

**BILL C-6**

***An Act to amend the Citizenship Act and to make  
consequential amendments to another Act***

**Brief submitted by UNICEF Canada  
to the House of Commons Standing Committee on  
Citizenship and Immigration**

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## **INTRODUCTION**

This Brief is being submitted by UNICEF Canada to the House of Commons Standing Committee on Citizenship and Immigration in response to Bill C-6, *An Act to amend the Citizenship Act and to make consequential amendments to another Act*, introduced by the federal government on 25 February 2016.

While Bill C-6 addresses a variety of issues, our Brief is limited to the proposed amendments to the age requirements for the demonstration of knowledge and language proficiency in order to qualify for Canadian citizenship status.

In terms of legislative history, Bill C-24, the *Strengthening Canadian Citizenship Act*, amended the *Citizenship Act* by, among other things, adding paragraphs (c) and (d) to section 5(2) of the *Citizenship Act*, so that the latter *Act* currently reads as follows:

### ***“Grant of citizenship***

**5 (2)** *The Minister shall grant citizenship to any person who is a permanent resident within the meaning of subsection 2(1) of the Immigration and Refugee Protection Act and is the minor child of a citizen, if*

- *(a) an application for citizenship is made to the Minister by a person authorized by regulation to make the application on behalf of the minor child;*
- *(b) the person has, subject to the regulations, no unfulfilled conditions under that Act relating to his or her status as a permanent resident;*
- *(c) in the case of a person who is 14 years of age or over at the date of the application, he or she has an adequate knowledge of one of the official languages of Canada; and*
- *(d) in the case of a person who is 14 years of age or over at the date of the application, he or she demonstrates in one of the official languages of Canada that he or she has an adequate knowledge of Canada and of the responsibilities and privileges of citizenship.”*

Subsection 1(9) of Bill C-6 would, however, amend subsection 5(2) of the *Citizenship Act* by “adding ‘and’ at the end of paragraph (a) and by repealing paragraphs (c) and (d).”

The intent of Bill C-6, as set out in its explanatory notes, is to “limit the requirement to demonstrate knowledge of Canada and one of its official languages to applicants between the ages of 18 and 54.” This would mean that children from 14 to 17 years of age (inclusive) would

no longer have to satisfy language and knowledge requirements for citizenship entitlement, as was the case before the enactment of Bill C-24.

## **ABOUT UNICEF**

The United Nations Children's Fund (UNICEF) works in 190 countries through country programs and National Committees. UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the United Nations Convention on the Rights of the Child and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children.

UNICEF is the world's leading child-focused humanitarian and development agency. Through innovative programs and advocacy work, we save children's lives and secure their rights in virtually every country. Our global reach, unparalleled influence on policymakers, and diverse partnerships make us an instrumental force in shaping a world in which no child dies of a preventable cause. UNICEF is entirely supported by voluntary donations and helps all children, regardless of race, religion or politics. The only organization named in the United Nations Convention on the Rights of the Child as a source of expertise for governments, UNICEF has exceptional access to those whose decisions impact children's survival and quality of life. We are the world's advocate for children and their rights. For more information about UNICEF, please visit [www.unicef.ca](http://www.unicef.ca).

## **UNICEF CANADA'S POSITION**

We strongly support, from a child rights and child's 'best interests' perspective, the proposed amendments to subsection 5(2) of the *Citizenship Act* which would repeal the current age requirements and restore the previous minimum age requirement of 18 years of age for passing knowledge and language testing in order to qualify for Canadian citizenship. We therefore advance the following recommendation:

### **Recommendation 1:**

**That the proposed amendments to the *Citizenship Act* repealing the language and knowledge testing requirements for citizenship eligibility for children aged 14 to 17 (inclusive) be adopted.**

UNICEF Canada submits that children have fundamental rights under international treaties to which Canada is party, including the 1991 ratification of the United Nations Convention on the Rights of the Child (CRC), to a durable identity which includes the preservation of family ties and of citizenship. These rights apply to all persons under 18 (the definition of “child”). Children generally do not have the legal status to make decisions in the context of immigration – parents, guardians and the state make decisions affecting their rights – and all such decisions by the state must give priority to their best interests. Children often require special protections such as exemptions or child-specific measures to ensure their rights to the kind of treatment that will best ensure their rights and consequently their well-being.

### **A CHILD RIGHTS-BASED APPROACH TO CITIZENSHIP**

UNICEF Canada supports the proposed amendments to subsection 5(2) of the *Citizenship Act* as reflecting a child rights-based approach to citizenship. As a State Party to the CRC, the primary responsibility rests with government, both federal and provincial/territorial, to ensure that the rights articulated in the CRC are fully implemented in Canada.

In relation to the acquisition of citizenship, a number of CRC articles are engaged, including: definition of the child (Article 1); equality and non-discrimination (Article 2); the best interests of the child (Article 3); family integrity (Article 5); survival and development (Article 6); birth registration (Article 7); family relations (Article 8); protection from arbitrary separation from parents (Article 9); family reunification (Article 10); and the child’s right to express his or her views freely (Article 12). A child rights-based approach to citizenship requires considering issues affecting different groups of immigrant and refugee children with the full range of their human rights under the CRC in mind.

