



Frequently Asked Questions

Applying for Australian Citizenship

under the *Australian Citizenship Act 2007*

Information for Applicants Residing in the United Kingdom

1. I'm not sure if I qualify for Australian citizenship under the new Act. How can I find out?

The Southern Cross Group (SCG) website carries comprehensive information. You can download the *Australian Citizenship Act 2007* from our website.

You should compare your situation to the fictitious examples of the war bride family discussed on the war brides pages of our website to understand how the new citizenship legislation will operate, even if your family is not a war bride family. The examples are nevertheless illustrative of the different routes that the new Act provides to Australian citizenship.

The main "expat fixes" in the new Act are outlined in simple language in our media release of 20 March 2007, which you can download from the SCG website archives, dual citizenship folder, 2007 subfolder.

The Australian Government citizenship website should also be consulted: www.citizenship.gov.au

If you are still not sure after consulting the above sources, then we are happy to look at your case and provide you with a short legal assessment. Write to us at info@southern-cross-group.org providing your name, date and place of birth, full contact details and the date and places of birth of your parents as well as information as to their naturalisation dates in later life, if any.

NB: There are some special scenarios that are presently under examination and may not be covered by the new Act. If you are a person who was born in Australia but naturalised abroad before 26 January 1949, or if your parent is such a person, please contact the SCG without delay for further advice. Similarly, if you were born outside Australia before 26 January 1949 and your Australian-born parent passed away before that date, please contact us. Further, if you were born outside Australia to a parent who was not born in Australia but who spent time in Australia as a child or adult, or if you are a person who was not born in Australia but migrated there as a child and grew up there, we would like to hear from you. And if you were adopted or your children were adopted, please also contact us at info@southern-cross-group.org.

The Australian High Commission in London has an information line which can be called from within the UK: **09065 508 900** from 9 am to 4 pm UK time on weekdays except for High Commission and public holidays. The cost of this service is £1 per minute from a BT line. However, costs may vary for other providers and calls from mobile phones. The system will not place you in a queue if there are no individuals available to take your call.

You can send a written enquiry to the London High Commission Contact Centre by completing an enquiry form at: <http://www.immi.gov.au/contacts/forms/europe>. Staff at the London Contact Centre will endeavour to answer your enquiry within two working days.

2. If I become an Australian citizen, will my UK citizenship be affected? Can I be a dual citizen?

Your UK citizenship will **not** be affected. You will become a dual citizen. There are already many people who are dual Australian/UK citizens.

If you hold some other citizenship – e.g. German or Danish, or some Asian citizenships, then the laws of those countries might mean that you automatically forfeit or must formally renounce that citizenship on becoming Australian. If in doubt, check with the consular authorities of the country concerned to learn what their national citizenship law says. Note that Australian law does not require that you formally renounce your other citizenship on becoming Australian. But the law of some other countries may not allow you to hold dual citizenship.

Those with US, Canadian, British, Irish, and New Zealand citizenship will become dual citizens on obtaining Australian citizenship. Many other countries also allow dual citizenship.

3. When did the new *Australian Citizenship Act 2007* come into force?

The Act was passed by the Australian Federal Parliament on 1 March 2007, and received royal assent from the Governor-General on 15 March.

The operative provisions of the Act came into force on 1 July 2007. This means that applications under the new Act have been able to be lodged since that date.

4. Where can I get a citizenship application form?

Citizenship application forms for use under the new Act are available from:

<http://www.citizenship.gov.au/law-and-policy/forms/index.htm>

If you are applying to resume Australian citizenship, use **Form 132**.¹

If you had an Australian-citizen parent at the time of your birth outside Australia, you will be applying for Australian citizenship by descent, and you should use **Form 118**.

If your parent lost Australian citizenship before you were born outside Australia, you will be applying for Australian citizenship by conferral and you should use **Form 124**.

NOTE THAT THESE FORMS ARE UPDATED AND REPLACED FROM TIME TO TIME. The Department of Immigration and Citizenship regularly improves and updates all its citizenship forms. Forms are always updated on the first of a month, but not every month by any means. So if you print out a citizenship form, but then wait several weeks or months before you lodge your completed citizenship application, your form might be out of date.

