

# **ONTARIO COUNCIL OF AGENCIES SERVING IMMIGRANTS (OCASI)**

## ***UNDERSTANDING A FAMILY CLASS SPONSORSHIP BREAKDOWN***

### **INFORMATION FOR SPONSORS**

This booklet is intended to provide:

- Information to the sponsor or co-signer (if applicable) to help her or him understand a sponsorship breakdown.
- Information to immigrant and refugee serving organizations and other community-based organizations to increase their awareness of the consequences of sponsorship breakdown.
- A broader picture of a sponsorship breakdown, what may cause it, and how it can affect the people involved.

Family reunification is a crucial part of immigrant settlement and integration. We recognize the importance of strong families in our society and value the contribution they make in building healthy communities. Sponsorship breakdown occurs when the sponsor or the sponsored family member withdraws from the sponsorship relationship before the end of the period specified in the Sponsorship Agreement. The breakdown could be the unwanted result of changing financial conditions, or it could be a necessary course of action to sustain the well-being of the sponsored family member(s).

## **SPONSORSHIP BREAKDOWN: WHAT YOU NEED TO KNOW**

### **WHO IS A SPONSOR?**

You are a sponsor if you are a permanent resident or Canadian citizen and have:

- established the relationship between you and the sponsored family member(s);
- have proved to Citizenship and Immigration Canada (CIC) your financial capacity to meet all the basic requirements for the sponsored family member(s) to be established in Canada;
- signed a Sponsorship Agreement (that includes two documents, a Sponsorship Agreement and an Undertaking) with CIC.

This agreement establishes your commitment to provide for the “basic requirements” for the day-to-day living of your sponsored family member(s) who has received permanent resident status in Canada because you have sponsored him or her.

### **WHO IS A CO-SIGNER?**

If you as a sponsor do not have enough income to support the family member(s) you want to sponsor into Canada, your spouse or common-law partner who is also a permanent resident or Canadian citizen can help by co-signing the Sponsorship Agreement and Undertaking. This person is then considered the co-signer and has the same responsibilities as the sponsor.

## **WHO IS A SPONSORED FAMILY MEMBER?**

- Your spouse, common law or conjugal partner (including same-sex partner);
- Your dependant child 22 years or younger;
- Dependant child older than 22 years, who is a full-time student or in some other way is dependant on you;
- Your parents;  
who received their permanent resident status in Canada only because you signed a Sponsorship Agreement with CIC committing to provide for their establishment in Canada.

## **WHAT IS A SPONSORSHIP UNDERTAKING?**

The Sponsorship Undertaking is a legal document signed by you as a sponsor and co-signer (if applicable) as a commitment to the Government of Canada that you will look after the basic requirements for your sponsored family member(s).

## **WHAT IS A SPONSORSHIP AGREEMENT?**

The Sponsorship Agreement is a legal document signed by you as a sponsor, the co-signer (if applicable) and your sponsored family member(s). As a sponsor, you commit to provide the basic requirements for daily living for your sponsored family member(s) included in the undertaking so that they will not need to apply for ‘social assistance’ (under Ontario Works or Ontario Disability Support Program). The sponsored family member(s) agrees to seek help from you as the sponsor if he/she is unable to provide for his/her own basic requirements.

In addition, the sponsored family member(s) consents to the release of information to you (the sponsor) concerning social assistance that they may apply for, or receive during the period of the undertaking.

## **WHAT ARE BASIC REQUIREMENTS?**

Basic requirements include food, clothing, a place to live, fuel, utilities, household supplies, personal requirements and health care not provided by public health including dental and eye care. Please note that in Ontario, there is a three-month waiting period after the date of arrival in the province, before your sponsored family member(s) becomes eligible for coverage under the Ontario Health Insurance Plan (OHIP). As the sponsor, you are responsible for all medical expenses of your sponsored family member until she or he receives coverage, and for medical expenses not covered by the Plan after the sponsored family member becomes eligible for OHIP.

## **WHAT IS ONTARIO WORKS (OW)?**

OW is a program of the Ontario Ministry of Community and Social Services. It delivers income assistance to residents of Ontario who are in financial need. It is also known as “social assistance” or “welfare”.

## **WHAT IS THE ONTARIO DISABILITY SUPPORT PROGRAM (ODSP)?**

ODSP is a program of the Ontario Ministry of Community and Social Services designed to meet the needs of people with disabilities who are in financial need, or who want and are able to work and need support.

