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Acquisition and loss of Australian citizenship by operation of law

Standard Operating Procedure

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1. Purpose

The purpose of this Standard Operating Procedure (SOP) is to set out the procedures to be followed when assessing whether:

- a person is an Australian citizen by operation of law under the Australian Citizenship Act 2007 (the 2007 Act) or the Australian Citizenship Act 1948 (the 1948 Act);
- a person ceased to be an Australian citizen by operation of law under the 1948 Act.

All Citizenship Procedural Instructions (CPIs) referred to in this document are available on LEGEND and the Policy and Procedure Control Register (PPCR). All SOPs and Supporting Materials (SMs) referred to in this document are available on the PPCR and the Citizenship Division SharePoint.

2. Scope

2.1. In Scope

This SOP is relevant to citizenship delegates who are responsible for assessing:

- Form 118 – Application for Australian citizenship by descent:
 - o The claimed Australian citizen parent of the descent applicant may be an Australian citizen by operation of law;
 - o The claimed Australian citizen parent may have lost their Australian citizenship by operation of law prior to the birth of the descent applicant.
- Form 119 – Application for evidence of Australian citizenship:
 - o An applicant seeking evidence of Australian citizenship may be an Australian citizen by operation of law.
- Form 128 – Application to renounce Australian citizenship:
 - o To confirm the applicant in fact holds Australian citizenship by operation of law (where applicable) and is therefore eligible to renounce their citizenship.
- Form 132 – Application to resume Australian citizenship:
 - o To confirm an applicant ceased to be an Australian citizen by operation of law under the 1948 Act prior to processing a resumption application.
- Form 1272 – Application for Australian citizenship for children adopted under full Hague Convention arrangements:
 - o To confirm the claimed Australian citizen parents' citizenship status at the time of the applicant's adoption (where acquired by operation of law).
- Form 1290 – Application for Australian citizenship – other situations:
 - o To confirm whether an applicant or their dependent child may already be an Australian citizen by operation of law and therefore the conferral application is invalid.
 - o The Australian citizenship status of the applicant's parents may be relevant to their eligibility under a conferral pathway.

- Form 1300t – Application for Australian citizenship – general eligibility:
 - o An applicant or their dependent child may already be an Australian citizen by operation of law and therefore the conferral application is invalid.

2.2. Out of scope

This SOP does not address:

- rarely used provisions of the 1948 Act and the 2007 Act including:
 - o abandonment of children (paragraph 5(3)(b) of the 1948 Act and section 14 of the 2007 Act); and
 - o incorporation of territory (section 33 of the 1948 Act and section 15 of the 2007 Act).

All cases relating to these provisions must be referred to the Citizenship Helpdesk s. 22(1)(a)(ii) [@homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)).

- cessation of citizenship for people born in Papua New Guinea (PNG) prior to 16 September 1975. For information on these provisions see CPI 19 - Papua New Guinea - Assessing Citizenship Status - PI (VM-5295).
- automatic loss of citizenship under section 19 of the 1948 Act - Loss of citizenship by reason of service in armed forces of an enemy country, which remained in effect until the 1948 Act was repealed on 30 June 2007. There have been no losses of citizenship under this provision as Australia has never formally declared war on another country.
- automatic loss of citizenship under
 - o section 33AA of the 2007 Act - Renunciation by conduct - repealed on 18 September 2020; or
 - o section 35 of the 2007 Act - Service outside Australian in armed forces of an enemy country or a declared terrorist organisation – repealed on 18 September 2020.

If a delegate believes an applicant or their parent may be affected by sections 33AA or 35 of the 2007 Act, the case must be referred to the Citizenship Helpdesk s. 22(1)(a)(ii) [@homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)).

This SOP does not explain the background of the following historical operation of law citizenship loss provisions from the 1948 Act:

- Section 17 – Loss of citizenship on acquisition of another nationality – repealed on 4 April 2002;
- Section 20 - Loss of citizenship by residence outside Australia – repealed on 8 October 1958;
- Section 23 – Children of persons who lose or are deprived of citizenship.

These provisions are explained in CPI 31 – Historical Provisions – PI (VM-5307).

3. Assessing Australian citizenship status

If a person did not acquire Australian citizenship by application, they may have acquired Australian citizenship by operation of law. The operation of law pathways for Australian citizenship provided for in legislation are:

- under the Transitional arrangements:
 - o on 26 January 1949 under subsections 25(1), 25(4) or 25(5) of the 1948 Act; or
 - o between 26 January 1949 and 1 May 1987 under subsection 25(3) of the 1948 Act;

- by birth in Australia (including at time of birth or on their 10th birthday);
- adoption;
- abandonment as a child in Australia; and
- incorporation of territory.

As acquisition by operation of law occurs automatically, there may not be an acquisition record in Integrated Client Services Environment (ICSE), unless the applicant has previously had their Australian citizenship status assessed by the Department of Home Affairs (the Department). If there is no acquisition record in ICSE, delegates must make a finding of fact based on evidence provided by the applicant and information held in departmental files and systems.

Delegates must apply the legislation that was in effect at the date of the applicant's birth or, in the case of a citizenship loss, at the date the possible loss may have occurred. Due to numerous updates and changes to citizenship legislation over time, dates are essential in relation to operation of law assessments.

It is important to note that even where there is already a record of Australian citizenship for the applicant in departmental systems, it may be incorrect. Individuals previously recorded as Australian citizens on departmental or other government systems, or in the documents or files of the Department or other government departments (for example a passport issued by the Department of Foreign Affairs and Trade (DFAT), or enrolment on the Australian Electoral Roll) may not correctly reflect the individual's past or current Australian citizenship status. Their acquisition may have been recorded incorrectly, or they may have lost their Australian citizenship by operation of law. As such, delegates must make a finding of fact in relation to a person's Australian citizenship status where their status is relevant to the processing of a citizenship application, whether there is already a record of Australian citizenship in departmental systems or not.

4. Citizenship through the Transitional arrangements

When determining whether a person automatically acquired Australian citizenship on 26 January 1949, it is necessary to understand who held the status of British subject immediately prior to 26 January 1949. Further information is outlined in [CPI 25 – Australian Citizenship by Operation of Law- PI \(VM-5301\)](#).

In order to make a finding of fact as to whether a person acquired Australian citizenship under the Transitional arrangements, the information in the following table is required. While information should ideally be provided by the applicant at time of application, the delegate should also search departmental systems, files and records for all available and relevant information.

