



Comhshaol, Pobal agus Rialtas Áitiúil
Environment, Community and Local Government

Housing Circular 41/2012
December, 2012

To: Directors of Service (Housing)
Town Clerks

**Access to social housing supports for non-Irish nationals –
including clarification re Stamp 4 holders**

Dear Director/Town Clerk,

1. Circular SHIP 47/2011 is replaced by this circular

This Circular replaces and updates Circular SHIP 47/2011 of 7 December 2011. Regard should be had to the following advice when considering whether to accept an application for social housing support from a non-Irish national. The key areas of difference between this circular and circular 47/2011 are as follows:

- Section 5: EEA nationals (Bulgarian and Romanian applicants now assessed in line with all other EEA Nationals¹).
- Section 7.2: Asylum seekers (change to reckonable residence rule).
- Section 7.3: Family reunification process for family members of refugees to be brought in line with provisions in sections 3 and 18 of the Refugee Act, 1996 (as amended).
- Section 8: Non-EEA nationals with Irish citizen child.

2. Naturalised Irish citizens

An adult originally of non-Irish nationality who has become a naturalised Irish citizen, may be considered for assessment in the same way as all other Irish citizens. Anyone who holds an Irish

¹ Government Decision (ref S180/20/10/0642A)

passport is an Irish citizen. A Certificate of Naturalisation from the Department of Justice is also sufficient to prove citizenship.

3. Joint applications from spouses/civil partners, one of whom is an Irish citizen

An application from a non-EEA national married to/in civil partnership with an Irish citizen may be considered as part of a joint application for that household, provided he/she holds a valid Stamp 4². No specific length of prior residence is required.

4. UK nationals

UK nationals may be considered for assessment for social housing support. No specific length of prior residence or employment is required.

5. EEA nationals ³

All EEA nationals may be considered for assessment for social housing support from housing authorities if;

- 1) they are in employment/self-employed in the State; or
- 2) where they are not currently working/employed it is because -
 - they are temporarily unable to work because of illness/accident;
 - they are recorded as involuntarily unemployed after having been employed for longer than a year, and they are registered as a job-seeker with Department of Social Protection and FÁS.⁴

The Government's decision (Decision ref S180/20/10/0642A) of 17 July 2012 to cease restrictions on labour market access in respect of Bulgarian and Romanian nationals, to the Irish labour market, with effect from the 1st January 2012 has also brought about changes in their assessment for social housing support. They are now considered in line with all other EEA nationals.

² Throughout this Circular any reference to Stamp 4 may be read as including Stamp 4 EUFam.

³ The EEA includes the EU Member States: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Republic of Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom – and the following non-EU States: Iceland, Liechtenstein, Norway and Switzerland.

⁴ This paragraph is guided by the provisions of SI 656 of 2006, European Communities (Free Movement of Persons) (No. 2) Regulations 2006 which gives effect in Irish law to the Directive on the rights of citizens of the European Union and their family members to move and reside freely within the territory of the Member States.

6. Spouse / Civil Partner / Cohabitant Partner of EEA nationals

A non-EEA national married to/in a civil partnership with an (non-Irish) EEA national can be considered to have the same rights and entitlements as afforded their EEA national spouse/civil partner in relation to accessing social housing supports i.e. if the EEA national meets the criteria in Section 5 above and is entitled to apply for support then their non-EEA spouse/civil partner will have the same entitlements. (Stamp 4 EUFam is given to these spouses/civil partners.)

7. Non-EEA nationals

Non-EEA nationals are divided into different categories – and different criteria apply. While the general guidance is set out in para 7.4.2 below, there are paragraphs also concerning persons with a particular status including -

- spouse or civil partner of an Irish or EEA citizen (see 7.1)
- asylum seeker (see 7.2)
- refugee, or person with subsidiary protection status, their spouses and family members (see 7.3)
- non-EEA spouse/civil partner of a non-EEA national who meets the criteria in para 7.4.2 (see para 7.5)
- parent of an Irish citizen child (see para 8).

If more than one paragraph applies, authorities should follow the guidance more favourable to the applicant.

7.1 Non-EEA nationals with an Irish citizen spouse/civil partner or EEA spouse/civil partner.

See paragraphs 3 and 6 respectively re non-EEA nationals with an Irish or EEA spouse/civil partner.

7.2 Asylum seekers

Asylum seekers are persons who are seeking refugee status in the State. They are not eligible to be considered for social housing support. If the applicant is a “former asylum seeker”, who has been given “leave to remain” and a Stamp 4, the application may be accepted for assessment regardless of prior length of residence, provided the applicant has

- a current Stamp 4 in their passport
- a letter from the Department of Justice giving leave to remain on foot of the applicant's representations under section 3 of the Immigration Act, 1999.

