Forms of protection - Ireland

Overview

Content updated and validated on: 20/08/2025

Relevant EU legislation

Ireland is bound by the 2004 Qualification Directive (Council Directive 2004/83/EC of 29 April 2004) and has transposed its provisions through the International Protection Act 2015. Ireland has not yet transposed the 2011 Recast Qualification Directive.

National legislation

Refugee status	• Part 2: Qualification for international Protection, International Protection Act 2015, sections 7-9. • United Nations Convention relating to the status of Refugees
Subsidiary protection	• Part 2: Qualification for international Protection, International Protection Act 2015, sections 7-9 • S.I. No 409 of 2017 of the European Union (Subsidiary Protection) Regulations 2017
Temporary protection	Section 60: Programme Refugees and Temporary Protection, International Protection Act 2015

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National forms of protection	**Permission to remain under Section 49.1 of the International Protection Act 2015:** Where a recommendation referred to in section 39(3)(c) is made in respect of an application, the Minister shall consider, in accordance with this section, whether to give the applicant concerned a permission under this section to remain in the State (in this section referred to as a "permission"). When making this decision, the Minister will have regard to the applicant's family and personal circumstances along with other matters, including the applicant's connection to the State and humanitarian considerations. • S.I. No 664 of 2016 International Protection Act 2015 (Permission to Remain) Regulations 2016; **Permission to remain under Section 50 of the International Protection Act 2015:** Section 50(1) of the 2015 Act sets out the prohibition of refoulement, which gives effect to the state's obligations under the 1951 Refugee Convention and international human rights law. It states that "a person shall not be expelled or returned in any manner to the frontier of a territory where the life or freedom of the person would be threatened for reasons of race, religion, nationality or membership of a particular social group or political opinion, or where there is a serious risk that the person would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment". A person to whom a grant of international protection and permission to remain under Section 49 of the 2015 Act has been refused, and the deportation of whom would be contrary to the prohibition of refoulement, must be given permission to remain in the state. **Leave to remain following a decision not to make a deportation order under Section 3 of the Immigration Act 1999:** While the Immigration Act 1999 is not focused on protection-related matters, Section 3 is a statutory mechanism that may provide an alternative means for granting leave to remain to an individual who is found to have protection-related needs, in case of deportation order. In considering the making of a deportation order, the Minister must have

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Competent authority and stakeholders

Refugee status	International Protection Office (IPO)
Subsidiary protection	International Protection Office (IPO)
Temporary protection	International Protection Office (IPO)
National forms of protection	International Protection Office (IPO)

Renewal and withdrawal of international protection and national forms of protection

Refugee status

Length of the first and subsequent residence permits: Refugees granted asylum in Ireland are issued a "Stamp" residence permit. The first permit typically lasts for 3 years from the date of issue. After the first period, refugees may be granted a renewal of their residence permit for 3 years.

Review of the status: Information currently not available

Renewal of the status: Information currently not available

Withdrawal of the status: The competent authority for the review of refugee status in Ireland is the International Protection Office (IPO), Revocation has an established procedure in place under Section 52 of the International Protection Act 2015 and the applicant can appeal to the Circuit Court if necessary. Where the Minister proposes to revoke a declaration to a beneficiary for international protection, the person concerned will be notified and will have 15 working days from the issue of the notification to make representations to the Minister. In cases where the Minister decides to revoke a declaration, the person concerned will have 10 working days from the sending of the notice containing the decision and the reasons for it to appeal to the Circuit Court. No personal interview of the beneficiary is conducted, they can submit information in writing. Free legal representation is offered.

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Grounds for withdrawal of the status:

Revocation of, ending of or refusal to renew

According to Section 52 of IPA:

- The Minister shall revoke a refugee declaration given to a person if a person should have been or is excluded from being a refugee or ceased to be a refugee. Revocation could also occur in cases where:
- The misrepresentation or omission of facts, whether or not including the use of false documents, by the person was decisive in the decision to give the person a refugee declaration.
- There are reasonable grounds for regarding them as a danger to the security of the State, or
- The person, having been by a final judgement convicted, whether in the State or not, of a particularly serious crime, constitutes a danger to the community of the State.

