



CCR comments on C-12 related regulations

20 July 2026

The following are the comments of the Canadian Council for Refugees on the Regulations Amending the Immigration and Refugee Protection Regulations (Asylum System Reform), published in the [Canada Gazette, Part I, Volume 160, Number 25](#), June 20, 2026.

A. Preamble

The Canadian Council for Refugees (CCR) is a leading voice for the rights, protection, sponsorship, settlement, and well-being of refugees and migrants in Canada and globally. The CCR is driven by over 200 member organizations working with, from, and for these communities from coast to coast to coast.

We continue to have grave concerns about the two new ineligibility provisions introduced in the *Strengthening Canada's Immigration System and Borders Act* (Bill C-12), as outlined in our [submission to the Senate on Bill C-12](#).

Refugee determination engages the international right to non-refoulement as well as rights under section 7 of the Canadian Charter of Rights and Freedoms. The regulations for the new legislation need to be guided by these legal obligations.

The government must also be mindful of the principles of access to justice and the need for accommodations where appropriate. As noted in the IRB Chairperson's Guideline 8, "standard processes may create barriers which result in unfairness. Fairness may mean treating people differently based on their individual needs and circumstances" ([Guideline 8: Accessibility to IRB Proceedings — Procedural Accommodations and Substantive Considerations](#)).

Canadians want and support a fair process for refugee claimants.

We recognize that the government has a valid goal of improving the efficiency of the refugee determination system. However, efficiency must not be achieved at the cost of justice. At the same time, we note that many of the proposed provisions seem very inefficient.

B. Exemptions to new ineligibility provisions

The Act permits exemptions to the new ineligibility grounds, acknowledging the very broad scope of the new provisions. In particular, the one-year bar casts a very wide net – much broader

than the equivalent provision in the US, which applies only to the person's latest entry and provides exceptions for "changed circumstances" or "extraordinary circumstances."

It is therefore shameful that the government is proposing only one very narrow exception (unaccompanied children). This means that large numbers of people who could not reasonably be expected to make a claim within one year of the first arrival since June 24, 2020 will be denied the right to have their claim heard by the Immigration and Refugee Board (IRB).

Exemptions in proposed regulations

a) Exemption – one year

Section 6 proposes that the one-year deadline does not apply if the person "submits any document or provides information with a view to making a claim" (new IRPR 159.001).

This is not properly an exemption, but rather a clarification of when the claim is deemed to have been made, and therefore whether the claim has been made within one year of the date of entry.

This is only fair, since – as acknowledged by the government – inland claimants cannot control how long it will take to be called for a meeting with an officer after submitting their claim online.

The wording "any document" and providing "information with a view to making a claim" is broad. We understand this to mean that a person does not need to fully complete the portal by the one-year deadline to be covered.

Recommendation

The government should provide a clear and simple option for someone to submit "information with a view to making a claim".

b) Exemption – Unaccompanied Minors (UAM)

Also under section 6, unaccompanied minors are exempted from both new ineligibilities if they don't have a parent or legal guardian in Canada – "at the time of making the claim" (new IRPR 159.002).

We are concerned that the wording "in Canada" will lead to the exclusion of some unaccompanied and separated children. For example, a minor in Nova Scotia would not qualify for the exemption if their estranged father happens to be in Alberta.

Recommendation

Amend to use the same wording as for designated representatives: minors who are "not accompanied" by a parent or adult legally responsible for them.

Proposed additional exemptions

The CCR urges that the government introduce the following additional exemptions to the new ineligibilities.

c) Nationals of moratoria countries

Ineligible nationals of moratoria countries lack access to a determination of their protection needs, since the Pre-Removal Risk Assessment is only available to persons who are about to be removed. As a result, if they are not granted a hearing at the IRB, they will face prolonged limbo with no status in Canada. They will have no opportunity to reunite with their family. Their only avenue to permanent residence, through H&C applications, is effectively not available, given the huge backlog of these applications. Nationals of moratoria countries are inherently people from refugee producing countries, and many of them are in fact refugees, to whom Canada has legal obligations. They should not be penalized under the new law and an exemption should be created for them from both of the new ineligibilities.

d) Change in country conditions

An exemption should be provided from the one-year bar in the case of a change in country conditions, parallel to exemptions from the one-year bar from access to PRRA for refused claimants – [IRPA 112 \(2.1\)](#)). Where country conditions have changed, it is unreasonable to expect the person to have made the claim within one year.

