

## Citizenship schedules and submissions

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### Introduction

Applications are either referred to the Minister on a schedule, or as a submission, advising the Minister of an individual applicant's eligibility for the grant of New Zealand citizenship. More than 95% of all applications are dealt with on schedules.

Citizenship's role is to:

- process applications for citizenship
- objectively evaluate an applicant's ability to fulfil the legislative requirements necessary for the Minister to authorise the grant of citizenship
- advise the Minister of Citizenship's assessment of an applicant's ability to fulfil the requirements for the grant of citizenship
- recommend to the Minister whether the grant of citizenship should be authorised.

There are seven different types of schedule:

- Grant
- English Waiver
- Consent
- Lost Contact
- Western Samoan
- Section 10
- Grant/Descent.

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# Citizenship schedules and submissions, Continued

## Table of Contents

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|  |    |
|--|----|
| Citizenship schedules and submissions.....                   | 1  |
| Introduction.....  | 1  |
| Policy and legislation requirements.....                     | 3  |
| Grant schedule inclusion.....                                | 3  |
| English Waiver schedule inclusion.....                       | 3  |
| Inclusion on a Lost Contact schedule.....                    | 4  |
| Western Samoan schedule inclusion.....                       | 4  |
| Section 10 schedule inclusion.....                           | 4  |
| Grant/Descent schedule inclusion.....                        | 5  |
| Submissions.....   | 5  |
| Referral.....  | 5  |
| Opportunity for applicant to comment.....                    | 5  |
| Drafting submissions.....                                    | 6  |
| Content of Submission.....                                   | 6  |
| Relevant information.....                                    | 6  |
| Reduction or waiver provisions.....                          | 8  |
| Consideration of the applicant's view.....                   | 8  |
| Subsection of the Act.....                                   | 8  |
| Standard format.....   | 9  |
| Review.....  | 10 |
| Review of the Minister's decision.....                       | 10 |
| Review of the application.....                               | 10 |
| Applicant may see submission before it goes to Minister..... | 10 |

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## Policy and legislation requirements

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### **Grant schedule inclusion**

An application may be referred to the Minister on a grant schedule if:

- the applicant is assessed as clearly fulfilling the legislative criteria for the grant of citizenship, and
  - there are no other matters that should be brought to the Minister's attention.
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### **English Waiver schedule inclusion**

An application may be referred to the Minister on an English waiver schedule, if the applicant:

- is assessed as clearly fulfilling the legislative criteria for the grant of citizenship, with the exception of the English language requirement, and
  - meets the requirements for inclusion on an English waiver schedule, and
  - there are no other matters that should be brought to the Minister's attention.
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## Policy and legislation requirements, Continued

**Inclusion on a Lost Contact schedule** An application may be referred to the Minister on a lost contact schedule if Citizenship has:

- been unable to contact the applicant for a minimum of three months, and
- sent at least three letters to the applicant without reply or, if the applicant's address is unknown, three attempts have been made to communicate with the applicant without success, and
- been unable to determine if the applicant can fulfil the requirements for the grant of citizenship.

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**Western Samoan schedule inclusion** An application may be referred to the Minister on a Western Samoan schedule, if the applicant is assessed as clearly fulfilling the legislative criteria for the grant of citizenship, under the Citizenship (Western Samoa) Act 1982. If insufficient evidence has been provided, Citizenship will consider the applicant's eligibility under the provisions of the Citizenship Act 1977. If the applicant is unable to clearly fulfil the requirements of either Act, the application becomes the subject of a submission to the Minister.

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**Section 10 schedule inclusion** If a person was born on or after 1 January 1949, and before 1 January 1978, and their mother was a New Zealand citizen otherwise than by descent at the time of their birth, that person may apply for a mandatory grant of citizenship. An application under the section 10 provision is forwarded to the Minister on a schedule, recommending approval, unless there is doubt about the applicant's ability to fulfil the requirements of section 10.

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## Policy and legislation requirements, Continued

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| <b>Grant/Descent schedule inclusion</b> | <p>An application may be referred to the Minister on a Grant/Descent schedule if:</p> <ul style="list-style-type: none"><li>• the applicant is assessed as clearly fulfilling the legislative criteria for the grant of citizenship, and</li><li>• there are no other matters that should be brought to the Minister's attention.</li></ul> |
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## Submissions

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| <b>Referral</b> | <p>An application must be referred to the Minister of Internal Affairs as a submission if:</p> <ul style="list-style-type: none"><li>• the applicant is assessed as being unable to clearly fulfil one or more of the legislative criteria, or</li><li>• the Minister is required to exercise a discretion under the Citizenship Act 1977, to waive or reduce a requirement in order to authorise the grant of citizenship, or</li><li>• there is some other matter that Citizenship considers should be brought to the Minister's attention.</li></ul> |
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**Note:**

If an applicant is referred to the Minister as a submission, it does not signify that the applicant is unable to meet the legislative requirements for the grant of citizenship. It indicates that the applicant is unable to clearly meet the agreed guidelines for inclusion on a schedule.

