

F-6641

MEMORANDUM TO THE MINISTER

CITIZENSHIP LANGUAGE REGULATORY PROPOSAL: UPDATE AND DRAFT NOTICE OF INTENT

FOR APPROVAL BY COB 5 OCT, 2011

SUMMARY

- This note is to seek your approval of the enclosed draft Notice of Intent (NOI) to amend the *Citizenship Regulations*, to be published in the *Canada Gazette, Part I*. The amendments would introduce a requirement for citizenship applicants to provide objective evidence of language ability with their citizenship applications. Through this note we also provide an update on recent developments regarding this proposal.
- The Department has been working with the Treasury Board Secretariat (TBS) to clarify the proposal and to meet TBS requirements. In addition, we have consulted provincial/territorial partners and third-party language testing bodies.
- The Regulatory Affairs Sector of TBS supports CIC's intention to publish this NOI as part of the regulatory development process. Publishing an NOI will support wider consultation with other stakeholders prior to pre-publication of the proposed Regulations.
- Should you approve the draft NOI by October 5, 2011, we anticipate its publication on October 15, 2011.

BACKGROUND:

- In December 2010, you approved a recommendation to pursue changes to the *Citizenship Regulations* (Regulations) to introduce a new approach to language assessment for citizenship, requiring applicants to provide objective 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 would be listening and speaking and the language level required would remain Canadian Language Benchmark/ *Niveaux de compétence linguistique canadiens* (CLB/NCLC) level 4 (basic fluent proficiency).
- As outlined in the departmental presentation in December, the proposed list of preferred evidence is a third-party test; secondary or post-secondary education in English or French; or evidence of CLB/NCLC 4 in a government-funded language training program. Given that applicants will need to prove their language ability before they apply, we expect there will be a reduction in use of the language screening and assessment tools by citizenship officials and judges. However, those tools

will continue to provide a useful quality assurance check if an applicant does not appear to truly meet the language requirements.

- The proposal is designed to work within existing legislative authorities. As part of our advice to you on options to comprehensively reform the *Citizenship Act*, the Department is preparing advice on legislative proposals which would provide stronger authorities to return incomplete applications and to designate acceptable evidence in the future if desired. This regulatory proposal is in line with changes to the legislation recommended to streamline and strengthen integrity in the longer-term.

CURRENT STATUS:

- The Triage assessment required by TBS for all regulatory proposals revealed that this is a High impact proposal. This means that the Department must provide a Performance Measurement Evaluation Plan and a full Cost Benefit Analysis, demonstrating that the benefits of the proposal justify the costs, prior to prepublication of the proposed Regulations. Work is well advanced on both these documents. The Department has also begun preparing for implementation of the new regime.
- We have commenced federal/provincial/territorial discussions concerning provision of evidence to students who have achieved CLB/NCLC 4 in government-funded language training programs. It is anticipated that evidence will be available through the federally-funded Language Instruction for Newcomers to Canada (LINC)/*Cours de langue pour les immigrants au Canada* (CLIC) program and through the unified federal/provincial programs in British Columbia, Manitoba and Quebec.
- We have commenced consultations with third-party testing bodies concerning provision of appropriate French and English language tests for speaking and listening which may be used for citizenship applications. As discussed in December, we would also accept third-party tests which an applicant may have previously completed for other purposes, such as immigration to Canada.
- In order to facilitate wider consultation with external stakeholders, the Department is proposing to publish an NOI in the *Canada Gazette*, followed by a 30 day comment period from October 15-November 14, 2011. The Regulatory Affairs Sector of TBS supports CIC's intention to publish this NOI as part of the regulatory development process. This would assist in fulfilling the consultation requirements in section 4.1 of the *Cabinet Directive on Streamlining Regulations*.
- Following the NOI consultation period, we anticipate incorporating comments received and preparing a pre-publication package for your approval in early 2012. Given the Christmas parliamentary break, we anticipate Treasury Board consideration of the package in early February 2012, with pre-publication in *Canada Gazette* shortly thereafter. It is expected that final publication would take place in April 2012. A high-level critical path is attached.
- We expect that the Regulations would be implemented in Fall 2012. In the context of implementation planning, consultations with provincial colleagues, the Operations sector and Communications indicate that it is desirable to have a fixed commencement date a few months after final publication. This would allow for operational readiness, appropriate transitional arrangements and provision of sufficient notice to applicants concerning new requirements.