Cessation

1. According to Article 9 (1) of International Protection Act, individuals cease to be a refugee if they:
2. have voluntarily re-availed themselves of the protection of the country of nationality,
3. having lost their nationality, have voluntarily re-acquired it,
4. have acquired a new nationality (other than as an Irish citizen), and enjoys the protection of the country of their new nationality,
5. have voluntarily re-established themselves in the country which they left or outside which they remained owing to fear of persecution,
6. subject to subsections (2) and (3), can no longer, because the circumstances in connection with which they have been recognised as a refugee have ceased to exist, continue to refuse to avail themselves of the protection of his or her country of nationality, or
7. subject to subsections (2) and (3), being a stateless person, is able, because the circumstances in connection with which they have been recognised as a refugee have ceased to exist, to return to their country of former habitual residence.

In determining whether paragraph (e) or (f) of subsection (1) applies, regard shall be had to whether the change of circumstances is of such a significant and non-temporary nature that the person’s fear of persecution can no longer be regarded

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as well-founded.

Paragraphs (e) and (f) of subsection (1) shall not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail themselves of the protection of their country of nationality or, being a stateless person, of the country of former habitual residence.

Consequences of the withdrawal of the status: A decision to revoke a refugee or international protection declaration takes into effect:

- where no appeal to the Circuit Court is brought against the decision of the Minister, on the date on which the deadline for making such an appeal expires, or
- where an appeal to the Circuit Court is brought against the decision of the Minister from the date on which the Circuit Court, under subsection affirms the decision or from the date on which the appeal is withdrawn.

Subsidiary protection status

Length of the first and subsequent residence permits: A person granted subsidiary protection in Ireland is initially issued a "Stamp" residence permit, granted for 3 years from the date of the decision. Subsequent residence permits may be granted for 3 years.

Review of the status: The International Protection Office (IPO) within the Department of Justice, Home Affairs and Migration is responsible for the review of the subsidiary protection status.

Renewal of the status: Information currently not available

Withdrawal of the status: Information currently not available

Grounds for the withdrawal of the status: Cessation: According to Section 11, *“A person shall cease to be eligible for subsidiary protection when the circumstances which led to their eligibility for subsidiary protection have ceased to exist or have changed to such a degree that international protection is no longer required.”*

His provision *“shall not apply to a person eligible for subsidiary protection who is able to invoke compelling reasons arising out of previous serious harm for refusing to avail himself or herself of the protection of his or her country of*

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nationality or, being a stateless person, of the country of former habitual residence."

Exclusion from eligibility for subsidiary protection: According to Section 12, "*(1) A person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that they*

1. *have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes,*
2. *have committed a serious crime,*
3. *has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations, or*
4. *constitute a danger to the community or to the security of the State.*

(2) A person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that they have incited or otherwise participated in the commission of a crime or an act referred to in subsection (1).

(3) A person is excluded from being eligible for subsidiary protection if they has, prior to their arrival in the State, committed a crime, not referred to in subsection (1), which, if committed in the State, would be punishable by imprisonment and if they left their country of origin solely in order to avoid sanctions resulting from that crime."

Consequences of the withdrawal of the status: According to Section 52, *"(10) A decision to revoke a declaration shall take effect:*

- *where no appeal to the Circuit Court is brought against the decision of the Minister, on the date on which the period specified in subsection (8) for making such an appeal expires, or*
- *where an appeal to the Circuit Court is brought against the decision of the Minister*

  - from the date on which the Circuit Court, under subsection (9)(a), affirms the decision, or

  - from the date on which the appeal is withdrawn."

National forms of protection

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Length of the first and subsequent residence permits: Programme refugee status: this specific permission to reside in the State granted under section 54 of the 2015 Act may be for less than 3 years. The legislation does not stipulate the validity of the residence permit after renewal; this is a matter of Ministerial discretion.

