

Grant of citizenship by reason of exceptional circumstances and public interest

Introduction This chapter outlines the relevant legislation and policy relating to the 'public interest and exceptional circumstances' requirement of the Citizenship Act 1977.

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Legislation

Citizenship Act 1977 Section 9(1)(c)

Citizenship Act 1977 Section 9(1)(c)
Section 9(1)(c) of the Citizenship Act 1977 states:
'The Minister may authorise the grant of citizenship under this section if,-
satisfied that granting a certificate of New Zealand citizenship to the applicant would be in the public interest because of exceptional circumstances of a humanitarian or other nature relating to the applicant.'

Requirements

Applicants who can be considered under section 9(1)(c)

An applicant should only be considered under section 9(1)(c) if the applicant is unable to fulfil the requirements for the grant of citizenship, under the following sections of the Citizenship Act 1977.

| Section: | Requirements |
|----------|--|
| 8(1) | 16 years of age full capacity, and other general requirements. |
| 9(1)(a) | Applicant has not yet attained the age of 16 years. Note: Although the Minister can consider an application put forward as a submission under 9(1)(a), Citizenship is most likely to recommend consideration under 9(1)(c). |

Fulfilment of section 9(1)(c) requirements

For the Minister to consider authorising the grant of citizenship under section 9(1)(c), an applicant must satisfy the Minister that:

- there are exceptional circumstances which relate to the applicant, and
- because of the applicant's exceptional circumstances, it would be in the public interest to grant citizenship.

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Requirements, Continued

Exceptional circumstances

It is not possible to pre-determine what constitutes 'exceptional circumstances'. An assessment must be made on a case-by-case basis, having regard to the applicant's particular circumstances. The 'exceptional circumstances' criterion provides a difficult test for an applicant to fulfil. Although many applicants' circumstances may cause some degree of difficulty or hardship, such cases are unlikely to be able to fulfil the 'exceptional' criteria.

Public interest

The Minister must also be satisfied that, due to the applicant's exceptional circumstances, it would be in the public interest to grant citizenship. The public interest factor should generally: arise directly from the applicant's exceptional circumstances, and provide some advantage, or positive benefit to New Zealand. The fact that it would not be contrary to the public interest, for an applicant to become a New Zealand citizen, is not sufficient for an applicant to meet the public interest requirement.

Representing New Zealand

General

Some applicants seeking consideration for exceptional circumstances in the public interest may do so on the basis that they wish to represent New Zealand in a particular field.

An exceptional circumstance may exist for an application where that applicant is highly skilled or talented in a particular activity as to be representative of that activity (e.g. in the sporting, artistic, cultural, scientific, or academic arenas) and is recognised as such by the appropriate administrative body for that endeavour.

The decision on whether an applicant's circumstances are 'exceptional' should be made on a case-by-case basis and consideration should be given, but not limited, to the following:

- Is the applicant highly skilled or talented? To assess this consider the quality of the reference/s provided by the applicant, the status of the referee/s and the relationship of the referee to the applicant.
- Is New Zealand citizenship the only requirement for selection that the applicant does not meet? i.e. The applicant must be a citizen in order to be selected.
- Is the body the applicant wants to represent:
 - a national sport organisation (NSO) recognised by Sport and Recreation New Zealand (SPARC)? See SPARC website: [List of recognised NSOs](#); AND
 - recognised by an international federation of that activity (e.g. the New Zealand Rugby Union is affiliated to the International Rugby Board)?

The decision whether an applicant's 'exceptional circumstances' provide some identifiable 'advantage' or 'positive benefit' to New Zealand should be made on a case-by-case basis having regard, but not limited, to the following:

- The size of the activity's membership and following in New Zealand.

Note:

This may be difficult to judge in some circumstances.

- Is this an international competition or event? What is the scale of the event? (e.g. world cup or trans-Tasman match)
- Will the applicant's attendance at the event have an identifiable positive impact within New Zealand? Does it raise the profile of a small or 'fringe' sport within New Zealand?

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Application of section 8(2)

Section 9(2) When considering an applicant under new section 9(1)(c), the Minister may have regard to the requirements of section 8(2), subject to section 8(3) to (9) as the Minister thinks fit, and must have regard to the requirements of section 9A(1), subject to the Minister's discretion under section 9A(2) and (3). Section 9(2) of the Citizenship Act 1977, allows the Minister to have regard to the section 8(2) requirements when considering an application under section 9(1)(c). Sections 8(4), 8(5), 8(6), 8(7) and 8(8) provide alternative means of fulfilling certain section 8(2) requirements.

Application of section 8(2) requirements Citizenship's policy is to advise the Minister of an applicant's ability to fulfil the section 8(2) requirements when considering an application under section 9(1)(c). In general, the office recommends that an applicant should fulfil each of the section 8(2) requirements, unless the applicant's personal circumstances are such that it would be unreasonable to expect the applicant to fulfil a particular requirement.

Referral to Minister All applications under section 9(1)(c) of the Citizenship Act 1977 must be referred to the Minister as a submission.

Legislation links

[Citizenship Act 1977](#)
