

On the 31st December 2013 the long awaited family reunification policy <http://www.justice.ie/en/JELR/Pages/PB13000447> was published. The document represents the first comprehensive statement of the rationale underlying the decisions made by the Department of Justice in granting or denying applications for family reunification by Irish residents including Irish citizens, for non-EEA spouses, children and other family members. The document contains a mixture of guidelines including financial thresholds that are applicable immediately and others which will come into force in the future.

The conditions applying to visa and residency applications now depend on the status of the sponsor and the nature of their relationship with their family member. More favourable conditions apply to Irish nationals than to non-EEA nationals with the conditions to be applied to non-EEA nationals depending on the type of residence permission held by the sponsor. Immediate family members of sponsors will be given more favourable consideration than distant family members.

### Categories of Sponsors

1. Irish citizens
2. Non-EEA nationals
  - (a) Category A: Green Card Holders, Investors Entrepreneurs, Business Permission Holders, Researchers, INIS Approved Scholarship programme students (e.g. KASP), Intra Corporate Transferees, PhD Students, Full time non-locum doctors in employment.
  - (b) Category B: Non Green Card Employment Permit Holders, all Stamp 4 holders not covered by other more favourable arrangements, Ministers of Religion (there is a case for putting these in cat A provided they are maintained by the church)
  - (c) Category C: All other non-EEA migrants.

### Categories of Family Member

- Immediate family: spouses, civil partners, children<sup>1</sup> under 18<sup>2</sup>; de facto partners (2 year duration requirement for de facto partnerships including cohabitation.)
- Elderly Parents;
- Other family members (dependents);

The provisions having immediate effect include:

- 1) Set Financial Thresholds;
- 2) Length of residence required for non-EEA nationals;
- 3) Clarification of assessment of dependency;
- 4) Clarification of policy for elderly dependent parents;

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<sup>1</sup> Includes **adopted children and children under the care of a sponsor** where the adoption is recognised by Irish law. In the latter case INIS will undertake an extensive examination to confirm that the sponsor is caring for the child and that the other parent(s) have agreed to the child's move to Ireland. **Step-children**, who are full-time members of the sponsor's household will be eligible to be treated as part of the nuclear family on the same basis as any other children the couple may have;

<sup>2</sup> **Adult children**: May increase to **23** where the child is in full time education and remains dependent on the parent or a child over 18 where she is dependent on the care of a parent sponsor due to a **serious medical or psychological problem** which makes independent life in the home country impossible.

- 5) Policy on right of retention of immigration permission;
- 6) Limitations on multiple application;

### Financial & Length of Residence Thresholds

	Immediate Family	Elderly Parents	Length of Residence Required
<b>Irish Citizens</b>	€40,000 gross over 3 years excl. income from social welfare. Must not be predominantly reliant on social welfare for a continuous period of over 2 years.	Income of €60,000 for one parent and €75,000 for two parents after tax and deductions (for each of the 3 years preceding the application)	Irish citizen must reside or intend to return to reside in Ireland.
<b>Non-EEA Cat. A</b>	None specified (generally persons included in Category A have gross income in excess of €30,000)	Income of €60,000 for one parent and €75,000 for two parents after tax and deductions (for each of the 3 years preceding the application)	Applications for immediate family members may be made on arrival. Eligible to apply for other family members after 2 years.
<b>Non-EEA Cat. B</b>	Gross income in each of the preceding 2 years in excess of Family Income Supplement limits. Where the application does not include children, a minimum gross income of €30,000 applies.	Income of €60,000 for one parent and €75,000 for two parents after tax and deductions (for each of the 3 years preceding the application)	Eligible to apply for immediate family members after 12 months. Eligible to apply for other family members after 5 years.
<b>Non-EEA Cat. C</b>	Ineligible	Ineligible	Ineligible

### Assessment of Dependency

The family member must be supported financially by the sponsor on a continuous basis **and** there must be evidence of social dependency between the two parties. The degree of dependency must be such as to render independent living at a subsistence level by the family member in his/her home country impossible if that financial and social support were not maintained (essential financial support);

