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*Number 1 of 2004*

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**IMMIGRATION ACT 2004**

**REVISED**

**Updated to 31 January 2018**

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This Revised Act is an administrative consolidation of the *Immigration Act 2004*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Intoxicating Liquor (Amendment) Act 2018 (1/2018)*, enacted 31 January 2018, and all statutory instruments up to and including *Immigration Act 2004 (Visas) (Amendment) Order 2018 (S.I. No. 17 of 2018)*, made 22 January 2018, were considered in the preparation of this Revised Act.

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**Introduction**

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

**Related legislation**

This Act is not collectively cited with any other Act.

**Annotations**

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

**Material not updated in this revision**

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1990, may be found linked from the page of the Act or statutory instrument at [www.irishstatutebook.ie](http://www.irishstatutebook.ie).





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*Number 1 of 2004*

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---

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Application of Act.
3. Appointment of officers.
4. Permission to land.
5. Presence in State of non-nationals.
6. Approved port.
7. Examination and detention of non-nationals.
8. Notices to be displayed on ships, railway trains and passenger road vehicles.
9. Obligation of non-nationals to register.
- 9A. Registration districts and registration officers.
10. Hotel registers.
11. Requirements as to documents of identity and supply of information.
12. Requirements as to production of documents.
13. Offences and power of arrest without warrant.
14. Provision for particular non-nationals.
15. Entry, search and seizure.
16. Amendment of certain enactments.
17. Visa orders.
18. Service of notices.
19. Fees.
20. Regulations and orders.
21. Expenses.
22. Short title.

FIRST SCHEDULE

*Conditions referred to in section 4(3)(c)*

## SECOND SCHEDULE

*Particulars to be furnished on registration*

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ACTS REFERRED TO

Air Navigation and Transport (Preinspection) Act 1986	1986, No. 18
Aliens Act 1935	1935, No. 14
Criminal Justice (Theft and Fraud Offences) Act 2001	2001, No. 50
Diplomatic Relations and Immunities Act 1967	1967, No. 8
Employment Permits Act 2003	2003, No. 7
European Communities Acts 1972 to 2003	
Illegal Immigrants (Trafficking) Act 2000	2000, No. 29
Immigration Act 1999	1999, No. 22
Immigration Act 2003	2003, No. 26
Irish Nationality and Citizenship Act 1956	1956, No. 26
Irish Nationality and Citizenship Act 2001	2001, No. 15
Public Offices Fees Act 1879	42 & 43 Vict., c.58
Refugee Act 1996	1996, No. 17
Road Transport Act 1932	1932, No. 2
Social Welfare (Consolidation) Act 1993	1993, No. 27
Social Welfare (Miscellaneous Provisions) Act 2003	2003, No. 4



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AN ACT TO MAKE PROVISION, IN THE INTERESTS OF THE COMMON GOOD, FOR THE CONTROL OF ENTRY INTO THE STATE, THE DURATION AND CONDITIONS OF STAY IN THE STATE AND OBLIGATIONS WHILE IN THE STATE OF NON-NATIONALS AND TO PROVIDE FOR RELATED MATTERS. [13th February, 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation. **1.—(1)** In this Act, except where the context otherwise requires—

“the Act of 1996” means the Refugee Act 1996;

“the Act of 1999” means the Immigration Act 1999;

“embarking” includes departure by any form of conveyance and departure over a land frontier;

“Great Britain” includes the Channel Islands and the Isle of Man;

“immigration officer” shall be construed in accordance with *section 3*;

“keeper”, in relation to premises where accommodation is provided for reward, includes any person who for reward receives another person to lodge or sleep in the premises, either on his or her own behalf or as manager or otherwise on behalf of another person;

“landing” includes arrival or entry by any form of conveyance and includes entry over a land frontier, and references to landing include references to attempting to land;

“master of a ship” includes the pilot of an aircraft;

“member of a crew” means any person employed in the working or service of a ship;

“the Minister” means the Minister for Justice, Equality and Law Reform;

“non-national” has the meaning assigned to it by the Act of 1999;

“passenger” means any person, other than a member of a crew, travelling or seeking to travel on board a ship, railway train or passenger road vehicle;

“passenger road vehicle” means a vehicle employed on a passenger road service which is licensed under the Road Transport Act 1932;

“permission” shall be construed in accordance with *section 4*;

“port” includes any place whether on a land or sea frontier where a person lands in or embarks from the State and includes an airport;

“prescribed” means prescribed by regulations made by the Minister and “prescribe” shall be construed accordingly;

“registration district” means the Dublin Metropolitan Area or a Garda Síochána District situated outside that Area;

“registration officer” means the officer in charge of the Garda National Immigration Bureau in the Dublin Metropolitan Area or the Superintendent of the Garda Síochána in a Garda Síochána District outside that Area;

“residence” means a dwelling-place where a non-national ordinarily resides and, where a non-national has more than one dwelling-place, each of such dwelling-places; and “resident” shall be construed accordingly;

“seaman” means an officer or member of a crew;

“ship” includes aircraft.