### **WHAT IS THE OVERPAYMENT RECOVERY UNIT (ORU)?**

In October 2004, the Ontario Ministry of Community and Social Services established a centralized Overpayment Recovery Unit (ORU) to collect outstanding social assistance debts from sponsors who have defaulted on their Sponsorship Agreement.

### **WHAT IS SPONSORSHIP BREAKDOWN?**

A sponsorship breakdown occurs when you as a sponsor or co-signer (if applicable), refuse or are unable to provide some or all of the basic requirements for your sponsored family member(s) to live in Canada, during the period established by CIC in the Sponsorship Agreement, and your sponsored family member(s) starts to collect social assistance (under Ontario Works or ODSP).

During these periods, if your sponsored family member(s) receives social assistance, you are in sponsorship default and must repay the social assistance payments to the Ontario government. The sponsor and co-signer determined to be liable for the sponsorship debt is not allowed to sponsor other family members until they have repaid to the government all of the social assistance payments.

The same criteria applies in cases where a Sponsorship Undertaking was signed in support of an application for permanent residence in Canada on Humanitarian and Compassionate (H&C) grounds.

If you refuse or are unable to provide for the sponsored family member(s) but she or he does not collect social assistance during the sponsorship period, due to self-supporting solutions (finding a job or support by other person(s)), this does not constitute a sponsorship breakdown.

Please note that sponsorship default and sponsorship breakdown are often used incorrectly as interchangeable terms.

### **WHAT IS THE LENGTH OF A SPONSORSHIP?**

The length of the sponsorship will depend on the age and the type of relationship between you and your sponsored family member(s).

- The undertaking period begins on the day your sponsored family member(s) receives her or his document as a permanent resident, issued at the Canadian Immigration Centre if the sponsorship was done within Canada, or
- on the day your sponsored family member(s) enters Canada as a permanent resident if the sponsorship was done outside Canada.

<b>Relationship</b>	<b>Length of Sponsorship</b>
Spouse, common law or conjugal partner (including same sex partner)	3 years
Dependant child (children) 22 years or younger (at the time of receiving permanent residence)	10 years or until child becomes 25 (whichever comes first)
Dependant child older than 22 years (at the time of receiving permanent residence)	3 years
Parents	10 years

## **WHAT ARE MY LEGAL RESPONSIBILITIES AS A SPONSOR IF THERE IS A CHANGE OF CONDITIONS AND CIRCUMSTANCES ON ANY OF THE PARTIES INVOLVED?**

The Sponsorship Agreement is an unconditional guarantee of support from you and the co-signer (if applicable) to your sponsored family member(s). It cannot be cancelled or modified after it is approved by CIC, even under change of conditions or circumstances of any of the parties involved, such as the granting of Canadian Citizenship, divorce, separation or relationship breakdown, moving to another province, or deterioration in your financial condition.

If you have undergone bankruptcy, the ban for sponsoring another family member will still apply. (This will create a sponsorship default and a lifelong ban from sponsoring another family member(s).

## **WHAT ARE THE CONSEQUENCES OF A SPONSORSHIP BREAKDOWN FOR ME AS A SPONSOR?**

- You will have a debt for the amount Ontario Works or ODSP gave to your sponsored family member(s).
- Ontario Works or ODSP will advise CIC where sponsors are not providing support. CIC will ban you from sponsoring another family member(s) until the sponsorship debt is fully repaid to the Government of Ontario.
- Ontario Works or ODSP will calculate the debt and refer the case to the Overpayment Recovery Unit (ORU).
- You will receive a letter from the Overpayment Recovery Unit (ORU) informing you that your sponsored family member(s) has received social assistance. The purpose of this contact is for the government to either reach an agreement with you on how you are going to resume providing for the sponsored family member(s), or to start the collection of your debt.
- If necessary, the ORU will pursue the sponsorship debt by sending further letters to you and by referring the case to Canada Revenue Agency's (CRA) Refund Set-Off Program. If that is the case, the CRA can garnish (take over) any Income Tax refunds payable to you.
- ORU can take other steps to try to collect sponsorship debts, such as starting court actions against you, the defaulting sponsor.
- Your credit record will be affected by all these debt recovery actions. For example, it may affect your application for a loan to buy a car, house or other items which involve your credit history.
- If you have been convicted of a sexual offence or you have been convicted of an attempt or a threat to commit a sexual offence, you are not eligible to sponsor again even if you pay off the sponsorship debt.

