

Guidelines for Passport Applications for Children in the Care of TUSLA

Note for foster parents and social workers: Please read this document fully and carefully before submitting a passport application as any errors may lead to delays in issuing the passport.

If you have any queries in relation to the passport application, please send an email to the email address below.

Passport Service Information Email:

specialdesk@dfa.ie

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General Overview

The following is a guide for social workers and foster parents of children in care. It is to be used in conjunction with the explanatory notes provided with the Passport Application Form. The areas covered will be specific to children in the care of TUSLA which are not covered in the standard explanatory notes.

The Passports Act, 2008, permits the Passport Office to request any and all relevant documentation during the process of a passport application. The issuance of a passport requires the Passport Office to be satisfied with the identification and Irish citizenship of the applicant before a passport will be issued.

The Passports Act 2008

The Passports Act, 2008, sets out the legislative basis for issuing Irish passports. The Passport Service must issue passports in compliance with this Act, and with other relevant legislation including on citizenship, data protection, gender recognition and children.

The Passports Act sets out who may apply for passports, the types and validity of passports, identity and citizenship requirements, regulations on issuing passports for children, as well as the grounds on which a passport can be refused, revoked or cancelled, a decision appealed and various offences under the Act. The Act also provides that Irish passports remain the property of the Minister for Foreign Affairs and Trade.

How to Submit an Application

A passport application can be submitted by either the child's social worker or foster parents. It may be submitted through either of the following two channels:

- **Special Desk:** By post to the following address: Special Desk, Passport Office, 42-47 Lower Mount Street, Dublin 2.
- **Passport Express:** Via the Passport Express service available at all An Post offices.

*please note that the processing times are the same regardless of what application channel is used.

Fees and Payment Methods

Submitted via Special Desk

Passport Fee: €30

Payment method: € Postal Order or € Bank Draft only (payable to the Passport Office)

The Passport Service cannot accept credit card payments or personal cheques. Any applications submitted to the Special Desk without accompanying payment by postal order will be returned.

Submitted via An Post Passport Express

Passport Fee: €30 (plus An Post handling fee of €9.50). The fee is paid directly to the An Post office when submitting the application.

Payment Method: Laser, cash or cheque (as per An Post website).

<http://www.anpost.ie/AnPost/MainContent/Personal+Customers/How+to+get+or+renew+your+Irish+Passport.htm>

Processing Times

All passport applications, including those for children in care, are subject to rigorous checks and the processing times required depend on the volume of applications in the system.

In general, the Passport Service tries to process renewal applications within 15 working days while first time applications can take longer. For current turnaround times, please visit the website of the Department of Foreign Affairs and Trade: <https://www.dfa.ie/passporttracking/turnaroundtimes/>.

Applicants (or their guardians or foster parents) should not book travel until they are in possession of a valid passport.

Documentation

All applications should be accompanied by a covering letter from the **allocated** Social Worker on headed TUSLA paper. (See [Annex below](#) for template letter)

All applications must also be accompanied by the original of all documentation required to process the passport application.

Please note that any applications that are not accompanied by the full complement of required documentation will be delayed.

Guardianship

Guardianship means the rights and responsibilities that a parent may have in respect of the upbringing of a child. Non-parents may also acquire these rights and responsibilities whether by court order or otherwise. It should be noted that guardianship is not the same as custody (the day to day care of a child).

Under Irish law, the rights of parents to guardianship are set down in [Section 6 of the Guardianship of Infants Act 1964](#). Furthermore, on 18 January 2016, certain provisions of the [Children and Family Relationships Act 2015](#) came into effect that made a number of [changes to the Guardianship of Infants Act 1964](#).

The following information is intended to give general guidance for the purpose of assisting with the completion of Section 7, and is not a comprehensive guide to the law in this area. Any person unsure of the law on guardianship is advised to seek legal advice prior to completing it.

Information on guardianship is also available on the following sites:

[Courts Service of Ireland](#)

[Citizens Information Board](#)

Applicants should be aware that Section 20 (1) of the Passports Act 2008 provides that a person who, whether in the State or elsewhere, in connection with an application for the issue of a passport (whether or not to himself or herself or another person), provides information or documents that are, and that he or she knows or believes to be or is reckless as to whether they are, false or misleading in a material respect, is guilty of an offence.

Completing Section 7 of the Passport Application Form

The Passport Service requires the consent of all guardians before issuing a passport for a child under 18 years of age except where a guardian does not have any rights and responsibilities in relation to the giving of consent to the issuing of a passport for a child, whether by reason of a court order or otherwise.

If any guardian with rights and responsibilities in relation to giving consent to the issuing of a passport for a child is unwilling or unavailable to provide consent, an Irish court order is required dispensing with his/her consent. If a child is ordinarily resident outside the State and if for some reason it is not practicable or appropriate to obtain the consent of the other guardian(s), the requirements may be different. Please contact the Passport Service for guidance in such cases.

The requirement for the consent of all guardians does not apply to applicants under 18 years of age who are married.