Dependency of an adult dependent must be pre-existing and sustained prior to the making of the application for family reunification;

The dependency must have existed while the dependent was living in their home country;

### **Elderly Dependent Parents**

The principles of dependency outlined above will also apply to dependent elderly relatives;

The default position for such migration, given the financial risk to the State is a refusal. There is an onus on the family to show that there is no viable alternative to the parents coming to Ireland (no family members capable of providing support in the country, not possible for the sponsor to move, parents without financial resources or ability to live independently). In addition to the financial thresholds above, the applicant must be covered by private medical cover. The sponsor may be required to sign a legal undertaking to the effect that they will bear personal complete financial responsibility for their relative and that any State funds availed of by the relative will be reimbursed by them. The sponsor would also be required to make detailed provision for their accommodation;

A successful applicant may be given Stamp 0 which is not reckonable for long term residence or citizenship.

### **Right of Retention**

The following is without prejudice to the Guidelines for Victims of Domestic Violence.

<http://www.inis.gov.ie/en/INIS/Victims%20Of%20Domestic%20Violence%20-%20Note%20for%20Web.pdf/Files/Victims%20Of%20Domestic%20Violence%20-%20Note%20for%20Web.pdf>

In the event of the death/departure of sponsor or divorce or annulment the family member must notify INIS and apply for a change of status.

If the sponsor has died, a sympathetic view will be taken. As a guideline a person who has resided in Ireland for two years prior to the death of a sponsor should be granted immigration permission. Where the period of time is less than this, sufficient time should be given to allow the person to make arrangements for returning to their country or seeking employment in Ireland.

In the event of a divorce, dissolution or legal separation, the general requirement would be that the parties have been married or in a Civil Partnership for at least 3 years with at least the last 2 years spent residing in Ireland.

### **Multiple applications for Spousal Reunification**

A sponsor is only eligible to make one application for family reunification with a spouse, civil partner or de facto partner in a seven year period. In circumstances where a sponsor's relationship breaks down and they subsequently form another relationship with a non-EEA national, they will be ineligible to sponsor that spouse, civil partner or de facto partner for a minimum of 7 years from the date of the first application. This 7 year waiting period will also be applied where the sponsor was himself granted permission under EUTR.

Sponsors who remain legally married to one person while in a de facto relationship with another will also have the 7 year limit applied. It is expected that a legal separation would be obtained and the qualification period begins from the date of separation rather than the date of the beginning of the new relationship.

Applications for spousal family reunification involving a sponsor who is married polygamously will be rejected however a spousal application may be granted where the marriage is only potentially polygamous. Where there are grounds to suggest a marriage of convenience, further permissions may be refused even where the periods set out have been exceeded;

#### **Future Initiatives:**

The guidelines make reference to a number of future planned initiatives.

The guidelines refer to the establishment of a **single family reunification unit** to deal with all applications for family reunification (visas and residency applications) to ensure the greatest possible efficiency and consistency in decision-making. A single **standardised form and an application fee** will also be introduced to assist with information gathering and the cost of processing applications.

The guidelines also propose that in the future **non-visa required nationals** who wish to apply for family reunification and settle in Ireland will have to apply for **pre-clearance** before entering the State. Applications for family reunification will not, aside from humanitarian exceptions, be accepted from inside the State.

The upcoming Immigration Residence and Protection Bill will provide for a statutory appeals system which will include family reunification appeals.

The introduction of **registration for under 16s** is flagged as a priority. While this is expected to be introduced in the upcoming Immigration Residence and Protection Bill, the guidelines state that under 16s may be given a specific immigration permission on an administrative basis as an interim measure.

Consideration will also be given to establishing a form of immigration status that would make it easier for visitors to obtain an **extension of their visit visa (up to 180 days)**.

The Guidelines also signal the possible introduction of the following measures in the future:

- 1) The incorporation of an English language test and/or knowledge of Irish society and culture for family reunification applications.
- 2) Possible introduction of a financial bond where sponsor brings in an elderly parent;