



## Explanatory Leaflet for Form EUTR5

Please read the information below carefully before you submit your application.

### Who is this form for?

This form is to be used by each non-EEA national applying to retain a residence card under the European Communities (Free Movement of Persons) Regulations 2015, as amended, following a change in circumstances such as the divorce or annulment of the marriage to the EEA national, the annulment or dissolution of a civil partnership with the EEA national, the death of the EEA national, or the departure of the EEA national from the State where the applicant has custody of or is required to care for children of the EEA national who remain in education in the State.

Citizens' Rights entitlements guaranteed to United Kingdom nationals and their family members under the Withdrawal Agreement are given effect in Ireland under the European Union (Withdrawal Agreement) (Citizens' Rights) Regulations 2020. Form EUTR5 may also be used by each non-EEA national family member of a United Kingdom national applying to retain a residence document under the European Union (Withdrawal Agreement) (Citizens' Rights) Regulations 2020 and the relevant provisions of the 2015 Regulations.

References to EEA national in Form EUTR5 and this explanatory leaflet shall be deemed to also apply to a United Kingdom national.

Form EUTR5 can be downloaded from the Immigration Service website at <https://www.irishimmigration.ie>

### When do I qualify to retain a right of residence under EU Treaty Rights?

#### A. Divorce or annulment of marriage

To retain a right of residence after divorce or annulment of marriage or annulment or dissolution of a civil partnership under Regulation 10 of the Regulations of 2015 an applicant must meet one of the following criteria.

- i. Prior to initiation of the divorce, annulment or dissolution proceedings, the marriage or recognised civil partnership lasted at least three years, including one year in the State, and the EEA national was exercising their EU Treaty Rights in the State at the time that the decree of divorce, annulment or dissolution was made.
- ii. The applicant must have custody of the EEA national's children by agreement between the applicant and the EEA national, or by court order.
- iii. The applicant has the right of access to a minor child, provided that the court has ruled that such access must be in the State and for as long as is required.
- iv. The retention of such right of residence is warranted by particularly difficult

circumstances, such as the applicant having been a victim of domestic violence while the marriage or civil partnership was subsisting.

## **B. Death of the EEA national**

To retain a right of residence under Regulation 9 of the Regulations of 2015 after the death of the EEA national, an applicant must meet the following criteria.

- i. The applicant must have resided in the State with the EEA national for at least one year prior to the death of the EEA national, and
- ii. The applicant must be employed or self-employed in the State, or possesses sufficient resources to support himself or herself and any dependants

OR

- iii. If the EEA national's children, being resident in the State, are enrolled in an educational establishment in the State for the principal purpose of following a course of study there, then the children and the parent who has actual custody of the children will be entitled to reside in the State until the completion of the course of study.

## **C. Departure of the EEA national from the State**

Where the EEA national has left the State and his or her children, being resident in the State, are enrolled in an educational establishment in the State for the principal purpose of following a course of study there, then the children and the parent who has actual custody of the children will be entitled to reside in the State until the completion of the course of study.

## **What does exercise of EU Treaty Rights mean?**

Under Regulation 12(4) of the Regulations of 2015, an applicant seeking to retain residence following the death of the EEA national family member or the divorce, annulment or dissolution of a marriage or civil partnership with an EEA national family member, who is subsequently seeking permanent residence (**Form EUTR3**), must be engaged in one of the following activities.

### **A. Employment**

Where the applicant is working in the State for an employer. This may include vocational training programmes and some non-proprietary directors of a registered company.

### **B. Self-employment**

Where the applicant is a sole trader, engaged in a business partnership, or is a proprietary director of a registered company operating in the State.

### **C. Involuntary unemployment**

Where the applicant has been employed in the State for more than one year but has become involuntarily unemployed, and has registered as a job seeker with a relevant office of the Department of Social Protection (DSP).

### **D. Residing with sufficient resources**

Where the applicant has sufficient resources to maintain themselves and any dependents in the State and is in possession of comprehensive private sickness insurance cover in respect of themselves, their spouse, and any dependents. An applicant residing on this basis must have

sufficient resources such that they would not become a burden on the social assistance system of the State.

