

CPD - Family class
Parents and grandparents sponsorship

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Intro – Historical perspective

- In 2014 CIC announced reopening of PG sponsorship, ending a two-year moratorium
- 2014 changes:
 - cap introduction, accepting only 5,000 new applications for PG
 - changed financial criteria (MIN = 30% above the LICO)
 - objective Financial information required (NOA from CRA)
 - sponsorship undertaking lengthened
 - Super-visa
- 2015 – cap 5000
- 2016 - cap 10000
- 2017 – introduction of a new intake process – the lottery system , interested sponsors within specified period first had to fill out an “Interest-to Sponsor” web form. IRCC randomly chose 10000 sponsors
- 2018 – lottery system
- 2019 – recognizing that the luck-based system for PG is deeply flawed
 - IRCC no longer randomly select potential sponsors, and instituted a “first-in, first served model”; In January 2019 IRCC began accepting online “interest to sponsor” submission for a limited time, accepting everyone until reaching 20000 (4 times higher than in 2015) * lawsuit
- 2020 – Interest to sponsor opened for 3 weeks (October 2013, 2020 until November, 3 2020), random selection applied ensuring fairness, transparency and equal opportunity , 10000* lawsuit
- 2021 – on July 20, 2021 – CIC announced that it will invite record number of people to apply under the 2021 intake , will accept 30,000 applications, using random selection process, reintroduction of the lottery system

* Lawsuit

- The federal government ended up making a secret settlement to quash two lawsuits that claimed the process was flawed and unfair. To resolve the group litigation, the government awarded applicants at least 70 spots, allowing them to sponsor their parents' or grandparents' immigration to Canada.
- Lawyers who were involved in the settlement of the lawsuits, which included a non-disclosure agreement, could not provide more info
- There are no public court records on the settlement.

** Lawsuit

- A Vancouver based litigator (barrister / advocate) launched a class action lawsuit against the government with regards to the sponsorship process.
- The structural design of the IRCC lottery system created an objective mathematical advantage that varied by the number of children or grandchildren eligible to sponsor. Nothing in the law, regulation, guidelines, or Ministerial Instructions favours family reunification of large families over small families.
- 49 JR appeals have been discontinued

Cont' – history - 2021

- The steps to apply to sponsor parents and grandparents are a bit different for the 2021 process
- IRCC invited enough people from the remaining 2020 pool of potential sponsors with the goal of accepting 30,000 new applications
- Invitations were sent over the course of two weeks between September 23, 2021 until October 3, 2021
- Using the pool of potential sponsors who have already submitted an interest to sponsor form in 2020
- IRCC won't open a new interest to sponsor form in 2021
- IRCC sent enough invitations to reach their goal of accepting 30,000 complete applications

2021 ITA

- If invited to apply, there are 2 applications that must be submitted and reviewed for the parents and grandparents program:
- the sponsorship application and
- the permanent residence application
- If both applications are approved, an undertaking agreement will be signed
- Undertaking starts on the day the sponsored person (and their family members, if this applies) becomes a permanent resident of Canada.

Legislative requirements to sponsor

A sponsor must be a Canadian citizen, permanent resident or status Indian who is:

- at least 18 years of age
- resides in Canada
- All sponsors **must**:
- meet the legislative requirements
- not be subject to a sponsorship bar [R133(1)]

Who can be a co-signer / could a co-signer be added

It can be **only** be a **spouse**, or a **common-law partner of a sponsor**

Income is calculated the same way as for the sponsor

The same sponsorship bars apply as for a sponsor

Can a co-signer be added after submitting a sponsorship undertaking?

Case Dokaj v Canada

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operati>

<https://www.canlii.org/en/ca/onali-bulletins-manuals/bulletins-2011/324-july-19-2011.html>

Sponsorship bars (S 133 IRPR)

- A permanent resident subject to a removal order (R133(1)(c))
- Detained in any penitentiary, jail or prison (R133(1)(d))
- Convicted of offences outlined in (R133(1)(e)(ii), R133(1)(e)(i.1) and (R133(1)(ii))
- Convicted outside Canada of an offence that, if committed in Canada, would constitute an offence referred to in R133(1)€ R133(1)(f)
- **In default of a family class sponsorship undertaking (R133(1)(g)(i)***
- **In default of spousal or child support payments ordered by a court within or outside Canada (R133(1)(g)(ii))**
- **In default of a debt owed under the IRPA (R133(1)(h))**
- An undercharged bankrupt under the Bankruptcy and Insolvent Act (R133 (1)(j))
- In receipt of **social assistance** other than for reasons of disability (R133 (1)(k))

