

**CADIC Coalition
Information for Parents of Irish Citizen Children**

FAMILY REUNIFICATION

June 2006

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CADIC – Information for Parents of Irish Citizen Children

FAMILY REUNIFICATION

1. Introduction

Currently, the provisions of the Refugee Act, 1996 constitute the only statutory provision for family reunification in the State. Accordingly, there is no particular system under which Irish citizen children and their parents can apply for permission to be joined by other members of their family, including fathers/husbands and minor siblings of the Irish citizen child. In fact, it is stated government policy that family reunification will not be granted to Irish citizen children and their parents. The Minister for Justice, Equality & Law Reform stated during the meeting of the Joint Committee on Justice, Equality, Defence and Women’s Rights on 14th December 2005: *“I made it very clear that I would not agree to family reunions, in other words, if one parent and a child were in Ireland, it did not allow the other parent and all other children to come to Ireland to join them; otherwise the number of applications could increase to between 50,000 and 80,000. I never envisaged doing this.”*

However, despite the stated policy and the fact that most parents – when making their applications for permission to remain under the IBC/05 Scheme – signed a statutory declaration to the effect that they are aware that *“the granting of permission to remain (...) does not confer any entitlement or legitimate expectation on any other person (...) to enter the State”* **the rights of the family and in particular the right of the child to the care and company of both parents must be respected in all cases.**

It would be the CADIC Coalition’s view that there cannot be a blanket refusal of family reunification and that the circumstances of each individual case must be taken into account when a decision on family reunification is made. In this regard, the Minister for Justice, Equality and Law Reform has full discretion as to whether or not to grant family reunification. However, he also has the **duty to ensure that any refusal of family reunification is in accordance with the law, pursues a legitimate aim and is necessary in a democratic society.**

Family reunification applications regarding siblings and parents of Irish children of migrant parents are currently an issue under examination and the subject of legal challenges in the courts so there may be developments ongoing. There is a lack of clarity around the State’s processing of casework in the area of family reunification; some applications are granted and some are not.

2. Visa Applications

If you are legally resident in Ireland and your family members are visa required nationals and wish to apply for permission to join you here in Ireland, your family members are advised to lodge a visa application at the nearest **Irish embassy or consulate.**

If there is no Irish embassy or consulate in the country your family member is in, the application may be submitted by post either to an Irish embassy or consulate in a neighbouring country or directly to the

Visa Section, Department of Justice, Equality & Law Reform,
13-14 Burgh Quay, Dublin 2, 00 353 1 616 7700, visamail@justice.ie

Visa **application forms** can be downloaded from the website of the **Department of Foreign Affairs** <http://www.dfa.ie>

A **list of visa required nationals** can be viewed on the website of the **Department of Justice, Equality & Law Reform** <http://www.justice.ie>

The following **documentation should be included** when making an application for a visa for the purpose of family reunification:

- **fully completed and signed application form**
- **passports of all family members applying to come to Ireland** (*valid for at least 12 months*)
- **copy of your Certificate of Registration** ('Green Card')
- **birth certificate of the Irish citizen child**
- **evidence of the Irish citizen child's inability to relocate to the family's country of origin** (*e.g. letter from school, doctor's certificate, evidence regarding the situation in the country concerned*)
- **marriage certificate** (*if applying to join a spouse*)
- **birth certificate** (*if applying to join a parent*)
- **evidence of financial circumstances** (*in general, you and your family members should be able to show that you would be able to reside together in Ireland without reliance on public funds*)
- **proof of accommodation in Ireland**
- **consent of the other parent** (*for children who have traveled to join only one parent in Ireland*)

All documentation submitted must be clear and legible. If any documentation is not in the English language, certified translations of the documents should be included.

It is recommended that visa applicants check the progress of their application with the Embassy/Consulate or Visa Office that is processing the application on a regular basis. **Decisions on visa applications** are also published on the website of the Department of Justice, Equality & Law Reform <http://www.justice.ie>.

The website of the Department of Justice, Equality & Law Reform also contains information regarding the **reasons for the refusal of visa applications**. The refusal grounds are given in an abbreviated form only, however, the following explanation of the abbreviations is available on the website:

ID = insufficient documentation submitted in support of the application or application form is incomplete or unsigned or documents provided are not translated.

