joining Canada's society, but also safeguards the integrity of the Canadian immigration system. The notion that being a Canadian citizen or permanent resident is indispensable for being an RCIC is understandable. However, if you have no objection to the fact that RCIC is a legal profession, you will allow me to explore this issue for you from the applicable legal and historical point of view.

First, we have this seemingly frustrating fact before us: foreign nationals are eligible to become RCICs. Second, what are the applicable laws and what do they say? Canada is a free land founded on [The Constitution Acts, 1867 to 1982](#). The [Canadian Charter of Rights and Freedoms](#) (the Charter) is part of the *Constitution Act, 1982*, which prescribes the rights and freedoms in Canada. Equality rights are among those rights enshrined in



subsection 15(1) of the Charter. It reads: “Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.” The Supreme Court of Canada confirmed in [Singh v. Minister of Employment and Immigration, \[1985\] 1 SCR 177](#), that the Charter applies to people who are physically present in Canada, including foreign nationals. Though section 1 of the Charter allows reasonable limits on Charter rights and freedoms by law if “such reasonable limits prescribed by law can be demonstrably justified in a free and democratic society,” the legal authorities governing RCICs, the [College of Immigration and Citizenship Consultants](#), the [Citizenship Act](#), and the [Immigration and Refugee Protection Act](#) do not set a limit on foreign nationals regarding their eligibility for being an RCIC. Therefore, the idea that being a Canadian citizen or permanent resident should be one of the eligibility requirements for being an RCIC is not in the law. Conversely, having such a requirement contravenes the equality rights protected by the Charter.

Thus, as noted within the law, there is no requirement to be a Canadian citizen or permanent resident to be an RCIC and that eligibility factor was handed to the regulator of the day to insert. That stipulation was noted, and it was only when legally challenged by a foreign national, that this requirement had to be removed as there was no basis in law, as noted in the earlier paragraph.

It is a preference to have Canadian citizen or permanent resident status as an eligibility requirement for being an RCIC, yet here we are today, with the information that this is no longer the case. I acknowledge your concern that foreign nationals’ eligibility to become an RCIC may have an impact on current RCICs. However, to jump to any conclusion regarding what the impact would be is too early to determine and, at best,



may be minimal to your practice. At this point, as far as it is known, no foreign national is an RCIC. Becoming an RCIC is a major undertaking, with high requirements and entry standards. It is not an easy task for Canadians or permanent residents to accomplish and may be much harder for foreign nationals. Even so, we have initiated the process to review the issue at hand including discussion with relevant stakeholders to lobby for the best interest of the Profession.

In addition, I'd like to assure you that CAPIC, being a not-for-profit organization, is governed by the [Canada Not-for-profit Corporations Act](#). It allows us to retain the requirement that to be a CAPIC member, one must be a Canadian citizen or permanent resident. We have retained such a requirement several years ago and it is there to stay.

Should you have further concerns, please feel free to reach out to me at dory.jade@capic.ca. We will continue to keep you informed and once again, wish to reassure you that CAPIC continues to be your voice.

Yours Truly,

A handwritten signature in black ink, appearing to read 'D Jade'.

Dory Jade

CEO/DG

CAPIC-ACCPI