An applicant must have custody of, or be required to care for, minor children of the EEA national who remain in education in the State in order to qualify under Regulation 9(3) of the Regulations of 2015.

## What is the relevant legislation?

Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (the "Directive") is given effect in Ireland by the European Communities (Free Movement of Persons) Regulations 2015, as amended (the "Regulations").

The Directive and the Regulations apply to citizens of the European Union, citizens of EEA Member States and citizens of Switzerland who move to or reside in a Member State, other than that of which they are a national, and to their family members who accompany or join them.

Regulation 9 of the Regulations of the 2015 provides for retention of the right of residence by a family member of an EEA national in the event of the death or departure from the State of the EEA national. Please note, in cases of departure, an applicant is required to have custody of, or be required to care for, minor children of the EEA national who remain in education in the State.

Regulation 10 of the Regulations provides for retention of the right of residence by a family member of an EEA national in the event of divorce or annulment of marriage to the EEA national, or the annulment or dissolution of the civil partnership with the EEA national. Please note the divorce, annulment or dissolution must be finalised in order to qualify for consideration under Regulation 10.

## How long will my application take to process?

Due to the large volume of applications, it can take up to six months for an application decision to be reached. Completed applications are dealt with in strict chronological order from date of receipt.

If you need to contact EU Treaty Rights Division regarding your application, you can do so in writing to the postal address below or by email to [eutreatyrights@justice.ie](mailto:eutreatyrights@justice.ie). Please ensure that you include your Application Reference and Person ID in all correspondence. Please do not contact EU Treaty Rights Division unless absolutely necessary as this will affect overall processing times.

## What will my immigration status be during the application process?

You may be provided with an immigration stamp that will be valid for the period of the application process. This will enable you to remain in Ireland during this period. Please note that receipt of this endorsement, if granted, is not an acknowledgement of an entitlement to retention of a right of residence in Ireland. This will be determined in due course when your application is either approved or refused.

## What should I do if there is a change in my circumstances?

If you have a change in circumstances while your retention application is being processed, for example:

- If you change your personal details (your name, your family status or your nationality)
- If your contact details change (your address or your representative)
- If there is a change in other circumstances of your EEA national family member or children of the EEA national, if applicable

you must inform EU Treaty Rights Division in writing immediately either at the postal address below or by email to [eutreatyrights@justice.ie](mailto:eutreatyrights@justice.ie) and provide any supporting documentation. Failure to do so may result in your application being refused. Please include your Person ID and your Application Reference on any written or email communication.

The onus is on an applicant to keep EU Treaty Rights Division updated regarding his/her circumstances and to submit any relevant supporting documents in relation to new circumstances, including change of address.

Any person seeking to assert rights or entitlements under the Regulations is under an obligation to ensure that they comply with all appropriate provisions of the Regulations. Failure to comply may result in the person being guilty of an offence or offences as provided for in Regulation 30 of the Regulations of 2015 and Regulation 21 of the Regulations of 2020.

## How to complete this form?

Please ensure that all required documents are submitted with your application form. Your applications will not be accepted if it is incomplete.

A decision will be made on your application based on the information contained in your application form and the supporting documents which you submit. No further information or documentation will be requested. The onus is on you, the applicant, to submit the necessary evidence to support your application. To avoid delay, please observe the following:-

- A separate application must be completed for each non-EEA national family member residing in the State, including each child under 18 years of age.
- Please complete this form in CAPITAL letters and in **black** ink
- Please ensure to leave a space between each word
- You must place a tick (✓) in the boxes that are relevant to your application
- You must complete in full all sections of this form which are relevant to you
- **No original documents should be sent with your application form.** However, you may be requested to submit original documents during the course of your application. Any original documents that are requested will be returned to you by registered post at the end of the application process.
- You must submit photocopies of all required documents for each application. Please refer to the section below titled "*What documentation is required to support an EUTR5 application*".

- You must sign the Data Privacy Notice on page 6.
- You must sign the Applicant's Declaration on page 33.
- If you are unable to provide any of the information requested at this time, please explain the reason in writing and enclose with this application.