7.3 Refugees or Subsidiary Protection status.

A non-EEA national who has been granted Refugee, Programme Refugee, or Subsidiary Protection status is eligible to be considered for social housing support, from the date of granting of such status, on the same basis as an Irish citizen. These persons will have a declaration of refugee/subsidiary protection status from the Department of Justice as proof of their status and this is sufficient information to determine their eligibility on residence grounds. Current or past immigration stamps such as Stamp 4 etc need not be examined in the case of Refugees/Subsidiary Protection Status/Programme refugees.

In addition, it should be noted that -

- A spouse/civil partner of a refugee or person with subsidiary protection status are eligible on the same basis as their spouse/civil partner.
- Family members of refugees, who have been given leave to remain in Ireland on foot of a formal application to Department of Justice for family reunification, are also eligible and, if appropriate, may be considered for assessment as a separate household from the refugee.
- Other family members of refugees, who have not gone through the family reunification procedures, must be assessed on their own merits – follow the guidance in para 7.4.2 re other non-EEA nationals.

7.4 Other Non-EEA nationals

7.4.1 New applications (post the date of this Circular) from non-EEA nationals.

For full details on how to make an examination of immigration status and 'reckonable residence', and to interpret the various Stamps referred to below, see Appendix 1 attached.

7.4.2 Eligibility for consideration for social housing support

In order to be eligible for consideration for social housing support, a non-EEA national who does not qualify under other paragraphs of this Circular, must, at date of application, be able to show compliance with the criteria at **EITHER (a) OR (b) below**

(a) 5 year reckonable residence with current valid Stamp

- an aggregate of at least 5 years prior residence on any combination of Stamp 1⁵, Stamp 3⁶, Stamp 4⁷ or Stamp 5⁸ ["reckonable residence"], within the last 8 years, AND
- currently hold a valid Stamp 1, 3, 4 or 5.

⁵ Stamp 1 does not include Stamp 1A

⁶ Throughout this Circular, only Stamp 3 holders who are non-EEA spouses/dependents of employment permit holders with sufficient reckonable service may be eligible for assessment.

⁷ Stamp 4 or Stamp 4 EU Fam. Throughout this Circular, Stamp 4 includes Stamp4 EUFam.

⁸ Stamp 5 is given to persons who have resided legally in Ireland for 8 years – Stamp 5 holders are eligible to be considered for social housing support without reference to previous Stamps.

(b) Have any length of reckonable residence with current valid Stamp extending to potentially permit 5 years residence

- any length of prior residence on any combination of Stamp 1, Stamp 3 or Stamp 4 [“reckonable residence”], within the last 5 years, AND
- currently holds a valid Stamp 1, 3 or 4 on which the expiry date would permit their continued residence to an aggregate of 5 years residence in the previous 8 years.

7.5 Non-EEA Spouse / Civil Partner of non-EEA nationals

Once one spouse/civil partner meets the criteria in para 7.4.2 above, (or other paragraph in this Circular including para 8) his/her (non-EEA) spouse or civil partner may be considered as part of a joint application for social housing support, provided he/she is legally resident in the State and currently holds a valid Stamp 1, Stamp 3 or Stamp 4 endorsement. There is no specific length of prior residence required for such a spouse/civil partner.

8. Non-EEA nationals with Irish citizen child

If an applicant for social housing support does not appear to qualify on residence grounds under any of the criteria listed above, but can show

- that he/she is the parent of an Irish citizen child,
- the child is emotionally and financially dependent on them, and
- that he/she has been granted a Stamp 4 by Department of Justice on that basis⁹ and currently continues to hold that valid Stamp 4

an application for social housing support may be accepted for assessment without need for compliance with the reckonable residence criteria set out in para 7.4.2.

9. Transitional provisions in relation to persons previously accepted on the housing waiting lists who do not meet the criteria in this Circular when reassessed.

It may arise that non-EEA nationals previously accepted on housing waiting lists, may be found, on review of such application, to be ineligible on residence grounds when the guidance given in this Circular is applied. In this situation, provided the applicant (or both joint applicants as appropriate) currently holds a valid Stamp 1, Stamp 3 or Stamp 4, and is qualified on all other grounds including income, housing need etc, that applicant may remain on record of qualified households despite not meeting the reckonable residence criteria set out in para 7.4.2 of this Circular. These transitional

⁹ As a consequence of the “Zambrano” case ruling

provisions only apply to persons accepted, in good faith, onto an authority's waiting list prior to the date of this Circular and still on that authority's list at the date of the Circular.

