

## Registration of citizenship by descent 1978-

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### Introduction

'Citizenship by descent' is a technical term used in citizenship legislation since 1 January 1949. It is contrasted with the term 'citizenship otherwise than by descent'.

A New Zealand citizen by descent has limited ability (or in some cases no ability) to pass New Zealand citizenship on to any of their children born to them outside New Zealand.

A person born or adopted on or after 1 January 1978 who is a New Zealand citizen by descent, may apply to have his or her citizenship registered.

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### How citizenship by descent may be gained on or after 1 January 1978

In most cases, a person born outside New Zealand on or after 1 January 1978 is a New Zealand citizen by descent if he or she is either:

- born to a parent who is a New Zealand citizen (provided the parent is not a citizen by descent), or
- adopted overseas on or after 1 January 1978 by a New Zealand citizen (provided the adoptive parent is not a citizen by descent, and the adoption meets specified legal requirements).

If the parent is a citizen by descent, the applicant also has a claim if he or she would otherwise be stateless.

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## Legislation

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The requirements for confirming whether an applicant is a citizen by descent differ, depending on whether the claim parent is the applicant's birth or adoptive parent.

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## Birth parent a New Zealand citizen

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### **Requirements for citizenship by descent**

An applicant is a citizen by descent if the following criteria are met:

- He or she was born outside New Zealand on or after 1 January 1978.
- The claim parent was a New Zealand citizen otherwise than by descent at the time of the applicant's birth.
- The Department of Internal Affairs is satisfied as to the applicant's paternity (if the claim is through the father) or maternity (if the claim is through the mother).
- The claim parent was not on recognised overseas service for New Zealand at the time of the applicant's birth.
- The claim parent has not renounced, or been deprived of, New Zealand citizenship. If the claim parent renounced citizenship before the date the applicant was born (and did not re-acquire citizenship, by grant), the applicant is not a citizen by descent.

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### **Requirements if birth parent a citizen by descent**

If the claim parent was a citizen by descent:

- then the applicant could be a citizen by descent if he or she would be stateless without New Zealand citizenship.
  - on recognised overseas service for New Zealand at the time of the applicant's birth, then the applicant could be a citizen by descent.
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## Adoptive parent a New Zealand citizen

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### Requirements for citizenship by descent

An applicant may be a citizen by descent if the following criteria are met:

- He or she was adopted in a court outside New Zealand on or after 1 January 1978.

**Note:**

The applicant could be born outside New Zealand before, on, or after 1 January 1978 and adopted after 1 January 1978.

- The claim parent was a New Zealand citizen other than by descent at the date of the final adoption order.
- The adoption meets the legislative criteria of the Citizenship Act 1977.
- The claim parent was not on overseas service for New Zealand at the time of the applicant's adoption.
- The claim parent has not renounced, or been deprived of, New Zealand citizenship.

If the claim parent renounced citizenship before the date the applicant was adopted (and did not re-acquire citizenship, by grant), then the applicant is not a citizen by descent.

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### Requirements if adoptive parent a citizen by descent

If the claim parent was a citizen by descent, then the applicant could be a citizen by descent if:

- he or she would be stateless without New Zealand citizenship.
- the claim parent was on recognised overseas service for New Zealand at the time of the applicant's adoption.

**Note:**

- The issue of adoption must be approached with sensitivity. Some applicants may not be aware they are adopted.
  - A person becomes a citizen by descent on the date of the final adoption order, and is deemed to have been born when and where the adoption order was made.
  - If the claim parent is the same-sex partner of the woman who gave birth to the applicant.
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## Adoptive parent a New Zealand citizen, Continued

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### **Requirements if applicant adopted from Western Samoa**

If the applicant has been adopted from Western Samoa by a New Zealand citizen parent then, before the registration can be approved, further checks must be made so that the department is satisfied of the following details:

- Identity of the adoptive parents
  - Identity of the birth parents
  - Child's age has not been altered
  - Parents named on the birth record are the birth parents
  - Birth parents have given consent to the adoption.
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### **Adoptee may claim through birth parent**

An applicant who has been adopted may be a citizen by descent through a birth or an adoptive parent. If the applicant is not a citizen through an adoptive parent, a claim may be possible through a birth parent who is a New Zealand citizen.

The applicant must provide additional documentation that shows the link between the pre-adoption and post-adoption identities - for example, between the pre-adoptive and post-adoptive birth certificates, and the adoption order that links both the name before adoption and the name after adoption.

#### **Note:**

Not all countries allow access to pre-adoptive birth records. If the appropriate documentation cannot be obtained, a claim to citizenship by having a birth parent cannot be verified, and the applicant cannot be confirmed as a New Zealand citizen under that category.

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## Registration and transfers

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### Registration of citizenship by descent

A person born or adopted on or after 1 January 1978 who is a New Zealand citizen by descent, may apply to have his or her citizenship registered.

<b>If requirements met</b>	If the department is satisfied that all requirements for registration of citizenship are met, the applicant's name must be added to the Citizenship Register and a Citizenship by Descent Certificate must be issued.
<b>If requirements not met</b>	If the department is not satisfied that all requirements for registration of citizenship are met, the application may be put on hold until the correct evidence is provided. If no claim is established, the applicant must be sent a letter advising that the Department is not satisfied they are a citizen by descent.

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### Certified copy of descent registration

If a record of the applicant already exists, a certified copy of the record may be issued.

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### Transfers from descent registration application to grant application

If an applicant for registration of citizenship by descent is not a citizen but may meet the requirements for grant of citizenship under the Citizenship Act 1977, or the Citizenship (Western Samoa) Act 1982, the applicant may transfer to a grant application.

If the applicant pays the balance of the fee for a grant application, and completes the appropriate form, the application can be submitted to the Grants team.

A transfer is not an option where the person applied for an evidentiary certificate. This is because section 21(2) of the Citizenship Act provides that the applicant must receive the product he or she paid for, namely a certificate that confirms whether or not the applicant is a New Zealand citizen.

## Legislation links

Citizenship Act 1977:

- [Section 3 Special provisions relating to marriage \(including paternity and adoption\)](#)
- [Section 6 Citizenship by birth](#) (including children of parents on overseas service)
- [Section 7 Citizenship by descent](#)
- [Section 13 Existing rights of citizenship protected](#)
- [Section 21 Evidentiary certificates](#)

[Adoption Act 1955, Section 17 Effect of overseas adoption](#)

[Adoption \(Intercountry\) Act 1997](#)

[Evidence Act 2006](#)

[Status of Children Act 1969, Section 8 Evidence and proof of paternity](#)