(2) In this Act—

- (a) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any subsequent enactment including this Act,
- (b) a reference to a section or Schedule is a reference to a section of or a Schedule to this Act unless it is indicated that reference to some other enactment is intended,
- (c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

Application of Act.

2.—(1) This Act shall not apply to any of the following persons, that is to say:

- (a) a person entitled in the State to privileges and immunities under section 5 of the Diplomatic Relations and Immunities Act 1967;
- (b) a person entitled in the State to privileges and immunities under section 6 of that Act;
- (c) a person entitled in the State to privileges and immunities under any other Act of the Oireachtas or any instrument made thereunder.

[(1A) Without prejudice to the generality of subsection (1), this Act shall not apply to the following persons:

- (a) a member of the mission as defined in Article 1 of the Vienna Convention on Diplomatic Relations done at Vienna on the 18th day of April, 1961, as set out in the First Schedule to the Diplomatic Relations and Immunities Act 1967, and a person who is a member of the family and forms part of the household of such a member,
- (b) a private servant as defined in Article 1 of the Vienna Convention on Diplomatic Relations done at Vienna on the 18th day of April, 1961, as set out in the First Schedule to the Diplomatic Relations and Immunities Act 1967, and a person who is a member of the family and forms part of the household of a private servant,
- (c) a member of the consular post where that post is headed by a career consular officer, as defined in Article 1 of the Vienna Convention on Consular Relations



done at Vienna on the 24th day of April, 1963, as set out in the Second Schedule to the Diplomatic Relations and Immunities Act 1967, and a person who is a member of the family and forms part of the household of such a member,

- (d) a member of the private staff as defined in Article 1 of the Vienna Convention on Consular Relations done at Vienna on the 24th day of April, 1963, as set out in the Second Schedule to the Diplomatic Relations and Immunities Act 1967, and a person who is a member of the family and forms part of the household of such a member,
- (e) a preclearance officer as defined in section 1 of the Aviation (Preclearance) Act 2009 and a dependant of a preclearance officer, and
- (f) an official of an international organisation, community or body assigned to official duty in the State and a person who is a member of the family and forms part of the household of such an official,

where that person has been duly notified to, and that notification has not been objected to by, the Minister for Foreign Affairs and Trade.]

(2) Nothing in this Act shall derogate from—

- (a) any of the obligations of the State under the treaties governing the European Communities within the meaning of the European Communities Acts 1972 to 2003,
- (b) any act adopted by an institution of those Communities,
- (c) section 9(1) of the Refugee Act 1996,
- (d) the European Communities (Aliens) Regulations 1977 (S.I. No. 393 of 1977), or
- (e) the European Communities (Right of Residence for NonEconomically Active Persons) Regulations 1997 (S.I. No. 57 of 1997).

(3) If, in any proceedings, whether civil or criminal, any question arises under or in relation to a provision of this Act, the Act of 1999 or the Immigration Act 2003 as to whether any person is or is not a non-national, or is or is not a non-national of a particular nationality or otherwise of a particular class, or is or is not a particular non-national specified in an order made under the Act of 1999, the onus of proving (as the case may require) that such person is not a non-national, or is not a non-national of a particular nationality or of a particular class, or is not such a particular non-national, shall lie on such person.

Appointment of officers.

**3.—(1)** The Minister may appoint such and so many persons as he or she considers appropriate (referred to in this Act as “immigration officers”) to perform the functions conferred on immigration officers by this Act and every person so appointed shall hold office on such terms and conditions as may be determined by the Minister at the time of the appointment.

(2) The Minister may, with the consent of the Minister for Health and Children, appoint such and so many registered medical practitioners (referred to in this Act as “medical inspectors”) as he or she considers appropriate to perform the functions conferred on medical inspectors by this Act and every person so appointed shall hold office on such terms and conditions as may be determined by the Minister (with the consent of the Minister for Health and Children) at the time of the appointment.

(3) An immigration officer or a medical inspector appointed under this Act shall have power to enter or board any vessel, and to detain and examine any person arriving at or leaving any port in the State who is reasonably believed by the officer or inspector to be a non-national, and to require the production of a passport or other

equivalent identity document by such person, and shall have such other powers and duties as are conferred upon him or her by this Act.

(4) A person appointed by the Minister to be an immigration officer before the commencement of this Act and who was acting as such an officer immediately before such commencement shall upon such commencement be deemed to have been appointed as an immigration officer under this section.

