

**Dual assessment of old applications offers a ray of hope to old applicants under the independent and business class, Certain applicants can reopen their file.**

The new Immigration and Refugee Protection Act (IRPA) came into effect on 28<sup>th</sup> June 2002 in Canada. This act included many transitional rules that determined the processing of immigrant applicants and the selection criteria to be applied to these applications. These transitional rules were very restrictive and the selection criteria applied under these rules were very stringent.

There was much protest within and outside Canada from applicants, lawyers, consultants and others against this new Act since their personal and professional future was threatened by these new transitional rules. It was very unfair that these strict rules would apply to applications that were submitted when immigration policy was more open and selection criteria more favorable.

Yielding to the pressure, on 1<sup>st</sup> December 2003, the immigration department amended these transitional rules to respond to the needs of those applicants who had applied for immigration to Canada under the old immigration regulation.

The new changes allowed applicants under the skilled worker and business immigration classes, who applied before 1<sup>st</sup> January 2002 to be assessed under the selection criteria of the former (old) regulations.

The government further announced that these applicants (skilled workers, self-employed persons, investors and entrepreneurs) would have the advantage of **dual assessment**. Dual assessment means that applicants who applied before 1<sup>st</sup> January 2002 would be assessed under the old as well as the new selection criteria and the outcome of the application would be decided based on the selection criteria that was most favorable to their application.

Simply put, if an applicant is assessed using one set of selection criteria (say old) and the result is not positive, he/she will be automatically assessed using the selection criteria of the other regulations (new).

Applicants who have applied for immigration to Canada under the Provincial Nominee Programs and to the Province of Quebec cannot benefit from this dual assessment.

**Who can benefit from dual assessment?**

The government says that the following groups will automatically receive a dual assessment:

1. Applications still pending or in progress on December 1, 2003, when the new regulations came into force.
2. Applications referred back by the Federal Court of Canada or the Supreme Court of Canada following a decision under the former act.

**The following groups must reapply before January 1, 2005 to receive the benefit of a dual assessment:**

1. Applications withdrawn between January 1, 2002 and November 30, 2003.
2. Applications refused after March 31, 2003 and before June 20, 2003, under the transitional requirements of IRPA that were in effect during this period of time.

The government has also determined that there will not be any charge to benefit from the dual assessment, except under certain circumstances.

The immigration department is trying sense of uncertainty that many applicants felt when the new regulations were introduced in June 2002. The largely negative response to these new regulations in form of litigations, court cases and class action suits pressurized the government to change its unfair tactics that would jeopardize the future of thousands of applicants who wished to make Canada their new home.

The immigration department also realized that the selection criteria under the new regulations made it very difficult for most people to qualify for immigration to Canada and Canada would no longer be the favoured destination of new immigrants if this were to continue.



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