

A guide to the rights of migrants in Ireland

January 2019

(Version 3)

The guide was developed as part of training delivered by Crosscare Migrant Project.

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What is this guide about?

This guide is an overview of the Irish immigration system, including:

- 1) Types of immigration permissions (also known as ‘stamps’ or ‘GNIB stamps’)
- 2) Information on how these permissions are relevant to accessing other services and entitlements, like health services or social welfare
- 3) A detailed breakdown of the different types of migrants and the rights they might be entitled to

Who is this guide for?

The guide is aimed at frontline workers in any service that deals with migrants. It is part of a training module developed by Crosscare Migrant Project as part of our ‘AMIF – Asylum, Migration & Integration Fund’ project. It is designed to give an overview of the immigration system and allow workers to help identify what permission the person they are working with has.

Important information

The guide is only an overview of the current different types of immigration permissions. It is important that any frontline worker checks with Crosscare Migrant Project or another migrant support organisation (*see page 5*) if in doubt about what a person’s immigration permission means with regards to their right to services.

In many cases a person might be in the process of engaging with the Department of Justice to renew or change their permission, and this should not be a barrier to them accessing other supports. Access to emergency or critical supports should not be dependent on immigration permission.

Additional information and the most up-to-date version of this guide can be found at www.livinginireland.ie, a resource website developed by Crosscare’s Information & Advocacy Services, incorporating Crosscare Migrant Project, Crosscare Refugee Service and Crosscare Housing & Welfare Information. www.livinginireland.ie includes relevant and specific information on migrants’ access to housing, homeless supports, social welfare and health services along with immigration and asylum/refugee systems.

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. Always check official government sources for the most up to date information.

Registration with the Irish Naturalisation & Immigration Service (INIS) or the Garda National Immigration Bureau (GNIB)

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 Irish Naturalisation & Immigration Service if resident in Dublin (<https://burghquayregistrationoffice.inis.gov.ie/>) or their local Garda immigration officer if living outside Dublin. They are issued with a 'Certificate of Registration' in the form of an Irish Residence Permit Card (IRP, also known as a GNIB card) and a residence 'stamp' on their passport. Significant time spent outside Ireland might impact on the ability to renew immigration permission.

The categories of residence 'stamps' are:

Stamp 0	Issued to self-sufficient persons permitted to remain for a specific, temporary and limited purpose – e.g., people retiring or living in Ireland with independent means; visiting academics, a service provider sent to Ireland by an overseas company to carry out a particular task for a limited time
Stamp 1	Issued to those with employment permits, spouse/dependant employment permits, business permission, working holiday
Stamp 1A	Issued to accountancy students for the purpose of full-time training
Stamp 1G	Issued to those on the 'Graduate Scheme' – who are allowed to work full-time for the length of their permission
Stamp 2	Issued to students registered on a full-time course of study in an educational institution recognised by the Department of Education. Students with this permission are entitled to work 20 hours per week during term time and full-time during school holidays. Was also previously issued to those on the Graduate Scheme (before 1 st February 2016)
Stamp 2A	Issued to students who are <u>not</u> entitled to work
Stamp 3	Issued to non-EEA spouse/dependent of employment permit holders, visitors/ tourists, people staying in the State for medical treatment, non-EEA Ministers of Religion and Members of Religious Orders and Lay Volunteers, and people granted permission to visit in exceptional humanitarian circumstances. People with this residency permission are not entitled to work, <u>but</u> spouse or dependants of employment permit holders with this stamp <i>may apply for a spouse/dependant employment permit</i> (see tables below for limitations)
Stamp 4	Issued to spouses/parents/dependants of Irish nationals, those with refugee status, those granted leave to remain in the State, those granted residency based on parentage of an Irish child, those who have completed 5 years on work permits, those who have completed 2 years on a Green card permit, those granted long-term residency and in limited cases to others granted residency. Holders of this stamp have access to employment without the need for an employment permit
Stamp 4 EUFam	Issued to the non-EEA spouse or dependants of EU workers in Ireland. The holder can access employment without the need for an employment permit
Stamp 4S	Issued to people who have been granted permission under the Special Student Scheme 2018/19. The holder can access employment or set up their own business without the need for an employment permit
Stamp 5	Issued to persons with unlimited residency permission. This permission is also called 'Without Condition as to Time Endorsement' and can be granted after 8 years legal residency in Ireland
Stamp 6	Issued to persons with dual citizenship (Irish and another nationality). Also known as 'Without Condition Endorsement'

