PART IV

Citizenship
I. Introduction .................................................. 4
II. Legislative History ........................................... 7
   A. Amendments .............................................. 8
III. Citizenship Commission .................................... 14
IV. Attributes of Citizenship .................................... 15
   A. Right to Enter and Remain in Canada ..................... 15
   B. Multiple Citizenships ..................................... 17
   C. Rights of Canadian Citizenship ............................ 17
   D. Responsibilities of Canadian Citizenship .................. 18
V. Becoming a Citizen ........................................... 18
   A. Being Born in Canada: Jus Soli ........................... 19
   B. Being Born Outside Canada to a Canadian Citizen ........ 19
   C. Being Born Outside Canada: Citizenship by Adoption ...... 22
   D. Citizenship by Grant or Naturalization .................. 23
VI. Grant of Citizenship Process .............................. 24
   A. Application Documents .................................... 25
   B. Proof of Residency ....................................... 27
   C. Prohibited Persons ........................................ 28
   D. Citizenship Test .......................................... 29
   E. Citizenship Oath .......................................... 30
   F. Applications for Minors .................................... 32
   G. Steps After Application Submitted ....................... 32
   H. Resumption of Citizenship ............................... 34
   I. Past Look at Resumption of Citizenship ................... 35
VII. Renouncing and Revoking Citizenship .................... 36
   A. Renouncing Citizenship .................................... 36
   B. Revoking Citizenship ...................................... 37
I. Introduction

Citizenship is an important element in the makeup and identity of Canadian society. In Canada, citizenship can be acquired by *jus soli*,

\[1\] *jus sanguinis*, \[2\] or naturalization. \[3\]

People born in Canada obtain citizenship because they were born on Canadian soil (*jus soli*), and individuals born abroad to a Canadian citizen are granted citizenship due to their Canadian bloodline (*jus sanguinis*). However, this chapter focuses on naturalized citizens. Naturalized citizens are individuals who were born outside Canada, acquired permanent resident status in Canada, and submitted a formal request to be granted Canadian citizenship that was successful.

In 2014, Citizenship and Immigration Canada (CIC) (now Immigration, Refugees and Citizenship Canada [IRCC]) accepted more than 260,000 new Canadian citizens, which was more than ever before in Canada’s history. \[5\]

Over the years, the requirements, laws, and policies pertaining to citizenship have changed.

Historically, under the *Naturalization Act* (in its various forms from 1868 to December 31, 1946), immigrants in Canada were allowed to obtain citizenship after living for three years in Canada and being of “good character.” \[6\] In 1914, the *Naturalization Act* was amended to include a language requirement and to prolong the residency requirement from three to five years. \[7\] Also, applicants for citizenship needed to clearly demonstrate an adequate knowledge of French or English. If approved, the applicant acquired the rights and privileges of a British subject, because it was not until January 1, 1947, that “Can-

---

1 *Black’s Law Dictionary*, 7th ed, *sub verbo* “*jus soli*”: “right of the soil” or “the rule that a child’s citizenship is determined by place of birth.”

2 *Ibid*, *sub verbo* “*jus sanguinis*”: “right of blood” or “the rule that a child’s citizenship is determined by the parents’ citizenship.”

3 *Ibid*, *sub verbo* “naturalized citizen”: “a foreign-born person who attains citizenship by law.”

4 The Canadian citizen must have been born in Canada or obtained Canadian citizenship through naturalization. There is a generational limit for obtaining citizenship via *jus sanguinis*.


adian citizenship” was created by the *Canadian Citizenship Act* under Prime Minister William Lyon Mackenzie King.

Over the years, a significant amount of debate has surrounded the subject of citizenship; some argued that the laws were too stringent and others claimed that they were too flexible and ripe for abuse. However, since the 1980s, most of the debate was around the term “residency.”

The *Citizenship Act* (referred to as the “Citizenship Act 1985”), as amended over the years by Parliament, did not define the terms “resident” or “residency.” This meant that these definitions were left up to citizenship officers and citizenship judges, to determine how to apply the law on a case-by-case basis. The lack of consistency would render inequitable decisions, and thus, counsel would do their best to ensure the matter was laid before the Federal Court of Canada for judicial review.

On numerous occasions, the Federal Court urged the government to clarify the definition of “residency,” but to no avail. As a result, in 1993, the judges of the Federal Court took a stand and defined the term, in two distinct ways:

1. **“Physical presence” or “strict count of days” test—Re Pourghasemi.** A citizenship judge could choose to apply the “strict count of days test,” and if the applicant did not have the number of days in Canada statutorily required in order to meet the residency requirement, the application would be denied. In other words, the applicant was either physically present in Canada for the required time, or citizenship was not granted.

2. **“Centralized mode of living” or “substantial connection” test—Re Papado-giorgakis and Re Koo.** The court concluded that temporary absences from Canada would not preclude an applicant from becoming a Canadian citizen. The law did not define “residency” and thus it was not necessary for an applicant to be physically present in Canada during the time stipulated, so long as it was shown that the applicant “in mind and fact settles into, or maintains, or centralizes his ordinary mode of living with its accessories in social relations, interests and conveniences” in Canada.

---


9 RSC 1985, c C-29.


11 [1978] 2 FC 208 (TD).

12 [1993] 1 FC 286 (TD).

In *Koo*, Reed J thoroughly surveyed the jurisprudence concerning the residency requirement and summarized the test as follows:

The conclusion I draw from the jurisprudence is that the test is whether it can be said that Canada is the place where the applicant “regularly, normally or customarily lives.” Another formulation of the same test is whether Canada is the country in which he or she has centralized his or her mode of existence. Questions that can be asked which assist in such a determination are:

1. Was the individual physically present in Canada for a long period prior to recent absences which occurred immediately before the application for citizenship?
2. Where are the applicant’s immediate family and dependants (and extended family) resident?
3. Does the pattern of physical presence in Canada indicate a returning home or merely visiting the country?
4. What is the extent of the physical absences—if an applicant is only a few days short of the 1,095-day total it is easier to find deemed residence than if those absences are extensive?
5. Is the physical absence caused by a clearly temporary situation such as employment as a missionary abroad, following a course of study abroad as a student, accepting temporary employment abroad, accompanying a spouse who has accepted temporary employment abroad?
6. What is the quality of the connection with Canada: is it more substantial than that which exists with any other country?14

As mentioned, the application of these tests offered varying results for applicants and an inequitable application of the law. In response to the decades-old debate, Bill C-24, the *Strengthening Canadian Citizenship Act*,15 which amended the *Citizenship Act* (together referred to herein as the “Citizenship Act 2014”), came into full force and effect on June 11, 2015.

From June 2015 onwards, the laws pertaining to Canadian citizenship required an applicant to demonstrate that he had been physically present in Canada for the requisite number of days, had remitted taxes, and had an intention to reside in Canada, among other criteria.

The Citizenship Act 2014 clearly defined the term “residence” as physical presence in Canada after the applicant was granted Canadian permanent resident status. This was a noteworthy change that ended decades of uncertainty and significantly prolonged the citizenship application process.

Only a short time later, however, in October 2015, there was a federal election that resulted in a change in the leadership of the country, which also meant that there would be changes to various laws, including the Citizenship Act 2014.

---

14 *Supra* note 12 at para 10.
15 *An Act to amend the Citizenship Act and to make consequential amendments to other Acts*, SC 2014, c 22.
Shortly after coming into power, the new government proposed Bill C-6, *An Act to amend the Citizenship Act and to make consequential amendments to another Act*, which received royal assent in June 2017 (referred to as the “Citizenship Act 2017”). The purpose of this Act was to repeal many of the changes that Bill C-24 had put into place. Interestingly, the new law continued to define the term “residency” as physical presence in Canada, but now it included physical presence in Canada prior to becoming a permanent resident of Canada.