Citizenship through 26 January 1949 Transitional arrangements	Documents/Information that may assist in establishing a person's status
By birth in Australia or New Guinea	• Birth certificate showing their birth in Australia or Papua or New Guinea; and • Evidence they were a British subject on 26 January 1949.
Resident in Australia for five years prior	• Evidence they arrived in Australia for the purposes of permanent residence on or prior to 26 January 1944; and • Evidence they were ordinarily resident in Australia throughout the period 26 January 1944 to 25 January 1949; and

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Citizenship through 26 January 1949 Transitional arrangements	Documents/Information that may assist in establishing a person's status
	• Evidence they were a British subject immediately before 26 January 1949, such as a naturalisation certificate issued in Australia; or • Evidence they were a British subject in accordance with <u>section 7 of the 1948 Act</u> (for example: the person was a British subject because they were a citizen of the United Kingdom or its Colonies, Canada, New Zealand, the Union of South Africa, Newfoundland, India, Pakistan, Southern Rhodesia or Ceylon).
Foreign-born wives naturalised in Australia through marriage	• Naturalisation certificate issued in Australia showing the husband was naturalised in Australia prior to 26 January 1949 (a copy of both sides of the certificate is required as details of the naturalised person, including the name of their spouse, will be recorded on the reverse); and • Marriage certificate.
Foreign-born wives naturalised in Australia through marriage (husband deceased)	• Naturalisation certificate issued in Australia prior to 26 January 1949; or • Evidence that the husband became an Australian citizen on 26 January 1949, or would have if he was not deceased; and • Evidence that the wife was a British subject ordinarily resident in Australia immediately prior to 26 January 1949; and • Marriage certificate; and • Husband's death certificate.
Birth outside Australia prior to 26 January 1949	• Individual's birth certificate, including father's details, showing the person's birth outside Australia; and • Evidence that the parents were married; and • Evidence of individual's date of arrival in Australia; and • One of the following: • father's birth certificate showing birth in Australia or New Guinea prior to 26 January 1949; or • naturalisation certificate issued in Australia showing father was naturalised in Australia prior to 26 January 1949.
Born out of wedlock	• Individual's birth certificate, including mother's details, showing the person's birth outside Australia in the United Kingdom and colonies, Canada, New Zealand, the Union of South Africa, Newfoundland, India, Pakistan, Southern Rhodesia and Ceylon; and • Evidence the individual entered Australia prior to 26 January 1949; and • Evidence of the mother's British subject status; and • Evidence the mother was ordinarily resident in Australia or New Guinea at the time of the person's birth.

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More information about the Transitional arrangements is available in [CPI 25 – Australian Citizenship by Operation of Law – PI \(VM-5301\)](#).

Demonstrating ordinarily resident prior to 26 January 1949

When assessing ordinarily resident in the context of the Transitional arrangements, delegates are to assess the five years between 1944 and 1949, using the guidelines for assessing ordinarily resident. See [section 7 Ordinarily resident](#) for further information on the factors to be considered when undertaking these assessments. Delegates must apply flexibility in the evidence required from the applicant given the timeframe that has elapsed, however evidence of physical presence in Australia or New Guinea must be sighted. Historical movement records and passenger cards, available from National Archives of Australia (NAA), may be of assistance.

5. Birth in Australia

From 26 January 1949 onwards, a person born in Australia may have acquired Australian citizenship at the time of their birth. However, the provisions in the [1948 Act](#) in relation to citizenship by birth changed over time and the legislation that was in effect on the date the applicant was born must be considered when making an assessment.

For further information on the birth in Australia provisions, see [CPI 25 – Australian Citizenship by Operation of Law – PI \(VM 5301\)](#).

Applicants claiming to be born in Australia may provide the following documentation or information in support of their claims:

Circumstance	Documents/information that may assist in establishing a person's status
Born in Australia on or after 26 January 1949 but prior to 20 August 1986	- Applicant's birth certificate issued by an Australian Registry of Births, Deaths and Marriages (RBDM) that includes the names of the parent(s); and - Evidence of the occupation of the individual's parent(s) (where applicable). Note this information may be included on the birth certificate and departmental systems will show whether the parent(s) were on a diplomatic visa at the time of the individual's birth.
Born in Australia on or after 20 August 1986	- Applicant's birth certificate issued by an Australian RBDM that includes the names of the parent(s); and - Evidence that at least one parent was an Australian citizen or permanent resident at the time of the applicant's birth.

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Note:

Born in Australia on or after 26 January 1949 but prior to 20 August 1986: A child whose parent was entitled to diplomatic privileges and immunities at the time of the child's birth did not become an Australian citizen by birth in Australia. If the occupation of the individual's parent(s) indicates work at a foreign embassy or consulate and/or a check of their visa status indicates they may have held a diplomatic visa, seek assistance from the Citizenship Helpdesk s. 22(1)(a)(ii) @homeaffairs.gov.au), who will liaise with DFAT to establish the diplomatic status of the individual's parent(s) at the time of their birth.

Born in Australia on or after 20 August 1986: Generally, a birth certificate issued by an Australian RBDM is sufficient evidence to show that the claimed Australian citizen or permanent resident parent was the child's parent at the time of birth. However, in certain circumstances, delegates may require additional information or evidence to be satisfied. For example, where the delegate suspects that there may be contrived parentage or where it is declared that the claimed Australian citizen or permanent resident parent is not the biological or social parent. For further information refer to [CPI 23 – Determining Parent-Child Relationship for the Purposes of the Act – PI \(VM-5299\)](#).

Multi-generational evidence: In some cases, if a finding cannot be made concerning the parent's Australian citizenship status on the documents provided and information contained in departmental systems, it may be necessary to consider documents relating to generations preceding the parents, provided those persons were born in Australia before 20 August 1986.

6. 10th Birthday Provisions

A person born in Australia on or after 20 August 1986 who did not acquire Australian citizenship by birth, may have acquired Australian citizenship by operation of law if they were ordinarily resident in Australia throughout the 10 years since birth (relevant 10 year period).

Note: The phrase 'throughout the 10 years since birth' does not preclude temporary absences, however, the applicant must be able to demonstrate they were ordinarily resident in Australia during those absences. A person who departs Australia and becomes ordinarily resident in another country, only to return shortly before their 10th birthday, will be unlikely to be considered ordinarily resident in Australia throughout the relevant 10 year period. However, an extended visit to another country where they otherwise remain ordinarily resident in Australia will not affect the applicant's residence status. The individual circumstances of each matter will need to be considered.

In order to make a finding of fact as to whether a person acquired Australian citizenship under the 10th birthday provisions, an assessment of whether a person is ordinarily resident in Australia is required.

In all cases when making a 10th birthday assessment, delegates must check:

- if the applicant was born in Australia;
- if the applicant and their parent(s) were present in Australia for a special or temporary purpose only (see section 7.1.4.2. *Onshore for a special or temporary purpose*);
- if the applicant and their parent(s) were removed or excluded from Australia at any point in the relevant 10 year period (see section 7.1.4.1 *Excluded from Australia in the relevant 10 year period*);
- the length of time the applicant and their parent(s) were resident in Australia during the relevant 10 year period;
- the nature and extent of ties with Australia, held by the applicant and their parent(s);
- whether the applicant was absent from Australia for any extended period(s) during the relevant 10 year period and, if so:

- o the nature and extent of those absences from Australia; and
- o whether the applicant (through their parent(s)) had the intention to return to Australia to live, both at the time of departure and during their absence;
- whether the applicant retained a right to re-enter Australia during any period of absence; and

See section 7 Ordinarily resident for further information on the factors to be considered when undertaking these assessments.