Entitlements

Citizenship

Irish citizenship can be applied for after having resided legally in the country for over 5 years. Periods of residence on Stamp 2 (*except when the applicant is a dependent*), Stamp 1A and time spent in the asylum process are not considered as legal residence. *Recognised* refugees can apply for citizenship 3 years after their initial asylum application was lodged. 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 before their application: brief periods abroad for travel or work are allowed – to a maximum of 6 weeks per year. Non-EEA nationals must have an immigration stamp valid for a period of one year prior to the date they apply for citizenship. See: www.inis.gov.ie

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 medical card. This is 'means-tested' so it is based on income levels.

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 required to have private medical insurance.

Access to 3rd Level Education

Access to education depends on your nationality, your immigration status in the country, how long you have been in the country and if you have studied at 3rd Level education before. For more detailed information go to: www.studentfinance.ie

Voting Rights

Voters must be registered to vote in Ireland. 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

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

Social welfare payments termed “assistance” payments are primarily designed for people who do not have enough social insurance (PRSI) contributions, which are gained through regular employment, to qualify for the equivalent social insurance-based “benefit” payments. Regardless of nationality, in order to be eligible for social assistance payments, you need to satisfy the Habitual Residence Condition (HRC). For **more information** go to: www.welfare.ie

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 are exempt from satisfying habitual residence for certain assistance payments and Family Benefits and are usually seen as satisfying the HRC
- **Non EEA nationals, who have previously worked in another EEA State**, and are currently employed or self-employed in Ireland, do not have to satisfy the HRC for Family Benefit payments as long as:
 - They are legally resident (hold a current Certificate of Registration – GNIB card)
 - They are lawfully employed based on their immigration status
 - They are subject to Irish PRSI
 - Their dependents currently reside within Ireland OR within another EEA State.

Persons holding EEA worker status in Ireland can be granted Supplementary Welfare Allowance without satisfying the HRC (even if the work is only part-time). HRC is a provision of Social Welfare Law. It is not a criterion for access to social housing, homeless or health services.

Social Housing Supports & Homeless Services

Homeless Services

Homeless services are not Social Housing Support and there is no legal impediment to Housing Authorities facilitating any household to access such services, regardless of residency status and including asylum seekers.

Social Housing Supports

In order to qualify for Social Housing Support, all applicants, regardless of nationality, have to meet certain criteria. In contrast to social welfare legislation, Irish Housing law does not reference the ‘right to reside in Ireland’ as a requirement for Social Housing Support. While that implies any person with a housing need in Ireland can apply for social housing supports, there are restrictions in place. The Housing Authorities rely on guidance from the Department of Housing in the form of Housing Circular 41 of 2012. However, the Circular does not take into account current legislation and recent European Court of Justice case law. As a result, care must be taken when relying on its contents as certain households may in fact have an entitlement that is not mentioned.

Social Housing Supports & Homeless Services *(continued)*

EEA citizens and their EEA and non-EEA family members

There are provisions of EU Law that can confer a right to equal treatment for EEA citizens and their family members with Irish nationals for eligibility for Social Housing Support. Any economically active EEA citizen (or one who retains that status) and their spouse/civil partner and dependent family members have a right of equal treatment under EU Regulation 492/11 and EU Directive 2004/38. Among others with potential rights to equal treatment are the care-givers looking after their child or children who are the children of an EU citizen retaining worker status under EU law, where those children are pursuing their education (including some adult dependent children) in Ireland, under the European Court of Justice Teixeira judgement.

