

# Guidelines to assist Decision Makers in assessing applications for the waiving of naturalisation conditions in accordance with section 16(1)(a) and 16(1)(b) of the Irish Nationality and Citizenship Act, 1956 (as amended)

## Background & Scope

Naturalisation is the process whereby a non-Irish national can apply to become an Irish citizen. The granting of Irish Citizenship through naturalisation is a privilege, not an entitlement and is provided for in the Irish Nationality and Citizenship Act 1956 (as amended).

The Act provides that the Minister for Justice may, in their absolute discretion, grant an application for a certificate of naturalisation provided certain statutory conditions are fulfilled. These conditions are set out in section 15 of the Act and include a period of reckonable residency.

Under sections 16(1)(a) and 16(1)(b) of the Act, the Minister may, in their absolute discretion, grant an application for a certificate of naturalisation, although the conditions for naturalisation (or any of them) are not met, where the applicant is of Irish descent or Irish associations.

A person is of Irish associations if they are related through blood, affinity or adoption to, or are the civil partner of:

- a person who is (or is entitled to be) an Irish citizen; or
- a deceased person who was (or was entitled to be) an Irish citizen at the time of their death.

While being of Irish descent or Irish associations is a necessary prerequisite for consideration under these guidelines, it is in itself not sufficient to ensure the waiving of any statutory naturalisation conditions. The Minister will exercise their absolute discretion in determining applications under section 16(1)(a) and 16(1)(b) of the Act(as amended).

The purpose of this document is to:

- (i) set out the criteria for meeting the requirements of descent and each category of Irish association in respect of section 16 of the 1956 Act, (as amended); and
- (ii) set out the guidelines to be followed by an officer of the Minister when considering whether any of the statutory naturalisation conditions may be waived for individuals who are deemed to be of Irish descent or associations.

**Please note that while this document is intended to act as an indicative guide for decision-makers, the Minister exercises absolute discretion in all cases.**

## Step 1 – Determine whether the applicant is a person of Irish descent or Irish associations.

In order for an application to qualify for consideration by the Minister under section 16(1)(a) or 16(1)(b), an applicant must satisfy the Minister that they are a person of Irish descent or Irish associations as set out in the 1956 Act (as amended).

It should be noted that while being of Irish descent or Irish associations is a necessary prerequisite for consideration under this policy, it is not in itself a sufficient basis for the Minister to waive any or all of the statutory conditions in section 15. The granting of citizenship is a privilege and the Minister will exercise their absolute discretion in determining applications under sections 16(1)(a) and 16(1)(b) of the Act, as amended.

When establishing relationship by Irish descent or association, reference must be made by the applicant to appropriate supporting documentation.

### A. Descent

In the context of section 16(1)(a) and 16(1)(b), a person may be considered to be of Irish descent if they are direct lineal descendants of a person who is, or was at their time of death, an Irish citizen.

### B. Irish associations

#### Blood

A person may be considered to be of Irish association if they are related by blood to a person who is (or is entitled to be) an Irish citizen or who at their time of death was (or was entitled to be) an Irish citizen. This blood relationship may be ascending (parent/grandparent of an Irish child) or lateral (siblings).

#### Affinity

Affinity can be understood as a relationship to another person through marriage, including a relationship that one spouse has, by virtue of the marriage, to blood relatives of the other. Therefore, a person may be considered to be of Irish association if their spouse or their spouse's relations by blood (i.e. the

parent or sibling of an applicant's spouse) is a person who is (or is entitled to be) an Irish citizen or who at their time of death was (or was entitled to be) an Irish citizen.

There is no affinity between an applicant and the relations by marriage of their spouse. i.e. there is only affinity between a person and the immediate family of their spouse. An applicant cannot claim affinity to a person who is related to their spouse only by marriage.

### Adoption

Adoption in this context may be understood as an adoption recognised under the Adoption Act 2010 or an adoption based on a legitimate legal process, which placed the child's welfare as paramount.

Adoption based on a legitimate legal process may be established by reference to appropriate supporting documentation. The facts and circumstances of each case must be considered carefully and each case must be decided on its own merits, placing particular emphasis on the consideration of the best interests of the child.

### Civil Partner

Civil partnership is a legally recognised life-long civil union between two people of the same sex. A civil partner is defined in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 as either of two persons of the same sex who are parties to a civil partnership registration; or who are parties to a class of legal relationship which is recognised as a civil partnership in accordance with section 5 of the 2010 Act.