The Citizenship Act 2017 resulted in the following broad changes, according to the Legislative Summary:

- remove the requirement for an applicant, if granted citizenship, to demonstrate an intention to reside in Canada;
- remove the grounds for the revocation of Canadian citizenship that relate to national security;
- reduce the number of days during which a person must be physically present in Canada in order to qualify for citizenship; and
- amend the limitations pertaining to language ability and the knowledge of Canada requirement.

With these new changes, citizenship would once again be redefined. This chapter examines these changes and the requirements for obtaining citizenship.

II. Legislative History

Prior to 1947, Canada did not have its own citizenship act, and thus, all claims for citizenship fell under the scope of the *British North America Act, 1867*. In other words, there was no such thing as Canadian citizenship. Therefore, people born in Canada and naturalized citizens became British subjects. The rules determining who was a British subject abroad also applied in Canada. Since 1947, the law has evolved through a series of Canadian citizenship statutes.

Two major changes to the Citizenship Act 1985 took effect on April 17, 2009:

- Bill C-14, *An Act to amend the Citizenship Act (adoption)* (royal assent on June 22, 2007), addressed the procedures for acquiring citizenship for foreign adopted children; and

---

18 SS 1867, c 3.
• Bill C-37, *An Act to amend the Citizenship Act* (royal assent on April 17, 2008), restored or gave Canadian citizenship to certain classes of individuals who, as a result of outdated provisions in existing and former legislation, had lost or had never had Canadian citizenship, including some born before 1947. However, a small number of “lost Canadians,” such as some first-generation children born abroad to war brides and servicemen, were still not eligible for Canadian citizenship.

Canada’s first citizenship act, the *Canadian Citizenship Act*, came into force on January 1, 1947, and thus Canadian rather than British law applied to applications after this date. When the Canadian citizenship law changed, the new rules did not have retroactive effect; they applied only to prospective citizens. As an unintended result, some people lost or were never eligible for citizenship. For example, under the 1947 *Canadian Citizenship Act*, Canadian citizens who were not “natural-born” lost their citizenship if they resided outside Canada for a period of six consecutive years. (“Natural-born” Canadian citizens included those who were born either in Canada or outside Canada if, at the time of birth, one parent was a Canadian citizen.) This period was increased to ten years during the 1950s, and the provision was repealed altogether in 1967. However, some people had already lost their Canadian citizenship—in many cases, unknowingly. 19 More recent amendments provided a remedy for such situations by restoring citizenship to people considered to be “lost Canadians.”

The *Canadian Citizenship Act, 1946*20 was replaced, effective February 14, 1977, with a new *Citizenship Act*. This version of legislation became the basis for future amendments, including the current version of the law. The 1978 version of the Act introduced several major changes, including the recognition of dual citizenship for Canadians and a reduction of the residency period required to apply for citizenship.

A. Amendments

Policy decisions to amend immigration law rules, including rules relating to citizenship, are often controversial. Decisions regarding who will be recognized as a citizen of Canada involve fundamental policy choices about the nature of Canada. A number of issues have been controversial with respect to the rec-

---


20 SC 1946, c 15.
ognition of citizenship, including the treatment of foreign children adopted by Canadian parents and the government’s authority to revoke citizenship.

Amendments to the Citizenship Act 1985 as a result of Bill C-24 included the following changes:

- the granting of retroactive citizenship to most of the remaining “lost Canadians” dating to January 1, 1947 (or April 1, 1949, in the case of Newfoundland and Labrador);
- the extension of citizenship to “lost Canadians” who were born before the Canadian Citizenship Act took effect in 1947, as well as to their children who were born outside Canada in the first generation;
- the provision of fast-track citizenship for permanent residents who are members of the Canadian Armed Forces;
- the clarification of the first-generation limit on citizenship for those born abroad;
- the extension of the exception to the first-generation limit to ensure that the children of Crown servants can pass on citizenship to their children;
- the granting of new decision-making authority for discretionary citizenship to the minister of citizenship and immigration;
- new residence requirements;
- new “intent to reside” requirement;
- expanded age requirements for language and knowledge testing;
- requirement to demonstrate knowledge of Canada in an official language;
- strengthened offences and penalties for fraud;
- prohibitions for foreign criminality and activities against national interests;
- new authority to designate a regulatory body for citizenship consultants;
- improved information-sharing authorities;
- a new revocation model; and
- new grounds to revoke citizenship from dual nationals who are convicted of serious crimes or who take up arms against Canada.

Some of the amendments to the Citizenship Act from the passage of Bill C-24 (which received royal assent on June 19, 2014) came into force immediately, while others came into effect on June 11, 2015. Canadians were divided on the changes and, as a result, it became one of the political issues in the 2015 federal election.

The election, held in October 2015, resulted in a change in leadership, which meant changes to Canada’s Citizenship Act were inevitable.
In February 2016, a mere four months after the new government came to power, Bill C-6, *An Act to amend the Citizenship Act and to make consequential amendments to another Act*, was introduced into the House of Commons for a first reading. The government had indicated that the changes to the Act were to provide greater respect for diversity and inclusion and to ensure that there was only one class of Canadian.\(^{21}\)

The legislation received royal assent in June 2017 and the differences between the new Citizenship Act 2017 and its previous version are set out in the table.

---

<table>
<thead>
<tr>
<th>Residency requirements</th>
<th>STRENGTHENING CANADIAN CITIZENSHIP ACT JUNE 2014 TO JUNE 2017</th>
<th>AN ACT TO AMEND THE CITIZENSHIP ACT AND TO MAKE CONSEQUENTIAL AMENDMENTS TO ANOTHER ACT JUNE 2017 AND OCTOBER 2017 TO PRESENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eligible to apply if living in Canada: 4 years (1,460 days) out of 6 years.</td>
<td>Eligible to apply if living in Canada: 3 years (1,095 days) out of 5 years.</td>
<td></td>
</tr>
<tr>
<td>Must be physically present in Canada for a minimum of 183 days per year in 4 out of 6 years.</td>
<td>Must be physically present in Canada.</td>
<td></td>
</tr>
<tr>
<td>Only time spent as a permanent resident can be used for residency calculation.</td>
<td>For every day during which the person was physically present in Canada as a temporary resident or protected person under the IRPA before becoming a permanent resident, the person accumulates a half day of physical presence, up to a maximum of 365 days.</td>
<td></td>
</tr>
<tr>
<td>Must show “intent to reside” in Canada.</td>
<td>No requirement to prove “intent to reside” in Canada after being granted citizenship.</td>
<td></td>
</tr>
</tbody>
</table>

