



Relate

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The journal of developments in social services, policy and legislation in Ireland

Irish citizenship and Irish passports

On 23 June 2016, the United Kingdom (UK) voted to leave the European Union (EU). The exact implications of the UK's decision to exit will be decided during negotiations once the UK triggers Article 50 of the Treaty of Lisbon. There is likely to be a significant impact on the rights of UK citizens in relation to Europe. Many UK citizens who are entitled have applied for Irish citizenship. There are over 400,000 Irish-born people resident in Britain. This issue of Relate looks at Irish citizenship and Irish passports.

Legislation

The legal basis of Irish citizenship is set out in Article 9.2.1 of Bunreacht na hÉireann, or the Constitution of Ireland. It states:

"A person born in the island of Ireland...who does not have, at the time of the birth...at least one parent who is an Irish citizen or entitled to be an Irish citizen is not entitled to Irish citizenship or nationality, unless provided for by law."

This Article is the 27th amendment to the Constitution. It was approved by referendum on 11 June 2004 and took effect from 1 January 2005. Before this amendment, any individual born in the island of Ireland was entitled to Irish citizenship, regardless of their parents' citizenship.

In June 1998, the 19th amendment to the Constitution was passed which allowed for the agreement by the Republic of Ireland to the Good Friday Agreement, also known as the Belfast Agreement. The Good Friday Agreement states that any

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individual born in Northern Ireland has the right to hold Irish citizenship or British citizenship or both.

The Irish Nationality and Citizenship Acts 1956 to 2015 are the main statutory legislation providing details for the granting and administration of Irish citizenship.

An individual may obtain Irish citizenship through any one of the following:

- Birth
- Descent
- Naturalisation

Irish citizenship through birth

Before 1 January 2005

If you were born in the island of Ireland before 1 January 2005, you are entitled to be an Irish citizen. An Irish ship or an Irish aircraft, wherever it may be, is deemed to be part of the island of Ireland for the purposes of citizenship.

Since 1 January 2005

If you were born in the island of Ireland on or after 1 January 2005, you are entitled to Irish citizenship if one of the following applies to you:

- At least one of your parents was an Irish citizen at the time of your birth
- At least one of your parents was entitled to be an Irish citizen at the time of your birth
- You have a British parent or a parent who is entitled to live in Northern Ireland or the Irish State without any restriction on their residency
- At least one of your parents has been granted refugee status in Ireland
- At least one of your parents held diplomatic immunity in Ireland at the time of your birth
- You are not entitled to citizenship of any other country

Foreign national parents

Children born in the island of Ireland to foreign national parents on or after 1 January 2005 are not automatically entitled to Irish citizenship. These parents must prove that they have a genuine link to Ireland so their children can claim Irish citizenship. This link is shown by those parents having three out of the previous four years' reckonable residence (see below) in the island of Ireland immediately before the birth of the child, with neither parent being entitled to diplomatic immunity in the Republic of Ireland.

Reckonable residence

Reckonable residence means periods of residence in the State where an individual was in full compliance with their permission to stay.

The European Economic Area (EEA) comprises the EU member states, Norway, Iceland and Liechtenstein. If you are an EEA or a Swiss citizen, the time you are resident in the State is reckonable residence. If you are not an EEA or Swiss citizen and you are staying in Ireland for more than three months, you must have permission to remain and register your presence with immigration. Registration with An Garda Síochána or the Irish Naturalisation and Immigration Service (INIS) is the evidence of legal residence which meets the necessary residency requirements. Certain periods of residence may be excluded, including:

- Where an individual was not properly documented
- Periods covered by a permission to remain pending a decision on asylum status
- Permission to remain that was for study purposes
- Any time where an individual was in contravention of their permission to stay, such as non-compliance with their visa requirements

Certificate of nationality

A certificate of nationality is a document issued to any person who claims to be an Irish citizen but is not a naturalised Irish citizen. It is proof that a person is an Irish citizen from the date the certificate is issued. The certificate will only be issued where the person is an Irish citizen and the issuing of the certificate is necessary, for example, to apply for a passport (see page 6). A certificate may be revoked at any time if it is found that the certificate was obtained by fraud or misrepresentation.

