An Bille Inimirce (Athchóiriú) (Stádas Cónaithe a Thabhairt chun Rialtachta), 2014

Immigration (Reform) (Regularisation of Residency Status) Bill 2014

Mar a tionscnaíodh

As initiated
AN BILLE INIMIRCE (ATHCHÓIRÍÚ) (STÁDAS CÓNAITHE A THABHAIRT CHUN RIALTACHTA), 2014
IMMIGRATION (REFORM) (REGULARISATION OF RESIDENCY STATUS) BILL 2014

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[No. 94 of 2014]
ACTS REFERRED TO

Air Navigation and Transport Act 1946 (No. 23)
Aliens Act 1935 (No. 14)
Health Acts 1947 to 2007
Housing Acts 1966 to 2009
Immigration Act 1999 (No. 22)
Land Act 1965 (No. 2)
Mercantile Marine Act 1955 (No. 29)
Refugee Act 1996 (No. 17)
Social Welfare Consolidation Act 2005 (No. 26)
Bill

entitled

An Act to provide for the regularisation of the residency status of persons who have applied for refugee status and/or subsidiary protection if four years following the submission of such an application the application remains undetermined and to provide for related matters.

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement
1. (1) This Act may be cited as the Immigration (Reform) (Regularisation of Residency Status) Act 2014.

(2) This Act comes into operation three months after the date of its passing.

Interpretation
2. In this Act—

“asylum” has the meaning assigned to it in the Refugee Act 1996;

“child” means a child of the applicant, or a child of his or her spouse, or a child of his or her civil partner;

“deportation order” means a deportation order which has been issued under section 3 of the Immigration Act 1999 which deportation order is subsisting;

“immediate family member” means a spouse, civil partner or any child of an applicant under section 6;

“Minister” means the Minister for Justice and Equality;

“subsidiary protection” has the meaning assigned to it in regulation 2 of European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006) and
Regulations

3. (1) The Minister may make regulations—
   (a) prescribing any matter which is referred to in this Act as prescribed or to be
       prescribed, or
   (b) for the purposes of enabling any provision of this Act to have full effect.

(2) Every regulation or order made by the Minister shall be laid before each House of the
    Oireachtas as soon as practicable after they are made and, if a resolution annuling the
    regulation, order or rules is passed by either House within the next subsequent 21
    days on which that House has sat after the regulation, order or rules are laid before it,
    the regulation, order or rules shall be annuled accordingly, but without prejudice to
    the validity of anything previously done thereunder.

(3) Regulations made under this Act may—
   (a) include such consequential, incidental, transitional or supplementary provisions
       as may be considered by the Minister, as the case may be, to be necessary or
       appropriate for the purposes of this Act, and
   (b) apply, either generally or by reference, to a specified class or classes of persons
       or category or categories of licensees or to any other matter as may be considered
       by the Minister to be appropriate.

PART 2

IMMIGRATION REFORMS

Application of this Act

4. (1) This Act shall only apply to a person who satisfies the requirements specified in
    subsection (2) and (3), or is part of the applicable group provided for in subsection
    (4).

(2) The requirements specified by this subsection are as follows—
   (a) the person has submitted an application for asylum under section 8 of the
       Refugee Act 1996, or
   (b) the person has submitted an application for subsidiary protection under regulation
       4 of European Communities (Eligibility for Protection) Regulations 2006 (S.I.
       No. 518 of 2006) or regulation 3 of European Union (Subsidiary Protection)
       Regulations 2013 (S.I. No. 426 of 2013), or
   (c) the person has made an application for leave to remain under section 3 of the
       Immigration Act 1999.

(3) The requirements specified by this subsection are that a period of four years or more
    has elapsed since the application referred to in subsection (2) was submitted to the
Minister and no decision has yet been made and communicated to the applicant in respect of that application.

(4) The applicable group—

(a) includes any immediate family member of an applicant irrespective of whether that immediate family member meets the requirements provided for in subsection (2) or (3),

(b) but does not include any person in respect of whom a deportation order has been issued on or before the date of the commencement of this Act, subject to section 5, and to whom subsection (3) does not apply.

(5) In this section—

“applicant” means a person who has made an application referred to in subsection (2);

“decision” refers to a final determination in respect of an application for asylum or subsidiary protection.

Persons with a subsisting deportation order

5. Where a person is subject to a deportation order he or she shall be precluded from deriving any entitlement or benefit under this Act, unless each of the following conditions are met—

(a) the deportation order was not effected within one year of its initial issuance, and

(b) there is no reasonable degree of likelihood that the deportation order will be effected within six months of the submission of an application under section 6(1) or an application for renewal under section 6(3).

Automatic recognition of residency status

6. (1) Once a person satisfies the requirements of section 4 and the person is not precluded under section 5, the Minister shall, on foot of an application made to him or her under this section, issue a residence permit to that person and also to immediate family members of that person.