(5) A reference in any Act passed before the commencement of this section or in any instrument made under such an Act to an immigration officer shall be construed as a reference to an immigration officer appointed under this section and, accordingly, a function standing vested in an immigration officer immediately before such commencement under a provision of such an Act or instrument that continues in force after such commencement shall, upon such commencement, stand vested in, and may be performed by, such an officer.

(6) The Minister may revoke an appointment made or deemed to have been made under this section.

[(7) The terms and conditions referred to in *subsection (1)* may include terms and conditions relating to the period for which a person appointed under this section shall hold office.

[(8) An immigration officer appointed under *subsection (1)* shall be furnished with a warrant of appointment and shall, when performing any function conferred on him or her by this Act, if requested by a person affected, produce the warrant of appointment or a copy of it to that person.]

Permission to land.

4.—(1) Subject to the provisions of this Act, an immigration officer may, on behalf of the Minister, give to a non-national a document, or place on his or her passport or other equivalent document an inscription, authorising the non-national to land or be in the State (referred to in this Act as “a permission”).

(2) A non-national coming by air or sea from a place outside the State shall, on arrival in the State, present himself or herself to an immigration officer and apply for a permission.

(3) Subject to *section 2(2)*, an immigration officer may, on behalf of the Minister, refuse to give a permission to a person referred to in *subsection (2)* if the officer is satisfied—

- (a) that the non-national is not in a position to support himself or herself and any accompanying dependants;
- (b) that the non-national intends to take up employment in the State, but is not in possession of a valid employment permit (within the meaning of the Employment Permits Act 2003);
- (c) that the non-national suffers from a condition set out in the *First Schedule*;
- (d) that the non-national has been convicted (whether in the State or elsewhere) of an offence that may be punished under the law of the place of conviction by imprisonment for a period of one year or by a more severe penalty;
- (e) that the non-national, not being exempt, by virtue of an order under *section 17*, from the requirement to have an Irish visa, is not the holder of a valid Irish visa;
- (f) that the non-national is the subject of—
  - (i) a deportation order (within the meaning of the Act of 1999),
  - (ii) an exclusion order (within the meaning of that Act), or

- (iii) a determination by the Minister that it is conducive to the public good that he or she remain outside the State;
- (g) that the non-national is not in possession of a valid passport or other equivalent document, issued by or on behalf of an authority recognised by the Government, which establishes his or her identity and nationality;
- (h) that the non-national—
  - (i) intends to travel (whether immediately or not) to Great Britain or Northern Ireland, and
  - (ii) would not qualify for admission to Great Britain or Northern Ireland if he or she arrived there from a place other than the State;
- (i) that the non-national, having arrived in the State in the course of employment as a seaman, has remained in the State without the leave of an immigration officer after the departure of the ship in which he or she so arrived;
- (j) that the non-national's entry into, or presence in, the State could pose a threat to national security or be contrary to public policy;
- (k) that there is reason to believe that the non-national intends to enter the State for purposes other than those expressed by the non-national.
- [(l) that the non-national—
  - (i) is a person to whom leave to enter or leave to remain in a territory (other than the State) of the Common Travel Area (within the meaning of the International Protection Act 2015) applied at any time during the period of 12 months immediately preceding his or her application, in accordance with *subsection (2)*, for a permission,
  - (ii) travelled to the State from any such territory, and
  - (iii) entered the State for the purpose of extending his or her stay in the said Common Travel Area regardless of whether or not the person intends to make an application for international protection.]
- (4) An immigration officer who pursuant to *subsection (3)* refuses to give a permission to a non-national shall as soon as may be inform the non-national in writing of the grounds for the refusal.
- (5) (a) An immigration officer may, on behalf of the Minister, examine a non-national arriving in the State otherwise than by sea or air (referred to subsequently in this subsection as “a non-national to whom this subsection applies”) for the purpose of determining whether he or she should be given a permission and the provisions of *subsections (3), (4) and (6)* shall apply with any necessary modifications in the case of a person so examined as they apply in the case of a person coming by sea or air from a place outside the State.
  - (b) A non-national to whom this subsection applies and who is not exempt, by virtue of an order under *section 17*, from the requirement to have an Irish visa shall have a valid Irish visa.
  - (c) A non-national to whom this subsection applies and who is arriving in the State to engage in employment, business or a profession in the State shall within 7 days of entering the State—
    - (i) report in person to the registration officer for the place in which he or she intends to reside,

(ii) produce to the officer a valid passport or other equivalent document, issued by or on behalf of an authority recognised by the Government, which establishes his or her identity and nationality, and

(iii) furnish such information as the officer may reasonably require regarding the purpose of his or her arrival in the State.

(d) A non-national to whom this subsection applies shall not remain in the State for longer than one month without the permission of the Minister given in writing by him or her or on his or her behalf by an immigration officer.

