

**New Zealand Citizenship**

Citizenship Guidance Document

Substantive content approved by the Minister of Internal Affairs, Hon Tracey Martin, on 10 December 2018

Minor edits for formatting, clarity and to reflect updated procedures made by the Department of Internal Affairs on 2 April 2019

This guidance reflects the Minister of Internal Affairs’ current policy, and is intended to support transparency and guide applicants, officials and the Minister in decision-making on citizenship applications.

It may be updated or changed to reflect changes in policy or procedures. It does not amend or change the general law of citizenship. In cases of doubt or ambiguity the legislation and regulations prevail.

Unless otherwise stated, references to an Act are references to the Citizenship Act 1977, as amended.

Help for applicants and an online eligibility checker is contained at <https://www.govt.nz/browse/passports-citizenship-and-identity/nz-citizenship/>

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# INTRODUCTION

## Purpose and aims of this document

The primary purpose of the Citizenship Guidance Document is to act as a guide for Citizenship Case Officers, in processing applications for New Zealand citizenship by grant under the Citizenship Act 1977 and the Citizenship (Western Samoa) Act 1982.

It also provides a framework to support consistent decision-making by the Minister of Internal Affairs (and Acting Ministers), clarity for applicants and their agents, and transparency about the Minister’s policies.

Its aims are to:

* support consistent and fair decision-making on citizenship applications
* guide the exercise of delegated authority by officials, and decision-making on applications for citizenship
* provide clarity about what factors Citizenship Case Officers and the Department should take into account in determining whether a decision on an application for citizenship should be forwarded to the Minister for her individual consideration, or whether it may be approved on a schedule
* provide clarity for applicants, and their agents.

It also provides information about the process for renunciation and deprivation of citizenship.

## Decision-making process and delegated authority

Around 37,000 applications for citizenship by grant are received by the Department of Internal Affairs (the Department) each year. The majority are straight-forward, where applicants clearly meet all relevant requirements and are approved for a grant of citizenship.

The volume of applications means that the vast majority of applications are approved via a schedule (a list of names) produced by the Department in line with this guidance and general citizenship law, for the most common classes of application where applicants clearly meet the relevant requirements.

Schedules were formerly signed and approved by the Minister of Internal Affairs (the Minister). To enable more efficient and timely processing of applications, since 10 December 2018 schedules have been approved under delegated authority from the Secretary for Internal Affairs (Secretary) by a senior Departmental official.

## Rules for applications which may be approved via schedule

Applications which the Department is satisfied clearly meet all relevant requirements may be approved via schedule.

Applications which may meet but do not clearly meet, or which do not meet one or more requirements of the Act must be referred to the Minister as an individual submission (submission) for her personal consideration.

The Minister will also consider personally any matter not delegated, or any other application which the Department considers should be referred to the Minister.

# APPLICATIONS FOR NEW ZEALAND CITIZENSHIP BY GRANT

## Prescribed form

 All applications for citizenship should be made on a prescribed form that is either:

* a completed and signed application form which is submitted by post or otherwise delivered to the Department; or
* a completed online application form which is submitted to the Department electronically.

Applications sent to the Minister’s office directly will be referred to the Department and will generally be processed by the Department only after a full application has been received and the fee has been paid.

# General requirements for the grant of citizenship under the Citizenship Act 1977

Section 8(2) of the Citizenship Act 1977 (Citizenship Act) provides **six** requirements that a person must satisfy to be eligible to be approved for a grant of citizenship by the Minister or her delegate.

The requirements that the person must satisfy the Minister are:

1. [**Entitlement to reside indefinitely]** that they are

**EITHER**

* 1. entitled in terms of the [Immigration Act 2009](http://www.legislation.govt.nz/act/public/2009/0051/latest/DLM1440303.html), to be in New Zealand[[1]](#footnote-2) indefinitely; **OR**
	2. entitled to reside indefinitely in the Cook Islands, Niue or Tokelau
1. **[Presence]** that they were

**EITHER**

* 1. present in New Zealand (or the Cook Islands, Niue or Tokelau) with the right to remain indefinitely:
		1. for a minimum of 1,350 days in the five years preceding the citizenship application; **and**
		2. for at least 240 days in each of those five years; and

**OR**

* 1. **[Crown service]** meet therequirementwhentime spent on Crown Service or accompanying a spouse on Crown Service is taken into account under section 8(5) or 8(6) of the Citizenship Act.

**OR**

* 1. [**Presence reduction]** meet the requirements for reduction in presence in section 8(7) of the Citizenship Act.
1. **[Character]** that they are of good character; and
2. **[Responsibilities and privileges]** that they have enough knowledge of the responsibilities and privileges of citizenship; and
3. [**English**] that they

**EITHER**

* 1. have enough knowledge of the English language

**OR**

* 1. meet the criteria for waiver of this requirement in section 8(8) of the Citizenship Act.
1. **[Intention]** that they intend, if granted citizenship,

**EITHER**

* 1. to continue to live in New Zealand (including the Cook Islands, Niue, or Tokelau)

**OR**

* 1. to meet the requirements of section 8(2)(f)(ii) of the Citizenship Act.

**OR**

* 1. to accompany a spouse on Crown Service.

The requirements that apply to people under the age of 16, and the Department’s approach to assessing each of these requirements are set out in more detail below.

