

A guide to the Habitual Residence Condition (HRC) for returning Irish emigrants

Crosscare Migrant Project

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What is the Habitual Residence Condition (HRC)?

The **Habitual Residence Condition (HRC)** is a condition that you must satisfy in order to be eligible for most **means tested social welfare payments** in Ireland. It came into effect from May 1st 2004 following the enlargement of the European Union.

When deciding if you are habitually resident, the following **five factors** are considered by the Department of Social Protection:

1. Your **main centre of interest**, based on facts such as:
 - whether you own or lease a home here,
 - where your close family members live,
 - whether you belong to social or professional associations here, and
 - any other evidence or activities indicating a settled residence in Ireland
2. The **length and continuity of residence** in Ireland and in any other country
3. The **length and purpose of any absence** from Ireland
4. The **nature and pattern of your employment**
5. Your **future intention** to live in the Republic of Ireland as it appears from all the circumstances.

Do I have to live in Ireland for 2 years before I can satisfy this condition?

No, you can be found habitually resident immediately on your return if you can show you are resuming your previous residence here. **There is no '2 year rule'**.

How can the HRC affect me as a returning Irish citizen?

As the HRC is **not based on nationality**, you will need to satisfy this condition if you are returning to Ireland and applying for certain payments. It **applies to both Irish citizens and Non-Irish citizens**.

According to the Department of Social Protection Operational Guidelines, *a person who had previously been habitually resident in the State and who moved to live and work in another country and then resumes his/her long-term residence in the State may be regarded as being habitually resident immediately on his/her return to the State.*

This means that if you lived here previously, **you could be found habitually resident on your return if you can prove that you have returned permanently and that your 'centre of interest' is once again in Ireland**. It is up to you to provide evidence of this to satisfy the Department.

For which payments must I satisfy the HRC?

You must satisfy the HRC in order to qualify for the following payments:

- Back to Work Family Dividend
- Blind Pension
- Carer's Allowance

- Child Benefit (not means tested)
- Disability Allowance
- Domiciliary Care Allowance
- Guardian's Payment (Non-Contributory)
- Jobseeker's Allowance and Jobseeker's Allowance Transitional payment
- One-Parent Family Payment
- State Pension (Non-Contributory)
- Supplementary Welfare Allowance (other than once-off exceptional and urgent needs payments)
- Widow's, Widower's or Surviving Civil Partner's (Non-Contributory) Pension
- Rent Supplement

Your spouse, civil partner or cohabitant and any dependent children you have are not required to satisfy the habitual residence condition in their own right. So if you apply for a social welfare payment only you, the applicant, have to satisfy the habitual residence condition.

Do I need to complete a form?

Yes, you will need to complete and submit a **'HRC1' form** with each of your applications for any of the above payments. This form is available at your local social welfare office or online at www.welfare.ie/en/pdf/hrc1.pdf or under the 'Documents' section at www.welfare.ie/en/Pages/Habitual-Residence-Condition_holder.aspx.

What information can I provide to support my application?

Try to provide **as much documentary evidence as possible to show that you are resuming your previous long-term residence here and that your 'main centre of interest' is once again Ireland.**

This could include information such as:

- Proof to show you have given up accommodation abroad (e.g. proof of ending your tenancy or selling your home)
- Proof of ending a job abroad, if applicable
- Proof of terminating any residency based benefits abroad or transferring transferable payments, if applicable
- Proof of travel documents such as a one way ticket
- Proof of transporting your belongings back to Ireland (e.g. excess baggage fees, removal or shipping receipts)
- Proof that your visa for the country you are returning from has expired, if applicable
- Proof of closing bank accounts abroad
- Proof of opening a bank account in Ireland
- Proof of registering to vote in Ireland
- Details of family members in Ireland
- Any other evidence of intentions to remain in Ireland for good. For instance
 - letters of support from family members confirming your permanent return to Ireland, proof of renting a property in Ireland,

- proof of seeking employment in Ireland (both prior to and following your return),
- proof of enrolling your children in school here,
- proof of registering with a GP,
- proof of exchanging your driving licence,
- proof of joining any local groups ...etc.

We strongly suggest including a cover letter with your application detailing your circumstances, including information about your life in Ireland before you left (e.g. where you lived, worked, went to school/college etc.), why you left Ireland and the reason for your return.

It will also be important to describe the ties you have cut with the country you are leaving and explain how the supporting documents relate to this (e.g. "As you can see from the enclosed letter, I have ended my tenancy in London"). Contact us if you would like more information or assistance.

What happens if I am refused a payment because of the HRC?

If you are refused a social welfare payment on the basis that you do not satisfy the HRC, **you should be issued with a written refusal providing full reasons for the decision.**

You then have a period of **21 days from the date of the refusal letter in which to submit a written appeal** to the Social Welfare Appeals Office in Dublin. In your appeal letter you should address the reasons given for the refusal and detail why you believe you are habitually resident in Ireland in line with the '5 factors'. Please note that it can take months for appeals to be processed, therefore advisable to put in detailed information with your application to ensure full details are available to the person processing your claim in the first instance.

The website of the Social Welfare Appeals office is www.socialwelfareappeals.ie and the address is **Social Welfare Appeals Office, D'Olier House, D'Olier Street, Dublin 2.**

Where can I find more information on the HRC?

For more information on the HRC, go to the **Department of Social Protection Website:** www.welfare.ie. The Department of Social Protection **Operational Guidelines** can be found here: www.welfare.ie/en/Pages/Habitual-Residence-Condition--Guidelines-for-Deciding-Offic.aspx. **Section 6.2** contains information on '*Returning migrants or resuming previous residence*'.

Contact us on +353 (0) 1 873 2844 or at migrantproject@crosscare.ie if you are or you know of a returned Irish emigrant who has been affected by this condition.

We would like to acknowledge the support of the Government of Ireland **Emigrant Support Program**.



Government of Ireland
Emigrant Support Programme



An Roinn Gnóthaí Eachtracha agus Trádála
Department of Foreign Affairs and Trade

Disclaimer: This leaflet contains guidelines only. 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. All information should be clarified with the relevant government department or authority before any decision is made.