



Number 15 of 2001

IRISH NATIONALITY AND CITIZENSHIP ACT, 2001

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
 2. Amendment of section 2 of Act of 1956 (interpretation).
 3. Irish citizenship by birth and by descent.
 4. Acquisition of citizenship on marriage (repeal and transitional provision).
 5. Naturalisation of spouses of Irish citizens.
 6. Calculation of period of residence in relation to application for naturalisation.
 7. Registry of births abroad.
 8. Miscellaneous amendments.
 9. Short title, collective citation, construction and commencement.
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[No. 15.] *Irish Nationality and Citizenship Act, 2001.* [2001.]

ACTS REFERRED TO

Aliens Act, 1935	1935, No. 14
Irish Nationality and Citizenship Act, 1956	1956, No. 26
Irish Nationality and Citizenship Act, 1986	1986, No. 23
Irish Nationality and Citizenship Acts, 1956 to 1994	
Refugee Act, 1996	1996, No. 17



Number 15 of 2001

IRISH NATIONALITY AND CITIZENSHIP ACT, 2001

AN ACT TO AMEND AND EXTEND THE IRISH NATIONALITY AND CITIZENSHIP ACTS, 1956 TO 1994.

[5th June, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“the Act of 1956” means the Irish Nationality and Citizenship Act, 1956;

“the Act of 1986” means the Irish Nationality and Citizenship Act, 1986.

2.—Section 2 of the Act of 1956 is hereby amended by—

Amendment of section 2 of Act of 1956 (interpretation).

(a) the deletion of the definitions of—

- (i) “alien”,
- (ii) “full age”, and
- (iii) “Ireland”,

(b) the substitution for the definition of “the Minister” of the following definition:

“‘the Minister’ means the Minister for Justice, Equality and Law Reform;”,

(c) the insertion after the definition of “naturalised Irish citizen” of the following definition:

“‘non-national’ means a person who is not an Irish citizen;”,

and

(d) the insertion of the following subsection:

“(2) In this Act a reference to the island of Ireland includes a reference to its islands and seas.”.

[No. 15.] *Irish Nationality and Citizenship Act, 2001.* [2001.]

Irish citizenship by birth and by descent.

3.—(1) The Act of 1956 is hereby amended by the substitution for sections 6 and 7 of the following sections:

“Citizenship by birth in the island of Ireland.

6.—(1) Every person born in the island of Ireland is entitled to be an Irish citizen.

(2) (a) Subject to subsections (4) and (5), a person born in the island of Ireland is an Irish citizen from birth if he or she does, or if not of full age has done on his or her behalf, any act which only an Irish citizen is entitled to do.

(b) The fact that a person so born has not done, or has not had done on his or her behalf, such an act shall not of itself give rise to a presumption that the person is not an Irish citizen or is a citizen of another country.

(3) A person born in the island of Ireland is an Irish citizen from birth if he or she is not entitled to citizenship of any other country.

(4) A person born in the island of Ireland—

(a) to a non-national who at the time of that person’s birth was entitled to diplomatic immunity within the State, or

(b) to a non-national on a foreign ship or in a foreign aircraft,

shall not be an Irish citizen unless, in the prescribed manner, that person declares, or if not of full age has declared on his or her behalf, that he or she is an Irish citizen; and such person shall be deemed to be an Irish citizen from the date of birth or the date of coming into operation of this section, whichever is the later.

(5) A person born in the island of Ireland who has made a declaration of alienage under section 21 shall remain entitled to be an Irish citizen, but shall not be an Irish citizen unless, in the prescribed manner, that person declares that he or she is an Irish citizen; and such person shall be an Irish citizen from the date of the declaration.

Citizenship by descent.

7.—(1) A person is an Irish citizen from birth if at the time of his or her birth either parent was an Irish citizen or would if alive have been an Irish citizen.

(2) The fact that the parent from whom a person derives citizenship had not at the time of the person’s birth done an act referred to in section 6(2)(a) shall not of itself exclude a person from the operation of subsection (1).

(3) Subsection (1) shall not confer Irish citizenship on a person born outside the island of

[2001.] *Irish Nationality and Citizenship Act, 2001.* [No. 15.]

Ireland if the parent through whom he or she derives citizenship was also born outside the island of Ireland unless—

- (a) that person's birth is registered under section 27, or
- (b) the parent through whom that person derives citizenship was at the time of that person's birth abroad in the public service:

Provided that the Irish citizenship of a person who, after 1 July, 1986, is registered under section 27 shall commence only as on and from the date of such registration.

(4) Nothing in this section shall confer Irish citizenship on a person not an Irish citizen immediately before its coming into operation, nor deprive of Irish citizenship a person who immediately before its coming into operation was an Irish citizen.”.

(2) Subsection (2) of section 13 of the Act of 1956 is hereby repealed.

4.—(1) Section 8 of the Act of 1956 is hereby repealed.

Acquisition of citizenship on marriage (repeal and transitional provision).

(2) Section 8 (inserted by section 3 of the Act of 1986 and repealed by *subsection (1)* of this section) of the Act of 1956 shall continue to apply to a person being a non-national who, before the commencement of this section, marries a person who is, or who after the marriage becomes, an Irish citizen (otherwise than by naturalisation or by virtue of section 8 or 12 of the Act of 1956) and who makes a declaration under that section before the expiration of 3 years from such commencement.

5.—The following section is hereby inserted after section 15 of the Act of 1956:

Naturalisation of spouses of Irish citizens.

