

NEW IMMIGRATION REGIME FOR FULL TIME NON-EEA STUDENTS

Guidelines for Non-EEA Students Registered in Ireland before 1 January 2011

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Introduction

The *'New Immigration Regime for Full Time Non-EEA Students'* which will reform the non-EEA student immigration regime was published on 22 September 2010

The key recommendations include;

- capping the length of time a person can spend in Ireland as a student,
- introducing a differentiated system which will facilitate the targeting of incentives towards the upper end of the academic spectrum,
- the introduction of a statutory quality mark for education providers,
- a tighter inspection regime,
- new guidelines on work placement and internship,
- new proposals regarding Post Study Pathways for high end students, including the extension of the Third Level Graduate Scheme to 12 months for graduates pursuing programmes leading to major awards or equivalent at or above NFQ Level 8 (see the NFQ “fan diagram” at Appendix 1).

These guidelines outline for full time non-EEA students, in Ireland, how the new regime will operate for them.

Note: Students currently in Ireland are still required to register in the normal way. In addition from 1 January 2011 Students will be required to have private medical insurance¹, either personally or through a group scheme operated by your college, at time of registration. Thereafter at every subsequent registration students are required to have proof that they were in possession of private medical insurance for all of the previous registration period by way of a letter of renewal.

¹ The student is required to have Private Medical Insurance at a level that will cover the cost of hospital accommodation.

Degree Programme

What is the Degree Programme?

The Degree Programme refers to full-time, day-time academic courses leading to major awards or equivalent at or above Level 7 of the *National Framework of Qualifications* (see NFQ “fan diagram” at Appendix 1).

There are six types of major award available in Ireland at these levels:

- NFQ Level 7 = Ordinary Bachelor Degree (3 years duration)
- NFQ Level 8 = Honours Bachelor Degree (3-4 years duration)
- NFQ Level 8 = Higher Diploma (1 year duration)
- NFQ Level 9 = Postgraduate Diploma (1 year duration)
- NFQ Level 9 = Masters Degree (1-2 years duration)
- NFQ Level 10 = Doctoral Degree (approximately 4 years duration)

The course that you are going to pursue must be included in the Internationalisation Register administered by the National Qualifications Authority of Ireland (NQAI) (Visit www.nqai.ie for more information).

The maximum time a student may stay in Ireland for the purpose of attending courses at degree level is limited to seven years and students are responsible for managing their studies to ensure compliance with this time limit².

It is not permissible for Students who come to Ireland on a Degree Programme course to enrol in a Non Degree or Language Course³.

Note : The primary purpose for a student to be in the State is to study. It is not permissible for a student to come to Ireland to undertake a part-time course, or a distance learning course.

² An exception to this rule may be made for courses where the programme of study is of such long duration (e.g. medicine) as to make it difficult to complete the course in that time. Also, the Minister may make an exception to the 7 year rule where special circumstances exist (e.g. illness preventing the student from completing their course in time)

³ Students may be permitted to undertake a foundation language course, if required, where this has been arranged in advance and has been clearly stated in any application for a visa or leave to remain. Such language course may be provided by the Higher Education provider or where this is not possible by Quality Assured English Language providers, with whom the Higher Education provider has established a link. The student should continue to be enrolled on their primary course of study with the Higher Education provider.

Language and Non-Degree Programme

What is the Language and Non Degree Programme?

The Language and Non-Degree Programme refers to two types of course.

English Language Course⁴

English Language courses for the purpose of non-EEA Student Immigration must be included in the Internationalisation Register, administered by the National Qualifications Authority of Ireland (NQAI) (Visit www.nqai.ie for more information).

Further Education Non-Degree Course

Further Education courses refer to full-time, day-time academic courses leading to non-school major awards at Level 5 or Level 6 of the *National Framework of Qualifications* (see NFQ “fan diagram” at Appendix 1).

The course that you are going to pursue must be included in the Internationalisation Register administered by the National Qualifications Authority of Ireland (NQAI) (Visit www.nqai.ie for more information).

Maximum length of Time

For the purposes of this programme English language courses will be taken to have a maximum duration of 1 year. Students may enrol on three separate English language courses to a maximum of three years.

The maximum time a student may stay in Ireland for the purpose of attending courses at Language or Non Degree level is limited to 3 years and students are responsible for managing their studies to ensure compliance with this time limit.

It is not permissible for students who come to Ireland on a Language or Non Degree Programme course to enrol in such courses for longer than 3 years.

It is permissible for students who come to Ireland on a Language or Non-Degree Programme course to enrol on a course on the Degree Programme courses leading to major awards or equivalent at or above Level 7 of the NFQ subject to the overall limit of 7 years not being exceeded.

Courses under this programme must be listed on the Internationalisation Register.

