

FREE FEES INITIATIVE

CRITERIA FOR DETERMINING ELIGIBILITY

Tuition fees may be paid in respect of the full-time students who have been ordinarily resident in an EU/EEA/Swiss State for at least three of the five years preceding their entry to their third-level course and who meet the criteria of the scheme. Eligibility under the scheme is determined at date of entry to the course. Details of the nationality criteria to be applied are listed here.

The scheme is subject to the following conditions:

1. Tuition fees will be paid in respect only of students attending full-time undergraduate courses.
2. The courses must, other than exceptionally, be of a minimum of two years duration.
3. The courses must be followed in one of the eligible institutions.
4. Tuition fees will not be paid in respect of:
 - students pursuing a second undergraduate course.
 - students who already hold a postgraduate qualification.

Notwithstanding this condition and subject to compliance with the other conditions of the Free Fees initiative, students who already hold a Level 6 qualification (Higher Certificate or National Certificate) or a Level 7 qualification (Ordinary Bachelor Degree or National Diploma) and are progressing to a Level 8 (Honours Bachelor Degree) course without necessarily having received an exemption from the normal duration of the course may be deemed eligible for free fees.

5. Tuition fees will also not be paid in respect of students undertaking a repeat year of study at the same year level. In this regard, this condition may be waived where evidence of exceptional circumstances, such as cases of certified serious illness, is provided.
6. Subject to compliance with the other conditions of the Free Fees initiative, students who have previously pursued but have not completed a course of third level study and subsequently resume third level studies:
 - may be deemed eligible for free fees where the third level course concerned did not attract any exchequer funding (e.g. fees, maintenance, tax relief, subsidy towards course cost)
 - are not eligible for free fees for the equivalent period of time spent on the first course of study where the third level course concerned did attract exchequer funding (as above). Part-time and evening students are included in this category.
7. Tuition fees will be paid in respect of eligible students who, having attended but not completed approved courses, are returning following a break of at least five years in order to pursue approved courses at the same level.
8. The tuition fees payable do not include the payment to be made by students towards the cost of registration, examination and student services.

Nationality Criteria

In order to meet the nationality criteria of the Free Fees Initiative students must meet one of the following:

- Students must be a national of
 1. an EU Member State,
 2. a state which is a contracting state to the EEA Agreement,
 3. the Swiss Confederation, or
- Persons who have **official refugee status** in this State. Time spent from date of official lodgement of application papers for refugee status will be included for the purpose of meeting the three year residency requirement. (see Eligibility of Refugees);
- **Family members of a refugee** who are granted permission by the Minister for Justice and Law Reform to enter and reside in the State under Section 18 of the Refugee Act 1996

- Persons who have **permission to remain** in the State as a family member of a Union citizen under the provisions of the European Communities (Free Movement of Persons) Regulations 2006 and 2008 and Directive 2004/38/EC of the European Parliament and of the Council
- Persons who have been granted **Humanitarian Leave to Remain** in the State (prior to the Immigration Act 1999)
- be a person in respect of whom the Minister for Justice and Law Reform has granted **permission to remain** following a determination not to make a deportation order under section 3 of the Immigration Act 1999.

Refugees

Since the coming into force in November 2000 of section 3 of the Refugee Act 1996 (as amended), refugees [sometimes referred to as Convention refugees, to distinguish them from Programme refugees – see 3(b) below] must, for purpose of the free fees initiative, be treated on the same basis as Irish citizens.

This means that a refugee is entitled to be allowed meet the terms of the residency clause in the same manner as an Irish citizen i.e. s/he must have been ordinarily resident in an EU Member State for at least three of the five years preceding his/her entry to the third-level course.