Permission to remain under section 49 International Protection Act 2015: not regulated by law, it is granted at Minister's discretion.

leave to remain under s 3 1999 Act: not regulated by law, At Minister's discretion.

Review of the status: Information currently not available

Renewal of the status: Information currently not available

Withdrawal of the status: Information currently not available

Grounds for the withdrawal of the status: Information currently not available

Consequences of the withdrawal of the status: Information currently not available

Content of protection

Overview

In Ireland the legal provisions detailing the content of protection for both refugees and subsidiary protection status are found within the International Protection Act 2015, Part 8 – sections 53-58.

Provision of information on the content of protection

When an applicant receives the refugee status or subsidiary protection declaration, they are provided with supplementary information specific to their protection status. This includes detailed references to relevant sections of the International Protection Act 2015, covering the rights and obligations associated with their protection status. The supplementary information includes the following:

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- Section 53: Extension to qualified persons of certain rights, including the right to seek and enter employment, engage in business, trade or professions, and access education and training in the state in the same manner and to the same extent as Irish citizens. The Section also provides for access to healthcare, to reside in the state and of travel.
- Section 54: Permission to reside in the state, which specifies that qualified persons are granted residence permission for a minimum of 3 years, renewable unless national security or public order reasons apply. Family members receive residence permission for a minimum of 1 year, renewable for at least 2 years.
- Section 55: Issuance of travel documents for qualified persons.
- Section 52: Revocation of refugee or subsidiary protection declarations.
- Section 9: Cessation of refugee status.
- Section 11: Cessation of eligibility for subsidiary protection
- Section 10: Exclusion from being recognised as a refugee.
- Section 12: Exclusion from eligibility for subsidiary protection

This information is provided by the Ministerial Decisions Unit (MDU) and is sent in a formal letter with the refugee status or subsidiary protection declaration. Currently, no information is provided on specific integration activities as part of the supplementary pack.

Residence permits

The authority responsible for delivering residence permits, whether for refugees or beneficiaries of subsidiary protection, is the Immigration Service Delivery within the Department of Justice, Home Affairs and Migration.

The International Protection Office assesses the applications for international protection, once granted refugee or subsidiary protection status they will inform individuals through an official decision in writing.

Upon refugee or subsidiary protection status being granted, the individual must apply for a residence permit through the Immigration Service Delivery, and they will receive a Stamp 4 residence permit, which allows them to live and work in Ireland for 3 years. After the first 3 years, the residence permit can be renewed every 3 years.

Beneficiaries of international protection may apply for citizenship after 5 years of continuative residence.

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Travel documents

Both refugees and beneficiaries of subsidiary protection are eligible for a travel document under Section 55 of the International Protection Act 2015. The authority responsible for issuing travel documents for refugees is the Immigration Service Delivery on behalf of the Minister. The travel document issued to refugees is a 1951 Refugee Convention Travel Document, valid for 3 years. A document can also be issued for a family member if they have been granted permission to travel to Ireland by way of family reunification.

Also, programme refugees, such as the Afghan Admission Programme, may apply for a travel document under Section 59 of the International Protection Act 2015 The legislation does not stipulate the validity of the residence permit after renewal; this is a matter of Ministerial discretion. Beneficiaries of subsidiary protection status may apply for a travel document under the International Protection Act 2015, only if the person is unable to obtain a national passport in order to travel to Ireland and can demonstrate they have tried and been refused.

Beneficiaries of international protection can apply through an online application form, which contains instructions on how to make an application. Paper applications may be accepted, and a copy of the paper application may be provided. The application fee for a travel document is 55 euros and is non-refundable.

Currently it takes 20 weeks to process applications for a travel document, when the application is completed fully (online or paper format). Travel document applications are processed in Immigration Service Delivery (ISD). Travel document booklets are then printed by the Passport Office which is not part of the Travel Document Section in ISD.

For more information: Applying for a Travel Document - Immigration Service Delivery

Freedom of movement

In accordance with Article 26 of the Refugee Convention, beneficiaries of international protection can reside anywhere in the Republic of Ireland and are not restricted.