You must send your completed application form and any supporting documents you wish to provide to the address below

**Retention of rights  
Join Family  
Department of Justice  
Immigration Service Delivery  
13/14 Burgh Quay,  
Dublin 2, D02 XK70**

- Your application may be delayed if you do not send it to the address listed above
- We recommend you send your application by Registered Post
- If you choose to send your application by registered post you can track it on the An Post website, [www.anpost.ie](http://www.anpost.ie)

## What is the Data Privacy Notice and why do I have to sign it?

All information provided will be treated in confidence but may be disclosed to other Government Departments, agencies, the Garda Síochána, local authorities, foreign governments or other bodies under Section 8 of the Immigration Act 2003 and Regulation 26 of the European Communities (Free Movement of Persons) Regulations 2015, for purposes connected to the application and derived benefit, where applicable

Both the Directive and the Regulations allow for extensive examination of the personal circumstances of applicants. EU Treaty Rights Division requires the information requested in the application form to assist in conducting a full and complete examination of an application.

EU Treaty Rights Division fully respects an applicant's right to privacy. Personal details will be treated with the highest standard of security and confidentiality and strictly in accordance with appropriate Data Protection legislation.

An applicant does not have to provide the information requested by EU Treaty Rights Division. However failure to provide some or all of the required information and/or documentary evidence requested by EU Treaty Rights Division may have an adverse effect on the outcome of an application.

The Data Privacy Notice must be completed, signed and dated by you, the applicant.

## Outline of Form EUTR5

- Data Privacy Notice (non-EEA national applicant) on pages 3 to 6.
- Sections 1 to 5 must be completed by the non-EEA national applicant
- Section 6 – Applicant’s Document and Evidence Checklist on pages 30 to 32
- Section 7 – Applicant’s Declaration on page 33
- Appendix A, if applicable, should be completed by the Applicant who is in employment in the State
- Appendix B should be completed by the Applicant’s employer on the basis of employment in the State
- Annex C, available on our website (<https://www.irishimmigration.ie>) may be completed and attached to an application to record details of a child or family member of the applicant and/or of the EEA national as required.

## **Section 1 Applicant's personal details**

This section relates to the applicant's personal details including the applicant's identity details and contact details and must be completed fully by the applicant.

## **Section 1B Applicant's previous residence in the State**

This section relates to the applicant's previous residence in the State and in particular to the date of arrival in the State and the validity periods of their residence card.

## **Section 1C Applicant's Relationship to EEA national**

This section asks how the applicant was related to the EEA national when the applicant was initially approved a residence card and must be completed.

## **Section 1D Applicant's Personal History**

This section asks about any criminal convictions an applicant may have in Ireland **or** in any other country as well as about any involvement in war crimes, genocide, crimes against humanity or terrorism. This section also looks for details of the applicant's travel history as well as details of any immigration permission denied or removal/exclusion from Ireland or any other country.

Failure to answer all of these questions as fully and accurately as possible may result in an application being refused. It is an offence under Regulation 30 of the European Communities (Free Movement of Persons) Regulations 2015 to make a statement that is known to be false or misleading.

If additional space is required, the relevant sections can be copied. All completed sections must be enclosed with Form EUTR5.

## **Section 2 EEA national's personal details**

This section asks for the personal details, including identity and contact details of the EEA national.

## **Section 3 Basis of your application for retention**

This section looks for details as to why an applicant is seeking retention of a right of residence in the State and must be completed by the applicant. The categories listed below are the only grounds by which an EEA national can seek retention. Please select the category that is relevant to an applicant's circumstance and include details of other family members who are also seeking to retain a right of residence on the basis of their status as a family member of the EEA national concerned. Documentary evidence, as appropriate, must also be submitted to support the details furnished in this section.

## Category A Death of the EEA national where both the applicant and EEA national lived in the State for at least one year at the time of the EEA national's death

This section must only be completed by an applicant who is residing in the State and who following the death of an EEA national family member, is seeking to retain a right of residence on the basis they are the family member of the EEA national concerned.

Details are requested in relation to the date and place of death and the applicant and EEA national's residence details in the year prior to the death. Documentary evidence, as appropriate, must be submitted to support the details furnished in this section.

## Category B EEA national has died or has left the State and the applicant has custody of a child or children of the EEA national who are in education in the State

This section must only be completed by an applicant who is residing in the State and who following the death of an EEA national family member or the departure from the State of their EEA national family member, is seeking to retain a right of residence on the basis they have custody of one or more children of the EEA national and the children concerned are enrolled in education in the State.

