

## Application of Citizenship (Western Samoan) Act 1982

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**Introduction** The Citizenship (Western Samoa) Act 1982 came into effect on 15 September 1982. Any applicant who is a Samoan citizen, either by descent or otherwise, may be considered, under section 7(1)(b)(i) of the Citizenship (Western Samoa) Act 1982, for citizenship by grant.

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# Legislation

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## **Section 7 - Grant of citizenship as of right in certain case**

Section 7 of the Citizenship (Western Samoa) Act 1982 states:

1. Notwithstanding anything in section 8 or section 9 of the Citizenship Act 1977, the Minister of Internal Affairs shall, upon application made to him, immediately authorise the grant of New Zealand citizenship to any person who proves to the satisfaction of the Minister:
  - a. That he is a citizen of Western Samoa or a person to whom this Act applies; and
  - b. That he
    - I. Was in New Zealand at any time on the day before the commencement of this Act; or
    - II. Has lawfully entered New Zealand after the commencement of this Act and is entitled, in terms of the Immigration Act 1987, to be in New Zealand indefinitely.
2. Sections 4A, 11, 12, 24, 27, and 28 of the Citizenship Act 1977, and any regulations made under that Act, shall apply with any necessary modifications in respect of an application under subsection (1) of this section as if it were an application under section 10 of that Act.

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## Legislation, Continued

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### **Definition of New Zealand**

Section 7 of the Citizenship (Western Samoa) Act 1982 requires that an applicant is entitled, in terms of the Immigration Act 1964, to reside in New Zealand indefinitely.

The definition of New Zealand is defined differently in each of the following Acts:

- the Citizenship Act 1977
- the Citizenship (Western Samoa) Act 1982

The Citizenship Act 1977 defines New Zealand as all of the following:

- New Zealand
- Cook Islands
- Niue
- Tokelau
- Ross Dependency.

The Citizenship (Western Samoa) Act 1982 defines New Zealand to mean New Zealand only.

#### **Note:**

An applicant, who is a Samoan citizen, and is unable to fulfill the requirements of section 7 of the Citizenship (Western Samoa) Act 1982 can be considered under the Citizenship Act 1977.

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## Legislation, Continued

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### **In New Zealand on 14 September 1982**

The Minister of Internal Affairs will authorise the grant of New Zealand citizenship to an applicant who satisfies the Minister that they are a Samoan citizen and that they were in New Zealand at any time on 14 September 1982.

An applicant who was in New Zealand on 14 September 1982 is not required to have been lawfully resident for the Minister to authorise the grant of citizenship.

#### **Evidence**

The documentary evidence provided must record that the applicant was in New Zealand on 14 September 1982, and this evidence must be verified.

An applicant may produce the following as evidence:

- their passport recording that they entered New Zealand before 14 September 1982 and left after that date, or have continued to reside in New Zealand
- a letter from their employer confirming that employment records establish that they were at work on 14 September 1982
- a letter from a school, or a copy from a school role, confirming that the school records establish that the applicant attended school on 14 September 1982.

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### **In New Zealand after 14 September 1982**

The Minister of Internal Affairs will authorise the grant of New Zealand citizenship to an applicant who is a Samoan citizen, and who lawfully entered New Zealand on or after 15 September 1982 and is entitled, in terms of the Immigration Act 1987, to be in New Zealand indefinitely.

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## Legislation, Continued

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### Residency

The Minister of Internal Affairs will authorise the grant of New Zealand citizenship to an applicant who is a Samoan citizen, and who lawfully entered New Zealand on or after 15 September 1982 and is entitled, in terms of the Immigration Act 1987, to be in New Zealand indefinitely.

#### **Entitlement to reside indefinitely**

An applicant may fulfill the 'entitlement to reside indefinitely' requirement for schedule purposes in the following ways:

#### **Residence Permit**

Applicant holds a valid New Zealand residence permit.

#### **Note:**

If the Minister of Immigration has signed a deportation/removal order, the applicant is not considered to be entitled to reside in New Zealand indefinitely, as their residence is limited by the deportation/removal order.

#### **Returning Residence Visa**

Applicant holds a valid New Zealand Returning Resident visa.

