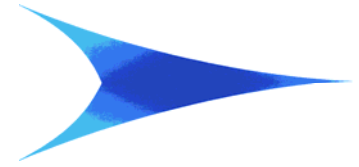


The Southern Cross Group

Promoting Mobility in the Global Community



Applying for Australian Citizenship

under the *Australian Citizenship Act 2007*

Information for Applicants Residing in the United Kingdom and the Republic of Ireland

Fulfilling the Good Character Requirement

Since the United Kingdom and the Republic of Ireland are two separate countries, this information sheet deals first with the UK and then, in far less detail, with Ireland (Point 8). There is much similarity, nonetheless, in the legislation of both countries, so Points 3-6 are of general interest to applicants seeking “police clearance” both in the UK and/or in Ireland.

This document also includes the Crown Dependencies of the Isle of Man and the Channel Islands and the Overseas Territories of Gibraltar and the Falkland Islands (Point 7).

People who are now living outside the United Kingdom or Ireland but who nevertheless require a police check for one or both of those countries should consult points 3-6 and possibly 8.

1. Introduction

From 1 July 2007, thousands of individuals in the Australian diaspora will be able to apply for Australian citizenship under changes enacted in the *Australian Citizenship Act 2007*.

The new law provides that the Australian Minister for Immigration and Citizenship must be “satisfied that the person is of good character at the time of the Minister’s decision on the application”.

This requirement is a mandatory legal prerequisite for all applications for Australian citizenship made by adults:

- Former Australian citizens applying for **resumption**
- Persons born outside Australia applying for **citizenship by descent** (i.e. those who had a natural Australian–citizen parent at the time of their birth)
- Persons applying for **citizenship by conferral** (i.e. grant/naturalisation)

2. How to Demonstrate Good Character for Your Citizenship Application

To satisfy the good character requirement, the Australian Department of Immigration and Citizenship (DIAC) requires applicants for Australian citizenship aged 16 and over to provide **police clearance certificates** from all countries they have lived in for a period of 12 months or more (except Australia) since the age of 16.¹

¹ If you have lived in countries apart from the United Kingdom and/or Ireland and Australia for 12 months or more since you were 16, you will also need police clearances from those other countries to file a complete Australian citizenship application. See Form 47P at www.citizenship.gov.au for details of how to obtain police clearances from other countries. Note that the Australian Citizenship Act 2007 only empowers the Minister to be satisfied of good character for descent and resumption applicants aged 18 and over. The SCG is presently challenging the Minister on the Department’s administrative practice of requiring police clearances for those aged 16 and over. Further, as at May 2007, resumption/descent citizenship applicants under the 1948 Act only require police clearances going back 10 years, not for a person’s entire adult life. The SCG is also seeking clarification from the Minister as to why and whether that will change from 1 July 2007.

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The SCG takes no responsibility for changes relating to law in the United Kingdom, or its constituent jurisdictions, or to law in the Republic of Ireland, or to police procedures in both countries or Australian legal or administrative requirements or procedures which may occur after that date.

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3. **A “Subject Access” Police Reply: a Suitable Equivalent of Police Clearance in the United Kingdom**

The UK police do not issue “certificates of good conduct” or “police clearance certificates”, nor do they provide any other form of evidence of good character. Australian citizenship authorities will accept a police reply under the **subject access provisions** of the UK *Data Protection Act 1998* as a suitable equivalent. Subject Access is commonly used by an individual to obtain a copy of their Police National Computer (PNC) record or to confirm that they do not have a PNC record.

The provisions of the *Data Protection Act 1998* give an individual the right to apply for a copy of any personal data held about him or her. Section 7 of the Act states that the ‘data subject’ (the person to whom the personal data refers) is entitled, upon written request, to be informed whether or not personal data is held or processed about him or her.

So, if you wish to know what information (if any) the police hold about you or you would like confirmation that you do or do not have a prosecution/conviction history; you should make a Subject Access application to your local police force. Such a search may also reveal cautions, but these are not criminal convictions. In some cases it’s possible to get these deleted after a period of time, and this is usually advisable.

Subject to certain exemptions, you have a right to be told whether any information is held about you and a right to a copy of that information. You must satisfy the Chief Officer of Police, or his/her equivalent in other forces, of your identity before you can receive it.

To obtain this information, you have to submit an application requesting **Access to Information Held on Police Systems** to the police force in the part of the UK in which you are living. Having accepted your application, your local police force, if you live in England and Wales, will forward it to the National Identification Service (NIS) at New Scotland Yard, who will access the Police National Computer (PNC), conduct a search on a national basis, process your application and respond on behalf of the police force who submitted it.

By law, NIS must provide the final response within a **40-day** statutory deadline. The fee for this service is **£10 sterling**. Please note: due to the volume of applications that they receive, the NIS cannot expedite or prioritise any applications.

The police authorities in Scotland and Northern Ireland have their own systems. However, if requested, they will also liaise with NIS.

If you live in Scotland, you must indicate whether information is required from the Scottish Criminal Records Office (SCRO) for convictions in Scotland and/or the PNC in England and Wales (if you have also lived there) for convictions in England.