Just before you are ready to file and have all your supporting documentation, make sure you go to the website above and check that the edition of the form you have printed out is the latest edition available. You will see the edition date in the bottom right hand corner of the form (e.g. "Design date 07/07").

If you try to file an out of date citizenship form, your application will be returned to you and you will have to redo it on the new form.

¹ **Note:** If you were born outside Australia, and originally obtained Australian citizenship by descent because you had an Australian citizen parent at the time of your birth, and you subsequently lost your Australian citizenship by descent, you can now either apply to resume, or you can apply afresh for Australian citizenship by descent. There are advantages and disadvantages with both applications processes. For further details as to which option is best for you, contact the SCG on info@southern-cross-group.org.

5. Where do I lodge my citizenship application and how much will it cost?

If you are resident in the UK or the Republic of Ireland, then you have to file through the Australian High Commission, The Strand, London WC2B 4LA. See AHC contact details for queries under Question 1 above.

There are filing fees for Australian citizenship applications, and the fee varies depending on the category of citizenship you are applying for (conferral, resumption, descent). As of 1 July 2007, the fee for filing a resumption application in London is £30, for descent £50 and conferral £55. Cross out the "AUD" on the payment section of the application form and write in "GBP" and the applicable sterling fee.

NOTE: fees are adjusted from time to time, usually on 1 January and 1 July of each year. For the latest fees for applications filed in London, see the High Commission website: <http://www.uk.embassy.gov.au/lhlh/fees.html>

6. Apart from the citizenship application form, what other documentation will I need?

The new law provides that the Australian Minister for Immigration and Citizenship must be satisfied that applicants are of good character. To satisfy this legal requirement, the Australian Department of Immigration and Citizenship (DIAC) requires applicants for Australian citizenship aged 16 and over to provide **police clearance certificates** for countries they have lived in for 12 months or more (except Australia).²

The UK police do not issue documents entitled "certificate of good conduct" or "police clearance certificate", nor do they provide any other form of evidence of good character. However, DIAC will accept what is known as a UK **police reply** issued under the subject access provisions of the UK *Data Protection Act 1998* as a suitable equivalent. Obtaining a UK subject access police reply, which costs £10, can take as long as 40 days.

Consult the separate, more detailed six-page SCG document on how to obtain police clearances for those resident in the UK and Ireland, dated 7 May 2007, entitled "Fulfilling the Good Character Requirement". This is available in the SCG website archives, dual citizenship folder, 2007 subfolder.

You will also need other supporting documentation. The Australian Government citizenship website has guidance. The documents you will require depend on the category of citizenship you will be applying for.

- If you are a **former** Australian citizen and will be applying to **resume** your Australian citizenship, check the list of required documentation at:

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

- If you were **born outside Australia** and had an Australian-citizen natural parent at the date of your birth, and will be applying for citizenship by **descent**, check the list of required documentation at:

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

- If you were **born outside Australia** to someone who had **lost their Australian citizenship before your birth**, and will be applying for citizenship by **conferral**, check the list of required documentation here:

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

² Despite what is stated on the front of the 07/07 editions of Form 132 and Form 118, resumption and descent applicants who are applying from outside Australia only need provide police clearances for all countries (except Australia) that they have lived in for 12 months or more in the last 10 years. Whether this also applies to Section 21(6) conferral applicants was still unclear as at the date of publication of this document. Contact the SCG if this makes a difference to the supporting documentation required for your citizenship application.

7. How do I obtain Australian birth and marriage certificates?

You may need a full birth certificate for yourself if born in Australia, or for your parent, if they were born in Australia. You may also need to show an Australian marriage certificate, depending on the circumstances. Consult the links under Question 6 above to understand fully which documentation you will need.

If you no longer have an original full birth or marriage certificate for the person concerned, then you will need to order a new original from Australia.