For further information refer to CPI 25 – Australian Citizenship by Operation of Law – PI (VM-5301) and CPI 30 – Evidence of Australian Citizenship – PI (VM-5306).

7. Ordinarily resident

Ordinarily resident was defined in section 5 of the 1948 Act and in section 3 of the 2007 Act.

When assessing cases involving a requirement for ordinarily resident, delegates must have regard to the following principles:

1. The concept of ordinarily resident allows for some absences and the nature and extent of those absences must be taken into consideration.
2. Whether a person is ordinarily resident in Australia is a question of fact and degree. So, too, is the question whether a temporary absence from Australia prevents a person from being ordinarily resident in Australia.
3. Whether at the time of departure from Australia and during the temporary absence, the person intends to return to Australia to live after the temporary absence.
4. Whether a child is ordinarily resident will generally be determined by reference to the position of the parents and it is the parents' intention that must be considered.
5. Whether the applicant (and family) were removed or excluded from Australia at any point in the relevant 10 year period.
6. The use of the word 'throughout' in section 12 of the 2007 Act imports a notion of continuity or constancy.
7. A person may be ordinarily resident in Australia even if they are homeless.
8. A person need not be lawfully resident in Australia to be considered ordinarily resident.
9. 'Permanent abode' means no more than the place where a person 'regularly or customarily' lives.

7.1. Factors to consider when assessing 'ordinarily resident'

7.1.1. Nature of absences from Australia

Whether a person is ordinarily resident in Australia is a question of fact and degree. So, too, is the question whether a temporary absence from Australia prevents a person from being ordinarily resident in Australia. The nature of (or reason for) a person's absence from Australia is important to determining whether they remained ordinarily resident in Australia during their absence.

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A delegate may be satisfied on residence alone without needing to consider other factors. For example, a child born in Australia who did not depart Australia at any time in the 10 years after their birth, can be considered to satisfy the ordinarily resident requirement based on their physical residence in Australia, regardless of visa status.

In contrast, a person that leaves Australia to have their home or permanent abode in another country before their 10th birthday cannot be considered ordinarily resident in Australia throughout the 10 years from birth.

While a person who has been absent for over half of the relevant 10 year period would generally not be considered to satisfy the ordinarily resident requirement, additional information, usually from a responsible parent, to explain extended absences from Australia during the relevant 10 year period will need to be requested.

The following table provides a guide to delegates as to where further information is required to be requested to assist in determining whether an applicant may be considered to be ordinarily resident during period(s) of absence from Australia. Please note, this table applies to applicants who are required to meet the ordinarily resident requirement and, although some information is specific to children and the 10th birthday cohort the information in the table is applicable to both adults and children.

Length of absence	Status of the person during period of absence	Processing steps
6 continuous months (or less, at the delegate's discretion)	Held valid Australian visa for the entire absence and New Zealand citizens who could be granted a Subclass 444 (Special Category) visa	The applicant may be considered ordinarily resident, unless there is evidence to the contrary. For example, evidence that the applicant (or their parent(s)) were leaving Australia with an intention to return to their home country permanently.
6 – 12 continuous months	- Did not have a valid visa for the full period of the absence; or - A New Zealand citizen previously resident in Australia on a Subclass 444 (Special Category) visa currently residing in New Zealand.	Specific to 10th birthday assessments: At the delegate's discretion, where information in Departmental files and systems indicate an applicant may not have been ordinarily resident during the relevant 10 year period, a <i>Request for Further Information</i> (RFI) may be sent to the applicant or responsible parent seeking: - an explanation about the family's circumstances and reasons for being outside Australia; - evidence from the parents that they considered Australia was their home during the absence, such as: - evidence they maintained a home in Australia during this period; - evidence they maintained employment in Australia during the period of absence; - evidence children maintained enrolment in schools; - evidence parent(s) and/or children maintained membership in sporting or community organisations during the period of absence. Specific to children: Where a child resided offshore for a significant period of time without their parent(s), the delegate should also seek to establish: - the visa status of the child's parent(s) during this period.

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Length of absence	Status of the person during period of absence	Processing steps
		- if the parent(s) included the child on their own visa applications during this period and the reasons why; - if the parent(s) considered Australia or the foreign country to be the child's home during this period and the reasons why; - if the parent(s) were planning for Australia or the foreign country to be the child's future home during this period and the reasons why.
6 – 12 continuous months	Any (excluding the two situations listed above)	Delegates are to use their discretion, based on the information available in Departmental files and systems, as to whether further information is required in order to determine whether the person was ordinarily resident in Australia during this period.
12 continuous months or more	Any	A RFI must be sent to the applicant or to a child's responsible parent seeking: - an explanation about the applicant's or child's family's circumstances and reasons for being outside Australia; - evidence from the applicant or child's parents that they considered Australia was their home during the absence, such as: - evidence they maintained a home in Australia during this period; - evidence they maintained employment in Australia during the period of absence; In the case of children: - evidence children maintained enrolment in schools; - evidence parent(s) and/or children maintained membership in sporting or community organisations during the period of absence. Specific to children: Where a child resided offshore for a significant period of time without their parent(s), the delegate should also seek to establish: - the visa status of the child's parent(s) during this period; - if the parent(s) included the child on their own visa applications during this period and the reasons why; - if the parent(s) considered Australia or the foreign country to be the child's home during this period and the reasons why; - if the parent(s) were planning for Australia or the foreign country to be the child's future home during this period and the reasons why.

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Note: Where the above information has been provided but does not resolve the question of whether an applicant was ordinarily resident in Australia during the relevant 10 year period, it is open to the delegate to request further information from an applicant or responsible parent.

When assessing the nature of offshore absences for children who are required to meet the ordinarily resident requirement, delegates are required to consider the reason(s) provided by the parent(s) for the applicant being outside Australia, applying the principles of relevant case law, to consider matters such as whether:

- the parent(s)' decision to take the applicant outside of Australia for an extended period was one where they effectively had little to no choice, being confined by circumstances outside of the bounds of their control such as can be seen in *Kim v Minister for Immigration and Border Protection* [2016] FCA 959 (*Kim*) or *Sidhu by his litigation representative Kaur v Minister for Immigration, Citizenship and Multicultural Affairs* [2022] FCA 1459 (*Sidhu*). See section 7.1.2 Relevant Case Law discussing when a child is ordinarily resident in Australia.
- the decision was more akin to a decision regarding where the applicant should live for an extended period of time, that was not largely influenced by factors outside of the parent(s)' control or influence – for example a decision made to facilitate the ease of the parent(s)' life in Australia in relation to attending educational institutions, and/or finding and attending employment.
- cultural considerations relevant to the care of a child played a role in the parent(s)' decision to send their child offshore (*Sidhu*); and
- the parent(s)' decision was coupled with the firm intention that the applicant resume life in Australia once the purpose of the absence had been completed or the exigency had passed, and their actions onshore while the child was offshore aligned with this intention (for example, preparing a home for the child in Australia, researching and enrolling the child in an appropriate Australian school).