F =	finances, for example no evidence of finances shown <u>or</u> evidence provided is deemed insufficient <u>or</u> incomplete (e.g. no contact details for bank, poor quality documents) <u>or</u> finances shown have been deemed insufficient
PF =	the granting of the visa may result in a cost to public funds
PR =	the granting of the visa may result in a cost to public resources
R =	no reference in Ireland or no clear link to reference has been shown <u>or</u> no letter of invitation submitted with the visa application form <u>or</u> letter of invitation no longer valid - dates for event/course have passed <u>or</u> no confirmation of hotel booking for duration of stay
RH =	Relationship History – have not shown evidence of a relationship being in existence prior to visa application/marriage.
IS =	immigration status of the reference in Ireland - e.g. evidence of this has not been provided, such as copy of GNIB card, copy of passport of reference <u>or</u> reference has no right of residence in the State
IH =	immigration history of applicant
GP =	contrary to General Policy
WP =	work permit required
1YR =	1 year rule – Work Permit holder not in State 12 months with work permit renewed for a further 12 months
3MTH =	3 month rule – Working Visa holder not in State 3 months
SCSTP =	not the general policy to allow spouse or children visas to accompany or join spouse or parent on short term business/training trips
P =	passport, for example passport expires within 6 months of end of visit <u>or</u> 12 months if you are applying to work or study <u>or</u> passport has not been signed
VR =	previous visa refusal(s)
ST =	visit is not short term in nature – exceeds 90 days
INCO =	inconsistencies e.g. contradictions in the information supplied
SP =	student profile, for example insufficient recognised level of English shown <u>or</u> relevance of English to employment (for English language students) <u>or</u> previous educational or employment background is at odds

with course applied for or gaps in education or employment not accounted for

- CP =** course profile, for example need to undertake the course in this State not demonstrated or warranted or course does not meet Student Visa requirements
- SCH =** profile of school/visas not currently being issued for this school
- OB =** obligation to return to home country not shown, for example no social, economic or professional ties in home country shown or obligations shown have not been deemed sufficient
- OC =** observe the conditions of the visa - the visa sought is for a specific purpose and duration, and the applicant has not satisfied the visa officer that such conditions would be observed – for example, the applicant may overstay following his/her proposed visit or work illegally in the State or branch into the common travel area

3. Entry without Visa

Persons from countries whose nationals are not required to have a visa to enter Ireland can present themselves at the border, port or airport and apply for ‘leave to land’ pursuant to Section 4(1) of the Immigration Act, 2004. They will normally be given permission to enter the State for a specified period of time and will be requested to present themselves to the

Garda National Immigration Bureau (GNIB), 13-14 Burgh Quay, Dublin 2, 00353 1 6669100, <http://www.garda.ie/angarda/gnib.html>

or to their **local police station** (if living outside Dublin)

for registration and to apply for permission to remain.

The officer on duty in the GNIB may ask you or your family member to write to the

Immigration Division of the Department of Justice, Equality & Law Reform, 13-14 Burgh Quay, Dublin 2, 00 353 1 616 7700

to apply for permission to remain.

In any submissions to the Immigration Division, the following **documentation** should be included:

- **copies of the passports of all family members applying to remain in Ireland**
- **copy of your Certificate of Registration (‘Green Card’)**
- **birth certificate of the Irish citizen child**

- **evidence of the Irish citizen child's inability to relocate to the family's country of origin** (e.g. letter from school, doctor's certificate, evidence regarding the situation in the country concerned)
- **marriage certificate** (if applying to join a spouse)
- **birth certificate** (if applying to join a parent)
- **evidence of financial circumstances** (in general, you and your family members should be able to show that you would be able to reside together in Ireland without reliance on public funds)
- **proof of accommodation in Ireland**
- **consent of the other parent** (for children who have traveled to join only one parent in Ireland)

4. Applications for Permission to Remain

If your family members are in Ireland already and would like to remain here as part of the family unit, a written application should be made to the **Immigration Division of the Department of Justice, Equality & Law Reform** for permission to remain. Such permission may be granted on the basis of general ministerial discretion as well as pursuant to Section 4(1) of the Immigration Act, 2004

The **documentation** to be included in such application is the same as that listed at point 3.) above.

5. Refusals of Visas/Residence Permits

Should your family member(s) be refused a visa or residence permit, the following avenues would be open to them:

5.1. Visa Appeals

Appeals against the refusal of a visa application have to be lodged **within two months from the receipt of the refusal notice**. Please note that it is possible to request the reasons for the refusal and when the applicant is in receipt of these reasons, they have two months to lodge an appeal.

All appeals must be made in **writing and sent by post** to the

**Visa Appeals Officer, Department of Justice, Equality and Law Reform,
13-14 Burgh Quay, Dublin 2.**

After the appeal has been lodged, it is possible to make contact with the Visa Appeals Officer by e-mail/fax also: visamail@justice.ie fax 00 353 1 616 7749.

Any **further information or additional documentation** which address the reasons for the refusal of the visa application for your family members should be sent for the attention of the Visa Appeals Officer. Provision of such additional documentation will

be considered but does not guarantee approval of the application. The **visa reference number** must be quoted on all future correspondence.

On receipt of the appeal the Appeals Officer will review the application again, taking account of any further submissions and supporting documentation. On examination and review the original decision may be reversed.

The **approximate processing time** for a visa appeal is 4 – 6 weeks.