(6) An immigration officer may, on behalf of the Minister, by a notice in writing to a non-national, or an inscription placed on his or her passport or other equivalent document, attach to a permission under this section such conditions as to duration of stay and engagement in employment, business or a profession in the State as he or she may think fit, and may by such a notice or inscription at any time amend such conditions as aforesaid in such manner as he or she may think fit, and the non-national shall comply with any such conditions.

(7) A permission under this section may be renewed or varied by the Minister, or by an immigration officer on his or her behalf, on application therefor by the non-national concerned.

(8) A non-national, being a member of a class of persons declared by order under *section 17* to require a transit visa to enter the State, shall have a valid transit visa.

(9) A non-national who contravenes *subsection (2), paragraph (b), (c) or (d) of subsection (5) or subsection (6) or (8)* is guilty of an offence.

(10) In performing his or her functions under *subsection (6)*, an immigration officer shall have regard to all of the circumstances of the non-national concerned known to the officer or represented to the officer by him or her and, in particular, but without prejudice to the generality of the foregoing, to the following matters:

- (a) the stated purpose of the proposed visit to the State,
- (b) the intended duration of the stay in the State,
- (c) any family relationships (whether of blood or through marriage) of him or her with persons in the State,
- (d) his or her income, earning capacity and other financial resources,
- (e) the financial needs, obligations and responsibilities which he or she has or is likely to have in the foreseeable future,
- (f) whether he or she is likely to comply with any proposed conditions as to duration of stay and engagement in employment, business or profession in the State,
- (g) any entitlements of him or her to enter the State under the Act of 1996 or the treaties governing the European Communities within the meaning of the European Communities Acts 1972 to 2003.

Presence in State of non-nationals.

5.—(1) No non-national may be in the State other than in accordance with the terms of any permission given to him or her before the passing of this Act, or a permission [given to him or her] after such passing, by or on behalf of the Minister.

(2) A non-national who is in the State in contravention of *subsection (1)* is for all purposes unlawfully present in the State.

(3) This section does not apply to—

- (a) a person whose application for asylum under the Act of 1996 is under consideration by the Minister,
- (b) a refugee who is the holder of a declaration (within the meaning of that Act) which is in force,
- (c) a member of the family of a refugee to whom section 18(3)(a) of that Act applies, or
- (d) a programme refugee within the meaning of section 24 of that Act.

Approved port.

6.—(1) A non-national (other than a seaman) coming by sea or air from outside the State shall not, without the consent of the Minister, land elsewhere than at an approved port.

(2) [...]

(3) A non-national who lands in the State in contravention of this section shall be deemed to be a non-national who has been refused a permission.

(4) A non-national who lands in the State in contravention of this section shall be guilty of an offence.

[(5) The Minister may by order designate a port to be an approved port for the purposes of this section and a reference in this section to an approved port is a reference to a port that stands designated under this subsection.

(6) The designation under *subsection (5)* of a port as an approved port may be subject to such conditions as are specified in the order, which may include conditions obliging the person having the management and control of the approved port to—

(a) provide, free of charge, such accommodation and other facilities as the Minister may require for the performance by persons of functions conferred on them by this Act and any other enactment relating to the entry by persons into the State, and

(b) maintain the accommodation and other facilities in a manner that is compatible with the efficient performance of those functions.

(7) Before deciding to impose a condition under *subsection (6)*, the Minister shall consult the person referred to in that subsection.

(8) Where the Minister is satisfied that a condition imposed under *subsection (6)* has, without reasonable cause, been breached, he or she may, in accordance with this section, revoke the designation under *subsection (5)* of the port concerned as an approved port.

(9) Where the Minister proposes to revoke the designation of a port as an approved port, he or she shall give the person having management and control of the approved port a notice—

(a) informing the person of the proposal and of the reasons for it, and

(b) inviting the person to submit, within such time as is specified in the notice, representations in relation to the proposal.

(10) The Minister, in deciding whether to revoke a designation, shall have regard to representations (if any) made under *subsection (9)(b)*.

(11) Where the Minister revokes a designation under this section, the person having management and control of the port concerned may appeal to the District Court in the District Court district in which the port is located, against the revocation.

(12) A person who operates a port or other place that is not an approved port shall be guilty of an offence if he or she—

- (a) represents the port or other place to be an approved port,
- (b) knowingly facilitates the landing in the State at that port or other place by another person so that the other person thereby commits an offence under *subsection (4)*, or
- (c) knowing that another person has committed an offence under *subsection (4)* at that port or other place, fails to report the circumstances to an immigration officer.]

Examination and detention of non-nationals.

**7.—(1)** The master of any ship arriving at a port in the State may detain on board any non-national coming in the ship from a place outside the State until the non-national is examined or landed for examination under this section, and shall, on the request of an immigration officer, so detain any such non-national, whether seaman or passenger, whose application for a permission has been refused by an immigration officer, and any such non-national so detained shall be deemed to be in lawful custody.