In Australia, births, deaths and marriage records are maintained by the individual States and Territories. Consult the separate SCG information sheet entitled "Obtaining Birth, Death and Marriage Certificates from Australia" for address and other details for each State and Territory. This document is available in the SCG website archives, dual citizenship folder, 2007 subfolder.

Note that original documents will be returned to you once they have been sighted by DIAC officials. If you lodge your application in person at Australian House in London, generally your original documents will be given back to you on the spot. If you lodge your application by post, it is advisable to send your application by registered mail or courier, and Australia House officials will send you back your original documents by Royal Mail special delivery.

8. The *citizenship.gov.au* website says I need one photograph endorsed by an Australian citizen who has known me for 12 months and belongs to a specific occupation category. What do I do if I don't know anyone who falls into this category?

Preference is for the photograph to be signed by an Australian citizen. However, DIAC will also accept a photograph endorsed by a member of the occupational group in your country of residence who is not an Australian citizen. DIAC's citizenship website says:

Where the applicant lives overseas and does not know an Australian citizen, the photograph may be signed by a citizen in the applicant's country of residence who is employed in one of the occupational groups listed and who has known the applicant for at least 12 months if the applicant is over six years of age.

For details of occupational groups, consult:

<http://www.citizenship.gov.au/applying/categories/endorsed-photos.htm>

All citizenship applications must be accompanied by one endorsed photograph.

We suggest that you get at least three photographs taken, although you will initially only need one to put with your citizenship application. Keep the other two because they can be used for your Australian passport application later, once you are an Australian citizen. One of these two additional photos also has to be endorsed on the back and is kept by the authorities when you file your passport application and the other goes in your passport.

The photograph for your citizenship application and for your passport application should be a passport sized colour photograph that is no more than 6 months old.

To find out the exact "Photograph guidelines", it is worth consulting this Australian government website: <https://www.passports.gov.au/Web/Requirements/Photos.aspx>

The photographed head must be 45-50mm high and 35-40mm wide, and the photograph must be a full front view of the applicant's head and shoulders without any head covering or tinted glasses. If the applicant wears a head covering for religious reasons, a photograph that shows the applicant's facial features will be accepted. If the applicant normally wears prescription glasses, then glasses with untinted lens should be worn

in the photograph. The photograph must have a plain, light coloured background. The Australian authorities will not accept a poor quality photograph or a laser print.

Please note: the Australian photograph requirements do not conform to the standard photograph that you can get from a booth in the UK and that is used for British passports. The British photographed head is only 40mm high and 25mm wide. When you get your photographs taken for your Australian citizenship and passport applications, go to a professional photographer and tell them that you want your photographs to match the Australian requirements. If necessary, show them the photograph guidelines from the webpage and make sure they produce photographs of the right size. Don't pay for wrongly sized photographs. You won't be able to use them and the Australian authorities will reject them.

The photograph for your citizenship application must be signed on the back by an appropriate endorser, or guarantor, and also inscribed with 'This is a true photograph of (applicant's name in full)'. The same endorser, or guarantor, also completes the Proof of Identity section on your citizenship application form.

We suggest you pin or clip your endorsed photograph to the top of your completed citizenship application form. Do not just put it in the envelope floating around loose with your application form and supporting documentation, as it may get lost. We speak from experience!

9. How do I get an Australian Passport?

In order to apply for an Australian passport, you must first be an Australian citizen. Applying for a passport is a completely separate administrative procedure to applying for citizenship.

Once you are an Australian citizen and have a certificate of Australian citizenship, you can then apply for an Australian passport through the Australian High Commission in London or the Australian Consulate in Edinburgh.

See further: www.uk.embassy.gov.au/ihlh/Passports.html

10. Even though I qualify for Australian citizenship under the new Act, I'm not sure I should become an Australian citizen. What are the privileges and responsibilities of Australian citizenship?

