

Summary: A non-EEA national can make an application for humanitarian leave to remain under Section 3 of the Immigration Act 1999 after they have been issued with a Notification of Intention to Deport pursuant to Section 3 of the Immigration Act 1999.

Under the Act, the Minister is required to consider a number of humanitarian grounds when determining the application, including, the applicant's connections to the State, their family situation, their character and conduct.

An application for permission to remain on humanitarian grounds relies on Section 3 of the Immigration Act 1999. An applicant can make such an application once they have been issued with a Notification of Intention to Deport pursuant to Section 3 of the Immigration Act 1999 or a "Section 3" letter.

Under Section 3, the Minister is obliged to consider factors including:

- the age of the person;
- the duration of residence in the State of the person;
- the family and domestic circumstances of the person;
- the nature of the person's connection with the State, if any;
- the employment (including self-employment) record of the person;
- the employment (including self-employment) prospects of the person;
- the character and conduct of the person both within and (where relevant and ascertainable) outside the State (including any criminal convictions);
- humanitarian considerations;
- any representations duly made by or on behalf of the person;
- the common good; and
- considerations of national security and public policy,

The application is submitted to the Reintegration Section of the Department of Justice and Equality. There are extremely lengthy delays in the determination of these applications. If the application is unsuccessful and no application for subsidiary protection is pending, a Deportation Order will be issued against the applicant. If the application is successful, the applicant will be given permission to remain usually on stamp 3 or stamp 4 status.

It is absolutely essential that any application for HLTR is very well supported by documentary evidence, particularly concerning any medical conditions, any family ties to the State and any other integration in the State. It is also important that the application is kept up to date and that the documents supporting the application are updated.