

A Guide to the Rights of Migrants and Residents in Ireland

September 2009

Please note: this is a reference guide only.
All information within should be clarified with the
relevant government department or authority.
Please contact Crosscare Migrant Project
if you have any questions.

STATUS ↓	RIGHT →	To: Stay in the Country	To: Work	To: 3rd Level Education	To: Social Welfare Entitlements	To: Family Reunification	To: Travel Abroad and Re-enter
Irish Citizen		Yes	Yes	Yes. Free fees apply for first-time 3 rd level entrants if the person has been resident in Ireland or EU for 3 of the last 5 years	See note (page 10) on the Habitual Residence Condition (HRC)	No legal entitlement to be reunited with spouse and children, but requests can be granted pending a case by case assessment	Yes
Non-EEA* spouse/partner of Irish Citizen * European Economic Area		Yes, pending registration with GNIB or approval by the Irish Naturalisation and Immigration Service (INIS)	Yes, pending registration with GNIB or approval from INIS	Yes, but EU or non-EU fees might apply	See note on HRC	Possible – can be granted on a case-by-case basis	Yes, but might need re-entry visa

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EU 25 National* (EU 25 – all EU states excluding Romania & Bulgaria) *For information about Romanian & Bulgarian Nationals please see end of table		Yes	Yes	Yes, and can access free fees if resident in the EU for 3 of the last 5 years	See note on HRC	Yes, but if dependant is non-EEA then EU national must be employed, self-employed, studying or have sufficient funds to support themselves	Yes
Non-EEA Spouse / Registered Partner / Dependent of EU National		Yes, if EU national is resident in Ireland and working, self-employed, studying or has sufficient funds to support themselves	Yes, if EU national is resident in Ireland and is working, self-employed, studying has sufficient funds to support themselves and non-EEA spouse/partner/dependent has registered with the Garda National Immigration Bureau (GNIB)	Yes, but non-EU or EU fees might apply	See note on HRC	Yes, but only their children (under 21), & EU spouse must be in employment, self-employed, studying or have sufficient funds to support themselves	Yes, but do not need re-entry visa as their Certificate of Registration (Stamp 4 EUFAM is accepted for the purposes of re-entry)

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Non-EEA (Visitor)		Yes, for up to 90 days.	No	No	No, except maybe in emergency cases	No	N/A
Non-EEA Student		For duration of course of study. Primary/Masters/PhD degree holders can apply for a 6-month visa extension (Graduate Scheme) to apply for a Work Permit or Green Card Permit	Yes, up to 20 hours a week and full-time during holidays as long as their course is for 1 academic year or more and is with a recognised college/university	Yes, but must pay non-EU fees. If applicant has lived in an EU state for 3 out of 5 years previously EU fees may apply	See note on HRC	From Autumn 2008 first time students must confirm that they are neither accompanied by children nor do they intend to have their children join them. They will not be registered with the GNIB unless either the Department of Education and Science or the Department of Justice, Equality and Law Reform has approved in writing that the child can be placed in education. See: www.inis.gov.ie	Yes, but might need re-entry visa

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Non-EEA Green Card Permit Holder		Yes, for duration of the Green Card permit. Long-term residency can be applied for after 2 years	Yes. Initially only in the job for which the permit was granted. After 1 year can move employment but a new Green Card Permit must be applied for	Yes, but non-EU fees may apply	See note on HRC	Yes	Yes, but might need re-entry visa
Non-EEA Work Permit Holder (where Work Permit was issued <u>before</u> 1 st June 2009)		Yes, for the duration of the Work Permit. Can apply for long-term residency after 60 months	Yes, but only for the job the permit is granted for. After 1 year can move employment in the same or another eligible employment sector but new Work Permit must be applied for.	Yes, but non-EU fees may apply	See note on HRC	Possibly, but only after 12 months of employment and must be in full employment	Yes, but might need re-entry visa
Non-EEA Work Visa/Authorisation Holder* *Note: this type of permit is no longer issued – it has been replaced by the Green Card Permit		Yes, as long as visa / authorisation is renewed. Can apply for long-term residency after 60 months	Yes, it is possible to change job within the same sector	Yes, but non-EU fees may apply	See note on HRC	Yes, on a case-by-case basis	Yes, but might need re-entry visa