10. Full assessment before allocation necessary for all applicants

Authorities are reminded that all applicants, regardless of nationality, shall be fully reassessed on all eligibility and need criteria before allocation, as required by Regulation 29 of the Social Housing Assessment Regulations, 2011. Reassessment at allocation stage for non-Irish nationals should include ensuring that the applicant still meets eligibility criteria on residency grounds as set out in this Circular.

11. Appendices and detailed guidance

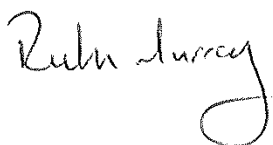
Details of how to assess reckonable residence (including for minors) and information on Immigration Stamps are set out in the Appendices attached to this Circular. In cases of doubt advice should be sought from the Housing Agency. The Agency may seek guidance on immigration issues generally from the Department of Justice, if necessary. Further examples and Q+A will be made available on the online housing manual in future.

For further information or enquiries in relation to this circular, please contact

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Yours faithfully,



Ruth Murray
Social Housing Section

Appendices

Appendix 1- How to Assess Reckonable Residence

Appendix 2. Samples of Immigration Stamps issued by Dept of Justice

Appendix 3 – Sample GNIB Certificate of Registration Card

Appendix 1- How to Assess Reckonable Residence.

How does a local authority work out what Stamps/reckonable residence an applicant for social housing support has or has had?

Three items to examine

(i) **The passport** (or old passports) of the applicant is the main source of this information. A local authority should examine the passport(s) and find the earliest Irish immigration stamp issued and its expiry date, and then look for a sequence of stamps, with gaps of no more than 3 months usually between valid dates, up to the present time. The latest passport stamp must still be valid. **Only Stamp 1, Stamp 3 (not in all Stamp 3 cases, see below), Stamp 4 (including Stamp 4 EUFam) or Stamp 5 may be counted for reckonable residence.**

Please note –

- Stamp 1A is not the same as Stamp 1, and Stamp 1A may not be counted for reckonable residence.
- Stamp 4 includes Stamp 4EUFam, which may be counted for reckonable residence.
- Stamp 5 is given to a person who has resided legally in Ireland for 8 years, so the holder of Stamp 5 may be considered for social housing support without reference to previous Stamps.
- Stamp 3 holders are permitted to remain in Ireland on condition that the holder does not enter employment, does not engage in any business or profession and does not remain later than a specified date. This includes non-EEA spouses/dependants of employment permit holders, non-EEA visitors, non-EEA retired persons of independent means and non-EEA religious ministers and members of religious orders. In relation to Stamp 3 holders, only non-EEA spouses/dependants of employment permit holders with sufficient reckonable residence may be eligible for assessment.

See samples of each type of Stamp in Appendix 2. Note that the endorsement stamps in the passport will not show the words “Stamp 1”, “Stamp 3” etc.

AND ALSO

(ii) **Current GNIB card.** In addition, the authority should look at the applicant's **current GNIB card** to see that it is in date and that the expiry date matches the expiry date of the latest stamp in the passport. This card will also show the number of the Stamp which the applicant currently has at the right-hand side. The applicant will NOT have past GNIB cards as these are retained by GNIB. (See sample of GNIB card in Appendix 3).

(iii) **Reckonable Service for Minors.** If the applicant had entered the State as part of a family unit, the procedure for calculating the residency is as follows;

- From the date of arrival into the State up to the minor's 16th birthday, the parents reckonable residence is counted and school letters for the minor must be provided for this period.
- After the 16th birthday and up to the day before their 24th birthday, the individual's own reckonable residency is counted. However, if the individual is on a study stamp then the study stamps will be counted if one of their parents has reckonable residence for the periods of the study stamps. School letters must be provided for the period of the study stamps. This is the only occasion on which study stamps are counted. Any period after a minor's 16th birthday where they have not registered with the Garda National Immigration Bureau will not be counted for reckonable residence.

Appendix 2. Samples of Immigration Stamps issued by Dept of Justice.

Please note this document is purely for guidance of housing authorities when assessing applications for social housing support and does not purport to provide a legal interpretation or comment on immigration status of any person.

Shown below are the most common endorsement stamps that may be placed in a non-EEA national's passport depending on the type of immigration permission they have been granted. Please note that not all Stamps may be counted towards reckonable residence for the purposes of eligibility for social housing support. There is a heading beside each Stamp indicating if it counts or not for this purpose.

Note:-The words “Stamp Number 1 or 2 or 3 etc” do not appear on the stamp in the passport. However, each stamp can be identified by the text as illustrated below.