If you live in Northern Ireland, you would, in the first instance, request this information from the Police Service of Northern Ireland (PSNI) under Section 2 of Form DAT1 for convictions in Northern Ireland. You should also request information from the PNC under Section 2A “if you have resided in England, Scotland and Wales outside Northern Ireland” for convictions in those other parts of the UK.

If you are now living in England/Wales but formerly lived in Scotland/Northern Ireland, you should instruct your local police force to do a combined local/PNC check through the Scottish or Northern Irish police. You could add a note to your application to this effect. However, if you have lived in Scotland or Northern Ireland within the past ten years, this will show up under “Previous addresses”.

Those living outside the UK who need a police check can normally apply to the police force of a last area of residence, or the Metropolitan Police in London, or the Scottish/Northern Irish police if they need a local check as well

4. Obtaining Subject Access Information about Yourself from your Local Police Force

The UK Police Service Portal has been temporarily suspended. As a result, the website www.police.uk that is given on the DIAC 47P Form currently does not provide a list of UK police service websites. A new system is under development and is undergoing testing.

Instead, go to the following website and click on the hotlink to find the police force in your area: http://en.wikipedia.org/wiki/List_of_police_forces_in_the_United_Kingdom

This webpage lists all the police forces in the UK: England and Wales form one police body, with 39 police forces in England and four in Wales; Scotland has eight police forces, and Northern Ireland has a single police force. There are also maps indicating the boundaries of the various police regions within England, Wales and Scotland.

Once you have accessed the Wikipedia page about your police force, you will find a link on it to that police force's official website. When you click on it, you will be taken to their home page. Next, you should look for a link either to Freedom of Information or to Data Protection or to an A-Z guide or FAQs (e.g. How to access personal information about you). Sometimes you will reach Data Protection via Freedom of Information.

Once there, you can inform yourself about "subject access provisions of the *Data Protection Act 1998*" and also download an application form or obtain a contact address or telephone number to enable an application form to be sent to you.

Should you **not** have access to a computer or cannot find your police-force website on-line, we recommend, instead, that you go to your local main police station and ask for a Subject Access application form or a Police National Computer form (in England), and explain why you want it.

Experience suggests that the simplest way by far will be to download the application form from the website as not all police stations will carry copies of it and writing away for it can take quite a long time.

5. Completing the Subject Access/Data Protection Application Form

This is a very straightforward document to complete. The forms of the various police forces are broadly similar in content and layout. However, there are occasionally small differences in requirements from one force to another.

A typical form comprises four sections:

- Section 1 asks you to give information about yourself that will help the Chief Officer of Police to confirm your identity. Should you have changed addresses during the past **ten years**, there is a space for you to list previous addresses during that time, where applicable. (Sometimes, the time span for addresses is three years or five years.)
- Section 2 asks you to indicate the type of information you require from the PNC. (You should tick the box indicating Prosecution/Convictions History and Cautions.). You can also request other information about yourself held on the regional police system, but this is **not** relevant here.
- Section 3 asks you to provide evidence of your identity by supporting your application with two documents that establish your name, current address and date of birth.
- Section 4 requires you to sign a declaration, and you are warned that impersonation of another person is a criminal offence.

By way of illustration, we suggest that you consult the London Metropolitan Police webpage for "Data protection and Subject access": <http://www.met.police.uk/dataprotection/faq.htm> where you will find "Frequently asked questions about Subject Access" and a link to the Police National Computer Form (Form 3019B). To see a copy of this form, go to one of the following websites:

Adobe PDF format – Police National Computer form
<http://www.met.police.uk/dataprotection/forms/3019b.pdf>

Word format – Police National Computer request form
<http://www.met.police.uk/dataprotection/forms/3019b.dot>

6. Submitting Your Form

Once you have completed your form, you can either hand it in at the same police station or send it to a designated office whose address will be given on the form.

The instructions on one police-force application form state that submitting the completed form by post is the preferred and quickest option and that applications handed into a main police station may be delayed in the internal mail system. However, if you use the postal method, please remember that you are entrusting valuable documents like your passport or driving licence to the Royal Mail, so it would be advisable to send them by Special Delivery.

To prove your identity, you will need to produce two documents that show your full name, date of birth and current address. Requisite documents include: passport, medical card, driving licence, bank statement, or utility bill.

Some police forces will accept photocopied documents. In some cases, no photocopies will be accepted but the original documents will be checked at the police station and returned immediately or returned within 7 to 10 days if sent in with an application; in other cases, only photocopies certified by a notary public or equivalent are acceptable.

The Metropolitan Police, for instance, reserve the right to request original documentation in some cases, and all documents will be returned by post. (It would be wise to take the original documents with the photocopied documents to allow the police to confirm their authenticity.)

Some police forces may require you to have your form countersigned by someone of standing (not a relative) who has known you for a year. However, there may be no need to obtain a countersignature if your current passport is used as your proof of identity.

Once the police have received your application, it will be checked and your identification documents returned to you, along with a receipt for the £10 fee paid. Your application will then be passed to NIS, who will post a response to you. This will take up to 40 days from the date recorded on your receipt, as required under the *Data Protection Act 1998*.

