

## **Non-EEA De Facto Partners of Irish Nationals Immigration Preclearance Process**

A new preclearance procedure to facilitate and streamline entry to the State for de facto partners of Irish nationals from non-EEA countries is being introduced from 19 August, 2019. The procedure applies to both visa and non-visa required non-EEA nationals. Applications can be submitted from this date, however, to allow for a transitional period for those due to arrive in the State in the short term, those arriving in Ireland on or before the 31<sup>st</sup> October may do so without obtaining a preclearance permission in advance, however, visa required nationals must obtain a visa before travel as usual.

All non-EEA nationals (both visa required and non-visa required) who are resident outside the State and are seeking to join their Irish national partner in Ireland must seek prior approval (preclearance) to travel to Ireland on that basis from the Irish Naturalisation and Immigration Service (INIS) of the Department of Justice and Equality, before travelling to the State.

Please note that an applicant must be ordinarily resident outside the State when making a preclearance application to join their Irish national partner for a period longer than 90 days. Proof of ordinary residence outside the State will be requested, and the applicant must remain outside the State while their application is being processed. You will not be permitted entry to the State by an Immigration Officer at the Border, for the purpose of joining your Irish national partner, unless you can produce a Preclearance Approval Letter.

**Important:** A Preclearance letter and visa (if applicable) allows you to travel to Ireland only. They do not give you permission to enter the country or to stay here. Any person wishing to enter the State, whether visa required or not, is subject to the usual immigration controls at the port of entry. Entry to the State is always at the discretion of an Immigration Officer.

You will be required to produce relevant documents, including your preclearance letter, for inspection by an Immigration Officer when you are entering the State.

### [Background](#)

The intention of INIS when considering De Facto Partnership of an Irish citizen applications is to allow genuine long-term relationships to continue. It is intended to provide a means by which couples who are already living together in a committed relationship and one of whom is an Irish citizen, to live in Ireland on this basis.

## What is a De Facto Partner?

For immigration purposes, a person may be considered the De Facto Partner, opposite or same sex, of another person if:

- they have a mutual commitment to a shared life to the exclusion of all others akin to a marriage or civil partnership in practice though not in law and
- the relationship between them is genuine and continuing and
- they live together or do not live separately and apart on a permanent basis and
- they are not related by family.

This type of immigration permission is for people who have an Irish citizen life partner (the Sponsor) and would like to live with them in Ireland. The permission is conditional on the relationship and if the relationship ends, the permission ends.

Such permission may be granted to both opposite and same sex partners, one of whom is an Irish citizen, and who have been together in a relationship similar to marriage or civil partnership, have been living together for at least two years and have a mutual commitment to a shared life together to the exclusion of all others.

## Who can apply?

A non EEA national (the Applicant) who is in a De Facto relationship with an Irish National and wishes to reside with them in Ireland must be in a position to provide evidence to assess whether the couple is in a genuine long-term relationship. It will be necessary for the couple to provide dated documentary evidence of **cohabitation for at least two years. i.e. the couple must be able to show that they have been living together for at least two years immediately prior to the date of application**

Partners who are not living together at the time of the Application will be required to give compelling reasons for this. It will still be necessary to show cohabitation for a **full two year period** but each application is considered on its individual merits and humanitarian reasons will be considered.

If a couple claim they have maintained their relationship during the two year period by merely visiting each other as often as they can, this will not be sufficient to demonstrate a committed De Facto relationship.

The Applicant and the Sponsor must be able to support themselves and any dependants without any help from public funds. The Sponsor must intend to be resident in the State and be self-sufficient i.e. not on social welfare benefits and must,

if necessary, be able to support the Applicant and any dependants financially without recourse to public funds.

The Sponsor must not have been completely or mainly reliant on benefits for a continuous period of two years or longer immediately prior to the application. Furthermore, they must have earned a gross income over and above any state benefits of the equivalent of not less than €40,000, over the three-year period prior to application. This figure will rise for Irish nationals seeking to be joined by multiple family members.

The Applicant and the Sponsor must intend to live together permanently.

The Sponsor must be an Irish citizen.

The reckonable time of the relationship duration will only commence from the time both parties reach the age of 18 regardless of what age they were at the beginning of the relationship.

Cases will also arise where a prospective sponsor remains legally married to one person while in a de facto relationship with another. In general, the expectation would be that the parties would have obtained a divorce, but this is not always possible for various reasons. The qualification period for the de facto partner would commence not from the commencement of the new relationship but from the date of the evidence of separation.

For applications made in the State if the Applicant is unlawfully present in the State at the time of making the De Facto application, INIS will refuse the application.

