

## UNDOCUMENTED MIGRANTS

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### 1. What is an undocumented migrant?

An undocumented migrant is someone who is residing in Ireland without legal permission to be here. For example, you may be undocumented in Ireland if:

- You need a visa to come into Ireland and came here without one
- You may have come to Ireland as a migrant worker or a student but now your permission to stay has run out and you do not have an up-to-date residence permit for a number of reasons
- You may have entered Ireland voluntarily or may have been brought here against your will

### 2. What is a "Section 3" letter?

If you are not a European Economic Area\* or Swiss national and are living in Ireland without permission and you come to the attention of the Department of Justice, you may be sent a letter called a 'Section 3 letter'. This letter states that the Minister for Justice is considering issuing you with a deportation order.

However, this letter is itself **not a deportation order** and if you receive it you will not be deported from the country immediately. It does mean that the Minister is giving you a warning that he/she intends to deport you within a certain period and is now giving you three options as to how to proceed.

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\* The EEA stands for the European Economic Area includes the countries of the European Union as well as Norway, Iceland and Liechtenstein.

It is very important that, if you receive a 'Section 3 letter', you read it carefully and respond to it **within 15 working days**. If you do not respond in writing to the Department of Justice, you will eventually receive a deportation order and you may be arrested and forcibly removed from the State.

◆ **Which options do I have when receiving a "Section 3" letter?**

When you receive this letter, it will state that you have three options as to how to respond:

1. You can make representations to the Minister in writing to ask him/her to grant you permission to stay in Ireland
2. You can choose to return voluntarily to your country of origin
3. You can agree to be deported from Ireland

It is imperative that you respond to the Minister in any of the above situations, even if you decide to return voluntarily.

### **3. Making representations to the Minister for leave to remain**

If you wish to ask the Minister for Justice for permission to remain in Ireland for exceptional reasons, you will need to write to him/her stating why you believe he/she should allow you to stay.

Please note, permission to remain on exceptional grounds is rarely granted and you should be aware that your application is likely to be turned down.

You will need to mention the following points in your letter of application and the Minister will consider these matters when deciding whether to grant you permission to remain in Ireland for exceptional reasons:

- Your age
- Your length of time in Ireland
- Your family and domestic circumstances
- The nature of your connection with Ireland, if any (what you have been doing while in Ireland)
- Your employment (including self-employment) record up to now
- Your employment (including self-employment) prospects for the future
- Your character and conduct while in the State (where relevant) and outside of the State (including any criminal convictions)
- Humanitarian considerations (for example, health problems for which you need treatment that is not available in your country of origin; or other difficulties in your country of origin which prevent you from returning there)
- Considerations of national security and public policy
- The 'common good'
- Any representations (letters explaining why you should be allowed to stay) made by you or on your behalf. For example, you may want to ask friends, colleagues or influential members of the community who know you to give

- you character references or letters of support, explaining why they believe you should be allowed to stay in the State. The Minister is obliged to consider all representations and letters of support he/she receives.

#### ◆ **What documents should I include with my application?**

You should include all relevant documents in support of your application for permission to remain. This could include previous work permits, student visas, evidence of employment, evidence of identity, any evidence of ongoing humanitarian or security concerns in your country of origin, or letters of support.

#### **4. Returning voluntarily to your country of origin**

This option allows you to return voluntarily to your country of origin, without waiting for the Government to issue you with a deportation order. If you take this option, it means that you can apply to enter Ireland again at another time in the future.

For more information, please contact the International Organisation of Migration (IOM) at [www.iomdublin.org](http://www.iomdublin.org) before you make a decision and to assist you if you decide to return voluntarily to your country of origin.

#### **5. Consenting to deportation**

The third option available to you is to consent to deportation by going to your nearest Garda (police) station.

Please note, you should consider your situation carefully and obtain legal advice before consenting to deportation, as your details will be held on file in a European database and you will not be allowed to re-enter Ireland or another EU country at any time in the future.

#### **6. What happens if I am granted permission to remain in Ireland?**

The Minister for Justice may decide to grant you permission to remain in Ireland on exceptional grounds. This permission will usually be granted for an initial period of one year. You will be issued with a letter setting out the conditions attached to your permission to remain in Ireland.

You will need to register with the immigration authorities. If you live in Dublin, you should register with the Garda National Immigration Bureau (13-14 Burgh Quay, Dublin 2). If you live outside Dublin, you should register with the main Garda (police) station in your local area.

You will be given a Certificate of Registration (also known as a 'GNIB card') when you register which will have an expiry date on it and your passport will be stamped accordingly. You will generally be permitted to work in Ireland once you are granted permission to stay in the country.

## **7. How do I renew my permission to remain?**

If you wish to have your permission to stay in the country extended, you will need to apply to have your permission to remain renewed before the expiry date on your Certificate of Registration. There is no guarantee that your application will be renewed.

In order to renew your permission to remain in Ireland, you should apply in writing **at least 6 weeks before the expiry date**. Unless otherwise stated, your application for renewal should be sent to the Irish Naturalisation and Immigration Service, Department of Justice, Equality and Law Reform, 13-14 Burgh Quay, Dublin 2. You should inform the Department of any changes in your circumstances, including any changes in the situation of your country of origin, when you make the application to renew your permission to stay.

## **8. What happens if I am refused permission to remain in Ireland?**

If the Minister decides not to grant you permission to stay in Ireland, you will be informed of this decision in writing and you will be issued with a deportation order. If you receive a deportation order, you will be liable to forced removal from the State.

It is possible to challenge the issuing of a deportation order only on the basis of an 'error of law' through the initiation of High Court proceedings. However, legal advice should be sought before doing so. Any such challenge would have to be brought within 14 days from the notification of the deportation order. Please note that the initiation of High Court proceedings do not automatically suspend the enforcement of the deportation order

You may request that the Minister revoke the deportation order by writing to the Ministerial Decisions Unit, Irish Naturalisation and Immigration Service, 13-14 Burgh Quay, Dublin 2, if there is a change in your circumstances or other relevant information. However, legal advice should be sought before making such an application. If the Minister refuses to revoke a deportation order, the only way to challenge this is to apply to have the refusal judicially reviewed in the High Court on a point of law. However, any such proceedings do not automatically suspend the enforcement of the deportation order.

## 9. Where can I get more information?

For more information on the rights of undocumented migrants, please contact the ICI's Information and Support Service.

You can also find more information on the rights of undocumented migrants by visiting the Platform for International Cooperation on Undocumented Migrants (PICUM) website at [www.picum.org](http://www.picum.org). PICUM is a Brussels-based non-governmental organisation.

ICI Information and Support Service contact details:

### Contact Details

Our Information and Support Service can be contacted by telephone on **(01) 674 0200 on Mondays, Tuesdays, Thursdays and Fridays from 10 to 12.30pm and from 2pm to 4.30pm**. Clients with general enquiries may be referred to another agency for assistance.

Clients with complex cases may be offered an appointment to speak to an Information and Support Officer in person on a confidential basis.

From January 2009, consultations with Information and Support Officers will be **by appointment only**.

Immigrant Council of Ireland  
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