# REQUIREMENTS THAT APPLY DEPENDING ON AN APPLICANT’S AGE

## Legal requirement: Applicants aged 16 years and over

Applicants aged 16 years or over at the time citizenship is granted must meet **all six** requirements to be granted citizenship under section 8 of the Citizenship Act.

## Legal requirement: Applicants who are under 16

Applicants who are under the age of 16, may be granted citizenship under section 9(1)(a) of the Citizenship Act. In making a decision about whether to grant citizenship to a person under 16, the Minister may have regard to any of the section 8(2) requirements for the grant of citizenship.

## Policy: Young people aged over 14 but under 16 years of age.

The Minister’s policy is that applicants aged **over** **14 but under 16 years** of age (at the date an application is approved) need to fulfil **all six** of the standard grant requirements in order to be granted citizenship, with the possible exception of the **presence** **requirement**.

For applicants aged under 16 years the presence requirement may be met if a parent or guardian is, or is about to, become a New Zealand citizen

## Policy: Children who are aged under 14

The Minister’s policy is that applicants under 14 years of age at the time of decision only need to fulfil **three** of the standard grant requirements in order to be granted citizenship. The requirements are:

* + **Entitlement to reside** (section 8(2)(a));
	+ **Intention** (section 8(2)(f)); and
	+ **Presence** (section 8(2)(b)) unless the applicant’s parent or guardian is, or is about to, become a New Zealand citizen.

The Minister may choose to waive or not have regard to one or more of the above requirements.

# ASSESSING WHETHER REQUIREMENT MET: ENTITLEMENT TO RESIDE:

## Legal Requirement: New Zealand Residence

###

### Section 8(2)(a)

Applicants for the grant of citizenship are required to be entitled, in terms of the Immigration Act 2009 (Immigration Act), to be in New Zealand indefinitely.

## Policy: section 8(2)(a)

Applicants will clearly meet this requirement if Immigration New Zealand, Ministry of Business, Innovation and Employment, has provided the applicant with New Zealand residence, meaning a residence permit, residence visa or permanent residence visa.

## Policy: Requirements for approval of grant via schedule

Applicants who clearly meet this requirement may be approved for grant of citizenship by schedule.

## Legal Requirement: Residence Cook Islands, Niue or Tokelau

###

### Section 8(4)

The Minister of Internal Affairs may, after consultation with the Minister of Immigration waive the requirement that the applicant be entitled in terms of the Immigration Act to be in New Zealand indefinitely if he or she is satisfied that the applicant is entitled to reside indefinitely in the Cook Islands, Niue or Tokelau.

## Policy and process: Cook Islands, Niue or Tokelau applications

#### Minister of Immigration

Applicants are presented to the Minister of Immigration on a schedule if all other standard requirements are met.

If an applicant meets the requirements of section 8(4) but may not meet another standard requirement of section 8, they are presented to the Minister of Immigration as a submission.

#### Minister of Internal Affairs

If the applicant meets the requirements of sections 8(4) and 8(6), and the remaining requirements of section 8, they may be approved on a schedule.

If an applicant does not meet the requirements of either section 8(4) or 8(6), or another requirement of section 8, they are presented to the Minister of Internal Affairs as a submission.

# ASSESSING WHETHER REQUIREMENT MET: PRESENCE

Applicants for New Zealand citizenship can meet the presence requirement in one of four ways:

* by meeting the standard presence requirement in section 8(2)(b); or
* by meeting the requirement through presence in Cook Islands, Niue or Tokelau under section 8(6); or
* by meeting the standard presence requirement if time spent on Crown service overseas, or accompanying a spouse on Crown service overseas, is taken into account; or
* by meeting the requirements for reduction of presence under section 8(7).

Children aged under 16 years may also meet the requirement if their parent is, or is about to become, a New Zealand Citizen.

## Legal Requirements: Presence requirement

###

### Section 8(2)(b)

Applicants for the grant of citizenship are required to be present in New Zealand with the right to remain indefinitely:

1. for a minimum of 1,350 days in the five years preceding the citizenship application; and
2. for at least 240 days in each of those five years.

### Section 8(5) [and section 4(b)]

The Minister may treat an applicant as having been in New Zealand for any period within the period immediately preceding the date of application for citizenship during which the applicant was in Crown Service under the New Zealand Government (or the Government of Cook Islands, Niue or Tokelau), or accompanying a spouse on Crown Service

### Section 8(6)

The Minister may waive the section 8(2)(b) requirement if satisfied that that the applicant was present in the Cook Islands, Niue or Tokelau:

1. for a minimum of 1,350 days in the five years preceding the citizenship application; and
2. for at least 240 days in each of those five years.

### Section 8(7)

The Minister may grant citizenship to applicants who do not meet the presence requirement for the grant of citizenship provided the applicant:

1. was present in New Zealand for at least 450 days in the 20 months immediately before the application for citizenship was lodged; and
2. was entitled, in terms of the Immigration Act , to be in New Zealand indefinitely during each of those 450 days.

In order to grant citizenship under this section the Minister must be satisfied that there are exceptional circumstances particular to the applicant that Minister believes justify accepting a shorter period of residence in New Zealand.

