

Verification of descent to grant eligibility

Introduction

This policy outlines the relevant legislation and policy relating to an applicant who is a New Zealand citizen by descent, who wishes to apply for a grant of New Zealand citizenship.

Prior to 1 January 1949 there was no New Zealand citizenship. Between 1 January 1949 and 31 December 1977 the relevant citizenship legislation was the British Nationality and New Zealand Citizenship Act 1948.

The 1948 Act allows for a father who is a citizen 'otherwise than by descent' to pass New Zealand citizenship to a child, but does not accord the same right to a mother.

This anomaly was addressed by section 10 of the Citizenship Act 1977 which provides for the grant of citizenship to a person born between 1 January 1949 and 31 December 1977 if the mother is a 'New Zealand citizen otherwise than by descent' at the time of the person's birth.

Note:

A person who claims citizenship status from their father is a citizen by descent. They do not acquire citizenship by grant.

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Legislation

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| Citizenship Act 1977 Section 7(1) | Section 7(1) of the Citizenship Act 1977 states: 'Every person born outside New Zealand on or after 1 January 1978 is a New Zealand citizen by descent if, at the time of the person's birth: his or her mother or father was a New Zealand citizen otherwise than by descent; or his or her mother or father was a New Zealand citizen by descent, and the person would otherwise be stateless. |
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Legislation, Continued

**Citizenship
Act 1977
Section 7(3)**

Section 7(3) of the Citizenship Act 1977 states:

'For the purposes of this section, the Secretary may issue a certificate stating a person's status under this section and, in the absence of evidence to the contrary, a certificate to such effect signed by the Secretary, or by a person authorised for the purpose by the Secretary, shall be sufficient evidence of the matters stated in the certificate.'

General

Citizen otherwise than by descent and citizen by descent

The only difference between a New Zealand 'citizen by descent', and a New Zealand citizen 'otherwise than by descent', is that a citizen by descent is not able to pass their New Zealand citizenship on to any children they may have, if those children are born outside New Zealand.

Application

Citizens by descent may apply for a grant of citizenship under the Citizenship Act 1977, or the Citizenship (Western Samoa) Act 1982, whichever is appropriate, regardless of whether they have registered as citizens by descent. However, citizens by descent are required to meet all the age relevant requirements of the Act(s).

| Applicants who are... | must... |
|--|---|
| not yet 14 years of age | meet the intention to continue to reside requirement, and be residing in New Zealand at the time the application is lodged. |
| 14 years of age, but not yet 16 years of age | meet the following requirements: intention to continue to reside good character responsibilities and privileges English language. |
| 16 years of age and over | meet all 3 or 5 grant requirements. |

Requirements

Requirements to fulfil

An applicant, who is a New Zealand citizen by descent, who wishes to apply for the grant of citizenship, needs to meet all the normal requirements of one of the following sections:

| Section | Requirements |
|---|--|
| Section 8 Citizenship by grant, Citizenship Act 1977 | 16 years of age full capacity |
| Section 9(1)(a) Grant of citizenship in special cases, Citizenship Act 1977 | Applicant has not attained the age of 16 years. |
| Section 7 Citizenship (Western Samoa) Act 1982 | Western Samoan citizen in New Zealand on 14 September 1982 or Lawfully entered New Zealand after 15 September 1982 and is entitled to reside in New Zealand indefinitely. |

Ordinary residence or presence in New Zealand for applicants not yet 16 years of age

If the applicant is not yet 16 years of age, the ordinary residence/presence in New Zealand requirement does not have to be met.

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Requirements, Continued

Entitlement to reside in New Zealand indefinitely

A citizen by descent meets this requirement, however, this may not be immediately apparent.

The residence status of some applicants may be unclear, if for example, the applicant does not have a registration certificate, or has travelled on a foreign passport without a residence permit.

If the applicant is born after 1 January 1978, and is a registered citizen by descent, the applicant is regarded as automatically fulfilling the requirement.

Note:

A child who has not registered their citizenship claim, but is eligible to have a claim registered, is entitled to reside in New Zealand indefinitely under immigration legislation.

Overseas applications

New Zealand or overseas

An applicant may apply from within New Zealand, or overseas. To meet the intention to continue to reside requirement, the applicant must be ordinarily resident in New Zealand.

Crown Service overseas

A child who is born to a parent on Crown service overseas, on or after 1 January 1978, is a New Zealand citizen otherwise than by descent under section 6(4) of the Citizenship Act 1977, and does not need to apply for a grant of citizenship.

Note:

Before 1 January 1978, Crown service was not recognised in the legislation as a special circumstance.

Registration Certificate

Registration Certificate

Section 24(3) of the Citizenship Act 1977 states that:

'Every person to whom a document is or has been issued shall, on the expiry or revocation of the document, or of the exemption or condition or status evidenced by it, deliver the document to the Secretary.'

If a citizen by descent receives a grant of New Zealand citizenship, their descent documents should be delivered to, and retained by Citizenship.

If a citizen by descent receives a grant of citizenship, then request and retain the applicant's citizenship by descent documents (registration form, or citizenship certificate).

These should be held on the applicant's file.

Updating Immigration New Zealand (INZ)

If a person arrives in New Zealand on the passport of another country, they may be given a visitors permit, or some other type of temporary permit, by Immigration New Zealand (INZ). If this expires, INZ may assume the person is an overstayer, as INZ may not be aware of the possibility of descent status. People in this situation, who obtain the grant of citizenship, should inform INZ in order to have their personal records updated.

Russian adoptions

If an applicant was adopted in Russia, and has been registered as a citizen by descent, the translation documents accepted by the Determinations unit are also acceptable for citizenship by grant purposes.

Legislation links

[Citizenship Act 1977](#)