(2) An application which is made under subsection (1) shall be processed and a final decision issued within six months of the date on which a duly completed application has been received.

(3) A residence permit which is issued under this section shall be—

(a) valid for a period of not less than three years, and

(b) be renewable, subject to the provisions of section 5.

(4) An application under subsection (1) or an application for renewal under subsection (3) shall be made using the prescribed form.

Rights of regularised persons

7. (1) A person who is the holder of a current valid residence permit which has been issued under section 6 shall be entitled to the same rights and privileges as those conferred
by law on persons generally who are not Irish citizens (as distinct from such rights or privileges conferred on any particular person or group of such persons).

(2) Without prejudice to the generality of subsection (1), a person who is the holder of a current valid residence permit which has been issued under section 6 shall—

(a) be entitled to reside in the State,

(b) enjoy the same rights of travel within, or to or from the State as those to which Irish citizens are entitled,

(c) have the same freedom to practise religion and the same freedom as regards the religious education of his or her child as those to which Irish citizens are entitled,

(d) be entitled to seek and enter into employment or to carry on any business, trade or profession in the like manner and to the like extent in all respects as an Irish citizen,

(e) the right to form and be a member of any association or trade union in the like manner and to the like extent in all respects as an Irish citizen,

(f) have access to the courts in the like manner and to the like extent in all respects as an Irish citizen,

(g) have access to education and training in the State in the like manner and to the like extent in all respects as an Irish citizen,

(h) be entitled to receive, upon and subject to the terms and conditions applicable to Irish citizens, the same medical care and services as those to which Irish citizens are entitled, and

(i) be entitled to receive, upon and subject to the terms and conditions applicable to Irish citizens, the same social welfare benefits as those to which Irish citizens are entitled.

(3) Without prejudice to the generality of subsection (1), or section 3 of the Aliens Act 1935, and notwithstanding anything contained in section 45 of the Land Act 1965, section 16 of the Mercantile Marine Act 1955, or an order under the Air Navigation and Transport Act 1946, a person issued with a residence permit under section 6(3) of this Act shall be entitled to acquire, hold, dispose or otherwise deal with real or personal property or an interest in such property in the like manner, to the like extent and subject to the like obligations and limitations as an Irish citizen.

(4) In this section “social welfare benefits” includes any payment or services provided for in or under the Social Welfare Consolidation Act 2005, the Health Acts 1947 to 2007, and the Housing Acts 1966 to 2009.

Exclusions

8. (1) In respect of a residence permit which has been granted under section 6, the Minister may—

(a) revoke the residence permit, and

(b) issue a deportation order,

where one or more of the following circumstances arise:
(i) the person has been ordered by a court in the State to serve a term of imprisonment of one year or more;

(ii) the deportation of the person has been recommended by a court in the State before which such person was convicted of any crime or offence which carries a term of imprisonment (effected or suspended) of more than one year;

(iii) the deportation of the person would in the opinion of the Minister, be conducive to the common good;

(iv) the person was committed to prison in a former country of origin or previous country of residence for a period of one year or more, provided that—

(I) such an offence is also a criminal offence in this country,

(II) the decision to impose a term of imprisonment was taken by an independent judicial authority,

(III) the person had benefit of legal advice and legal representation or had declined an opportunity to accept such advice or representation,

(IV) the court in which this sentence was delivered was one that, in the specifics of the particular case, was seeking to uphold the rule of law;

(v) the person has falsified or concealed information in an application made under section 6, or in an application for asylum, an application for subsidiary protection, or an application for leave to remain.

(2) Where the Minister proposes to exercise the power provided for in subsection (1), he or she shall—

(a) inform the person who it is proposed will be subject of that decision, and

(b) shall have regard to the following:

(i) any representations made by the individual in response to the proposal;

(ii) the length of residence of the individual in the State;

(iii) employment record (if any) in the State;

(iv) the right of that individual to enjoy family life, and in particular the right of any children to the care and company of parent(s) or guardians;

(v) humanitarian considerations;

(vi) the common good; and

(vii) considerations of public policy or national security.

(3) Where a person has been informed under subsection (2)(a) of the proposal by the Minister to exercise his or her power under subsection (1), a final decision on the exercise of that power shall be notified to the person within six months of the initial communication by the Minister under subsection (2)(a).

(4) For the avoidance of doubt, the power contained in subsection (1)—

(a) is in addition to any other power of the Minister,

(b) is exercisable at any time any time after an application has been submitted under
section 6, and

(c) is exercisable at any time after a residence permit has been granted or renewed under section 6.
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BILLE
(mar a tionscnaíodh)
dá ngairtear

An Act to provide for the regularisation of the residency status of persons who have applied for refugee status and/or subsidiary protection if four years following the submission of such an application the application remains undetermined and to provide for related matters.

Introduced by Senators David Norris, Fiach Mac Conghail and Sean D. Barrett,
16th October, 2014