## Policy: Presence: Standard requirement

To clearly meet the standard requirement the applicant must have:

1. been physically in New Zealand, for a minimum of 1,350 days in the five years preceding the citizenship application, and for at least 240 days in each of those five years; and
2. held New Zealand residence through Immigration New Zealand for that whole period

The date residence is calculated from is the date, that a complete application is received, and the fee is paid.

For avoidance of doubt where an application is submitted online, the date in New Zealand at the time the application is received by the Department electronically will be the date that the application is deemed to be received .

If the Department is satisfied that checks with Immigration New Zealand show that the applicant clearly meets this requirement, the applicant may be approved for grant of citizenship via a schedule, provided all other requirements are met.

## Policy: Crown Service requirement

The Minister has discretion to treat an applicant as having been in New Zealand for any period within the period of 5 years immediately preceding the date of application for citizenship during which the applicant was on Crown service. The period relates to either the applicant or their spouse.

The period in Crown Service overseas can be added to periods spent in New Zealand to meet the requirement.

## Policy: Inclusion on schedule

Where the Department is satisfied that the applicant has provided sufficient evidence to show that they clearly meet the requirements of section 8(2)(b), when time taken on Crown Service is taken into account, they may be approved for grant of citizenship via schedule, if all other relevant requirements are met.

## Policy: Reduction of presence requirement

To be considered under this section the applicant must have been in New Zealand for at least 450 days in the 20 months immediately before the application for citizenship was lodged and have held New Zealand residence through Immigration New Zealand for that whole period.

Assessment is required on a case by case basis. Exceptional circumstances arise when the situation is well outside the normal run of circumstances found in citizenship grant cases generally.

The circumstances do not have to be unique or very rare, but they do have to be truly an exception rather than the rule, or they would need to be out of the ordinary and comparatively rare.

## Policy: Requirements for approval of grant via schedule

Applicants may be included on the presence schedule where the Department is satisfied that the applicant is eligible for consideration under section 8(7) (i.e. has exceptional circumstances and meets the reduced presence threshold), clearly has a permanent base in New Zealand and genuine reasons for absence that were directly related to work-related travel or study or family illness.

Applicants who have exceptional circumstances that relate to any other reason, other than those listed above, will come to the Minister as an individual submission.

# ASSESSING WHETHER REQUIREMENT MET: GOOD CHARACTER

## Legal Requirement: Good Character

### Section 8(2)(c)

Applicants for the grant of citizenship are required to be of good character.

## Policy: Good Character

Checks are undertaken with various external agencies to identify whether they hold any information detrimental to an applicant’s character.

These agencies include, but are not limited to:

* New Zealand Police (some convictions are assessed under section 9A of the Citizenship Act – see Convictions);
* New Zealand Security Intelligence Service;
* Ministry of Social Development;
* Ministry of Justice;
* Inland Revenue Department;
* Ministry of Business, Innovation and Employment.

In addition, some applicants are required to supply clearances from overseas agencies or to provide other information.

## Policy: Requirements for approval of grant via schedule

Applicants may only be included on a schedule if they clearly meet the good character requirement.

Applicants who may meet, but do not clearly meet the good character requirement, will be referred to the Minister as a submission.

**Policy: Information that will be considered detrimental**

Information that will usually be presented to the Minister (unless a specific exception applies) includes:

* criminal convictions in or outside New Zealand;
* fraudulent debt;
* undischarged protection orders**;**
* recently discharged protection orders**;**
* a pattern of traffic infringements (100 or more demerit points in the two years prior to the Minister making a decision);
* proved charges in a Youth Court;
* detrimental information received from any agency or individual;
* deliberate non-disclosure of relevant information; and
* information received from the Police or other sources about a serious incident or pattern of minor incidents of family violence.

## Policy on family violence

Family violence and family harm are serious problems in New Zealand society. The Minister’s policy is that a person who is perpetrator of family violence will not meet the good character requirement of the Citizenship Act unless and until:

* they take responsibility for their part in the violence;
* take steps to address its underlying causes; and
* the violence is firmly in the past.

The onus is on the applicant to show that they meet the good character requirement.

Where information has been received that indicates that the applicant has, or has had, a problem with family violence then they will need to provide further information to satisfy the Minister that they have taken responsibility for their part in the violence, taken action to address the causes, and that the situation is now in the past.

## Policy where information about family violence is received, which falls short of a conviction

In determining whether to request further information from an applicant, the Department may take into account information from a Police Vetting Report about family violence, or from other sources, even if it has not resulted in a conviction.

However, information that has not resulted in a conviction will be given less weight than a conviction in determining the Department’s recommendation to the Minister. Any information received about family violence, whether or not it results in a conviction, will be presented in the submission to the Minister to support her deliberations.

**Process where detrimental information is received**

Where detrimental information is received, applicants may be asked to provide:

* their view on whether the information is accurate and fairly reflects the situation;
* their explanation of what occurred; and
* their view of the matter now.

Where relevant, it may help the applicant if they are able to provide evidence of steps they have taken to address what happened, and to stop it happening again, for example (where relevant):

* family violence courses (e.g. offered by the providers linked at http://www.areyouok.org.nz/i-need-help/using-violence/);
* parenting courses (e.g. a Parenting Through Separation course if relevant);
* alcohol or drug treatment (if relevant);
* counselling;
* reparation (if relevant);
* religious or spiritual practice;
* stress management; and/or
* lifestyle changes.

