

LMA 7



**An Roinn Dlí agus Cirt
agus Comhionannais**
Department of Justice
and Equality

INFORMATION BOOKLET

LABOUR MARKET ACCESS FOR INTERNATIONAL PROTECTION APPLICANTS

Permission to access the labour market

The Government announced in November 2017 that the State would grant effective access to the labour market for eligible international protection applicants. This access to the labour market has been facilitated by Ireland opting into the EU (recast) Reception Conditions Directive (2013/33/EU).

Eligible international protection applicants can apply for access to the labour market from the first week of July 2018 by way of a permission from INIS, operating on behalf of the Minister for Justice and Equality.

Eligibility

You are eligible to apply if:

1. You are an international protection applicant; and
2. You have not received a first instance recommendation; and
3. You are cooperating with the international protection process – delays in receiving a recommendation must not be due to any actions taken by you.

The permission will allow access to employment and self-employment and will be valid for six months. It may be renewed if the applicant has not received a final decision (i.e. after any appeals) on their protection application within this timeframe.

Application forms are available on the INIS website.

Temporary self-employment scheme

Since 9 February 2018, international protection applicants have had temporary access to the employment permits system operated by the Department of Business, Enterprise and Innovation. Applicants could also apply for a self-employment permission from the Department of Justice and Equality.

As announced at the time, these measures were temporary, while we awaited confirmation by the European Commission of our opt-in to the EU Reception Conditions Directive, which has now been confirmed. **This scheme closes for new applications from after June 2018.**

If you have a self-employment permission under the temporary scheme, and you have not received a first instance recommendation on your protection application, INIS will automatically issue you with a letter of permission to access the labour market (covering both employment and self-employment) for a period of six months. **You do not need to make a new application.**

If you have a self-employment permission, and you **have received a first instance recommendation, but not a final decision** on your protection application, you can renew your self-employment permission until you receive a final decision. The renewal form is available on the INIS website.

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1 About this permission

The granting of a permission to access the labour market, or the acceptance of any statement made by the protection applicant in the course of his or her application for permission to access the labour market, will not prejudice the outcome of, or have any bearing upon, the international protection process.

Applicants are not permitted to be employed in the Defence Forces, An Garda Síochána, or the Civil or Public Service. The Minister may amend this list at his discretion.

The information provided in the application for permission to access the labour market may be disclosed to other Government Departments, An Garda Síochána and State agencies which provide labour market or related services in order to verify the information provided in the application, including the protection applicants' identity and entitlement to access State supports. Details of your employment may be verified with your employer. Information concerning any permission granted may be disclosed to third parties for the purposes of verifying the validity of the permission.

2 Eligibility and conditions

To access the labour market you must be waiting on a first instance recommendation on your protection application for 9 months or more (applications are accepted after 8 months). Any delay must not be as a result of your own actions. (For example, you must have made reasonable efforts to establish your identity, and have cooperated with the protection process). The International Protection Office may be asked to confirm that these statements made by you are true. You must also register with the Revenue Commissioners and be tax compliant.

If you have received a transfer decision to another EU Member State to examine your application for international protection under the Dublin Regulation, you are not eligible for permission to access the labour market.

If your application for international protection has been transferred to the State from another EU Member State, the nine month period for the purposes of the eligibility criteria only starts when you make, or are deemed to have made, an application for protection under the International Protection Act 2015. Periods of time spent in other EU Member States will not be counted for the purpose of determining eligibility.

3 How to apply

You can access the application form on the INIS website.

To receive a hard copy, you can write to the INIS Labour Market Access Unit at PO Box 12931, Freepost FDN5264, Dublin 2 or email Imauqueries@justice.ie. The application form will be posted to the address held on file for you by the IPO.

An applicant who has not received a first instance recommendation in respect of his or her international protection application **within 8 months** may apply for permission to access the labour market. The permission, if granted, will be valid after 9 months.

You must include a clear copy of your valid and in-date temporary residence certificate (TRC) with your application form, if you are 18 years of age or above, and if you ever received one from the IPO. If you are submitting your application online, this should be scanned and attached to your application.

You must sign the declaration on the application form to confirm that these statements are true. These details may be verified with the International Protection Office.

Applying by email:

If submitting the form by email, you must print a copy of the completed form, sign it, scan it, and email it to Imauapplications@justice.ie.

Incomplete or unsigned applications cannot be processed.

