

Home Affairs Portfolio
Department of Home Affairs
Budget Estimates Hearing – May 2023

KEY BRIEF

Topic: New Zealand Changes

Responsible Deputy: Stephanie Foster PSM, Associate Secretary, Immigration Group

Key Points

- On 22 April 2023, the Australian Government announced that eligible New Zealand citizens will have direct access to apply for Australian citizenship by conferral from 1 July 2023, meaning that New Zealand citizens no longer require a permanent visa to be eligible for Australian citizenship.
- At the 2022 Australia-New Zealand Leaders' Meeting, Prime Minister the Hon Anthony Albanese MP and former New Zealand Prime Minister the Rt Hon Jacinda Ardern both agreed that no New Zealander or Australian should be rendered permanently "temporary" when it comes to residence in either country. The Australian Government committed to ensuring viable pathways to Australian citizenship for New Zealand citizens living in Australia.
- From 1 July 2023, New Zealand citizens living in Australia who arrived in Australia on or after 26 February 2001 and who hold a non-protected Special Category Visa (SCV) (subclass 444) will be eligible to apply for citizenship by conferral, subject to meeting other eligibility requirements.
- To achieve this change, non-protected SCV holders will be determined to be permanent residents for the purposes of subsection 5(2) of the *Australian Citizenship Act 2007* through an amendment to the *Australian Citizenship (Permanent Resident) Determination 2022*.
 - This will mean that time spent in Australia holding a non-protected SCV will be counted towards the 12 months of permanent residence as part of the general residence requirement.
 - The amendment will also include backdating the period of permanent residence to 1 July 2022 for SCV holders who were granted their SCV before 1 July 2022. This will allow long-term residents to apply immediately for citizenship, subject to meeting other eligibility requirements. For SCV holders who were granted their first SCV on or after 1 July 2022, their period of permanent residence will start from the date of their first SCV grant.
 - The amendment will also mean that with effect from 1 July 2023, children born in Australia on or after 1 July 2022 to non-protected SCV holders who were granted their SCV before 1 July 2022 will automatically have acquired Australian citizenship at birth by operation of law with retrospective effect from 1 July 2023. Children born to SCV holders, whose SCV was granted after 1 July 2022, will automatically acquire Australian citizenship at birth by operation of law if their parent is holding an SCV on the day of their birth. Where a New Zealand citizen parent is overseas on the day of their child's birth and held an SCV immediately before last leaving Australia, their child will automatically acquire Australian citizenship at birth by operation of law.
 - All other requirements and eligibility criteria for applicants for citizenship by conferral remain unchanged.

Background

- In February 2001, Australia entered a new bilateral social security arrangement with New Zealand. This meant New Zealand citizens who were already in Australia (or had been for 12 months in the two years prior) as an SCV holder on 26 February 2001 were able to retain social security benefits and entitlements and were defined as “protected SCV holders” under the *Social Security Act 1991*. This gave them continued access to the full range of social services. They were defined as a “permanent resident” under a determination made under subsection 5(2) of the *Australian Citizenship Act 2007*.
- However, New Zealand citizens who arrived in Australia on an SCV after 26 February 2001, are not protected SCV holders, and have limited access to social security benefits. They were not considered permanent residents under the *Citizenship Act*, and were not eligible to directly apply for citizenship by conferral without first obtaining a permanent visa.

Ministerial Direction 99

Tara Cavanagh – FAS, Immigration Policy, Integrity & Assurance, Division

- On 3 March 2023 a new Ministerial Direction (Ministerial Direction 99) on character related visa decision-making commenced.
- Ministerial Direction 99 requires decision-makers in both the Department and the AAT to give greater consideration to the length of time a person has resided in Australia, particularly during and since their formative years, when considering whether to refuse or cancel a visa under section 501 of the Migration Act, and whether to revoke a mandatory cancellation decision.
- The Ministerial Direction applies equally to all non-citizens. However, it is expected to have a particular impact on New Zealand citizens as the Special Category visa allows the holder to remain in Australia indefinitely. As a consequence, there is a high proportion of long term residents in Australia that are New Zealand citizens

Closure of Skilled Independent (subclass 189) visa – New Zealand stream

Jodie Bjerregaard – Acting FAS, Immigration Programs

- Amendments will also be made to the *Migration Regulations 1994* to close the New Zealand stream of the subclass 189 (Skilled – Independent) (New Zealand stream) visa on 1 July 2023 to new applications from applicants seeking to satisfy the primary criteria.

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