(2) The master of a ship who fails to comply with a request of an immigration officer under *subsection (1)* shall be guilty of an offence.

(3) (a) Any non-national landing or embarking at any place in the State shall, on being required so to do by an immigration officer or a member of the Garda Síochána, make a declaration as to whether or not he or she is carrying or conveying any documents and, if so required, shall produce them to the officer or member.

(b) The officer or member may search any such non-national and any luggage belonging to him or her or under his or her control with a view to ascertaining whether the non-national is carrying or conveying any documents and may examine and detain, for such time as he or she may think proper for the purpose of such examination, any documents so produced or found on the search.

(c) In this section, “documents” includes—

- (i) any written matter,
- (ii) any photograph,
- (iii) any currency notes or counterfeit currency notes,
- (iv) any information in non-legible form that is capable of being converted into legible form, or
- (v) any audio or video recording.

(4) A non-national who contravenes *subsection (3)* shall be guilty of an offence.

Notices to be displayed on ships, railway trains and passenger road vehicles.

**8.—(1)** The master of any ship and the person in charge of any railway train or passenger road vehicle bringing passengers into the State shall display in such ship, railway train or passenger road vehicle in such manner as the Minister may from time to time direct such notice of the provisions of this Act and of any directions given thereunder as the Minister may from time to time direct.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

Obligation of non-nationals to register.

**9.—(1) (a)** A register of non-nationals who have permission to be in the State shall be established and maintained by registration officers in such manner as the Minister may direct.

(b) The register may be in a form that is not legible if it is capable of being converted into a legible form.

(c) A registration officer may amend an entry in, or delete an entry from, the register.

(2) Subject to *section 2(2)*, a non-national shall comply with the following requirements as to registration:

(a) he or she shall, as soon as may be, furnish to the registration officer for the registration district in which he or she is resident, the particulars set out in the *Second Schedule*, and, unless he or she gives a satisfactory explanation of the circumstances which prevent his or her doing so, produce to the registration officer a valid passport or other equivalent document, issued by or on behalf of an authority recognised by the Government, which establishes his or her identity and nationality;

(b) he or she shall furnish to the registration officer for the registration district in which he or she is resident particulars of any matter affecting in any manner the accuracy of the particulars previously furnished by him or her for the purpose of registration, within 7 days after the matter has occurred, and generally shall supply to the registration officer all information (including, where required by the registration officer, a recent photograph of him or her) that may be necessary for maintaining the accuracy of the register;

(c) he or she shall, if about to change his or her residence, furnish to the registration officer for the registration district in which he or she is then resident particulars as to the date on which his or her residence is to be changed and as to his or her intended place of residence;

(d) on effecting any change of residence from one registration district to another, he or she shall, within 48 hours of his or her arrival in the other registration district, report his or her arrival to the registration officer for that district;

(e) if at any time he or she is absent from his or her residence for a continuous period exceeding one month, he or she shall report to the registration officer for the district of his or her residence his or her current address and every subsequent change of address, including his or her return to his or her residence;

(f) he or she shall—

(i) subject to *section 19(3)*, on registration obtain from the registration officer a registration certificate;

(ii) on every subsequent alteration or addition of any entry in the register relating to his or her registration, produce the certificate to the registration officer in order that, if necessary, a corresponding alteration or addition may be made in the certificate.

(3) If a non-national has no residence in the State, he or she shall attend at the office of a registration officer and, so far as possible, supply the particulars that would be required under this section if he or she were resident in the district of that officer, and shall report to the registration officer for any other district in which he or she stays for more than 24 hours and also give notice of any intended change of address to the registration officer to whom he or she has last reported.

(4) If a non-national who is required under this section to register or report is lodging with, or living as a member of the household of, any other person, it shall be the duty of that person to take reasonable steps (either by giving notice to the registration officer of the presence of the non-national in his or her household or otherwise) to secure compliance with the terms of this Act in respect of the registration of or reporting by the non-national.

(5) A registration certificate shall be in such form and contain such particulars as may be prescribed.

(6) This section shall not apply to—

(a) a non-national who is under the age of 16 years;

(b) a non-national who was born in Ireland;

(c) a non-national not resident in the State who has been in the State for a period of not more than 3 months since the date of his or her last arrival in the State;

(d) a non-national seaman not resident in the State whose ship remains at a port in the State and who does not land in the State for discharge.

(7) A person who before the commencement of this Act obtained a registration certificate from a registration officer shall be deemed until the date on which the certificate is expressed to expire to have complied with the requirements of this section.

(8) A non-national who contravenes *subsection (2), (3) or (4)* shall be guilty of an offence.