---

| Language and knowledge requirements | Citizenship applicants aged 14–64:  
- Must meet language requirements and pass citizenship test.  
- Upper age limit of 64 established by legislation.  
- Citizenship test in official languages—English or French; **may not use an interpreter** to pass test. | Citizenship applicants aged 18–54:  
- Must meet language requirements and pass knowledge test.  
- Upper age limit of 54 established by law. |
| Eligibility | Applicants **must file Canadian income taxes** to be eligible for citizenship.  
Not eligible if **domestic or foreign** criminal charges and convictions.  
The Minister has discretion to waive certain requirements so a minor can obtain citizenship without a Canadian parent. | Applicants **must file Canadian income taxes for 3 years** to be eligible for citizenship.  
Not eligible if domestic or foreign criminal charges and convictions. Individuals serving a conditional sentence will not be granted citizenship, take the Oath of Citizenship, or be able to count this time towards meeting the physical presence requirements for citizenship.  
A person who has custody of a minor or who is empowered to act on behalf of the minor can apply for Canadian Citizenship; no need for ministerial discretion. |
<p>| Application process and procedures | The amended Act <strong>defines</strong> what a complete citizenship application is, including what <strong>evidence</strong> must be provided when applying. | The Act <strong>defines</strong> what a complete citizenship application is, including what <strong>evidence</strong> must be provided when applying. |</p>
<table>
<thead>
<tr>
<th><strong>Members of the Canadian Armed Forces (CAF)</strong></th>
<th>Permanent residents serving with, or on exchange with, the CAF can apply for a fast-track process.</th>
<th>Permanent residents serving with, or on exchange with, the CAF can apply for a fast-track process.</th>
</tr>
</thead>
</table>
| **Decision-making process** | One-step decision-making process to decide citizenship applications:  
- Applications reviewed and decided by one citizenship officer. | One-step decision-making process to decide citizenship applications:  
- Applications reviewed and decided by one citizenship officer. |
| **Discretionary decision-making** | The minister of CIC can decide to grant citizenship on a discretionary basis.  
Minister has discretion to grant citizenship to alleviate cases of special and unusual hardship or to reward services of an exceptional value to Canada. | The minister of IRCC can decide to grant citizenship on a discretionary basis.  
Minister has discretion to grant citizenship to alleviate cases of special and unusual hardship or to reward services of an exceptional value to Canada.  
Statelessness has been added as a ground for a discretionary grant. |
| **Lost Canadians (those not granted citizenship due to changes in 2009)** | Lost Canadians born before 1947, and their first-generation children born abroad, will be granted Canadian citizenship. | Lost Canadians born before 1947, and their first-generation children born abroad, will be granted Canadian citizenship. |
**Revocation**

Citizenship can be revoked or denied for a person with dual citizenship or a Canadian permanent resident who:

- as a member of an armed force or an organized armed group, engaged in armed conflict with Canada; and/or
- was convicted of terrorism, high treason, treason, or spying offences, depending on the sentence received.

No authority for citizenship officers to seize fraudulent or suspected fraudulent documents.

No provision to revoke citizenship for dual citizens who commit acts against Canada’s national interest. Dual citizens living in Canada who are convicted of these crimes will face the Canadian justice system, like any other Canadian citizen who breaks the law.

Citizenship officers have the authority to seize fraudulent or suspected fraudulent documents.

<table>
<thead>
<tr>
<th>Immigration consultants</th>
</tr>
</thead>
<tbody>
<tr>
<td>The amended Act defines who is an <strong>authorized representative</strong>. Prospective representatives who have been <strong>convicted of fraud may not be authorized</strong> to act on behalf of an applicant. Fines and penalties for fraud are a <strong>maximum of $100,000</strong> and/or <strong>five years in prison</strong>.</td>
</tr>
</tbody>
</table>

| The amended Act defines who is an **authorized representative**. Prospective representatives who have been **convicted of fraud may not be authorized** to act on behalf of an applicant. Fines and penalties for fraud are a **maximum of $100,000** and/or **five years in prison**. |

<table>
<thead>
<tr>
<th>Accommodation</th>
</tr>
</thead>
<tbody>
<tr>
<td>IRCC required to take reasonable measures to accommodate the needs of citizenship applicants, however, there is no explicit reference to accommodate persons with disabilities.</td>
</tr>
</tbody>
</table>

| IRCC required to take reasonable measures to accommodate the needs of a citizenship applicant who is a disabled person. This requirement is explicitly stated in the Citizenship Act 2017. |
III. Citizenship Commission

The Citizenship Commission is a quasi-judicial administrative body that consists of citizenship judges who are located across Canada. The Citizenship Commission is led by a senior citizenship judge who reports to the minister of immigration, refugees, and citizenship and is responsible for ensuring the proper administration of the law. The senior citizenship judge also assumes responsibility for managing the administrative and professional services that the commission offers to judges. IRCC provides the Citizenship Commission with administrative, financial, and human resources services; however, it maintains an arm’s-length relationship on decision-making matters related to citizenship in order to ensure the independence of citizenship judges.

Citizenship judges are responsible for the following functions:

- assessing referred citizenship applications for compliance with residency requirements;
- administering the oath of citizenship and stating the rights and responsibilities of Canadian citizenship to new citizens;
- maintaining the integrity of the citizenship process; and
- promoting citizenship by working with school boards, service clubs, multicultural groups, and other community organizations.

Citizenship judges’ authorities and responsibilities are derived from the Citizenship Act 2017 and the Citizenship Regulations.22 However, as a result of the clarification of the term “residency” (equating to physical presence in Canada), the role of citizenship judges has become limited and is now mostly ceremonial in nature.23

Previously, applications submitted under the Citizenship Act 1985 (prior to June 2015) could be referred to a citizenship judge for determination. Citizenship judges had the authority to decide citizenship applications upon referral from the citizenship officer only when the citizenship officer was not satisfied that the applicant’s residency requirements were met.

In these limited instances—that is, applications that fell within the scope of the old law—a citizenship judge would hold an oral hearing in which the applicant was permitted to submit new information for consideration. After the hearing, the citizenship judge would render a final written decision within 60 days.

---

22 SOR/93-246.

The only possible recourse for a citizenship matter is judicial review by the Federal Court. The minister’s counsel or citizenship applicants may apply for leave to the Federal Court.

According to the Citizenship Act 2017, the minister has the authority to decide the following applications:

- acquisition of citizenship, involving the conferral of citizenship on a non-citizen (s 5(1));
- renunciations, permitting the termination of citizenship (s 9(1));
- revocation, involving the termination of citizenship (s 10); and
- resumptions, involving the recommencement of a terminated citizenship (s 11(1)).

Each of these applications is decided on a case-by-case basis, where officers render a decision based on the facts presented.

IV. Attributes of Citizenship

This section will examine four attributes of Canadian citizenship: the right to enter and remain in Canada, multiple citizenships, rights of Canadian citizenship, and the responsibilities of Canadian citizenship.

A. Right to Enter and Remain in Canada

Every citizen has a right to enter and remain in Canada, according to section 19 of the Immigration and Refugee Protection Act (IRPA)24 and section 6 of the Canadian Charter of Rights and Freedoms (the Charter).25 This means that a Canada Border Services Agency (CBSA) officer may not refuse a person admission to Canada at a port of entry if the officer is satisfied that the person is a Canadian citizen. Also, a Canadian citizen generally cannot be subject to removal or deportation from Canada.

These rights of citizenship are subject to reasonable limits, such as the power of an officer to detain a Canadian citizen subject to an arrest warrant. Similarly, although Canada may not banish or exile citizens, it may apprehend and extradite a citizen to face criminal charges in another country, according to the Extradition Act.26

24 SC 2001, c 27.
26 SC 1999, c 18.
The Supreme Court examined the process of extradition in the case of *United States of America v Cotroni* and confirmed that the process is in compliance with section 6(1) of the Charter. However, the court provided the following caution:

Of course, the authorities must give due weight to the constitutional right of a citizen to remain in Canada. They must in good faith direct their minds to whether prosecution would be equally effective in Canada, given the existing domestic laws and international cooperative arrangements. They have an obligation flowing from s. 6(1) to assure themselves that prosecution in Canada is not a realistic option.

Extradition powers are important to ensure cross-border crime is prosecuted. However, extradition is “only supposed to happen when the foreign country in question is ready to take a Canadian to trial.”

In 2014, Dr Hassan Diab, a Canadian citizen and university professor, was extradited to France after a six-year extradition battle in Canada. He spent three years in a French prison while the authorities investigated the matter; they eventually dropped the charges against him, due to a lack of evidence.

As a result of the Diab case, Canada’s extradition process was under scrutiny, and in early 2018, the minister of foreign affairs stated that “[t]he fact his extradition went ahead without a strong case against him demonstrates it’s time to correct the Extradition Act.”