In its 2005 General Comment No. 6 on the *Treatment of Unaccompanied and Separated Children outside their Country of Origin*, the United Nations Committee on the Rights of the Child (CRC Committee) speaks, in paragraph 12, to the importance of giving effect to children’s Convention rights in this area:

*“State obligations under the Convention apply to each child within the State’s territory and to all children subject to its jurisdiction (art. 2)...Moreover, State obligations under the Convention apply within the borders of a State, including with respect to those children who come under the State’s jurisdiction while attempting to enter the country’s territory. Therefore, the enjoyment of rights stipulated in the Convention is not limited to children who are citizens of a State party and must therefore, if not explicitly stated*

*otherwise in the Convention, also be available to all children – including asylum-seeking, refugee and migrant children – irrespective of their nationality, immigration status or statelessness.”*

The 2012 Concluding Observations delivered to Canada by the CRC Committee recommend, at paragraph 35, that Canada:

*“...ensure that the principle of the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative, and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children...”*

More specifically, the 2012 Concluding Observations also urge Canada, at paragraph 74, to:

*“...ensure that legislation and procedures use the best interests of the child as the primary consideration in all immigration and asylum processes [and] that determination of the best interests is consistently conducted by professionals who have been adequately applying such procedures.”*

## **LANGUAGE AND KNOWLEDGE TESTING REQUIREMENTS**

UNICEF Canada had previously submitted a written Brief in response to Bill C-24, the *Strengthening Canadian Citizenship Act*, which included our opposition to proposed amendments in that Bill, which would effectively put the onus on children aged 14 to 17 years of age (inclusive) to successfully pass both language and knowledge requirements, without additional supports, in order to become a Canadian citizen. We also pointed out at the time that the proposed amendments in Bill C-24 would remove the ability of applicants to use the support of interpreters during the testing, including for child applicants.

We submitted in our earlier Brief that the lowering of age requirements would be problematic for immigrant and refugee children for a number of reasons. For instance, language and knowledge testing of children could lead to challenges in reuniting children with their families, and could therefore lead to the deprivation of the child's right to family reunification under the CRC (Article 10) and an erosion of their best interests (Article 3). We also expressed concern that the proposed age reduction measure would not sufficiently consider the added stress that such testing may cause for many children, or the limited ability of many children to be successful in test environments. In some cases, children may still be facing fear of authority, trauma from their home countries, and other experiences - depending on their individual life circumstances

and migratory paths – that impair their capacity to successfully take and perform well on such tests.

We further questioned, in our earlier Brief in response to Bill C-24, whether this testing would be properly calibrated to account for the variances in age and experience of different groups of children. We noted the proposed requirement in Bill C-24 of demonstrating ‘adequate knowledge’ of one of the official languages and of Canada and accompanying responsibilities and privileges of citizenship, without specifying what benchmarks would be considered ‘adequate’ under the then proposed amendments to the *Citizenship Act*.

We submitted in our response to Bill C-24 that while the perceived interest in promoting the integration of older children into Canada appeared to be a significant motivating factor for the lowering of the age requirements, this was not a fair-minded and principled approach to be taking to citizenship eligibility in the case of children under the age of 18, who would be at risk of having their CRC rights seriously compromised. As well, we noted that there is research suggesting that the testing process is not a reliable indicator of a child’s ability to become a productive citizen.

Due to these and other potential barriers created for child applicants under the proposed testing requirements, as set out in Bill C-24, we previously submitted – and would continue to maintain today – that these children should not be held to the same standards as adult applicants.

## **CONCLUSION**

In summary, UNICEF Canada applauds the introduction of Bill C-6 as it relates to the repeal of paragraphs (c) and (d) of section 5(2) of the *Citizenship Act*. This represents a child-rights approach to citizenship that takes particular account of the following articles set out in the CRC: definition of the child (Article 1); equality and non-discrimination (Article 2); the best interests of the child (Article 3); family integrity (Article 5); survival and development (Article 6); birth registration (Article 7); family relations (Article 8); protection from arbitrary separation from parents (Article 9); family reunification (Article 10); and the child’s right to express his or her views freely (Article 12).

Respectfully submitted on behalf of UNICEF Canada by:

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## APPENDIX 'A' – REFERENCES

### Legislation

*Canada, Citizenship Act*, R.S.C. 1985, c. C-29

### **United Nations Conventions/Committee on the Rights of the Child Concluding Observations and General Comments**

United Nations Convention on the Rights of the Child, A/RES/44/25, United Nations, New York, 20 November, 1989 (ratified by Canada on December 13, 1991), available at:  
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

United Nations Committee on the Rights of the Child (CRC), *CRC General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, 1 September 2005, CRC/GC/2005/6, available at:  
[http://www.unicef.org/protection/files/CRCGC6\\_EN.pdf](http://www.unicef.org/protection/files/CRCGC6_EN.pdf)

United Nations Committee on the Rights of the Child (CRC), *Concluding observations on the combined third and fourth periodic report of Canada*, adopted by the Committee at its sixty-first session (17 September – 5 October 2012), December 6, 2012, Document CRC/C/CAN/CO/3-4, available at:  
[http://www.unicef.ca/sites/default/files/imce\\_uploads/TAKE%20ACTION/ADVOCATE/DOCS/un\\_crc\\_concluding\\_observations\\_for\\_canada\\_december\\_2012.pdf](http://www.unicef.ca/sites/default/files/imce_uploads/TAKE%20ACTION/ADVOCATE/DOCS/un_crc_concluding_observations_for_canada_december_2012.pdf)