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# Government of Canada Eliminates Conditional Permanent Residence for Spouses and Partners

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The Government of Canada has removed the condition that applied to some sponsored spouses or partners of Canadian citizens and permanent residents to live with their sponsor for two years in order to keep their permanent resident status in order to uphold its commitment to family reunification and to support gender equality. This change applies to anyone who was subject to the requirement, as well as to new spouses and partners who are sponsored as permanent residents. Eliminating conditional permanent residence supports the Government's commitment to gender equality and to combat gender violence. The regulatory change addresses concerns that vulnerable sponsored spouses or partners may stay in abusive relationships because they are afraid of losing their permanent resident status even though an exception to the condition existed for those types of situations. The Government of Canada does not want any sponsored spouse or partner who is in an abusive situation to remain in it for fear of losing their status in Canada. The change also supports family reunification, which is a key immigration commitment of the Government of Canada. Removing the condition recognizes that the majority of marriages are genuine and most spousal sponsorship applications are made in good faith. On October 25, 2012, conditional permanent residence was introduced for sponsored spouses and partners of Canadian citizens and permanent residents who were in a relationship of two years or less and had no children in common, at the time of their sponsorship application. Since that time, more than 100,000 individuals have come to Canada as conditional permanent residents. The condition was introduced as a means to deter people from seeking to immigrate to Canada through non-genuine relationships. It required the sponsored spouse or partner to live in a conjugal relationship with their sponsor for two years unless they were the victim of abuse or the sponsor died.As a result, an imbalance was created between the sponsor and the sponsored individual, as only the sponsored spouse or partner could lose their status if the two-year cohabitation condition was not met. Stakeholders expressed concerns that this placed abused spouses and partners in a vulnerable position. Even though there was an exception to the condition for people in such situations, it is possible a victim may not have been aware of it or may have chosen to stay in the abusive relationship for a number of reasons. Those could include the fear of coming forward, the perceived challenge of proving the abuse or neglect, fear of needing to continue to live with their alleged abuser, or fear of having their status revoked and being removed from Canada if the exception was not granted.Immigration, Refugees and Citizenship Canada assessed the impact of conditional permanent residence. It was determined that, on balance, using conditional permanent residence as a tool to deter marriage fraud had not proved to outweigh the potential risks to vulnerable sponsored spouses and partners.Now that conditional permanent residence has been eliminated, anyone who was sponsored by someone who was subject to the condition and therefore also received conditional permanent residence him or herself, such as a child or a parent, has also had the condition lifted.The Government takes marriage fraud seriously and continues to have measures in place to safeguard against it. Immigration officers are trained to assess all applications and must be satisfied that a relationship is legitimate before granting the sponsored spouse or partner their permanent residence.In instances where marriage fraud may surface, these cases are investigated and the sponsored individual may lose their permanent resident status and be removed from Canada on the basis of misrepresentation. There is also a five-year bar on sponsorship to deter people from using a marriage of convenience to come to Canada. Sponsored spouses or partners must wait five years from the day they are granted permanent residence in Canada before they themselves are eligible to sponsor a new spouse or partner. In addition, Immigration, Refugees and Citizenship Canada works closely with Public Safety Canada and its portfolio agencies on risk indicators and anti-fraud initiatives.With the elimination of conditional permanent residence, any case that was under investigation for non-compliance with the cohabitation condition has ceased. However, cases involving marriage fraud will continue to be investigated.

# New entry rules for Brazilian, Bulgarian and Romanian citizens

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To encourage more travel and tourism, starting at 9am on May 1, 2017, some citizens from Brazil, Bulgaria and Romania will be able to apply for an Electronic Travel Authorization (eTA), instead of a visitor visa, to fly to, or transit through a Canadian airport. However, Brazilians, Bulgarians and Romanians who are not eligible to apply for an eTA or who are travelling to Canada by car, bus, train or boat, including a cruise ship, will still need a visitor visa. When you fly to Canada, you must travel with the same passport that you used to apply for an eTA. If you get a new passport after getting an eTA, you will need to apply for a new eTA. It is also recommended that you travel with your expired passport if it contains your expired Canadian visitor visa, or your valid U.S. nonimmigrant visa. The Government of Canada intends to lift the visa requirements for all Romanian and Bulgarian citizens on December 1, 2017. At that point, these citizens would no longer need a visa to travel to Canada. However, similar to other visa-exempt travellers, they would need an eTA to board a flight to Canada. More information will be posted as the date gets closer.

