

Immigration (Amendment) Regulations, 2015

Permanent Residence Points System

Explanatory Notes

The Immigration (Amendment) Regulations, 2015, which came into effect on Friday 16 January 2015, made some important changes to the Permanent Residence Points System. Although the changes are explained in more detail below, the following are the key points:

- Resolution of the problem relating to ‘priority occupations’ that has delayed processing of permanent residence applications received since October 2013
- Applicants will now be given points for the full value of investments in property or business even if those investments are owned jointly with their spouse (but not a person who is not their spouse)
- The income of a spouse will be taken into account in calculating the points to be awarded for investments
- Where spouses apply individually for permanent residence and they are given credit for the full value of investments in property or business that is held jointly with their spouse each spouse will be required to maintain the full value of the investment.
- Income for the purpose of calculating points for local investments can be either 90% of documented income over the previous 12 months or 100% of documented income over the previous five years.
- Points for financial stability will now be based on salary/income for the last 12 months rather than five years
- Under the community involvement factor points are now awarded for ‘volunteering for non-profit, charitable or voluntary organisations’.

Cabinet has agreed that the new Points System will be used when assessing all applications for permanent residence that were submitted since 25 October 2013. Applicants will also be given the opportunity to update their applications prior to determination in order to provide any additional information that they consider may benefit them in light of the new provisions.

Factor 1

References to ‘priority occupations’ in the explanation section have been removed. These are now contained as two Notes at the top of the Points System:

- “1. The Cabinet, in its discretion, may publish a list of occupations specified as priority occupations.*
- 2. Where such a list is published, the Board or the Chief Immigration Officer, as the case may be, in considering an application for permanent residence under section 30, shall take such priority occupations into account.”*

It is clear from this therefore that Cabinet is not required to publish a list of priority occupations but it may do so at its discretion.

Factor 2

No change.

Factor 3

The formula for calculating the points to be awarded for investments has been simplified. An applicant’s total investment in property or local business is now divided by 40% of their total income for the last five years and that figure is multiplied by thirty to arrive at the number of points to be awarded.

Investments in property or business held jointly by spouses now to be given credit to the full investment amount

The meaning given in the notes for “Total Investment” has not changed from the previous Points System. “Total investment” remains defined as the summation of the following:

- “Purchase price of property plus stamp duty paid less total liabilities in residential property OR total payments (loan deposit plus interest payment plus principal repayment plus stamp duty paid) on residential mortgage for the last five (5) years whichever is higher.*
- Market value of investments (stocks, bonds, etc.) in a locally licensed and operated solvent company.*
- Investment in a privately owned locally licensed business which is solvent.*
- Personal funds (i.e. not borrowed funds or funds received by way of gift) injected by the applicant to make improvements on property which was transferred as a gift. For the avoidance of doubt, where there are no major improvements made to the property no points will be allocated. Proof of source of funds must be provided.”*

But points will no longer be awarded on the basis of the property share that is owned by the applicant alone. Going forward, where an investment is owned jointly between spouses, points will be awarded based on the full value of the investment rather than on the percentage owned by the applicant. But where an investment is owned by the applicant and another party who is not his or her spouse, points will be awarded for the percentage of the investment held in the applicant's name only.

Obligation on both spouses to maintain full value of investment

It has also become a requirement that where spouses apply individually for permanent residence and they both receive points based on the full investment amount (rather than the percentage held in their name) and permanent residence is granted, each spouse will be required to maintain the full value of the investment.

“Income” of both spouses now to be taken into account

For the purpose of the calculation “Total income” (the denominator in the formula) now takes into account the combined total income of both spouses.

Evidence of income can now be provided in two ways

The notes now explain that “Income” means either-

- 90% of total documented income for the last 12 months prior to making the application, multiplied by five; or
- 100% of total documented income for the last five years.

This change recognises that an applicant may have difficulty providing evidence of their income going back for a full period of five years, perhaps because they may have changed employer during this period. An applicant will now have the option of providing evidence of income over the last 12 months and the points allocation will be based on 90% of this amount multiplied by five (to bring to five years) or, if they are able or choose to do so, they may provide evidence for the full five year period and be allocated points based on the full amount.

Scope of “income”

What constitutes “Income” has now been clarified as including salary, commission, gratuities, investment income and any other form of demonstrated income to the extent that proof of such income can be shown.

Minimum threshold for investments

To receive points under this Factor an applicant must have an investment of at least CI\$50,000 in property or business. No points will be awarded for investments of less than this amount. But where the investment exceeds CI\$50,000, points will be awarded for the full value, i.e. including the first CI\$50,000. Maximum points will, as before, be awarded automatically where the total investment exceeds CI\$500,000.

Purchase agreements not accepted

Purchase agreements for property will NOT be accepted as evidence of actual investment and no points will be awarded on the basis of a purchase agreement.

Factor 4

In the previous version of the Points System points were awarded as a percentage of aggregate salary/income for the last **five** years. This period has now been reduced to **one** year. It remains the case that when determining the income bracket into which an applicant falls deductions are still made where the applicant is accompanied by dependant children. The notes however clarify how the deductions are made. It also remains the case that in assessing an applicant's gross annual income from employment the gross annual income from employment of his spouse will only be taken into account if there is at least one dependent child.

The notes now clarify that gross annual income from employment includes all employment related monetary income earned annually by the applicant and includes basic salary, bonus, commission, allowances etc. to the extent that documentary evidence is produced.

Factor 5

The previous Points System did not allow for points to be awarded to persons who volunteer for non-profit charitable organisations. It was not intended to exclude this type of valuable voluntary involvement in the community and this has been addressed in the new Points System. Applicants will now receive 1.5 points for each year that they have provided a minimum of 35 hours service annually volunteering for non-profit, charitable or voluntary organisations.

Factor 6

Applicants for permanent residence will still be required to take a History and Culture Test. It remains the case that the date for taking the test may be rescheduled by the applicant once only and the test must have been undertaken within thirty days from the original date unless there are exceptional circumstances. If an applicant fails to sit the test within thirty days his application will proceed for determination by the Board or the Chief Immigration Officer and a score of zero points will be awarded under this factor. It should be noted that with respect to applications for permanent residence that were submitted after 25 October 2013 no applicants were given an appointment to take the history/culture test due to issues with priority occupations that have now been addressed. Those applicants will now be contacted and given an appointment.

Factor 7

No change.

Factor 8

No change.

Factor 9

No change.

Deductible Components

No change.