Although extradition can result in a Canadian being sent abroad to face criminal charges, federal government officials can only revoke Canadian citizenship in certain instances. If Canadian citizenship was obtained by fraud, misrepresentation, or the concealment of material circumstances (Citizenship Act 2017, ss 10(1), (2)), it could be revoked—in other words, where the privilege of citizenship would not have been bestowed upon the person “but for” the fraud, misrepresentation, or omission.

---


Further, Canadian citizenship may be revoked due to security grounds, on grounds of violating human or international rights, or on grounds of organized criminality, resulting in immediate removal from Canada (Citizenship Act 2017, s 10.5(1)(3)).

It should be noted that the minister may suspend the processing of an application at any time, and for as long as necessary, in order to receive any information or the results of an admissibility hearing under the IRPA (Citizenship Act 2017, s 13.1).

B. Multiple Citizenships

Canada has permitted multiple citizenships since the Citizenship Act was enacted in 1977. Canada allows a person who becomes a citizen of Canada to retain any previous citizenship, so long as there is a bilateral agreement to this effect and/or subject to the law of the foreign country, which may choose to revoke the citizenship of those who obtain citizenship elsewhere. Countries that do not generally permit multiple citizenships (also called “multiple nationalities” or “dual citizenship”) include Austria, China, India, Japan, and Norway.

C. Rights of Canadian Citizenship

The rights of every person physically present in Canada are protected under the Charter. However, only Canadian citizens have the constitutional right to vote in provincial and federal elections and to be qualified to be a member of Parliament or a member of provincial Parliament, according to section 3 of the Charter. Other rights that Canadians have under the Charter include language rights, equality rights, legal rights, mobility rights, the right to freedom of religion and of expression, and the right to freely assemble and associate. Like all Charter rights and freedoms, these rights are subject to reasonable limits.

Canadian citizens also are permitted to apply for a Canadian passport, which allows a citizen to return to Canada at any time after travelling or living abroad. It is important to note, however, that the issuance of a Canadian passport (which is a kind of travel document) is a privilege and not a right, in accordance with the Canadian Passport Order.

31 Austria permits dual citizenship if it was obtained at birth; that is, a child born in Canada to Austrian parents is permitted to hold both Austrian and Canadian citizenship.

32 In March 2016, a parliamentary committee in Norway urged the government to formally review whether to permit dual citizenship. Currently, dual citizenship is permitted only if the applicant cannot be released from her “home” citizenship and in other limited situations.

33 SI/81-86.
Neither the Charter nor the Citizenship Act 2017 makes any distinction between the rights of persons who are born citizens and persons who acquire citizenship through naturalization. A naturalized citizen has the same rights as a citizen who was born in Canada or born to Canadian parents. Section 6 of the Citizenship Act 2017 reads:

A citizen, whether or not born in Canada, is entitled to all rights, powers and privileges and is subject to all obligations, duties and liabilities to which a person who is a citizen under paragraph 3(1)(a) is entitled or subject and has a like status to that of such person.

In contrast, not all countries extend full political rights to naturalized citizens. For example, a naturalized citizen of the United States is prohibited from becoming president—only natural-born US citizens may become president.

D. Responsibilities of Canadian Citizenship

Part of the naturalization process includes learning about the responsibilities of Canadian citizenship. These include obeying the law, taking responsibility for oneself, serving on a jury, voting in elections, helping others in the community, and protecting and enjoying our heritage and environment.  

V. Becoming a Citizen

There are three ways to become a Canadian citizen:

1. **Jus soli.** *Jus soli* is citizenship based on the land of birth. Under this principle, a person born in Canada is automatically granted Canadian citizenship.

2. **Jus sanguinis.** *Jus sanguinis* is citizenship based on blood ties. Under *jus sanguinis*, a person is automatically granted citizenship of the country of which one of his parents is a citizen. Therefore, a child born outside Canada to a Canadian parent is automatically a Canadian citizen, although there is a generational limitation. Furthermore, if the child’s parents are citizens of different or multiple countries, the child may be granted citizenship of both or all of those countries.

3. **Grant of citizenship.** A foreign-born person can attain Canadian citizenship by law. In other words, Canadian citizenship can be bestowed on

---

a Canadian permanent resident who submits an application that demonstrates that she meets the various requirements, or any of the exceptions, and the application is approved. This would include a direct grant of citizenship under the adoption provisions.

Countries tend to adopt one or all of these methods, or some variation, as the basis for conferring citizenship. Other approaches used by some nations are to grant citizenship to foreign nationals who marry one of their citizens (jure matrimonii) or to second-generation foreign nationals born abroad (citizenship by descent).35 In addition, most countries allow immigrants to apply for a grant of citizenship through the process of naturalization.

A. Being Born in Canada: Jus Soli

Generally, according to section 3(1) of the Citizenship Act 2017, any person born in Canada is automatically a Canadian citizen. The rule applies even if neither parent is a Canadian citizen and even if one or both parents are in Canada illegally.

Some locations outside Canada are deemed to be in Canada for the operation of the rule, including Canadian ships and aircraft registered in Canada. Persons born on these vessels are Canadian citizens (Citizenship Act 2017, s 2(2)).

There is an exception to the rule that birth in Canada confers Canadian citizenship: a person who, at the time of birth, is the child of a foreign national who is in Canada as the representative of a foreign government or an international agency does not acquire citizenship (Citizenship Act 2017, s 3(2)).

B. Being Born Outside Canada to a Canadian Citizen

A person born outside Canada is a Canadian citizen if one of the child’s parents is a Canadian citizen at the time of birth and the parent is either a Canadian citizen by birth or a naturalized citizen (“first-generation rule”).

The principle of jus sanguinis applies even if the child’s only connection to Canada is having a parent who is a Canadian citizen. The child is a citizen of Canada even if he never resides in or visits Canada. Canadian citizenship law permits children born abroad to retain Canadian citizenship unless they take steps to renounce it.

Canada’s Citizenship Week

In 2006, Citizenship and Immigration Canada launched the first Citizenship Week to promote citizenship. Citizenship Week is an annual event celebrating the value of citizenship and promoting the privileges and responsibilities of being a Canadian citizen. Since 2006, Canada has welcomed over 1.5 million new Canadians. For more information about Citizenship Week, visit the IRCC website at <https://www.canada.ca/en/immigration-refugees-citizenship/services/canadian-citizenship/take-part-citizenship.html>.

CITIZENSHIP AND CHILDREN OF DIPLOMATS

The story of the son of a Saudi Arabian diplomat made the news in 2007 when he found out that he was mistakenly issued a Quebec birth certificate and a Canadian passport despite not being eligible for citizenship.36 He discovered the mistake after submitting an application for a replacement passport, which was denied.

Ahmad Saeed Abdullah Al-Ghamdi was born in Canada and was formally told that he was a Canadian citizen, so the discovery came as a shock to him.

“I always thought of myself as a Canadian citizen and still consider myself to be one,” Al-Ghamdi said in an affidavit filed in the Federal Court of Canada.

However, the Federal Court of Canada confirmed that, pursuant to section 3(2) of the Citizenship Act, he is not a citizen.37 In explaining the rationale, the court stated: “It is precisely because of the vast array of privileges accorded to diplomats and their families, which are by their very nature inconsistent with the obligations of citizenship, that a person who enjoys diplomatic status cannot acquire citizenship.”

Source: Based on Canwest News Service, “Children of Diplomats Have No Right to Canadian Passport, Court Says” (1 June 2007).


37 Al-Ghamdi v Canada (Foreign Affairs and International Trade), 2007 FC 559.
People who were born before April 17, 2009 and who are second- or subsequent-generation Canadians born abroad retain their existing Canadian citizenship (Citizenship Act 2014, s 3(4)). Under the old provisions (section 8 of the Citizenship Act prior to April 2009), these individuals were required to apply for a citizenship certificate because they were subject to a retention requirement.