Since the government already has in place a process to identify countries where there has been a significant change in conditions (for the PRRA process), this exemption would be simple to implement.

e) Persons fleeing gender-based violence (GBV)

- A one-year bar is not appropriate for individuals who have only recently escaped from an abusive situation.
- Survivors of gender-based violence may not be aware that a claim can be made on this basis.

An exemption should be provided from the one-year bar in the case of GBV claims.

f) Persons fleeing persecution based on SOGIESC factors

We note with concern that the Gender analysis in the Regulatory Impact Analysis Statement doesn't acknowledge the disproportionate impact of the new ineligibilities on SOGIESC claimants, despite this being widely identified by stakeholders in consultations.

- In light of transphobic laws, policies and discourse in the US, trans individuals should be exempted from the new ineligibility provision based on arrival from the US (IRPA 101(1)(b.2).
- Regarding the one-year deadline, an exemption is necessary in order to acknowledge that individuals' gender identity or sexual orientation may become personally or publicly a factor some time after arrival. They may also not have been aware that a claim can be made on this basis. Changes in laws and political climate in the home country may also affect the person's risk of persecution.

g) Family unity

Where family members (as defined in immigration law: spouses and common law partners and dependent children) are making claims together and one or more family members are eligible for referral to the Refugee Protection Division (RPD), the other family members should be exempted from the new ineligibility provisions.

Given that family members' claims are often joined because their fears of persecution are related, it would be much more efficient to have the whole family referred to the RPD. Consider, for example, a scenario where one parent previously visited Canada, but the children and other parent did not. Without an exemption, the first parent would be sent to the PRRA and the rest of the family to the RPD, even though their experiences of persecution may be interconnected and refugee determination would be easiest and most efficient if they are all heard together.

This exemption would also avert absurd situations where young children have a hearing before the Refugee Protection Division, at which their ineligible parent testifies on their behalf. Meanwhile, the parent's request for protection would need to be separately assessed at a Pre-Removal Risk Assessment.

This exception would respect the important principle of family unity and give primary consideration to the best interests of affected children, as required under the UN Convention on the Rights of the Child.

C. Definition of family anchor for the STCA

We welcome the proposed amendment to the regulations (section 8) to say that, for the purposes of the STCA family member exception, a qualifying family member needs only have a claim "that has been determined to be eligible to be referred to the Board", rather than "has been referred to the Board".

This will mean that if a family comes to the border and one spouse has a qualifying family member but not the other, the family can stay together because the first person can serve as a qualifying family member for the other.

It will also mean that a family member in Canada who is still waiting for their claim to be referred to the Board can serve as a family anchor.

D. Submitting documents and information

Timeline for submitting documents and information

Section 10 of the proposed regulations sets a time limit of 60 calendar days for the claimant to provide the documents and information required, after the claim has been found eligible. Claimants can request a one-time extension of 30 calendar days.

The information to be provided will include the equivalent of the Basis of Claim form – **renamed “basis of claim information”**.

It is important to take into account that during this period, refugee claimants are generally facing a wide range of practical challenges. They are often in temporary and precarious housing, or completely unhoused. They often need to move – at least once, if not several times. In addition to navigating the claim process, they are having to manage settling in Canada, including finding permanent housing and registering children in school. Finding a lawyer is often a slow process, given the shortage of experienced refugee lawyers. They face technical barriers: they may have no or only limited digital literacy, and in any case they may not have regular access to a computer. Many do not speak English or French. Some face significant barriers due to mental or physical health issues or disabilities.

We understand that the extension of 30 days does not need to be justified and is apparently automatically granted on request, which simply requires pushing a button. Facilitating the request for extension is extremely important, given the challenges faced by claimants and the burden it places on NGOs who are asked for assistance in making requests for extensions. It is also clearly efficient for the government to avoid case by case evaluation of extension requests.