In all cases involving children who are required to meet the ordinarily resident requirement, the intention of the child, with respect to whether they view Australia as their home or permanent abode, is taken to be reflected through the parent(s). Thus, consideration of length of offshore absence alone does not provide a full consideration of whether a person was ordinarily resident in Australia, nor is it determinative.

If, after careful consideration of the relevant information, including information received in response to the RFI, the delegate believes the applicant was not ordinarily resident in Australia throughout the relevant 10 year period, procedural fairness (natural justice) must be afforded to the applicant. See CPI 17 Decision making under the Citizenship Act PI – (VM 5253) for further information on the provision of natural justice.

7.1.2. Relevant case law discussing when a child is ordinarily resident in Australia

The relevant case law on the meaning and interpretation of when a child is 'ordinarily resident' in Australia, and the extent to which an absence or absences from Australia impact this, includes:

- *Lee (By his Next Friend Lee) v Minister for Immigration and Citizenship* [2011] FCA 1458
- *Kim v Minister for Immigration and Border Protection* [2016] FCA 959
- *Sidhu by his litigation representative Kaur v Minister for Immigration, Citizenship and Multicultural Affairs* [2022] FCA 1459 upheld on appeal by
- *Minister for Immigration, Citizenship and Multicultural Affairs v Sidhu by his litigation representative Kaur* [2023] FCAFC 133

Note: In cases where the facts and circumstances are materially the same as the following cases, case law binds delegates to the precedent set in these judgments. However, where the facts and circumstances differ, it is open to delegates to make a different finding. In all cases, delegates should consider whether the circumstances of the absence warrant a conclusion that what was previously a person's home in Australia no longer bears that description.

Lee (by his Next Friend Lee) v Minister for Immigration and Citizenship [2011] FCA 1458

The Federal Court of Australia determined that the question as to whether a child applicant was ordinarily resident in Australia is to be assessed by reference to the intention of the applicant's parent(s) regarding where their child would live permanently. This is because all decisions relating to a child applicant's physical location, including their place of residence, are generally made by their parent(s).

Lee (by his Next Friend Lee) v Minister for Immigration and Citizenship [2011] FCA 1458

The facts of the *Lee* case involve a child born onshore to South Korean parents who, in the relevant period, departed Australia with his mother on 10 separate occasions and was absent for approximately four years. The longest continuous absence was two years and three months when the applicant was between the ages of five and seven, during which the applicant and his mother spent six months in Canada and three months in New Zealand, for the purpose of investigating the possibility of permanent settlement in those countries.

The Judge stated that it was clear the applicant's parents wanted to leave South Korea and settle elsewhere. However, based on the evidence, the Judge found that the decision to finally settle in Australia was not made until the applicant was nearly eight years old and only after Canada and New Zealand had been eliminated as viable options, although he was not convinced that such a decision was made even then.

The father's continued residence in Australia during the majority of the relevant period was not inconsistent with that finding as the Judge found that he remained onshore for the purposes of financing the mother's investigations in Canada and New Zealand. As neither limb of the definition of ordinarily resident was deemed satisfied, the Judge found the applicant was not ordinarily resident in Australia throughout the relevant period.

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Kim v Minister for Immigration and Border Protection [2016] FCA 959

The *Kim* judgment is relevant when considering the nature of an absence and its impact on the facts concerning the location of a person's home.

Kim v Minister for Immigration and Border Protection [2016] FCA 959

The facts of the *Kim* case involve a child born onshore to South Korean parents who, in the relevant period, was absent for a continuous period of 13 months during which he lived with his parents in South Korea to enable the family to obtain medical treatment for his younger brother, and later to care for his grandmother. The evidence demonstrated that the applicant's parents considered their home to be in Australia, and that their conduct prior to the departure and during the absence, was consistent with that consideration.

The following circumstances existed in *Kim*:

- The medical treatment required by the brother was for a severe condition that could have significant adverse health implications if not treated, and the parents were unable to afford such treatment in Australia.
- The parents stored a substantial volume of their possessions in Australia, maintained an Australian mailing address and maintained contact with their friends and church in Australia during their absence.
- While in South Korea, the family stayed with relatives and did not establish a home. The parents did not obtain permanent employment and the father took steps to secure employment in Australia for when they returned.
- Once the purpose of the brother's medical treatment had been satisfied, their plan to return to Australia was delayed by the need to provide care for the applicant's grandmother.
- The family returned to Australia promptly after finding a nursing home for the grandmother. They found accommodation, collected their possessions, recommenced their activities at the church and resumed the life they had been living prior to their absence. This included sending the applicant to pre-school and later, school.

At all material times while offshore, the parents held the firm intention to return to Australia without delay and as soon as possible. In those circumstances, the Judge did not consider the applicant ceased to have his home in Australia when the reason for residing overseas was related to the exigencies of his family's situation (at [137]):

A temporary change to living arrangements in order to attend to the care of other family members is not the kind of matter that would ordinarily indicate that a person has moved or given up their home, particularly when it is accompanied by an intention to resume the previous arrangements.

The child was found to have departed Australia for a special and temporary purpose and therefore his home and permanent abode remained in Australia during the absence.

***Sidhu by his litigation representative Kaur v Minister for Immigration, Citizenship and Multicultural Affairs* [2022] FCA 1459**

In *Sidhu*, the Court held that a child was ordinarily resident in Australia during the relevant 10 year period despite a significant and extended absence during that period. Subsequently, the Minister appealed this decision and the Full Court dismissed the appeal, noting that the statutory question is not whether the child is connected with somewhere else, but whether the child was ordinarily resident in Australia: *Minister for Immigration, Citizenship and Multicultural Affairs v Sidhu by his litigation representative Kaur* [2023] FCAFC 133.

***Sidhu by his litigation representative Kaur v Minister for Immigration, Citizenship and Multicultural Affairs* [2022] FCA 1459**

The facts of the *Sidhu* case involve a child born onshore to Indian parents who, in the relevant period, had substantial periods of absence from Australia totalling five years and 10 months. The evidence demonstrated the applicant's parents considered their home to be in Australia, and that the applicant departed Australia to be cared for by his grandparents in India while his mother was studying as they were not in a position to look after a baby themselves. The parent's intention remained that, when they were in a position to look after the child themselves, the child would return to Australia to be with them.