CONSULTATIONS:

- Legal Services, Operational Management and Coordination, Centralized Processing Region, Integration, Integration Program Management, International and Intergovernmental Relations, Regulatory Affairs and Communications have been consulted.
- Approval of the NOI is within Ministerial authority and requires no other formal approval. However, TBS has been consulted.

RESOURCE IMPLICATIONS:

- The regulatory proposal will be implemented within existing resources.

COMMUNICATION IMPLICATIONS:

- Communications supports the increased profile approach of publishing an NOI prior to pre-publishing the regulatory change. This proposed change is likely to cause concern for applicants who will want to know what this change will mean for them. It will also be of interest to language schools and immigration consultants.
- Communications recommends issuing a news release in coordination with the publication of the NOI. A supporting package of media lines/questions and answers will be drafted. Web text will be drafted and social media promotion will be used as required.
- The publication of the NOI coincides with the launch of Citizenship Week, which takes place during the third week of October. This presents an opportunity to position the proposal as an initiative to strengthen the value of Canadian citizenship, while celebrating our shared identity. You will have an opportunity to highlight the proposed change and discuss program improvements at speaking engagements to mark Citizenship Week.

RECOMMENDATION:

- We recommend you approve the publication of the attached NOI, in both official languages, in the *Canada Gazette* (see Attachments 2 and 3), by signing this memo by close of business on October 5, 2011.

Neil Yeates

I concur

I do not concur

Attachments (2):

1. High level critical path
2. Notice of Intent – English
3. Notice of Intent – French

The Hon. Jason Kenney, PC, MP

Citizenship language regulatory proposal - high level critical path

Notice of Intent

- Submit to *Gazette* By noon on October 6, 2011
- Publication period for public comment October 15 to November 14, 2011

Pre-publication of Regulation (anticipated)

- Review and update of proposal based on public comments. November 2011
- Finalise Regulatory Package December 2011
- Package to Minister January 2012
- TB meeting February 2012
- Pre-publication period for public comment February-March 2012

Final publication of Regulation (anticipated)

- Review and update proposal based on pre-publication comments. March 2012
- Package to Minister April 2012
- TB meeting April 2012
- Coming into force of regulations Date to be determined.

DRAFT

GOVERNMENT NOTICES

DEPARTMENT OF CITIZENSHIP AND IMMIGRATION

CITIZENSHIP ACT

Notice requesting comments on a proposal to require applicants to furnish upfront evidence of language ability showing achievement of at least Canadian Language Benchmark/ Niveaux de compétence linguistique canadiens (CLB/NCLC) level 4 in speaking and listening with their citizenship application.

Summary

The *Citizenship Act* (Act) requires that applicants for an adult grant of citizenship demonstrate that they have an "adequate knowledge of one of the official languages of Canada" (paragraph 5(1)(d) of the Act). Citizenship and Immigration Canada (CIC) is inviting written comments from all interested parties on a proposal to amend the *Citizenship Regulations* (Regulations) which would introduce a requirement for applicants to provide evidence that they meet this legislative requirement when they submit their application for citizenship. This proposed measure would apply to all adult citizenship applicants who must meet the language requirement. Currently those between the ages of 18 and 54 must meet the language requirement, representing approximately 134,000 applicants per year. All such applicants would be impacted by the proposed requirement and would be asked to provide evidence showing that they have achieved at least Canadian Language Benchmark/ *Niveaux de compétence linguistique canadiens* (CLB/NCLC) level 4 with their citizenship application. The proposal would not increase the language level required for citizenship but would provide citizenship officials and judges with objective evidence of an applicant's language ability.

Background

The acquisition of citizenship is a significant step in the integration process for newcomers to Canada. Given the vital importance of newcomers' language abilities in their successful settlement and integration, the *Citizenship Act* (Act) requires that applicants for an adult grant of citizenship demonstrate that they have an "adequate knowledge of one of the official languages of Canada" (paragraph 5(1)(d) of the Act).