However, the regulations offer only a single extension, and no further requests for extensions are contemplated, even in compelling circumstances. For example, a person might have requested the initial extension and be moving forward with completing all the requirements, but they or their lawyer might have a health emergency that prevents them completing the submissions by the deadline. It seems that there is no option to be granted extra time, other than through abandonment proceedings at the IRB.

The proposed regulations do introduce the possibility of a further extension where fairness and natural justice require it, but only on the Minister’s own initiative. The RIAS cites the example of “a system outage”. We urge that this provision be used broadly in circumstances affecting claimants’ ability to complete the requirements within the available time. Past experience with

the basis of claim form can be a guide: the Refugee Protection Division (RPD) has extended timelines when a surge in claims compromised access to lawyers or in the case of the pandemic.

It is painful to observe the contrast in the regulations between rigid application of timelines for claimants and the looseness of the timeline for MDD for the government, which is permitted to ignore the 365-day time limit simply by claiming “operational limitations” (section 6).

It is also very inefficient to require the RPD to manage abandonment proceedings for cases where there are clear and compelling reasons to grant an extension. Given that the RPD has a significant backlog of cases, it is counter-productive to give them a new and entirely unnecessary workload.

We understand that the government is seeking to avoid the responsibility of having to assess requests for additional extensions, which would be time-consuming. However, it will also be extremely inefficient to refer cases for abandonment to the RPD, when the person has clearly not abandoned their claim and there are compelling reasons to grant an extension.

Recommendations

- Amend the provision regarding further extensions on the Minister’s own initiative “where fairness and natural justice require” to add reference to vulnerability of the claimant and circumstances outside their control.
- Provide an opportunity for claimants to submit information explaining why they need an extension of time, which the Minister can take into account in deciding on their own initiative to grant a further extension (without imposing a legal obligation on the Minister to review and respond to the submission).

Failure to appear for examination

We note that the legislative changes require referral for abandonment proceedings where a person failed to appear for an examination. The proposed regulations do not provide any opportunity for the Minister to re-schedule the examination, where fairness and natural justice require it (for example, weather conditions that prevent people travelling to be examined). This will lead to unnecessary abandonment hearings at the RPD, undermining the legislation’s efficiency objectives.

Recommendation

Provide an opportunity for the Minister to re-schedule the examination, where fairness and natural justice require it, to mirror the provision relating to the submission of documents and information. (new 159.8 (3))

Incomplete documents and information: threshold for abandonment referral

The proposed regulations do not clarify the threshold for a claim to be referred for abandonment if the person has submitted some information and documents through the digital platform, but there are still some omissions.

Recommendations

- Provide an opportunity for errors or omissions to be corrected when information and documents are submitted by the deadline, rather than referring the claim immediately to the RPD for abandonment.
- Ensure that there is consistency in the application of the threshold for abandonment referral.

Need for accommodation

The proposed regulations fail to acknowledge the barriers that online systems create for many people making claims who face intersecting barriers in access to technology or tech literacy, or both.

We urge the government to show flexibility in cases of vulnerability and to take account of gender impacts and the needs of people with disability and people who are facing situations outside their control – for example, hospitalization due a health emergency.

We note the government has obligations under the UN Convention on the Rights of Persons with Disabilities, and the Canadian Human Rights Act. In its [Accessibility Plan 2025–2028](#), IRCC committed “to establishing an environment where employees and clients with disabilities can fully access the systems, software and tools they need to work and interact with the department.”

We are concerned that the proposed process will lead to many referrals to the RPD for abandonment proceedings simply because claimants are unable to comply with the requirements. The abandonment proceedings will be traumatizing for these individuals, as well as adding unnecessary extra burdens to the already backlogged RPD. NGOs will also come under pressure to assist claimants in avoiding abandonment, and to support them when they are in abandonment proceedings. These are not responsibilities for which NGOs are funded, or for which they have available capacity.

Recommendations

- Add a provision affirming the Minister’s obligation to respect the duty to accommodate, including for people with disabilities.

- Provide an option for claimants without the capacity to navigate the digital platform to be assisted by an IRCC official in completing the requirements.