The citizenship.gov.au website has the following information, aimed at migrants in Australia who are considering naturalising there:

Privileges of Australian Citizens

It entitles you to privileges of Australian citizenship giving you the right to:

- live in Australia
- apply for an Australian passport and to leave and re-enter Australia without applying for a resident return visa
- seek assistance from Australian diplomatic representatives while overseas
- vote to help elect Australia's governments
- stand for Parliament
- work in the public service
- serve in the armed forces
- register as Australian citizens by descent any of your children born overseas after you become an Australian citizen.

Responsibilities of Australian Citizens

Citizenship also brings with it responsibilities. For example, citizens are required to:

- obey Australian laws
- enrol on Federal and state/territory electoral registers
- vote in elections
- defend Australia should the need arise
- serve on a jury if called to do so.

Not all of the above applies to those living overseas intending to become Australian citizens. For example, you won't be called for jury service if you don't live in Australia. Further, under the Australian Constitution dual citizens are not permitted to stand for election to the Australian Federal Parliament. You also may not be able to vote in Australian elections from overseas. See further below.

11. Will I be forced to vote in Australian elections if I don't live in Australia? Do I have a right to vote in Australian elections from abroad?

Voting in Australian federal and state elections is compulsory if you are an Australian citizen aged 18 or over and you are in Australia on polling day. It is not compulsory to vote if you are outside Australia.

You may want to vote from abroad, even though it is not compulsory. If this is the case, then you may find that in fact Australian electoral law prevents you voting. To vote you have to be on the electoral roll. If you are not currently on the roll, you may only enrol from abroad if it is less than three years since you left Australia to live abroad. This limitation will mean that many people who will obtain Australian citizenship under the new Act who have lived abroad their whole lives or for many years will be prevented from enrolling to vote once they become Australians.

Voting for Australians abroad is a matter that the SCG has been lobbying on for some years. We estimate that there are around half a million Australian citizens of voting age living abroad who are presently disenfranchised because of enrolment limitations in Australian federal law. For more information consult the SCG's brochure entitled "What you need to know about voting in Australia while you live overseas", in the SCG website archives, overseas voting folder, 2006 subfolder. There is also considerable information on our website about our lobbying activities on this subject.

If you go to Australia to live after you become an Australian citizen, you will, if you are also a UK citizen, have the right to vote in UK general (but not local) elections and in European Parliamentary elections from abroad for 15 years after the date of your departure. You should consult the UK Electoral Registration Department at your local town hall or civic centre to find out more. See also:

www.direct.gov.uk/en/BritonsLivingAbroad/BeforeYouGo/DG_4000022

12. Once I become an Australian citizen, I want to go to live in Australia. But my partner/spouse and/or dependent children are not Australian citizens. Can we move to Australia as a family?

Generally yes. As an Australian citizen, you will need to sponsor your partner/spouse and dependent children for Australian visas first. You can do this only after you have your own Australian citizenship. You should start this process from your country of residence, well before the envisaged move date.

Consult the www.immi.gov.au website for visa information, specifically:

www.immi.gov.au/migrants/family/family-visas-partner.htm

and

www.immi.gov.au/migrants/family/family-visas-child.htm

You may wish to have a Registered Australian Migration Agent help you with your family visa applications. For details of all registered agents, consult www.themara.com.au

13. Once I become an Australian citizen, can my non-Australian spouse/partner and children become Australian citizens?

If your spouse/partner/child moves to Australia to live on a family visa, then in due course they should qualify to apply for naturalisation (citizenship by conferral) after they have clocked up the requisite permanent residency periods. Consult www.citizenship.gov.au for further information. Note that naturalisation rules changed under the new Act on 1 July 2007.

If you remain living outside Australia, then the options for non-Australian spouses to take Australian citizenship are very limited. Generally, non-Australians married to Australians must clock up certain permanent residency time living in Australia before they can become naturalised citizens.

The new 2007 Act does have some provisions for non-Australian spouses living outside Australia with their Australian-citizen spouses. See Section 22(9) of the Act, which is downloadable from the SCG website. But non-Australian spouses would need to have Australian permanent residence first for this provision to be useful to them. To get permanent residence, they would need to have gone through the spouse visa process first. We don't know how Section 22(9) is going to work yet.

