

## EEA nationals

- ▶▶ EEA nationals who are employed or self-employed in Ireland and are subject to the PRSI system do not have to satisfy the HRC and therefore can avail of child benefit right after obtaining a job.
- ▶▶ EEA nationals who were employed but are now unemployed and in receipt of unemployment benefit do not have to satisfy the HRC for Child Benefit.
- ▶▶ The spouse of an EEA worker, where the worker is employed or self-employed in Ireland and subject to the PRSI system, can be awarded the payment of Child Benefit.
- ▶▶ EEA workers are able to access Child Benefit even if their children are not resident in the State.
- ▶▶ EEA nationals who have not worked in Ireland, but are actively looking for work here (“first job seekers”) cannot access child benefit unless they satisfy the HRC.

## Non-EEA nationals

- ▶▶ This payment is available to all non-EEA nationals who are employed or self-employed in Ireland and are subject to Irish PRSI. They are required to satisfy the HRC, unless they have resided and worked in another EEA country.
- ▶▶ Non-EEA national workers will have to be resident in the State with their children to get Child Benefit.
- ▶▶ If workers lose their jobs, they will be paid the benefit for the duration of the work permit.
- ▶▶ If a child’s father has satisfied HRC requirements, but the mother has not, payment will be awarded to the mother “based on the family unit concept”.

- ▶▶ According to the Department of Social and Family Affairs, refugees and persons granted leave to remain in the State as the parents of Irish-born children will satisfy the HRC provided that they have lived continuously in the State since being recognised as refugees or being granted leave to remain, and therefore can avail of Child Benefit from the time of recognition or permission to remain. They will be required to submit documentation issued by the Department of Justice Equality and Law Reform and a certificate of registration from the Garda National Immigration Bureau. If they have not lived continuously in the State since being recognised as refugees or given leave to remain, their claims will be decided having regard to the five factors set down by the European Court of Justice relating to centre of interest.
- ▶▶ The legal guardian of an Irish-born child with Irish citizenship whose parents have been deported can make a claim on behalf of the child, but the claimant must him/herself satisfy the HRC even though the child is a citizen.
- ▶▶ Asylum seekers and persons seeking leave to remain in the State are not entitled to Child Benefit.
- ▶▶ Asylum seekers who were recipients of Child Benefit before 1 May 2004 and who are still receiving the payment are not required to satisfy the HRC in respect of that child or on claims made for additional children born on or after 1 May 2004.
- ▶▶ In all cases, applicants are required to provide either a certificate of registration or other legal documentation as evidence that they are legally resident in Ireland before the payment will be made.

## Glossary and Notes

The **Habitual Residence Condition** was introduced on 1 May 2004 as a qualifying requirement for all social assistance payments and Child Benefit. It is presumed until the contrary is shown that an applicant is not habitually resident if they are living in the State or the common travel area for less than two years. According to the Department of Social & Family Affairs, the onus is always on the applicant to provide sufficient evidence that they are habitually resident in the State. In determining whether a person is habitually

resident, five factors set down by the European Court of Justice are also to be considered: length and continuity of residence in Ireland; length and purpose of absence from Ireland; nature and pattern of the employment; applicant's main centre of interest and future intentions (see [www.welfare.ie/foi/habres.html#G](http://www.welfare.ie/foi/habres.html#G)).

The **Common Travel Area** consists of Ireland, the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man.

**European Economic Area (EEA)**

countries are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, UK, Republic of Cyprus (Cyprus South), Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic and Slovenia. Although Switzerland is not a member of the EEA, the EU Agreement applies.

**Non-EEA nationals**, also known as “third country nationals”, require a work permit to take up employment in Ireland.

# Don't force children to pay the costs of immigration policy...

Prior to May 2004, Child Benefit — previously known as 'children's allowance' — was a universal payment; that is, it was paid to every child who was living in the State, regardless of family income or family immigration status.

In response to the enlargement of the European Union on 1 May 2004, the Irish government introduced the '**habitual residence condition**' (HRC). This is an **additional qualifying condition** imposed on anyone seeking to avail of child benefit schemes administered by the Department of Social and Family Affairs, ending the policy of a universal child benefit payment to all children resident in the State.

The measure was subsequently found to be in breach of EU legislation and the government had to reinstate the payment to EEA workers. However, the condition has still had a negative impact on families who first claimed monthly Child Benefit after 1 May 2004 and who are

- ▶▶ not permitted to work, such as asylum seekers and people waiting for a decision on a residence application;
- or**
- ▶▶ non-Irish nationals with no work record in Ireland, including those who have become undocumented, such as in an exploitative situation where an employer is not paying tax and social insurance for employees, which means they do not have PPS numbers
- or**
- ▶▶ non-EEA nationals working in Ireland for less than two years who do not have a 'centre of interest' in Ireland **and** previous EU work experience

## What are the consequences?

This provision, which was originally introduced to control the flow of EU workers, is in fact now impacting hardest on families living in vulnerable situations - and especially on children.

The **UN Convention on the Rights of the Child**, ratified by Ireland, provides that States Parties must respect and ensure the rights of children, including the right to benefit from social security, without discrimination. The Convention also holds that all actions which impact on children must have as a primary consideration the best interests of the child.

Abolishing universal Child Benefit is contrary to these principles.

**Child Benefit is no longer a universal payment in Ireland. Its removal has created an inequality between children living in the State.**

## Why a universal benefit?

- ▶▶ Because all children are equal
- ▶▶ Because a child should not be treated differently because of his or her parent's status - or lack of status
- ▶▶ Because children have the right NOT to live in poverty

**FLAC calls upon the Government to restore Child Benefit as a universal payment**



**The campaign to restore universal child benefit is a broad initiative and is seeking the participation of all interested groups. To get involved, contact FLAC at 01-874 5690 or by mail at [info@flac.ie](mailto:info@flac.ie)**