Non-EEA nationals who have lived in Northern Ireland for all or part of the three years' residence requirement need a certificate of nationality for their Irish-born child in order to apply for a passport for the child. They can apply to the Department of Justice and Equality for the certificate of nationality.

EEA and Swiss nationals do not need a certificate of nationality when applying for a passport for their Irish-born child. However, they must include a declaration detailing their residence in the island of Ireland. The declaration should be completed by the parent and a person such as a solicitor or teacher who knows the parent. The parent must have been an EEA or Swiss national during all of the period of residence.

Other cases

Certain individuals who were born in the island of Ireland may only claim Irish citizenship by making a special declaration. For example, this provision applies where an individual who was born in the island of Ireland has renounced their Irish citizenship by making a declaration of alienage under Section 21 of the Irish Nationality and Citizenship Acts 1956 to 2015. Such a person has declared that they are no longer an Irish citizen.

Having renounced their Irish citizenship, they may claim Irish citizenship again only by making a special declaration on a form, which they send to the Department of Justice and Equality.

The President may also grant Irish citizenship as a token of honour to a person or the descendant of a person who has done a signal honour or rendered distinguished service to Ireland.

Irish citizenship through descent

Irish parent(s) born in Ireland

If either of your parents was an Irish citizen (or if deceased, would have been) born in the island of Ireland, then you are automatically an Irish citizen and entitled to apply for an Irish passport, irrespective of your place of birth. You do not need to be entered on the Foreign Births Register (see page 3).

Irish parent(s) born outside Ireland

If you were born outside the island of Ireland to an Irish citizen who was also born outside of Ireland, you are still entitled to become an Irish citizen even if your parents obtain Irish citizenship through marriage or naturalisation. If the parent through whom you derive Irish citizenship was deceased at the time of your birth, but would have been an Irish citizen if alive at that time, you are also entitled to be an Irish citizen.

Before you can claim Irish citizenship, you must have your birth registered in the Foreign Births Register (see page 3). If you are entitled to enter the register, your Irish citizenship is effective from the date of registration, not from the date when you were born.

Irish grandparent born in Ireland

If any of your grandparents was born in the island of Ireland but your parents were not, then you are eligible to apply for entry on the Foreign Births Register, even if your parents do not hold Irish passports.

Unless at least one parent or an Irish-born grandparent was an Irish citizen at the time of your birth, you cannot claim Irish citizenship on the basis of extended ancestry (that is, ancestors other than your parents or grandparents).

Foreign Births Register

The Department of Foreign Affairs and Trade maintains the Foreign Births Register, where someone who is eligible to become an Irish citizen can register their birth. If you have a grandparent who was born in Ireland, or if one of your parents was granted Irish citizenship or was deemed to be an Irish citizen before you were born, then you can apply to register your birth in the Foreign Births Register.

Since 1 July 1986, a person registered in the Foreign Births Entry Book is deemed to be an Irish citizen only from the date of their entry in the Register and not from the date of birth. This means that children born to that person before their date of entry in the Register are not entitled to Irish citizenship. You must register your birth in the Foreign Births Register before the birth of any of your own children so that those children will also be entitled to Irish citizenship.

If you wish to be included in the Foreign Births Register, you must apply online. Information about making an online application and the documents required is available on the website of the Department of Foreign Affairs and Trade, dfa.ie. Once you have completed the online form you must send your printed application and required supporting documentation to the Irish embassy or consulate for the country in which you live.

Once the process is completed, you will be provided with a certificate confirming your entry in the Foreign Births Register. This certificate can be used as proof of Irish citizenship when applying for an Irish passport.

Irish passport applications cannot be accepted at the same time as citizenship applications, as there are two distinct processes involved. See page 6 on applying for a passport.

Irish citizenship through adoption

If a child who is not an Irish citizen is adopted by an Irish citizen, or by a couple where either of the couple is an Irish citizen, then the adopted child becomes an Irish citizen.