Details are requested in relation to the date of death or date of departure from the State of the EEA national, identity details for the children concerned, custody details and details of the children's place of education in Ireland. Documentary evidence, as appropriate, must be submitted to support the details furnished in this section.

## Category C Marriage or civil partnership ended by divorce, annulment or dissolution

This section must only be completed by an applicant who is residing in the State and, who following the formal ending of the marriage or civil partnership with an EEA national family member, is seeking to retain a right of residence on the basis of the duration of their residence in the State prior to divorce or to their family circumstances such as custody or right of access to children of EEA national following divorce.

This section may also be completed by an applicant who is seeking a right to retain their residence in the State on the basis of particularly difficult circumstances or domestic violence while their marriage or civil partnership still exists.

Details are requested in relation to the duration of the marriage or civil partnership and when divorce, annulment or dissolution proceedings began. Details of residence, including that of EEA national, custody details or particularly difficult circumstances are required, where relevant. Documentary evidence, as appropriate, must be submitted to support the details furnished in this section.

## Section 4 EEA national's activity in Ireland

In this section, the applicant must provide details of their EEA national family member's activity in Ireland since permission was initially granted and up to the time of the death or departure of their EEA national family member or up to the time that legal proceedings commenced to end the marriage or civil partnership. Question 4.1 must be completed.

Questions 4.2 to Questions 4.14 should only be completed if relevant to the EEA national's circumstances. For example, if the EEA national was in involuntary employment at the relevant time, only Questions 4.9 to 4.14 should be completed.

This section can be copied and completed as many times as is necessary to show the EEA national's exercise of rights for the period of permission. Please provide as much detail as available to the applicant. If the applicant is in possession of documentation relating to the EEA national's exercise of rights for the period of permission, this documentation should be submitted with Form EUTR5.

## Section 5 Applicant's activity in Ireland

In this section, the applicant must provide details of their current activity in the State and must only complete the section(s) that are most relevant to their circumstances – Sections 5(i) to 5(iv). For example, if the applicant is employed, Sections 5(1) and 5(i) should be completed.

### Section 5(i) For an applicant who is in employment

This section must only be completed by an applicant who is residing in the State and is currently in employment in the State. Details are requested in relation to this employment including the nature of the business, employer contact details, employment contract and income details.

### Section 5(ii) For an applicant who is self-employed

This section must only be completed by an applicant who is residing in the State and is currently self-employed in the State. Details are requested in relation to this self-employment including the nature of the business, services provided, business trading details including registration and tax returns and operation costs.

### Section 5(iii) For an applicant who is involuntarily unemployed

This section must only be completed by an applicant who is residing in the State and is currently unemployed, having become involuntarily unemployed after a period of employment in the State.

Details of the most recent employment including contact details for the employer and the circumstance of unemployment, details of registration with the Department of Employment Affairs and Social Protection (DEASP) and payments from DEASP, if applicable.

## Section 5(iv) For an applicant who is residing in the State with sufficient resources

This section must be completed by an applicant who is residing in the State with enough financial resources so as not to become a financial burden on the State.

## Section 6 Applicant's Document and Evidence Checklist

This section provides a checklist of documentation that may be submitted as evidence that the applicant qualifies for retention of residence. An applicant must complete the checklist in this Section to show what documents are being provided with the application by placing a tick (✓) in the boxes that are relevant.

Unless otherwise specified, original documents must not be submitted. Photocopies of the documents listed is sufficient.

Identity documents and civil certificates should be photocopied in colour and photocopies should include all pages (including blank passport pages).

If an applicant wishes to submit any documents that are not in English, the document must be translated by a qualified professional translator. The translator must confirm in writing on the translation

- that the translation is a true and accurate translation of the original document
- the date of the translation
- the full name and contact details of the translator or representative of the translation company

A photocopy of the original document must be submitted with the certified translation of the document.

Multilingual standard forms of certain public documents, civil certificates issued within the European Union may be available without the necessity to obtain a certified translation. For further details, visit the following webpage:- [https://e-justice.europa.eu/551/EN/public\\_documents](https://e-justice.europa.eu/551/EN/public_documents)

Immigration Service Delivery will not provide written correspondence acknowledging each document submitted with an application.