### Provision of information

In the absence of serious offending, clear and objective evidence of positive and/or outstanding contributions may be relevant.

Applicants may therefore also provide other information which shows their character in a positive light. For example, evidence of contribution to the community, or evidence of good character in everyday life.

The types of evidence which may be useful to the Minister include:

* Letter(s) from a doctor or counsellor, therapist, community worker, social worker, priest, minister or similar confirming the applicant attended a relevant course or took other action to help them address the causes of the family violence problem.
* Reference(s) from people who know the applicant well and can talk about the incident and what the applicant has subsequently done to address the situation.
* Reference(s) from people in the community who can speak positively about the applicant’s character.
* Reference(s) from people (of more than one gender) in the applicant’s work and personal life.

The onus is on the applicant to satisfy the Minister that they are of good character.

The Minister will act reasonably and will take into account the reliability and sources of information, in assessing the weight given to it.

## Legal requirements: Applicants who have a disqualifying conviction

### Section 9A

The Minister must not grant citizenship to a person who has been convicted of an offence if:

1. the person was sentenced to –
	1. a term of imprisonment of 5 or more years; or
	2. an indefinite term of imprisonment capable of running for 5 or more years; or
2. within the previous 7 years the person was sentenced to a term of imprisonment of less than 5 years or was subject to release under subpart 2 of Part 1 of the Parole Act 2002; or
3. within the previous 3 years the person was convicted of an offence but did not receive a sentence of imprisonment.

The only exception to this is if the person meets all the requirements of section 8 or 9, and the Minister is satisfied that there are exceptional circumstances relating to the conviction that mean the person should be granted citizenship.

## Policy – Disqualifying Convictions

If the applicant has a disqualifying conviction, they can only be granted citizenship if they satisfy the Minister that there were exceptional circumstances relating to the conviction.

Applicants who have convictions that must be assessed under this section are presented to the Minister in a submission.

Applicants are given the opportunity to provide information and evidence in order to satisfy the Minister that there are exceptional circumstances relating to the conviction that mean he or she should be granted citizenship.

Applications under this heading are very rare and will always be made by submission to the Minister.

## Policy – After the disqualification period has ended.

### Sentence of imprisonment

If a person has been sentenced to imprisonment of less than 5 years, they are disqualified until seven years have passed after release from prison and their parole conditions have ended.

When the disqualification period has ended, the applicant is still subject to the normal requirements for a grant of citizenship, including good character.

An applicant who has been disqualified may only be included on a schedule if:

* no detrimental information is received relating to the 7-year disqualification period; and
* if the Citizenship Case Officer considers that the nature of the original offending, is not of a type which means that Minister should consider the application personally via a submission.

The Department may also provide the Minister with submissions on a “no surprises” basis where the Department considers the application should be brought to her attention.

### Conviction where the applicant was not sentenced to a term of imprisonment

If a person has been convicted of a crime but were not sentenced to a term of imprisonment, they are disqualified from applying for a grant of citizenship until 3 years have passed from the date of conviction.

Applicants are still required to meet the good character test and may be asked to provide information about their character.

If the Department is satisfied, that taking into account that information the applicant provided, that they clearly meet the good character test, the application may be included on a schedule.

# ASSESSING WHETHER REQUIREMENT MET: RESPONSIBILITIES AND PRIVILEGES

***Legal Requirement***

*Section 8(2)(d)*

Applicants for the grant of citizenship must have sufficient knowledge of the responsibilities and privileges attaching to New Zealand citizenship.

***Policy***

To clearly fulfil this requirement for schedule purposes the applicant must sign the citizenship application form or confirm as part of their online application that they understand the responsibilities and privileges of New Zealand citizenship.

Applicants who have not correctly completed the section in the citizenship application form are provided with the opportunity to re-complete the relevant section.

***Applicants who do not clearly meet the requirement***

The individual cases of applicants who have not correctly completed or are not able to complete the section in the citizenship application form are presented to the Minister in a submission.

If the Minister is not satisfied the applicant has sufficient knowledge of the responsibilities and privileges of New Zealand citizenship, she can choose not to have regard to the requirement under section 9.

# ASSESSING WHETHER REQUIREMENT MET: ENGLISH

## Legal Requirement Section 8(2)(e)

Applicants for the grant of citizenship must have sufficient knowledge of the English language.

The Minister may waive the English language requirement under Section 8(8) of the Citizenship Act if satisfied in a particular case that, because of the applicant's age or standard of education, or for any other reason personal to the applicant, the applicant would suffer undue hardship if they were required to have sufficient knowledge of the English language.

## Policy: Fulfilling English Language Requirement for Schedule purposes

To clearly fulfil this requirement for schedule purposes the applicant must prove to the Department that they can manage independently in everyday situations using English.

### Initial assessment

Assessment of whether an applicant has sufficient knowledge of the English language is initially based on:

* the applicant's standard of education;
* the nature of the applicant's employment; and
* any face-to-face or telephone communication that the applicant has had with the Citizenship Office.

### Interviews

Applicants who lodge their application in person will have their knowledge of the English language assessed during an interview.

In some cases, applicants who have lodged their application by mail or online will need to be interviewed by a Citizenship Case Officer to assess their knowledge of the English language. The assessment must have regard to:

* the applicant's comprehension of, and responses to, questions asked;
* any other conversation that develops during the interview; and
* the requirement that the applicant's knowledge of English be sufficient to enable them to manage independently in everyday situations.

