

Summary: Permission to remain is issued to non Nationals by GNIB officers on behalf of the Minister for Justice and Equality in the form of a stamp in the passport. It sets out the conditions on which a non-EEA national is permitted to remain in the State and for how long. The stamp also indicates the basis on which the holder is residing in the State. For example, Stamp 2 is issued to international students and imposes particular conditions on the stay of a non-EEA national. The current system can at times be complex and confusing and the type of permission to remain can be very important to an individual's rights and entitlements. We frequently advise clients on their permission to remain and also have made several applications for a change of an individual's status, for example from a dependency Stamp 3 permission to Stamp 4.

Permission to remain in Ireland is a statement of the conditions on which a non-EEA national is permitted to remain in the State and the duration of that permission. It is issued to non Nationals by GNIB officers on behalf of the Minister for Justice and Equality in the form of a stamp in the passport. A residency card, also called the Certificate of Registration, is also issued for the same period of time as the stamp.

Non-EEA nationals who enter the State for a period of over 3 months must register at the Garda National Immigration Bureau at 13-14 Burgh Quay, Dublin 2, or their local immigration registration office. They will usually be directed to present at the Garda National Immigration Bureau or local immigration office within one month of entry to the State. At registration, an immigration officer will assess whether the applicant is in the State for his or her stated purpose, and is taking the appropriate steps to acquire ongoing permission to remain. On registering, the non-EEA national will be issued with the Certificate of Registration, more commonly known as the "GNIB Card". This card provides certain information concerning the holder's immigration status in the State, including: their Department reference number, or the "69 number", their date of birth and date of registration.

The card also indicates the basis upon which the holder is resident in the State by the allocation of a particular stamp (for example a Stamp 3, or Stamp 4). The most common categories of persons resident in the State, as evidenced by particular stamps, are as follows:

Stamp 1

The holder of this stamp is permitted to remain in Ireland and to enter employment on the basis that he or she has obtained an employment permit. Stamp 1 is conditional that the holder does not enter employment unless he or she has obtained an employment permit, does not engage in any business or profession without the permission of the Minister for Justice and Equality and does not remain after a specified date.

Stamp 2

The holder of this stamp is permitted to remain in Ireland for the purposes of attending a full-time course which is recognised by the Department of Education and Skills. The course must be of at least one academic year duration. With a stamp 2, the student is permitted to work up to 20 hours a week during study terms and up to 40 hours a week during holidays. Stamp 2 permission is granted to non-nationals on a conditional basis.

The principle conditions of stamp 2 permission are as follows;

that the student attends the course of study, sits the exams and progresses on the course,
that the student remains financially self sufficient at all times and does not become a financial burden on State resources,
that the student maintains private health insurance cover,
that the student leaves the State at the expiry of their stamp 2 permission (with the exception of those who have changed their permission to remain with the Minister's consent).

Stamp 3

The holder of this stamp is permitted to remain in Ireland on the basis that they are dependant on another person, most likely a family member, who is lawfully resident in the State. The holder of a stamp 3 permit is not permitted to work or claim any State welfare benefits. For example, a Stamp 3 permit can be issued to a retired person of independent means or the spouse or dependant of an employment permit holder.

Stamp 4

The holder of this stamp is permitted to remain in Ireland until a specified date and permitted to enter employment without restriction during that period. The permit is usually granted initially for a one-year period, and on extension for another one year or three year period. It can be granted for a five-year period if acquired through a Long Term Residence Application or as an unlimited work permit. Examples of circumstances where a stamp 4 permit may be issued include:

Spouses of Irish nationals

Family members of EEA nationals

Convention and Programme refugees

Persons who are granted Humanitarian Leave to Remain of Subsidiary Protection.

Stamp 0

Stamp 0 residence permission was implemented by INIS in December 2011. The procedure implement the stamp was vague, and unfortunately not much clarification has since followed.

According to the INIS website guidelines, Stamp 0 is 'a low level immigration permission that allows a person to remain lawfully in Ireland for a specific temporary and limited purpose. It is not intended to be a pathway to any more permanent form if immigration'.

It is noted a service provider, or academic, or an individual in exception humanitarian circumstances are examples of those who may avail of this permission. In practice, the most common category of persons granted stamp 0 are dependent parents of Irish citizens.

The holder of the permission may not work or engage in a trade, business or profession. It is further noted that the stamp is provided on the basis that the holder receives no State benefits, and remains self sufficient through personal resources of financial support from an employer or family while present in the State.

As with all Immigration permissions, breaching a condition of the permission may result in a

permission being revoked or not being renewed.

Dependent Parents

In December 2013, INIS published guidelines regarding the granting of residence permission to the dependent parents of Irish citizens. These guidelines followed the important decision of Mr Justice Cooke in the case of O'Leary v. Minister for Justice [2012] IEHC 80 (High Court, Cooke J, 24 February 2012), a case in which was brought by Brophy Solicitors. In that case, the High Court quashed the decision of the Minister to refuse to grant permission to remain to the dependant parents of an Irish citizen. It was found that dependent parents of an Irish citizen come within the ambit of Article 41 of the Constitution.

“The core value enshrined in Article 41 is the entitlement of the family to order its own internal life and affairs without interference from the State, unless such interference is objectively justified, in the interests of individual members of the family or necessary in the overriding public interest.”

The current INIS guidelines place rigorous hurdles on applicants, stating that a “highly restrictive approach should be taken”, citing the states inability to take on the potential financial liability of elderly dependent parents.

The financial thresholds for a sponsor of one dependent parent is a requirement to evidence earnings of €60,000 (after tax)/ €75,000 (after tax) for the three years preceding the application, in respect of applying for one or two parents to remain in the State. It is also a requirement of the guidelines that the parent/s are covered be covered by health insurance and the sponsor provides a legal undertaking to the effect that they will bear complete financial responsibility for the parent.

If successful, the applicant parent/s will be granted stamp 0 permission for one year, renewable on the basis that the conditions of the stamp 0 permission prevail.

Please note

A full list of the different types of residency permits may be found at the following link:
www.inis.gov.ie/en/INIS/Pages/Stamps

A fee of €150 is charged in respect of most certificates of registrations issued to non-EEA nationals with effect from 23 August 2008. This fee is waived in the case of certain classes of persons, including refugees and family members of refugees, spouse or partner of an Irish national or the spouse or partner of an EEA national if residency acquired pursuant to Directive 2004/38.