A decision will be made on the application based on the information in the application form and any supporting documents submitted with the form.

## Section 7 Applicant's Declaration

This section provide a Declaration which an applicant must read before signing and dating it. The Declaration cannot be signed by a representative of the applicant or some other person acting on the applicant's behalf.

If an applicant is under 18 years of age, the Declaration may be signed by the applicant's parent or guardian.

If the Declaration is submitted unsigned, the Declaration will be returned to the applicant and the application will not progress further until the signed and dated Declaration is received.

### Appendix A Applicant's declaration of employment

Appendix A asks for details of the applicant's current employment details, including employer details, evidence of wages and type of employment contract. An applicant's employer may be contacted to confirm employment.

If the applicant currently has more than one employment, both Appendix A and B should be copied for each employment. The applicant should complete Appendix A for every current employment and enclose with the application.

The applicant should provide proof of income or salary in respect of each employment. Wage slips for the last three months and bank statements showing receipt of income should be provided.

The applicant should be aware that failure to answer all of these questions as fully and accurately as possible or providing any false or misleading information or fraudulent supporting documentation may result in the refusal of the application.

It is an offence under Regulation 30 of the European Communities (Free Movement of Persons) Regulations 2015 and Regulation 21 of the European Union (Withdrawal Agreement) (Citizens' Rights) Regulations 2020 to make a statement that is known to be false or misleading. Any person who asserts an entitlement to any rights on the basis of information which he or she knows to be false or misleading in a material particular shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 12 months, or both.

Immigration Service Delivery may contact the employer(s) to verify the information provided.

## Appendix B

## Employers Declaration

Appendix B must be completed in full by the applicant's current employer and submitted with a completed application form. It must be signed, dated and, where applicable, stamped by the employer of the applicant. If the applicant has more than one employer, a separate Appendix B must be fully completed in respect every employment and enclosed with the application.

Immigration Service Delivery may contact the employer(s) to verify the information provided.

## Annex C

## Details of a relevant third-party to an EU Treaty Rights application

Annex C may be attached to a completed Form EUTR5 application to record details of a child or of the applicant and/or the EEA national as required.

## What documentation is required to support an EUTR5 application?

When submitting documents please note the following:

- All supporting documents submitted must be **photocopies** unless otherwise specified during the application process or in the list of documentation below.
- Photocopied pages of multiple-page documents should be stapled together.
- Passports should be photocopied in colour, and photocopies should include **all** pages of the passport including blank pages.
- Other documents can be submitted as colour or as black-and-white photocopies.
- Civil certificates (e.g. marriage certificates and birth certificates) should be photocopied in colour and should include any Apostilles or legalisation stamps. Copies of translations of documents should also be supplied where appropriate.
- Any documents that are not in English must be accompanied by a certified translation.
- Multilingual standard forms of certain public documents, civil certificates issued within the EU may be available without the necessity to obtain a certified translation. For further details, visit the following webpage:- [https://e-justice.europa.eu/551/EN/public\\_documents](https://e-justice.europa.eu/551/EN/public_documents)
- Do not submit original IRP Certificates of Registration – a holder of an IRP card is required to be in possession of it at all times.
- Do not submit documents that have not been requested.
- Please note that the list below is not exhaustive and further documentation may be requested.

### (a) Evidence of identity

*For the applicant:*

- A valid passport (colour photocopy of all pages including blank pages)
- Two passport-size photos of the applicant (signed on back)

**(b) Evidence of residence of applicant in the State**

*If renting:*

- Tenancy agreement (signed and dated)
- Letter (signed and dated and including contact details) from landlord / letting agency
- Letter (signed and dated) from local authority or County Council
- Letters of registration of tenancy from the Residential Tenancies Board
- Utility bills in the applicant's name
- Bank statements in the applicant's name
- Evidence of rent payments (e.g. rent book)

*If home-owning:*

- Title or deeds for property as applicable
- Letter from mortgage provider, local authority or County Council
- Utility bills in the applicant's name