Note : It is not permissible for a student to come to Ireland to undertake a part-time course, or a distance learning course.

⁴ Any reference to English language courses should be taken to apply equally to courses in any other language, including Irish, where it is studied at below degree level.

New Regime and Degree Programme Non-EEA Students currently in Ireland

The following section outlines the key points of the new regime and how they will apply to students in Ireland enrolled on the Degree programme.

Degree Level Students in Ireland for less than 7 years on 1 January 2011

From 1 January 2011 legally resident students presenting to immigration authorities seeking an extension of their registration and who have not completed 7 years immigration registration as a student will only be permitted to re-register, on an annual basis for one year up to the end of their seventh year.

If a student is at that point entering the second or subsequent year of their course they will be permitted to complete this course (subject to compliance with any conditions imposed as part of the new regime on 1 January 2011 as regards progression on your course).

Degree Level Students in Ireland for more than 7 years on 1 January 2011

From 1 January 2011 legally resident students presenting to immigration authorities seeking an extension of their registration and who have already completed 7 years immigration registration as a student will only be permitted to re-register if they are commencing their second or subsequent year of a degree programme at NFQ level 7 or above.

They will be permitted to complete this course (subject to compliance with any conditions imposed as part of the new regime on 1 January 2011 as regards progression and attendance at courses) and may be allowed to enrol on a course at Masters or PhD level provided they meet the progression criteria.

Timed out Students

All timed out students (i.e. those who because of the new rules have exceeded the permitted duration of stay as a student) and whose current immigration permission expires between 1 January 2011 and 30 September 2011 will be entitled to a six month special extension of their permission. This 6 month special permission⁵ is non-renewable. At the end of that period the student will have to leave the State unless they have secured another form of immigration permission to remain in the State.

All timed out students will be permitted to work during their 6 months concession period on the same terms as during the academic holidays. Their status will continue to be that of student.

⁵ A temporary permit extending their student permission would be issued (on payment of the registration fee of €150) to cover their residence during this period.

All students availing of the 6 month concession will be permitted to apply for an employment permit or Green card during this time and may, as an exception to the normal rule, do so without first returning to their country of origin.

Such applications will be considered by the Department of Enterprise, Trade and Innovation in accordance with the established criteria for the employment permit and green card schemes. If successful they will be treated in the same manner as any other worker.

At the end of the 6 month extension the student will either be reclassified as a worker with an employment permit (currently Stamp 1) or, should they fail to secure an employment permit in that time, their permission to be in the State will expire.

It would not be permissible to re-register as a student at this point.

NOTE (1): The six month special extension is available to those students who can demonstrate that they have satisfied the attendance requirements of their student permission. Therefore, timed out students whose current immigration permission expires between 1 January 2011 and 30 September 2011, may only be granted the 6 month extension where they can demonstrate a level of 80% attendance at class via a letter from their education provider for their previous registration period. Failure to provide this will result in the student being ineligible for the 6 month extension.

NOTE (2): Students who graduate from courses at Level 7 or above may avail of the Irish Third Level Graduate Scheme (see [Degree Programme Guidelines](#))

New Regime and Language / Non-Degree Programme Non-EEA Students currently in Ireland

The following section outlines the key points of the new regime and how they will apply to students in Ireland enrolled on courses under the Language and Non - Degree programme.

Language and non-Degree Programme who have not exceeded 3 years

Legally resident students whose registration expires on or after 1 January 2011 presenting to immigration authorities seeking renewal of their registration and who have completed less than 3 years registration as a student at that time will be permitted to continue any language or non-degree course on which they are enrolled⁶.

They will also be permitted to register for a further language or other non-Degree course at NFQ 5 or 6 provided that attendance at that course does not extend beyond the new 3 year limit for immigration permission.

Following completion of three years the only way of staying in Ireland as a student will be through the Degree Programme.

Language and non-Degree Programme who have exceeded 3 years

Legally resident students whose registration expires on or after 1 January 2011 presenting to immigration authorities seeking renewal of their registration and who have completed 3 or more years immigration registration as a student will only be permitted to re-register if they are commencing their second year of a non language course at NFQ level 5 or 6.

Courses at NFQ 5 or 6 will be deemed to have a maximum duration of two years.

They will not be registered in respect of a new course.

Following completion of that course the only way of staying in Ireland as a student will be through the Degree Programme.

Timed out Students

All timed out students (i.e. those who because of the new rules have exceeded the permitted duration of stay as a student) and whose current immigration permission

⁶ For the purposes of this programme English language courses will be taken to have a maximum duration of 1 year. Students may enrol on three separate English language courses to a maximum of three years.

For the purpose of this programme Further Education Non-Degree Courses are deemed to have a maximum duration of 2 years.

expires between 1 January 2011 and 30 September 2011 will be entitled to a six month special extension of their permission.