# Canada to benefit economically and socially by increasing the age of dependents

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Immigrants select countries based on a number of considerations, including whether families can stay together when they emigrate. The Government of Canada's commitment to family reunification recognizes that when immigrant and refugee families are able to remain together, their integration into Canada and their ability to work and contribute to their communities improve .A higher age for dependents better aligns with two of the main objectives of the Immigration and Refugee Protection Act which are to see that families are reunited in Canada, and to support the self-sufficiency and social and economic well-being of refugees through family reunification. The definition of a dependent child in the Immigration and Refugee Protection Regulations is used to determine whether a child is eligible to immigrate as a family member of the principal applicant in all immigration and refugee programs, or may be sponsored as a principal applicant through the family class. Currently, the age limit of a dependent child according to the Regulations is "under 19". The higher age limit of "under 22" will come into force on October 24, 2017 when the regulatory change will be formally implemented. The new higher age limit will apply to permanent residence applications received on or after this date. For applicants who submitted a permanent residence application between August 1, 2014, and October 23, 2017, the current "under 19" definition of a dependent child applies. Once the regulatory change comes into force, those who have a dependent child who meet the new "under 22" definition can sponsor him/her under the family class. Dependents who are 22 years of age or older and who are unable to support themselves due to a physical or mental condition would continue to be eligible as a dependent. If someone has a pending application for permanent residence, and had listed their dependent (who was under 22 years of age at the time they applied) on their application, they may contact Immigration, Refugees and Citizenship Canada to request that the child be processed for permanent residence as a dependent under humanitarian and compassionate grounds. Applicants who wish to do this should be aware that processing times on their application will be affected. A higher age limit is consistent with the global socioeconomic trend for children to stay home longer, including to pursue post-secondary education. The increased age will allow older immigrant children, aged 19 to 21, to study in Canada and boost the pool of post-secondary students for Canadian universities and colleges, as well as the pool of employees once these individuals graduate with a Canadian education, and contribute to Canada's economy.

# Ministerial Instructions, May 4th Express Entry Draw


On May 4, 2017, 3,796 candidates were issued an Invitation to Apply (ITA) for permanent residence. Each invited candidate this time around had a Comprehensive Ranking System (CRS) score of 423 or higher. This draw brings the total number of ITAs issued so far in 2017 to 39,769. Foreign nationals who, on May 4, 2017, at 12:20:49 UTC, have been assigned a total of 423 points or more under the Comprehensive Ranking System that is set out in the Ministerial Instructions Respecting the Express Entry System, as published in the Canada Gazette, Part I, on December 1, 2014, and as amended from time to time, occupy the rank required to be invited to make an application for permanent residence

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## Manitoba: LAA results – April 2017

Of the 40 Letters of Advice to Apply (LAAs), only 7 were sent to applicants with the lowest point score of 87. The highest score issued was 97. 30 applications including those from Farm Strategic Recruitment Initiative were received for the month of April 2017.

## Saskatchewan:Most Youthful Province

According to StatsCan, P.E.I. is the Atlantic province with the most youth. Saskatchewan though, has the most youth compared to all of Canada. 19.6 per cent of Saskatchewan's population is youth versus the national average of 16.6 per cent. This indicates a very youthful province with lots of future opportunities for immigration and a great place for student to immigrate too.

## PEI: Most Youthful Atlantic Province

According to the 2016 census results which were released on May 3rd, P.E.I. has the most youthful population in Atlantic Canada, but it is still older than the population of Canada as a whole. The figures show that around 16% of the P.E.I. population is 14 years old or younger. None of the other Atlantic provinces had figures over 15%.

# Canada Immigration, Case Laws

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**Canada Immigration Case law Canada, Sisman, IMMIGRATION — Refugee status — Procedure**

IMMIGRATION — Refugee status — Procedure — Appeal of decision of Refugee Protection Division (RPD) by Refugee Appeal Division (RAD) — Standard of review — Refugee claimant was citizen of Turkey claimed to fear that he would be persecuted in that country for being Armenian Orthodox Christian — Claimant was seafarer who left Turkey on job in July 2013, abandoned his employment once his ship arrived in United States and after spending some time there entered Canada illegally and made refugee claim — RPD found claimant lacked credibility and determined that he was neither Convention refugee nor person in need of protection — Claimant appealed decision to RAD which dismissed appeal — Claimant applied for judicial review, contending that RAD was wrong to apply reasonableness standard when reviewing RPD's factual findings, and that it was at least required to independently reassess evidence — Application allowed — It was neither justifiable nor reasonable for RAD not to make its own assessment of case in clear terms — It articulated and adopted reasonableness standard and focused unduly upon RPD's reasons in its analysis — RAD did not make its own independent analysis of claim but simply reviewed RPD's determinations and judged them reasonable — Throughout its decision, RAD used judicial review language and stated that " RPD found", "RPD gave little weight", " panel concluded", " RPD wrote", " RPD reasonably noted", " RPD concluded", " RPD considered", "it was reasonable for RPD to make" — In light of RAD's unequivocal assertions of deference to RPD it would be unsafe to assume that it fully carried out kind of independent review of evidence that was required — RAD's decision could not be justified as acceptable outcome defensible in respect of facts and law — Matter must be returned to RAD for redetermination by another panel member — Claimant was entitled to appeal before RAD, not just recitation of facts found by RPD

