



Number 38 of 2004

IRISH NATIONALITY AND CITIZENSHIP ACT 2004

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ACTS REFERRED TO

European Communities (Amendment) Act 1993	1993, No. 25
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Irish Nationality and Citizenship Act 1956	1956, No. 26
Irish Nationality and Citizenship Act 1986	1986, No. 23
Irish Nationality and Citizenship Act 2001	2001, No. 15
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Refugee Act 1996	1996, No. 17



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IRISH NATIONALITY AND CITIZENSHIP ACT 2004

AN ACT TO AMEND THE IRISH NATIONALITY AND CITIZENSHIP ACT 1956. [15th December, 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

“Principal Act” means the Irish Nationality and Citizenship Act 1956;

“Act of 2001” means the Irish Nationality and Citizenship Act 2001.

2.—Section 2 (amended by the Act of 2001) of the Principal Act is amended by— Amendment of section 2 of Principal Act.

(a) the insertion, in subsection (1), of the following definitions:

“‘Act of 1996’ means the Refugee Act 1996;

‘Act of 2003’ means the Immigration Act 2003;

‘Act of 2004’ means the Immigration Act 2004;

‘EEA state’ means a state, other than a Member State, that is a contracting party to the EEA Agreement;

‘EEA Agreement’ has the same meaning as it has in the European Communities (Amendment) Act 1993;

‘Member State’ means a Member State of the European Communities;

‘mental incapacity’ means, in relation to a person, incapacity by reason of a mental condition to manage and administer the person’s affairs;”

(b) the insertion of the following subsection:

“(1A) In this Act—

(a) a reference to a section is a reference to a section of this Act, unless it is indicated that a reference to some other enactment is intended,

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(b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended, and

(c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended, whether before or after the commencement of the *Irish Nationality and Citizenship Act 2004*, by or under any subsequent enactment.”.

Amendment of section 6 of Principal Act.

3.—Section 6 (inserted by section 3(1) of the Act of 2001) of the Principal Act is amended by—

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

“(1) Subject to section 6A (inserted by *section 4* of the *Irish Nationality and Citizenship Act 2004*), every person born in the island of Ireland is entitled to be an Irish citizen.”,

(b) the substitution of the following paragraph for paragraph (a) of subsection (2):

“(a) Subject to subsection (5), a person who is entitled under subsection (1) to be an Irish citizen shall be an Irish citizen from the date of his or her birth if—

(i) he or she does any act that only an Irish citizen is entitled to do, or

(ii) in the case of a person who is not of full age or who is suffering from a mental incapacity, any act is done on his or her behalf that only an Irish citizen is entitled to do.”,

(c) the deletion of subsection (4), and

(d) the insertion of the following subsection:

“(6) In this section ‘person’ does not include a person born in the island of Ireland on or after the commencement of the *Irish Nationality and Citizenship Act 2004*—

(a) neither of whose parents was at the time of the person’s birth—

(i) an Irish citizen or entitled to be an Irish citizen,

(ii) a British citizen,

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- (iii) a person entitled to reside in the State without any restriction on his or her period of residence (including in accordance with a permission granted under section 4 of the Act of 2004), or
- (iv) a person entitled to reside in Northern Ireland without any restriction on his or her period of residence,

and

- (b) at least one of whose parents was at that time entitled to diplomatic immunity in the State.”.

4.—The Principal Act is amended by the insertion of the following sections:

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Citizenship of children of certain non-nationals.

“Entitlement to Irish citizenship of persons born to certain non-nationals.

6A.—(1) A person born in the island of Ireland shall not be entitled to be an Irish citizen unless a parent of that person has, during the period of 4 years immediately preceding the person’s birth, been resident in the island of Ireland for a period of not less than 3 years or periods the aggregate of which is not less than 3 years.

(2) This section does not apply to—

(a) a person born before the commencement of the *Irish Nationality and Citizenship Act 2004*,

(b) a person born in the island of Ireland—

(i) to parents at least one of whom was at the time of the person’s birth an Irish citizen or entitled to be an Irish citizen,

(ii) if the person was born to parents one of whom was deceased at the time of the person’s birth and—

(I) the other parent was at that time, or

(II) the deceased parent was, immediately before he or she died,

an Irish citizen or entitled to be an Irish citizen, or

(iii) if the person was born to parents both of whom were deceased at the time of the person’s birth, and at least one of whom was, immediately before his or her death, an Irish citizen or entitled to be an Irish citizen,