Unaccompanied minors and adults unable to appreciate the nature of the proceedings

We are particularly concerned about the impact of the timeline for the submission of information and documents and the delay in referral on unaccompanied minors and adults unable to appreciate the nature of the proceedings (often individuals with intellectual disability or severe mental illness). The legislation recognizes their vulnerability by requiring a representative to be designated to look after their best interests in relevant proceedings. And yet, under the proposed regulations, no designated representative would be named during the crucial period in which they must provide information and documents, including information relating to the basis of their claim, and must present themselves for examination as required.

Support in the submission of the basis of claim information is vital because of the central role this information plays in refugee determination.

Under the government's planned revision of the process, the support will be even more important. The government is seeking to ensure claim information is submitted early so that the Minister can review it and the RPD can receive hearing-ready files. This objective is completely undermined if people who are unable to understand the nature of the proceedings are required to produce the information without any support.

If they fail to meet any of the requirements (which will happen quite frequently among people who don't understand the proceedings), they will be referred to the RPD for an abandonment hearing, at which point – finally – a designated representative will be appointed – but only for the duration of the abandonment hearing. If the RPD concludes that the claim was not abandoned and sets new time limits for complying with requirements, the person will once again be on their own in navigating a system that the government recognizes they are unable to understand.

If they do manage to submit everything and don't have their claim declared abandoned, they face the same potential delays of a year or more during the Minister's Due Diligence (MDD), without any recognition of their vulnerability.

Early referral to the RPD would allow for the appointment without delay of a DR who can support the person through the claim process. The Minister's review of the claim and the security assessment can proceed while the claim is at the RPD – this is what happens currently. Since cases requiring a DR represent only a small minority of the total, it would not compromise the efficiencies the government is aiming for.

Early referral would also allow the prioritization of processing of unaccompanied minors, (which is currently IRB policy in light of their vulnerability), as well as ensuring that they can benefit from

the **Chairperson's Guideline 3: Proceedings Involving Minors at the Immigration and Refugee Board.**

Recommendations

- Provide that in the case of a claimant who may need a designated representative (unaccompanied minors or adults unable to appreciate the nature of the proceedings), the claim must be referred immediately to the RPD (either on the finding of eligibility, or as soon as the need for a DR is identified, if that occurs later), so that a DR can be named by the Board, and the person have the support of the DR while complying with the information and document requirements, and presentation for examination, if required.
- At a minimum, clarify in the regulations and/or RPD rules that a DR named in the abandonment proceeding continues to act for them throughout the claim process, including with complying with the information and documents submissions (otherwise there is a real risk that the person just goes around and around between pre-referral requirements and abandonment because of the lack of a DR to support them).
- In addition, the clock for the 60-day deadline to submit the documents and information should not start until the DR is appointed, as the claimant should not be expected to meet those requirements without a DR.
- The Minister should use the eligibility interview to flag people needing a DR. Procedures should be in place to make it easy for others (NGOs, health professionals, etc) to submit in writing information about the person's need for a DR, or to accompany the person to the eligibility interview to share the information.

Monitoring

The Regulatory Impact Analysis Statement (RIAS) states: "Ongoing monitoring will be undertaken to assess impacts on system integrity, processing efficiency, and fairness, with results informing future policy or operational adjustments."

Recommendations

We urge that the government implement a plan to monitor claims sent to the RPD for abandonment and to publish the results. The monitoring plan should be designed to identify potential efficiencies that could be achieved by broadening the powers to grant extensions in appropriate cases (i.e. cases where the RPD will likely not find that the case was abandoned).

The government should also monitor impacts on people needing accommodations, including people with disabilities, mental illness and low literacy.

E. Time limit for the Minister's Due Diligence (MDD)

Section 6 establishes the time limit for MDD as 365 days. However, there is a further provision that allows the Minister to take longer if more time is needed “because of operational limitations”. In that case, the Minister must consider the claim “as soon as is feasible”.