The following circumstances existed in *Sidhu*:

- There was evidence that when the applicant was born, the parents intended that their child would ultimately live in Australia permanently;
- The parents' decision to send their child to live overseas was motivated by practical and financial constraints, as they were living in a group house and were not financially in a position to afford a house of their own, making it difficult for them to care for a baby;
- At the time of their child's departure from Australia, when he was four months old, there was evidence that the parents intended he would return to Australia to live with them when he was around the age of three;
- During the child's absence overseas, the parents took active steps to make suitable living arrangements in Australia, to facilitate their child's return as soon as possible. For example, they found a 'home' for themselves, which they leased in their own name and purchased furniture, including a queen-sized bed so that the applicant could sleep with them (as is custom in India);
- When the parents were in a better position to care for the child, and sought to have the child return to Australia, it became apparent that the child had become so attached to his grandparents that there could be potential adverse implications (including health implications) to the child if forced to separate from them. On that account, the parents felt that they had 'no choice' but to wait until their child was older before they sought to re-settle him in Australia.
- Contrary to the parents' intention and desire, the child remained in India with his grandparents for a period of time until his re-settlement in Australia was more viable. At all times during this period, the parents continued to hold an intention that the child would live with them once he was ready and they made multiple active attempts to bring him back to Australia to live on a permanent basis in the period following the initial failed attempt to return.

The Judge also acknowledged the cultural element of the case relevant to the Indian/Australian community, finding it typical for grandparents to take on the role of caring for young children whose parents are not able to care for them in Australia and the role that cultural 'norm' may play when making decisions relating to the care of a child.

Sidhu by his litigation representative Kaur v Minister for Immigration, Citizenship and Multicultural Affairs [2022] FCA 1459 - continued

It was also found, on the evidence, that throughout the first 10 years of their child's life, the parents considered Australia to be their home and were ordinarily resident here. Australia was the place where they regularly or customarily lived and Australia was the place to which they expected, and planned, for their child to return.

In these circumstances, the Judge found that the applicant was sent to live overseas for "a special and temporary purpose which arose from the exigencies of his family's situation, and on the basis of his parents' firm intention to return to Australia", being the law established in *Kim*. The fact that the period was longer than the parents envisaged did not alter the nature of the arrangement or its purpose as his absence in India was never intended to be permanent and his parents' intention that he would return to Australia to live with them never changed.

7.1.3. Relevance of visa status or application(s) when assessing 'ordinarily resident'

While a person's visa status and migration history is relevant and may provide useful indications of their intentions and (where applicable) intentions for their children, by itself it must not be used as a determinative (positive or negative) factor in the assessment of whether an applicant has been ordinarily resident in Australia during the relevant period.

For example, a person who is present in Australia as an unlawful non-citizen (UNC) or who held a series of visas that are clearly meant for a special and temporary purpose during the relevant period is not precluded from being assessed as ordinarily resident when their circumstances are examined holistically by the delegate.

Delegates should seek to corroborate information provided by an applicant (or their responsible parent(s)) against the migration and visa history of the applicant (and their parents).

Factors that delegates should consider when assessing the visa and migration history of applicants include:

- Where the parent(s) claim it was their intention for the applicant's permanent home to be in Australia, this should be verified against information in visa applications made during the same period.
 - o For example, applications for a permanent visa or addition of a child located offshore to the parent(s)' onshore visa application may be indicators of an intention to reside permanently in Australia.
- Where the parent(s) claim the applicant would return to Australia following a particular migration outcome, such as the grant of certain temporary visas or a permanent visa, the parent(s)' actions during the period of the applicant's absence should support these claims.
- Visa(s) held by a person who is onshore may indicate whether their presence in Australia was for a special or temporary purpose (for example a medical treatment, visitor or student visa).
 - o However, negative weight must not be placed on a lack of a valid Australian visa alone, as a person who is resident in a foreign country does not require an Australian visa to remain there. Further, a person may regard Australia as their home but their Australian visa may cease and they may not obtain another visa for financial or other reasons while temporarily resident in a foreign country.
- The visa status of, or applications lodged by, an applicant while offshore may provide insight into their intentions to return to Australia, or to make Australia their permanent home. Conversely,

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evidence of 'visa shopping' in other countries may indicate the opposite (see *Lee* in section 7.1.2 Relevant case law discussing when a child is ordinarily resident in Australia).

- An applicant who is onshore during the relevant 10 year period while waiting for the outcome of a judicial/administrative review process or deportation proceedings, may be considered ordinarily resident, noting that the delegate must assess the entire 10 year period since the applicant's birth.
- A child born onshore to parent(s) who are unauthorised maritime arrivals (UMAs) at the time of the child's birth may be considered ordinarily resident depending on the individual circumstances of the child and their parent(s).
 - o While UMA parent(s) may be considered to be in Australia for a temporary or special purpose, delegates must consider the circumstances of each individual case and that in some cases these children may not have a connection to, or a permanent abode in, a foreign country and, as a result, Australia may be the only country that could be described as their home.
- A child born onshore to parent(s) who are UNCs at the time of the child's birth who:
 - o is sent to a regional processing country (RPC) (such as Nauru or PNG) during the relevant 10 year period; and
 - o subsequently returns to Australia, also during the relevant 10 year period;

may not meet the ordinarily resident requirement due to the time spent in the RPC. However, delegates must assess each case holistically, ensuring all relevant factors are taken into account.

After discussing with a supervisor, if assistance is required, delegates may contact the Citizenship Helpdesk s. 22(1)(a)(ii) [@homeaffairs.gov.au](mailto:helpdesk@homeaffairs.gov.au)).

7.1.4. Circumstances where a person is not considered to be ordinarily resident

7.1.4.1. Excluded from Australia in the relevant 10 year period

A person should generally not be considered to be ordinarily resident in Australia throughout the relevant 10 year period if, during the relevant 10 year period, they were subject to an exclusion period under the *Migration Act 1958*. An exclusion period prevents a person to whom it applies from returning to Australia. During the exclusion period, a person's connection to Australia is formally severed and any absences cannot be considered to be of a temporary nature, as they have no right to enter Australia during this time. A child in this circumstance will not be able to meet the continuity requirement of being ordinarily resident in Australia throughout the relevant 10 year period as the exclusion creates a gap that cannot be bridged in the relevant 10 year period rather than extending throughout it.

Where a visa is cancelled and/or the person is removed from Australia, the Department must inform them of any applicable exclusion periods and this information will be available in departmental records.

A person who has been excluded but returns under a false identity cannot be considered to be ordinarily resident in Australia when, if their identity were known, they would not have been permitted to re-enter Australia. However, delegates must still consider the applicant's case holistically, taking into account factors such as the efforts made by the applicant to return to Australia, how they returned and why, the applicant's circumstances at the time this occurred, and how this affects their claim to be ordinarily resident throughout the relevant 10 year period, prior to reaching a decision.