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| <b>Opportunity for applicant to comment</b> | <p>If an application is presented to the Minister as a submission, including submissions resubmitted for reconsideration, generally the applicant must be invited to comment in writing on:</p> <ul style="list-style-type: none"><li>• their ability to fulfil the requirements for the grant of citizenship, and</li><li>• their ability to fulfil the requirements, by which the Minister may exercise discretion to waive or reduce a requirement, in order for a grant of citizenship to be approved, and</li><li>• any other matter that Citizenship considers should be brought to the Minister's attention.</li></ul> <p>The applicant must also be given the opportunity to provide any additional documentation they wish the Minister to consider.</p> |
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## Drafting submissions

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### Content of Submission

Submissions must be written in an objective manner, which fairly represents both the applicant's and Citizenship's view of the applicant's eligibility for citizenship.

Submissions must:

- be written in a clear, concise and factual manner, and
- accurately identify all the relevant issues, and
- fairly represent the applicant's views on their eligibility for citizenship, and
- present the Citizenship Office's view of the applicant's eligibility for citizenship, and
- include a recommendation that is supported by the facts of the application.

### Things to avoid

Submissions must not:

- contain emotive language, or
- reflect the personal bias or views of the submission writer, or
- contain irrelevant information.

Irrelevant information is information that does not relate to either the identity of the applicant, or the applicant's ability to fulfil the statutory requirements for citizenship.

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### Relevant information

Submissions must include all the relevant information necessary for the Minister to make an informed decision regarding an applicant's eligibility for the grant of citizenship.

Relevant information includes:

- the legislative requirements under which the applicant is being considered, and
- an accurate, concise summary of the applicant's view of their ability to fulfil the requirements for the grant of citizenship, and
- Citizenship's view of the applicant's ability to fulfil each of the legislative requirements for the grant of citizenship, and the reasons supporting that view, and
- a clear statement of Citizenship's policy, and
- advice to the Minister on whether a requirement can be reduced or waived, and
- a clear recommendation.

The Minister relies on Citizenship to produce submissions that identify all of the issues relevant to the application. The relevant issues presented in the submission should have been fully and fairly investigated, and lead logically to a recommendation.

If the information on the file is not sufficient to form a clear recommendation, it may be necessary to conduct further investigation before forwarding the submission to the Minister.

This can be done to support an applicant's statements, or provide the Minister with a fuller picture.

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## Drafting submissions, Continued

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### Reduction or waiver provisions

If the Minister has the authority to waive or reduce a requirement that an applicant is unable to meet, or cannot clearly meet, the submission should make reference to all the relevant waiver or reduction provisions in the legislation, regardless of whether Citizenship considers the applicant fulfils the requirements for a waiver or reduction.

The submission should include under a subheading:

- discretion available to the Minister, and
  - facts relating to the applicant's ability to fulfil the requirements, under which the Minister may exercise that discretion, and
  - applicant's view of their ability to fulfil those requirements, and
  - Citizenship's view of the applicant's ability to fulfil those requirements, and
  - a concluding statement with Citizenship's view of the applicant's eligibility for a reduction, or waiver of the requirement.
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### Consideration of the applicant's view

If an applicant claims they would suffer 'undue hardship', or have 'exceptional circumstances', this must be covered in the submission, with a clear statement to the Minister of the discretion available.

If it is considered likely, or possible, that an applicant would suffer undue hardship, but the applicant has not made this claim, Citizenship is required to consider/investigate the claim, and include it in the submission.

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### Subsection of the Act

It is important that an applicant be considered under all the relevant sections, and subsections of the Citizenship Act 1977, and that Citizenship's recommendation be made under the section or subsection that is most beneficial to the applicant.

**Note:**

If an applicant is declined, they are declined under all sections that provide for a grant to be made.

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## Drafting submissions, Continued

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### **Standard format**

Citizenship has developed a standard format for referring submissions to the Minister. Submissions are to be organised into three broad sections:

- general information
  - summary
  - applicant's ability to fulfil the legislative requirement(s), including the applicant's eligibility for a reduction or a waiver of the legislative requirement(s).
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## Review

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### **Review of the Minister's decision**

Frequently, applicants will be unhappy if the Minister declines their application.

If an applicant is unhappy at being declined, they are entitled to ask Citizenship or the Minister to reconsider their application. In general these requests come to Citizenship in the form of complaints or ministerials. If a Citizenship case officer receives a letter requesting reconsideration, it should be referred to a business support officer.

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### **Review of the application**

When an application is reviewed, it is to be checked for:

- illegality
- errors of law
- errors of fact
- improper purpose
- irrelevant matters
- unreasonableness
- fairness.

The principles that apply, are the principles of Administrative Law. Each case is considered on its merits. If there appears to be some merit in the applicant's case, it will be resubmitted to the Minister.

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### **Applicant may see submission before it goes to Minister**

Occasionally an applicant will ask to see, and/or comment on, a submission before it is presented to the Minister.

Under the principles of Administrative Law, Citizenship has a duty to act fairly, which means the applicant has a right to be heard. This does not mean a formal hearing, but does mean that an applicant should be given the opportunity to comment on the information which the Minister considers.

In general the opportunity to comment is an integral part of the citizenship process, where the applicant is invited to comment either in an interview, or through correspondence. If an applicant asks for a copy of the submission for comment before it goes to the Minister, refer the request to the team leader responsible for submissions.

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