*Default ends (S 135 IRPR)

S 135 (b) IRPR

- **b)** ends, as the case may be, when
- **(i)** the sponsor reimburses the government concerned, in full or in accordance with an agreement with that government, for amounts paid by it, or
- **(ii)** the sponsor ceases to be in breach of the obligation set out in the undertaking.

What's considered social assistance when sponsoring parents and grandparents?

- Under Canada's immigration law, if sponsor is receiving social assistance **other than for a disability**, sponsor is not eligible to sponsor family member.
- Social assistance income doesn't count toward total income
- Also, if sponsor previously sponsored someone and they get social assistance during the time sponsor agreed to be financially responsible for them, sponsor must pay it back.
- Some benefits (money, goods or services) from provinces or territories are considered to be social assistance for the purpose of sponsoring. This includes assistance from the government to cover basic needs like:
 - Food, shelter, clothing, fuel, utilities, household supplies
 - health care not covered by public health care (extra benefits paid by the government to low-income people or others in need)

What is not considered social assistance

- employment insurance
- provincial student loans
- immigration loans
- subsidized housing
- tax credits
- child care subsidies
- public health care (services province or territory gives to all people who live there)

Provinces and territories have created temporary programs to help people cope with the COVID-19 pandemic. IRCC doesn't consider these benefits to be social assistance if they aren't considered as such by the province or territory.

- **Also not considered social assistance:**
- Canada Recovery Benefit
- Canada Recovery Caregiving Benefit
- Canada Recovery Sickness Benefit
- Canada Emergency Response Benefit (now closed)
- Canada Emergency Student Benefit (now closed)

Financial requirements

- Assessing minimum necessary income
- Income requirements for sponsorship parents and grandparents
- Reassessment of financial circumstances

2021 application income requirements

- Sponsor must provide a proof that they meet the income requirements for each of the 3 tax years before the date of application
- For the 2021 Parents and Grandparents program, IRCC will assess sponsors on their income for tax years 2020, 2019 and 2018.
- Since many sponsors may have been affected financially by the COVID-19 pandemic, the **income requirement for the 2020 tax year** has been reduced to the minimum necessary income, instead of the minimum necessary income plus 30%.*
- ***Note:** This does not affect the income requirements for the 2019 and 2018 tax years

Total number of people you'll be responsible for	2020	2019	2018
2 people	\$32,270	\$41,007	\$40,379
3 people	\$39,672	\$50,414	\$49,641
4 people	\$48,167	\$61,209	\$60,271
5 people	\$54,630	\$69,423	68,358
6 people	\$61,613	\$78,296	\$77,095
7 people	\$68,598	\$87,172	\$85,835
If more than 7 people, for each additional person, add:	\$6,985	\$8,876	\$8,740

How to calculate family size

- sponsor
- sponsor's spouse or common law partner
- **dependent** children
 - new born children: include them starting on the year they were born
- spouse's or partner's **dependent** children
 - new born children: only include them starting on the year they were born
- any other person sponsor (and a co-signer, if applicable) may have sponsored in the past, for whom they're still financially responsible
- sponsored parents and grandparents **and** their dependants (spouse or partner and dependent children).
- **must also include**
 - any dependent children who **won't** come to Canada with parents or grandparents
 - parent or grandparent's spouse or partner, even if they **won't** come to Canada
 - parent or grandparents' separated spouse

Evidence of Income

- Must provide Notice of Assessment from the Canada Revenue Agency (CRA) for each of the three applicable taxation years (2018, 2019, 2020)
- IRCC will accept application without NOA for the 2020 tax year if it's not available by the time of application, must submit it as soon its available
- There are two ways to do this:

Option 1) Give IRCC permission to get tax information directly from CRA

On the form [Financial Evaluation for Parents and Grandparents Sponsorship \[IMM 5768\]](#), under question 8, "Sponsor Statement of Consent":

- Check "Yes", and
- Provide Social Insurance Number (SIN), signature and date

Option 2) Send to IRCC the paper copies of a Notices of Assessment

Complete the form [Income Sources for the Sponsorship of Parents and Grandparents](#), and

Include the Notices of Assessment with application package.