Concerns

- We are concerned about the possibility of long delays before referral to the RPD, extending the time overall before claimants can have a hearing on their claim. A longer process adds to stress and anxiety, and delays the time until refugees can feel safe, get on with their lives and reunite with family.
- Individuals with compelling and well-documented claims who currently might be accepted by the RPD within months of making the claim may find themselves forced to wait a year for MDD, completely unnecessarily.
- The potentially extended delay in referral will be to the detriment in particular of vulnerable individuals (unaccompanied children and adults with capacity issues) that require a DR as soon as possible. As argued above, they should be exempt from the MDD delay and should be referred to the RPD on the finding of eligibility so that they be appointed a DR immediately.
- While some security assessments might need more than a few months to complete, setting the time limit at one year risks creating an inefficient system where claims are routinely delayed. In some cases, this could be due to administrative oversight.
- The Minister could also hold cases back by deliberate strategy. For example, they might decide to delay referring all claims from people of a specific nationality or profile as part of their “integrity” efforts. This could result in discriminatory treatment.
- There does not appear to be any recourse, individually or systemically if the government is holding cases back in a discriminatory manner or due to oversight.
- It is unacceptable to allow the government to extend the time limit indefinitely simply by claiming “operational limitations”. Since the government is in control of the resources it allocates to MDD, this effectively creates a situation where the government can choose not to respect the one-year deadline by creating the operational limitations that it then uses as excuse.

It is instructive to recall that not so long ago the government was trying to make the claim process faster and more efficient by legislating time limits for hearings. (That approach was never likely to be effective.) Now the government is going in the opposite direction: legislating an extended time limit for how long the Minister can hold up a claim before it gets to the RPD for

a hearing. A better balance is needed that responds to the reality of those making claims, as well as the system for processing and adjudicating claims.

We note that the regulations are being proposed in a context where there is a large backlog of claims at the RPD. Some may argue that it might therefore not make a difference if claims are held back for several months before referral. Even in the context of the backlog, however, some claims that are very clear and well-documented can be determined soon after referral by the RPD. The risk is that people with such claims could in the future be held up unnecessarily in the MDD process, leading to longer overall processing times for these straightforward claims.

More broadly, claim numbers fluctuate. The RPD won't necessarily always have a backlog. Just a few years ago the RPD was in a situation where delays in eligibility determinations by IRCC and the CBSA compromised the RPD's efforts to maximize efficiencies.

It is a mistake to build a system that assumes the current claim numbers. There is a risk that the government will institutionalize a system that holds claims back for many months before referral – and the delays will remain baked into the system even if claim numbers go down.

Recommendations:

- Change the time limit for MDD from 365 days to 6 months, with an option for the Minister to extend the time in increments of 90 days up to a maximum of 365 days. Each time that the Minister extends the time, the Minister should be required to inform the claimant and provide specific individual reasons why their claim needs more time.
- The provision allowing the government to extend the deadline before 365 days by claiming “operational limitations” should be deleted.
- As noted above, persons needing a DR should be referred immediately to the RPD, without waiting for the MDD.
- The government should implement an internal system of checks to ensure claimants are not forgotten in the MDD. In addition, recourse should be available to an individual who believes that referral of their claim may have been wrongly delayed.

F. Designated Representatives (DRs)

Section 3 provides regulations for the new power of the Minister to designate representatives.

Proceedings for which a DR must be named

The proposed regulations would call for DRs only in the following circumstances:

- A proceeding to enforce a removal order

- A PRRA application
- Proceedings related to the removal of Convention Refugees based on criminality or security.

Concerns

- The rights and interests of people who need a DR can only be properly safeguarded if DRs are named in all contexts where their rights and status are decided.
- Under the current proposal, a person who makes a refugee claim is required to provide extensive information, including relating to the basis of claim, through a digital platform, and to present themselves for examination, all without a DR. The claimant won't receive a DR until the claim is finally referred to the IRB. (Note that claimants who need a DR should normally have a DR assigned by the Immigration Division (ID), with respect to the issuance of the conditional removal order. However, this appointment is only valid for the proceeding before the ID). How are unaccompanied minors and adults that are unable to understand the proceedings supposed to hire a lawyer and navigate the process? We believe that unless this gap is remedied, many such individuals are likely to end up facing an abandonment hearing at the RPD – and only at that point will a DR be named.