Other EEA citizens and their family members who have a permanent right to reside in Ireland under Directive 2004/38 are also afforded equal treatment and are potentially eligible to access Social Housing Supports. These last two scenarios are not mentioned in Circular 41 of 2012.

Asylum Seekers

Prior to determination of their application, asylum seekers are not seen as having a housing need in Ireland. The Department of Justice has put specific services in place for asylum seeker accommodation and support.

Other Non-EEA Citizens

Applicants with a letter granting them permission to reside from the Department of Justice, or with an Irish Residence Permit (IRP card, formerly known as a GNIB card), will be assessed as per the guidelines in Circular 41 of 2012. Many applicants can have immediate access to Social Housing Supports such as Refugees, people with Refugee Family Reunification status, former asylum seekers granted 'Leave To Remain' under Section 3 of the Immigration Act 1999, parents who are care-givers of Irish citizen children (European Court of Justice Zambrano judgement) and the family members of EEA citizens. Many other categories of non-EEA citizens can be eligible after 5 years of 'reckonable residency'.

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 (Department of Justice & Equality)
- www.dbei.gov.ie – Department of Business, Enterprise and Innovation
- www.dfa.ie – Department of Foreign Affairs & Trade
- www.welfare.ie – Department of Social Protection
- www.citizensinformation.ie – Public service information
- www.integration.ie – Office for the Promotion of Migrant Integration – **with detailed list of support and cultural groups around Ireland**

Contact details for Crosscare Migrant Project, Crosscare Refugee Service and Crosscare Housing & Welfare Information are available at www.livinginireland.ie

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Crosscare Migrant Project – January 2019 (Version 3)

www.migrantproject.ie / www.livinginireland.ie

Status ↓	Right →	To: Stay in the country	To: Work	To: 3 rd Level Education	To: Social Welfare Support	To: Bring family members into Ireland	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 page 3)	Yes, but see note on page 4 on the Habitual Residence Condition (HRC) which is relevant for anyone applying for an 'allowance' payment	There is no legal entitlement to be reunited with spouse, partner or children, but requests can be granted on a case-by-case basis Link to INIS Family Reunification Policy	Yes
Non-EEA* Spouse/Civil Partner/ De Facto Partner** of Irish Citizen ** De Facto Partnership is: -mutual commitment to a shared life -relationship is genuine and continuing -partners not related by family -cohabiting evidence of minimum 2 years * European Economic Area		Yes, following approval after application to the Irish Naturalisation & Immigration Service (INIS) for de facto partners and in some cases spouses Followed by registration with Garda National Immigration Bureau (GNIB) [outside Dublin] or the INIS [in Dublin]	Yes, pending approval from INIS where required and appropriate registration with INIS or GNIB	Yes, but might have to pay fees Go to www.studentfinance.ie for more detailed information	See note on HRC (page 4)	No legal right but can be granted on a case-by-case basis Link to INIS Family Reunification Policy	Yes, but might need re-entry visa

Status ↓	Right →	To: Stay in the country	To: Work	To: 3 rd Level Education	To: Social Welfare Support	To: Bring family members into Ireland	To: Travel abroad and re-enter
Non-EEA* parent of Irish Citizen ('IBC 2005' or 'Zambrano') * European Economic Area		Yes, pending approval from INIS followed by registration with INIS/GNIB	Yes, if the non-EEA national is registered with INIS/GNIB and been granted Stamp 4	Yes, but might have to pay fees Go to www.studentfinance.ie for more detailed information	See note on HRC (page 4)	Can be granted on a case-by-case basis Link to INIS Family Reunification Policy	Yes, but might need re-entry visa
EU National (all 28 EU Member States)		Yes, provided they are working or have worked here, are self-employed, studying or have sufficient funds to support themselves	Yes	Yes, and can access free fees if resident in the EU for 3 of the last 5 years Go to www.studentfinance.ie for more detailed information	See note on HRC (page 4)	Yes, but if spouse/dependant is a non-EEA national then EU national must be employed, self-employed, studying or have sufficient funds to support themselves	Yes
Non-EEA Spouse / Civil Partner / De Facto Partner/ Dependant of EU/EEA National		Yes, if the EU/EEA national is resident in Ireland and is working, self-employed, studying or has sufficient funds to support themselves	Yes, if the non-EEA national is registered with INIS/GNIB and been granted Stamp 4 or Stamp 4 EUFam permission to remain in the State	Yes, but might have to pay fees Go to www.studentfinance.ie for more detailed information	See note on HRC (page 4)	Yes, but only (A) direct descendants (such as children or grandchildren) who are either under 21 or are dependents or (B) direct dependent relatives in the ascending line (such as parents or grandparents)	Yes, but a re-entry visa is not needed as Certificate of Registration (Stamp 4 EUFam is accepted for re-entry)

