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F-4720

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MEMORANDUM TO THE MINISTER

INCREASING THE AGE WAIVER FOR CITIZENSHIP LANGUAGE AND KNOWLEDGE REQUIREMENTS

FOR DECISION

SUMMARY

- As per your request, this memorandum provides options for increasing the age at which citizenship applicants are exempted from having to meet the language and knowledge requirements of the *Citizenship Act*.
- Two options are presented: 1) increasing the exemption to those aged 60 and over; and - 2) increasing the exemption to those aged 65 and over.
- Both options would increase program integrity, but the operational impact on the citizenship program would increase with an estimated 17,000 more applicants being tested. This could lead to more hearings, more requests for waivers for medical reasons and longer processing times.
- Should you wish to increase the age of the language and knowledge waiver, we request that you approve option 2 by signing this memo. Option 2 would best promote a greater understanding of the rights and responsibilities of citizenship, and would reinforce the importance of official language ability and Canadian values, as tested by the process.

BACKGROUND:

- The *Citizenship Act* requires applicants for an adult grant of citizenship under subsection 5(1) to meet several requirements including possessing an adequate knowledge of one of the official languages of Canada and an adequate knowledge of Canada and of the responsibilities and privileges of citizenship. These requirements are considered necessary in order to support full participation in Canadian society.
- Subsection 5(3) of *the Act* provides the Minister with the authority to waive the language and knowledge requirements for any person on compassionate grounds. This provision is used to waive the requirements in cases, for example, of medical incapacity. In addition to being used

on an individual basis, this waiver is also used to routinely exempt persons over a certain age from meeting these requirements. Since 2005 this waiver has been used to exempt people who are 55 years of age and over from having to take the citizenship test. Prior to 2005 the waiver applied to people 60 years of age and over.

- The 2005 decision to lower the age at which language and knowledge requirements are administratively waived from 60 to 55 was made on the basis of a Ministerial decision to extend the “compassionate grounds” authority and to decrease the number of applicants required to write the test. Persons aged 55 to 59 represented approximately 3.3% of applicants who benefitted.
- No amendments to the *Citizenship Act* or the *Citizenship Regulations* would be required in order to adjust the waiver exemption age. **Because the discretionary authority for the Minister to waive the language and knowledge requirements is provided in the *Act*, lowering the age based on compassionate grounds in 2005 was completed as an administrative policy on direction of the Minister.** This waiver is addressed in the delegation memorandum provided to each incoming Minister (*Memorandum to the Minister: Delegation of Authority Instrument to Grant and/or Approve Applications with Respect to Citizenship Pursuant to the Citizenship Act and Regulations* (F-2700)).

CONSIDERATIONS:

Should you wish to increase the age at which an applicant becomes exempt from having to write the citizenship test, and thus from having to meet the language and knowledge requirements, two options have been developed for your consideration.

- **OPTION 1:** Increase the exemption age from the current policy of 55 and over to 60 and over.

MAIN PROS: Option 1 would enhance program integrity; promote a better understanding of the rights and responsibilities of citizenship; reinforce the importance of official languages and of Canadian values; bring Canadian policy more in line with approaches in the US and Australia; and would allow the Minister to retain the authority to waive requirements for compassionate reasons on a case-by-case basis. This option is likely to result in fewer negative operational impacts than option 2.

MAIN CONS: Increasing the exemption age would increase the operational impact on the citizenship program by increasing the number of people who require testing by approximately 9,000. This would lengthen wait times. Recent monitoring results have not shown a difference in pass rate by age for those under 55. However, historical data suggests age is a factor. Therefore, there is a risk that the pass rate may decrease if the age waiver is increased. Any decrease in the pass rate may lead to a greater number of Federal Court appeals than is currently the case.

- **OPTION 2:** Increase the exemption age from the current selection of 55 and over to 65 and over.

MAIN PROS: This option would best support program integrity; promote a greater understanding of the rights and responsibilities of citizenship; and reinforce the importance of official languages and of Canadian values to a greater extent than option 1. This option would result in an approach similar to that of the UK. However, Canada's approach would be stricter than Australia's (see Annex A for a comparison).

MAIN CONS: When compared to option 1, increasing the age waiver by 10 years would result in a greater operational impact due to the approximately 17,000 more applicants who would need to meet the requirements per year; this would likely lead to lengthier wait times than option 1. There may be a greater impact on the pass rate, appeals and mandamus applications than in option 1. This option may be interpreted publicly as being unfair to older applicants and a greater shift away from Canada's traditionally facilitative approach to citizenship.

TRANSITION:

- Managing the transition to a new policy will be critical to its success and to mitigating criticism from impacted stakeholders. In fairness to applicants over the age of 54 who applied before the introduction of a new policy on the expectation that they would not be tested, and to minimize any risks of legal challenges, it is recommended that as a transition approach, only applications received **after** the announced implementation date would be subject to the new policy. All applications received **prior to** the implementation date would be subject to the current policy.
- Furthermore it is recommended that in order to give applicants time to become aware of the changes, the implementation date be two months from the announcement of the change in policy. This will allow information about the changes to be disseminated to the public. A more complete description of transition implications is outlined in Annex B.