If the child is adopted from outside the State, specific immigration procedures must be observed. The adoptive parent(s) must obtain an immigration clearance letter from the Department of Justice and Equality in advance of bringing the child into the State. This clearance acts as the permission for the child to enter the State. The clearance will only be granted once the adoptive parent(s) have successfully completed the assessment procedure and have had a declaration made in their favour by the Adoption Authority of Ireland. This process is known as intercountry adoption.

Once the adopted child enters the State, an application should be made within three months to register the adoption on the Register of Intercountry Adoptions. Once the adoption has been recognised in the State, the adopted child becomes an Irish citizen.

Deserted infants

Every deserted infant first found in Ireland will be considered to have been born in Ireland to parents at least one of whom is an Irish citizen. Unless the contrary is proved, that is, the parents of the child come forward and clarify that the child is not Irish, a deserted child will be an Irish citizen from birth.

Irish citizenship through naturalisation

Naturalisation is the process whereby a non-Irish national can apply to become an Irish citizen. Applications are decided by the Minister for Justice and Equality, who has absolute discretion, even where the applicant meets the conditions set out in the legislation.

Foreign national living in Ireland

If you are applying for naturalisation based on your own residence in the State, the conditions for naturalisation are as follows:

- You must be 18 years of age or older
- You must be of good character (you must disclose details of any criminal or civil proceedings in the State or elsewhere)
- You must have had a period of one year's continuous reckonable residence in the State immediately before the date of the application and, during the eight years preceding that, you must have had a total reckonable residence in the State amounting to four years

- You must intend in good faith to continue to reside in the State after naturalisation
- You must make a declaration of fidelity to the Irish nation and loyalty to the State and you must undertake to faithfully observe the laws of the State and to respect its democratic values

The Minister for Justice and Equality has power (with absolute discretion) to waive one or more of the above conditions for naturalisation in certain circumstances as follows:

- Where the person is of Irish descent or of Irish associations, or is a parent or guardian applying on behalf of a minor child of Irish descent or Irish associations
- Where the person is the spouse or civil partner of an Irish citizen (see page 5)
- Where the person has been resident abroad in the public service
- Where the person is recognised as a refugee (under the 1951 Refugee Convention) or a stateless person (under the 1954 UN Convention relating to the Status of Stateless Persons)

The Minister for Justice and Equality will normally waive two of the five years' reckonable residence requirement in the case of a refugee, a person of Irish associations or a stateless person.

Since 19 September 2016, if you are applying for naturalisation and you are resident in the State, you must be registered with the Department of Social Protection for a Public Services Card.

Non-EEA national

If you are not an EEA or Swiss citizen, the following periods will not be counted as reckonable for naturalisation purposes:

- When you had permission to remain pending a decision on asylum status or for study purposes
- When you did not have permission to remain in the State

EEA national

The time that an EEA or Swiss citizen has spent in the State is reckonable for naturalisation purposes, as EEA and Swiss citizens are not required to have residence permits or documents under the European Communities (Free Movement of Persons) Regulations 2015.

Citizenship through marriage

Since 29 November 2005, citizenship is no longer granted to a foreign national based on their marriage to an Irish citizen, known as *post-nuptial* citizenship.

Instead a non-EEA spouse or civil partner of an Irish citizen living in Ireland may apply for permission to remain in the State on the basis of marriage or civil partnership with an Irish national. If this application is successful, the non-EEA spouse or civil partner may be entitled to live and work in the State until they become eligible for naturalisation (see page 5).