Under the current system, language is largely assessed through a multiple choice written test which also assesses an applicant's knowledge of Canada and of the responsibilities and privileges of

citizenship (a separate requirement under paragraph 5(1)(e) of the Act). The written test is an inadequate proxy for assessing language as it does not adequately assess listening and speaking skills, which are the essential language skills for effective communication with fellow Canadians and for effective integration. If an applicant fails the written test, or if concerns about their speaking or listening ability are flagged following oral interactions with a citizenship official, the applicant is referred for an interview with a citizenship judge. This is inefficient for citizenship processing and does not provide good client service as the processing fee has been paid and there can be a substantial time delay between submission of the application and a subsequent hearing for language.

This Notice of Intent is to signal an intention to include a regulatory requirement for applicants to include evidence of compliance with the official languages criteria when submitting their application. The objective of the proposed regulations would be to require applicants to meet the language requirement when they file their application, thus strengthening the integration of newcomers by improving language outcomes and encouraging their full participation in Canadian society. This proposed requirement would also make the application process more efficient and reduce administrative burden by enabling CIC to return applications with the complete fee and a letter advising the applicant that they have not submitted satisfactory evidence of compliance with the official languages requirement. Furthermore, requiring evidence of language ability would provide citizenship judges, who are the decision-makers on citizenship applications, with additional objective evidence on which to base their decisions.

Along with the proposal to introduce a regulatory authority to require that evidence of language be submitted with an application, CIC is also proposing a specific amendment to the Regulations to establish clearer language assessment criteria that align with the established CLB/NCLC 4, which is the current required level for citizenship. The CLBs/NCLCs are the nationally accepted benchmarks to measure the proficiency of adult immigrants in both official languages as a second language. Moreover, clarifying that the language skills required are listening and speaking would enable greater transparency and consistency in language assessment. These proposed changes would not increase the language level required for citizenship.

Description

Citizenship and Immigration Canada proposes to introduce amendments to section 3 of the Regulations to require applicants to furnish evidence of language ability with their citizenship application. Such evidence could include third-party language tests or alternative evidence. Administrative guidelines would provide a list of preferred language tests which are correlated with the Canadian Language Benchmarks, such as tests which are currently accepted for immigration purposes to Canada and alternative evidence could include completion of secondary or postsecondary education in French or English or achievement of a certain level in a language training course like the federally-funded Language Instruction for Newcomers to Canada (LINC).

It is proposed that tests previously done by the applicant and accepted for other purposes, such as immigration to Canada, would also be considered acceptable for citizenship purposes. It is expected that the majority of citizenship applicants would already have evidence that they could submit with their application. Therefore, the requirement is not anticipated to pose a burden on the majority of applicants who would already have available to them the evidence of complying with the official languages requirement.

It is also proposed to amend section 14 of the Regulations to provide the ability to assess speaking and listening skills and to capture the key elements of CLB/NCLC 4 descriptors, such as the ability to take part in routine conversations about everyday topics, use basic grammatical structures and tenses, have sufficient vocabulary for routine oral communication and follow simple instructions and directions.

Finally, the proposed amendment to section 14 of the Regulations would also remove the current requirement that questions be prepared by the Minister, thereby allowing the use of external evidence.

Comments

Any person (including citizenship lawyers, stakeholders, provincial/territorial/municipal governments, interested groups, general public) may, within 30 days of this notice, provide their comments on this Notice of Intent, in writing, to the person named below at the address provided.

Comments would be appreciated on the proposed regulatory amendments to require that applicants provide up-front evidence of language ability showing achievement of at least CLB/NCLC 4 level in speaking and listening with their citizenship application.

Questions and request for additional information, as well as comments regarding this Notice of Intent, may be directed to Mary-Ann Hubers, Acting Director, Citizenship Legislation and Program Policy, Citizenship and Immigration, 180 Kent, 6th Floor, Ottawa, Ontario, K1A 1L1, 613-998-1756 (telephone), 613-991-2485(fax), mary-ann.hubers@cic.gc.ca (email).

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