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# FAQs re IRPA s. 91: advice and representation

## May 2025

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For many years, Immigration, Refugees and Citizenship Canada (IRCC) has been proposing an interpretation of s. 91 of the Immigration and Refugee Protection Act (IRPA) that, according to a legal analysis commissioned by the CCR, was incorrect. Recently, IRCC has changed its interpretation of IRPA s. 91. As a result of a Ministerial decision summarized in [a letter sent to CCR in October 2024](#), IRCC now recognizes that the bar on the provision of advice and representation by people who are not licensed legal professionals does not apply to NGO workers, whether paid staff or volunteers, as long as the staff or volunteers are not in some way paid by the client.

This welcome change nevertheless raises some questions.

This document explains how we understand IRPA s. 91 will apply to the work of NGOs and others providing services without fees to immigrants, refugees and migrants in Canada. It takes a conservative and precautionary approach.

### Background on S. 91 of the Immigration and Refugee Protection Act (IRPA)

Section 91 of the Immigration and Refugee Protection Act (IRPA) prohibits anyone from advising or representing a person on an IRPA proceeding or application “for consideration”, unless they are:

- a member in good standing of a provincial law society or the Chambre des notaires du Québec;
- a member in good standing of the College of Immigration and Citizenship Consultants; or
- acting in accordance with an agreement or arrangement with the Government of Canada

The word “consideration” is a specific legal term that refers to compensation or a benefit given by a client in exchange for something of value such as advice. In the context of s. 91, it is clear from the legislative history that Parliament intended s. 91 to bar people who are not lawyers or registered consultants from providing immigration advice and representation services only if they are **charging or accepting a fee or payment or some other form of compensation** for providing those services. This is the interpretation of “for consideration” that was used by IRCC in the initial years of s. 91. By implication, this interpretation meant that NGO staff and volunteers

were permitted to provide immigration and refugee services as long as they were not receiving “consideration” (something of value that could look like compensation) from their client or on behalf of their client.

However, IRCC later changed this interpretation. They began to hold that, if NGO staff received a salary from their employer for a job that included providing immigration advice to clients, this counted as receiving “consideration” for their advice, and so violated s. 91. This interpretation meant that NGO staff were barred from providing immigration advice or representation if they were paid a salary, but volunteers were not barred because they received no compensation for the work. According to a legal analysis received by the CCR, this new interpretation was incorrect.

In October 2024, IRCC corrected its interpretation of “consideration”. It now defines “consideration” as meaning “direct or indirect compensation by the client or on the client’s behalf by a third party” (IRCC, [Section 91 of IRPA and “Consideration”: Questions And Answers](#), May 2025). This means that salaried staff at NGOs who provide immigration advice or representation are not barred from doing so as long as neither they nor their organization are compensated, directly or indirectly, by the client. This is in line with the legal analysis commissioned by the CCR, and is a long overdue correction.

S. 91 applies to proceedings under the IRPA. As explained by IRCC in their [Q&A document](#), the same provision exists in the Citizenship Act (section 21.1). The revised interpretation of IRPA s. 91 applies also to s. 21.1 of the Citizenship Act. All references below to IRPA s. 91 apply equally to s. 21.1 of the Citizenship Act.

## **Current IRCC interpretation of s. 91**

[According to IRCC](#), salaried staff at NGOs who provide immigration advice or representation will not be committing an offense under IRPA as long as no compensation for the service is provided by the client, directly or indirectly. The same applies to advice or representation under the Citizenship Act.

IRCC has stated that it will accept applications on which salaried staff have provided immigration advice or representation, provided that there is no form of payment (direct or indirect) from the client.

The FAQs below give more detail on what this means for NGOs and their staff.

## Frequently Asked Questions

### **1. What does “for consideration” mean? Does it include donations or non-monetary gifts, such as payment for fundraising or translation services? What about clients who want to do volunteer work?**

According to IRCC, paid staff at NGOs are allowed to advise and represent clients if there is no direct or indirect compensation from the client or on the client’s behalf in exchange for that assistance. This is now IRCC’s definition of “for consideration” in IRPA s. 91.

This means that NGO staff, their office, and their organization are not allowed to receive any form of payment or compensation in exchange for their immigration advice. Compensation is a broad concept, encompassing anything of value. The idea of “direct compensation” goes beyond monetary payment to include things such as gifts or a donation to the NGO, and things which one could be expected to pay someone for, such as the donation of office space, or the provision of free fundraising or translation services.