The Minister may, with absolute discretion, grant an application for a certificate of naturalisation to an applicant who is the spouse or civil partner of an Irish citizen. Such an applicant must:

- a. Be of full age (18 or over)
- b. Be of good character
- c. Be married or in a civil partnership with the Irish citizen for at least three years
- d. Be in a marriage or civil partnership recognised under the laws of the State as subsisting
- e. Be living together with the Irish spouse or civil partner
- f. Have had a period of one year's continuous residence in the island of Ireland immediately before the date of the application and,
- g. During the four years immediately preceding that period, have had a total residence in the island of Ireland amounting to two years
- h. Intend in good faith to continue to reside in the island of Ireland after naturalisation
- i. Have made a declaration, in the prescribed manner, of fidelity to the nation and loyalty to the State

The Minister may, with absolute discretion, waive the conditions of paragraph (c), (f), (g) or (h) above, or any of them if satisfied that the applicant would suffer serious consequences in respect of their bodily integrity or liberty if not granted Irish citizenship.

Self-supporting

In general, apart from refugees and stateless persons, applicants for naturalisation must prove they can support themselves and their families while living in Ireland. If you can show that you have not received State support in the three years before your application, this will generally meet this requirement.

Certificate of naturalisation

If your naturalisation application is approved, you will be sent a letter notifying you of this decision. This letter will also contain instructions regarding any final procedures that must be completed. You will be invited to a citizenship ceremony, at which you will be granted your certificate of naturalisation.

You are an Irish citizen from the date of issue of the certificate and you can apply to for an Irish passport at any time after that date (see page 6).

Revoking a certificate of naturalisation

The Minister can revoke a certificate of naturalisation if:

- You obtained it through fraud, misrepresentation or concealment of material facts or circumstances
- You have, through an overt act, failed in your duty of fidelity to the nation and loyalty to the State
- You were ordinarily resident outside Ireland (other than in public service) for a continuous period of seven years and, without a reasonable excuse, did not register your name and a declaration of your intention to retain Irish citizenship with an Irish diplomatic mission or consular office or with the Minister for Justice and Equality on an annual basis
- You are also, under the law of a country at war with the State, a citizen of that country
- You have, by any other voluntary act other than marriage or registration of civil partnership, acquired citizenship of another country

Before revoking your certificate of naturalisation, the Minister of Justice and Equality will inform you in advance, stating the reasons why the certificate is being revoked and your right to apply for an inquiry into the reasons for the revocation. If you apply for an inquiry into a decision to revoke your certificate of naturalisation, the Minister will refer your case to a Committee of Inquiry, which will report its findings to the Minister. A notice of the revocation of your certificate of naturalisation will be published in *Iris Oifigiúil*.

Dual citizenship and renouncing Irish citizenship

Under Irish law, Irish citizens are entitled to hold citizenship of another country at the same time as their Irish citizenship. This is known as dual citizenship.

However, a certificate of naturalisation may be revoked where a naturalised citizen has voluntarily acquired another citizenship. An Irish citizen who marries or enters a civil partnership with a foreign national shall not, merely because of the marriage, cease to be an Irish citizen, whether or not that Irish citizen acquires the nationality of the foreign national.

If an Irish citizen dies or loses their Irish citizenship, this will not affect the citizenship of their spouse or children.

Renouncing Irish citizenship

If you are an Irish citizen living abroad and you want to apply for citizenship of another country, you may need to renounce your Irish citizenship. This is required in countries that do not allow dual citizenship.

You can renounce your Irish citizenship if you fulfil all of the following criteria:

- You are over 18 years of age
- You live outside the State
- You are, or are about to become, a citizen of another country

In order to renounce your Irish citizenship you need to:

- Complete a "declaration of alienage" form
- Get your declaration witnessed
- Submit it to the Department of Justice and Equality

Passports

A passport is an internationally recognised travel document, confirming your identity and nationality. You must be an Irish citizen in order to be eligible for an Irish passport. You do not need an Irish passport in order to be an Irish citizen but having an Irish passport is evidence that you are an Irish citizen. Irish passports are issued by the Irish Government through the Passport Service of the Department of Foreign Affairs and Trade, or through Irish embassies and consulates throughout the world.

You have a right to apply for a passport if you are aged 18 years or over. If you are under 18, you will need the consent of both parents or guardians. See page 7 on 'Passports for children'.