Applicants who are assessed as having insufficient knowledge of the English language at a first interview must be offered the opportunity to attend a second interview in a further six months.

## Policy: Applicants who do not clearly meet the English requirement

### English Waiver Schedule

Applicants who do not clearly meet the English language requirement may be approved for citizenship on the English Language Waiver schedule.

In order to be approved on this schedule the Department needs to be satisfied that the applicant is unable to develop a sufficient knowledge of the English language, and would suffer undue hardship if required to develop a sufficient knowledge, because of one of the following:

* an age-related impairment;
* a lack of education/literacy in native tongue;
* a medical condition; or
* any other factors personal to the applicant.

### English Language Submission

Applicants who do not clearly meet the requirement that they have sufficient knowledge of the English language, and do not clearly meet the requirements to be included on an English Language Waiver Schedule are presented to the Minister as a submission.

The Minister can either:

* grant citizenship to an applicant in this situation by waiving the requirement under section 8(8);
* waive the requirement under section 9; or
* not approve an applicant for the grant of citizenship.

# ASSESSING WHETHER REQUIREMENT MET: INTENTION TO RESIDE

***Legal Requirement: Intention to Reside***

### Section 8(2)(f)

Applicants for the grant of citizenship must intend, if granted citizenship, to either -

1. continue to reside in New Zealand; or
2. enter into or continue in Crown Service under the New Zealand Government, or service under an international organisation of which the New Zealand Government is a member, or service in the employment of a person, company, society, or other body of persons resident or established in New Zealand.

### Section 8(9)(b)

The Minister may treat an applicant as intending to continue to reside in New Zealand if the applicant intends to accompany their New Zealand citizen spouse or civil union or de facto partner on Crown Service for the New Zealand Government or public service for the Government of the Cook Islands, Niue or Tokelau.

## Policy: Intention to reside

Section 8(2)(f*)*

To clearly fulfil this requirement for schedule purposes the applicant must satisfy the Department that they either intend to continue to reside in New Zealand or work overseas for an authorised organisation.

The following factors are taken into account when assessing whether a person meets this requirement:

* whether the applicant is currently residing in New Zealand;
* whether the applicant has indicated on the application form that they intend to continue to reside in New Zealand ; and
* whether the Department has received any information that would suggest that the applicant may not intend to continue to reside in New Zealand.

Or

* whether the applicant has indicated that they intend to reside overseas in the service of an organization as stipulated in Section 8(2)(f)(ii) of the Citizenship Act; and
* whether the applicant has provided evidence substantiating their overseas employment.

## Policy: Applicants who do not clearly meet the Intention to Reside requirement

Applicants who do not clearly meet the requirement are presented to the Minister as a submission.

If the Minister is satisfied that the applicant intends to continue to reside in New Zealand or work overseas for an authorised organisation, the Minister can grant them New Zealand citizenship.

If the Minister is not satisfied that the applicant intends to continue to reside in New Zealand or work overseas for an authorised organisation, the Minister can choose not to have regard to the requirement under section 9 of the Citizenship Act.

## Policy: Section 8(9)(b): Intention where applicant’s spouse is on Crown Service

All applications where an applicant seeks to meet the intention requirement through accompanying their spouse on Crown Service for the Governments of the Cook Islands, Niue, or Tokelau will be presented to the Minister as a submission.

# GRANT OF CITIZENSHIP UNDER SECTION 9: SPECIAL CASES

# ASSESSING APPLICANTS AGED UNDER 16

# 9(1)(a) Applicants under 16 years of age

# *Legal Requirement: Section 9(1)(a) Applicants under 16 years of age*

The Minister may grant citizenship to applicants who are under the age of 16. These applications are granted under section 9(1)(a) of the Citizenship Act.

In making a decision about whether to grant citizenship to a person under 16, the Minister may have regard to any of the section 8(2) requirements for the grant of citizenship.

## Policy for applicants under 16

The policy for applicants under 16 is set out earlier in this document.

***Applicants who do not clearly meet the requirements***

Applicants who do not meet one or more of the requirements are presented to the Minister in a submission. The Minister can waive any of the requirements as they see fit.

# ASSESSING APPLICANTS UNDER SECTION 9(1)(b)

# Applicants whose parent was a New Zealand citizen by descent

## Legal Requirement: Children of citizens by descent

### Section 9(1)(b)

The Minister may grant citizenship to applicants born after 1 January 1949 to a parent who was a New Zealand citizen by descent at the time of their birth.

In making a decision about whether to grant citizenship to a child of a citizen by descent, the Minister may have regard to any of the section 8(2) requirements for the grant of citizenship.

# Policy: Children of citizens by descent

All applications of this type must be presented to the Minister to consider.

The Minister considers the applicant’s ability to fulfil the standard requirements for a grant of citizenship, and why the applicant is unable to fulfil a particular requirement.

The Minister may take into account such things as:

* whether the applicant can demonstrate a link to New Zealand;
* whether the applicant has longstanding familial/whakapapa ties to New Zealand;
* whether the applicant has family members living in New Zealand who are New Zealand citizens;
* the circumstances of the parent(s) being citizens by descent;
* why the applicant wants New Zealand citizenship; and
* any other factors the applicant wishes the Minister to consider.