What counts as income

- Total Income on line 150 of assessment includes not only wages or salary from T4 – Statement of Remuneration Paid, but also income from other sources that may have received.
 - Income that does count toward total income (as long as it's reported on your NOA):
 - Employment special benefits, such as maternity and parental benefits
 - Any Employment Insurance earnings for **the 2020 tax year**
 - Canada Emergency Response Benefit
 - Other temporary Covid-19-related benefits *
- *as long as they are not part of provincial social assistance programs
- paid parental leave
 - RSP/RRSP withdrawals

What does not

From the reported income subtract any income that must be excluded

- provincial payments for an instruction or training program
- social assistance from a province
- payments from the Government of Canada under a resettlement assistance program
- regular Employment Insurance earnings (for 2018 and 2019 tax years)
- Old Age Security payments

2021 process

- When the interest to sponsor form was submitted in 2020, confirmation number was received and an email with that number was sent
- IRCC provided online tool for sponsors to check if they have been invited
- If tool says a sponsor was invited but no invitation letter is received, IRCC provided online form to request that letter (answer should be received within 10 business days)
- If a sponsor lost or forgot a confirmation number the sponsor can check invitation using online form (IRCC will respond within 10 business days).
- Submit both the sponsorship and the permanent residence applications together online at the same time.
- Within **60 days** of the date of an invitation. The deadline is clearly shown on the invitation to apply letter.
- Apply using Permanent Residence Portal

When applying online, the sponsor must fill out the PDF forms below

- [Document Checklist — Sponsor \[IMM 5771\] \(PDF, 1.59 MB\)](#)
- [Application to Sponsor, Sponsorship Agreement and Undertaking \[IMM 1344\] \(PDF, 588.96 KB\)](#) **Important: Sponsor and the sponsored person must both sign this form by hand.**
- [Financial Evaluation for Parents and Grandparents Sponsorship \[IMM 5768\] \(PDF, 1.54 MB\)](#) **Important: Sponsor and co-signer, if applicable, must sign this form by hand;**
- [Income Sources for the Sponsorship of Parents and Grandparents \[IMM 5748\] \(PDF, 1.53 MB\)](#)
- [Statutory Declaration of Common-Law Union \[IMM 5409\] \(PDF, 636.51 KB\)](#), if this applies.
 - include a letter of invitation to the 2021 program and choose “other” as the document type

The person being sponsored (principal applicant) must fill out these digital forms online

- Generic Application Form for Canada [IMM 0008]
- Schedule A – Background / Declaration [IMM 5669]
- Additional Family Information [IMM 5406]
- Supplementary Information – Your travels [IMM 5562]
- Must also complete these PDF forms, if applicable, and upload to online application
- [Statutory Declaration of Common-Law Union \[IMM 5409\] \(PDF, 0.78 MB\)](#)
- [Statutory Declaration of Severance of a Common-Law Union \[IMM 5519\] \(PDF, 1.84 MB\)](#)
- [Details Of Military Service \[IMM 5546\] \(PDF, 1.18 MB\)](#)

Changes in circumstances

- Income may be reassessed by IRCC [R134)(2)] **only if either** of the following applies:
- more than 12 months have passed since receipt of the application
- new information comes to IRCC's attention that a sponsor may no longer be able to meet their financial obligations
- The addition of a new family member to the application increases the family size, which will result in the need for the sponsor's financial circumstances to be reassessed where the income identified in the original application is insufficient to meet the new MNI requirement.
- Sponsor can not request reassessment

Sponsorship ineligibility identified at the permanent resident processing stage

- A sponsor must be eligible from the day the sponsorship application is received by IRCC until the sponsored person becomes a permanent resident. When a processing officer suspects that a sponsor deemed eligible by the CPC is, in fact, ineligible, they do all of the following:
- review information provided by the sponsor and co-signer
- verify in GCMS whether the sponsor / co-signer is subject to any of the applicable bars
- verify information through appropriate sources

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