Note: A person who is subject to an exclusion period may apply to have this waived in order to be granted a visa. However, the waiver of an exclusion period does not provide an indication that a person was ordinarily resident during any period of exclusion served prior to the waiver (if granted). The delegate must assess this factor as part of the applicant's circumstances holistically, including taking into consideration such factors as the applicant's efforts to return to Australia and the reasons for this, and the fact that a person who was ordinarily resident should not need to apply to have an exclusion period waived. The reasons for the exclusion period should be assessed in the context of the person's overall circumstances during the relevant period.

If necessary, after discussion with a supervisor, delegates may seek advice from the Citizenship Helpdesk (s. 22(1)(a)(ii) [@homeaffairs.gov.au](mailto:helpdesk@homeaffairs.gov.au)).

7.1.4.2. Onshore for a special or temporary purpose

Under paragraph 5(3)(iv) of the 1948 Act and section 3 of the 2007 Act, a person who is in Australia for a special or temporary purpose, cannot be considered ordinarily resident in Australia and will not acquire Australian citizenship on their 10th birthday.

This includes but is not limited to:

- children of foreign diplomats and administrative staff who were entitled to diplomatic privileges and immunities, so long as the parent's primary purpose or intention of residing in Australia is to fulfil the duties of his or her diplomatic office; and
- children of United Nations staff posted to Australia - because they are considered to be in Australia for a special purpose and may be entitled to similar privileges as diplomats.

Note: The term 'special or temporary purpose' should not be narrowly construed, but must be subject to an assessment of fact and degree. For example, some temporary visas offer a pathway to permanent residency and may be a necessary requirement for those intending to reside in Australia, while others (such as a medical treatment visa) have a specified and temporary purpose. For more information refer to [CPI 25 - Australian Citizenship by Operation of Law - PI \(VM-5301\)](#).

If necessary, after discussion with a supervisor, delegates may seek advice from the Citizenship Helpdesk (s. 22(1)(a)(ii) [@homeaffairs.gov.au](mailto:helpdesk@homeaffairs.gov.au)).

7.1.4.3. Child removed from Australia shortly before their 10th birthday

A child who would otherwise be ordinarily resident in Australia throughout the majority of the relevant 10 year period, but who is removed from Australia shortly before their 10th birthday will generally not meet the ordinarily resident requirement. This is because their connection to Australia is severed at the time of removal – they are not legally permitted to return, and their absence cannot therefore be considered to be a temporary absence.

A child in this circumstance will not be able to meet the continuity requirement of being ordinarily resident in Australia throughout the relevant 10 year period as it stops short of the relevant 10 year period rather than extending throughout it.

7.2. When a finding of fact is required

A finding of fact assessment is required in every case where it is indicated that a person may have acquired or lost Australian citizenship by operation of law no matter what stage the conferral or other pathway application has reached.

Where a person has applied for evidence of Australian citizenship, the finding of fact will be done as part of this process. However, some people, unaware that they may already be an Australian citizen, will lodge an

application for Australian citizenship under a different pathway (such as conferral), requiring a finding of fact to be done outside of the application process.

Indicators that a finding of fact is required for a dependent child applicant who will turn 10 years of age during application processing or who is aged 10 years or over can include but are not limited to:

- the application states the dependant applicant was born in Australia;
- an Australian issued birth certificate is provided as one of the identity documents;
- there is a "follow-up" warning in the ICSE Permission Request that the applicant may already be an Australian citizen.

After discussing with a supervisor, if further assistance is required in determining whether a finding of fact assessment is required, please contact the Citizenship Helpdesk

(s. 22(1)(a)(ii) _____@homeaffairs.gov.au).

Where an assessment is complex, delegates are not expected to request further information from this cohort to fully assess a 10th birthday finding of fact. It may be more beneficial for the current application to proceed.

7.2.1. Who may make a finding of fact?

A delegate processing a conferral or other pathway (other than evidence) application who is required to make a finding of fact must do so in the ordinary course of their duties, and must record their assessment in ICSE. The outcome must be one of the following:

- The person is an Australian citizen;
- The person is not an Australian citizen; or
- There is insufficient information to confirm whether the person is an Australian citizen.

Regardless of the outcome of an assessment, the delegate must:

- record the assessment using the template in Finding of Fact template – SM (VM-6797), listing the information on which the finding is based, and outlining the considerations and/or why the evidence was sufficient or insufficient; and
- file the Finding of Fact note and record the CM reference as a note under the primary **PROCESSING NOTES & CLIENT CONTACT** note in ICSE.

If the citizenship application is subsequently refused, it must be noted in the decision record under the heading "Applicant background" that an assessment was conducted as to whether the applicant may have acquired Australian citizenship by operation of law with the delegate finding the person did not meet the threshold requirements or that information accompanying the application was insufficient to make a finding.

For further information see:

- [CPI 23 – Determining Parent-Child Relationship for the Purposes of the Act – PI \(VM-5299\)](#);
- [CPI 25 – Australian Citizenship by Operation of Law – PI \(VM-5301\)](#); and
- [CPI 30 – Evidence of Australian Citizenship – PI \(VM-5306\)](#).

Note: Assessments must not be referred to the Evidence Processing Unit (EPU) as the EPU is only responsible for operation of law assessments in association with evidence applications.

All evidence applications lodged by an applicant born in PNG prior to 16 September 1975, or an applicant claiming Australian citizenship by birth in Australia where their parent claims to be an Australian citizen born in PNG prior to 16 September 1975, must be transferred to the Complex Team, Brisbane [s.22\(1\)\(a\)\(ii\)@homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au) for processing. Refer to [CPI 19 - Papua New Guinea - Assessing Citizenship Status - PI \(VM-5295\)](#).

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7.4. Invalidating a citizenship application after recording a finding of fact

If a person is found to be an Australian citizen, any current citizenship application becomes invalid by operation of law. This is because the relevant legislation does not provide for a person who is already an Australian citizen to become an Australian citizen again. This is the case for conferral, descent, resumption and adoption applications.

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If assistance is required invalidating a dependent child included on a responsible parent's application after discussing with a supervisor, contact the Citizenship Helpdesk (s. 22(1)(a)(ii) @homeaffairs.gov.au).

Inform the applicant/responsible parent that the application has been made invalid

Dear (applicant)

In reviewing your application for (citizenship by conferral) lodged on (date), I have found that (you or dependent applicant) acquired Australian citizenship (by operation of law or application) on (date). (include if applicant is not a dependent applicant: As I have found you are an Australian citizen, the application is invalid and you may apply for a refund of the application fee, see the information on the Department of Home Affairs' website at: <https://immi.homeaffairs.gov.au/change-in-situation/get-a-refund>)

As (you or dependent applicant) have been assessed as acquiring Australian citizenship by this office, (you or dependent applicant) may consider lodging an application for evidence of Australian citizenship. See the information available on the Department of Home Affairs' website at: <https://immi.homeaffairs.gov.au/citizenship/certificate>

Please note, as (you or dependent applicant) (have/has) been recorded as an Australian citizen on Departmental records, (your or dependent applicant's) permanent visa has ceased and must not be used for re-entry into Australia. (you or dependent applicant) will no longer be able to travel on an Australian visa and should obtain an Australian passport should you wish to travel. See the information available on the Australian Passport Office website at: <https://passports.gov.au>

Yours sincerely

(signature block)

8. Australian citizenship by adoption

Citizenship by adoption provisions were introduced into the 1948 Act on 22 November 1984 in section 10A. The current provisions are set out in section 13 of the 2007 Act.