# ASSESSING APPLICANTS UNDER SECTION 9(1)(c)

# Applicants with exceptional circumstances in the public interest

## Legal Requirement: Exceptional Circumstances in the Public Interest

### Section 9(1)(c)

The Minister may grant citizenship to applicants who do not meet one or more of the standard requirements for citizenship if satisfied that granting citizenship would be in the public interest because of exceptional circumstances of a humanitarian or other nature relating to the applicant.

# *Process: Exceptional Circumstances in the Public Interest*

All applications considered under this section must be presented to the Minister as a submission.

The Minister has the discretion to assess individual circumstances, including the extent to which an applicant meets the standard requirements in section 8 of the Citizenship Act.

# *Policy: Assessment of Exceptional Circumstances*

Assessment of exceptional circumstances is made on a case-by-case basis, having regard to the applicant’s situation.

The exceptional circumstances criterion is a difficult test. Although some applicants’ circumstances may be unusual or cause some degree of hardship, such cases are unlikely to be instances of exceptional circumstances.

While an applicant’s ‘exceptional circumstances’ may not be unique or without precedent the case should be relatively rare and uncommon.

# *Policy: Assessment of Public Interest*

Assessment of whether it would be in the public interest for a person to be granted citizenship requires that the public interest factor should:

* arise directly from the applicant's exceptional circumstances ; and
* provide some advantage, or positive benefit to New Zealand.

In some cases, it may be in the public interest to:

* remedy unjust circumstances, where a grant of citizenship would remedy an existing situation, and remedying that situation would be in the public interest; or
* to avoid negative consequences for New Zealand, where a grant of citizenship would avoid a negative impact on the public interest.

## Guidelines about exercise of discretion

The Minister has the discretion to consider an applicant’s overall circumstances to determine whether they are exceptional, and whether it would be in the public interest to grant citizenship as a result of these circumstances.

Below is a non-exhaustive list of factors that may be taken into account by the Minister:

* whether the applicant is of full capacity;
* the reason(s) an applicant is overseas, including whether travel is a core component for their work;
* the length of time spent overseas;
* whether an applicant has held residency for the required length of time;
* the amount of time the applicant has lived in New Zealand with residency;
* the connection an applicant has with New Zealand and their on-going commitment to live in the country;
* an applicant’s family circumstances (including whether family members are New Zealand citizens);
* the role the applicant plays in New Zealand society;
* the reason(s) why the applicant is applying for citizenship; and/or
* the impact on an applicant if they are not granted New Zealand citizenship.

Each case will be determined on its own facts with all relevant public interest factors being considered. One factor in and of itself may not be significant enough to gain citizenship under section 9(1)(c) of the Citizenship Act.

# ASSESSING APPLICATIONS, WHERE APPLICANT WOULD OTHERWISE BE STATELESS

## Legal Requirement: Grant of citizenship to stateless persons

### Section 9(1)(d)

The Minister may grant citizenship to applicants who do not meet one or more of the standard requirements in section 8 of the Citizenship Act if they would otherwise be stateless.

## Policy: Applications from stateless persons.

All applications considered under this section must be presented to the Minister as a submission.

Where an applicant is unable to fulfil a particular requirement under section 8(2), the Minister will consider if their statelessness impacts on their ability to fulfil that requirement.

The factors the Minister takes into account include:

* the applicant's personal circumstances, and how they came to be stateless;
* the reason(s) why the applicant cannot meet a particular requirement;
* whether the applicant's circumstances preclude them from meeting that particular requirement, now and in the future and the effect this will have, in general, on their circumstances;
* the intent of the requirement(s) that the applicant doesn't meet;
* any reason(s) why the applicant needs the grant of New Zealand citizenship;
* whether there are any other avenues open to the applicant to pursue, other than the grant of New Zealand citizenship: and
* what control the applicant has over their current circumstances that have led them to apply for citizenship.

# ASSESSING APPLICANTS UNDER SECTION 10

***Legal Requirement***

*Section 10*

The Minister must grant citizenship to a person born before 1 January 1978 if, at the time of that person’s birth, their mother was a New Zealand citizen otherwise than by descent.

***Policy***

If the applicant clearly meets the requirements, they are approved for grant by schedule.

If the applicant cannot satisfy the Department of their identity or their ability to meet the legal requirements, they are presented to the Minister as a submission.

If the applicant is entitled to a grant of citizenship as of right, but there are special circumstances the Department considers the Minister ought to be aware of (e.g. the applicant is receiving citizenship in order to be deported to New Zealand) the application will be referred to the Minister via a submission with the advice that the Minister has no discretion but to grant citizenship to the applicant.

# CEREMONIES

## Legal Requirement: attending a citizenship ceremony

### Section 11

Applicants who are approved for the grant of citizenship must attend a public citizenship ceremony and take the oath or affirmation of allegiance to become a citizen, unless the Minister agrees otherwise.

Applicants who are already citizens by descent or are under 14 years of age are not required to attend a ceremony.

### Regulation 7(3)

Applicants must take the oath or affirmation within 1 year of the date of being advised by the Department that their application has been approved. The Minister may allow further time to do this, provided approval is granted for an extension prior to the 1 year having past.

