

•Family Class – Spouses/Common-law Partnerships (In Canada and Abroad) and Excluded Relationship(family Class Processing)

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# Class of Application

- Family Class
- Spouse or common-law partner in Canada Class (AKA in Canada Class)
- see IMM5533 #5 Class of Application

### SPONSORED PERSONS (PRINCIPAL APPLICANT AND FAMILY MEMBERS)

**Note: You (the principal applicant) must declare your family members (accompanying and non-accompanying). If you do not, it may result in the refusal of your application and the inability to sponsor them in the future. For more information, please consult the Basic Guide (IMM 5525).**

**5. Class of Application**

**Reminder:** To apply under the Spouse or Common-Law Partner in Canada Class, you must be living with your sponsor in Canada.

Please check the box which applies to you (the primary applicant):

I am currently living in Canada with my sponsor, and I am applying under the **Spouse or Common-Law Partner in Canada Class**.

**Note:** If this applies to you, your sponsor will send the application package by **mail** to the following address: CPC - Mississauga, P.O. Box 5040, Station B, Mississauga, Ontario, L5A 3A4.

For Spouse or Common-Law Partner in Canada class applications using a **courier service** instead of by mail, use this address instead: CPC Mississauga, 2 Robert Speck Parkway, Suite 300, Mississauga, ON L4Z 1H8.

I am also including an **Open Work Permit application**.  No  Yes

I am currently living outside Canada, and I am applying under the **Family Class**.

**Note:** If this applies to you, your sponsor will send the application package by mail to the following address: Case Processing Centre-Sydney, P.O. Box 9500, Sydney, Nova Scotia, B1P 0H5.

I am currently living in Canada, and I am applying under the **Family Class** (not under the Spouse or Common-Law Partner in Canada Class). I understand that I may be convoked to attend an interview at a visa office outside Canada.

**Note:** If this applies to you, your sponsor will send the application package by mail to the following address: Case Processing Centre-Sydney, P.O. Box 9500, Sydney, Nova Scotia, B1P 0H5.

**For all family class applications:** If the application is submitted using a courier service instead of by mail, use this address instead: 49 Dorchester Street, Sydney, Nova Scotia, B1P 5Z2.

# Glossary

- **Dependent:** A spouse, common-law partner or dependent child of a PR or principle applicant
- **Dependent Child:** A child who is under the maximum age and is not married or in a common law relationship. Generally, to qualify as a dependent, children must
  - be under 22 years old
  - not have a spouse or common-law partner

\*\* Child's age is usually "**locked in**" when IRCC receives a complete application.

  - Children who are older may still qualify as a "over-age" dependent IF they
    - have depended on their parents for financial support since before they reached the age limit  
AND
    - can't financially support themselves due to mental or physical condition

# IN Canada Class vs. Family Class

- Which one is better?
  - It depends : )
    - Where does the Sponsor reside?
    - Is the Sponsor a Canadian PR or a Citizen?
      - If the Sponsor is the PR the the Sponsor must be residing in Canada in order to be able to sponsor someone.
      - If the Sponsor is a Citizen, then you may sponsor your spouse as long as you can prove that you are intending to come back and live in Canada once your spouse becomes a PR.
  - Where does the person being sponsored reside?



# IN Canada Class vs. Family Class

- Appeal Rights
  - NO appeal rights for In Canada Class applications → only JR (which is not an appeal).
  - Accordingly, if you believe there are possible issues w/ the case then you may wish to consider applying under the Family Class so you preserve the applicant's appeal rights. BUT you must also remember to mark the small box on the top of the IMM1344.

# IN Canada Class vs. Family Class

- In Canada —> must reside in Canada while application is being processed. Option to apply for OWP.
- Family Class —> can be outside of Canada, but getting a TRV might be more challenging.

# IN Canada vs. OUTSIDE of Canada

- Which one is faster?
  - It used to be faster doing the Family Class, but now they seem to have a similar processing times. (per IRCC website, estimated processing time is about 12 months)



# Who can you sponsor?

- Legal Spouse —> marriage must be recognized in the country that has been registered.
- Common-Law Partner —> couple must be cohabiting in a marriage like relationship for at least 12 months continuously.
- Conjugal relationship —> marriage like relationship, but where the couple have not been able to live together for 12 months consecutively. Really hard to prove, and your only option for sponsorship your partner is the Family Class (outside of Canada).

# Who can you sponsor?

- Legally married spouse, common-law or conjugal partner
- HOWEVER, it is also important to note that NOT all legal marriages are accepted by IRCC for immigration purposes.
  - ex. Proxy Marriages — not eligible. (Exception — unless you are a member of the Canadian Armed Forces).
- IMPORTANT: be careful when completing the IMM5406 (Additional Family Information)
  - the form can be confusing as it asks for applicant's "Marital Status," then it asks how the applicant was married and one of the options it gives is "married — not physically present"

# Excluded Relationships

- Spouse or common-law partner (Applicant) is under the age of 18
- bigamy or polygamy - either the sponsor or the spouse was married to someone else at the time of the marriage
- marriage or relationship is not genuine or was entered into primarily for the purpose of acquiring any status or privilege under the Act (R4)
  - \*\*\* This is important because if the officer can show that someone entered into it to benefit from it under the act, then they do not need to discuss whether or not the marriage was genuine.

# Excluded Relationships

- The sponsor and the applicant have been separated for at least a year, and either one is in common-law relationship with another person.
- When the sponsor applied for PR, the applicant was a non-accompanying family member and was not examined.

# 5 year Sponsorship bar

- As of March 2, 2012;
- If a spouse or partner sponsored you, you can't sponsor a new spouse or partner within 5 years of becoming a PR.

Q&A