The loss of citizenship at the age of 28 years and the retention requirements were repealed under the legislative amendments made on April 17, 2009. Any individual who turned 28 years old on or after that date is a Canadian citizen and does not need to take any steps to retain citizenship. However, individuals born between February 15, 1977 and April 16, 1981 could lose their Canadian citizenship on attaining the age of 28 if they failed to submit a properly completed application to retain citizenship.

Another change to the legislation (in April 2009) limited citizenship by descent to one generation. This means that a child born abroad after April 17, 2009 to a parent who derived citizenship from a Canadian parent who was also born abroad will no longer automatically become a Canadian citizen, according to section 3(3) of the Citizenship Act 2014. Children born to Canadian parents in the first generation outside Canada will be Canadian at birth only if:

- one parent was born in Canada, or
- one parent became a Canadian citizen by immigrating to Canada and was later granted citizenship through naturalization.

An exception in the legislation is provided for:

people who are born to a Canadian parent working abroad in or with the Canadian Armed Forces, the federal public administration, or the public service of a province, unless the parent is a locally engaged person (new section 3(5)). For such people, citizenship is automatic at birth even though the person is a second- or subsequent generation Canadian born abroad.

Not permitting citizenship by descent after the first generation of Canadians born abroad may result in some children being stateless. Therefore, section 5(5) of the Citizenship Act 2017 provides for a grant of citizenship to a person who was born outside Canada, after the provision came into force, to a parent who was Canadian at the time of the person’s birth if, at the time that the person applies for Canadian citizenship, the person:

- is less than 23 years old;
- has resided in Canada for at least three years during the four years immediately before the date of the application for citizenship;

38 Supra note 15.
39 Supra note 15 at 10.
• has always been stateless; and
• has not been convicted of various listed national security offences.40

It is important to note that the wording of section 5(5) includes “has always been stateless,” which may not be applicable to some individuals who have become stateless. Section 5(4) of the Citizenship Act 2017 (special cases) addresses this detail and makes it possible for stateless individuals to request Canadian citizenship. The provision reads:

Despite any other provision of this Act, the Minister may, in his or her discretion, grant citizenship to any person to alleviate cases of statelessness or of special and unusual hardship or to reward services of an exceptional value to Canada.

Interestingly, there are still thousands of people who have lost or never received Canadian citizenship, due to various legislative “gaps.” These individuals are considered to be “lost Canadians” and continue to urge the government for a solution. Although changes provided for under Bill C-2441 granted Canadian citizenship to some first-generation children born abroad to war brides and servicemen, there are still many who live in the “grey zone.”

The government has urged lost Canadians to submit a request for citizenship under the “special cases” provision, because it allows the minister the discretionary authority to grant citizenship in extraordinary cases. Some of these cases have been successful and some have not.42

C. Being Born Outside Canada: Citizenship by Adoption

The Citizenship Act 2017 treats foreign-born children adopted by Canadian citizens the same as it does biological children born abroad to Canadian citizens. Sections 3(1)(c.1) and 5.1 of the Citizenship Act 2017 allow for a grant of citizenship to a minor child adopted by a Canadian citizen after January 1, 1947 without first obtaining permanent residency, provided that the adoption:

• was in the best interests of the child;
• created a genuine parent–child relationship;

40 Supra note 15, s5(5) at 10–11.
• was in accordance with the laws of the place where the adoption took place and the laws of the country of residence of the adopting citizen;
• did not occur in a manner that circumvented the legal requirements for international adoptions; and
• was not primarily for the purpose of acquiring citizenship or immigration status.

These rules also apply in the case of the legal adoption of a person 18 years of age or older, provided that a parent–child relationship was established prior to the child becoming 18 and that the adoption was not entered into primarily for the purpose of acquiring a status or privilege in relation to immigration or citizenship.\(^43\)

The Citizenship Act 2017 empowers the governor in council to make regulations that provide for the factors to be considered in determining whether these requirements have been met (s 27.1). Under section 5.1 of the Citizenship Regulations, these factors include the following: where the adoption took place, whether the child lived in a country that was a party to the Hague Convention on Adoption, whether the Canadian provincial authority objects to the adoption, and whether there was a pre-existing legal parent–child relationship that was permanently severed by the adoption.

There is also a special provision (Citizenship Act 2017, s 5.1(3)) for adoptions that are under the jurisdiction of Quebec. Adoptions in Quebec are considered finalized when the child is physically in Quebec and residing with the adopting parents. Under Quebec law, the authority responsible for international adoptions must confirm in writing that the adoption complies with Quebec law so that Canadian citizenship can be granted to children adopted abroad before the adoption is officially approved by the Court of Quebec.

### D. Citizenship by Grant or Naturalization

Naturalization is the legal process by which a permanent resident of Canada acquires Canadian citizenship. In order to be naturalized or granted citizenship, a permanent resident of Canada must submit a formal application and request for citizenship.

Permanent residents of Canada who wish to obtain a grant of Canadian citizenship must meet certain criteria. The person must:

• be a permanent resident of Canada within the meaning of section 2(1) of the IRPA and have no unfulfilled conditions pertaining to that status;
• be at least 18 years old or be included with the application of a parent who is over 18 years old;

\(^{43}\) Citizenship Act 2017, s 5.1(2).
• make an application for citizenship and intend to reside in Canada;
• pay the application fee;
• provide photos;
• meet the residency requirement of physical presence in Canada of at least 1,095 days during the five years immediately before the date of application;
• meet the applicable requirement under the *Income Tax Act*\(^44\) to file a return of income in respect of three taxation years that are fully or partially within the five-year period immediately before the date of application;
• show an adequate knowledge of English or French, if the applicant is between the ages of 18 and 54;
• demonstrate an understanding of the responsibilities of a citizen and pass the citizenship test, if the applicant is between the ages of 18 and 54; and
• take the citizenship oath.

An applicant who is physically or mentally unable to comply may, for compassionate reasons, have the requirements for language competence, the citizenship test, and the oath waived (Citizenship Act 2017, s 5(3)).

The Citizenship Act 2017 made changes under section 5 to specifically address the fact that reasonable accommodation is now legally required for disabled applicants, as follows:

(3.1) For the purposes of this section, if an applicant for citizenship is a disabled person, the Minister shall take into consideration the measures that are reasonable to accommodate the needs of that person.

In these compassionate cases, the applicant must submit a medical opinion provided by a licensed physician attesting to the fact that the applicant is unable to meet the requirements by reason of a medical condition or disability or is unable to request accommodation.

**VI. Grant of Citizenship Process**

IRCC has simplified the steps to be taken when applying for Canadian citizenship. The majority of the process, such as the payment of fees and the completion of the application forms, is relatively straightforward. However, many applicants require advice and assistance with other details in the naturalization process, such as what documents must be provided to support the application.

\(^44\) RSC 1985, c 1 (5th Supp).
(for example, what constitutes evidence of language ability) and, if the origi-
inals are not in English or French, that they must be translated into one of those
official languages by a certified translator. Translations can be completed by a
person who is fluent in both languages, so long as the translator is willing to
swear an affidavit in front of a notary public or commissioner of oaths stating
that the translation is true and correct.45

Other steps may require legal advice and guidance from counsel, especially
as a complete, accurate, and well-compiled application will result in expedi-
tious processing. The requirements for a grant of citizenship are found in
section 5 of the Citizenship Act 2017.

