

How to become a New Zealand citizen by grant

For many immigrants to New Zealand the ultimate goal is to become a citizen of their adoptive home. It is understandable because there are certain privileges only available to a citizen, such as to hold a New Zealand passport and to represent New Zealand in international sports. Also some public service jobs are reserved for New Zealand citizens only.

Transiting from a resident to a citizen may seem straight forward. An Applicant must be a resident of New Zealand for at least 5 years, be present in New Zealand for a significant period during the 5 year period, be of good character, have sufficient knowledge of the responsibilities and privileges attaching to New Zealand citizenship, have sufficient English and intends to continue to reside in New Zealand if granted New Zealand citizenship. However, from our experience things can still go wrong, in particular in relation the requirements of sufficient presence in New Zealand and good character.

One way for a resident visa holder to become a permanent resident visa holder is to spend a significant period of time in New Zealand. For the purpose of immigration such significant period means "at least 184 days or more in each of the two 12-month portion of the 24 months immediately preceding the date of their application for a permanent resident visa was made". However, for the purpose of obtaining citizenship, the applicant must spend a minimum of 1350 days during the 5 years immediately preceding the date of the application" and "at least 240 days in each of those 5 years". It follows that an applicant who only complies with the minimum immigration requirement (184 days or approximately 6 months in New Zealand every year) will not meet the citizenship requirement (240 days or approximately 8 months in New Zealand every year). Many people do not know this difference and are caught by surprise when they are told by Internal Affairs that they have not spent enough time in the country in the 5 years since they first obtained their residence.

The requirement of significant presence in New Zealand is a strict one. After all, an applicant must demonstrate a genuine commitment to the country before citizenship should be granted to him or her. The Minister of Internal Affairs does have a discretion to accept a lesser number of days spent in New Zealand as being sufficient but only in exceptional circumstances. In addition, the application must be physically present in New Zealand for no less than 450 days during the 20-months period immediately preceding the date of the application for citizenship.

“Exceptional circumstances” is a high standard and must be well outside the norm. For example if an applicant spent time outside New Zealand due of employment obligations this would *not* be considered as exceptional circumstances. Accordingly, it is imperative to accumulate sufficient dates within the first 5 years if an applicant wishes to be granted citizenship at the first instance.

Another misconception is that only a criminal conviction of sufficient seriousness would compromise the good character requirement. This is only true to an extent. Obviously any serious criminal convictions involving a sentence of imprisonment would almost always disqualify a person from being granted citizenship (for example a person who has been sentenced to a term of imprisonment of 5 years or more at any time; or sentenced to a term of imprisonment of less than 5 years within the preceding 7 years). What many people do not realise is that under the Citizenship Act 1977 *any* conviction of an offence within the preceding 3 years (even without being sentenced to a term of imprisonment) would also disqualify the person from being granted citizenship. A conviction does not have to be a criminal conviction. A conviction for a traffic offence such as careless driving or drink driving would be caught by the Act. In fact, an applicant who has shown a pattern of traffic infringements (such as speeding tickets and demerit points) may also be deemed not of good character. If the offence is relatively minor the Minister may be persuaded to still grant the application. However, more often than not, an applicant who does not clearly meet the good character requirement will be required to observe a “stand down” period of between 6 months to 2 years before they can re-apply.

One must also know that Internal Affairs can receive and/or seek information from all government agencies regarding a potential applicant’s character. So any information of suspected unlawful conduct(s) could also affect a citizenship application. This is outside the scope of this blog but suffice to say that one does not need a criminal conviction to be disqualified for New Zealand citizenship.

Disclaimer: This publication is necessarily brief and general in nature. You should seek professional advice before taking any further action in relation to matters dealt with in this publication.

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