If the oath or affirmation is not made within 1 year, and a request for an extension is not approved before 1 year has passed, the approval for the grant will lapse.

## Policy: Ceremonies

Public ceremonies are either held by a local authority or the Department .

The Minister can allow an applicant to attend a private ceremony or can waive the requirement that a person attends any ceremony.

## Process: Approving a private ceremony or waiving the requirement

The Minister can approve a private ceremony or waive the requirement in three ways. They are by:

* meeting the requirements for a pre-approved reason;
* a schedule; or
* a submission.

### Meeting the requirements for a pre-approved reason

The Minister has approved the following people to attend a private ceremony:

* the applicant, or a family member of the applicant who applied at the same time, was approved for an English language waiver;
* the applicant is so severely disabled that attendance is not practical;
* the applicant has a family emergency overseas or the applicant (or other family member) needs to travel overseas for medical help;
* the applicant was given refugee status and provides evidence that he/she cannot travel on a Refugee Travel Document and needs to travel overseas urgently;
* the applicant is a sportsperson seeking selection or travelling to compete for New Zealand;
* the applicant is off on a 'big OE' and will be away longer than 12 months, and the grant will lapse while they are away;
* the applicant is a rural General Practitioner who owns his or her own surgery and is on-call;
* the applicant is a Samoan citizen who has been approved for citizenship under the Citizenship (Western Samoa) Act 1982 and does not speak enough English to publicly swear allegiance; or
* the applicant is living overseas and was approved via schedule.

Samoan citizen applicants living in Samoa can attend a ceremony in Samoa held in the New Zealand High Commission. Their grants of citizenship are approved via schedule if all other requirements are met.

### **Policy matters which are considered via submission**

Applicants who do not wish to, or are unable to, attend a public ceremony are presented to the Minister in a submission.

## Policy: extension of time to take the oath or affirmation

Requests for an extension of the time an applicant must attend a ceremony are presented to the Minister in a submission. Requests must be approved by the Minister before the 1-year period has passed.

If the approval lapses, due to the oath or affirmation not being taken in the required period of time, the file is closed, and the applicant is required to re-apply for citizenship if they still wish to become a citizen.

# General requirements for the grant under the Citizenship Western Samoa Act 1982

### Section 7

Section 7 of the Citizenship (Western Samoa) Act 1982 Act provides that the Minister must authorise the grant of citizenship to any person who is a citizen of Western Samoa or a person to whom section 4 of applies and can satisfy the Minister that he or she meets one of the following requirements:

1. was in New Zealand at any time on 14 September 1982; or
2. lawfully entered New Zealand on or after 15 September 1982 and is entitled, in terms of the Immigration Act , to be in New Zealand indefinitely.

The Department’s approach to assessing each of these requirements is contained in more detail below.

## In New Zealand on 14 September 1982

### Policy: for Schedule purposes

To clearly fulfil this requirement for schedule purposes the applicant must satisfy the Department that they were in New Zealand at any time on 14 September 1982 and were a Samoan citizen.

### Applicants who do not clearly meet the requirement

Applicants who were in New Zealand on 14 September 1982, but cannot provide documentary evidence of this, are presented to the Minister in a submission. The applicant is given the opportunity to provide evidence that they were in New Zealand before and after that date, in order to satisfy the Minister that it is likely they were in New Zealand on 14 September 1982.

## Lawfully entered New Zealand on or after 15 September 1982

### Policy: for Schedule purposes

To clearly fulfil this requirement for schedule purposes the applicant must prove that they entered New Zealand lawfully on or after 15 September 1982, have the right to remain in New Zealand indefinitely and are a Samoan citizen.

### Applicants who do not clearly meet the requirement

If applicants do not meet the requirement they can apply for the grant of citizenship under the Citizenship Act instead.

# RENUNCIATION

## Legal Requirement: Renunciation

### Section 15

New Zealand citizens who are 18 years of age or older, are of full capacity and have citizenship of another country may renounce New Zealand citizenship.

The Minister may decline an application to renounce citizenship if:

1. the individual is resident in New Zealand; or
2. a state of war exists between New Zealand and any other country.

## Policy: Renunciation

If the applicant meets all of the requirements to renounce citizenship the Department removes their name from the citizenship register.

Citizenship Delegations 2019 provide the Department the responsibility to cause the declaration to be registered where the applicant meets the requirements of section 15 of the Act.

***Policy: Applicants who do not clearly meet the requirement***

The Minister may decline an application to renounce citizenship if the applicant does not meet the requirements.

Issues the Minister considers include:

* whether the person would be unlawfully in New Zealand on renouncing his or her citizenship; and
* whether the person intends to leave New Zealand.

# DEPRIVATION OF CITIZENSHIP

## Legal Requirement: Deprivation of Citizenship

### Section 16

The Minister may deprive a person of citizenship if he or she is satisfied that the person, while a New Zealand citizen and while 18 years of age or over and of full capacity, has:

1. acquired the nationality or citizenship of another country by any voluntary and formal act, and acted in a manner that is contrary to the interest of New Zealand; or
2. voluntarily exercised any of the privileges or performed any of the duties of another nationality or citizenship possessed by him or her that is contrary to the interests of New Zealand.

### Section 17

The Minister may deprive a person of their citizenship if satisfied that they obtained citizenship by:

1. fraud; or
2. false representation; or
3. wilful concealment of relevant information; or
4. by mistake.