A. Application Documents

The applicant must submit a number of forms and documents that support the
citizenship application. The application forms and supporting documentation
include, but are not limited to, the following:

- a completed application package, including Application for Canadian
  Citizenship—Adults (CIT 0002) or Application for Canadian Citizen-
  ship—Minors (CIT 0003) and the online Physical Presence Calculator
  printout or the How to Calculate Physical Presence form (CIT 0407);
- proof of Canadian permanent residence, including Record of Land-
  ing (IMM 1000) or Confirmation of Permanent Residence (IMM 5292
  or IMM 5688), and a photocopy of both sides of the applicant’s valid
  permanent resident card;
- for applicants 18 to 54 years of age, proof of adequate knowledge of one
  of Canada’s two official languages by way of the following:
  - the completion of secondary or post-secondary school conducted in
    English or French, in Canada or abroad, or
  - formal language test results (IELTS, CELPIP, or TEF) from the
    applicant’s underlying immigration application to show the equiva-
    lent of Canadian Language Benchmark/Niveaux de compétence lin-
    guistique canadiens (CLB/NCLC) level 4 or evidence from other
    approved government-funded language training programs,46 such as
    LINC or CLIC;

---

45 Citizenship and Immigration Canada, “Application for Canadian Citizenship Under
Subsection 5(1)—Adults 18 Years of Age and Older (CIT 0002),” online: <http://

46 See language section: <https://www.canada.ca/en/immigration-refugees-citizenship/
services/application/application-forms-guides/guide-0002-application-canadian
-citizenship-under-subsection-5-1-adults-18-years-older.html#Step4>
• photocopies of the biographical pages (those containing the applicant’s name, photo, passport/travel document number, issue date, and expiration date) of all passports and/or travel documents (valid and cancelled) for the relevant five-year period immediately preceding the date of application, including any renewal pages of the passport(s)/travel document(s) (it is highly recommended to include a colour photocopy of all of the pages of all passports held by the applicant and to have any entry/exit stamps that are not in English or French translated by a certified translator);

• police certificate if the applicant spent 183 days or more in a country other than Canada;

• photocopy of both sides of the applicant’s permanent resident card; and

• proof of identity and age: applicants must present two identity documents (one of which must include the applicant’s photo), such as a passport, health insurance card, or Canadian driver’s licence, and must establish age by filing a birth certificate or other evidence that shows the applicant’s date and place of birth.

It is important to note that proof of income tax filings does not need to be submitted with the application. By signing the application forms, the applicant authorizes the IRCC officer to obtain these details directly from the Canada Revenue Agency (CRA).

Applicants must disclose whether they have used any other name, such as a nickname, maiden name, or “Canadian” name. It is imperative that the applicant disclose on the application any and all names used. Submitting evidence to support any name changes (for example, a marriage certificate) is recommended.

An applicant can submit a request for a change of sex designation, and for those who do not identify as male or female, IRCC has advised that an “X” (neutral/unspecified) in the sex field is also an option. In order to obtain the new gender designation of “X,” applicants should complete the IMM 5657 form with the necessary supporting documentation to IRCC for processing.

Applicants must submit two citizenship photos that conform to the size and other requirements specified by regulation. Photos must be signed on the back by both the photographer and the applicant. The applicant’s signature

on the photograph must match the signature on the application. Head coverings must be removed for the photo unless they are worn for the purpose of religious observance. If a head covering is worn, the applicant’s full face must be visible.

1. Application Fees

An applicant must pay the fees specified by regulation. Application fees vary depending on whether the applicant is an adult or a minor. For example, the application fee for an adult grant of citizenship was $100 in 2013, but was increased to $530 in 2014, while the application fee for a minor remained at $100.

There are also fees to process applications for retention, resumption, and renunciation of citizenship. Fees and exemptions are established in the Citizenship Regulations and are thus subject to change. The fees for processing applications are non-refundable.

A $100 right of citizenship fee is also payable at the time of application if the applicant is 18 years or older. This fee is refundable if the application is rejected.

B. Proof of Residency

According to section 5(1) of the Citizenship Act 2017, the applicant must demonstrate compliance with the residency requirement, as follows:

1. *Be lawfully admitted to Canada as a permanent resident.* The applicant must submit a copy of the Record of Landing (IMM 1000) or Confirmation of Permanent Residence (IMM 5292) document, obtained from IRCC when permanent resident status was granted, and a copy of both sides of the permanent resident card.

2. *Continue to be a permanent resident within the meaning of section 2(1) of the IRPA.* The applicant’s permanent resident status must not be under scrutiny by the CBSA or IRCC and there cannot be any unfulfilled conditions relating to that status. In order to maintain permanent resident status, the applicant must comply with section 28 of the IRPA. In addition, the applicant cannot be inadmissible or be under a removal order.

3. *Be physically present in Canada.* Under section 5(1)(c) of the Citizenship Act 2017, the applicant must be physically present in Canada. The applicant must prove physical presence in Canada for at least three years (1,095 days) out of the past five years. Every day spent physically in Canada as a permanent resident is considered a day toward the
residency requirement. For every day during which the person was physically present in Canada as a temporary resident or protected person under the IRPA before becoming a permanent resident, the person accumulates a half day of physical presence, to a maximum of 365 days (s 5(1.001)(a)). In addition, applicants are obliged to meet the requirements of the Income Tax Act and “to file a return of income in respect of three taxation years that are fully or partially within the five years immediately before the date of his or her application” (s 5(1)(c)(iii)).

As stated earlier, the “residency” requirement for Canadian citizenship had initially not been clear, because the law did not specify whether actual physical presence in Canada was required or whether it was sufficient to establish a life in Canada and to treat Canada as a home, even though the individual was spending significant time outside the country. Case law as to whether actual physical presence in Canada was required had been divided, which inadvertently rendered inequitable decisions. Fortunately, the government has clarified the matter: physical presence in Canada is required in order to be granted Canadian citizenship.

When calculating residency or physical presence in Canada, the following rules apply:

• every day the person was physically present in Canada after becoming a permanent resident counts as one day;
• for every day the person was physically present in Canada as a temporary resident or protected person under the IRPA before becoming a permanent resident, the person accumulates a half day of physical presence, to a maximum of 365 days; and
• generally, time spent serving a sentence for an offence in Canada, including time spent under a probation order, is not counted.48

C. Prohibited Persons

Under sections 20 and 22 of the Citizenship Act 2017, certain applicants are prohibited from acquiring Canadian citizenship:

• a permanent resident who is under a probation order, a paroled inmate, or an inmate serving a sentence in a penitentiary, jail, reformatory, or prison;
• an applicant who is under a removal order;

48 Citizenship Act 2017, s 21.
• an applicant who is a declared threat to security or a member of an organized crime group;
• an applicant who directly or indirectly misrepresents or withholds material circumstances relating to a relevant matter, which induces or could induce an error in the administration of the Citizenship Act;
• a person who was prohibited from being granted citizenship or taking the oath of citizenship within five years immediately before the person’s application;
• a person who ceased to be a citizen within the ten years immediately before the person’s application; and
• a person whose citizenship has been revoked.

If applicable, any such ground of inadmissibility should be disclosed by the applicant. Although the minister has the discretion to grant citizenship in the face of these circumstances (section 5(4) of the Citizenship Act 2017), it would be a significant challenge and heavy burden to demonstrate why the applicant falls within such an extraordinary exception.

D. Citizenship Test

In 2010, changes to the Citizenship Regulations set out procedures for an updated citizenship test. CIC revised the citizenship test as “part of overall efforts at CIC to strengthen the value of citizenship and to emphasize the integrity of the testing process.” The citizenship test focuses on building awareness of Canadian values and history, institutions that shape Canada, and the rights and responsibilities associated with Canadian citizenship.

Applicants for Canadian citizenship must display civic literacy by demonstrating an adequate knowledge of Canada and of the rights and responsibilities of Canadian citizenship, as outlined in section 15 of the Citizenship Regulations. Applicants are required to take a citizenship test that measures their knowledge of Canada’s national symbols and their general understanding in the following areas:

• the chief characteristics of Canadian political and military history;
• the chief characteristics of Canadian social and cultural history;
• the chief characteristics of Canadian physical and political geography;
• the chief characteristics of the Canadian system of government as a constitutional monarchy; and
• other characteristics of Canada.