#### **New Zealand Citizen by Descent**

- Applicant is a New Zealand citizen by descent. Under section 4 of the Immigration Act 1987 an applicant who is a New Zealand citizen by descent is automatically entitled to reside in New Zealand indefinitely.
- A citizenship certificate, or a confirmation of New Zealand citizenship by descent issued by the Determinations team, is evidence of New Zealand citizenship by descent.

#### **Exemptions**

- The Immigration Act 1987, enables the Minister of Immigration to exempt certain groups of people from the requirement to hold a permit to be in New Zealand.
- Australians are exempt from the requirement to hold a permit to be in New Zealand indefinitely.
- An Australian passport or citizenship certificate is evidence of Australian citizenship.

#### **Note:**

Australian permanent residents are automatically granted a New Zealand residence permit on arrival to New Zealand, i.e. they should have a New Zealand residence permit in their passport.

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## Legislation, Continued

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### **Western Samoa Act submission**

An applicant who is unable to clearly fulfil the requirements for inclusion on a schedule under the Citizenship (Western Samoa) Act 1982, and who is unable to be included on a schedule under the Citizenship Act 1977, must be referred to the Minister as a submission.

If the applicant is unable to provide the necessary evidence to be scheduled for approval under section 7(1)(b)i, they may provide a body of evidence for the Minister to consider so that he may decide if it has been proven to his satisfaction that the applicant was in New Zealand on 14 September 1982.

The evidence that may be supplied includes documentation which shows that before and after 14 September 1982 the applicant:

- was attending a school or tertiary institution
- was employed, e.g. employer records, attestations from colleagues
- had a physical address, e.g. rental agreement, mortgage payments, house sale and purchase evidence, Housing New Zealand evidence, utility bills
- was receiving a government benefit, e.g. Social Welfare records
- was paying tax or child support, e.g. IRD records, letters from accountants
- was in the health system, e.g. GP or hospital records
- was in the Court system
- had children
- got married.

Other evidence may include information from Immigration New Zealand, any Samoan travel documents held, confirmation from the Samoan authorities as to the travel documents the applicant has held, or, as a last resort, attestations from persons of good standing who can state that they were personally acquainted with the applicant in New Zealand at that time.

Each application will have to be considered on a case-by-case basis, and the recommendation made will need to take into account the weight of evidence provided. It is unlikely that an application based only on anecdotal evidence from persons known to the applicant would be recommended for approval.

All such applicants can also be considered under the Citizenship Act 1977. The applicant should be informed of this option and the Minister informed as to the applicant's ability to meet the relevant sections of this Act.

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**Fulfilment of requirements for 'schedule' purposes**

An applicant may be considered to have fulfilled the requirements of section 7 for schedule purposes if the applicant is a Samoan citizen, and has provided documentary evidence:  
to show that they were present in New Zealand at any time on 14 September 1982, or  
that they lawfully entered New Zealand on or after 15 September 1982, and  
that they are entitled to reside in New Zealand indefinitely.

Use the following table to determine if a Samoan applicant can be placed on a schedule.

<b>If applicant...</b>	<b>then applicant...</b>
<ul style="list-style-type: none"><li>• is a Samoan citizen</li><li>• provided evidence of being in New Zealand on the 14 September 1982, or</li><li>• lawfully entered New Zealand after 14 September 1982, and</li><li>• is entitled to reside in New Zealand indefinitely</li></ul>	<ul style="list-style-type: none"><li>• fulfils the requirements of the Citizenship (Western Samoa) Act 1982</li><li>• can be placed on schedule.</li></ul>
<ul style="list-style-type: none"><li>• is not a Samoan citizen, or is not entitled to reside in New Zealand indefinitely</li></ul>	does not fulfil the requirements of the Act and must be either: <ul style="list-style-type: none"><li>• referred to the Minister as a submission, or</li><li>• considered under the Citizenship Act 1977 (i.e. 3 or 5 grant).</li></ul>

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## Legislation links

[Citizenship \(Western Samoa\) Act 1982, Section 7 Grant of citizenship as of right in certain cases](#)

[Citizenship Act 1977](#)

[Immigration Act 1987](#)

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