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**IRISH NATIONALITY AND CITIZENSHIP ACT 2004**

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ACTS REFERRED TO

European Communities (Amendment) Act 1993	1993, No. 25
Immigration Act 2003	2003, No. 26
Immigration Act 2004	2004, No. 1
Irish Nationality and Citizenship Act 1956	1956, No. 26
Irish Nationality and Citizenship Act 1986	1986, No. 23
Irish Nationality and Citizenship Act 2001	2001, No. 15
Irish Nationality and Citizenship Acts 1956 to 2001	
Refugee Act 1996	1996, No. 17



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**IRISH NATIONALITY AND CITIZENSHIP ACT 2004**

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AN ACT TO AMEND THE IRISH NATIONALITY AND CITIZENSHIP ACT 1956. [15th December, 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.**—In this Act—

“Principal Act” means the Irish Nationality and Citizenship Act 1956;

“Act of 2001” means the Irish Nationality and Citizenship Act 2001.

**2.**—Section 2 (amended by the Act of 2001) of the Principal Act is amended by— Amendment of section 2 of Principal Act.

(a) the insertion, in subsection (1), of the following definitions:

“‘Act of 1996’ means the Refugee Act 1996;

‘Act of 2003’ means the Immigration Act 2003;

‘Act of 2004’ means the Immigration Act 2004;

‘EEA state’ means a state, other than a Member State, that is a contracting party to the EEA Agreement;

‘EEA Agreement’ has the same meaning as it has in the European Communities (Amendment) Act 1993;

‘Member State’ means a Member State of the European Communities;

‘mental incapacity’ means, in relation to a person, incapacity by reason of a mental condition to manage and administer the person’s affairs;”

(b) the insertion of the following subsection:

“(1A) In this Act—

(a) a reference to a section is a reference to a section of this Act, unless it is indicated that a reference to some other enactment is intended,

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(b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended, and

(c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended, whether before or after the commencement of the *Irish Nationality and Citizenship Act 2004*, by or under any subsequent enactment.”.

Amendment of  
section 6 of  
Principal Act.

3.—Section 6 (inserted by section 3(1) of the Act of 2001) of the Principal Act is amended by—

(a) the substitution of the following subsection for subsection (1):

“(1) Subject to section 6A (inserted by *section 4* of the *Irish Nationality and Citizenship Act 2004*), every person born in the island of Ireland is entitled to be an Irish citizen.”,

(b) the substitution of the following paragraph for paragraph (a) of subsection (2):

“(a) Subject to subsection (5), a person who is entitled under subsection (1) to be an Irish citizen shall be an Irish citizen from the date of his or her birth if—

(i) he or she does any act that only an Irish citizen is entitled to do, or

(ii) in the case of a person who is not of full age or who is suffering from a mental incapacity, any act is done on his or her behalf that only an Irish citizen is entitled to do.”,

(c) the deletion of subsection (4), and

(d) the insertion of the following subsection:

“(6) In this section ‘person’ does not include a person born in the island of Ireland on or after the commencement of the *Irish Nationality and Citizenship Act 2004*—

(a) neither of whose parents was at the time of the person’s birth—

(i) an Irish citizen or entitled to be an Irish citizen,

(ii) a British citizen,

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- (iii) a person entitled to reside in the State without any restriction on his or her period of residence (including in accordance with a permission granted under section 4 of the Act of 2004), or
- (iv) a person entitled to reside in Northern Ireland without any restriction on his or her period of residence,

and

- (b) at least one of whose parents was at that time entitled to diplomatic immunity in the State.”.

4.—The Principal Act is amended by the insertion of the following sections:

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Citizenship of children of certain non-nationals.

“Entitlement to Irish citizenship of persons born to certain non-nationals.

6A.—(1) A person born in the island of Ireland shall not be entitled to be an Irish citizen unless a parent of that person has, during the period of 4 years immediately preceding the person’s birth, been resident in the island of Ireland for a period of not less than 3 years or periods the aggregate of which is not less than 3 years.

