



# Age of dependants: Practical information

On 24 October 2017, the *Immigration and Refugee Protection Regulations* will change to reinstate the maximum age for a dependent child as under 22 years. (Since 1 August 2014, the maximum age has been under 19 years).

This document provides practical information about the change.

## Key points

1. The change in age affects **all immigration categories** (privately sponsored refugees, Government-Assisted Refugees, dependants of refugees accepted in Canada, Family Class sponsorships, dependants of Live-in Caregivers, and every other category).
2. The change in age only applies to applications for permanent residence made on 24 October 2017 or later. It does **not apply to any applications in process** at the time of the change. (See more information under “Applications in process” on page 2.)
3. The rules about “**lock-in dates**” for the age of dependants continue to apply. In some multi-step processes, the age of the dependent child may be “locked in” at a date before the permanent residence application. This means that in some cases children who are older than the maximum age (19 until 24 Oct 2017, 22 after 24 Oct) at the time of the permanent residence application count as dependants under the regulations, because their age is “locked in” at an earlier date in their process. (See more information under “Lock-in dates” on page 5.)
4. People who completed the first step of a relevant multi-step process (e.g. made a refugee claim or applied for an initial Live-in Caregiver work permit application) **before 1 August 2014** are subject to the pre-August 2014 rules regarding dependent children. The 24 October 2017 changes, and the information below about applications in process, do not apply to them.

## Summary of key changes in the definition of dependent child

Before 1 Aug 2014	1 Aug 2014 – 23 Oct 2017	On and after 24 Oct 2017
Under 22 years + full-time student	Under 19 years	Under 22 years

## Applications in process

Many people will be negatively affected by the fact that the change in Regulations does not apply to permanent residence applications that are already in process. This concerns people who:

- Have submitted, or are about to submit, a permanent residence application; and
- Have a child who does not currently meet the definition of family member, but will following the October 24 change (and the child wishes to accompany the parent to Canada).

The following options are suggested:

- Delay submitting an application for permanent residence until 24 October or after;
- Withdraw the application and re-apply on or after 24 October;
- Request the addition of the dependant to the application on humanitarian grounds;
- Wait for processing to be completed and then submit a Family Class application before the child turns 22.

### 1. Delaying submitting the application

People who have not yet submitted a permanent residence application may want to wait until 24 October or after to submit the application in order to benefit from the change in rules.

**Example:** A couple was recently accepted as refugees by the Immigration and Refugee Board. They have three children in the home country, including a child who was 21 years old when they made their refugee claim last year (the “lock in date”). If they want that child to count as a dependant, they should make their permanent residence application on or after 24 October.

It is important to raise awareness about the upcoming change so that people affected can consider the option of delaying their application.

### 2. Withdrawing an application and re-applying after Oct. 24

People with an application in process may want to consider withdrawing the application and re-applying on or after 24 October, particularly if processing of the application has not yet started. However, it is possible that processing fees will not be refunded.

**Example:** A woman very recently submitted her application as a Caregiver and then learned about the upcoming change to the age of dependants. She has a 20-year old daughter who will be considered a dependant after the changes. If IRCC confirms that processing has not yet begun, she may want to withdraw the application (fees should be refunded) and apply again on or after 24 October.

## How to withdraw an application

For paper applications, send a letter to the relevant IRCC office, with the Client ID (UCI) and date of birth of the principal applicant, asking to withdraw the application in order to include dependants eligible under the 24 October changes to the age of dependants, and requesting refunding of fees, where applicable.

## Refunding of fees?

If processing has begun on the application, the processing fee will not be refunded:

[www.cic.gc.ca/english/helpcentre/answer.asp?qnum=613&top=4](http://www.cic.gc.ca/english/helpcentre/answer.asp?qnum=613&top=4)

In the case of a Family Class sponsorship, which fees are refundable depends on the stage in the processing:

[www.cic.gc.ca/english/helpcentre/answer.asp?qnum=353&top=14](http://www.cic.gc.ca/english/helpcentre/answer.asp?qnum=353&top=14)

## 3. Requesting the addition of the dependant to the application on humanitarian grounds

People with a permanent residence application in process can ask to add a dependant after 24 October on humanitarian and compassionate (H&C) grounds. (It is not necessary to wait for 24 October, but the argument is stronger when the new regulations are in place). Officers will assess each case individually and must use their discretion. This means it is impossible to know in advance whether the officer will accept the addition of the dependant.

**Example:** A refugee family is being privately sponsored and one of their children was aged 20 at the time the sponsorship undertaking was submitted. The sponsors may consider submitting a new undertaking for this daughter, including a request that she be added as a dependant, with H&C submissions. (If she meets the refugee definition, she could have been sponsored at the same time as her parents, as a separate principal applicant, but she may still be in the home country, or otherwise not meet the eligibility requirements to be sponsored as a refugee).

**How to apply:** A written request must be made to the office where the file is being processed to add the child to the application in question. Note that this is NOT a standalone H&C application, of the type made by people applying for permanent residence in Canada on H&C grounds, and the forms for that type of application should not be used.

In this case, the H&C request is only to overcome the fact that it is not possible to legally add the child to an existing application. IRCC has no specific form for this, so the request should be set out in a detailed letter or in submissions prepared by a lawyer.