Status ↓	Right →	To: Stay in the country	To: Work	To: 3 rd Level Education	To: Social Welfare Support	To: Bring family members into Ireland	To: Travel abroad and re-enter
Non-EEA (Visitor)		For up to 90 days only	No	No	No, except maybe in emergencies	No	N/A
Non-EEA Student		<p>For duration of course of study.</p> <p>The maximum time that a student can study in Ireland is 7 years. The maximum time for a non-degree or language course is 3 years.</p> <p>Graduates at NFQ Level 7 or higher can apply for a 'Graduate Scheme' to look for a job in their area of study and apply for an Employment Permit (Stamp 1G)</p>	<p>Yes, up to 20 hours a week during the school term and 40 hours a week between December 15 & January 15, and all June, July and August, as <u>long as the course is for 1 academic year or more and is with a recognised college/university on the Internationalisation Register.</u></p> <p>Language course students register for 8 months to max of 3 courses.</p>	<p>Must pay non-EU fees</p> <p>Go to www.studentfinance.ie for more detailed information</p>	<p>Under the immigration regime introduced in January 2011 students must not access social welfare payments. If a student does, this could affect their immigration status.</p>	<p>No</p> <p>In general, non-EEA students studying in Ireland have no entitlements to family reunification.</p> <p>Exceptions to this include (A) student is doing a PhD, (B) specific academic programme agreed between Ireland and another State, or (C) student demonstrates private means.</p> <p>An immigration levy may be applied for a child who attends public school in Ireland.</p>	<p>Yes, but might need re-entry visa</p>

Status ↓	Right →	To: Stay in the country	To: Work	To: 3 rd Level Education	To: Social Welfare Support	To: Bring family members into Ireland	To: Travel abroad and re-enter
Stamp 1G - Student Graduate Scheme		Yes, for the duration of the permission	Yes, full-time – and can apply for a work permit during this period (see below)	N/A	See note on HRC (page 4)	As above for Non-EEA Student	Yes, but might need re-entry visa.
Stamp 4S – special student scheme		Yes	Yes	N/A	See note on HRC (page 4)	Not necessarily	Yes, but might need re-entry visa.
Stamp 1A Trainee Accountancy Students For more information on Student guidelines for non-EEA Stamp 1A holders please go to: www.inis.gov.ie	For the duration of the course of study. Can apply for ‘Graduate Scheme’ to look for a job in their area of study and apply for an Employment Permit.	Yes Professional work placements are allowed; however, they must be appropriate to the course of study. Other employment is not allowed.	Must pay non-EU fees Go to www.studentfinance.ie for more detailed information	See note on HRC (page 4)	As above for Non-EEA Student	Yes, but might need re-entry visa.	
Non-EEA Green Card Permit Holder / Critical Skills Permit Holder	Yes, for the duration of the permit. After 2 years can work without a permit, required to register with INIS/GNIB	Yes. Initially only in the job for which the permit was granted. After 1 year can move employment but a new permit must be applied for.	Yes, but might have to pay fees Go to www.studentfinance.ie for more detailed information	See note on HRC (page 4)	Can be granted on a case-by-case basis Link to INIS Family Reunification Policy	Yes, but might need re-entry visa	