De facto Residency Permission applications will **not** be accepted from Applicants who are subject of a notification of intention to deport (15 day letter under Section 3 of the 1999 Immigration Act) or a Deportation Order

The Sponsor may only sponsor one Applicant in any seven (7) year period. A Sponsor cannot sponsor a De Facto application if they have applied in the past 7 years for a Spouse or Partner to join them in the State, or if the Sponsor themselves was granted permission as a Spouse or Partner in the State in that period.

The Applicant will only be considered for De Facto Permission with one Sponsor in any seven (7) year period.

In some cases it may be necessary to interview both the Applicant and the Sponsor. Applicants must be of good character and be in compliance with Irish Law.

There are **no rights** of retention of permission in the event of separation. Successful Applicants **do not** have an automatic right to family reunification.

A critical element in all immigration decisions is the protection of the State, its nationals and persons living within it. Applications for family reunification will be refused where a party to an application is deemed a threat to public security, public policy or public health.

### What can a De Facto partner do and not do while in the State?

As a de facto partner, you may:

- work;
- do additional voluntary work;
- study;
- travel abroad for short periods (e.g. holidays and attending conferences) and return to Ireland;
- bring immediate family members (dependants) with you, meaning in this case minor children under 18 years of age.<sup>1</sup>,
- The permission granted to the partner under this process will be dependent on the continued residence status of the Sponsor. In cases where the Sponsor leaves the country, the accompanying partner and dependants, if applicable must also depart.

As a de facto partner you may not:

- bring any other family members, apart from those referred to above, with you;

### What documents are required?

An application for De Facto Partner preclearance letter should include a completed application form together with:

- A history of the relationship including when the partners met and when they began the relationship, accompanied by dated documentary evidence of the relationship.
- Legible copies of all pages of both partners' current and previous passports.

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<sup>1</sup> This can be extended to a maximum age of 23 where the child is in full time education and remains dependent on the parent

- Dated documentary evidence of living together continuously over a period of two years in a common place of residence such as official letters or bills sent to the same address and/or joint tenancy agreement.
- Dated evidence of financial inter-dependence such as transfer receipts, joint accounts, joint purchases, joint assets or loans and financial statements covering the previous 6 months for both partners showing living expenses i.e. where the finances are coming from and where they are going to.
- Evidence that the Sponsor meets the financial criteria as set out above. This must include verifiable evidence of income through tax returns, payslips, and employment letters.
- Police clearance certificates for the Applicant from any country they have resided in over the last 5 years. The Police clearance should be no more than six months old at the date of application.
- If the Applicant and/or the Sponsor have dependent children who intend to live with the Applicant and the Sponsor in Ireland
- copies of birth certificates and copies of passport(s) of the child(ren). Evidence that the Applicant/Sponsor is the child's legal guardian (This may include custody agreements)

And/ Or

- evidence that the Applicant/ Sponsor has the permission of any other guardian or custodian to have the child live with them in Ireland
- Evidence that the Applicant, and any dependent child(ren) are covered by private medical insurance, from a company authorised by the Health Insurance Authority for the duration of your time in the State. This could be as part of the group medical scheme for your sponsor. In addition, it is advisable that applicants have insurance to cover repatriation in the event of serious illness or unforeseen events.
- Travel insurance may suffice but only during the first year of the applicants stay, provided that the insurance provides coverage:
  - for the full period before you arrange medical
  - insurance,
  - at a minimum of €25,000 for accident and
  - €25,000 for illness or disease, and
  - for any period of hospitalisation.

Partners who are not living together at the time of the Application will be required to give compelling reasons for this.

Further document requirements may depend on individual cases. The Preclearance Unit reserve the right to request further documentation where it is deemed necessary.

## Children

Adopted children will be considered in the same way as biological children in family reunification cases. Additional key considerations are:

- The adoption has been carried out in Ireland or is recognised under Irish law;
- There has been a genuine and complete transfer of parental responsibility, with emotional and financial support now provided by the adoptive parent(s);
- The adopted child has the same rights as any other child of the adoptive parent(s);
- The child is under the age of 18 (or children up to 23 if in full time education)

Stepchildren will be treated as part of the immediate family when it is established that they are fulltime members of the household. Consent from the other parent is required in shared/joint custody arrangements. The child's presence in the State gives no rights to visit or reside in Ireland to the other parent.

## Applications from those already resident in Ireland:

Those who enter into a De Facto relationship with an Irish citizen, while legally residing in Ireland on a Stamp 1, 2, or 3 permission, and who now wish to apply to vary the conditions of their current permission based on their de facto relationship should contact Domestic Residence and Permissions Division – Unit 5, INIS, PO Box 12695, Dublin 2. Queries on this process can be submitted to [INISdefacto@justice.ie](mailto:INISdefacto@justice.ie)

Further information on the criteria for varying an immigration permission and instructions on how to re-register your immigration stamp can be found on the INIS website at <http://www.inis.gov.ie/en/INIS/Pages/WP07000279>

## The Application Process:

An application under this preclearance process must be made from *outside* the State and applicants must be ordinarily resident outside of the State at the time of application. Proof of residence outside the State may be requested, and the applicant must remain outside the State while their application is being processed. Applicants already residing in Ireland should follow the procedure set out at above.