## What to say in a request to add a child

The request should:

- Include the Client ID (UCI) and application numbers.
- Provide the name, date of birth and address of the child to be added and state that the child meets the definition of family member in force since 24 October.

- Ask that the officer use their discretion under section 25 of the *Immigration and Refugee Protection Act* to allow the application even though the change in regulations do not apply to applications in process.
- Present **detailed** humanitarian grounds specific to this family why the person should be accepted. These could include any factors of hardship (for example, the young adult child will be left alone in a situation of war, as a refugee without status, or without any other family support) and best interests of the child considerations (for example, impact on younger siblings). For more information, see **IRCC guidance to officers**. As much supporting documentation should be included as possible. Because humanitarian and compassionate (H&C) grounds are discretionary, it is important to make strong submissions, prepared if possible by a lawyer.

**Forms to complete?** It is not clear what forms should be submitted, but a logical approach would be to submit all the appropriate forms for a family member in the relevant immigration category, including sponsorship undertakings where required. In addition to sending the forms and H&C submissions to the appropriate IRCC centre in Canada, it may be useful to send a copy to the relevant visa office, if known.

**Fees to pay?** Where fees are payable (i.e. not refugees being resettled), \$150 per child, since the young adults in question will be considered “dependants” as of 24 October.

**No appeal to the Immigration Appeal Division (IAD):** It is important to be clear that there is NO right of appeal to the Immigration Appeal Division from a refusal to allow an application on H&C grounds. Unfortunately, people sometimes mistakenly try that route, only to learn months or years later that the IAD has no jurisdiction.

#### 4. **Waiting for processing to be completed and then submitting a Family Class application**

For some people, an option may be to wait until the processing is completed and then submit a Family Class sponsorship for the child who will be considered a family member from 24 October.

The advantages of this option are that:

- Processing is automatic if all the Family Class requirements are met: unlike H&C requests, there is no discretion;
- Processing in the Family Class is a priority for IRCC and processing times are relatively short.

On the other hand, there are a number of reasons that this option will not suit some families:

- For people in multi-step processes, the lock-in dates do not apply with respect to a later Family Class application. The child must be under 22 years when the **Family Class application is submitted**.
- The parent sponsoring under the Family Class needs to **meet the requirements**, including that they must not be receiving social assistance for reasons other than a disability.
- The child that is sponsored will be under a sponsorship undertaking for three years after arrival or until the age of 25 (depending on whether they are over or under 22 years when they arrive). During the period of the sponsorship, if the child resorts to social assistance, the sponsor must reimburse the government. (In **Quebec**, in contrast, the maximum age to be under a sponsorship undertaking is 22).

## Multi-step processes and lock-in dates

Starting 1 August 2014, there are lock-in dates for some multi-step processes, including refugee claims, resettled refugees, and live-in caregivers. The age of the dependent child is “locked in” at the first step in the process. The rules about lock-in dates continue to apply after the 24 October 2017 changes.

### Multi-step processes and lock-in dates

Immigration category	Lock-in date
Accepted refugee claimant	Date refugee claim made
Privately sponsored refugee (Quebec)	Date Quebec receives undertaking application
Government Assisted Refugee and Blended Visa Office Referred Refugees (BVOR)	Date UNHCR made the referral
Live-in Caregiver (this program has been closed but there are still applications in process)	Date of initial work permit application
Provincial nominee	Date province or territory receives provincial nomination
Quebec economic immigrant	Date Quebec receives application for a Certificat de sélection du Québec

**Example:** A couple made a refugee claim in September 2014. In September 2017, their refugee claim was finally accepted. They have a child who is now 24 years old, but who was 21 in September 2014. If they wait until 24 October 2017 to apply for permanent residence, they can include the 24 year old child.

Note that children’s ages are “locked in” only if the first step occurred on or after **1 August 2014**. Where the first step took place before 1 August 2014, the date at which the child’s age is counted (or “locked in”) is the date at which the permanent residence application is made. This is a serious disadvantage for some people who have been in the process for a long time. However, the 1 August 2014 changes (i.e. the reduction to 19 years) do not apply to them and therefore there is no need to wait until 24 October to make their application. They also benefit from the pre-August 2014 exception for full-time students.

**Example:** A couple made a refugee claim in July 2012. In September 2017, their refugee claim was finally accepted. Because the claim was made before 1 August 2014, they can only include any children who are under 22 years at the time of the application for permanent residence (whether they submit the application before or after 24 October). If they have a child who will turn 22 on 15 October, they should submit their application before 15 October in order to be able to include that child.

IRCC has a tool to calculate the lock-in date and the definition that applies:

[www.cic.gc.ca/english/immigrate/sponsor/aod-tool.asp](http://www.cic.gc.ca/english/immigrate/sponsor/aod-tool.asp)

## Other points

- **Dependent children** must be single. If the young adult child marries or enters into a common law relationship, the person is no longer a dependant.
- There is no reinstatement of the exception for **full-time students**. Prior to August 2014, the regulations allowed older children to count as dependants if they were full-time students. That exception has NOT been reinstated. However, people who completed the first step of multi-step processes before 1 August 2014 continue to be able to benefit from the pre-August 2014 rules, including the exception for full-time students.
- The exception for **children with disabilities** continues: an older child can be included if the child “depended largely on the parent’s financial support since before the age of 22 because of a physical or mental condition”.





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