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**Canada Immigration Case law Canada, Taqadees, IMMIGRATION — Refugee status — Procedure**

IMMIGRATION — Refugee status — Procedure — Appeal of decision of Refugee Protection Division (RPD) to Refugee Appeal Division (RAD) — Standard of review — Refugee claimants were citizens of Pakistan who alleged fear of persecution as Shia Muslims — RPD found that claimants lacked credibility and had internal flight alternative in Karachi and dismissed claim — Claimants appealed to Refugee Appeal Division (RAD) which upheld decision of RPD and dismissed appeal — RAD had applied reasonableness standard to RPD decision — Claimants applied for judicial review, contending RAD erred in applying this standard — Application allowed — RAD has appellate function, and it cannot limit its analysis merely to whether RPD acted reasonably and reached decision that fell within range of acceptable outcomes which are defensible in respect of facts and law — Applying reasonableness standard, as RAD did in this case, was error, since it denied to appellants appeal to which they were entitled — Documentary evidence described widespread violence against Shia Muslims in Karachi and stated that hundreds are killed every year, but RPD implied that claimants had to prove that every Shia Muslim in Pakistan was being persecuted — When it considered whether violence against Shia Muslims in Pakistan was widespread enough that claimants would not be safe in Karachi, RAD stated that it was possible that RAD might have considered same evidence and reached different conclusion — RAD refused to conduct its own analysis of evidence in this regard expressly because it was applying reasonableness standard — This was error since that particular finding depended only on documentary evidence which RAD could assess just as well as RPD could — As it was possible that RAD would have reached different result had it not erroneously applied reasonableness standard of review, and it would be inappropriate to withhold relief from claimants

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**Canada Immigration Case law Canada, Stasenko, IMMIGRATION — Selection and admission — General**

IMMIGRATION — Selection and admission — General — Applicant, citizen of Russia, applied for Quebec certificate of selection in skilled worker category pursuant to Quebec Immigration Act, in April 2013 — Application form stipulated that application would be treated according to legislation applicable at time of filing — New selection criteria, in force as of August 2013, became applicable to all pending applications — Changes were made to language proficiency requirements — Transitional measures allowed individuals, who had submitted applications between July 8 and August 16, 2013, to voluntarily withdraw application — Applicant applied for declaratory order that selection criteria in force at time of filing of Immigration application be applied — Application granted — Application for selection certificate under Act to be treated by Minister on basis of applicable legislation at time application was made — Party relying on promissory estoppel must establish that other party had by word or conduct made promise or assurance which was intended to affect their legal relationship and to be acted on — At time that applicant submitted her application, Minister had undertaken to process it based on selection criteria then in force — Promise applied specifically to rules that would be applied — Applicant, after consulting counsel, filed application and paid fee based on promise

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**Canada Immigration Case law Canada, Rezmuves, IMMIGRATION — Refugee status — Procedure**

IMMIGRATION — Refugee status — Procedure — Trial de novo ordered where file lost — Refugee claimant was Roma citizen of Hungary who alleged fear of persecution by reason of Roma ethnicity — Board found that claimant was not Convention refugee nor was he person in need of protection — Determinative issue was credibility and in alternative, state protection — Claimant applied for judicial review — At commencement of hearing claimant requested that court grant hearing de novo for claimant as Board's file had been lost and Board had provided recreated certified copy of Tribunal Record which contained Board decision, Board reasons, National Documentation indexed for Hungary and transcription of Board hearing — No Personal Information Form or affidavit were contained in recreated record — Application granted; matter remitted to different panel of Board for redetermination by way of hearing de novo — It is always important to have complete record when deciding judicial review application — In some cases, missing part of record may not be significant — However, in case such as this where credibility was determinative issue, it was necessary to have record which included Personal Information Forms and any filed affidavits

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