Check List after completing form

- *Have you completed all the sections you need to?*
- *Have you enclosed sufficient identification documentation?*
- *Have you signed the form?*
- *Have you enclosed the fee?*

7. The Isle of Man, the Channel Islands, Gibraltar and the Falkland Islands

If you are living in, or have lived in, the British Crown Dependencies of the Isle of Man or the Channel Islands or the Overseas Territories of Gibraltar or the Falkland Islands, you will need to be covered by a local police check.

In principal, you should contact the police authorities there and ask for a (Data) Subject Access form or the equivalent. We offer the following summary information.

7.1 Isle of Man

The Isle of Man Constabulary website is: <http://www.gov.im/dha/police/>

Once you have accessed the home page, click on the link to "Appeals for Information", then the link to "Vetting and Disclosure Unit". The Unit responds to all Data Subject Access requests made under the provisions of the *Data Protection Act 2002*.

To obtain a copy of information held by police about you, complete the Data Subject Access form (website below) and return it with the required fee.

<http://www.gov.im/lib/docs/dha/police/subjectaccessform05version1.pdf>

Alternatively, forms can be collected from any Isle of Man police station or you can write to:

Vetting and Disclosure Unit Manager, Isle of Man Constabulary (Subject Access), Police Headquarters, Douglas, Isle of Man, IM2 4RG.

Tel. +44 1624 631391, or within the UK: 01624 631391.

Please note: the Isle of Man police will not accept utility bills, bank statements or National Insurance number cards as proof of identity.

7.2 Jersey

The States of Jersey police website is: <http://www.gov.je/HomeAffairs/Police>

Subject Access application forms can be obtained from the Enquiry Desk at Police HQ in St Helier, or you can request one in writing, by telephone or e-mail from:

The Data Protection Officer, States of Jersey Police, PO Box 789, Jersey, JE4 8ZD

Tel: +44 1534 612612, or within the UK: 01534 612612, E-mail: sojp@jersey.pnn.police.uk

7.3 States of Guernsey Police Service

The States of Guernsey cover Guernsey, Alderney, Sark, and Herm and the police website is:

<http://www.gov.gg/ccm/navigation/home-department/police-service/>

No information is given on the website about obtaining Subject Access application forms, so we suggest that you contact the police force direct at:

<http://www.gov.gg/ccm/general/contact-us.en>

or you can request one in writing or by telephone from:

States of Guernsey Police Service, Police Headquarters, Hospital Lane, St Peter Port, Guernsey, SY1 2QN.

Tel: +44 1481 725111

Alternatively, there is a Data Protection Office: dataprotection@gov.gg

7.4 Gibraltar

Enquiries to the Royal Gibraltar Police concerning a police check should be made via e-mail to: roygibpolice@gibbell.gi

7.5 Falkland Islands

Enquiries to the Royal Falklands Islands Police concerning a police check should be addressed to:

Royal Falkland Islands Police, Ross Road, Stanley, Falkland Islands

Tel: 00 500 27222

E-mail: reception@police.gov.fk

8. Republic of Ireland

8.1 How do I apply for information held on Garda computers?

Your first step would be to go to a local police station and ask for an application form similar to the UK's Subject Access/Data Protection form (see Point 3 above).

If you live in, or have lived in, Ireland and have come straight to this section, you may find it useful to read Points 3 to 6 of this Information Sheet for wider background information.

8.2 Your Rights in Ireland

Subject to certain exemptions, you have a right to be told whether any information is held about you and a right to a copy of that information. The Garda Commissioner will only furnish you with that information if he is satisfied of your identity. You are only entitled to receive information that is personal to you.

8.3 Evidence of Good Character

An Garda Síochána do not issue documents variously described as "certificates of good conduct" or "clearance certificates" under the *Data Protection Act, 1998*. It should therefore be noted that the exercise of your rights under the subject access provisions of the *Data Protection Act, 1998* will not provide you with a certificate of this nature. The Act does not provide a clearance or vetting procedure for employment or other purposes.

8.4 The Garda Commissioner's Rights

The Garda Commissioner may deny access to information where the Act allows, but the main exemptions in relation to information held on Garda computers are where the information is held for:

- The prevention, detection and investigation of crime
- The apprehension of prosecution of offenders

and where giving you the information would be likely to prejudice any of these purposes.

8.5 Fee

There is a €6.35 fee in respect of a subject access request made under the Act.

Cheques, Postal Orders and Bank Drafts should be made payable to "The Accountant Department of Justice". Cash should not be forwarded with applications.

Foreign currency, cheques, or postal orders cannot be accepted. (Please note: Ireland uses euros.)

An application for information should be forwarded to the following address:

Inspector in Charge, Garda Central Vetting Unit, Racecourse Road, Thurles,
Co. Tipperary

The Central Vetting Unit can be contacted by:

Tel: 00353-50427300

Fax 00353-50427373

Most of this information has been taken from the following An Garda Síochá (Police of Ireland) website:
<http://www.garda.ie/angarda/faq.html#C2>