Indirect compensation is also prohibited. Indirect compensation would include payments or gifts made by a family member or friend to the NGO staff or office on behalf of an NGO client. For example, barred compensation would include a family member’s payment of the costs of fundraising or other office expenses, or their donation to the NGO, in return for the immigration advice given to their relative. NGO staff, their office, and their organization are not allowed to receive such gifts or payments.

Very small gifts that cannot reasonably be viewed as being provided in exchange for a service are unlikely to meet the definition of “consideration” as long as it is clear that there is no expectation of those gifts on the part of the NGO. A small box of chocolates or a bouquet of flowers are not likely to be a problem. More valuable items – like a wall hanging or other piece of art, or taking staff out for dinner – may be seen as something provided “in exchange” for a service and should be avoided. And the risk of a gift being mischaracterized as “consideration” for immigration advice lessens with the passage of time after the service was provided.

Current or former volunteers who are providing their services for free to an NGO sometimes need immigration assistance from the NGO. It is important to ensure that volunteers who receive immigration advice for themselves or someone else are not treated any differently than other clients, and that volunteers understand from the start that they will not receive special or different treatment. You can help set clear expectations for your clients and volunteers by saying in your service standards or volunteer welcome package that your organization treats client service and volunteer involvement as separate relationships and that all clients will receive free, fair and equal service.

We urge NGOs to be very explicit and upfront in communicating with clients and volunteers about these rules, informing them of the risk that could be created for the NGO if a client tries to provide them with gifts or donations, and that the services are always provided for free and without obligation.

## **2. Who does this apply to? What about salaried social workers or other staff working at government or quasi-governmental agencies – are they prohibited from advising or representing people, according to IRCC?**

People who provide immigration or citizenship advice or representation and do not receive direct or indirect compensation from the client in exchange for doing so are covered by IRCC's revised interpretation.

S. 91 says that a person providing immigration advice and representation for compensation must be licensed as a legal professional to do so. If they are not receiving compensation, they do not need to be licensed for this purpose. The section does not limit its application to particular types of "persons", professions, or organizations.

IRCC's [Q&A document](#) confirms that its revised interpretation also applies to staff working for organizations that do not receive funding from IRCC.

## **3. Many provincial legal regulators (typically called Law Societies) prohibit or restrict the provision of legal advice and representation by anyone other than a licensed legal professional. Might NGO staff be in violation of provincial regulations if they advise or represent people, even if IRPA s. 91 allows it?**

In recent years, there has been growing recognition among justice sector institutions across Canada of the critical role played by NGOs in assisting community members with problems that involve the law. Federal and provincial justice ministries, law foundations, access to justice committees, and others have been active in this space, funding projects that support staff at NGOs to provide legal support to community members.

Staff members at NGOs help people with a range of immigration problems; for example, they assist someone to get a work permit, apply for permanent residence or citizenship, or bring their family overseas to Canada. These types of services can be viewed as a type of legal service.

IRCC's recent communications indicate that the federal government will not take action against NGO staff (and others) who provide immigration services if they do not receive payment in exchange for providing those services. The question arises: what about provincial laws and

regulations that may prohibit NGOs from providing immigration advice and representation?  
There are two parts to this answer.

### **i) Which law applies to NGOs giving immigration assistance?**

Generally speaking, where federal and provincial laws conflict with each other, federal law is considered to be paramount to provincial law; federal law overrides provincial law if there are any inconsistencies between them. This means that IRPA s. 91 (federal law), which by implication permits NGOs to provide immigration advice, would likely be found to override provincial laws that try to prohibit NGOs from doing so. A Supreme Court of Canada decision in 2001, [Law Society of British Columbia v. Mangat](#), confirmed this view.

In a more recent case, *Caruso v. The Law Society of Ontario* 2023 ONSC 6744, the Ontario Superior Court found that s. 91 (2) of IRPA authorized the Law Society of Ontario to restrict the scope of practice of paralegals in the area of immigration and refugee law. This 2023 decision was based on the history and purpose of IRPA s. 91 (2), and has been appealed. Its relevance to the application of s. 91 is unclear, but the CCR will be watching this case.