However, **if the decision is reversed and the visa is granted you will not be contacted by the Visa Appeals Officer** to inform you of the decision. It is therefore recommended that all appellants **check the progress of their appeal on the website of the Department of Justice, Equality & Law Reform** <http://www.justice.ie> on a regular basis.

5.2. Application for Permission to Remain on ‘Humanitarian Grounds’

*If the individual is told that the application for residence is refused, they will ordinarily be asked to notify the State of their travel arrangements for leaving. If they do not notify the State then it is usual that they will be issued with a so-called **Section 3 Notice**, a letter from the Department of Justice, Equality and Law Reform, notifying him or her of the Minister’s intention to issue a deportation order and outlining the options now open to him or her.*

These options are:

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| <ol style="list-style-type: none">1. to leave the State before the Minister for Justice, Equality & Law Reform makes a deportation order in respect of him or her (<i>voluntary return</i>)2. to consent to the making of a deportation order3. to make representations seeking permission to remain in the State (<i>application for permission to remain on ‘humanitarian grounds’</i>) |
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If your family member receives a Section 3 Notice, they will have to inform the Department of Justice, Equality & Law Reform in writing of their choice **within 15 working days of the date of the Notice**. If no response is sent to the Department, the Minister will issue a deportation order in respect of your family member.

It is important to note that an application for permission to remain on humanitarian grounds is granted at the absolute discretion of the Minister. Before making a decision, the Minister of Justice will take into account all information and documentation submitted.

It is also important to note that the Minister is not obliged to process the application within any specific timeframe. An application may be processed very quickly or, in some cases, it may take as long as two or three years.

Please note that if a deportation order is issued against you, under European Union legislation every Member State is obliged to respect that deportation order and you

may not be allowed to enter another EU Member State in the future. If a deportation order is issued against you, to apply for a visa to re-enter Ireland you will also have to apply to the Minister for Justice, Equality and Law Reform for the revocation of the deportation order under the Article 3(11) of the Immigration Act, 1999. A deportation order is revoked at the discretion of the Minister.

If you decide to avail of the third option and to make representations to the Minister under Article 3(6) of the Immigrations Act, 1999 the application should be send within 15 working days from the date of the Section 3 letter under cover of registered post to the Acknowledgments Unit, Repatriation Section, Immigration and Citizenship Division, Department of Justice, Equality and Law Reform, 13-14 Burgh Quay, Dublin 2.

In any submissions to the Minister you should provide full details of the following information: name, Dept of Justice reference number, date of birth, current address, family circumstances, any previous education/qualifications and/or any work experience, voluntary work, humanitarian considerations, any health issues, character reference letters from Irish nationals, details of any previous criminal convictions in this jurisdiction or abroad and any information regarding particular political/social situation in your own country of origin. It is possible to make submissions in relation to any matter that you believe is relevant, including why you should be permitted to remain in Ireland or why it is that you do not wish to / cannot return to your own country. It is important to support your submissions with documentary evidence (country reports, amnesty international reports, media reports, medical reports, etc.)

Should an application for permission to remain in the State be successful, your family member will be issued with a **residence permit**, normally valid for an initial period of 12 months.

In the event that your family member's application for permission to remain is not successful, a **deportation order** will be issued in response to the representations made and the decision will not be subject to any further appeal to an independent authority reviewing the merits of the application. However, it may be possible to apply to the High Court for a judicial review of the decision to issue a deportation order.

5.3. Judicial Review

Another way of challenging a decision to refuse permission to remain combined with a Section 3 Notice or the issuing of a deportation order is an application for the judicial review in the High Court. However, a judicial review is **not a review of the decision itself** but of the way in which the decision was made, i.e. it assesses if a mistake in the application of the law or the procedure has been made.

Judicial Review proceedings against the issuing of a Section 3 Notice or a **deportation order** may be issued within 14 days from day on which the person concerned was notified of the decision. Such proceedings may be very costly and should not be taken without the benefit of legal advice from a qualified solicitor.

6. Useful Contacts

Immigrant Council of Ireland, 2 St Andrew Street, Dublin 2,
Information Service: 01-6740200, info@immigrantcouncil.ie

Hours of service –

Drop-in queries – 10 am to 12.30 pm ; Phone queries 2 pm – 4.30 pm
Monday – Friday (NOT WEDNESDAY)

Refugee Information Service,

27 Annamoe Terrace, off North Circular Rd, Dublin 7

Ph: 01-838 2740, info@ris.ie

Canavan House, Nun's Island, Galway

Ph: 091-532 850, infogalway@ris.ie

An electronic copy of this document can be obtained from the CADIC Coalition at info@cra.iol.ie.

This document will be available on the following websites as of 21 June:

Integrating Ireland at www.integratingireland.ie and the **Children's Rights Alliance** at www.childrensrights.ie.