(2) This section does not apply to—

(a) a person born before the commencement of the *Irish Nationality and Citizenship Act 2004*,

(b) a person born in the island of Ireland—

(i) to parents at least one of whom was at the time of the person’s birth an Irish citizen or entitled to be an Irish citizen,

(ii) if the person was born to parents one of whom was deceased at the time of the person’s birth and—

(I) the other parent was at that time, or

(II) the deceased parent was, immediately before he or she died,

an Irish citizen or entitled to be an Irish citizen, or

(iii) if the person was born to parents both of whom were deceased at the time of the person’s birth, and at least one of whom was, immediately before his or her death, an Irish citizen or entitled to be an Irish citizen,

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(c) a person born in the island of Ireland—

(i) to parents at least one of whom was at the time of the person's birth a British citizen or a person entitled to reside in Northern Ireland without any restriction on his or her period of residence,

(ii) if the person was born to parents one of whom was deceased at the time of the person's birth and—

(I) the other parent was at that time, or

(II) the deceased parent was, immediately before he or she died,

a British citizen or a person entitled to reside in Northern Ireland without any restriction on his or her period of residence, or

(iii) if the person was born to parents both of whom were deceased at the time of the person's birth and at least one of whom was, immediately before his or her death, a British citizen or a person entitled to reside in Northern Ireland without any restriction on his or her period of residence,

(d) a person born in the island of Ireland—

(i) to parents at least one of whom was at the time of the person's birth a person entitled to reside in the State without any restriction on his or her period of residence (including in accordance with a permission granted under section 4 of the Act of 2004),

(ii) if the person was born to parents one of whom was deceased at the time of the person's birth and—

(I) the other parent was at that time, or

(II) the deceased parent was, immediately before he or she died,

a person entitled to reside in the State without any restriction on his or her period of residence (including in accordance with a permission granted under section 4 of the Act of 2004), or

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(iii) if the person was born to parents S.4  
both of whom were deceased at  
the time of the person's birth and  
one of whom was, immediately  
before his or her death, a person  
entitled to reside in the State with-  
out any restriction on his or her  
period of residence (including in  
accordance with a permission  
granted under section 4 of the Act  
of 2004),

or

(e) a person born in the island of Ireland—

(i) neither of whose parents was at the  
time of the person's birth—

(I) an Irish citizen or entitled to  
be an Irish citizen,

(II) a British citizen,

(III) a person entitled to reside in  
the State without any restric-  
tion on his or her period of  
residence (including in  
accordance with a permission  
granted under section 4 of the  
Act of 2004), or

(IV) a person entitled to reside in  
Northern Ireland without any  
restriction on his or her per-  
iod of residence,

and

(ii) at least one of whose parents was  
at that time entitled to diplomatic  
immunity in the State.

(3) In this section 'British citizen' means a citi-  
zen of the United Kingdom of Great Britain and  
Northern Ireland.

Residence in  
the island of  
Ireland for  
the purposes  
of section  
6A.

6B.—(1) Where a parent of a person to whom  
section 6A (inserted by *section 4* of the *Irish  
Nationality and Citizenship Act 2004*) applies dies  
before the person's birth, the period commencing  
on the date of the parent's death and expiring on  
the date of the person's birth shall be reckonable  
for the purposes of calculating a period of resi-  
dence in the island of Ireland under that section,  
if—

(a) the parent was, immediately before his or  
her death, residing in the island of  
Ireland, and

(b) the period in respect of which he or she  
was, immediately before his or her

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death, resident in the island of Ireland is reckonable for the purposes of that section.

(2) Where a national of—

- (a) a Member State (other than the United Kingdom of Great Britain and Northern Ireland),
- (b) a state (other than a Member State) that is a contracting party to the EEA Agreement, or
- (c) the Swiss Confederation,

makes a declaration in such manner as may be prescribed that he or she has resided in the island of Ireland for such period as is stated in that declaration, he or she shall, for the purposes of section 6A, be regarded as having been resident in the island of Ireland—

- (i) for that period, if during the entire of that period he or she was a national of a Member State, an EEA state or the Swiss Confederation, or
- (ii) if he or she was such a national for part only of that period, for that part of the period,

unless the contrary is proved.