Application and renewal

It is not possible to apply for a new Irish passport online. It is also not currently possible to download the application form you need to complete. If you are living in Ireland you can apply using Passport Express or in person at a Passport Office. If you are living abroad you can apply in person (or using ordinary or registered post) to your nearest Irish embassy or consulate.

Since 29 March 2016, all first-time applicants for an adult passport who are resident in Ireland have to supply a photocopy of their Public Services Card for identification purposes. You no longer need to supply a certified copy of photographic identification or proof of use of name. You are still required to provide proof of address.

Additional documentation

The additional documentation you must supply depends on how you obtained your Irish citizenship.

- a) Born in Ireland, you should include:
 - Your birth certificate
 - Your civil marriage or civil partnership certificate (if you have changed your surname)
- b) Born abroad to Irish-born parent, you should include:
 - Your birth certificate
 - Your civil marriage or civil partnership certificate (if you have changed your surname)
 - Your Irish-born parent's birth certificate
 - Your parents' civil marriage certificate (if applicable)
- c) Citizenship through foreign birth registration, you should include:
 - Your birth certificate
 - Your civil marriage or civil partnership certificate (if you have changed your surname)
 - Your foreign birth registration certificate
 - Your foreign passport
- d) Born abroad and adopted under Irish law, you should include:
 - Your certificate of entry in the Register of Intercountry Adoptions
 - Your civil marriage or civil partnership certificate (if you have changed your surname)
 - Your adoptive Irish parent's birth certificate or Irish passport

- e) Post-nuptial citizenship, you should include:
- Your post-nuptial certificate
 - Your birth certificate
 - Your civil marriage or civil partnership certificate (if you have changed your surname)
- f) Citizenship through naturalisation, you should include:
- Your naturalisation certificate
 - Your foreign passport
 - Your birth certificate
 - Your civil marriage or civil partnership certificate (if you have changed your surname)
- Records of any social welfare benefits or a statement from the Department of Social Protection confirming that the parent received benefits and giving exact dates
 - Other documents to fill any gaps in periods of residence, such as, pay slips, utility bills, an official rent or lease agreement, a rent book or bank statements showing local transactions
- c) Where a parent is not an EEA or Swiss national, the parent must have reckonable residence in the island of Ireland for a total of three or more years during the four years immediately before the birth. The following must be provided:
- That parent's passport as well as a detailed note indicating which pages contain immigration stamps covering the reckonable periods of residence. If the Passport Office is unable to confirm the required three years' residence from the passport, the parent will have to get a letter from the Garda National Immigration Bureau (GNIB) to confirm the reckonable periods of residence.
 - That parent's Certificate of Registration (often called a GNIB card)

Passports for children

Since October 2004, all children, regardless of age, must obtain an individual Irish passport in their own name. The parent(s) of a child make the application for the child's passport. The application form includes a section for parental consent, which must be signed. The additional documentation needed to accompany the application depends on a number of factors, including when and where the child was born. An application to renew a passport for a child under 18 years of age must be accompanied by the child's old passport.

Children born in Ireland

- Children born before 1 January 2005
The application for a passport must be accompanied by the child's full birth certificate and the child's old passport, if issued.
- Children born on or after 1 January 2005
The child's entitlement to a passport is determined by the parent's citizenship, or by your or the other parent's residence history prior to the birth. Therefore, in addition to the child's full birth certificate, other documentation must be supplied with the application as evidence of citizenship or residency.
 - a) Where a parent is an Irish citizen, or is entitled to be, the full birth certificate or passport of that parent must be provided. Where a parent is a British citizen, that parent's passport is required.
 - b) Where a parent is an EEA or Swiss national, the parent must have resided in the island of Ireland for a total of three or more years during the four years immediately before the birth. As proof of that parent's residency, the following documents can be supplied:
 - Tax records including P60, P45 and P35L certificates

- That parent's Certificate of Registration (often called a GNIB card)
- d) Where a parent has been granted refugee status prior to the birth, there is no three-year residence requirement. The following must be provided:
 - That parent's passport or travel document
 - The letter from the Department of Justice and Equality notifying that parent that refugee status had been granted
 - That parent's Certificate of Registration (if available)
- e) Where a parent has permission to reside in Northern Ireland without any time restriction and that parent is not an EEA or Swiss national, a certificate of nationality in respect of the child must first be obtained from the Department of Justice and Equality. The certificate and that parent's passport must be provided.