Applications must be made by downloading the application form on the website. Applicants should download the application form from the INIS website by clicking on the relevant link and fill in the required information. All required documentation as set out above must also be submitted. Further details on documentation requirements may be found on the webpage.

A fee of €100 applies to applications for preclearance. Applicants who are visa required may also be required to pay a separate visa application fee of €60.

Applicants must provide a valid email address with their application as all communications with regard to the application will be by email. Applicants should monitor their email account as this is the email address to which all updates are sent. You will receive a decision on your application via your account.

#### ***Non-EEA nationals requiring an Entry Visa***

If you are a non-EEA national requiring an entry visa you must have prior approval from the Department of Justice and Equality, Irish Naturalisation and Immigration Service (INIS) under this process before making an online visa application seeking entry to the State as a de facto partner.

You must include in your supporting documentation for this visa the preclearance letter of approval, quoting the application approval number.

If you are a national of India, China, Pakistan and Nigeria and living in those locations, biometrics are required to be taken at the time of making your visa application. You should therefore apply for your visa at the same time as your Preclearance Application. Preclearance applications cannot be processed until such a time as biometrics are taken.

Travel to the State as a de facto partner of an Irish National may only be undertaken when an entry visa stating this reason for seeking entry has been entered into your passport. You will not be allowed entry to the State if you do not have such prior approval. Visa required persons approved for preclearance must apply for and have been granted a “D” Join Family (long stay) entry visa before entering the State.

#### ***Non-EEA nationals not requiring an Entry Visa***

Non-EEA nationals not requiring an entry visa must have prior approval from the Department of Justice and Equality, Irish Naturalisation and Immigration Service (INIS) under this procedure to enter the State as a de facto partner.

If your application is successful, you will be granted a letter of approval. This letter of approval must be presented to the Immigration Officer at the port of entry on arrival in the State. You will not be permitted entry to the State as a de facto partner and/or will not be registered by INIS/GNIB as a de facto partner, without prior approval obtained under this procedure before travel to the State.

## Registration in Ireland

### ***Registration with the INIS Registration Office /Garda National Immigration Bureau (GNIB) (applies to both visa required and non visa required nationals)***

All non EEA nationals remaining in the State for more than *90 consecutive days* must register with **INIS Registration Office or /GNIB** and be issued with a Certificate of Registration (IRP card). Please note an annual registration fee applies.

A Certificate of Registration (IRP card) will be granted for an initial 12-month period. Further yearly permission(s) can be sought without further reference to the preclearance unit, by applying for further permission from the Registration authorities (GNIB/INIS Registration Office as applicable) subject to the person meeting all the necessary qualifying criteria under this procedure.

## The Unsuccessful Applicant

If an applicant is unhappy with the outcome of his or her application, an appeal may be submitted at no additional cost within six weeks from the date of refusal letter, addressing the specific grounds on which the initial application was refused. No further correspondence will be entered into in respect of an application.

Appeals officers may make further enquiries into any aspect of the application, and any decision to deny the appeal may be based on the original ground(s) for refusal, or on any new grounds, he/she may consider to be justified. Family members will be given an opportunity to address any new grounds for refusal before a final decision is made.

## How we use information and the Legal Basis



The Department of Justice & Equality, INIS, treats personal information provided by applicants carefully and will not disclose personal data to third parties except in accordance with the law.

Therefore, the processing of personal information provided by you in this application will be carried out in compliance with the law on data protection and under the executive power of the Government.

In furtherance of an application under this immigration procedure we will take into account all known information and relevant factors including your previous immigration history, and may;

request further information or documentation, from you or from third parties as evidence of the bona fides of your particular case;

disclose personal information provided by you in your application to third parties for the purpose of establishing your bona fides in connection with your application; and use information provided by third parties in arriving at a decision on your application.

Such third parties would include; other Government Departments, An Garda Síochána (the Irish national police force), UK immigration authorities, your sponsor (or previous sponsors if applicable) and other organisations or persons referenced by you in your application.

Further information on the Department of Justice and Equality data protection policy is available here:

[http://www.justice.ie/en/JELR/Department\\_of\\_Justice\\_and\\_Equality\\_Data\\_Protection\\_Policy.pdf/Files/Department\\_of\\_Justice\\_and\\_Equality\\_Data\\_Protection\\_Policy.pdf](http://www.justice.ie/en/JELR/Department_of_Justice_and_Equality_Data_Protection_Policy.pdf/Files/Department_of_Justice_and_Equality_Data_Protection_Policy.pdf)