Applying by post:

Completed application forms, along with all required documents, can be submitted by post to INIS Labour Market Access Unit, PO Box 12931, Freepost FDN5264, Dublin 2.

4 Approved permissions

If your application is approved, you will be granted a permission to access the labour market. This permission is printed double-sided on watermarked paper with your photograph and validity period included and must be presented in this format to your employer or to any relevant bodies should you engage in employment or self-employment. The permission is only valid when presented along with a valid, in-date Temporary Residence Certificate (TRC Card), unless you are under the age of 18 and have not received one.

Your permission will be posted to the address currently held on file for you by the International Protection Office (IPO). If you have changed your address you must inform the IPO* before applying for a permission to access the labour market. This permission will expire immediately if you get a final decision on your protection application within the validity period. This permission may be renewable for further periods if you are still awaiting a final decision on your protection application. Please note that this permission is not an identity document.

* **Postal address:** International Protection Office, Irish Naturalisation and Immigration Service, 79-83 Lower Mount St., Dublin 2, D02ND99. Phone: +353 1 602 8008.

5 Renewing your permission

To request a renewal, you should apply one month in advance of the expiry date on your permission.

The application form for renewal of your permission is available on the INIS website.

Completed renewal forms, along with all required documents, can be submitted by post to INIS Labour Market Access Unit, PO Box 12931, Freepost FDN5264, Dublin 2.

You may also email the signed renewal form and accompanying documents to lmauapplications@justice.ie.

Your Personal ID number and original Permission number must be entered on the renewal form. Incomplete or unsigned renewal forms cannot be processed.

The renewal of permission letter is not an identity document.

6 For employers

Employers must verify that an applicant holds a valid, in-date labour market access permission before employing the applicant. An official permission has the following security features:

- Colour photograph;
- Double-sided on watermarked paper;
- Features a unique permission number;
- Signed on both sides by the officer who has approved the permission; and
- Clearly shows the validity period.

An employer who employs an applicant who holds a labour market access permission must inform the Minister for Justice and Equality within 21 days that the applicant has been employed, and within 21 days of the employment ceasing. Declaration forms for this purpose will be provided to eligible applicants along with their permission letter. These forms can also be accessed on the INIS website.

The forms should be sent to:

Reception and Integration Agency

P.O. Box 11487

Dublin 2

An employer who employs a permission holder must keep a record of the employment concerned, the duration of the employment, the particulars the labour market permission, and details of the remuneration paid to the applicant for a period of 3 years. If the employer receives notification of a withdrawal of the labour market permission, these records must be kept for a period of 6 months from receipt of that notification, and shall

provide these to the Minister within 10 days of being requested to do so.

Employers will be required to apply 'the 50-50 rule' when employing eligible applicants. This rule requires employers to show that at least 50% of their employees are EEA or Swiss nationals.

An employer of more than one foreign national, or holder of a labour market access permission must, at the Minister's request, furnish the Minister with a record of the numbers employed of:

(a) nationals of a Member State of the EU, EEA, or Switzerland, and

(b) foreign nationals who hold an employment permit, or applicants who hold a labour market access permission.

An employer who fails to comply with any obligations under the Directive shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both.

7 Self-employment under the Directive

An applicant must hold a valid, in-date labour market access permission before engaging in self-employment.

An applicant who holds a labour market access permission shall comply with the law in relation to any area of self-employment in which he or she works, and shall not employ any other person, nor enter into a partnership with any other person.

An applicant who holds a labour market access permission must inform the Minister within 21 days of engaging in self-employment, and within 21 days of the employment ceasing. Declaration forms for this purpose will be provided to eligible applicants along with their permission letter. These forms can also be accessed on the INIS website. The forms should be sent to:

Reception and Integration Agency, PO Box 11487, Dublin 2

An applicant who fails to comply with Regulation 11(1)(a) of the European Communities (Reception Conditions) Regulations 2018 shall be guilty of an offence and shall be liable on summary conviction to a class D fine or imprisonment for a term not exceeding 1 month, or both.