14. If I go to live in Australia, will I qualify for the government age pension there? Will all my UK social security contributions over the years be lost?

Australia has bilateral social security agreements with a number of countries to share the responsibility for social security coverage. Under these agreements, Australia and the other country broadly share the support of those people who have spent part of their working life in both countries. People can move between the two countries that are party to a bilateral social security agreement knowing that their state pension rights are recognised in both countries.

The bad news is that Australia no longer has a social security agreement with the UK. Australia terminated a previous bilateral social security agreement with the UK with effect from 1 March 2001. For further information see:

www.southern-cross-group.org/socialsecurity/bilateral_uk.html

and

www.facs.gov.au/internet/facsinternet.nsf/international/uk-termination.htm

and

www.centrelink.gov.au/internet/internet.nsf/overseas/pension_agreements.htm - uk

The 2001 termination of the bilateral agreement means that periods of residence in the UK or contributions to the UK's social security system do not count towards qualifying residence requirements for certain payments, such as the Age Pension in Australia.

However, your UK social security (national insurance) contributions will count towards a UK state pension, which you can claim when you reach pension age, regardless of where you live.

Your UK state pension also counts as income when you emigrate to Australia. It will be taken into account when assessing whether you may eventually qualify for an Australian Age Pension. An Australian Age Pension is means-tested and an applicant has to have lived in Australia for a minimum of ten years.

For information on claiming UK pensions, paying voluntary contributions or on other matters relating to UK social security, see the UK government website for Revenue & Customs (www.hmrc.gov.uk) and the Department of Work & Pensions. (www.dwp.gov.uk/index.asp).

You can claim a UK state pension if you have worked in the UK and paid National Insurance contributions once you reach pension age (i.e. 65 for a man and 60 for a woman, although the pension age for women is gradually rising to equal that for men). If, by then, you are living in Australia, the amount awarded will be frozen because there is no longer a reciprocal agreement between the UK and Australia.

If you are planning to move to Australia, you should inform HM Revenue and Customs of your plans and let the National Insurance Contributions Office know your new address. The International Pensions Centre deals with former UK residents now living overseas. For eligibility for Australian social security, consult www.centrelink.gov.au.

15. I have a private or government pension fund in the UK. Can I take that money to Australia or have benefits from those plans paid to me while I live in Australia?

In the case of private personal pensions or private company pensions, you should consult the companies with which you have those plans.

Unlike the UK state pension (see Question 14 above), your UK government pension (e.g. teachers, NHS, civil service) is index-linked, wherever you live. These pensions will be paid in Australia and, for a small monthly surcharge, in Australian dollars. To find out more, contact Civil Service Pensions on 0870 169 9700; Teachers' Pensions on 0845 606 6166; and NHS Pensions on: 01253 774774.

In the case of local authority pensions, you should contact your local authority.

16. If I become an Australian citizen, will I have to pay Australian taxes?

Australia does not (currently) generally levy income taxes on Australian citizens resident outside Australia (except for income sourced in Australia). www.ato.gov.au has Australian government information on taxes.

If you move to Australia to live, then you will be taxed on income generated in Australia. You should also check with an Australian accountant about the taxability in Australia of funds you might bring with you from overseas, or pensions or other benefits that might be paid to you in Australia from overseas.

A double-taxation agreement exists between Australia and the UK. This is designed to eliminate or relieve the taxation of the same income or gains in both countries.

As to your UK tax liability if you move to Australia to live after becoming an Australian citizen, see further information on "Non-Residents – Relief under Double-Taxation Agreement" in IRS sheet IR304, which can be found on the UK Revenue and Customs webpage at: www.hmrc.gov.uk/helpsheets/ir304.pdf

We stress that it is extremely wise, if not essential, to seek professional taxation advice in both Australia and the UK if you have assets/income in both countries and/or are moving between countries.

17. I've carefully read all the SCG material but I still have questions. Can you help?

We will do our best, within the limitations of our volunteer resources. Contact our UK volunteer Eric Brown, telephone: 020 8467 5574, or e-mail Eric at eric@southern-cross-group.org.