*If living with a home-owner:*

- Evidence of home ownership e.g. title or deeds for property or letter from mortgage provider, local authority or County Council
- Letter (signed and dated) from the home-owner confirming applicant's residence at the property
- Utility bills in the home-owner's name

*If living with a tenant:*

- Tenancy agreement (signed and dated) in the tenant's name
- Letter (signed and dated including contact details) from the tenant confirming applicant's residence at the property
- Letter (signed and dated and including contact details) from landlord / letting agency confirming applicant's residence at the property
- Utility bills in the tenant's name

**(c) Evidence of relationship to the EEA national**

- Civil marriage certificate
- Recognised civil partnership certificate

**(d) Evidence of basis of retention of rights**

*For death of the EEA national:*

- Death certificate of the EEA national
- Documentary evidence of residence in the State as family member of EEA national for at least one year prior to death of EEA national
- Documentary evidence of the activity and residence of the EEA national in the State prior to death of the EEA national

*For departure of the EEA national:*

- Travel documents and / or travel itinerary confirming departure of EEA national

- Documentary evidence of residence in the State as a family member of EEA national prior to departure of EEA national
- Documentary evidence of the activity and residence of the EEA national in the State prior to departure of EEA national

*For divorce, annulment or dissolution of marriage or recognised civil partnership with the EEA national:*

- Decree of divorce, nullity or dissolution of marriage or recognised civil partnership
- Documentary evidence of the date of initiation of divorce, annulment or dissolution proceedings
- Documentary evidence that marriage or recognised civil partnership subsisted for at least one year in the State
- Documentary evidence of the activity and residence of the EEA national in the State at the date of the initiation of the divorce, annulment or dissolution proceedings

*Details of each child of the EEA national in the State:*

- Birth certificate of child showing family relationship with the EEA national
- Letter(s) from educational establishment(s) in the State confirming enrolment and attendance by the child
- Written agreement of EEA national granting custody or right of access OR court order appointing custody or right of access in respect of each child in the State

#### **(e) Evidence of applicant's current activity in the State**

*If the applicant is in employment:*

- Fully completed Appendix A
- Declaration completed, signed and stamped by employer (Appendix B)
- Contract of employment (signed and dated)
- Two recent payslips
- Most recent P21 or Statement of liability (available to employees through Revenue MyAccount service)
- Corresponding bank statements to evidence earnings

*If the applicant is self-employed:*

- Agreed Tax Assessment from the Revenue Commissioners for the last financial year (if applicable)
- Letter of Registration for Self-Assessment (Income Tax) from the Revenue Commissioners
- Companies Registration Office certificates (if applicable)
- Evidence of notification of most recent certified accounts to the Companies Registration Office certificates (if applicable)
- Letter from professional registration or licensing body confirming status (if applicable)
- Receipts issued for business sales or services or other evidence of trading in the last six months
- Purchase invoices for the business for the last six months
- Corresponding bank statements of the business for the last six months

*If the applicant is involuntarily unemployed:*

- Current letter from Department of Social Protection detailing any benefit claims and/or supports awarded or pending **or** stating there are no claims (as applicable)
- Letter from previous employer outlining circumstances of redundancy

- P45 or Employment Detail Summary (available through Revenue MyAccount service) for last employment
- P21 or Statement of liability and P60 or Employment Detail Summary (available through Revenue MyAccount service) for last 2 years of employment

*If the applicant has sufficient resources:*

- Evidence of financial resources and corresponding bank statements
- Evidence of the source of funds (e.g. pension, financial investments) and corresponding bank statements
- Current letter from Department of Social Protection detailing any benefit claims and/or supports awarded or pending **or** stating there are no claims (as applicable)
- Letter from medical insurance provider confirming private comprehensive medical insurance cover for the applicant and any dependants
- Copy of current private comprehensive medical insurance policy
- Evidence of payment of premiums for current private comprehensive medical insurance cover

**(f) Supplementary details, if applicable**

- Annex A (if applicable) for additional previous address details
- Annex B (if applicable) for additional previous activity details
- Annex C (if applicable) for details of spouse or civil partner of applicant

**Note:** If for any reason an applicant cannot supply some or all of the required documentation above, a written statement explaining why should be included with the application. Provision of some or all of the above documentation is not a guarantee of a successful application.