

SECTION 91 OF IRPA AND “CONSIDERATION”

QUESTIONS AND ANSWERS



Questions and Answers

1. What decision was made?

S.91 of the *Immigration and Refugee Protection Act* (IRPA) and 21.1 of the *Citizenship Act* prohibit anyone from providing advice or representation “for consideration” on IRPA or *Citizenship Act* applications, proceedings or expressions of interest unless they fall into the following exceptions: they are a member in good standing of a provincial law society, the College of Immigration and Citizenship Consultants or the *Chambre des notaires du Québec*; or they are acting in accordance with an agreement or arrangement with the Government of Canada (see annex). For the purposes of this document, any references to s.91 of IRPA apply equally to s. 21.1 of the *Citizenship Act*.

IRCC had previously held that the salary received by an NGO staff member was a form of “consideration.” This meant that NGOs could not provide advice or representation unless they fell into the exceptions mentioned above. In October 2024, the Minister of IRCC changed IRCC’s interpretation of “consideration” under s.91 of IRPA to only capture direct or indirect compensation by the client or on the client’s behalf by a third party.

This means that IRCC no longer considers an NGO staff member’s salary to be a form of “consideration” under s.91.

While this decision was communicated by letter to the Canadian Council for Refugees (CCR), the decision itself is not specific to the CCR. The decision only concerns the definition of “consideration” under s.91, which applies to any person providing immigration advice or representation.

The decision does not constitute authorization for any person to provide advice or representation. Instead, it clarifies that the prohibition on paid advice and representation under s.91 of IRPA does not apply to staff compensated solely by their employer.

2. What does the decision mean for NGOs?

The decision means that IRCC no longer considers an NGO staff member's salary to be a form of "consideration" under s.91, and that IRCC will accept applications for which NGO staff have provided immigration advice or representation, provided that there is no form of payment (direct or indirect) from the client.

3. I am a salaried NGO employee. If a client seeks my advice or asks that I represent them on an immigration application, will IRCC accept the application?

Yes, provided there is no payment from the client, IRCC will accept immigration applications for which salaried NGO employees provided advice. That said, IRCC encourages NGO staff to carefully consider whether they possess adequate expertise to render requested immigration advice, and to direct clients to official, up-to-date IRCC resources when possible. IRCC is not responsible for the quality of non-funded services provided by NGOs, including the provision of immigration advice.

4. I am a volunteer at an NGO. Does the decision mean anything for me?

No, the decision has no impact on volunteers, as they do not receive consideration. Volunteers were not prohibited from providing advice and representation before the decision, and they continue to not be prohibited from doing so. That said, IRCC encourages NGO staff to carefully consider whether they possess adequate expertise to render requested immigration advice, and to direct clients to official, up-to-date IRCC resources when possible. IRCC is not responsible for the quality of non-funded services provided by NGOs, including the provision of immigration advice.

5. If a client makes a donation or offers fundraising services to an NGO or other organization, does this constitute "consideration"?

IRCC's new interpretation defines "consideration" as direct or indirect compensation by the client or on the client's behalf by a third party. If a client makes a donation or provides some

other form of benefit to an organization (e.g., assisting with fundraising) in exchange for immigration advice or representation, this would be a form of indirect compensation, and would therefore constitute “consideration.”

6. How does this decision apply to organizations receiving IRCC funding?

The decision focuses solely on whether the client pays for the service (or someone pays on their behalf). The broader source of funding to the organization (i.e., whether it came from IRCC or another source; and within IRCC funding, whether it was for Settlement, the Resettlement Assistance Program [RAP], or another purpose) would not impact compliance with s.91 of the organization’s paid staff.

If an organization receives IRCC funding under an agreement, IRCC will determine whether the agreement permits the organization to use IRCC funds to provide immigration advice and representation.

For clarity, independent of the IRCC agreement, these organizations may still be able to provide advice and representation under other funding sources. Although NGO staff are not prohibited from providing advice under s.91 of IRPA, NGOs must also abide by the conditions of funding as outlined by any Department or level of government. IRCC is not responsible for the quality of non-funded services provided by NGOs, including the provision of immigration advice.

7. Does the decision apply to staff working for organizations that do not receive funding from IRCC?

Yes, the decision alters IRCC’s interpretation of the scope of the s. 91 prohibition, which is applicable to all persons who receive consideration for advice or representation (except members in good standing of law societies, the College of Immigration and Citizenship Consultants, and the *Chambre des notaires du Québec*).

In other words, anyone who receives consideration (direct or indirect compensation by the client or on the client’s behalf by a third party) must be a licensed consultant, lawyer, or member of the *Chambre des notaires du Québec*, or else they breach s. 91. If a person does not receive

consideration, they do not breach s. 91. IRCC no longer considers salary to be a form of “consideration” under s.91.

8. What does IRCC mean by “representation or advice” in the context of the new interpretation of “consideration”?

Under the former interpretation of consideration, salaried staff were only permitted to provide information and administrative assistance on applications, as these are not governed by s.91 of IRPA. This included activities such as:

- directing someone to the IRCC website to find information on citizenship and immigration programs, application forms or authorized representatives
- helping someone to use a computer to view, upload, download and/or print electronic documents from the IRCC website
- providing administrative support in completing IRCC application forms such as transcribing responses and information provided by an applicant into IRCC application forms
- assisting with travel and medical arrangements.

Salaried staff are still able to provide these services.

In addition, under the new interpretation of consideration, IRCC 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. Examples of advice and representation in this context include:

- providing advice to a client on which citizenship or immigration option(s) to pursue
- providing advice to a client on how to respond to questions on an application form
- communicating with IRCC on a client’s behalf representing a client in a citizenship or immigration application or proceeding

9. When does this decision come into effect?

The interpretation came into effect on October 23, 2024.

10. Will IRCC communicate this decision on its website?

No specific announcement will be made on IRCC's website, as the existing information remains accurate and aligned with the updated interpretation. For more information, please see: [Using An Immigration And Citizenship Representative - canada.ca](#).

Annex—Section 91 of the *Immigration and Refugee Protection Act*

Representation or advice for consideration

91 (1) Subject to this section, no person shall knowingly, directly or indirectly, represent or advise a person for consideration — or offer to do so — in connection with the submission of an expression of interest under subsection 10.1(3) or a proceeding or application under this Act.

Persons who may represent or advise

(2) A person does not contravene subsection (1) if they are

(a) a lawyer who is a member in good standing of a law society of a province or a notary who is a member in good standing of the Chambre des notaires du Québec;

(b) any other member in good standing of a law society of a province or the Chambre des notaires du Québec, including a paralegal; or

(c) a member in good standing of the *College*, as defined in section 2 of the [*College of Immigration and Citizenship Consultants Act*](#).

Students-at-law

(3) A student-at-law does not contravene subsection (1) by offering or providing representation or advice to a person if the student-at-law is acting under the supervision of a person mentioned in paragraph (2)(a) who is representing or advising the person — or offering to do so — in connection with the submission of an expression of interest under subsection 10.1(3) or a proceeding or application under this Act.

Agreement or arrangement with Her Majesty

(4) An entity, including a person acting on its behalf, that offers or provides services to assist persons in connection with the submission of an expression of interest under subsection 10.1(3) or an application under this Act, including for a permanent or temporary resident visa, travel documents or a work or study permit, does not contravene subsection (1) if it is acting in

accordance with an agreement or arrangement between that entity and Her Majesty in right of Canada that authorizes it to provide those services.