



Australian Government
Refugee Review Tribunal

Country Advice Indonesia

Indonesia – IDN36426 – 2006 Citizenship
Law – Ethnic Chinese – DFAT –
Citizenship Application Procedures
30 April 2010

The RRT *Information Request IDN36426* sent to DFAT on 24 March 2010 contained three questions for Post.¹ The response from Post did not provide specific answers to each question, but rather, significant and relevant information.

1. Does the 2006 reform to Indonesia’s citizenship law allowing all persons born in Indonesia citizenship also allow ethnic Chinese people born in Indonesian who have left the country, and who have not taken out citizenship of another country, the right to Indonesian citizenship?

DFAT advice indicates that the 2006 reform to Indonesia’s citizenship law does not automatically grant citizenship to hitherto stateless ethnic-Chinese persons born in Indonesia. Rather, Post confirms that persons in such circumstance have the right to apply for Indonesian citizenship, providing they also meet other criteria:

5. Article 8 of Law 12/2006 provides that Indonesian citizenship can be acquired through naturalisation. Under Article 9, applicants may apply for Indonesian citizenship if:
- a. they are 18 years old or married;
 - b. at the time of submitting the application they have resided in Indonesia for at least five consecutive years or at least ten years intermittently;
 - c. they are of sound mental and physical health;
 - d. they are able to speak the Indonesian language and acknowledge the basic principles of Pancasila and the 1945 Constitution;
 - e. they have never been convicted of a crime punishable by jail sentence of one year or more;
 - f. by acquiring Indonesian citizenship, they will not retain dual citizenship;
 - g. they have a job or steady income; and
 - h. they have paid a naturalisation fee to the Government Treasury.

9. In response to questions raised by IDN36426, Post has confirmed that Law 12 of 2006 allows an ethnic Chinese person who was born in Indonesia, who has left the country, and who has not taken out citizenship of another country, has the right to apply for Indonesian citizenship. The success of the application would depend on the applicant’s ability to fulfil the legal criteria and follow the processes...

¹ RRT Country Advice 2010, *Country Information Request: IDN36426 – Indonesia*, 24 March – Attachment 1

2. If the applicant has the right to Indonesian citizenship, what is the procedure for regaining citizenship? What documents would he need to demonstrate that he was born in Indonesia?

Post notes that there are no provisions in either the 2006 law or in the accompanying regulations for citizenship applicants to lodge their applications outside of Indonesia. Indeed, Article 10 of the Law stipulates that the application be made in Indonesia. Nevertheless, advice to Post from “Ministry officials” indicates that it is possible. The processing of citizenship applications can take up to six months:

6. Article 10 stipulates that applications to acquire citizenship by naturalisation should be made in Indonesia and addressed to the President, through the Minister for Law and Human Rights. The application must be written in the Indonesian language on paper affixed with the correct duty stamp and the application file must be submitted to the relevant Indonesian officials. **Once the Minister has received the application he/she has 3 months to provide an opinion on the application to the President (Article 11). The President must then made a decision to approve or reject the application within 3 months (Article 13).** The applicant must take an oath of allegiance to the Indonesian Republic (Article 16), and within 14 days submit his/her “immigration documents” to the immigration authorities (Article 17). The elucidation of the Law notes these documents can include the applicant’s passport, visa, entry permit, residence permit or other permits issued by immigration officials.

7. We note Government Regulations Number 2 of 2007 on Guidelines for Obtaining, Forfeiting, Annulling and Regaining Indonesian Citizenship provide further clarification on the application of Article 9 of Law 12/2006. **The Regulations state that “foreigners” may apply for Indonesian citizenship if they fulfil the criteria in Article 9 of Law 12/2006. (“Foreigner” is defined in Article 7 of Law 12/2006 as any person who is not an Indonesian citizen).** In addition to the requirements set out in Article 9, the Regulations state that applications must include the applicant’s full name, their date and place of birth, gender, marital status, home address, employment and their original citizenship. The following documents must be attached to the application:

- a. a certified copy of the applicant’s birth certificate or a letter evidencing the applicant’s birth;
- b. if the applicant is below 18 years of age, a certified copy of the applicant’s marriage certificate, divorce certificate or letter, or death certificate of the applicant’s spouse;
- c. a letter from immigration authorities from the area of the applicant’s place of residence, confirming the applicant lived in Indonesia for five consecutive years or 10 years intermittently;
- d. a certified copy of the applicant’s permanent residency permit;
- e. a letter from a hospital confirming the applicant is of sound mental and physical health;
- f. a letter declaring the applicant can speak the Indonesian language;
- g. a letter declaring the applicant acknowledges the basic principles of Pancasila and the 1945 Constitution;
- h. a letter regarding the applicant’s police record;
- i. a letter from a representative of the applicant’s country that by acquiring Indonesian citizenship the applicant will not acquire dual citizenship;
- j. a letter from the local authorities in the area where the applicant works, confirming the applicant has employment and a steady income;
- k. proof of payment of citizenship application fees to the State Treasury; and
- l. a passport photo of the applicant.

3. What travel documents would the applicant require in order to return to Indonesia in lieu of a passport?

According to Indonesia officials, the applicant may only travel to Indonesia on a passport and therefore advice to Post from Indonesia Ministry officials is that the applicant should apply for citizenship and, if successful, travel to Indonesia on an Indonesian passport. As indicated in the response to question 2, advice from Post indicates that the application process can take up to six months to gain citizenship. If successful, it is not clear as to how long it would take for authorities to issue an Indonesian passport:

8. We note Law 12/2006 and the accompanying Regulations do not make any provision for persons submitting applications outside of Indonesia. **Ministry officials advised Post (DIAC) if applicants outside of Indonesia fulfilled the criteria set out in Article 9, they would be considered eligible for Indonesian citizenship, and if successful, could apply for an Indonesian passport through an Indonesian mission overseas.** Officials confirmed if a person was denied Indonesian citizenship (and therefore an Indonesian passport), they would also be denied entry to Indonesia unless they were able to travel on a foreign passport.²

Despite Indonesian claims that the applicant may only travel to Indonesia on a passport, Indonesian Embassies can provide other travel documents to persons who they believe has the right to land or permanent residence.

Attachments

1. RRT Country Advice 2010, *Country Information Request: IDN36426 – Indonesia*, 24 March.
2. Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1140–Indonesia: RRT Information Request: IDN36426*, 29 April.

² Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1140–Indonesia:: RRT Information Request: IDN36426*, 29 April – Attachment 2