(9) In this section, “register” means the register maintained under *subsection (1)* and cognate words shall be construed accordingly.

[Registration districts and registration officers

**9A. ...]**

Hotel registers.

**10.—**(1) It shall be the duty of the keeper of every premises to which this section applies to keep in the premises a register in the prescribed form of all non-nationals staying at the premises.

(2) The Minister may make regulations in relation to the following matters:

(a) the duties of keepers of premises to which this section applies and of persons staying at such premises in relation to the making of entries in a register,

(b) the maintenance of a register,

(c) the furnishing and gathering of information required for entry in a register,

(d) the period for which a register is to be kept.

(3) A register shall be produced by a keeper to a member of the Garda Síochána or an immigration officer if so requested by the member or officer.

(4) A person who contravenes *subsection (1)* or a provision of regulations under this section that is stated in the regulations to be a penal provision shall be guilty of an offence.

(5) This section applies to a hotel or other place in which lodging or sleeping accommodation is provided on a commercial basis.

[Requirements as to documents of identity and supply of information.

**11.—** (1) Every person (other than a person under the age of 16 years) landing in the State shall be in possession of a valid passport or other equivalent document, issued by or on behalf of an authority recognised by the Government, which establishes his or her identity and nationality.



(2) Every person landing in or embarking from the State shall furnish to an immigration officer, when requested to do so by that officer—

- (a) the passport or other equivalent document referred to in *subsection (1)*, and
- (b) such information in such manner as the immigration officer may reasonably require for the purposes of the performance of his or her functions.

(3) (a) A person who contravenes this section shall be guilty of an offence.

- (b) In proceedings brought against a person for an offence under this section, it shall be a defence for the person to prove that, at the time of the alleged offence, he or she had reasonable cause for not complying with the requirements of this section to which the offence relates.

(4) This section does not apply to any person (other than a non-national) coming from, or embarking for, a place in the State, Great Britain or Northern Ireland.

(5) In this section and *section 12*, ‘non-national’ means a person who is neither—

- (a) an Irish citizen, nor
- (b) a person who has established a right to enter and be present in the State under the European Communities (Aliens) Regulations 1977 (S.I. No. 393 of 1977), the European Communities (Right of Residence for Non-Economically Active Persons) Regulations 1997 (S.I. No. 57 of 1997) or the European Communities (Free Movement of Persons) Regulations 2006 and 2008.]

[Requirements as to production of documents.

**12.—** (1) Every non-national present in the State (other than a non-national under the age of 16 years) shall produce on demand—

- (a) a valid passport or other equivalent document, issued by or on behalf of an authority recognised by the Government, which establishes his or her identity and nationality, and
- (b) in case he or she is registered or deemed to be registered under this Act, his or her registration certificate.

(2) (a) A non-national who contravenes this section shall be guilty of an offence.

- (b) In proceedings brought against a person for an offence under this section, it shall be a defence for the person to prove that, at the time of the alleged offence, he or she had reasonable cause for not complying with the requirements of this section to which the offence relates.

(3) In this section ‘on demand’ means on demand made at any time by the Minister, any immigration officer or a member of the Garda Síochána, for the purposes of establishing that the presence in the State of the non-national concerned is not in contravention of *section 5*.]

Offences and power of arrest without warrant.

**13.—**(1) A person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) A member of the Garda Síochána may arrest without warrant a person whom he or she reasonably suspects to have committed an offence under this Act (other than *section 10*) or section 2(1) of the Employment Permits Act 2003.

[Provision for particular non-nationals.

**14.** (1) The Minister, an immigration officer or a member of the Garda Síochána may, by notice in writing, require a non-national who does not have permission to be in the State to comply with any or all of the following conditions:

- (a) that he or she reside or remain in a particular district or place in the State;
- (b) that he or she report at specified intervals to—
  - (i) an officer of the Minister, an immigration officer or a member of the Garda Síochána specified in the notice, or
  - (ii) the registration officer of the registration district in which he or she is resident;
- (c) where, and only for so long as, it is reasonably necessary to facilitate his or her removal from the State in accordance with any enactment or other law, that he or she surrender his or her passport and any other travel document that he or she holds,

and the non-national shall comply with the requirement.

(2) A non-national who contravenes this section shall be guilty of an offence.

(3) Where a non-national who is complying with a notice under *subsection (1)(c)*, as a result of that compliance, fails to comply with the requirements of *section 12(1)* (as amended by *section 34 of the Civil Law (Miscellaneous Provisions) Act 2011*)—

- (a) his or her compliance with the notice shall constitute reasonable cause for the purposes of *section 12(2)(b)*, and
- (b) in proceedings referred to in *section 12(2)(b)*, a certificate signed by the Minister, an immigration officer or a member of the Garda Síochána stating that the non-national concerned was, at the time of the alleged offence under *section 12*, in compliance with the notice, shall, in the absence of evidence to the contrary, be proof of that fact.