(3) (a) If a person who is the guardian of, or *in loco parentis* to, a person (in this paragraph referred to as the 'second-mentioned person') who—

- (i) has not attained the age of 18 years, and
- (ii) is the child of a person (in this paragraph referred to as the 'parent') who was, at the time of the second-mentioned person's birth, a national of a state referred to in subsection (2),

makes a declaration in such manner as may be prescribed that the parent resided in the island of Ireland for such period as is specified in that declaration, the parent shall, for the purposes of section 6A, be regarded as having been resident in the island of Ireland—

- (I) for that period, if during the entire of that period he or she was a national of a Member State, an EEA state or the Swiss Confederation, or



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- (II) if he or she was such a national for S.4  
part only of that period, for that  
part of the period,

unless the contrary is proved.

- (b) If a person who is duly authorised to act on behalf of a person (in this paragraph referred to as the 'second-mentioned person') who—

- (i) is suffering from a mental incapacity, and  
(ii) is the child of a person (in this paragraph referred to as the 'parent') who was, at the time of the second-mentioned person's birth, a national of a state referred to in subsection (2),

makes a declaration in such manner as may be prescribed that the parent resided in the island of Ireland for such period as is specified in that declaration, the parent shall, for the purposes of section 6A, be regarded as having been resident in the island of Ireland—

- (I) for that period, if during the entire of that period he or she was a national of a Member State, an EEA state or the Swiss Confederation, or  
(II) if he or she was such a national for part only of that period, for that part of the period,

unless the contrary is proved.

- (c) If a person (in this paragraph referred to as the 'declarant') who—

- (i) has attained the age of 18 years, and  
(ii) is the child of a person (in this paragraph referred to as the 'parent') who was, at the time of the declarant's birth, a national of a state referred to in subsection (2),

makes a declaration in such manner as may be prescribed that the parent resided in the island of Ireland for such period as is stated in that declaration, the parent shall, for the purposes of section 6A, be regarded as having been resident in the island of Ireland—

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(I) for that period, if during the entire of that period he or she was a national of a Member State, an EEA state or the Swiss Confederation, or

(II) if he or she was such a national for part only of that period, for that part of the period,

unless the contrary is proved.

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

- (a) it is in contravention of section 5(1) of the Act of 2004,
- (b) 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
- (c) 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.

(5) A period of residence in Northern Ireland shall not be reckonable for the purposes of calculating a period of residence under section 6A—

- (a) if—
  - (i) the person concerned is not during the entire of that period a national of a Member State, an EEA state or the Swiss Confederation, and
  - (ii) the residence of the person concerned in Northern Ireland during that period is not lawful under the law of Northern Ireland,

or

- (b) if the entitlement of the person concerned to reside in Northern Ireland during that period is subject to a condition that is the same as or similar to a condition which, if applicable in respect of an entitlement to reside in the State, would, by virtue of subsection (4), render a period of residence in the State pursuant to such an entitlement not

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reckonable for the purposes of calculating a period of residence under the said section 6A. S.4

(6) A declaration referred to in subsection (2) or (3) shall be accompanied by such verifying documents (if any) as may be prescribed.”.

5.—Section 9 of the Principal Act is repealed.

Repeal of section 9 of Principal Act.

6.—The Principal Act is amended by the substitution of the following section for section 10:

Citizenship of foundlings.

“10.—Every deserted newborn child first found in the State shall, unless the contrary is proved, be deemed to have been born in the island of Ireland to parents at least one of whom is an Irish citizen.”.

7.—Section 13 (amended by section 3(b) of the Act of 2001) of the Principal Act is amended by the substitution of “the island of Ireland” for “Ireland”.

Amendment of section 13 of Principal Act.

8.—Section 15 (inserted by section 4 of the Irish Nationality and Citizenship Act 1986) of the Principal Act is amended by—

Amendment of section 15 of Principal Act.

(a) the substitution, in subsection (1), of the following paragraph for paragraph (a):

“(a) (i) is of full age, or

(ii) is a minor born in the State;”,

and

(b) the insertion of the following subsection:

“(3) In this section ‘applicant’ means, in relation to an application for a certificate of naturalisation by a minor, the parent or guardian of, or person who is *in loco parentis* to, the minor.”.

