



OIA-2018-3106

17 July 2018

Elizabeth Grasmeder

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Dear Elizabeth

I refer to your request of 21 May 2018 asking, under the Official Information Act 1982 (OIA), the following questions:

1. *Between 2010 and 2018, how many non-citizens of New Zealand (hereafter, "such personnel") have served in the Defence Forces - whether through a lateral recruitment scheme or other policy?*
2. *Between 2010 and 2018, how many such personnel have enlisted or served each year in the Defence Forces?*
3. *Are such personnel eligible to complete a path to receiving citizenship?*
4. *Are such of personnel under any restrictions in their ability to serve New Zealand's Defence Forces (for instance, exclusion from overseas deployments, exclusion from certain jobs and military, etc.)?*
5. *What laws were defence policies enable such personnel to serve? When and why were they enacted?*

Between 2010 and 2018, there was an average of 369 Regular Force non New Zealand citizens, who served in the New Zealand Defence Force (NZDF). Tables A and B, below, provide a breakdown of actual personnel numbers by year.

Table A. This table displays the number of Regular Force non New Zealand citizensⁱ who enlisted with the NZDF each year between January 2010 and May 2018.

Year	Direct Entry	Lateral Recruit	Grand Total*
2010	31	31	62
2011	32	20	52
2012	52	14	66
2013	68	24	92
2014	23	37	60
2015		15	15
2016	11	18	29
2017	3	14	17
2018 ⁱⁱ	1	10	11
Grand Total	221	183	404

*Does not include re-enlistments of personnel

Table B. This table displays the number of Regular Force personnel who were non New Zealand citizens and recorded as currently serving in the NZDF at the end of each calendar year (as at 31 December) between 2010 and 2018.

Year	Strength*
2010	551
2011	504
2012	492

2013 ⁱⁱⁱ	508
2014	310
2015	272
2016	246
2017	233
2018 ⁱⁱ	212

*Average = 369 personnel per year

Lateral overseas applicants are required to gain New Zealand permanent residency (indefinite) prior to enlistment. Once enlisted, they are given a standard 5 years 8 months Offer of Service. This is to allow them to apply for their citizenship after 5 years.

If there is a specific requirement for a Service member to have New Zealand citizenship prior to the completion of the normal residency requirements, a special case requesting citizenship may be made. Special case requests are only to be made in exceptional circumstances and where there are no alternatives to the lack of New Zealand citizenship. In this instance a submission is raised through the Chief of Defence Force (CDF) to the Minister of Defence for forwarding to the Minister of Internal Affairs. This submission will request the use of the Minister's powers contained in Section 9(1)c of the Citizenship Act, to grant citizenship as a special case. Special cases will normally only relate to non-New Zealand recruits who possess specialist skills that require them to be a citizen of New Zealand to exercise their duties.

Non-New Zealand citizens who have been enlisted cannot deploy on operations until they have citizenship. A waiver can, however, be applied for if the non-New Zealand citizen is deemed to be mission critical. They are also required to have the correct security clearance.

The legislation which enables such personnel to serve is The Defence Act 1990, section 33(2):

Subject to subsection (1), section 36, and Defence Force Orders, the following persons may, in the prescribed manner, be appointed to, or enlisted or engaged in, the Navy, the Army, or the Air Force:

- (a) a New Zealand citizen or a citizen of any other Commonwealth country;*
- (b) any other person with the prior consent of the Chief of Defence Force.*

New Zealand legislation can be found online at www.legislation.govt.nz. A copy of DFO 4, chapter 5, which is relevant to your request, is enclosed.

Yours sincerely

G.R. SMITH
Commodore, RNZN
Chief of Staff HQNZDF

Enclosed:

1. DFO 4, Chapter 5 - Citizenship

ⁱ Where a person's citizenship record at enlistment was missing, we referred to their citizenship at birth.

ⁱⁱ 2018 data is complete as at 31st May 2018.

ⁱⁱⁱ Prior to 2014, historical citizenship data was impacted by a system change. Where a person's current citizenship was missing, we referred to their citizenship at enlistment.