The Minister may not deprive a person of their citizenship if:

1. the citizenship was acquired by mistake; and
2. to deprive the person of that citizenship would leave the person stateless.

### Section 19

Upon being served notice that the Minister intends to deprive them of citizenship, a person may apply to the High Court for a declaration that there are insufficient grounds for deprivation.

***Policy***

All cases for deprivation of citizenship are presented to the Minister as a submission recommending that notice be served on the person stating that the Minister intends to deprive him or her of citizenship, and the reasons for doing so.

# POLICY FOR ASSESSMENT EVIDENCE OF IDENTITY

In order to present an application to the Minister or her delegate, it is necessary for the Department to establish the identity of the applicant. An applicant can provide a combination of documents to satisfy the Minister or her delegate of their identity.

Documents include, but are not limited to:

* birth certificate
* passport
* identity card
* household register
* refugee travel document
* certificate of identity
* marriage or civil union document
* change of name document
* driver licence.

***Applicants who clearly meet the requirement***

If the Department is satisfied of the applicant’s identity he or she is assessed under the relevant section of the Citizenship Act and, provided they meet the requirements of that section, may be placed on a schedule.

***Applicants who do not clearly meet the requirement***

Applicants who do not satisfy the Department of their identity are presented to the Minister as a submission.

# PRESCRIBED MANNER

***Legal Requirements: Prescribed Manner***

Applicants for products and services must apply in the prescribed manner. The definition of the prescribed manner is provided in the Citizenship Regulations.

### Regulation 4

An application for the grant of citizenship under section 8, section 9 or section 10 of the Act must:

1. be in the form provided by the Secretary;
2. be accompanied by the prescribed fee; and
3. be lodged with an office of the Department.

### Regulation 5

A certificate issued under section 12 of the Act attesting to the grant of citizenship to any person must be in the form for the time being prescribed by the Minister.

### Regulation 6

An application under section 21 of the Act for a certificate to the effect that a person is a citizen must:

1. be made in the form provided by the Secretary and addressed to the Secretary;
2. be accompanied by the prescribed fee (if any); and
3. be lodged with an office of the Department.

***Policy******: Applicants who do not apply in the prescribed manner***

Applicants who do not apply in the prescribed manner are given the opportunity to remedy the defect.

Applicants, who have a reason for not applying in the prescribed manner, may ask for the application to presented to the Minister as a submission, and to have the requirement waived.

The Minister will takes into account what has not been provided and the reason(s) for this in determining whether to waive the requirement.

# PROCESS: LOST CONTACT

If an applicant loses contact with the Department during the processing of his or her citizenship application, the applicant is given six months to re-establish contact, during which time the Department will also attempt to contact the applicant.

If, after this six-month period, no contact has been made with the applicant, the application will be presented to the Minister, based on the information available, to either approve or decline.

## Lost contacts procedure

There is a comprehensive process the Department must follow before an application will be presented to the Minister to make a decision in these cases. This includes:

* sending letters by normal post and courier to the applicant and (if applicable) his or her agent;
* sending emails and making telephone calls to the applicant and (if applicable) his or her agent;
* attempting to contact (if applicable) any family members who applied at the same time as the applicant; and
* searching the online white pages to see if the applicant or agent may have changed address.

## Lost contacts policy

If an applicant has not re-established contact with the Department within six months of his or her last contact, the Department can present the application to the Minister or her delegate to make a decision. The application can be in placed on a lost contact schedule or forwarded to the Minister as a submission.

# REQUIRED INFORMATION

Some applicants do not supply required information or documentation to the Department after multiple requests to do so. In some cases, applicants who are still in contact with the Department advise that they will send specific information or documents, but do not, or advise that obtaining information or documents will take a long time. This can result in the file being held for months or years with no progress being made yet continuing to devote time and resources to contact applicants.

## Policy where an applicant does not provide information requested

When an applicant has not provided requested information after six months of it being requested, the Department may present the application to the Minister based on the information provided up until that point.

## Process where an applicant does not provide information requested

The Department must communicate to the applicant what information is required, why the information is being requested, and that if, after six months, the requested information has not been provided, his or her application may be progressed without it.

After six months, if the requested information has not been provided, the applicant should be given the opportunity to provide an explanation as to why he or she cannot provide the information requested. The Citizenship Case Officer may agree to a time extension to allow the applicant to provide the information if satisfied that:

* there is a genuine reason for the applicant’s inability to provide the information;
* the applicant has taken reasonable steps to locate and/or provide the information;
* the delay is beyond the applicant’s control; or
* the information can be supplied by the applicant within a reasonable timeframe.

When an applicant does not provide the required information after six months (or any other extended period agreed to by the Citizenship Case Officer) the Citizenship Office can present the application to the Minister to make a decision. This can either be in the form of a schedule or submission. The decision whether an application is presented to the Minister in the form of a schedule or submission will be based on whether the applicant meets the requirements for the grant without the required information.

1. The definition of New Zealand in section 4 of the Immigration Act governs entitlement under this section. The Immigration Act definition does not include the Cook Islands, Niue or Tokelau (the Realm countries), which is why presence and entitlement to residence in the Realm countries are covered separately. The Citizenship Act definition (which includes the Realm countries) applies in other sections. [↑](#footnote-ref-2)