9.—Section 15A (inserted by section 5 of the Act of 2001) of the Principal Act is amended by the insertion of the following subsections:

Amendment of section 15A of Principal Act.

“(3) Paragraph (h) of subsection (1) shall not apply to an applicant for a certificate of naturalisation to whom subsection (4) applies.

(4) Any period of residence outside the island of Ireland, during which—

(a) the applicant for a certificate of naturalisation to which this section applies was married to and living with his or her spouse, and

(b) that applicant’s spouse was in the public service,

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S.9 shall be reckoned as a period of residence in the island of Ireland for the purposes of calculating—

(i) continuous residence under paragraph (f) of subsection (1), or

(ii) total residence under paragraph (g) of that subsection.”.

Amendment of section 16 of Principal Act.

**10.**—Section 16 of the Principal Act is amended by the insertion of the following subsection:

“(2) For the purposes of this section a person is of Irish associations if—

(a) he or she is related by blood, affinity or adoption to a person who is an Irish citizen or entitled to be an Irish citizen, or

(b) he or she was related by blood, affinity or adoption to a person who is deceased and who, at the time of his or her death, was an Irish citizen or entitled to be an Irish citizen.”.

Amendment of section 16A of Principal Act.

**11.**—Section 16A (inserted by section 6 of the Act of 2001) of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) A period of residence in the State shall not be reckoned when calculating a period of residence for the purposes of granting a certificate of naturalisation if—

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

(b) 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

(c) 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.”.

Amendment of section 17 of Principal Act.

**12.**—Section 17 of the Principal Act is amended by the deletion of subsection (2).

Amendment of section 28 of Principal Act.

**13.**—Section 28 of the Principal Act is amended by the insertion of the following subsection:

“(3) The Minister may revoke a certificate of nationality if he or she is satisfied that the issue of the certificate was obtained by fraud, misrepresentation (including innocent misrepresentation) or failure to disclose material information.”.

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**14.**—The Principal Act is amended by the insertion of the following section:

Applications for certificates of nationality by persons to whom section 6A applies.

“28A.—(1) A person who makes an application under section 28 shall make and provide to the Minister or an Irish diplomatic or consular officer a declaration in such manner as may be prescribed that his or her parent resided in Northern Ireland for such period as is stated in that declaration.

(2) The Minister or an Irish diplomatic or consular officer may require a person who makes an application under section 28 to produce to him or her—

- (a) documents of such a class as may be prescribed, or
- (b) such other documents as he or she considers necessary or expedient to enable him or her to perform his or her functions under this section.

(3) For the purposes of this section different classes of documents may be prescribed in respect of different classes of person making an application under section 28.

(4) This section applies to a person who claims to be entitled to be an Irish citizen under section 6A(1) by virtue of one of his or her parents having resided—

- (a) in Northern Ireland for a period of not less than 3 years or periods the aggregate of which is not less than 3 years, or
- (b) in Northern Ireland and the State for periods the aggregate of which is not less than 3 years,

but shall not include a person one of whose parents was, during the entire of that period or those periods and at the time of the person’s birth, a national of a Member State, an EEA state or the Swiss Confederation.

(5) An application under section 28 in respect of a minor shall be made on his or her behalf by his or her parent or guardian, or by a person who is *in loco parentis* to him or her.

(6) An application under section 28 in respect of a person who is suffering from a mental incapacity shall be made on his or her behalf by a person duly authorised to act on his or her behalf.”.

**15.**—The Principal Act is amended by the insertion of the following section:

Offences.

“29A.—A person who knowingly or recklessly makes (whether in the State or outside the State)—

- (a) a declaration under this Act, or
- (b) a statement for the purposes of any application under this Act,

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that is false or misleading in any material respect shall be guilty of an offence and shall be liable—

- (i) on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months, or to both, or
- (ii) on conviction on indictment to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or to both.”.

Short title,  
collective citation  
and  
commencement.

**16.**—(1) This Act may be cited as the Irish Nationality and Citizenship Act 2004.

(2) The Irish Nationality and Citizenship Acts 1956 to 2001 and this Act may be cited together as the Irish Nationality and Citizenship Acts 1956 to 2004.

(3) This Act shall come into operation on such day as the Minister may, by order, appoint.