(4) In this section, ‘enactment’ means—

- (a) an Act of the Oireachtas,
- (b) a statute that was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and that continues in force by virtue of Article 50 of the Constitution, or
- (c) an instrument made under—
  - (i) an Act of the Oireachtas, or
  - (ii) a statute referred to in paragraph (b).]

Entry, search and seizure.

**15.—(1)** Where, on the sworn information of a member of the Garda Síochána not below the rank of sergeant, a judge of the District Court is satisfied that—

- (a) it is reasonably necessary for the purpose of the enforcement of this Act that a place specified in the information should be searched by members of the Garda Síochána, or
- (b) there are reasonable grounds for suspecting that evidence of or relating to an offence under this Act is to be found at a place specified in the information,

the judge may issue a warrant for the search of that place and any persons found at that place.

(2) A warrant issued under this section shall authorise a named member of the Garda Síochána, alone or accompanied by such other members of the Garda Síochána and such other persons as may be necessary—

(a) to enter, within 7 days from the date of the warrant and if necessary by the use of reasonable force, the place named in the warrant,

(b) to search that place and any persons found there, and

(c) to seize anything found there, or anything found in the possession of a person present there at the time of the search, which that member reasonably believes to be evidence of or relating to an offence under this Act.

(3) A member of the Garda Síochána acting in accordance with a warrant issued under this section may require any person found at the place where the search is carried out to give the member his or her name and address.

(4) Any person who—

(a) obstructs or attempts to obstruct any member of the Garda Síochána acting in accordance with a warrant issued under *subsection (1)*,

(b) fails or refuses to comply with a requirement under this section, or

(c) gives a name or address to such a member which is false or misleading,

shall be guilty of an offence.

(5) In this section, “place” includes any dwelling, any building or part of a building and any vehicle, vessel, structure or container used or intended to be used for the carriage of goods by road.

Amendment of certain enactments.

**16.—**(1) Section 16A (inserted by section 6 of the Irish Nationality and Citizenship Act 2001) of the Irish Nationality and Citizenship Act 1956 is amended—

(a) by the insertion, in subsection (1)(b)(i), after “the Aliens Act, 1935,”, of “or the *Immigration Act 2004*”, and

(b) by the substitution, in subsection (1)(b)(ii), for “that Act” of “those Acts”.

(2) Section 7 of the Air Navigation and Transport (Preinspection) Act 1986 is amended, in subsections (1) and (2), by the substitution, for “the Aliens Act, 1935,”, of “the Aliens Act 1935, the *Immigration Act 2004*”.

(3) Subsection (4)(a)(ii)(IV) (inserted by section 13 of the Social Welfare (Miscellaneous Provisions) Act 2003) of section 179 of the Social Welfare (Consolidation) Act 1993 is amended by the addition of “or the *Immigration Act 2004*”.

(4) Section 9(3) of the Act of 1996 is amended by the substitution of the following paragraph for paragraph (c):

“(c) A certificate shall be deemed to be a registration certificate for the purposes of *section 12* of the *Immigration Act 2004* and a person who is the holder of a certificate that is in force shall be deemed to have complied with *section 9* of that Act.”.

(5) Section 6(1)(b) (as amended by section 10(c)(i) of the Illegal Immigrants (Trafficking) Act 2000) of the Act of 1999 is amended by the insertion before “, or to the Refugee Applications Commissioner” of “or *section 9* of the *Immigration Act 2004*”.

(6) Section 5(1) of the Illegal Immigrants (Trafficking) Act 2000 is amended by the insertion of the following paragraph after paragraph (d):

“(dd) a refusal under *section 4* of the *Immigration Act 2004*,”.

(7) Section 24 of the Criminal Justice (Theft and Fraud Offences) Act 2001 is amended by the addition to paragraph (o) of the definition of “instrument” of “or the *Immigration Act 2004*”.

(8) Section 5(1) of the Immigration Act 2003 is amended by the addition of the following paragraphs after paragraph (d):

“(e) a non-national who has failed to comply with *section 4(2)* of the *Immigration Act 2004*,

(f) a non-national who has been refused a permission under *section 4(3)* of that Act,

(g) a non-national who is in the State in contravention of *section 5(1)* of that Act,

(h) a non-national who has landed in the State in contravention of *section 6(1)* of that Act.”.

Visa orders.

**17.—**(1) The Minister may, for the purposes of ensuring the integrity of the immigration system, the maintenance of national security, public order or public health or the orderly regulation of the labour market or for the purposes of reciprocal immigration arrangements with other states or the promotion of tourism, by order declare—

(a) that members of specified classes of non-nationals are not required to be in possession of a valid Irish visa within the meaning of the Immigration Act 2003 when landing in the State, or

(b) that members of specified classes of non-nationals are required to be in possession of a valid Irish transit visa within the meaning of that Act.