Note that, under the proposed scheme, a person applying for a PRRA will have the support of a DR to hire a lawyer and provide other assistance with presenting information about their need for protection, while the claimant who is eligible for referral to the RPD is expected to complete the requirements without a DR.

- Experience shows us that people with mental health illness frequently fall through the cracks. We note that people not able to appreciate the nature of the proceedings are not always immediately recognized. The IRB requires all parties to report if they have evidence that a DR is needed. IRCC and CBSA officers need to be trained and required to identify persons who are not able to appreciate the nature of the proceedings, as early as possible and throughout the proceedings.
- We underline that broadening the range of proceedings where DRs are named is not only necessary to protect the interests of vulnerable people – it will also contribute to efficient processing of claims and applications.
- Under the current legislative scheme, DRs should already be appointed before a removal is issued, following IRPR 228(4). Sometimes, however, an officer doesn't recognize the person's limitations and issues a removal order anyway. An opportunity needs to be given for the removal order to be withdrawn if it subsequently became clear that a DR is needed.

Recommendations

- As recommended above, eligible claims should be referred immediately to the RPD where a DR is needed. If this recommendation is not accepted, we recommend that DRs be named at the point that a person makes a claim or submits documents or provides information with a view to making a claim and that this DR be maintained until referral to the RPD.
- In addition to the proceedings proposed for the appointment of DRs, we recommend that DRs be appointed for:
 - Refugee claimant eligibility interviews.
 - Applications for permanent residence by a Protected Person (as the process is not finished for the person once they have PP status and continued support is needed).
 - Applications to withdraw and reinstate a claim (159.71). We note that an application to withdraw might be evidence that the person does not understand the nature of the proceedings.
 - Applications for humanitarian and compassionate consideration (H&C).
 - Supporting a person with recourses following a negative PRRA (see precedent with DR named at RPD that is responsible for “filing and perfecting an appeal to the Refugee Appeal Division, if required” RPD Rules 20(10)(g).
- The deadlines for the PRRA should be paused until the DR is appointed. Extensions should be granted thereafter since the timelines are not realistic for the DR to support the preparation of a PRRA for children / adults with capacity issues.

Minors who may need a DR

The regs specify that a DR must be appointed for a minor who is not accompanied by a parent or person legally responsible for them.

We understand that in most circumstances, the accompanying parent/legal guardian is well-placed to act in their best interests. However, there are situations where that is not the case, for example where there is a conflict of interest, as seen in experiences at the RPD.

An example of a situation where a DR may be needed for a minor who arrives accompanied by a parent would be a youth who has not come out to the parent that they are gay or trans, and needs to advance these points in the PRRA process.

Recommendation

- Add to 13.4(2) a point to cover minors accompanied by a parent/legal guardian but where the latter is not able to act in the former’s best interest.

Choosing the DR

Under 13.7, the Minister may establish a list of persons to designate “if there is no suitable person available”.

We are concerned that this provision suggests that the Minister is intending to designate anyone around, such as family member or friend, even if they have no relevant experience or training. This may seem expedient to CBSA – for example, when they are enforcing the removal order.

The IRB has significant experience and expertise with designated representatives, and a well-established program. As an independent tribunal, the IRB is better suited to appoint them, since they don’t have an inherent conflict of interest, for example in relation to a mandate for removals.

We note that it is likely that in some cases, people will have overlapping DRs. For example, a person in detention will have a DR named by the Immigration Division, and if they apply for a PRRA, the Minister would also be required to name a DR. It would clearly be sensible to have the same person, wherever possible.

Recommendations

- Strike language in 13.7 re. “if there is no suitable person available”
- The Minister should be required to coordinate with the IRB’s existing program, using their resources and list of names.
- The regs should specify that when a DR has already been appointed by IRB, the default should be to name that person if available. Generally, it is in the interests of the person and efficiency to have same DR.

Revoking the DR

13.9 gives the power of the Minister to revoke designation if the Minister determines the DR is not acting in the person’s best interest or is unsuitable to represent the person.

This presents a serious and dangerous conflict of interest. In our submissions on Bill C-12, we urged against giving the Minister of Public Safety the authority to designate representatives, given the clear conflict of interest in relation to the CBSA’s role in the enforcement of removals. Giving the Minister the power to revoke the designation only deepens the conflict. It clearly compromises the ability of the DR to act fully in the best interests of the person as they will know that if they displease the CBSA or IRCC they may be fired.