## Step 2 - Determine the statutory naturalisation condition(s) that may be considered for waiving

Next, it is important to identify which of the statutory naturalisation conditions set out in s.15 of the 1956 Act have not been met by the applicant and may be considered suitable for waiving.

## Step 3 - Assessing the relative strength of the case

In the exercise of their absolute discretion, the Minister will conduct an assessment of the application and determine, based on supporting documentation available to the Minister before making the decision, whether the applicant demonstrates sufficiently that their case warrants waiving any of the statutory naturalisation conditions.

In particular, the Minister will assess the application according to the following indicative categories:

- Experiential connection to the State
- Family connections to the State
- Cultural connection to the State
- Establishment in the State.

If an applicant is assessed as having a strong connection (i.e. 50% or more of total possible mark) in two or more of the above indicative categories, they may be considered as potentially suitable for the waiving of any or all statutory naturalisation conditions. Supporting documentation provided at the time of application will be used to assess the application in each indicative category.

While this assessment will be used to support officers of the Minister in assessing applications under section 16(1)(a) and 16(1)(b) of the Act, there may be other relevant factors not listed here that may be taken into account depending on the circumstances of an individual's case. The Minister may exercise their absolute discretion in all cases and decisions will be made on a case-by-case basis.

*Table 1: Indicative criteria to assess applications under section 16(1)(a) and 16(1)(b) of the Irish Nationality and Citizenship Act, 1956 (as amended)*

	Indicative Scoring Criteria
<b>Experiential connection</b>	
Length of reckonable residence in Ireland	5 points per year of reckonable residence (max 25 points)
Applicant is currently resident in the State for tax purposes	10
Evidence of frequent trips to Ireland in the past ten years (if not currently resident)	3 points per trip (max 15 points)
<b>Total out of 50</b>	
<b>Family Connection</b>	
Family members (as defined in section 15C the Act <sup>1</sup> ) are, or were at their time of death, Irish citizens ordinarily resident in Ireland.	60
<b>Total out of 60</b>	
<b>Cultural connection</b>	
Evidence of having contributed in a significant way to the Irish nation or Irish society generally, for example through exemplary voluntary work, engagement in artistic, sporting, academic, or intellectual endeavour, development of local communities, supporting Irish diaspora, promoting Ireland abroad.	30
Being in possession of a professional/third-level qualification issued in Ireland (NFQ levels 6-10)	10
Being in possession of a Junior Certificate (or equivalent) from Ireland	10
Being in possession of a Leaving Certificate (or equivalent) from Ireland	10
<b>Total out of 60</b>	
<b>Establishment in the State</b>	
Holding a current Irish health, car or home insurance policy	10
Number of PRSI Contributions	2 points for every 10 PRSI Contributions (max 20)
Being a member of a public/private pension fund based in Ireland	20
Being in possession of a valid full Irish driving licence	5
Holder of Irish bank account with evidence of recent transactions in Ireland	5
<b>Total out of 60</b>	

#### Step 4 – Making a decision

The Minister may waive certain statutory naturalisation conditions and thus grant an application for a certificate of naturalisation made under section 16 of the Act, if, after careful assessment of the application and all supporting documents it is determined that:

- (i) An applicant is of Irish descent or associations; and
- (ii) An applicant has presented sufficient evidence of the relative strength of their case; and
- (iii) The Minister, having considered these guidelines, as well as any other relevant information, is satisfied that the relevant statutory naturalisation conditions may be waived.

<sup>1</sup> Section 15C of the 1956 Act (as amended) defines a family member in relation to a person as (a) the spouse, civil partner or cohabitant of the person, (b) a child, step-child, son-in-law or daughter-in-law of the person, (c) a parent, step-parent, mother-in-law or father-in-law of the person, (d) a brother, sister, step-brother, step-sister, brother-in-law, sister-in-law, half-brother or half-sister of the person, (e) a grandparent or grandchild of the person, or (f) an aunt, uncle, nephew or niece of the person.

## Step 5 – Communicating the decision

### Duty to give reasons

All decisions should be issued in writing to applicants. All decisions should be communicated in a way which allows the applicant to understand why the decision has been made, including specific reference to the indicative criteria against which the application was assessed and any other relevant material which the applicant has submitted.