Status ↓	Right →	To: Stay in the country	To: Work	To: 3 rd Level Education	To: Social Welfare Support	To: Bring family members into Ireland	To: Travel abroad and re-enter
Non-EEA Work Permit Holder / General Employment Permit Holder	<p>Yes, for the duration of the permit</p> <p>Permit holders can apply for long-term residency after 60 months</p> <p>If permit holder has work permits for 5 consecutive years with no more than 6 months' gap between GNIB/INIS immigration stamps, they can apply for a temporary one-year Stamp 4. (Policy for 5 year workers)</p>	<p>Yes, but only for the job the permit is granted for</p> <p>After 1-year work permit holders can move employment in the same or another eligible employment sector but a new permit must be applied for</p>	<p>Yes, but might have to pay fees</p> <p>Go to www.studentfinance.ie for more detailed information</p>	<p>See note on HRC (page 4)</p>	<p>Possible, but only if the permit holder has completed 12 months' employment and be in full time employment when the visa application (if applicable) is made.</p> <p>The permit holder must also meet certain financial requirements Link to INIS Family Reunification Policy</p>	<p>Yes, but might need re-entry visa</p>	

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Non-EEA Spouse/Dependant of Non-EEA Work Permit / General Employment Permit Holder	Yes, following registration with INIS/GNIB (permission to remain is dependent on spouse/partner/parent)	Yes, but only if the permit holder's first work permit was issued before 1st June 2009 Some restrictions are lifted (e.g. permit fee, advertising clause, ineligible job categories, full-time work) in these cases	Yes, but might have to pay fees Go to www.studentfinance.ie for more detailed information	See note on HRC (page 4)	No, but the main permit holder may apply	Yes, but might need re-entry visa	
Non-EEA Spouse/Dependant of Non-EEA Green Card Permit / Critical Skills Permit Holder	Yes, following registration with INIS/GNIB (permission is dependent on spouse/partner/parent)	Yes - some work permit restrictions are lifted (e.g., permit fee, advertising clause, ineligible job categories, full-time work)	Yes, but might have to pay fees Go to www.studentfinance.ie for more detailed information	See note on HRC (page 4)	No, but permit holder may apply	Yes, but might need re-entry visa	
Refugee (Geneva Convention & Programme Refugees)	Yes	Yes	Yes, but have to be in Ireland for 3 years before free fees apply Go to www.studentfinance.ie	HRC applies but refugees may be considered exempt	Yes – the right to family reunification is a legal right enshrined in the Refugee Act Link to INIS family reunification policy	Yes, can obtain a Convention Travel Document issued by Ireland but might need to apply for visas to other countries	

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Subsidiary Protection		Yes	Yes	Yes, but have to be in Ireland for 3 years before free fees apply Go to www.studentfinance.ie	HRC applies	Yes – for immediate family members Link to INIS family reunification policy	Yes, can obtain an Irish Travel Document but might need to apply for visas to other countries
Family members of refugees or people with subsidiary protection		Yes	Yes	Yes, but have to be in Ireland for 3 years before free fees apply Go to www.studentfinance.ie	HRC applies	No, except where the person can fulfil the financial requirements to be a sponsor Link to INIS Family Reunification Policy	Yes, but might need re-entry visa. Possible to get an Irish Travel Document if can prove they cannot get a passport
Leave to Remain / Temporary Permission to Remain		Yes, subject to renewal	Yes	Yes, but might have to pay fees Go to www.studentfinance.ie	HRC applies: people with this permission must prove they are making efforts to find work	Difficult – must be applied for on a case-by-case basis Link to INIS Family Reunification Policy	Yes, but might need re-entry visa
Asylum Seeker		Yes, while their application is being processed	If no decision has been made on application within 9 months can apply for a work permit or register as self-employed	Yes, but might have to pay fees Go to www.studentfinance.ie for more detailed information	No, apart from direct provision allowance and one-off exceptional needs payments	No	No, except in exceptional circumstances