

Verification of citizenship applicant's full capacity

Introduction	<p>Section 2(3)(c) of the Citizenship Act 1977 provides that a person is deemed to be of full capacity if he or she is not of unsound mind.</p> <p>Under common law, everyone is deemed to be of full capacity unless there is evidence to the contrary.</p> <p>This policy applies to applications for:</p> <ul style="list-style-type: none"> • citizenship by grant under section 8(1) of the Citizenship Act 1977 • renunciation of citizenship under section 15 of the Citizenship Act 1977.
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Applications for citizenship

Applications for citizenship by grant

All applicants under section 8(1) are required to meet the full capacity requirement. To be of full capacity, an applicant should have a sufficient understanding of the nature and effect of the act of applying for citizenship.

Citizenship Act 1977 Section 8(1)

Section 8(1) of the Citizenship Act 1977 states that the Minister of Internal Affairs 'may authorise the grant of New Zealand citizenship to any person, including a person who may be a New Zealand citizen by descent, who -
(b) is of full capacity'.

Assessment of full capacity for schedule purposes

An applicant should be considered to fulfil the full capacity requirement for schedule purposes unless Citizenship has information to suggest otherwise. Such information may be obtained in a number of ways, e.g.

- conversations with the applicant
- correspondence with the applicant
- the applicant's photograph
- information provided by a third party.

It may be necessary to obtain a medical certificate from an applicant's doctor, stating whether they are of full capacity.

Evidence of lack of full capacity

Evidence of a lack of full capacity may include an order:

- by the Court that the person is a care recipient under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003
- under the Protection of Personal and Property Rights Act 1988
- for compulsory treatment under the Mental Health (Compulsory Assessment and Treatment) Act 1992.

To confirm that an order is in force, the order must be sighted or the Family Court contacted.

If there is other evidence that a declarant is not of full capacity, it may be appropriate to ask the declarant (or agent) to provide a medical report from the declarant's doctor.

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Applications for citizenship, Continued

Referral of application to the Minister

The Minister is unable to authorise the grant of citizenship under section 8(1) of the Citizenship Act 1977 to an applicant who is not of full capacity, therefore, if an applicant is assessed as being not of full capacity, the application must be referred to the Minister as a submission.

Note:

The Minister has the authority to grant citizenship to an applicant who is not of full capacity under section 9(1)(c) of the Act.

Applications for renunciation of citizenship

Applications for renunciation

Only a person of full capacity can renounce citizenship. Lack of full capacity relates to lack of understanding. When determining whether a person lacks capacity to make a declaration of renunciation, consideration must be given to whether the person understands the nature of the decision and the consequences. The fact that the decision to renounce or the reasons given may appear eccentric or irrational does not mean that the declarant lacks capacity.

Evidence of lack of full capacity

Evidence of a lack of full capacity may include an order:

- by the Court that the person is a care recipient under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003
- under the Protection of Personal and Property Rights Act 1988
- for compulsory treatment under the Mental Health (Compulsory Assessment and Treatment) Act 1992.

To confirm that an order is in force, the order must be sighted or the Family Court contacted. If there is other evidence that a declarant is not of full capacity, it may be appropriate to ask the declarant (or agent) to provide a medical report from the declarant's doctor.

Referral of application to the Minister

Decisions as to full capacity are not clear cut. In all cases where there is evidence that the declarant may not be of full capacity, the application must be forwarded to the Minister as a submission for a decision.

Legislation links

Citizenship Act 1977:

- [Section 2 Interpretation](#)
 - [Section 8 citizenship by grant](#)
 - [Section 15 Renunciation of citizenship](#)
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