

Summary: A child born in Ireland is an Irish citizen by birth only if one of his/her parents had acquired three years of reckonable residency in the State within the four years prior to that child's birth, and reckonable residence means lawful residence in the State granted for purposes other than study or asylum. We assist many applicants in applying for passports for their children in circumstances where their reckonable residence is at issue.

The law governing entitlement to citizenship by birth in Ireland is set out in Irish Nationality and Citizenship Act 1956 as amended. Of particular relevance is Section 4 of the Irish Nationality and Citizenship Act 2004, which inserts into Section 6A of the 1956 Act a new section entitled "Citizenship of children of certain non-nationals".

The provisions of this section set out the entitlement of persons born to non-nationals in the State to be eligible for Irish citizenship and hence an Irish passport.

Section 6 B (4) of the 1956 Act, as amended by the 2004 Act states as follows;

"A period of residence in the State shall not be reckonable for the purposes of calculating a period of residence under section 6A if—

it is in contravention of section 5(1) of the Act of 2004,

it is in accordance with a permission given to a person under section 4 of the Act of 2004 for the purpose of enabling him or her to engage in a course of education or study in the State, or it consists of a period during which a person (other than a person who was, during that period, a national of a Member State, an EEA state or the Swiss Confederation) referred to in subsection (2) of section 9 (amended by section 7(c)(i) of the Act of 2003) of the Act of 1996 is entitled to remain in the State in accordance only with the said subsection."

In summary, since 1st January 2005, a child born in Ireland is an Irish citizen by birth only if one of his/her parents had acquired three years of reckonable residency in the State within the four years prior to that child's birth, and reckonable residence is lawful residence in the State granted for purposes other than study or asylum.

Many complications arise in the categorization of different residency stamps as reckonable or not reckonable residence, and further complications arise in the calculation of the periods of residence that are reckonable. Even within the Department of Justice and Equality and the Passport Office we have seen inconsistent policies being applied in this regard.

We have assisted many clients with applications for Irish Passports for their children. We have also worked on many appeals for clients who were not satisfied that a correct decision had been made in respect of a refusal to grant an Irish passport to their child on the basis that their residence was not reckonable.