Applicants must also have a general understanding of the following:

- participation in the Canadian democratic process;
- participation in Canadian society, including volunteerism, respect for the environment, and the protection of Canada’s natural, cultural, and architectural heritage;
- respect for the rights, freedoms, and obligations set out in the laws governing Canada; and
- other responsibilities and privileges of citizenship.

The test is waived for applicants over age 54 or under the age of 18.

To assist with preparations for the test, IRCC provides an online citizenship study guide, called Discover Canada: The Rights and Responsibilities of Citizenship. Information about the test and sample study questions are available on the IRCC website.50

Applicants receive a notice indicating the date, time, and place at which they are to appear for the citizenship test. Testing takes place at local IRCC offices, where applicants have a limited amount of time to complete the multiple-choice test. In order to pass, the applicant must correctly answer at least 15 questions out of 20. Applicants who fail the test will be given an opportunity to take the test a second time. If an applicant fails the second test but meets all of the other requirements, she may be required to appear for an interview with a citizenship officer.

E. Citizenship Oath

Applicants who meet the basic requirements for citizenship and who have passed both the language and citizenship tests receive a notice to appear to take the oath of citizenship. All applicants over the age of 18 must take the oath. The oath is administered at a special ceremony presided over by a citizenship judge.

The oath of citizenship, as set out in the schedule to the Citizenship Act 2017, reads as follows:

I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian citizen.

Historically, applicants would hold a Bible while swearing the oath. In recognition of the rights of religious freedom enshrined in Canada’s legal system, this is no longer required. Applicants with religious or other objections to swearing an oath are given the option of affirming rather than swearing the oath. Applicants who swear the oath may hold a holy book of their choosing when taking the oath. Furthermore, all applicants must be seen taking the oath.51

In 2013, Zunera Ishaq52 challenged the requirement53 that she take the oath of citizenship without any face covering; she was not permitted to swear the oath wearing her niqab because it covered her face. Although she was willing to unveil herself and recite the oath in private, for religious reasons she refused to unveil herself in public. The minister argued that citizenship officials are required by law to confirm that the candidate has in fact recited the oath; therefore, veils and masks are an unjustifiable impediment. The minister further stated that the oath was a “public declaration that you are joining the Canadian family and it must be taken freely and openly.”54

In February 2015, the Federal Court55 ruled in favour of Ms Ishaq. Boswell J stated that the oath should allow “the greatest possible freedom in religious solemnization or the solemn affirmation thereof” and inquired as to how that was possible if a rule required an applicant to violate a basic tenet of her religion.56 The Federal Court of Appeal upheld the lower court’s ruling and the government appealed to the Supreme Court.

In November 2015, with the election of a new government, the appeal to the Supreme Court was withdrawn.

55 Ishaq v Canada (Citizenship and Immigration), 2015 FC 156.
56 Ibid at paras 53–57, 68.
F. Applications for Minors

According to section 5(2) of the Citizenship Act 2017, a citizenship application for a minor may be completed by the child’s parents (biological or adopting), legal guardians, or other persons legally entitled to have custody of the child. A minor is a person who is not yet 18 years of age. Generally, a minor child between 14 and 17 years of age is expected to sign the application, unless he has a capacity issue. In addition to the information provided in the application that accompanies an adult’s application, the following additional items must be provided:

- proof that one of the parents is a Canadian citizen or will become a citizen at the same time as the minor applicant—acceptable documents include birth certificates showing the names of the parents, adoption orders, parents’ passports showing the names of the children, and a Record of Landing or Confirmation of Permanent Residence form listing parents’ names for children who entered Canada as refugees; or
- if the applicant is not a birth or adoptive parent of a citizen, evidence establishing that the applicant has legal custody of the child and thus can submit the request on behalf of the minor applicant—acceptable documents include a court order or written agreement.

G. Steps After Application Submitted

Once an applicant has completed the application forms and compiled all of the supporting documentation, she should mail the package to the case processing centre (CPC) in Sydney, Nova Scotia, where the following steps are taken:57

Step 1: A citizenship officer reviews the application to ensure that the application is complete, the fee is paid, and all of the necessary information listed on the document checklist is included.

Step 2: The citizenship officer reviews the documents submitted with the application—for example, the Confirmation of Permanent Residence (IMM 5292) or the Record of Landing (IMM 1000).

---

57 The process outlined here is based on CIC, CP 12: Documents (16 June 2008), which is no longer available, and on IRCC, “Citizenship Grants: Applicants 18 Years of Age or Older (Adults),” online: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/canadian-citizenship/grant/adult.html>.
Step 3: The CPC directs the applicant to the IRCC website to study *Discover Canada: The Rights and Responsibilities of Citizenship*.

Step 4: The CPC forwards the application for background, security, and immigration checks to be completed.

Step 5: The citizenship officer prepares and sends a package of information to the IRCC office nearest to the applicant.

Step 6: The local IRCC office sends the applicant a notice to appear to take the citizenship test.

   If the citizenship officer is not satisfied that the applicant meets the residence requirement for citizenship, the officer may refer the matter to a citizenship judge.

Step 7: If necessary, an interview with a citizenship judge is arranged to review residency issues. The *Citizenship Act* requires that judges render a decision, setting out the reasons for their decision, without delay. If the citizenship judge approves citizenship, the applicant is invited to a citizenship ceremony by way of a notice to appear to take the oath of citizenship.

   If the citizenship judge refuses the application, either the applicant may reapply or the decision may be judicially reviewed, with leave from the Federal Court of Canada.

   If the citizenship judge approves the application, the applicant is invited to a citizenship ceremony by way of a notice to appear to take the oath of citizenship.

Step 8: A citizenship ceremony is held, during which the applicant swears the oath of citizenship and is granted a citizenship certificate.

   As of February 1, 2012, the plastic, wallet-sized citizenship certificate that was previously issued was replaced with a letter-sized paper citizenship certificate. This new certificate (reproduced here) is a legal status document issued to new citizens and to anyone applying for their proof of citizenship; although it does not include a photo of the Canadian citizen, it does contain a unique number and basic information that allows the government to electronically validate the certificate in order to reduce instances of fraud. New citizens should wait at least two business days after their ceremony to apply for a Canadian passport. (Any citizen of Canada may apply for a certificate of citizenship as proof of his Canadian citizenship, according to section 12 of the *Citizenship Act 2017*.)

Step 9: The applicant’s completed file is microfilmed and stored.
H. Resumption of Citizenship

An individual who wishes to resume Canadian citizenship must apply and be eligible to do so by meeting certain requirements. The individual must:

- have been a Canadian citizen;
- have become a permanent resident of Canada after losing Canadian citizenship;
- have met personal income tax filing obligations for the tax year immediately prior to applying; and
- have lived in Canada as a permanent resident for at least one year in the two years immediately prior to applying.

Individuals are not eligible if:

- their Canadian citizenship was revoked;
- they were convicted of an indictable offence or an offence under the *Citizenship Act* in the three years before application;
- they are currently charged with an indictable offence or an offence under the *Citizenship Act*;
• they are in prison, on parole, or on probation;
• they are under a removal order; or
• they are under investigation for, are charged with, or have been convicted of a war crime or a crime against humanity.

Application packages to resume citizenship are available on the IRCC website.58

I. Past Look at Resumption of Citizenship

Resumption of citizenship is permissible for individuals who were previously Canadian citizens, are currently permanent residents of Canada, and would like the privilege of citizenship once again. Individuals who had their Canadian citizenship revoked are prohibited from submitting a resumption request under section 11 of the Citizenship Act 2017.