The current stamps (as at 1 June 2011) refer to the Minister for Justice, Equality and Law Reform. In the light of recent department name changes the stamps are being updated to refer to the Minister for Justice and Equality

A. Immigration stamps that may be considered when working out reckonable residence for social housing qualification purposes

STAMP NUMBER 1 – below – time on this stamp may be counted for “reckonable residence”.

Permitted to remain in Ireland on conditions that the holder does not enter employment unless the employer has obtained a permit, does not engage in any business or profession without the permission of the Minister for Justice, Equality & Law Reform and does not remain later than _____

for Minister for Justice, Equality and Law Reform
Date:_____

STAMP NUMBER 3- below - time on this stamp may be counted for “reckonable residence” (in certain cases, see below)

Permitted to remain in Ireland on conditions that the holder does not enter employment, does not engage in any business or profession and does not remain later than _____

for Minister for Justice, Equality & Law Reform
Date _____

Holders of Stamp 3 are permitted to remain in Ireland on condition that the holder does not enter employment, does not engage in any business or profession and does not remain later than a specified date. This includes non-EEA spouses/dependants of employment permit holders, non-EEA visitors, non-EEA retired persons of independent means and non-EEA religious ministers and members of religious orders. In relations to Stamp 3 holders, only non-EEA spouses/dependants of employment permit holders with sufficient reckonable residence may be eligible for assessment.

STAMP NUMBER 4 – below - time on this stamp may be counted for “reckonable residence”

Permitted to remain in Ireland until _____

for Minister for Justice, Equality & Law Reform

Date _____

STAMP NUMBER 4EUFam – below - time on this stamp may be counted for “reckonable residence”

Permitted to remain in Ireland until _____

for Minister for Justice, Equality & Law Reform

Date _____

STAMP NUMBER 5 – below - A holder of this Stamp may be considered for social housing support without reference to previous Stamps

THE HOLDER OF THIS PASSPORT IS PERMITTED TO REMAIN IN IRELAND WITHOUT CONDITION AS TO TIME

FOR MINISTER FOR JUSTICE, EQUALITY & LAW REFORM

Date _____

B. Immigration stamps that may not be considered when working out reckonable residence for social housing qualification purposes

STAMP 1A – below - time on this stamp may NOT be counted for “reckonable residence”

Permitted to remain in Ireland for the purpose of full time training with..... Until..... No employment allowed. _____ For the Minister for Justice Equality and Law Reform Date: _____
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STAMP NUMBER 2 – below - time on this stamp may NOT be counted for “reckonable residence”

Permitted to remain in Ireland to pursue a course of Studies on condition that the holder does not engage in any business or profession other than casual employment (defined as 20 hours per week during school term and up to 40 hours per week during school holidays) and does not remain later than _____ For Minister for Justice, Equality & Law Reform Date:_____
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STAMP NUMBER 2A – below - time on this stamp may NOT be counted for “reckonable residence”

Permission to remain in Ireland to pursue a course of Studies and on condition that the holder does not enter employment, does not engage in any business or profession, has no recourse to public funds and does not remain later than

For Minister for Justice, Equality & Law Reform
Date:_____

Stamp 0 (Zero) – below – time on this stamp may NOT be counted for “reckonable residence”

(Temporary and Limited Permission) **Stamp 0**

Permitted to remain in Ireland until _____

Limited to purpose set out in letter dated / / from INIS.
Permission issued on condition that the holder does not receive State benefits and has private medical insurance.

Person is fully supported by a sponsor in the State and/or is of independent means.

Not entitled to:- work, engage in a trade, business or profession unless specified in letter from INIS.

for Minister for Justice and Equality

Appendix 3 – Sample GNIB Certificate of Registration Card

Check the card held to make sure it is current and the expiry date is the same as on the immigration stamp in the applicant's passport.

EIRE IRELAND
Garda National Immigration Bureau
Biúró Naisiúnta Inimirca An Gharda Síochána

CERTIFICATE OF REGISTRATION

Biúró Naisiúnta Inimirca An Gharda Síochána

Surname [REDACTED] **Forename(s)** [REDACTED]

Nationality [REDACTED] **Date of Birth** [REDACTED] **Sex:** [REDACTED] **Stamp No:** **4 EUF**

GNIB No: [REDACTED] **Dept No:** [REDACTED] **Issue Date:** **01/06/2006** **Expiry Date:** **01/06/2007**

Registration Office: GNIB

IRL

APPLICANT'S SIGNATURE **GNIB VER. 002**

[Signature]

This certificate indicates that the person named on the certificate has registered with the Garda Síochána as required by Irish immigration Law.

This Certificate is the property of the Garda National Immigration Bureau.

THIS IS NOT AN IDENTITY CARD

CARD NO: [REDACTED]