

### **New Zealand citizens can apply for citizenship**

To apply for Australian citizenship you must have been:

- living in Australia on a valid visa for the past 4 years, and
- been considered a permanent resident for the past 12 months

From 1 July 2023 all New Zealand citizens holding a Special Category subclass 444 visa (SCV) are considered permanent residents for the purpose of applying for citizenship.

The time when an SCV holder is considered a permanent resident is outlined below.

### **This is permanent residence only for citizenship purposes**

The changes from 1 July 2023 only relate to citizenship. They do not mean the New Zealand citizen is a permanent resident for social security or other purposes.

### **When does the period start?**

All New Zealand citizens who hold an SCV which was granted before 1 July 2022, will be taken to have been permanent residents for citizenship purposes from 1 July 2022.

If you were granted an SCV for the first time on or after 1 July 2022, you will be considered a permanent resident from the date your SCV was granted.

These times also apply to New Zealand citizens who are overseas if they held an SCV immediately before last leaving Australia. But it does not apply if you were removed or deported from Australia under the Migration Act (unless your visa cancellation was later revoked). It also does not apply if you are New Zealand diplomatic staff.

### **How do you get an SCV?**

To get an SCV you must have a valid New Zealand passport before you enter into Australia and the visa application is usually processed where you enter Australia.

Or you can apply for an SCV after you have entered into Australia if:

- you became a New Zealand citizen and passport holder after you have entered Australia or
- you entered on a passport that is not a New Zealand passport, or

- you had a New Zealand citizen baby born in Australia (see RAILS Fact Sheet ‘New Zealand Citizens. Visas in Australia’)

### **How long must you be in Australia to be able to apply for citizenship?**

Immediately before the date of your citizenship application you must have been:

- living in Australia on a valid visa for the past 4 years
- considered a permanent resident for the past 12 months

You can be away from Australia for some of that 4 years immediately before you apply:

- you can be away no more than 12 months in total in the past 4 years
- including no more than 90 days in total in the past 12 months.

Children under 16 do not need to meet these residence rules but must be permanent residents.

For some people who have special talents such as in sport or science, the period of residence may be reduced to 2 years.

### **Children born in Australia**

Children born in Australia to SCV holders on or after 1 July 2022 may automatically acquire Australian citizenship at birth.

This is because citizenship law says you become a citizen if you are born in Australia and at least one parent is a permanent resident.

From 1 July 2023, children who meet these circumstances can apply for [evidence of citizenship](#).

### **Law changes do not apply to citizenship applications before 1 July 2023**

These law changes for SCV holders do not apply to citizenship applications lodged before 1 July 2023. If you lodged your citizenship application before 1 July 2023 and do not meet the eligibility rules, the application will be refused without a refund.

### **‘Eligible New Zealand citizens’**

People who are ‘eligible New Zealand citizen’ could already apply for Australian citizenship before 1 July 2023.

‘Eligible New Zealand citizens’ are those who arrived in Australia with a New Zealand passport and:

- were here on 26 February 2001 or
- were here for 12 months in the 2 years before 26 February 2001 or
- were assessed as a protected Special Category visa (SCV) holder and were issued a Centrelink certificate that states you were living here at a particular time.

### **Family members who don't hold SCV visas**

New Zealand citizens who get Australian citizenship through the direct pathway may be able to sponsor other family members who do not have SCV visas, for permanent resident visas. For example, once the SCV holder becomes an Australian citizen they could sponsor their non-New Zealand partner or child for a permanent visa through the family migration stream.

A non-New Zealand family member may be able to get a temporary New Zealand Citizen Family Relationship visa (subclass 461) if they are part of the family unit of a New Zealand citizen.

### **New Zealand Citizen Family Relationship visa (subclass 461)**

People who are not New Zealand citizens but are part of the family unit of New Zealand citizens who are on an SCV visa, can apply for a 5-year temporary New Zealand Citizen Family Relationship visa (subclass 461).

If you were a member of the family unit of a New Zealand SCV holder and have or have held a 461 visa, but you are now no longer a member of that family unit, you may still be able to get a 461 visa unless you become the member of some other family unit.

With this visa, you will be able to live, work and study in Australia for 5 years. You can travel to and from Australia as many times as you want during the 5 year period.

You can't stay in Australia after your visa ceases unless you are the holder of another visa. You can apply for a further Subclass 461 visa if you meet the eligibility requirements.

### **What if family member of visa 461 holder gets Australian citizenship?**

If you are on a 461 visa as a non-New Zealand citizen partner of an SCV holder, if the SCV holder then gets Australian citizenship, you will be able to continue on a 461 visas until that current visa expires. After the 461 visa expires you will need to apply and get a partner visa or other visa if you want to remain in Australia.

## **New Zealand stream permanent Skilled Independent Subclass 189 visas**

The New Zealand stream Skilled Independent (subclass 189) permanent visa was permanently closed from 1 July 2023.

From 1 January 2023, people on the subclass 189 visa who have previously held an SCV have had the start of their permanent residence period for Australian citizenship purposes backdated to 1 January 2022. They are taken to be permanent residents from 1 January 2022.

This also applies to their New Zealand citizen family members who hold a Skilled Independent (subclass 189) visa.

The Department website notes that New Zealanders with a pending New Zealand stream application, and whose family members hold an SCV, may wish to consider withdrawing their application. They may choose to wait until 1 July 2023 to apply for Australian citizenship by conferral under the new direct pathway to Australian citizenship for New Zealand citizens.

The Department website notes that applicants should consider:

- their individual circumstances
- the benefits of permanent residence and
- the timeframes for processing citizenship applications.

The citizenship application fee is lower than the second Visa Application Charge for the subclass 189 visa. The second Visa Application Charge would be payable prior to visa grant for a New Zealand stream visa.

New Zealand stream applicants can withdraw their visa application through their ImmiAccount. Refunds of the Visa Application Charge will not be available.

Applicants would remain temporary residents during citizenship processing.

(See Department website: <https://immi.homeaffairs.gov.au/what-we-do/skilled-migration-program/recent-changes>)

## **How to apply for Australian citizenship**

To apply for Australian citizenship, you must:

- Be considered a permanent resident or eligible New Zealand citizen when you apply and when your application is being decided
- Be in Australia when the application is being decided
- Intend to live in Australia or maintain a lasting link with Australia while overseas

The Department must be satisfied of your identity and that you are of good character. You may have to pass the citizenship test which assesses your English language skills and what you know about Australia.

Generally you must be in Australia for the application to be approved.

RAILS has a Fact Sheet about Applying for Citizenship ([link](#)).

Also see the Department's online information and application process ([link](#))

This is legal information only, not legal advice.  
See a lawyer or registered migration agent for specific legal advice