

Signed by Minister 17 December 2010

F-5395

SECRET

MEMORANDUM TO THE MINISTER

AMENDMENTS TO CITIZENSHIP REGULATIONS
REGARDING LANGUAGE REQUIREMENTS

FOR APPROVAL

SUMMARY

- On December 6, 2010, you considered a deck on "Improving Citizenship Language Assessment" and agreed to the recommended approach.
- In order to implement this approach, we recommend that ss. 3 and 14 of the *Citizenship Regulations* be amended.
- Your approval of this recommendation to pursue regulatory change is requested by December 16, 2010 to enable preparation of the regulatory package with a view to having changes pre-published in spring 2011 for implementation during fall 2011 (see estimated timeline in Annex A).

BACKGROUND:

- Applicants for citizenship must demonstrate that they have an "adequate knowledge of one of Canada's official languages" (s. 5(1)(d) *Citizenship Act*, "the Act"). Section 14 of the Regulations requires applicants to have a basic comprehension of English or French.
- You have decided to introduce a new approach to language assessment, requiring applicants to provide evidence of language ability with their initial citizenship application. Such evidence would assist citizenship judges in deciding whether an applicant meets the official languages criteria as set out in the regulations. The language skills to be demonstrated are listening and speaking.
- You have previously decided that the appropriate language standard for citizenship, which most closely meets the regulatory criteria, is CLB/NCLC 4 (F-3728, February 5, 2010). The citizenship knowledge test is written at this level. Language screening and assessment tools,

which were rolled out in Fall 2010, are likewise designed to assess whether applicants meet the CLB/NCLC 4 level.

- Changes to the language testing regime to improve assessment of citizenship applicants' language skills are part of the Citizenship Action Plan, which you presented to the Social Affairs Committee in June 2009.

CONSIDERATIONS:

- Regulatory amendments are required to implement the new assessment regime. The amendments would:
 - require applicants to file evidence of adequate knowledge of an official language;
 - describe a non-exhaustive list of preferred evidence;
 - modify the official language criteria to more closely align with the descriptions at the CLB/NCLC 4 level.
- Regulation 3(4) sets out the material required to be filed with an application for citizenship. The proposed amendment would add to this list evidence that establishes that the applicant has an adequate knowledge of one of the official languages of Canada. Making this a regulatory requirement will allow the application to be returned, with refunded fee, if an applicant fails to file any language evidence.

Due to the limits under the Act, the regulations cannot prescribe an exhaustive list of evidence to show language ability. Therefore, we recommend that the evidence be described in a generic way in the regulations. The evidence would be acceptable external test results, either from the immigration process or taken specifically for the purpose of citizenship; or alternative evidence, such as assessments done as part of acceptable language instruction for newcomer programs, secondary or post-secondary education in English or French. Further details of acceptable tests and other evidence that establishes that the applicant meets the desired level of official competence would be spelled out in administrative guidelines. Administrative description of this evidence would allow for new tests to be added when they become available, such as the CLB/NCLC achievement test which is currently being developed by the Department, without the need to change the regulations.

- We recommend that reg. 14 be amended to more clearly describe the criteria for assessing knowledge of an official language, thereby assisting applicants, CIC officials and citizenship judges. The regulation currently states:

14. The criteria for determining whether a person has an adequate knowledge of one of the official languages of Canada are, based on questions prepared by the Minister,

- (a) that the person comprehends, in that language, basic spoken statements and questions; and
- (b) that the person can convey orally or in writing, in that language, basic information or answers to questions.

- The amendment would reflect your decision to test speaking and listening and would capture the key elements of CLB/NCLC 4 requirements, such as the ability to take part in short informal conversations, have some control of basic grammatical structures and tenses, have sufficient vocabulary for routine everyday oral communication and follow simple short direct questions related to personal experience and general knowledge.
- This amendment will modify the official languages criteria to ensure that those criteria more closely align with the descriptions at the CLB/NCLC 4 level. It will eliminate the current legal risk that applicants are being assessed (through the language assessment tools) against a level of language proficiency not reflected in the wording of the existing regulatory criteria.
- We also recommend removing the requirement that questions be prepared by the Minister to allow the use of external tests.
- Because of the desire to expedite these changes to the regulations, you may wish to seek from your colleague, Minister Day, urgent consideration of this proposal by the Treasury Board, to reduce the usual three-week period required between submission of the proposed amendment to PCO and the Treasury Board meeting. Treasury Board requests that such letters be discussed in advance between your chief of staff and his counterpart at the Treasury Board.
- We recommend that the regulations come into force on a fixed date in Fall, 2010, the exact date to be determined once key implementation details are worked out. As it is not likely this date will be known in time for the pre-publication of the regulations, the coming into force date will be reflected in the final regulatory package. Applications submitted after the amended regulations come into force would be subject to the new regulatory requirements.

CONSULTATIONS:

- Legal Services, Regulatory Affairs and Communications have been consulted.

COMMUNICATION IMPLICATIONS:

- The change to the language assessment process for citizenship will generate interest among citizenship applicants and the ethnic media. In the context of the high profile changes to the citizenship study guide and the citizenship test, the general public and mainstream media will be interested in this change as well.
- Public criticism regarding recent changes to language requirements for immigration applicants (skilled worker and experience class) will also draw comparisons to changes to the citizenship process.

- Messaging should explain the importance of language ability for success in Canada and active citizenship and that the new process will assist in a more objective determination of language ability. It will also be emphasized that the level of required language ability has not changed, but that the amendment to reg. 14 will clarify the requirements.
- Messaging should explain that alternative evidence of language ability would be accepted in the citizenship context whereas it is no longer accepted from Skilled Worker and Canadian Experience Class principal applicants in the immigration context.
- Responsive media lines would be prepared if required.

RESOURCE IMPLICATIONS:

- Funding for regulatory development and implementation will be absorbed internally.

RECOMMENDATION:

- We recommend that you approve proceeding with the regulatory amendments, including amending the criteria for assessing whether an applicant has an adequate knowledge of official languages as well as adding a requirement that applicants file evidence of adequate knowledge of official languages with their applications. We also ask you to indicate whether you will request urgent consideration of the proposed amendment. If you approve, we will return with the regulatory pre-publication package for your signature.

Neil Yeates

I concur

The Hon. Jason Kenney, PC, MP

Attachment:

- A. Estimated Timelines for Citizenship Regulation 3 and 14 Amendments

ANNEX A

Estimated Timelines for Citizenship Language Regulatory Amendments

Action	Time Frame
Policy Approval by Minister	December 16, 2010
Final documents (Blue Stamps, Comms plan and RIAS)	Package completed by February 8, 2011
Internal approvals <ul style="list-style-type: none"> Internal Sign-off (DGs, ADMs, DM and Minister) 	February 8-15, 2011
Regulatory Package to PCO	February 15, 2011 (by noon)
TB meeting	March 10, 2011 (TBC)
Pre-publication in the Canada Gazette	March 19, 2011
End of pre-publication period	April 17, 2011
Review and update	mid-April- August 2, 2011
Internal approvals (2 weeks)	To begin August 2, 2011
Regulatory Package to PCO	September 2, 2011 (by noon)
TB Meeting	September 22, 2011 (TBC)
Registration	(within a day of TB meeting)
Final publication	Within 23 days of registration
Coming into force	Fall, 2011