Chapter 5 Citizenship

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Section 1 Definitions

- 5.1 For the purposes of this Chapter:
- a. **British Protected Person.** British Protected Person means any person who, under any enactment for the time being in force in any Commonwealth country, is a protected person of that country
 - b. **Commonwealth Citizen.** Commonwealth Citizen means a person who is recognised by the law of a Commonwealth Country as being a citizen of that country.
 - c. **Commonwealth Country.** Commonwealth Country means a country that is an independent sovereign member of the Commonwealth, refer Annex A of this Chapter.
 - d. **Irish Citizen.** A person who is a citizen of the Republic of Ireland (Eire).
 - e. **New Zealand.** New Zealand includes the Cook Islands, Niue, Tokelau, and the Ross Dependency.
 - f. **New Zealander.** New Zealander means a person who has New Zealand Citizenship by virtue of the Citizenship Act 1977 or the Citizenship (Western Samoa) Act 1982.
 - g. **Non-New Zealander.** Non-New Zealander means any person who is not a New Zealander.
- 5.2 Reserved.
- 5.3 Reserved.
- 5.4 Reserved.
- 5.5 Reserved.
- 5.6 Reserved.

Section 2 NZDF Requirements

General

- 5.7 As a general rule, the NZDF requires its personnel to have New Zealand citizenship. The Defence Act 1990, allows non-New Zealanders to be enlisted into the NZDF with the approval of the CDF. The NZDF has a requirement, however, that all Service members are to be ready to deploy overseas on operational service. In order for Service members to be able to so deploy overseas on operational service they need to be New Zealanders to be eligible to hold New Zealand passports.
- 5.8 All personnel enlisted into the New Zealand Armed Forces are to be New Zealand citizens, except where detailed below:
- a. **Single Service Chief Discretion.** A non-New Zealander who is a Commonwealth citizen, a citizen of the United Kingdom, a British Protected Person, or an Irish citizen may only be enlisted, on an engagement not exceeding five years eight months, with the approval of the single Service Chief or his/her delegate. If on completion of that engagement the person does not have New Zealand citizenship, no further engagement is to be offered unless the person has applied for citizenship and has been advised by the Minister of Internal Affairs that his or her application has been accepted, in which case the only reason for the delay is the scheduling of the citizenship ceremony. In that case the Service may offer a further engagement to the member on the condition that the member be granted citizenship at the next available ceremony. Upon the granting of citizenship the member is to provide the Service with a certified copy of the certificate as evidence of the grant.
- Note: Whilst an Irish national (from Republic of Ireland) can apply to enlist in the NZDF, they must meet the residential requirements of Section 3 to this chapter.*
- b. **CDF Discretion.** The CDF may approve the enlistment of non-New Zealanders who are not Commonwealth citizens on the same basis as for sub-paragraph 5.8 a. of this Section. In exceptional circumstances, the CDF may approve the re-engagement of non-New Zealanders outside the criteria detailed in sub-paragraph 5.8 a. of this Section. Such circumstances will generally only be for Service reasons, although each case is to be considered on its merits. If on completion of that engagement the person does not have New Zealand citizenship, no further engagement will normally be offered. In exceptional circumstances the CDF may approve the re-engagement of such personnel based on the merits of each case. All requests for use of the CDF's discretion are to be forwarded to CPO, HQNZDF.
- 5.9 To obtain New Zealand citizenship, applicants must be able to fulfil all the requirements set out in the Citizenship Act 1977, before the Minister of Internal Affairs can approve the grant of citizenship.
- 5.10 If there is a specific requirement for a Service member to have New Zealand citizenship prior to the completion of the normal residency requirements, a special case request for citizenship may be made. Special case requests are only to be made in exceptional circumstances and where there are no alternatives to the lack of New Zealand citizenship. Any special case requests for citizenship are to be forwarded to CPO, HQNZDF. A submission will be raised through the CDF to the Minister of Defence for forwarding to the Minister of Internal Affairs requesting the use of the Minister's powers contained in Section 9(1) c of the Citizenship Act, to grant citizenship as a special case. Special cases will normally only relate to recruits who are non-New Zealanders who possess specialist skills that require them to be New Zealanders to exercise their duties.
- 5.11 The cost of obtaining New Zealand citizenship is an individual responsibility, except for those instances covered by DFO 5, under Miscellaneous Entitlements.

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Deployment of Non-New Zealand Citizens Overseas on Operational Service

- 5.12 In exceptional circumstances, the COMJFNZ may approve the deployment overseas on operational service of a member of the NZDF who is not a New Zealand citizen. The deployment of non-New Zealand citizens is, however, only to occur once a thorough risk assessment is made determining individual suitability for the specific environment to which the individual would be deployed. Each submission for a citizenship waiver is to be considered on its own merits.
- 5.13 Prior to confirming a non-New Zealand citizen's nomination for deployment overseas on operational service, single Service Component Commanders are to forward a submission for citizenship waiver through DDSyD to COMJFNZ for approval.
- 5.14 Legal advice is to be sought in all cases where approval is not recommended to deploy a non-New Zealand citizen overseas on operational service.