## **WHAT WILL HAPPEN TO MY SPONSORED FAMILY MEMBER WHEN THERE IS A SPONSORSHIP BREAKDOWN?**

A condition of eligibility to receive social assistance is that your sponsored family member must pursue all available financial resources, including support from you as their sponsor, except if the sponsorship breakdown is caused by abuse and/or family violence.

- After Ontario Works or ODSP has established that your family member(s) have no means of private financial resources, the application for social assistance is approved. She or he will receive the same amount of benefits from Ontario Works or ODSP as any other person on social assistance.
- If you are providing partial support to your sponsored family member(s), the partial support will be treated as income and deducted from the sponsored person's social assistance.

## **WHAT ARE MY RIGHTS AS A SPONSOR WHEN THERE IS SPONSORSHIP BREAKDOWN?**

- Your immigration status either as permanent resident or Canadian citizen is not affected in any way by a sponsorship breakdown.
- The social, economic, political, labour, educational, medical, housing rights and benefits to which you are entitled are not affected in any way.
- You will be able to sponsor relatives in the future but you must be out of the sponsorship period, repaid any outstanding debt and not have received social assistance for at least 12 months before the time in which you are planning to submit the sponsorship application.

## **CAN I WITHDRAW MY SPONSORSHIP OBLIGATIONS?**

If CIC has already issued a visa, or your family member(s) has already become a permanent resident, you cannot withdraw your sponsorship; you are obliged to support your family member(s).

## **WHAT CAN I DO AS A SPONSOR TO RESOLVE A SPONSORSHIP BREAKDOWN?**

- Contact your sponsored family member(s) directly and make an offer of assistance so that she or he will not have to collect social assistance, and will stop receiving those benefits. This is not possible if abuse and/or family violence has caused the breakdown.
- If making an offer of assistance to your sponsored family member(s) fails, you and the co-signer (if applicable) should contact Ontario Works or ODSP to discuss your options and to remain informed about the situation.
- You can seek to reach an agreement with Ontario Works or ODSP on how you and the co-signer (if applicable) are going to resume providing for the sponsored family member(s), or make arrangements to repay the debt.
- You and the co-signer (if applicable) can provide partial support to the sponsored family member(s). However, if she or he continues to receive some social assistance, you and the co-signer (if applicable) remain in default. A debt will continue to accumulate and you are responsible for repaying that debt.
- If you are asked to pay back social assistance that was given to someone you sponsored, you may want to contact a community legal clinic for advice and help.

## **WHAT CAN STOP OR POSTPONE THE COLLECTION OF THE SPONSORSHIP DEBT BY THE ORU?**

- The sponsor and co-signer (if applicable) are deceased.
- The sponsor and co-signer (if applicable) are incapacitated and unable to pay. For example, the sponsor is in a hospital or other institution and has no current financial ability to repay the debt, nor is likely to acquire any financial ability in the future.
- There is third-party verification of domestic violence or abuse by the sponsor against the sponsored person or vice versa.
- The sponsor and the co-signer (if applicable) has undergone bankruptcy, and the entire sponsorship debt was covered by the bankruptcy discharge (if the sponsorship period has not ended). Any sponsorship debt that accrues after the bankruptcy has been discharged is new debt and should be reviewed for referral to the ORU.
- The sponsor and the co-signer (if applicable) are in receipt of social assistance.
- The sponsor's net family income (based on the previous year's income tax return) is below the Low Income Cut Off amount which is published annually by Statistics Canada.

- The sponsor and co-signer (if applicable) are in receipt of Guaranteed Income Supplement (GIS).
- The sponsor and co-signer (if applicable) have documented extraordinary circumstances. For example, the sponsor has a serious health condition along with high, ongoing drug costs which can have a significant impact on the sponsor's ability to repay the debt.

In cases where the sponsor's circumstances are likely to change, (e.g. the sponsor is on social assistance) the collection process may be deferred up to 12 months. A further review will take place to determine if debt recovery should commence.

However, for cases that are stopped or postponed from referral to the ORU, sponsorship debt continues to accrue until the end of the sponsorship period.

### **WHAT HAPPENS AFTER I PAY THE DEBT?**

When you repay the full amount of social assistance issued to your sponsored family member(s):

- The ORU will notify the local OW or ODSP office that the sponsorship debt has been repaid in full
- The local OW or ODSP office will send the Confirmation of Repayment of Social Assistance Benefits form to CIC to confirm that the debt has been repaid in full and the sponsored family member(s) is no longer on social assistance.
- The ORU will send you a letter to confirm that the debt has been paid in full and that the file has been closed.