This 6 month special permission⁷ is non-renewable and will be available to all timed out students whose current immigration permission expires between 1 January 2011 and 30 September 2011.

At the end of that period the student will have to leave the State unless they have secured another form of immigration permission to remain in the State.

All timed out students will be permitted to work during their 6 months concession period on the same terms as during the academic holidays. Their status will continue to be that of student.

All students availing of the 6 month concession will be permitted to apply for an employment permit or Green card during this time and may, as an exception to the normal rule, do so without first returning to their country of origin.

Such applications will be considered by the Department of Enterprise, Trade and Innovation in accordance with the established criteria for the employment permit and green card schemes. If successful they will be treated in the same manner as any other worker.

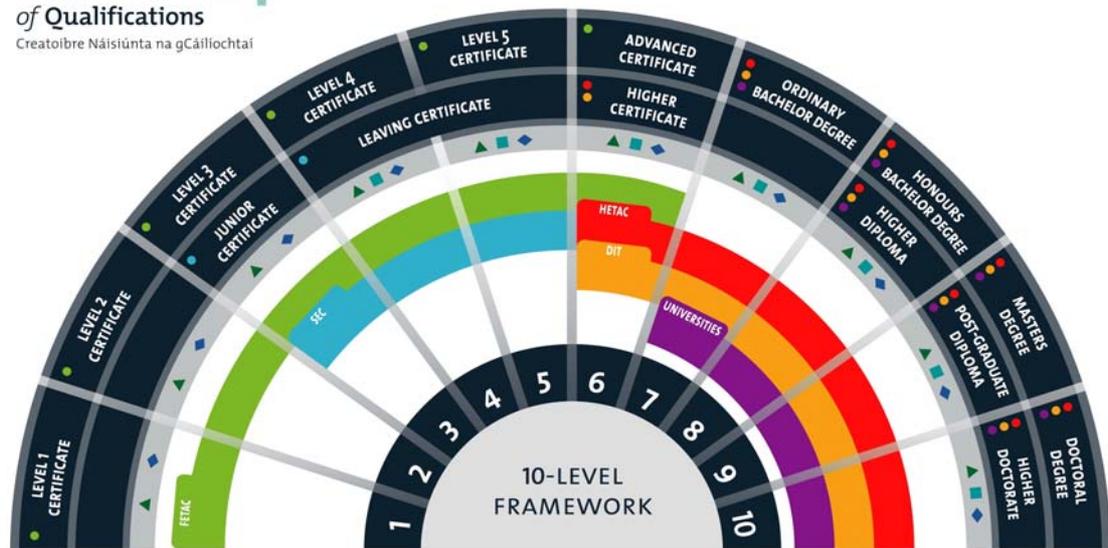
At the end of the 6 month extension the student will either be reclassified as a worker with an employment permit (currently Stamp 1) or, should they fail to secure an employment permit in that time, their permission to be in the State will expire.

It would not be permissible to re-register as a student at this point.

Note: Language and Non-Degree Students who have exceeded the maximum 3 years but have been in Ireland for less than 7 years may extend their student permission through enrolling in a course in the Degree Programme (see Degree Programme Guidelines for full details)

⁷ A temporary permit extending their student permission would be issued (on payment of the registration fee of €150) to cover their residence during this period.

Appendix 1 – National Framework of Qualifications



KEY

- FETAC - Further Education and Training Awards Council
- SEC - State Examinations Commission (Department of Education & Science)
- HETAC - Higher Education and Training Awards Council
- DIT - Dublin Institute of Technology
- Universities

AWARDS IN THE FRAMEWORK

There are four types of award in the National Framework of Qualifications:

- Major Awards: are the principal class of awards made at a level
- ▲ Minor Awards: are for partial completion of the outcomes for a Major Award
- Supplemental Awards: are for learning that is additional to a Major Award
- ◆ Special Purpose Awards: are for relatively narrow or purpose-specific achievement

Appendix 2 –Rules regarding State Benefits

In Ireland there are many forms of State Benefits that are available to people. These include a range of income related benefits, medical cards and other social welfare benefits.

Can I access State Benefits?

No it is not permissible for non-EEA Students to access State Benefits and this is irrespective of eligibility. One of the key conditions applicable to a student coming to Ireland is that you must be able to support yourself and live without claiming state benefits.

Why can I not access State Benefits?

Non-EEA students are admitted to Ireland on the understanding that they will not make claims on State funds and, as outlined above, this is irrespective of eligibility.

From an immigration perspective a person who applies to come to Ireland as a student enters into some form of a contract with the State. Their immigration status is conditional. Moreover the conditions that the State applies are inseparable from the decision to admit them. In other words, the State will only admit the migrant on the basis that they agree to abide by certain conditions. Breach of that "agreement" by the migrant undermines the rationale for admitting them to the State and ultimately the basis of their residence permission.