Declaration of Intent

- 5.15 All potential recruits who do not have New Zealand citizenship must sign a declaration of their intent to obtain New Zealand citizenship within three months of the point at which they may become eligible, that is, after five years residency. All new entrants attested into the NZDF who are non-New Zealanders are to sign MD1110 'Form of Understanding for Non-New Zealand Citizens'. This form is to be completed in duplicate, the original copy being forwarded to the single Services and the duplicate to be retained personal file.
- 5.16 Reserved.
- 5.17 Reserved.
- 5.18 Reserved.
- 5.19 Reserved.
- 5.20 Reserved.

Section 3 Security Clearances for Non-New Zealand Citizens

General

- 5.21 The NZSIS is responsible for setting the rules and the assessment criteria for the granting of security clearances. One criterion against which Service members are considered is their likely risk to New Zealand's security interests. For this reason, Service members born overseas are considered likely to retain family ties or a measure of loyalty to their birth country, which may expose them to pressures to act in a manner contrary to the security interests of New Zealand.
- 5.22 The overriding principle is that Service members from overseas should be subject to the same level of scrutiny as those born in New Zealand. Security clearances entail verifying family connections, employment history, tertiary study and places of residence over the preceding 5 to 10 years. Due to the difficulty in verifying information supplied by candidates who have lived overseas during that time, security clearances will normally only be granted to those candidates who are citizens of, or have resided in New Zealand, the United Kingdom, Canada, Australia or the United States of America for a minimum of 5 years.
- 5.23 Applications for security clearances on behalf of candidates who do not meet the criteria detailed in these orders are to be referred to DDSy in the first instance.

Resident in New Zealand for Less than 5 Years

- 5.24 Non-New Zealand citizens who have been resident in New Zealand less than 5 years are not to be recommended for a security clearance unless:
- a. they are citizens of, or have been resident in:
 1. the United Kingdom,
 2. Canada,
 3. Australia, or
 4. the United States of America, and
 - b. their aggregated period of citizenship of, or residency in, those countries and New Zealand has been for not less than 10 years.
- 5.25 If candidates have been granted a security clearance by the appropriate government authority in the United Kingdom, Canada, Australia or the United States of America, then satisfactory proof of that clearance is to be provided, by way of a note or letter from the originating country or department conducting the previous vetting. Such a clearance may then be taken into account in assessing the candidate's suitability under New Zealand criteria.

Resident in New Zealand for More than 5 Years

- 5.26 Candidates who have been resident in New Zealand for longer than 5 years may be recommended for a security clearance in the normal manner, provided they meet the residency or citizenship criteria detailed at paragraph 5.24 and the citizenship requirements for membership of the NZDF, detailed elsewhere in these orders.

Referees

- 5.27 In all cases, referees are to have known the candidate for at least 5 years and must be able to be contactable by telephone or at a physical address either in New Zealand, the United Kingdom, Canada, Australia, or the United States of America.

Annex A Current Commonwealth Countries

Table 1 : Commonwealth Countries

Antigua and Barbuda	Mozambique
Australia	Namibia
The Bahamas	Nauru**
Bangladesh	New Zealand
Barbados	Nigeria
Belize	Pakistan
Botswana	Papua New Guinea
Brunei Darussalam	St Kitts and Nevis
Cameroon	St Lucia
Canada	St Vincent and the Grenadines
Cyprus	Samoa
Dominica	Seychelles
Fiji Islands*	Sierra Leone
The Gambia	Singapore
Ghana	Solomon Islands
Grenada	South Africa
Guyana	Sri Lanka
India	Swaziland
Jamaica	Tonga
Kenya	Trinidad and Tobago
Kiribati	Tuvalu
Lesotho	Uganda
Malawi	United Kingdom***
Malaysia	United Republic of Tanzania
Maldives	Vanuatu
Malta	Zambia
Mauritius	
<p>* Fiji Islands was suspended from the Councils of the Commonwealth in December 2006 following a military coup</p> <p>** Nauru is a Member in Arrears</p> <p>*** England, Scotland, Wales and Northern Ireland</p>	

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