Children born abroad

- a) If your child was born abroad and you were born in the island of Ireland, your child's full birth certificate, your full birth certificate and your marriage certificate (if applicable) must be provided
- b) If neither you nor your child's other parent were born in Ireland, then the child's certificate of entry in the Foreign Births Register and the child's birth certificate must be supplied

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

Head office t 0761 07 9000
Ground Floor f 01 605 9099
George's Quay House e info@ciboard.ie
43 Townsend Street w citizensinformationboard.ie
Dublin 2
D02 VK65

- c) If you are an Irish citizen and your child was born abroad and adopted under Irish law, the certificate of entry in the Irish Adoption Authority's Register of Intercountry Adoptions as well as your passport or birth certificate is required

Replacing a lost or stolen Irish passport

Any passport reported as lost or stolen is no longer a valid travel document.

If you have a poor passport record, that is, you have lost two or more passports, it is likely that a limited passport facility will be given to you for specific travel purposes.

Immigration requirements in some countries require your passport to be valid for a certain amount of time before you can enter another jurisdiction. You should contact your air carrier or travel agent, or the embassy or consulate of the country to which you are travelling, to verify this information before you travel.

Losing your Irish passport in Ireland

If you are an Irish citizen living in Ireland and you have lost your Irish passport or it has been stolen, you must report the loss of your passport to the Passport Office immediately. If it was stolen you must report it to the Gardaí. You will be asked to confirm the loss in writing or, if you are applying for a new passport, to include the details of the loss or theft in your application.

If you are replacing a lost, stolen or damaged passport that was issued on or after 1 January 2005 and your new passport will issue in the same name, you do not have to supply the additional documentation. Otherwise you must resubmit all the supporting documents as for a first-time passport application.

Losing your Irish passport abroad

If you are an Irish citizen travelling, on holiday or living abroad and your Irish passport is lost, stolen or misplaced, you must contact your nearest Irish embassy or consulate immediately. You will be asked to confirm the loss in writing or, if you are applying for a new passport, to include the details in your passport application. If you are in a country where there is no Irish representation, you may contact an embassy or consulate of another EU member state, who will contact the

nearest Irish embassy on your behalf. An embassy of another EU member state cannot issue you with a new Irish passport.

You must also get in touch with the local police and request a written statement that you have reported the loss of your passport. A member of the police authority in the country in which you are staying must witness this statement.

You will require this to obtain an Emergency Travel Certificate or an Emergency Passport (valid for a restricted amount of time) from an Irish embassy or consulate. An Emergency Travel Certificate only allows you to travel on a single journey from a point abroad directly back to Ireland.

If you have lost your passport and are travelling abroad on a multi-stop journey, where you will pass through more than one jurisdiction, you will require a new Irish passport. It is not possible to obtain a replacement passport and instead you must apply for a new passport as if you were applying for the first time.

Only Irish embassies and the three honorary Irish consuls in Hong Kong, Perth and Auckland can issue Irish passports.

UK, Europe and the Common Travel Area

Irish citizens are automatically EU citizens, with a right to vote in European elections and other EU citizenship rights, such as free movement between EU countries. At the moment, UK citizens continue to have the rights of EU citizens, including free movement within the EU.

The Common Travel Area allows for free movement between Ireland and the UK. This agreement has been in existence between Ireland and the UK (including the Channel Islands and the Isle of Man) since the 1920s but is not specifically provided for in legislation.

There are no passport controls in operation for Irish and UK citizens travelling within the Common Travel Area. However, all air and sea carriers require some form of identification and some carriers regard a passport as the only valid identification. Immigration authorities may also require you to have valid official photo identification which shows your nationality.

The information in *Relate* is intended as a general guide only and is not a legal interpretation