For further information on Australian citizenship by adoption see [CPI 22 – Australian Citizenship by Adoption – PI \(VM-5298\)](#) and [CPI 25 – Australian Citizenship by Operation of Law – PI \(VM-5301\)](#).

In support of their application for citizenship by adoption, applicants will need to provide:

Circumstance	Documents/information that may assist in establishing a person's status
Adopted in Australia on or after 22 November 1984	- An adoption order issued by a court under Australian State or Territory law confirming the adoption was finalised under Australian law; and - Evidence that the adopted person was a permanent resident at the time their adoption was finalised; and - Evidence that at least one adoptive parent was an Australian citizen at the time the adoption was finalised.

Note:

The adoption order referred to above, showing 'name at birth' and 'change of name on adoption' may also be accepted as evidence of an adopted person's change of name.

9. Confirming the parent-child relationship

CPI 23 - Determining Parent-Child Relationship for the Purposes of the Citizenship Act – PI (VM-5299) sets out the legal requirements, and related policy and procedures that apply to the assessment of a parent-child relationship, as part of an application under the 2007 Act.

9.1. New Zealand citizen parent(s)

The status of New Zealand citizens in Australia has changed over time, and status will differ depending on individual circumstances. An individual from New Zealand may have been considered either a temporary or a permanent resident at specific times as relevant legislation changed.

For further information refer to **CPI 20 New Zealand citizens: residence status and eligibility for Australian citizenship – PI (VM-5296)**.

10. Loss of Australian citizenship

An Australian citizen can apply to renounce their Australian citizenship, it can be revoked, or citizenship may have been lost by operation of law under the 1948 Act or repealed provisions of the 2007 Act.

The 1948 Act also provided for loss of Australian citizenship by operation of law. As loss of Australian citizenship was automatic, there may not be a record of the loss in ICSE unless the applicant has previously come to the attention of the Department. In some cases, an applicant may not be aware they have lost Australian citizenship.

For more information in relation to loss of Australian citizenship by operation of law under the 1948 Act, refer to **CPI 31 – Historical Provisions – PI (VM-5307)**.

10.1. Loss Assessments

The Citizenship Helpdesk and the Complex Team, Brisbane are responsible for conducting loss assessments.

If any of the following apply to an Australian citizen, a loss assessment is required:

- the applicant declared on their application that they acquired a foreign citizenship after acquiring Australian citizenship and prior to 4 April 2002;
- the applicant provided documentation with their application to suggest that they hold another citizenship, for example a foreign passport or citizenship certificate;
- the applicant was born in Papua or New Guinea prior to 16 September 1975; or
- the applicant is entering Australia on a visa issued in a foreign passport, and it is unclear how the applicant acquired that other citizenship.

Prior to referring for a loss assessment, delegates should send an RFI to the applicant regarding the date and method of acquisition of their foreign citizenship.

Note: Citizenship loss can be a generational issue. Delegates must consider whether the applicant lost their Australian citizenship as a child due to the actions of a parent, and whether a loss may have affected a person's children. Section 23 loss (under the 1948 Act) in relation to children remained in effect until 30 June 2007.

Additionally, applicants that reside outside of Australia are more likely to have acquired another citizenship and in doing so ceased to be an Australian citizen. Prior to referring a case for assessment, delegates should request further information in relation to the applicant's status overseas in circumstances where they were residing offshore prior to 4 April 2002 and their status in the country of residence is unclear.

If delegates have any doubts or are uncertain if a loss has occurred, they **must** refer the applicant to the Citizenship Helpdesk. However, in situations where there is insufficient information, for example where evidence of foreign citizenship has not been provided, the Citizenship Helpdesk may not accept the referral. If the referral is not accepted, the Citizenship Helpdesk will provide advice on how to proceed with the application. More information about loss of Australian citizenship is available in [CPI 31 – Historical Provisions – PI \(VM-5307\)](#).

An exception exists where the applicant was born in PNG. All evidence applications lodged by an applicant born in PNG prior to 16 September 1975, or those applicants claiming Australian citizenship by birth in Australia and their parent claims to be an Australian citizen born in PNG prior to 16 September 1975, must be transferred to the Complex Team, Brisbane for processing ([s. 22\(1\)\(a\)\(ii\) @homeaffairs.gov.au](#)). The Complex Team, Brisbane specialise in processing all citizenship application types from applicants (or whose parents, where relevant) who were born in PNG prior to PNG Independence.

Refer to [CPI 19 - Papua New Guinea - Assessing Citizenship Status - PI \(VM-5295\)](#).

10.2. What documentation is required for a loss referral?

In order to conduct a loss assessment, the Citizenship Helpdesk or Complex Team, Brisbane requires:

- a correctly completed 'Request for an Australian citizenship loss assessment' form (available on [SharePoint](#));
- the applicant's Australian birth certificate (if they were born in Australia);
- evidence of the applicant's foreign citizenship, which is usually a citizenship or naturalisation certificate:
 - o the evidence of foreign citizenship must contain the date and manner in which the citizenship was acquired. A loss assessment cannot be completed based on a passport.

If the applicant appears to have lost their Australian citizenship as a child due to the actions of their parents, the Australian birth certificates and foreign citizenship certificates for the applicant's parents.

Note: Foreign documents such as passports and identity cards, or letters from foreign consulates or embassies in Australia, may indicate that a loss assessment is required, however they cannot be used in a loss assessment as they do not contain the date and manner in which the holder acquired their foreign citizenship. Acceptable evidence includes naturalisation certificates, citizenship registration documents and official government issued letters originating from the relevant government entity responsible for citizenship or naturalisation, containing the required information.