“15A.—(1) Notwithstanding the provisions of section 15, the Minister may, in his or her absolute discretion, grant an application for a certificate of naturalisation to the non-national spouse of an Irish citizen if satisfied that the applicant—

- (a) is of full age,
- (b) is of good character,
- (c) is married to that citizen for a period of not less than 3 years,
- (d) is in a marriage recognised under the laws of the State as subsisting,
- (e) and that citizen are living together as husband and wife and that citizen submits to the Minister an affidavit in the prescribed form to that effect,

[No. 15.] *Irish Nationality and Citizenship Act, 2001.* [2001.]

- S.5
- (f) had immediately before the date of the application a period of one year's continuous residence in the island of Ireland,
 - (g) had, during the 4 years immediately preceding that period, a total residence in the island of Ireland amounting to 2 years,
 - (h) intends in good faith to continue to reside in the island of Ireland after naturalisation, and
 - (i) has made, either before a judge of the District Court in open court or in such manner as the Minister, for special reasons, allows, a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State.
- (2) The Minister may, in his or her absolute discretion, waive the conditions at paragraph (c), (f), (g) or (h) of subsection (1) or any of them if satisfied that the applicant would suffer serious consequences in respect of his or her bodily integrity or liberty if not granted Irish citizenship.”.

Calculation of period of residence in relation to application for naturalisation.

6.—The following section is hereby inserted after section 16 of the Act of 1956:

“16A.—(1) When calculating a period of residence in the State for the purposes of an application for a certificate of naturalisation—

- (a) in the case of a non-national who is a person to whom the European Communities (Aliens) Regulations, 1977 (S.I. No. 393 of 1977), apply, no period shall be reckoned in relation to which the non-national was not the holder or subject of a residence permit or document granted under those Regulations or the European Communities (Right of Residence for Non-Economically Active Persons) Regulations, 1997 (S.I. No. 57 of 1997), and
- (b) in the case of any other non-national, no period shall be reckoned in respect of which the non-national—
 - (i) was required to have the permission of the Minister to remain in the State under the Aliens Act, 1935, but did not have such permission, or
 - (ii) had permission to remain under that Act or any other enactment for the purpose of—
 - (I) study (whether or not such study necessitated the employment of the non-national during the whole or part of the period of study), or
 - (II) seeking to be recognised as a refugee (within the meaning of the Refugee Act, 1996).

(2) This section does not apply to a person to whom the provisions of the Aliens Act, 1935, do not apply by virtue of an order made under section 10 of that Act.

[2001.] *Irish Nationality and Citizenship Act, 2001.* [No. 15.]

(3) This section does not apply in the calculation of a period of residence in the State for the purposes of an application for a certificate of naturalisation made before the commencement of section 6 of the *Irish Nationality and Citizenship Act, 2001.*” S.6

7.—Section 27 of the Act of 1956 is hereby amended—

Registry of births abroad.

(a) by the substitution for subsection (1) of the following subsections:

“(1) A foreign births entry book shall be kept at such Irish diplomatic missions and consular offices as the Minister for Foreign Affairs may, from time to time, specify in regulations.

(1A) A foreign births register shall be kept in the Department of Foreign Affairs in Dublin.”,

(b) in subsection (2), by the substitution for “birth outside Ireland” of “birth outside the island of Ireland” and the substitution for “born outside Ireland” of “so born”,

(c) in subsection (3), by the substitution for “External Affairs” of “Foreign Affairs”,

(d) in subsection (5), after “the registration of births therein,” by the insertion of “the amendment or deletion of incorrect entries therein,”,

(e) in subsection (5), by the substitution for “External Affairs” of “Foreign Affairs”, and

(f) the insertion after subsection (5) of the following subsection:

“(6) Where the foreign births regulations provide for the amendment or deletion of incorrect entries made in any foreign births entry book or the foreign births register, the regulations may, at the discretion of the Minister for Foreign Affairs, also provide for notice to be given and the time in which notice shall be given, before any such proposed amendment or deletion is made, to any person (whose whereabouts is known and can readily be found) affected by the proposal and the manner, the time in which and to whom representations may be made in respect of the proposal by any such person.”.

8.—The Act of 1956 is hereby amended—

Miscellaneous amendments.

(a) in section 14, by the substitution for “an alien” of “a non-national”,

(b) in section 16, by the deletion of paragraphs (d) and (e),

(c) in section 19(1)(c), by the substitution for “resident outside Ireland” of “resident outside the State or, in the case of an application for a certificate of naturalisation granted under section 15A, resident outside the island of Ireland”,

[No. 15.] *Irish Nationality and Citizenship Act, 2001.* [2001.]

- S.8
- (d) in section 23, by the substitution for—
 - (i) “an alien” of “a non-national”, and
 - (ii) “the alien” of “the non-national”,
 - (e) in section 28(1), by the substitution for “Ireland” of “the island of Ireland”, and
 - (f) in section 29, by the substitution for “Ireland” of “the State”.

Short title,
collective citation,
construction and
commencement.

9.—(1) This Act may be cited as the Irish Nationality and Citizenship Act, 2001.

(2) The Irish Nationality and Citizenship Acts, 1956 to 1994, and this Act may be cited together as the Irish Nationality and Citizenship Acts, 1956 to 2001, and shall be construed together as one.

(3) *Section 2(a)(iii)* and *(d)* and *section 3* of this Act shall be deemed to have come into operation on the 2nd day of December, 1999, being the day of the making of the declaration by the Government under Article 29.7.3° of the Constitution.

(4) This Act (other than *section 2(a)(iii)* and *(d)* and *section 3*) shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.