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Change in Policy: Sponsorship of Spouses and Common-law Partners from within Canada

Frequently Asked Questions

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Q1: What is the change in policy?

The new spousal policy sets out that most spouses and common-law partners in a genuine relationship with a Canadian citizen or permanent resident, regardless of status, are able to apply for permanent residence while remaining in Canada. This change, however, only applies to situations where a family class sponsorship has been submitted.

Under the previous policy, the Spouse or Common-Law Partner in Canada Class was only available to spouses and common-law partners of Canadian

citizens or permanent residents who had valid temporary immigration status in Canada.

Applicants in the Spouse or Common-Law Partner in Canada Class are also permitted to include family members, living both in Canada and abroad, in their applications (i.e., applicants may have these applications processed at the same time).



Q2: I am a spouse or a common-law partner of a Canadian citizen or permanent resident and I reside with my spouse or partner in Canada. I have lost my legal status. How should I now apply to remain in Canada?

As of February 18, 2005, all spouses or common-law partners of Canadian citizens and permanent residents can apply in the Spouse or Common-Law Partner in Canada Class using the appropriate [application kit](#) (see [Question 1](#) for more information on the policy change).

You will not be able to work or study in Canada without the proper documentation. Applicants who do not have valid temporary immigration status are not permitted to apply for work or study permits until they receive initial approval (approval in principle).

[Check current processing times](#)



Q3: My application was refused. Can I have my application reconsidered under the new policy?

The Department has no authority to reconsider applications that have already been finalized. Refused applicants will need to reapply and pay a new set of fees to be considered under the new policy.



Q4: Doesn't this policy encourage relationships of convenience?

Relationships of convenience are not tolerated. Individuals found not to be in a *bona fide* (genuine) relationship will be removed from Canada.



Q5: Does this change in policy affect pending spousal applications overseas?

This policy change will not affect pending spousal applications overseas. Also, the Department will not be transferring applications from overseas to in-Canada processing centres. Spouses and common-law partners who want to apply from within Canada to be permanent residents must still show that they want to enter Canada for a legitimate temporary purpose (to visit, to work, to study). The Department will refuse visitor applications if the applicant is not a genuine visitor and if the Department believes that the applicant will not leave Canada when the visitor visa expires.

Applying from overseas remains the principal channel through which immigration to Canada occurs. The Department is committed to reuniting families, and the processing of spouses and common-law partners who are overseas will remain a priority. The Department aims to process 80% (currently, 58%) of these cases within 6 months compared to a wait of about 23 months for processing a humanitarian and compassionate spousal or

common-law application or a wait of up to six months for initial approval in the in-Canada class.



Q6: Given this policy change, what are the advantages of applying for sponsorship overseas?

There is no guarantee that a spouse or a common-law partner application in Canada will be approved. This considered, it is less risky for applicants to apply from overseas as opposed to uprooting themselves, moving to Canada and facing possible removal if they are not approved. Spouses and common-law partners who do not have valid temporary immigration status are unable to apply to work or study in Canada until they receive first-stage approval. Also, overseas spouse and common-law partner applications will continue to benefit from priority processing (see [Question 5](#) for more details on processing times).



Q7: I have requested humanitarian and compassionate consideration and my application is pending. How does this policy change affect me?

This policy change will apply to applications that are currently in process. The application of the new policy will, in most cases, be automatic. If additional information is required, you will be contacted by CIC (see [Question 1](#) for more information on the policy change).



Q8: I am a temporary resident permit (TRP) holder. How does this change in policy affect me?

People holding a TRP because they do not have valid temporary immigration status also qualify for this public policy. This also applies in cases where applicants with pending applications in the Spouse or Common-Law Partner in Canada Class were given a TRP at a mission or an embassy abroad or at a port of entry because they did not have valid temporary immigration status. People holding a TRP for reasons of inadmissibility other than lack of status cannot be granted permanent residence in the Spouse or Common-Law Partner in Canada Class.



Q9: I am the subject of a section 44 report. Am I eligible to apply to remain in Canada under this policy?

Yes, people who are subject to section 44 reports are eligible to apply for permanent residence using the application package for the Spouse or Common-Law Partner in Canada Class under this policy. However, people who are found to be inadmissible for reasons other than lack of status will not have their applications for permanent residence approved.



Q10. Does this announcement mean that people under removal orders who are married to a Canadian citizen or a permanent resident will be able to stay in the country until their application is assessed?

Most spouses and common-law partners can stay in Canada while their application is being processed. However, applicants who are under an enforceable removal order and who are not permitted to have a hold put on

their removal (administrative deferral of removal) will be required to leave Canada. Their application for permanent residence will continue to be processed and, if positive, the applicant will be able to return to Canada.



Q11: What is the advantage to spouses and common-law partners of being able to apply under the Spouse or Common-Law Partner in Canada Class?

The Spouse or Common-Law Partner in Canada Class is advantageous because the criteria are more objective than those used to assess applicants who have requested humanitarian and compassionate consideration. As well, processing times are shorter and successful applicants benefit from not having to meet certain requirements such as the requirement to meet the low-income cut off (LICO) and the requirement not to place excessive demands on Canada's health system. Lastly, applicants in the class also have the ability to include family members here in Canada and abroad in their applications (and have them processed at the same time).



Q12: What will the effect on processing times be with the change in policy?

Most processing times will not change, with the exception of spouse and common-law partner cases previously dealt with under humanitarian and compassionate consideration. These cases will benefit from priority processing, like cases processed in the Spouse or Common-Law Partner in Canada Class.

Outside Canada, the Department aims to process 80% of overseas cases within six months, compared to approximately 23 months for processing a humanitarian and compassionate spousal or common-law application in Canada or a wait of up to six months for an initial approval in the in-Canada class.

[Check current processing times](#)



Q13: Will the Department be changing the immigration regulations to include this policy change?

Regulatory changes are currently being planned to include this change in public policy.