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Under Section 53 of the International Protection Act 2015, beneficiaries of refugee and subsidiary protection status have the right to seek and enter employment in the State and the right to carry on any business, trade or profession in the State. The residence permit provides access to the labour market.

Access to education

Under Section 53 of the International Protection Act 2015, beneficiaries of refugee and subsidiary protection status have the same right to access education and training as the Irish nationals.

Access to procedures for recognition of qualifications and validation of skills

Information is currently not available.

Social security and social assistance

Under Section 53 of the International Protection Act 2015, beneficiaries of refugee and subsidiary protection status have the same right to social welfare benefits as Irish nationals. For example, individuals granted international protection can apply for child and family support, employment support, health related-benefits, education and housing services. A list of social welfare schemes available in Ireland can be found in the Department of Social Protection - Social Welfare Schemes and Services website.

Healthcare

Under Section 53 of the International Protection Act 2015, beneficiaries of refugee and subsidiary protection status have the same right to receive the same medical care and services as Irish nationals.

Most general practitioners in Ireland are private practitioners, therefore, most people will pay a fee for a GP visit. There are specific schemes to assist people with the cost of visiting a GP or the cost of medication, for example Medical Cards, which is available to those living in IPAS centres.

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Some services are provided by GPs free of charge on behalf of the HSE, for example immunisation and some visits during pregnancy.

If a GP refers the patient for a public out-patient appointment, to a public hospital for an x-ray or blood test, or to an Emergency Department, the hospital services will be free of charge. However, If a person goes directly to an Emergency Department without a GP referral, there is a charge for the service.

For more information - HSE website - Health Service Executive

Access to accommodation

Under Section 53 of the International Protection Act 2015, beneficiaries of refugee and subsidiary protection status have the right to receive the same welfare benefits, including housing, of Irish nationals. Once refugees and beneficiaries of subsidiary protection are granted status, they are eligible for housing-related financial assistance, such as the Housing Assistance Payment (HAP), which is available to help with rent for those living in private accommodation. Local authorities are responsible for providing social housing to refugees and beneficiaries of subsidiary protection, depending on availability.

For more information: Housing Agency;

Access to integration measures

Beneficiaries of international protection in Ireland may access integration programs, provided by the Department of Children, Equality, Disability, Integration and Youth in cooperation with local NGOs. Many providers offer free English language training, civic orientation, vocation training, school and childcare assistance and social welfare and employment support for refugees, and local communities often support such courses.

Some courses are organized through local community centres, education institutions, and the VEC (Vocational Education Committees).

More information here: Community Integration Initiatives Across Ireland

Family reunification for beneficiaries of international protection

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Family Reunification is defined under Sections 56 and 57 of the International Protection Act 2015 (the 2015 Act). Persons who were granted Refugee Status or Subsidiary Protection prior to the commencement of the 2015 Act are deemed to have been granted Refugee Status or Subsidiary Protection respectively, from the date on which Sections 56 and 57 of the 2015 Act came into force (31/12/2016).

Consequently, applications for family reunification by persons who were granted Refugee Status or Subsidiary Protection prior to the coming into force of the 2015 Act must be received by the Minister within 12 months of receiving their declaration of Refugee Status.

All applications for family reunification received by the Minister after 31/12/2016 are being processed in accordance with Section 56 and Section 57 of the 2015 Act.

Institutional aspects: Authorities responsible/involved in the process are the Family Reunification Unit and Immigration Service Delivery (13-14 Burgh Quay, Dublin 2)

Types of family reunification and Timeframe

The application should be submitted within 12 months of being granted a refugee declaration, a subsidiary protection declaration or from the date of arrival in Ireland as a Programme Refugee.