The following points should be noted: –

1. the institution must satisfy itself that the applicant is a refugee for purpose of section 3 of the Refugee Act, 1996 (as amended). The applicant should have received a statement in writing (in the Act referred to as a “declaration”) by the Minister for Justice and Law Reform, declaring that s/he is a refugee under Section 17 of the Act. Documentation such as e.g. possession of a ‘green book’ or other temporary residence certificate, does not establish the status of a person as a declared refugee and should not be accepted as evidence of a person’s status as a refugee.
2. **Programme refugees:** These are persons who are invited to Ireland by the Government usually in response to a humanitarian crisis and at the request of the UNHCR. In general, they have the same rights as Convention refugees and are **therefore entitled to benefit under the free fees initiative on the same basis as an Irish citizen.** The Office for the Promotion of Migrant Integration, under the aegis of the Department of Justice and Law Reform, will provide, on request, a Programme refugee with a letter confirming his/her status.
3. With regard to the residency requirement in the free fees initiative, this has two aspects, namely: –
 1. a residency requirement and
 2. a nationality/citizenship requirement.

The two requirements are separate criteria and the time it takes to acquire citizenship/refugee status may be included as part of the residency time period. For example, periods of residency as an applicant for asylum or as a declared refugee prior to the acquisition of citizenship and entry into third level may be taken into account.

Extract from Section 17(1) of the Refugee Act, 1996 (as amended) reads as follows: –

“...the Minister-

(a) shall...give to the applicant a statement in writing (in this Act referred to as “a declaration”) declaring that the applicant is a refugee...”

Extract from Section 3 (2)(a) of the Refugee Act, 1996 (as amended), reads as follows: –

3 (2)(a)...”a refugee in relation to whom a declaration is in force-

(i)shall be entitled to seek and enter employment, to carry on any business, trade or profession and to have access to education and training in the State in like manner and to the like extent in all respects as an Irish citizen”

Extract from Section 24 of the Refugee Act, 1996 (as amended) reads as follows: –

24.(i) "...a 'programme refugee' means a person to whom leave to enter and remain in the State for temporary protection or resettlement as part of a group of persons has been given by the Government... whether or not such person is a refugee within the meaning of the definition of "refugee" in section 2"

24.(ii) "a programme refugee shall, during such period as he or she is entitled to remain in the State... be entitled to the rights and privileges specified in section 3 [of the Act, see above]"

Family member of an official refugee

The position is that where the Minister for Justice and Law Reform confirms that a person is a family member, or dependent family member, of a refugee and is allowed to remain in the State under Section 18 of the Refugee Act 1996, such family members may be entitled to free fees once they meet the other criteria of the Free Fees Initiative – as long as the principal refugee is allowed to remain in the State.

Such family members, who have been given permission to enter the State, must present themselves to a Garda Registration Office within 90 days of arriving in the State at which time they will be issued with a GNIB (Garda National Immigration Bureau) registration card.

Each institution should have sight of the following original documentation in order to determine eligibility for free fees for such family members of refugees: original letter from Minister for Justice and Law Reform which confirms family member status under Section 18 of Refugee Act 1996, and GNIB registration card,

Residency, for the purposes of the free fees initiative, commences from the date on the GNIB registration card (date of issue).

Persons who have permission to remain in the state

Persons who have permission to remain in the State as a family member of a Union citizen under the provisions of the EC (Free Movement of Persons) regulations 2006 and 2008 and Directive 2004/38/EC of the European Parliament and of the council.

SI 226/2006, as amended by SI 656/2006 and SI 310/2008, gives effect to Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

The Regulations apply to:

1. Union citizens,
2. qualifying family members of Union citizens, who are not themselves Union citizens, and
 1. who seek to enter the State in the company of those Union citizens in respect of whom they are family members or
 2. who seek to join those Union citizens, in respect of whom they are family members, who are lawfully in the State, and
3. permitted family members of Union citizens-
 1. who seek to enter the State in the company of those Union citizens in respect of whom they are family members, or
 2. who seek to join those Union citizens, in respect of whom they are family members, who are lawfully present in the State

Therefore both 'qualifying' and 'permitted' family members of EU migrants who have been granted permission by the Department of Justice and Law Reform to reside in the State are entitled to be considered under the Free Fees Initiative once they meet all other criteria of the scheme (apart from Nationality), at date of entry of their course of study as is the case with all other students, which means that such students must meet the residency requirement of the scheme prior to admission to their course of study.

Where such family members are given permission to reside in the State by the Department of Justice and Law Reform, they would be notified to report to their local immigration officer to have their passport endorsed and will be issued with a residence card bearing the title **4EUFam** (i.e wording denotes the person is a family member of an EU citizen).

