

SPECIAL CATEGORY VISA – NEW ZEALAND CITIZEN

MIGRATE TO AUSTRALIA AS A NEW ZEALAND CITIZEN

Ferguson Cannon are Migration Lawyers and Registered Migration Agents (Registered Number 0105779) located on the Sunshine Coast and Brisbane in Queensland, Australia. We specialise in complex and difficult applications.

On 1 September 1994 a Special Category Visa (SCV) was introduced for New Zealand citizens. They require a valid New Zealand passport to travel to Australia and in most cases, do not need to seek a visa before travelling.

At the time of presenting their passports for immigration clearance they are considered to have applied for a visa and, subject to health or character considerations, will automatically receive an SCV which is recorded electronically.

Their New Zealand passports are stamped, showing the date of arrival in Australia. This is the only evidence provided or necessary to show they are holders of an SCV.

People who become New Zealand citizens after their arrival in Australia can, subject to health and character considerations, obtain an SCV from the Department of Immigration and Citizenship, as can New Zealand citizens who were already in Australia before 1 September 1994.

Certain New Zealand citizens who were already in Australia before 1 September 1994, and were still in Australia on that date, automatically became SCV holders on 1 September 1994.

Is it necessary to apply for a permanent residence visa?

It is not necessary for a New Zealand citizen who holds an SCV to apply for or be granted permanent residence in Australia. The SCV allows a New Zealand citizen to remain and work in Australia lawfully as long as that person remains a New Zealand citizen.

In conjunction with the introduction of the new bilateral social security arrangement between Australia and New Zealand on 26 February 2001, the Australian Government also announced that New Zealand citizens who arrive in Australia on or after 27 February 2001 must apply for, and be granted, Australian permanent residence if they wish to access certain social security payments not covered by the bilateral agreement, obtain Australian citizenship or sponsor their family members for permanent residence. Under transitional provisions, these changes do not affect New Zealand citizens who:

- were in Australia on 26 February 2001 as SCV holders
- were outside Australia on 26 February 2001, but were in Australia as an SCV holder for a total of 12 months in the 2 years prior to that date, and subsequently returned to Australia, or

- have a certificate, issued under the Social Security Act 1991, stating that they were residing in Australia on a particular date. These certificates are no longer issued.
- Australian citizenship

Applying for citizenship

New Zealand citizens who arrive on or after 27 February 2001 may be eligible for Australian citizenship if they have a permanent visa or meet the transitional provisions described above.

New Zealand citizens, aged 16 and over, applying for Australian citizenship should check the information on penal clearance certificates on Form 47P Character requirements.

People who arrived in Australia before the age of 16 and have not resided in New Zealand are not required to refer to Form 47 P.

Citizenship by birth – before 1 September 1994

Every person born in Australia on or after 26 January 1949 and before 20 August 1986, is an Australian citizen by birth (with the exception of certain children born to diplomats and certain other excluded people).

Following amendments to the Australian Citizenship Act 1948 (the Act), a person born in Australia on or after 20 August 1986 is an Australian citizen by birth only if at least one of the parents was an Australian citizen or permanent resident at the time of the person's birth. However, this did not include the children of New Zealand parents.

This is because most New Zealanders in Australia between 20 August 1986 and 31 August 1994 were 'exempt non-citizens'. The Act specifically excluded the children of 'exempt non-citizens' from obtaining Australian citizenship by birth.

When the Migration Reform Act came into effect on 1 September 1994, the term 'exempt non-citizen' ceased to apply and SCVs were introduced for New Zealand citizens.

Citizenship by birth – from 1 September 1994 to 26 February 2001

From 1 September 1994 to 26 February 2001, a child born in Australia to a New Zealand citizen parent who held an SCV, is an Australian citizen by birth.

Citizenship by birth – From 27 February 2001

A child born in Australia, on or after 27 February 2001, to a New Zealand citizen parent/s is not an Australian citizen by birth, unless the New Zealand citizen parent:

- was not affected by the 26 February 2001 changes, or
- held an Australian permanent resident visa or Australian citizenship.

Note: Children born to a New Zealand parent who was living in Australia temporarily as a diplomat or as the holder of a special purpose visa (that is guests of government, aircrew or armed forces and their families) are not Australian citizens by birth.

Automatic acquisition of citizenship on 10th birthday

A child born in Australia on or after 20 August 1986, who did not acquire Australian citizenship at birth, automatically acquires it on their 10th birthday if they have been ordinarily resident in Australia for 10 years from birth. This provision operates regardless of the parent/s immigration or citizenship status.

Australian Values Statement

If you are aged 18 years or over, you must declare that you will respect Australian values and obey the laws of Australia. For this visa, the values statement is included in the general declaration section of the application form. When you sign the application form it means you will also be signing the values statement. You will not be required to have read the Life in Australia book, but may do so if you wish.

You are also encouraged to gain an understanding of Australia, its people and their way of life, before applying for this visa.