10.2.1. Why is this documentation required?

The document is required to assist the officer assessing the loss to determine:

- the date of possible loss and what kind of loss assessment is required, including:
 - o if the person was a child or adult when they possibly lost their Australian citizenship,
 - o what sort of loss assessment is required. This may be a [section 17](#) (of the 1948 Act) loss assessment for adults and/or [section 23](#) (of the 1948 Act) loss assessment for children, and

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- o which version of the 1948 Act was in effect at the time the other citizenship was acquired, as sections 17 and 23 were amended several times between 26 January 1949 and 30 June 2007.
- how the person's other citizenship was acquired:
 - o a naturalisation or formal registration process in which an Australian citizen has undertaken a 'voluntary or formal act' or an 'act or a thing' in order to acquire another citizenship will have enlivened section 17 of the 1948 Act.
 - o automatic acquisition (such as by birth) or registration process to record a citizenship that has already been acquired (such as citizenship by descent acquired automatically at birth), would not enliven section 17 of the 1948 Act.
 - o prior to 22 November 1984, section 17 of the 1948 Act would not apply where the person acquired a foreign citizenship by operation of law at time of marriage, however, it would be enlivened if they did not acquire citizenship through the marriage and subsequently became a citizen of that country under provisions for spouses of the citizens or nationals of that country.
- the location of the person at the time of potential loss:
 - o From 26 January 1949 until 21 November 1984, section 17 of the 1948 Act included the wording, "...while outside Australia..." Therefore, if the person acquired their other citizenship between these dates, they only would have lost their Australian citizenship under section 17 of the 1948 Act, if they were outside Australia at the time.
- the 'sole or dominant purpose' for the person acquiring the other citizenship:

Note: The 'sole or dominant purpose' rule affects the Israeli caseload in particular. Any citizenship application involving an Australian citizen who acquired Israeli citizenship (also known as 'Oleh status') between 22 November 1984 and 3 April 2002 **must** be referred to the Citizenship Helpdesk for assessment.

- o From 22 November 1984 until 4 April 2002, section 17 of the 1948 Act was only enlivened if the sole or dominant purpose of the act or thing was to acquire a foreign citizenship.

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11. Accountabilities and Responsibilities

Role	Description
Assistant Secretary, Citizenship Program Delivery	Accountable for the quality and delivery of the Citizenship Program.
Director, Citizenship Operations Section	Accountable for ensuring that the information contained in this SOP is kept up to date, is accurate and meets stakeholder requirements.

12. Version Control

Version number	Date of issue	Author(s)	Brief description of change
V1	07/11/2022	Citizenship Operations Section	This is a new document.
V2	17/09/2024	Citizenship Operations Section	Updated in light of amendment of <i>Australian Citizenship (Permanent Resident) Determination (LIN 22/103) 2022</i> by <i>Australian Citizenship (Permanent Resident) Amendment Determination (LIN 23/024) 2023</i> on 1 July 2023. New Zealand Subclass 444 (Special Category) visa holders are considered permanent residents for the purposes of the <i>Australian Citizenship Act 2007</i> . Amended to direct citizenship officers to <u>CPI-20 – New Zealand Citizens: residence status and eligibility for Australian citizenship (VM-5296)</u> , when considering whether a New Zealand citizen born in Australia, or adopted in Australia, acquired Australian citizenship by operation of law.

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Attachment A – Definitions

Term	Acronym (if applicable)	Definition
Colonies		The term "colonies" generally refers to the many different overseas territories of European states between the 15th and 20th centuries. For example, Australia was originally six distinct British colonies founded between 1788 and 1829.
Content Manager	CM	CM (formerly known as Total Records Information Management (/TRIM)), is the Department's of Home Affairs' Electronic Document and Record Management System that provides the framework to capture, manage and share critical business information.
Department of Foreign Affairs and Trade	DFAT	The Department which advances the interests of Australia and Australians internationally. This involves working to strengthen Australia's security, enhancing Australia's prosperity, and helping Australian travellers and Australians overseas. The Department of Foreign Affairs and Trade provides foreign, trade and development policy to the government. Among other responsibilities, DFAT is responsible to the issue of Australian Passports.
Integrated Client Services Environment	ICSE	The processing system used to record and process citizenship, sponsorship and nomination applications and a multitude of onshore and offshore visa applications.
Passport Issuance Control System	PICS	The Passport Issuance Control System contains information in relation to Australian passports. PICS is made available to departmental officers for the purposes of information sharing between the Department and DFAT.
Request for Information	RFI	An official request from a delegate to an applicant seeking additional information in order to assess their eligibility under legislation.
Subclass 444 (Special Category) visa	SCV	A class of visa for which eligibility is derived from section 32(2)(a) or section 32(2)(c) of the <i>Migration Act 1958</i> and can only be granted to New Zealand citizens.
United Kingdom		The United Kingdom, made up of England, Scotland, Wales and Northern Ireland.
WX		A 'WX' alert in PICS means a person has lost their Australian citizenship and the Department of Home Affairs holds the details of the loss.

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Attachment B – Assurance and Control Matrix

1.1 Powers and Obligations

Please Note: Staff exercising any powers, delegations or authorisations outlined in this SOP (listed here) must check the latest delegation advice on the Intranet or the relevant instrument in LEGEND to ensure they currently hold the applicable power, delegation or authorisation.

Legislative Provision			Is this power delegated?	If delegated, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Section heading/provision description		
<i>Australian Citizenship Act 1948</i>	various	British Nationality by virtue of citizenship Citizenship by Birth Loss of citizenship on acquisition of citizenship of another country Transitional provisions	Operation of law provisions	
<i>Australian Citizenship Act 2007</i>	section 12 section 13	citizenship by birth citizenship by adoption	Operation of law provisions	

*These are operation of law provisions, not delegated powers.

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1.2 Controls and Assurance

Related Policy	Australian Citizenship - Policy Statement (VM-5431)
Procedures / Supporting Materials	CPI17 – Decision making under the Citizenship Act – PI (VM-5253) CPI 19 – Papua New Guinea - Assessing Citizenship Status – PI (VM-5295) CPI 20 – New Zealand citizens: residence status and eligibility for Australian citizenship – PI (VM-5296) CPI 22 – Australian Citizenship by Adoption – PI (VM-5298) CPI 23 – Determining Parent-Child Relationship for the Purposes of the Citizenship Act – PI (VM-5299) CPI 25 – Australian Citizenship by Operation of Law – PI (VM-5301) CPI 30 – Evidence of Australian Citizenship – PI (VM-5306) CPI 31 – Historical Provisions – PI (VM-6797) Finding of Fact template – SM (VM-6797)
Training/Certification or Accreditation	Citizenship Training Program
Other required job role requirements	Nil
Other support mechanisms (e.g. who can provide further assistance in relation to any aspects of this instruction)	Departmental staff should raise any questions with their supervisor in the first instance. Enquiries should be sent to the Citizenship Helpdesk s. 22(1)(a)(ii)@homeaffairs.gov.au .
Escalation arrangements	Escalation, if required, should be to Director, Citizenship Operations Section.
Recordkeeping (e.g. system based facilities to record decisions)	ICSE and Content Manager
Program or Framework (i.e. overarching Policy Framework or Business Program)	Citizenship Program
Job Vocational Framework Role	Visa and Citizenship Decision Maker

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Attachment C – Consultation

All staff consultation has been undertaken in relation to this SOP.

For details of consultation undertaken, see ADF2022/147643.

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