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Non-EEA Spouse/Dependent of Non-EEA Work Permit Holder (where Work Permit was issued <u>before</u> 1 st June 2009)		Yes, after work-permit holding spouse has worked in Ireland for over 12 months	Yes - some work permit restrictions (e.g., permit fee, advertising clause, ineligible job categories, full-time work) are lifted	Yes, but non-EU or EU fees may apply	See note on HRC	No, but initial Work Permit holder may apply	Yes, but might need re-entry visa
Non-EEA Spouse/Dependent of Non-EEA Green Card Permit Holder (where Green Card Permit was issued <u>before</u> 1 st June 2009)		Yes, can travel with Green Card Permit holder to Ireland if prior permission is obtained	Yes - some work permit restrictions (e.g., permit fee, advertising clause, ineligible job categories, full-time work) are lifted	Yes, but non-EU or EU fees may apply	See note on HRC	No but Green Card Permit Holder may apply	Yes, but might need re-entry visa
Non-EEA Spouse/Dependent of Non-EEA Work Visa/ Authorisation Holder		Yes, can join work-visa/ authorisation holding spouse in Ireland	Yes - some work permit restrictions (e.g., permit fee, advertising clause, ineligible job categories, full-time work) are lifted	Yes, but non-EU or EU fees may apply	See note on HRC	No but Work Visa / Authorisation Holder may apply	Yes, but might need re-entry visa

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Refugee		Yes	Yes	Yes, but non-EU fees apply for 3 years	Yes but must be continually resident in the country	Yes	Yes, if travelling with Convention travel papers issued by Ireland
Leave to Remain		Yes, but must be renewed	Yes	Yes, but non-EU or EU fees may apply	Yes, but can affect chances for renewal if applicant is not self-sufficient	Possibly, but decisions are made on a case-by-case basis	Yes, might need re-entry visa
Leave to Remain based on Parentage of an Irish Child – IBC 2005 status		Yes, but must be renewed	Yes	Yes, but non-EU or EU fees may apply	Yes, but can affect chances for renewal if applicant is not self-sufficient	Difficult, but can be granted on a case-by-case basis	Yes, but re-entry visa might be required
Asylum Seeker		Yes, while their application is being processed	No	Yes, but non-EU fees apply	No, apart from direct provision and one-off exceptional payments	No	No, except in exceptional circumstances

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Romanians & Bulgarians newly arrived in Ireland		Yes, as long as they are employed, self-employed full-time students or self-sufficient	Yes, but they need a work permit/green card permit for 12 months or they can be self-employed.	Yes, and free fees apply if resident in the EU for 3 of the last 5 years (see below)	No, apart from exceptional needs payments (See note on HRC).	Yes, if they are employed, full-time students or self-sufficient	Yes
Romanian & Bulgarian students on a registered academic course of more than 1 year duration		Yes, but usual restrictions apply after graduation	Yes, 20 hours during term-time and full-time during holidays.	Yes, and free fees apply if resident in the EU for 3 of the last 5 years	See note on HRC	Yes, if they are employed, full-time students or self-sufficient	Yes
Romanian or Bulgarian Spouses/Dependents/ Partners of Romanians or Bulgarians resident in Ireland		Spouses/partners/dependents generally have the right to stay in Ireland if their spouse, partner or parent is employed, self-employed, a full-time student or self sufficient. Please go to the Department of Enterprise, Trade and Employment (www.entemp.ie) for the latest information on employment rights (http://www.entemp.ie/labour/workpermits/bulgariaromania.htm). See note on HRC for social welfare entitlements. They have the right to travel abroad and re-enter.					
Romanians & Bulgarians resident on a work permit for over 12 months		Bulgarian & Romanian citizens who have been resident in Ireland for over 12 months on a work permit should have the same rights and entitlements as EU25 citizens. The work permit should have been active on January 1 st 2007, or issued after that date – see www.entemp.ie for details.					
Romanian & Bulgarians with an Irish or EU25 spouse/partner		Bulgarian & Romanian citizens married to or partners of an Irish or EU25 citizen should have the same rights and entitlements as EU25 citizens					
Romanians & Bulgarians resident with permission from Dept. of Justice		Bulgarian & Romanian citizens who have been resident in Ireland with prior explicit permission from the Department of Justice should have the same rights and entitlements as EU25 citizens					

Additional Immigration Information

Registration

A non-EEA national who has been granted permission to live, work or study in Ireland through the Irish Naturalisation and Immigration Service must register with the Garda National Immigration Bureau (GNIB) or their local Garda immigration officer. The Garda immigration officer is the person who issues actual residence permission in the form of a 'stamp' on the non-EEA national's passport and a certificate of residence card (GNIB or 'green' card). The various categories of residence 'stamps' are:

Stamp 1 – issued to those with work permits, green card permits, spouse/dependent work permits & business permission

Stamp 1A – issued to accountancy students for the purpose of full time training

Stamp 2 – issued to students registered on a full-time course of study in a Department of Education-recognised educational institution. Students with this permission are entitled to work 20 hours per week term time and full-time during holidays