(2) The Minister may by order amend or revoke an order under this section (including an order under this subsection).

Service of notices.

**18.—**(1) Where a notice is required or authorised by or under this Act to be served on or given to a person, it shall be addressed to him or her and shall be served on or given to him or her in some one of the following ways:

(a) by delivering it to him or her, or

(b) by sending it by post in a prepaid registered letter, or by any other form of recorded delivery service prescribed by the Minister, addressed to him or her at the address most recently furnished by him or her to the registration officer pursuant to *section 9*, or to the Refugee Applications Commissioner pursuant to *section 9(4A)* of the Act of 1996, as the case may be or, in a case in which an address for service has been furnished, at that address.

(2) Where a notice under this Act has been sent to a person in accordance with *subsection (1)(b)*, the notice shall be deemed to have been duly served on or given to the person on the third day after the day on which it was so sent.

[Fees.

**19.—** (1) (a) There shall be paid to the Minister by the non-national concerned in respect of the making of an application for, or the giving of, a permission, or both, such fee (if any) as may be prescribed with the consent of the Minister for Public Expenditure and Reform.

(b) There shall be paid to the registration officer concerned by the non-national concerned in respect of the issue of a registration certificate such fee (if any) as may be prescribed with the consent of the Minister for Public Expenditure and Reform.

(c) There shall be paid to the Minister by the non-national concerned in respect of the issue of a travel document such fee (if any) as may be prescribed with the consent of the Minister for Public Expenditure and Reform.

(2) The Minister may refuse to—

(a) consider an application for a permission,

(b) give a permission, or

(c) issue a travel document,

if the appropriate fee, prescribed under *paragraph (a) or (c) of subsection (1)*, has not been paid.

(3) The registration officer concerned may refuse to issue a registration certificate if the appropriate fee, prescribed under *subsection (1)(b)*, has not been paid.

(4) A fee payable under this section may be recovered by the person to whom it is payable from the person by whom it is payable as a simple contract debt in any court of competent jurisdiction.

(5) Regulations under *subsection (1)(a)* may prescribe different fees to be paid in different circumstances or in respect of different permissions (including permissions to which different conditions are attached under *section 4(6)*).

(6) Regulations under this section may provide for the waiver in specified circumstances of any prescribed fees, including fees payable by—

(a) adult persons unable without undue hardship to arrange for their payment for themselves and their dependants,

(b) applicants within the meaning of the Act of 1996, and

(c) persons in respect of whom a declaration (within the meaning of that Act) is in force.

(7) In this section, ‘travel document’ means a document (other than a document to which *section 4(1) of the Refugee Act 1996* refers) issued solely for the purpose of providing the holder with a document which can serve in lieu of a national passport.]

Regulations and orders.

**20.**—(1) The Minister may—

(a) by regulations provide, subject to this Act, for any matter referred to in this Act as prescribed or to be prescribed, and

(b) in addition to any other power conferred on him or her by this Act to make regulations, make regulations generally for the purpose of giving full effect to this Act.

(2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Every order or regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made, and, if a resolution annulling the order or regulation is passed by either such House within the next subsequent 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Expenses.

**21.**—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Short title.

**22.**—This Act may be cited as the Immigration Act 2004.

## Section 4.

## FIRST SCHEDULE

*Conditions referred to in section 4(3)(c)*

1. Diseases subject to the International Health Regulations for the time being adopted by the World Health Assembly of the World Health Organisation.
2. Tuberculosis of the respiratory system in an active state or showing a tendency to develop.
3. Syphilis.
4. Other infectious or contagious parasitic diseases in respect of which special provisions are in operation to prevent the spread of such diseases from abroad.
5. Drug addiction.
6. Profound mental disturbance, that is to say, manifest conditions of psychotic disturbance with agitation, delirium, hallucinations or confusion.

## Section 9.

## SECOND SCHEDULE

*Particulars to be furnished on registration*

1. Name in full and sex.
2. Present nationality and how and when acquired and previous nationality (if any).
3. Date and place of birth.
4. Profession or occupation.
5. Date, place and mode of arrival in the State.
6. Address of residence in the State.
7. Address of last residence outside the State.
8. Photograph of the non-national (which, if not furnished by the non-national, may be taken by the registration officer).
9. If in government service, the service concerned, nature and duration of service, and rank and appointments held.
10. Particulars of passport or other document establishing nationality and identity.
11. Signature (which, if required, shall be in the characters of the language of the non-national's nationality) and fingerprints if required by the registration officer.
12. Any other matter of which particulars are required by the registration officer.