Therefore institutions should seek sight of the family members' letter from Department of Justice and Law Reform confirming immigration status, passport and of their Garda National Immigration Bureau (GNIB) Certificate of Residence card, bearing the title **4EUFam**.

It should be noted that a 'stamp 4' is not sufficient for a student to qualify for free tuition fees. The card must bear the title 4EUFam.

Persons who have been granted Humanitarian Leave to Remain

Persons who have been granted Humanitarian Leave to Remain in the State (prior to the Immigration Act 1999); or persons in respect of whom the Minister for Justice and Law Reform has granted permission to remain following a determination not to make a deportation order under section 3 of the Immigration Act 1999

Where a person was granted humanitarian leave to remain in the State prior to the Immigration Act 1999 such persons may be considered for free tuition fees once they meet all other criteria of the scheme.

Upon enactment of the Immigration Act 1999 persons were no longer granted humanitarian leave to remain in the State but may instead be granted permission to remain following a determining by the Minister for Justice and Law Reform not to make a deportation order under section 3 of said Act. Persons with such permission to reside in the State may be considered for free tuition fees once they meet all other criteria of the scheme.

Institutions must have sight of

- original letter from the Department of Justice and Law Reform which should either state that (a) that the person has humanitarian leave to remain in the State (if granted prior to Immigration Act 1999 or (b) that they have been granted permission to remain following a determination not to make a deportation order under section 3 of the Immigration Act 1999
- passport
- Garda National Immigration Bureau (GNIB) Certificate of Residence card

Persons Granted Subsidiary Protection with Permission to Reside in the State

The European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006) provides for the Minister for Justice, Equality and Law Reform to grant subsidiary protection to certain persons. Such persons are then granted permission to reside in the State – Regulation 4(4). A person in respect of whom a determination

under Regulation 4(4) has been made may apply to the Minister for permission to be granted to a member of his or her family to enter and to reside in the State and if the Minister is satisfied that the person who is the subject of the application is a member of the family, or a dependent family member, of the applicant, the Minister may grant permission in writing to the person to enter and reside in the State also – Regulation 16(3)(a) and 16(4)(a). Persons who have been granted a declaration to reside in the State to whom Regulation 4(4) or 16(3)(a) or 16(4)(a) applies are entitled to 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. Therefore any person who has permission to reside in the State by virtue of these regulations should be deemed as having met the nationality clause for free fees purposes. As is the case with Irish/EU/EEA/Swiss nationals/Official Refugees such persons with permission to reside in the state must meet the other criteria of the free fees schemes. Each institution should have sight of the original written documentation from the Minister for Justice, Equality and Law Reform granting the person permission to reside in the State under Regulation 4(4) or 16(3)(a) or 16(4)(a) of S.I. No. 518 of 2006. In relation to the residency requirement of the schemes it should be noted that it is the date of the declaration issuing in respect of subsidiary protection that is the operable date for residency purposes.

Change of Nationality

Entitlement to free fees for non-EEA nationals who acquire EEA citizenship during the course of their third level studies and issues surrounding fee status of non-EEA nationals.

A 'Change of Nationality' clause forms part of the Free Fees Schemes. As is currently the case students, who do not meet the nationality criteria of the schemes, will continue to be ineligible for free fees, however if such students subsequently acquire EEA citizenship during their third level studies they may be entitled to free tuition fees for the remainder of their course of study as follows:

- Students who acquire EEA citizenship up to 31st January in an academic year may be entitled to free tuition fees from the second half of the academic year.
- Students who acquire EEA citizenship from 1st February may be entitled to free tuition fees from the commencement of the next academic year.

In order to be eligible under this 'Change of Nationality' clause students must have met all other criterion of the Free Fees Schemes, apart from nationality, at date of entry to their course of study.

The policy in relation to non-EEA nationals who are not naturalised is

- that such nationals who have approved residence in the State are not eligible for free fees or grants, however once naturalised such persons are regarded as fully meeting the nationality requirements of the schemes.
- that non-EEA nationals without permission to remain in the State (including those still in the asylum process) or those with permission to remain on a short-term or temporary basis (such as work permits or study visas) are not eligible for free fees or grants.