Under the former legislation, there were several ways that people could either lose their citizenship or never be recognized as Canadian citizens. Bill C-37, An Act to amend the Citizenship Act, addressed some of these situations by:

• permitting certain persons who had lost their Canadian citizenship for specified reasons to have their citizenship restored from the time it was lost;
• permitting certain persons who, born outside Canada to a Canadian parent, did not acquire Canadian citizenship for specified reasons from the time of their birth;
• providing that certain persons born outside Canada to a Canadian parent who was himself born outside Canada do not acquire Canadian citizenship; and
• providing for a grant of citizenship, on application, to persons who have always been stateless and who meet other specified conditions.

Bill C-37 also attempted to address the issue of “lost Canadians,” but many continue to argue that gaps still exist in the legislation. Lost Canadians are individuals who have a reasonable belief that they are Canadian citizens, but, due to the interpretation and application of the law, are not considered to be citizens. Often, lost Canadians discover they are in fact not Canadian citizens only when they apply for a certificate of Canadian citizenship or a travel document.

In the past, a person who lost Canadian citizenship had to apply for a resumption of citizenship. Amendments to the Citizenship Act under Bill C-37,


however, allowed for citizenship to be granted or restored retroactively to many, but not all, lost Canadians.

The amendments to the Citizenship Act give citizenship to the following kinds of lost Canadians:

- people naturalized to Canada who subsequently lived outside the country for more than ten years prior to 1967 and lost their citizenship (s 3);
- people born abroad to a Canadian parent before the current Citizenship Act came into effect on February 15, 1977 (s 3); and
- women who had lost their citizenship due to marriage prior to January 1, 1947 (s 11(2)).

The amendments also give citizenship to “former lost Canadians”:

- people who lost their citizenship between January 1, 1947 and February 14, 1977 because they or one of their parents acquired the nationality or citizenship of another country; and
- second- and subsequent-generation Canadians born abroad since the current Citizenship Act came into effect on February 15, 1977.

Relief, in the way of special cases (s 5(4)) or ministerial discretion, is permitted in situations where the law inadvertently renders Canadians born abroad stateless.

VII. Renouncing and Revoking Citizenship

Citizenship may be lost only for the reasons specified in sections 9 and 10 of the Citizenship Act 2017—namely, renunciation and revocation. For administrative efficiency, applications to renounce and revoke citizenship are decided by a senior citizenship judge.

A. Renouncing Citizenship

Renouncing citizenship means that a Canadian citizen actively takes steps to terminate citizenship. As long as the person will not be rendered stateless and has the capacity to understand the ramifications of the renunciation, the

It is important to note that Article 8 of the United Nations Convention on the Reduction of Statelessness, 4 December 1954, Resolution 896 (IX) (entered into force December 13, 1975) advises that a state cannot deprive a person of nationality and render a person “stateless.” However, the same provision advises that a state is not in breach of its obligations should a person be rendered stateless for having obtained nationality in that country through fraud or misrepresentation. See online: Office of the United Nations High Commissioner for Human Rights, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Statelessness.aspx>.
request can be granted. A person may be motivated to renounce if Canadian
citizenship prevents entitlement to an advantage or benefit in another country.

For example, when Canadian-born newspaper magnate Conrad Black had
the opportunity to become a British peer and sit in the British House of Lords, he
actively sought to renounce his Canadian citizenship. Black wanted to be
granted a peerage by the Queen of England, an honour that has been bestowed
on other wealthy Canadian newspaper owners in the past. The Queen sought
the approval of the prime minister of Canada. The prime minister refused per-
mission, and his refusal was upheld by the Ontario Court of Appeal in Black v
Canada (Prime Minister). However, Black, as a resident and citizen of Eng-
land, was allowed to renounce his Canadian citizenship so that the Queen
could grant the peerage, and Black ceased to be a Canadian citizen in 2001.

The decision to renounce his Canadian citizenship created an unusual
problem for Black. In 2007, he was convicted of three counts of fraud and one
count of obstruction of justice in a US court. After having served a 42-month
sentence, Black wanted to return to Canada but could not do so because he no
longer had any right to enter Canada; he had to apply for a temporary resident
permit as a foreign national. Black has stated that he intends to apply for Can-
adian citizenship in the future; however, he will have to first apply to become a
permanent resident.

A person may also need to renounce her Canadian citizenship if she wishes
to become a citizen of another country that does not allow dual citizenship or if
she wishes to serve in the military of another country.

B. Revoking Citizenship

Revoking citizenship means that the Canadian government has rendered a
decision to remove a person’s citizenship. Revocation is done by the minister.

Revocation proceedings may be applied to citizenship granted by any
method under the Act if it comes to light that either the person’s admission to
Canada for the prerequisite period of residence or the citizenship application
itself involved at least one of the following:

- fraud,
- false representation (misrepresentation), or
- knowing concealment of material circumstances.

A person who has his citizenship revoked under these grounds must wait ten
years from the date of revocation before applying for citizenship.

60 (2001), 54 OR (3d) 215 (CA).
In September 2012, the minister announced that, following investigations, CIC had begun to take steps to revoke the citizenship of up to 3,100 citizens who had obtained it fraudulently.61

In 2017, the Federal Court “nullified government attempts to strip Canadian citizenship from more than 300 people after an earlier judgment struck down key provisions of the Citizenship Act introduced by the former Conservative government … . The earlier ruling, in May, declared those provisions inoperative because they were an expedited process that deprived individuals of the right to an oral hearing and did not take into account humanitarian and compassionate considerations.”62

If the government can demonstrate that the documents indicating place of birth or parentage contained in a person’s citizenship application were falsified in order to claim citizenship by place of birth, or through a birth parent, then the citizenship of that person could be revoked.

The operation of these provisions was illustrated in the case of Helmut Oberlander, who, when he immigrated to Canada in 1954, failed to disclose that he had worked as a translator from 1941 to 1943 for a Nazi police unit that killed 23,000 persons in Ukraine. Although there was no evidence that Mr Oberlander had taken part in the killings, his connection to the Nazi regime was a material issue, because Canada was not admitting persons suspected of involvement in atrocities during the Second World War. In 2001, the government revoked Mr Oberlander’s citizenship following a court decision that found he had obtained his citizenship by false representation or by knowingly concealing material circumstances. In 2015, the Federal Court denied Mr Oberlander’s request to get his citizenship back.63

The evidentiary requirements for proving fraud are stricter than those for proving false representation or knowing concealment of material circumstances, as was illustrated in Canada (Citizenship and Immigration) v Odynsky.64 In order to establish fraud, it is not sufficient to simply show that a person committed the actus reus, such as making a false statement; it must be shown that the applicant also had the mens rea, such as an intention to get around the restrictions in the system.


63 Oberlander v Canada (Attorney General), 2015 FC 46.

64 2001 FCT 138.
In the *Odynsky* case, the government could not prove fraud but was able to show both knowing concealment of a material circumstance and the making of a false representation. Mr Odynsky had been forced to act as a guard in a concentration camp during the Second World War. He did not reveal this fact when he applied to come to Canada in 1949, and he became a Canadian citizen in 1955. It was not proven that Canadian officials had asked about his actions during the war when Mr Odynsky had made his application; therefore, his omission was not fraudulent. However, by omitting this fact, he rendered his application untrue, and thus it was a false representation. In addition, the circumstances were material because Canada would not have admitted him if he had stated he was a concentration camp guard, and he knew he was not fully revealing this information.

In order to prove the concealment of a material circumstance, it is not necessary to demonstrate that the person knew the circumstances were material. The mere fact of making a false representation is sufficient, even without the presence of a mental element. Thus, in the *Odynsky* case, the government did not have to prove that Mr Odynsky intentionally did not reveal his service during the war in order to circumvent the application process. Once it showed that the statement was false, this was sufficient.

Finally, the courts have indicated that the false statement cannot be merely a technical or minor error in order to result in the revocation of citizenship.65

---

65 *Canada (Minister of Multiculturalism and Citizenship) v Minhas* (1993), 66 FTR 155, 21 Imm LR (2d) 31 (FCTD).