

ABH

Executive Summary of Citizenship Reform Proposal #5:
Citizenship for Persons Born Before January 1, 1947

ISSUE:

Addressing cases of those born prior to January 1, 1947, the date the first Canadian Citizenship Act came into force, who did not acquire citizenship at that time.

RECOMMENDATION:

Amend the *Citizenship Act* to restore or give citizenship retroactively back to January 1, 1947 to those born or naturalized in Canada, who subsequently lost status didn't become citizens on January 1, 1947; to British subjects not with "Canadian Domicile" (as that term was defined under the relevant immigration legislation in force at the time) but ordinarily resident in Canada prior to January 1, 1947 and didn't become a citizen on January 1, 1947; and to persons born outside of Canada whose parent was born or naturalized in Canada or was a British subject not with "Canadian domicile" but ordinarily resident in Canada prior to January 1, 1947.

RATIONALE:

Consideration of an amendment to the *Citizenship Act* was requested to address cases of those born prior to 1947 who did not become Canadian citizens on January 1, 1947.

CONSIDERATIONS:

Fixing cases of those born prior to 1947 can be done in several ways. Changing the date upon which citizenship as a legal status was created is one way to do it and is legislatively possible, however is not recommended as the policy and legal implications would be significant, the change may not achieve the desired goal, and the work required to make such a significant change to citizenship legislation could jeopardize the timelines of tabling a bill. For these reasons, targeted options are proposed to give citizenship to this group.

Stakeholders will likely welcome changes to fix this group of people. However, questions as to whether the Department has considered options for other "Lost Canadians" (i.e. failed retentions or stateless persons who were born abroad in the second generation or beyond) may be raised.

Changes to address this group will require changes to the program (i.e. training, system changes) for a potentially small number of people. It is not expected that additional resources will be required.

OPTIONS:

Option 1: Amend the *Citizenship Act* to allow for a grant of citizenship (day forward) for groups mentioned above. Option is similar to what was done from 1977-2004 allowing for a grant for children born between January 1, 1947-February 14, 1977 in wedlock to Canadian mother and later for those born out of wedlock to a Canadian father. Option may have higher operational impact than recommended option as clients would need to come forward and apply for grant.

Option 2 [recommended]: Amend the *Citizenship Act* to restore or give citizenship retroactively back to January 1, 1947, to groups mentioned above. Citizenship would be restored or given by "operation of law" and would not require persons to come forward resulting in less operational impact. Option would be similar to retroactive amendments of 2009. Retroactivity may have unintended consequences.

Citizenship by Birth on soil - Implementation Scenarios

Option 1: Provinces and territories (PTs) to risk-manage access to benefits. No changes would be made to the Canadian birth certificate to indicate whether a person born in Canada is Canadian.

Considerations:

- PTs would risk-manage access to benefits and services, potentially offering services to non-citizens born in Canada, while the Federal Government would require proof of citizenship for passport applications.
- No large-scale changes to PT or Federal Government systems required for this implementation scenario.
- Potential increase in requests for **long-form birth certificates** (which indicate parents' names) from PTs, to prove citizenship for federal benefits.
- Potential small increase in **applications for citizenship certificates** as some citizens may prefer to have one document proving citizenship.
- **Integrity of policy** would be significantly undermined given that non-citizens could continue to have access to PTs services and benefits.
- Potential increase in applications for **passports for minors** as birth certificates may no longer be acceptable for entry into the US.
- May be conducive to an MC in 2012-2013.

Option 2: PTs agree to modify the birth certificate so that it shows whether or not the person is a citizen.

- PTs would make changes to the Birth Certificate to verify and record the citizenship status of the applicant when issuing a birth certificate.

Considerations:

- Long negotiation with PTs would be required to implement given significant costs for PTs to introduce the ability to verify and record the status of parents in the birth certificate process. May not therefore be conducive to a Memorandum to Cabinet (MC) in 2012-2013.
- There could be an increase in the cost of birth certificates to absorb the cost of changing the systems.
- Potential small increase in **applications for citizenship certificates**.
- Would require expansion of the **e-verification portal** to PTs to enable them to verify validity of a parent's citizenship certificate in cases where child has a naturalized parent who was issued a new citizenship certificate.
- **Integrity of the policy** could be slightly undermined if not all PTs implement make the necessary changes to processes and systems.
- No anticipated significant increase in applications for **passports for minors** as birth certificates would likely continue to be acceptable for entry into the US.

Option 3 (recommended): Australian approach – PTs use a combination of documents to prove citizenship.

- Birth certificate (long form to show parent information) along with a second document showing status of parents at time of birth to be used to prove citizenship status when applying for FPT services and benefits.

Considerations:

- PTs could expand the existing **long-form birth certificate** business line to meet the requirements of the new policy and may be able to cost-recover increased costs associated with increased production of certain types of certificates.

- Potential increase in costs for PTs and federal departments given that where birth certificate can currently be used as reliable proof of citizenship, they would now have to use two documents to make similar conclusions.
- No significant impact on **Canadians born in Canada** after the change, although using a combination of documents to prove citizenship may be difficult in the long-run if documents proving parents' status are not easily available.
- No significant increase anticipated on **citizenship certificate** line of business.
- Would require expansion of the **e-verification portal** to PTs so they could verify validity of parent's citizenship certificates in cases where child has a naturalized parent who was issued a new citizenship certificate. Portal may also need to be expanded to include permanent resident (PR) data as PTs may need to verify parental PR status at the time of a child's birth some time after the birth.
- **Integrity of policy** could be slightly undermined due to increased margin of error when PTs and Federal departments assess eligibility using a combination of documents.
- Potential increase in applications for **passports for minors** as birth certificates may no longer be acceptable for entry into the US.
- May be conducive to an MC in 2012-2013.

Option 4: CIC produces 350,000 more proofs and funding to shorten processing times if PTs and GoC require that a citizenship proof be provided for access to services

- No changes would be made to birth certificates as CIC would be responsible for issuing proof of citizenship for all citizens born in Canada.

Considerations:

- Minimal costs for PTs, although there could be an increase in requests for **long-form birth certificates** (in support of citizenship certificate applications).
- Depending on service standards for issuance of citizenship certificates, may be frustration if clients cannot access key services while waiting for a citizenship certificate from CIC.
- Significant impact and costs for **Canadians born in Canada** after the change as they would need to apply for proof of citizenship from CIC, and potentially a long-form birth certificate from PTs.
- Significant costs for the Federal Government to be determined given that CIC **citizenship certificate** processing volumes may increase significantly – by up to 300K. Under current scheme, CIC could not cost recover for increased processing volumes.
- **Integrity of the policy** would be fully upheld.
- Potential increase in applications for **passports for minors** as birth certificates may no longer be acceptable for entry into the US.
- Would represent significant increase in use of **e-verification portal** by Passport Canada who would need to verify validity of citizenship certificates of all persons born in Canada after the change in policy in order to assess eligibility for passports and would require expansion of portal to PTs to verify validity of citizenship certificates for those born in Canada after the change.
- May be conducive to an MC in 2012-2013.