Under Sections 56 and 57, the beneficiary may apply for permission for members(s) of their family to:

Enter and reside in the State where they are living outside the State or

Reside in Ireland, where they are already there on the date of application

Eligible Family members

Section 56 defines a member of the family:

- Spouse – marriage must have subsisted on the date an application for International Protection in Ireland was made
- Civil partner - civil partnership must have subsisted on the date an application for International Protection in Ireland was made
- Parent(s) and their children (under 18 and not married), if under 18 and not married on the date an application for International Protection in Ireland

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was made
- Child who, is under the age of 18 years and not married on the date an application for International Protection in Ireland was made

Family reunification procedure

The beneficiary must apply in writing to the Family Reunification Unit providing the following information: Name, Person ID number and address.
For each member of the family: Full name, Relationship to you e.g., spouse, daughter, son, Date of birth, Nationality, Current address.

Documentation

The following documents are necessary. Originals must be provided (copies are not accepted):

1. travel document and documentary evidence of current address (for example, a current utility bill).
2. The following documents are to be submitted for each person named in the application:

   Birth certificate

   National identity card

   Passport

   Two recent colour passport-sized photographs

   If applying for a spouse or civil partner, it is also needed:

3. Marriage certificate stamped by the relevant authority – if married more than once, both or all marriage certificates should be provided
4. any other evidence, for example, dowry agreement
5. Marriage Book, if you received one – If you married more than once, both or all marriage books should be provided
6. Receipt for any registration fees paid for your marriage (if applicable)

   Documentary evidence of shared resources (including joint bank accounts) if applicable

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Documentary evidence, if any, of money transfers to spouse

Documentary evidence of domicile at date of the marriage

Documentary evidence of the spouse’s domicile at date of marriage

If relevant:

final decree of divorce or nullity

spouse's final decree of divorce or nullity

Death certificate of previous spouse(s)

Death certificate of spouse's previous spouse(s)

Original Statement of Parental Authorisation

Legal document for Ward/guardianship/Adoption

Evidence of Sponsor’s current address

Original Death Certificate.

If applying for parent(s) the beneficiary's birth certificate is needed

Family reunification procedure

Once all documents are submitted, the application for Family Reunification will be investigated. One may over the course of the investigation be asked to provide more information. Once the investigation is concluded, the beneficiary will be notified in writing of the decision.

If the Application is approved a decision letter will be issued. This letter informs of the date by which the family member(s) must enter and/or reside in Ireland. If a family member does not enter and/or reside in Ireland on or before this date, the family reunification permission will cease to be in force.

This decision cannot be appealed.

Before family members arrive in the country of asylum:

- Family member(s) who are entering the State must apply for a visa

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- Further information on the visa application process can be found on https://www.irishimmigration.ie/
- The application can be made in the Irish Consulate in the family member's country of residence
- Details of all Irish Embassies and Consulates can be found on https://www.ireland.ie/en/dfa/embassies/
- When family members arrive in the State, they must register in the local Registration Office
- The beneficiary must accompany each family member to the Registration Office
- To register they must request an appointment. Information on how to do so is available here: https://www.irishimmigration.ie/burgh-quay-appointments/.

Rights deriving from family reunification

The Minister will give the family member(s) permission to enter and/or reside in the State for a period of not less than one year. And in the case of a renewal, for not less than 2 years. Family member(s) will have the same rights and entitlements as the beneficiary, provided his/her International Protection is in force and he/she is resident in Ireland.

The permission will be renewable unless there are compelling reasons of national security or public order in relation to the beneficiary or the family member.

Seizure/Renewal/Revocation of Family Reunification

Family Reunification Permission Cease to be valid:

- where the family member does not enter and reside in the State by the date specified in the decision letter
- Where the person to whom the permission was granted ceases to be a family member
- Where the marriage or civil partnership concerned ceases to subsist

Family Reunification can be revoked:

- In the interest of national security or public policy
- Where the sponsor would be or is excluded from being a refugee
- Where the sponsor would be or is excluded from being eligible for subsidiary
- Where the Sponsors entitlement to remain in the State ceases

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- Where misrepresentation, omission of facts or the use of false documents by the Sponsor were decisive in the decision to give, the Sponsor the permission

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