



February 26, 2019

Via email: IRCC.SPPElectronicAdmin-AdminelectroniquePSP.IRCC@cic.gc.ca

Patrick McEvenue
Director
Strategic Policy and Planning
Immigration, Refugees and Citizenship Canada
365 Laurier Avenue West
Ottawa, ON K1A 1L1

Dear Mr. McEvenue:

Re: Canada Gazette, Part I, Volume 153, Number 4: Regulations Amending the Immigration and Refugee Protection Regulations (Electronic Applications)

I write on behalf of the Immigration Law Section of the Canadian Bar Association (the CBA Section) to provide input on proposed amendments to the Immigration and Refugee Protection Regulations to facilitate the increased use of electronic tools in processing applications (the Regulations).¹

The CBA is a national association of over 36,000 members, including lawyers, notaries, academics and law students, with a mandate to seek improvements in the law and the administration of justice. The CBA Section comprises lawyers with an in-depth knowledge of citizenship and immigration law issues, including legislative changes, administration and enforcement.

Leveraging technology to improve processing efficiency is an important goal and the CBA Section supports this initiative. While we share with IRCC and CBSA the objective of expedient decision-making, administratively fair and judicious decision-making must take priority. Strong cooperation between all parties is critical to ensuring that the execution of electronic processing meets this standard. At a practical level, expediency at the expense of sound decision-making will result in a log jam of judicial review applications in the federal courts. The CBA Section offers the following comments and recommendations for improving the proposed Regulations.

Privacy

Mechanisms must be put in place to ensure that data collected through electronic processing is protected as required by privacy legislation and that information protected by solicitor-client privilege is not disclosed.

¹ [Regulations Amending the Immigration and Refugee Protection Regulations \(Electronic Applications\)](#), Canada Gazette, Part I, Volume 153, Number 4

Date and Time of Application

The date and time of an application must be communicated clearly; for clarity, a single time zone might be chosen to express the time an application is submitted (we suggest Pacific Standard Time to extend deadlines as late as possible in the day). This is particularly important for applicants inside Canada who are entitled to the benefit of implied legal status, and will need to know when that status begins and ends.

Live Technical Support

An online support center offering live support to troubleshoot in the event of a system malfunction is critical to the success of new electronic tools. To ensure a fair process, the system must include a mechanism for minimizing prejudicial technical errors, especially given the consequences of an applicant missing a deadline. Where an applicant has missed a deadline due to a system malfunction, IRCC must have the means to promptly advise the applicant of an extension of time (and an alternative way to submit, if necessary).

We also encourage ongoing collaboration to resolve and learn from current difficulties with the use of technology for immigration applications. We look forward to meeting with IRCC and CBSA staff on those matters.

Family Class

The CBA Section supports the additional proposed amendment requiring that sponsorship applications accompany applications for permanent residence (PR) in the family class. This change will streamline the process and reduce delay for applicants, promoting the objective of family reunification. We recommend several additional changes that would further advance this goal: 1) allow the PR applicant to submit the police clearance certificate (PCC) at a later stage, as it can take a long time for an applicant inside Canada to receive their PCC from their country of origin; 2) allow PR applicants to lock-in medical results so they are not required to pay for medicals numerous times due to a slow-down in processing; and 3) include on-line instructions for submitting an in-Canada spousal sponsorship application, clearly explaining the requirements and the case to be met.

Capacity and Expertise

Consequential proposed IRPR amendments allowing IRCC to direct, based on expertise and capacity, where non-electronic applications should be submitted must be cautiously implemented. Decisions should be made by officers with the most knowledge and expertise in dealing with a particular issue. We recommend that “centers of excellence” be created, each center handling a different kind of application with review by a team familiar with the relevant legal issues, which will maximize both expertise and expediency.

We appreciate the opportunity to comment on these proposed Regulations and would be pleased to discuss our recommendations in more detail.

Yours truly,

(original letter signed by Sarah MacKenzie for Marina Sedai)

Marina Sedai
Chair, CBA Immigration Law Section