8 Useful contact details

See full list of websites and contacts

Organisation/ Department	Contact Details
Labour Market Access Unit Queries	Email: lmiauqueries@justice.ie
Labour Market Access Unit – Email address for Applications	Email: lmiauapplications@justice.ie
Office of the Revenue Commissioners	https://www.revenue.ie/en/starting-a-business/index.aspx
Citizens Information	http://www.citizensinformation.ie/en/ Tel: 0761 074000
Department of Employment Affairs and Social Protection	www.welfare.ie Intreo Centres, Local and Branch Offices
Education and Training Boards	http://www.etbi.ie/etbs/directory-of-etbs/
International Protection Office	http://www.ipo.gov.ie/
Department of Transport, Tourism and Sport	http://www.dttas.ie/
Department of Finance	http://www.finance.gov.ie/

9. Frequently asked questions and definitions

For more information about the protection process in Ireland, please visit the Irish Naturalisation and Immigration Service (INIS) website: <http://www.inis.gov.ie/en/INIS/Pages/asylum-status-eligibility>

International Protection

There are two forms of international protection covered by the International Protection Act 2015, namely refugee status and subsidiary protection.

Refugee Status

A refugee is someone who has been forced to flee his or her country because of persecution, war, or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group.

Subsidiary Protection

If you do not qualify to be a refugee but you are at risk of serious harm if sent home, you may be given a status called *Subsidiary Protection*.

First instance recommendation:

The International Protection Office will prepare a recommendation stating that you should be given:

- A refugee declaration; or
- A subsidiary protection declaration; or
- Neither

If you are refused either declaration you will be sent information on how to appeal this recommendation to the International Protection Appeals Tribunal (IPAT).

Final decision:

A final decision is made when all appeals procedures, including any judicial review proceedings, are concluded.

➤ **Can I access further education and training?**

Access to the labour market may allow for access to further education or training (FET) or third level courses that have an employment, vocational or workplace-training component. Your letter of permission from the Minister to access the labour market can be used as proof of your eligibility to work. Information regarding Further Education and Training can be obtained at your local Education and Training Board (ETB), or your local Intreo Centre or your Local Employment Service (LES).

While access to the majority of these programmes is free of charge, participation in Post Leaving Certificate and higher education programmes will continue to be subject to the payment of fees.

➤ **Will I qualify for social welfare payments?**

As an international protection applicant with a right to access the labour market, you may have entitlement to the following Department of Employment Affairs and Social Protection supports:

- Employees with children who have been granted a work permit and are in full time employment (38 hours per fortnight or more), may qualify for the Working Family Payment (formerly known as Family Income Supplement), subject to satisfying the eligibility criteria. This scheme is subject to a means test.
- If you are an employee earning more than €38 per week you will pay Class A PRSI (Pay Related Social Insurance) contributions. Your employer will pay a PRSI contribution for you and you will also pay a PRSI contribution once your earnings go over €352 per week. Class A employees may qualify for the full range of social insurance payments subject to meeting the qualifying conditions.
- If you have been granted permission to engage in self-employment, and are self-employed, you will pay a Class S contribution once your income exceeds €5,000 per year. Class S contributions cover self-

employed people for certain social insurance payments subject to satisfying the qualifying conditions.

- Details of PRSI contribution rates and benefits can be found at http://www.welfare.ie/en/downloads/SW19_18.pdf

Access to the labour market does not automatically lead to eligibility for any social welfare payment. As an international protection applicant, you do not satisfy the habitual residence condition, which is an eligibility requirement for certain social welfare assistance payments, including Jobseeker's Allowance.

Further information is available on www.welfare.ie.

➤ **Can I access Public Employment Services?**

Yes, you can access Public Employment Services through your local Department of Employment Affairs and Social Protection Intreo Centre who may support you in seeking further education, training and employment.

➤ **I am under 18 years of age, am I eligible for permission to access the labour market?**

An applicant who is under 18 may apply for a permission for the purpose of allowing the applicant to work in accordance with European Communities (Reception Conditions) Regulations 2018 and the Protection of Young Persons (Employment) Act 1996.

➤ **Do I have to live in accommodation provided under the Direct Provision system apply?**

No. All eligible applicants, regardless of whether or not they are living in accommodation provided under the system of Direct Provision, can apply for permission to access the labour market.

- **If I am working, can I remain in the accommodation provided to me under the Direct Provision system?**

If you are working, this may affect your entitlements to the range of support services available to you from the State as a non-working person seeking international protection.

People with their own means are able to source and provide their own accommodation and may no longer be dependent on the State's Reception Centres.

- **If I am working, will my daily expenses allowance be affected?**

Yes, if you are in receipt of sufficient earnings to support yourself financially, your daily expenses allowance will be affected. The earnings of protection applicants residing in Direct Provision accommodation will be assessed for the purposes of determining entitlement to payment of the allowance.

