

**From:** Anne MacGregor  
**Sent:** Monday, 14 July 2008 12:25 AM  
**To:** Kerry Vlatković; Adrian Burn  
**Cc:** Kate Pope; Matthew Noble

**Subject:** Police Clearances: Descent + Resumption - Conflicting Requirements

Dear Kerry and Adrian,

Please could you advise on the following.

We have an adult descent applicant who has resided in the Bahamas all of the last 10 years except for a period just under one year in 2004 when he lived in the UK.

What police clearances does the Department need?

Here is why I am asking.

The latest version of Form 118 (and Form 132) says this with respect to police clearances needed for descent (and resumption) applicants:

*Applicants who have spent a total of 12 months or more outside Australia during the last 10 years, must provide a penal certificate for each country where they spent at least 3 months. This only applies to applicants who were aged 16 years or more at the time they were outside Australia.*

However, this is not the same as what you currently state on the DIAC website at this link:

<http://www.citizenship.gov.au/applying/categories/citz-by-descent.htm>

or at this link:

<http://www.citizenship.gov.au/applying/categories/citz-by-descent-docs.htm>

or at this link:

<http://www.citizenship.gov.au/applying/resuming-citz.htm>

or at this link:

<http://www.citizenship.gov.au/applying/resuming-citz-docs.htm>

Under what's on the Form 118, this descent applicant does need a UK police clearance as well as one from the Bahamas.

But under what's on the website about descent requirements, he would not need a UK police clearance but would still need one from the Bahamas.

Please let me know what applies so that I can advise this client correctly. If your website is no longer current, it would be advisable to update it. The instructions on the Forms should logically tally with what you have on the website. This is a matter we have raised with the Department in the past.

The Form 118 and Form 132 statements with the "3 months" requirement for police clearances appear to be relatively new. We'd be grateful to know what policy considerations have motivated the recent change to a more burdensome approach from the "one year" requirement (as still on your website) which was always sufficient in the past.

We had correspondence on this issue with the then Minister before the 2007 Act came into force last year when the Department attempted to introduce a more burdensome regime on police clearances

for descent and resumption applicants in the months just before 1 July 07 to apply under the new Act (see attached). DIAC backed down after the matter was brought to the Minister's attention and it was decided to continue with the police clearance requirements for descent and resumption that had been in place under the 1948 Act.

The SCG maintains its position that Section 21(6) conferral cases, resumption and descent applicants should all be subject to the same requirements on police clearances.

The requirement should be, as currently on your website for descent and resumption and 21(6) conferral cases, that if the applicant has lived in any country for a total of 1 year or more in the last 10 years (except Australia), he or she must get a penal certificate from the authorities in that country.

We note that the page on your site for 21(6) conferral applicants presently also reflects this position:

<http://www.citizenship.gov.au/applying/categories/born-former-citz-docs.htm>

We look forward to your early clarification.

Kind regards,

Anne

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