RESOURCE IMPLICATION(S):

- Both options will result in a greater number of tests, hearings and requests for a waiver of language and knowledge based on medical reasons. Without funding to accompany this change, this will mean increased processing times for all grants (currently 80% of grants are completed within 15 to 19 months), and longer wait times to see a judge in a hearing. This adds to the challenges of implementing the other Citizenship Action Plan initiatives currently underway such as the new citizenship test with a higher pass mark, new assessment tools for judges and officers to assess language, and other initiatives to address program integrity in relation to residence fraud. The cumulative effect of these initiatives will likely lead to an increased number of hearings, longer wait times, longer processing times, and potentially more appeals and mandamus applications unless sufficient time savings can be found in the current business redesign work being led in the operations sector.
- Changes to GCMS will be required. Currently GCMS has the capability to filter scheduling and do queries on grant applicants 55 years of age and older. Changes will also be required to the adult grant acknowledgement letters produced in GCMS.

- Changes will also be required to departmental publications including: *Discover Canada: The Rights and Responsibilities of Citizenship, Canadian Citizenship, How to Become a Canadian Citizen* and *Welcome to Canada*. Changes will also be required to operational manuals, application kits and websites.
- Should the pass rate decrease, people may reapply, increasing the volume of applications. Alternatively, people may choose to wait until they are exempt before applying, which may lead to fewer applications.

COMMUNICATION IMPLICATION(S):

- Communications messaging will focus on this change as strengthening the value of citizenship by ensuring that more new citizens have the language and knowledge skills necessary to participate fully in Canadian society.
- A responsive media lines package would be prepared.

RECOMMENDATION(S):

- Should you wish to increase the age of the waiver Option 2 is recommended as it will strengthen the value of citizenship. If you agree we will begin work to support the transition.
- Impacts will be closely monitored with updates provided to you, as required.

Neil Yeates

I concur

The Hon. Jason Kenney, PC, MP

Attachments (2):

- Annex A: International Comparison
- Annex B: Transition

ANNEX A

International Comparison - Exemption from Citizenship Testing Requirements in 5CC Countries

Country	Current Exemption Age
Canada	55
USA	* Language test exemption: age 50 + 20 years residence, age 55 + 15 years residence; Simplified civic knowledge test: age 65 + 20 years residence
Australia	60
UK	65
NZ	No citizenship test

*The US exemption model takes age and length of residence into consideration when determining if an applicant is exempt from language and knowledge requirements (e.g. age 50 + 20 years residence or 55 +15 years of residence = language exemption and ability to take civics test in native language). The system makes it easier for long-term residents to acquire citizenship. While it is easy to have your language requirement waived if you are a long-term resident, the civics test/knowledge requirement is seldom waived. A simplified version of the civics test is provided to individuals who are 65 and have lived in the US for 20 years (applicants study from a reduced pool of questions).

Considerations of US model:

- The American system is complex and cumbersome. Sorting applications by length of residence and age to determine who is required to write the test would likely increase the amount of time that it takes to schedule testing events (GCMS impacts must be taken into consideration), with little to be gained as a result. Furthermore, the US decision to only exempt long-term residents from the language requirement to the exclusion of the knowledge requirement, makes the system even less useful in the Canadian context, where for the majority of cases, language and knowledge are currently both assessed simultaneously via the citizenship test.
- In some ways, the US and other models may be seen as placing less of a burden on applicants. For example, test questions and answers are made publically available and individuals of a certain age and length of residence have the option of taking the test in the language of their choice.
- In Australia the test is based on one section of the guide and applicants may retake the test as many times as they like.

ANNEX B

TRANSITION:

Managing the transition to a new policy will be critical to its success and to mitigating criticism from impacted stakeholders. The current policy of testing those between the ages of 18 and 54 is referred to in several departmental publications, including Discover Canada, on application forms and guides and on the website. All of these products would need to be amended, or at the very least an addendum insert added to published versions. Publicity would need to be given to the new policy.

In fairness to applicants over the age of 54 who applied before the introduction of a new policy on the expectation that they would not be tested, and to minimize any risks of legal challenges, it is recommended that as a transition approach, only applications received **after** the announced implementation date would be subject to the new policy. All applications received **prior to** the implementation date would be subject to the current policy.

Furthermore it is recommended that in order to give applicants time to become aware of the changes, the implementation date be two months from the announcement of the change in policy. This will allow information about the changes to be disseminated to the public. While the potential for a surge in applications during the two month transition period cannot be ruled out entirely, a brief period between announcement and implementation would serve to raise public awareness of the new policy without encouraging a greater surge in applications by people looking to apply under the current rules. The potential for a large surge could be greater under a lengthier transition scheme.

This recommended transition approach means that applicants who apply after the implementation date will be subject to the new requirements but those who applied before the implementation date will not be tested. Although the more stringent policy would be in effect, given that processing times are currently 15 to 19 months, it will be several months after implementation before those aged over 54 are tested.

The current practice of exempting individuals who reach the waiver age at the time of testing but who were below the waiver age on the date of application would facilitate transition to the new regime.