- **If I am working, will I have to contribute towards the cost of my accommodation?**

A contribution towards the costs of your Direct Provision accommodation and related supports will be required if you have sufficient income, including if you have been working for a reasonable period, and your daily expenses allowance has been withdrawn. This will be done by assessing your income.

The contribution will be capped at the cost to the State of providing the accommodation. There will be no contribution required for children.

Your contribution will be calculated based on the table below:

	(2) Weekly income	(3) Proportion of weekly cost of €238.00 for accommodation services payable by recipient	(4) Contribution payable by recipient
1	Up to €97.00	€0.00	€0.00
2	From €97.01 to €150.00	€15.00 per resident in receipt of income	€15.00
3	From €150.01 to €210.00	15% of weekly cost of accommodation services - €35.70	€35.70
4	From €210.01 to €275.00	25% of weekly cost of accommodation services - €59.50 per person	€59.50
5	From €275.01 to €340.00	35% of weekly cost of accommodation services - €83.30 per person	€83.30
6	From €340.01 to €405.00	50% of weekly cost of accommodation services - €119.00 per person.	€119.00
7	From €405.01 to €470.00	65% of weekly cost of accommodation services - €154.70 per person	€154.70
8	From €470.01 to €535.00	75% of weekly costs of accommodation services - €178.50 per person	€178.50
9	€535.01 to €600.00	85% of weekly costs of accommodation services - €202.30 per person	€202.30
10	€600.01 or over	100% of weekly costs of accommodation services - €238.00 per person	€238.00

➤ Can I open a bank account?

The EU Payment Accounts Directive **(i)** was transposed in Ireland by way of the European Union (Payment Accounts) Regulations 2016 **(ii)**. As a result, since 18 September 2016, any consumer who is legally resident in the European Union and who does not already have a payment account with a credit institution in the State has the right to open and use a payment account with basic features.

Regulation 15 of the European Union (Payment Accounts) Regulations 2016 explicitly states that a consumer who is legally resident in the European Union (within the meaning of Article 2(2) of the EU Payment Accounts Directive) **(iii)** has this right regardless of his or her place of residence and regardless of whether he or she has a fixed address, is an asylum seeker, or is a consumer who has not been granted a residence permit but whose expulsion is not possible for legal or practical reasons.

A payment account with basic features is like a regular payment account in several respects, but does not offer credit facilities i.e. overdrafts. All of the credit institutions provide payment accounts with basic features. These accounts are free of charge for the first year for regular payment transactions in euro within the European Union. The credit institution may charge a reasonable fee for non-euro transactions and transactions to non-EU countries.

Where the consumer lodges less than the equivalent of national minimum wage to the account in a year (currently €19,240) the account stays free of charge on a year-by-year basis for five years. After that, the credit institution can charge reasonable fees.

When opening a bank account the standard documentation which may be used for the purpose of verifying identity is one item of photographic ID (typically to verify name and date of birth) and one item of non-photographic IDs (typically to verify address). This does not prevent the use of two documents under the heading "Photographic ID" for the identification of name, date of birth and address. Depending on the risk assessment of the customer, additional ID verification may be required.

Guidelines on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing are available on website of the Department of Finance (**iv**).

Appendix 2 of these guidelines is a non-exhaustive and non-mandatory list of alternative documents that can be used to verify identity in circumstances where a prospective customer cannot, for justifiable reasons, meet the standard identification and verification requirements, or has experienced difficulties in the past when seeking to open accounts.

- i. [Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014.](#)
- ii. [S.I. No. 482 of 2016.](#)
- iii. "legally resident in the Union' means where a natural person has the right to reside in a Member State by virtue of Union or national law, including consumers with no fixed address and persons seeking asylum under the [Geneva Convention of 28 July 1951 Relating to the Status of Refugees](#), the Protocol thereto of 31 January 1967 and other relevant international treaties."
- iv. <http://finance.gov.ie/wp-content/uploads/2017/05/Criminaljustice2012.pdf>

➤ **Can I apply for a driving licence?**

Any queries in relation to Irish Driving Licences should be made directly to the Department of Transport, Tourism and Sport. The Department of Justice and Equality has no function or remit regarding driving licences.

➤ **Can I appeal the refusal to grant me permission to access the labour market?**

If you are dissatisfied with a decision of the Labour Market Access Unit, you may, apply for a review of the decision within 10 working days.

The review officer may confirm or amend the decision.

You will be notified in writing of the review officer's decision, and reasons for it.