### **WHERE TO GO FOR ADDITIONAL INFORMATION, HELP AND REFERRALS**

#### **• Immigrant Serving Organizations**

Immigrant-serving organizations provide settlement services designed to help newcomers to Canada adjust to their new life. They provide culturally sensitive programs in many languages. These services help newcomers to address challenges during the process of settling into their new community.

Settlement services are often **free** and always confidential. For example, settlement workers can provide information on English as a second language classes, programs for seniors, schools, health care, employment, immigration and citizenship, housing, legal services, recreational facilities and much more. They can help complete official forms, arrange for interpreters and translators, help develop a résumé and provide help finding work.

For a complete listing of all agencies providing immigrant settlement services and other immigrant and refugee services in the province of Ontario, go to [www.Settlement.Org/regions](http://www.Settlement.Org/regions)

#### **• Settlement.Org**

The website [www.Settlement.Org](http://www.Settlement.Org) is the best and most complete source of online information for newcomers to Ontario. We encourage you and your family to use this site. You will find information on employment, immigration and citizenship, housing, seniors' programs, language and literacy, health, legal services, consumer information and recreation, as well as listings of community organizations and services, publications, local events, and training workshops across Ontario. Many

articles on the website are written in languages other than English. Virtually everything you need to know about settling in Ontario can be found there. And if what you're looking for is not there, [www.Settlement.Org](http://www.Settlement.Org) will tell you where to find it.

- **211 Information & Referral Service**

211 is a free, multilingual information and referral service available 24 hours a day, seven days a week. When you call 211, a trained staff person will listen to your questions or concerns, and provide you with the information you need or direct you to appropriate services. If necessary, ask to speak to someone who speaks your language.

In the Greater Toronto Area, call 211 if you live in the 416 or 647 area codes. If you live elsewhere, call 1-416-397-4636. 211 staff may not have complete information on services everywhere in the province, but they should be able to direct you to the organization nearest to your location.

You can also go online to [www.211toronto.ca](http://www.211toronto.ca) to find community services, social, health and government services for immigrants and refugees. In the Niagara Region, visit [www.211niagara.ca](http://www.211niagara.ca) In Simcoe County, visit [www.211SimcoeCounty.ca](http://www.211SimcoeCounty.ca)

- **Community Legal Clinics**

Community legal clinics give free legal advice to people with low income, but not all clinics deal with immigration issues. You can check with the community legal clinic in your area to see if they can help you. If they cannot help you, they may be able to refer you to someone who can.

You can usually find the community legal clinic nearest to you by looking under “Legal Aid” or “Lawyers” in your phone book. You can also check Legal Aid Ontario’s web site at [www.legalaid.on.ca](http://www.legalaid.on.ca) or phone them:

- Toronto area **416-979-1446**
- Outside Toronto **1-800-668-8258**
- TTY Toronto area **416-598-8867**
- TTY outside Toronto **1-866-641-8867**

You do not need legal representation when dealing with a sponsorship breakdown. If there is a sponsorship breakdown due to violence or abuse, you as the sponsored family member(s) may need a lawyer for the criminal and family proceedings.

- **Assaulted Women’s Helpline**

Crisis counselling, emotional support, and referrals to shelters 24 hours a day, 7 days per week, for women across Ontario. Available in 154 languages as well as TTY for the hearing-impaired.

Toll-free: **1-866-863-0511**

Toll-free TTY **1-866-863-7868**

Toronto area: **416-863-0511**

Web site: [www.awhl.org](http://www.awhl.org)

- **Ontario Works (OW) or Ontario Disability Support Program (ODSP)**

You can contact Ontario Works or ODSP directly. To find the location and phone number, look in the government section of the phone book under “Ontario Works” or “Social Services”. You can also check the Ministry of Community and Social Services’ web site at [www.cfcs.gov.on.ca](http://www.cfcs.gov.on.ca). Look in the Income and Employment Supports section of the site for information about Ontario Works. ODSP offices are also listed on the Ministry’s website.

If you need an interpreter, ask the OW office. Some OW offices provide interpreters. Otherwise you should make arrangements to bring one. Contact your local community settlement organization for help to find a qualified interpreter.

- **Overpayment Recovery Unit**

In Ontario you can contact the Ministry of Community and Social Services Overpayment Recovery Unit at 1-888-346-5184. This is a toll-free phone number.

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