We appreciate that there are circumstances when a DR may need to be replaced (for example, due to inaction, or a conflict of interest). Under the current scheme at the IRB, the person’s counsel sometimes observes that the DR is not taking appropriate action. However, the

revocation of a DR by the IRB, an independent tribunal, is completely different from an immigration official or a border officer making the judgment.

At a minimum, the conflict needs to be diffused by having an arms length part of the government make the revocation (not just someone working in the same office, who is preoccupied with enforcing the law). The revocation should only be made by someone with relevant expertise. We suggest that a national unit with specialized training could be created within IRCC, tasked with ensuring access to rights and services for vulnerable persons.

Recommendations

- To avoid the obvious conflict of the CBSA revoking a DR, only the Minister of Citizenship and Immigration should have the power to revoke a DR. In the case of proceedings before the CBSA, this would provide arms-length decision-making, within a non-enforcement environment. We recommend that the responsibility lie within a national unit specifically tasked with ensuring respect for the best interests of vulnerable persons.
- Replace 13.9 (c) “the designated representative is otherwise unsuitable” with language referring to not meeting the qualifications or responsibilities outlined.

Requirements of DR

The proposed requirements are not fully aligned with the IRB’s, and have some significant gaps.

- The RPD Rules say at (20(4)) that the person named as DR must:

“be willing and able to act in the best interests of the claimant or protected person”

Even though this would seem like a basic and crucial requirement, this is missing in the proposed regulations. The omission reinforces concerns that the government could let officers name an unqualified adult who happens to be around, even one who may not be sure they want to be named.

- Also missing is any requirement to respect principles of confidentiality, avoidance of conflict of interest and demonstrated competence – see IRB Code of Conduct: <https://www.irb-cisr.gc.ca/en/designated-representant/Pages/code-conduct-designated-representatives.aspx>

Recommendations

- Add to the requirements “be willing and able to act in the best interests of the person”
- Add to the requirements: respect the IRB Code of Conduct for DRs.

G. PRRA applications

We are concerned that ineligible claimants denied access to the RPD will not have a fair hearing on their risks of persecution at the PRRA. Canada must ensure it avoids refoulement of refugees. **International law standards** explicitly lay out the requirement for an in-person oral hearing unless a positive determination can be made on the basis of the available evidence. This right is also protected under the Canadian Charter (1985 Singh decision). To meet its obligations, the government should ensure that those affected by the new ineligibilities are provided an oral hearing and granted a stay of removal in the case of seeking recourse from a negative decision through judicial review.

Recommendations

- Amend IRPR 167 (prescribed factors for a hearing) to add as a factor the fact that the person has never had a determination of their claim by the Refugee Protection Division.
- Add a regulatory stay of removal in the case of an application for judicial review from a negative PRRA where the person has never had a determination of their claim by the Refugee Protection Division. (We note that a significant number of PRRA decisions are overturned on JR.)

H. Work permits

We are concerned that the regulations require claimants to have submitted required documents and information (including basis of claim information) before they have access to a work permit.

This puts claimants in a situation of contradictory pressures:

- They should take the necessary time to seek expert advice before finalizing the information submitted as it is crucial to their refugee claim – yet they also need to submit the information as soon as possible in order to have access to a work permit.
- Claimants need expert legal advice to prepare their claim information, but it is particularly difficult to find a qualified lawyer when you don't have employment income.
- There are also other costs associated with providing the required information, such as acquiring documents from the home country, making a work permit particularly useful before the information is submitted.

Requiring claimants to submit all documents and information before they have access to a work permit is likely to lead to lower quality in the information submitted, as claimants will scramble to provide the minimum required so that they can receive the work permit. This will be inefficient in the long term, as corrections and adjustments are more likely to be required.

We note that provincial governments assume the costs of social assistance when access to work permits is delayed.

Recommendation

- We urge that proposed 206(a)(ii) be deleted, so that people whose claim has been found eligible are entitled to a work permit, without needing to first submit their documents and information.