Stamp 2A – issued to students who are not entitled to work

Stamp 3 – issued to visitors, tourists, people staying in the State for medical treatment, retired persons and spouses/dependents of work/green card permit holders. People with this residency permission are not entitled to work, but spouse or dependents of work/green-card permit holders with this stamp *can apply for a spouse/dependent work permit*: they are then issued with a Stamp 1

Stamp 4 – issued to spouses/dependents of Irish nationals, those with refugee status, those granted leave to remain in the State, those who have work visas or authorisation, those granted residency based on parentage of an Irish child and those granted long-term residency. Holders of this stamp have free access to employment

Stamp 4EuFam – issued to the spouses or dependents of EU workers in Ireland. The holder can access employment freely

Stamp 5 – issued to persons with unlimited residency permission

Other Entitlements

Access to Health Care

Anybody can attend a GP (General Practitioner). A GP is a doctor who provides health care services to patients in his/her surgery or in the person's home. Generally patients pay for this service themselves unless they have a Medical Card or GP Visit Card.

If someone is living in Ireland and intends to be living here for approximately one year then they are considered to be "ordinarily resident" and can access state-subsidised health services and apply for a means-tested medical card.

EEA nationals visiting Ireland *temporarily* (provided they have a European Health Insurance Card) or living here are entitled to access free emergency health services.

Non-EEA nationals visiting Ireland are not entitled to avail of free or subsidised public health services except in emergencies. In general, if they use health services, they must pay the full economic cost of those services. Non-EEA students are usually required to have private medical insurance as a pre-requisite to receiving their student permission.

Voting Rights

Voting Rights in Ireland are determined by nationality. They are as follows:

- Irish citizens may vote at every election and referendum
- British citizens may vote at Dáil elections, European elections and local elections
- Other European Union (EU) citizens may vote at European and local elections
- Non-EU citizens may vote at local elections only

Voters must be registered to vote in Ireland.

Citizenship

Irish citizenship can be applied for after having resided legally in the country for over 5 years *except* by those whose registration permission was Stamp 2, or who were seeking asylum, during that period. *Recognised* refugees can apply for citizenship 3 years after their initial asylum application. Spouses of Irish citizens can apply after 3 years residence in Ireland (and they must have been married to the Irish citizen for those 3 years). Any applicant for citizenship must have lived *continuously* in the country for 12 months preceding their application (brief periods abroad for travel or work are allowed). See: www.inis.gov.ie

Habitual Residence Condition (HRC) (Access to social welfare means-tested payments)

Social assistance payments are payments primarily designed for people who do not have enough social insurance (PRSI) contributions (gained through regular employment) to qualify for the equivalent social insurance-based payments. Regardless of nationality, in order to be eligible for social assistance payments, you need to satisfy the Habitual Residence Condition (HRC).

Some of the key payments that the HRC affects are Jobseekers Allowance, Supplementary Welfare Allowance and Child Benefit.

Under EU law there are some exceptions for EEA workers (someone who has made social insurance contributions in Ireland):

- EEA workers in Ireland automatically satisfy the HRC for family payments
- EEA workers in Ireland can be granted Supplementary Welfare Allowance without satisfying the HRC as long as the work they are or were doing is considered genuine and effective

Further Information

More information on the rights and entitlements of migrants and residents in Ireland is available at:

www.inis.gov.ie – Irish Naturalisation and Immigration Service

www.entemp.ie – Department of Enterprise, Trade and Employment

www.dfa.ie – Department of Foreign Affairs

www.welfare.ie – Department of Social and Family Affairs

www.citizensinformation.ie – Public service information

www.immigrantcouncil.ie - Immigrant Council of Ireland

www.mrci.ie - Migrant Rights Centre of Ireland

www.ris.ie - Refugee Information Service

Disclaimer: Crosscare Migrant Project has made every effort to ensure that the information in this guide is accurate. However, policies and legislation can change at any time: if you are unsure about a specific case or issue, please contact us. Decisions should not be made based on this guide; it is for reference purposes only.

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Crosscare believes that every person is created in the image and likeness of God. This places responsibility on us to work to the highest possible standards while treating every person who uses our services and who works for or with us with care, courtesy and love. Our work is guided by four core values:
Respect, Human Rights, Integrity and Excellence.

Our programmes include: Homeless Services, Food Initiatives, Young People's Care Services, Teen Counselling, Carer Support Programme, Education, Training & Development, Drug & Alcohol Programme, Housing & Welfare Information, Travellers' Inclusion Programme, Migrant Project and Disability Awareness.