We note that NGO staff cannot represent clients in all types of immigration matters. According to the *Federal Courts Rules*, people who are not lawyers are barred from representing clients in federal court proceedings unless a special motion has been filed and approved.

### **ii) Do I need to worry about the rules in my province or territory?**

Most provinces and territories have laws that require people who provide legal services to be licensed to do so – typically, as lawyers or paralegals. However, some provinces and territories have an exception similar to IRPA s. 91. British Columbia, Manitoba, Nova Scotia, Prince Edward Island and Nunavut allow people who are not legal professionals to provide legal services if they do not receive a “fee, gain, or reward” for providing that assistance. In some other provinces, such as Ontario, there are different exceptions that can be regarded as allowing NGO staff to provide immigration and refugee services when they do so as part of their regular work.

In any event, legal regulators in provinces and territories rarely take action against NGOs that assist immigrants and refugees – or work in many other community service sectors – particularly where they are not receiving payment for their services and do not hold themselves out as lawyers or paralegals.

If someone complains and claims that your NGO is not allowed to give free immigration advice, you may want to make sure that they are aware of IRCC’s revised interpretation of s. 91. And contact the CCR!

#### **4. Should an NGO worry about liability if a dissatisfied client sues the organization over immigration-related services?**

Many NGOs across Canada have been providing these services for years, yet there are very few known cases of clients suing them.

Concerns about being held liable if a client sues an organization would apply to all the services provided by an organization, not only immigration-related services. In general, putting in place documented measures to support high-quality services and to protect clients, such as appropriate complaint policies, can go a long way in protecting organizations.

Many NGOs that provide services to the public carry liability insurance policies that provide for compensation to clients in the event of negligence or error by a staff member. You may want to check the terms of your organization's policy to ensure that it covers all the types of situations that may arise in your work.

#### **5. Are organizations now expected to provide advice and representation to community members? Will they experience pressure – from funders, community members or others – to do so?**

It is important to recognize that NGOs have long been experiencing pressures from newcomer communities for assistance with various immigration applications, because of the importance of those applications to their successful integration in Canada, the complexity of the application process and the gaps in accessible support. Many organizations have been offering these services because they are greatly needed.

NGOs should decide what services they offer based on careful consideration of their mandate and mission, their capacity and expertise, and the needs of the community they serve.

#### **6. If an organization has the capacity to advise and represent community members on immigration law matters, and has the mandate to do so, should they start to provide those services?**

Many NGOs are already providing these services. As noted in the previous question, each NGO should decide for themselves what services they offer based on their mandate and mission, capacity and expertise, and the needs of the community.

NGOs are not now required to offer these services as a result of IRCC's new interpretation of s. 91. The fact that IRCC is finally recognizing the correct interpretation of s. 91 simply means that organizations no longer need to have any concerns about IRCC (wrongly) saying it is against the law to provide these services for free.

If NGOs decide to start providing these services, they may wish to:

- Identify specific areas where they will work – and develop their expertise in those areas (for example, in a type of application such as work permits, permanent residence or citizenship applications, or with a particular population, such as refugee claimants or Temporary Foreign Workers)
- Consult with other organizations in the region so that each organization develops expertise in different areas of work and between the organizations the most crucial services are covered.

## 7. How should NGOs who provide these services (or are considering doing so) work to ensure services are of good quality?

As with all services offered, NGOs must constantly strive to ensure that immigration-related services are of good quality.

Through its Quality of Services project, the CCR identified four key aspects of quality to consider:

- a) **Ethical principles:** The organization is committed to ethical principles in the assistance it offers to refugee, immigration and citizenship processes.
- b) **Scope of services:** The organization as a whole and its staff understand and respect the scope of the assistance they will give.
- c) **Relevant knowledge and skills:** The organization and individuals within the organization who assist people in refugee, immigration and citizenship processes have the relevant knowledge and skills.
- d) **Monitoring / evaluation:** The organization conducts periodic reviews of its services and responds promptly and effectively when there is evidence that the organization has fallen short.

The CCR's [Proposed framework for high quality immigration and refugee services](#) gives more details on these four areas.

And more detailed guidance is available at [Building quality justice services for newcomers](#).

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This FAQ document was developed in consultation with legal experts. It is general legal information for NGOs across Canada, and is not intended to be used as legal advice for a specific legal problem.