What happens if I access State Benefits?

Where a student is found to have accessed state benefits this may lead to a student's permission to be in the State being withdrawn by the immigration authorities, on the basis that they have contravened the decision to admit the student.

Appendix 3 - Some Practical Examples for Students

Registration expired on or after 1 January 2011

(a) Language and non-Degree Programme

EXAMPLE 1

Student B - Is a Further Education Student who is enrolled on a 2 year further education course which began in April 2010. The student is registered to 1 April 2011 and has been in Ireland since 1 April 2009 and has also completed one year as an English Language Student.

Implications of the New Regime

Student B will be permitted to enrol for a further year to 1 April 2012. This will facilitate the completion of the Further Education Course.

At that time Student B will have been in the State for three years and will have been enrolled on courses below NFQ Level 7. Student B will only be allowed to enrol as a student in a course at NFQ Level 7 or above.

EXAMPLE 2

Student C - Is an English Language student who is registered up to 1 July 2011. Student C wishes to enrol on a Further Education course commencing in July 2011. Student C has been present in Ireland since 1 July 2007 and has engaged in both English Language and Further Education courses.

Implications of the New Regime

Student C will not be permitted to enrol on any Further Education course. Under the new regime Student C will have completed three years on courses below NFQ Level 7. The Further Education course would constitute enrolment on a new course which is not allowable under the new regime.

Therefore, the only way Student C can remain in Ireland as a student will be as a higher education student enrolled on a course at NFQ Level 7 or above.

(b) Degree Programme Students (NFQ 7 +)

EXAMPLE 1

Student D - Is a higher education student enrolled on an Honours Degree course at NFQ Level 8. Student D has been in the State since 1 September 2004. During that time Student D has been enrolled on English language courses and Further Education courses. Student D began the Honours Degree course on 1 September 2009. The Degree course is a four year course.

Implications of the New Regime

Student D will have been in the State for 7 years on 1 September 2011 and will therefore have reached the maximum time allowable for a non-EEA student to be in the State.

However as Student D is enrolled on a course at NFQ Level 8 and will be beginning year two of that course in September 2010 Student D will be allowed to complete the course. Student D can (subject to the progression and attendance criteria being satisfied) therefore be registered on an annual basis to 1 September 2013.

If, at that time, Student D wishes to remain as a student then he/she must enrol on a course at a higher point on the NFQ scale i.e. in this example on a Masters, NFQ Level 9 or PhD course NFQ Level 10. Student D will not be permitted to enrol on a course at an equal or lower level to the latest course completed.

Alternatively Student D can also avail of the Student Graduate Scheme.

EXAMPLE 2

Student E- Is a higher education student enrolled on an Honours Degree course at NFQ Level 8. Student E has been in the State since 1 September 2002 and has exceeded the maximum time allowed for a student to be in the State under the new regime. Student E began the Honours Degree course on 1 September 2008. The Degree course is a four year course.

Implications of the New Regime

Student E will have been in the State for 7 years on 1 September 2009 and will therefore have reached the maximum time allowable for a non-EEA student to be in the State.

However as Student E is enrolled on a course at NFQ Level 8, and Student E will be beginning year three of that course in September 2010, Student E will be allowed to complete the course. Student E can (subject to the progression and attendance criteria being satisfied) be registered on an annual basis to 1 September 2012.

If Student E wishes to remain as a student then he/she must enrol on a course at a higher point on the NFQ scale i.e. in this example on a Masters, NFQ Level 9 or PhD, NFQ Level 10 course. Student E will not be permitted to enrol on a course at an equal or lower level to the latest course completed.

Student E can also avail of the Student graduate scheme.

Timed out Students

EXAMPLE 1

Student F- Is a Further Education Student who has been in the State since 1 March

2002. Student F is registered up to 1 March 2011. Student F will be completing the second year of the Further Education course in February 2011.

Implications of the New Regime

Student F - will in March 2011 - have been in the State for 9 years as a student. Under the new regime the maximum length of time a student can remain in the State is seven years (except where a student can satisfy the conditions set out in the earlier examples).

In this case Student F is not enrolled on year two or subsequent year of a course at or above NFQ Level 7 and also has completed two years of a further education course.

Student F has also exceeded the maximum time allowable to study in both the degree and non degree sectors. Therefore Student F will not be re-registered as a student.

Instead Student F can avail of a six month special extension to their permission which is available to all timed out students whose current immigration permission expires between 1 January 2011 and 31 June 2011. This 6 month permission⁸ is non renewable.

Student F will be allowed to work during their 6 months concession period on the same terms as during the academic holidays. Their status will continue to be that of student for this six month period.

⁸ A temporary permit extending their student permission would be issued (on payment of the registration fee of €150) to cover their residence during this period.