Who is a guardian for the purpose of consent for a passport?

A 'guardian' of a child means a person who:

- a) is a guardian of the child pursuant to [the Guardianship of Infants Act 1964](#); or
- b) is appointed to be a guardian of the child by deed or will; or
- c) is appointed by an Irish court order and has not been removed from office.

A guardian can include any of the following:

- married parents who are joint guardians
- if a child is born outside marriage, the mother
- if a child is born outside marriage, the unmarried father of the child, in certain circumstances such as the following:
 - a) an unmarried father automatically becomes a guardian of his child if he cohabits with the child's mother for 12 consecutive months after 18 January 2016 . This 12 consecutive month period must include a period, occurring at any time after the birth of the child, of not less than three months during which both the mother and father have lived with the child. (Section 2(4A) of the Guardianship of Infants Act 1964); **or**
 - b) if the mother agrees, the father can become a joint guardian if both parents complete a Statutory Declaration in accordance with the Guardianship of Infants (Statutory Declaration) Regulations, 1998 (S.I. No 5 of 1998) ; **or**
 - c) if the father has been appointed as a joint guardian by court order.
- non-parents who have been appointed guardians by court order (these could be grand-parents, step-parents, civil partners or co-habiting partners)
- non-parents who have been appointed as testamentary guardians by deed or will
- temporary guardians appointed by court order
- persons who have acquired rights and responsibilities equivalent to guardianship in other EU Member States (excluding Denmark), under a judgement which is entitled to recognition in accordance with Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000
- persons who have acquired rights and responsibilities equivalent to guardianship in other States under a judgement or measure or law which is entitled to recognition in the 1996 Hague Convention Contracting States, in accordance with the 1996 Hague Convention on

jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children, signed at the Hague on 19 October 1996. Contracting States to the 1996 Hague Convention are listed here <https://www.hcch.net/en/instruments/conventions/status-table/?cid=70>

- On the death of either parent, the surviving parent may become the Sole Guardian.

What additional documents are required if a guardian's consent is not available?

If any court, whether in Ireland or elsewhere, has made an order about the child having a passport this should be submitted with the passport application. Depending on the circumstances, it may be necessary to seek a further court order dispensing with the consent of the other guardian (s). If a court in Ireland makes an order permitting the issuing of passport facilities, and it does not otherwise appear to be limited to a single passport application, the Passport Service may issue future passports on foot of this court order.

What additional documents are required if there is only one guardian?

In circumstances where there is only one guardian, a fully completed Sole Guardian Affidavit (AFF1) is required together with the consent of the one guardian.

Types of Care Orders – Consent

The primary legislation regulating child care policy is the [Child Care Act 1991](#) which brought in considerable changes in relation to children in care. Until the main part of the Act was implemented in 1995, child care policy had been regulated by the 1908 Children Act.

Under the Child Care Act 1991, as amended by the [Child and Family Agency Act 2013](#), [Tusla - the Child and Family Agency](#) has a statutory duty to promote the welfare of children who are not receiving adequate care and protection. The definition of a child is a person under 18 years of age who is not or has not been married.

TUSLA fulfils a particular function in regard to consent for children placed in its care under the provisions of the Child Care Act 1991. A number of possible scenarios may arise:

Voluntary Care

If the child is in voluntary care the parents/guardians retain their guardianship of their child, therefore all guardians of the child should sign section 7. If there is only one guardian, the application must be accompanied by the Sole Guardian Affidavit Form AFF1 available online at <https://www.dfa.ie/media/dfa/alldfawebstemedial/passportcitizenship/Annex-F1-Sole-Guardian-Affidavit-EN.pdf>.

If the parent(s)/guardians are unavailable or unwilling to give consent for the issue of a passport TUSLA can apply for a Court Order under [Section 47 of the Act](#) to:

- Dispense with the consent of the parents/guardians and direct the Passport Office to issue a passport to the child (provided the child is an Irish citizen);
- Authorise the child's designated Social Worker or any other duly authorised Social Worker to sign the passport application.

Statutory / Full Care

Section 18 Order – Statutory or Full Care Order

Who Signs Section 7: Allocated Social Worker

Section 18 of the Child Care Act commits a child to the care of the health board.

If the child is subject to a full care order, TUSLA can consent to the granting of a passport to the child under Section 18(3)(iii) of the Child Care Act 1991. Section (4) of the Act provides that such consent is regarded as sufficient for the granting of passport facilities.

In these cases, section 7 of the application form (consent of guardians) is completed by the child's allocated Social Worker and witnessed by the team lead or a member of the Garda Síochána.

Section 43(a) Orders

Who Signs Section 7: Foster Parents

Where foster parents have been granted a **Section 43(a)** order, they have the right to sign all relevant sections of the passport application and submit the completed form to the passport office themselves. However, these applications must be accompanied by the original **Section 43(a)** order and a letter from TUSLA stating that they have been informed of the intention of the foster parents to apply for the passport and that they have no objections to same.

Section 47 Orders

Who Signs Section 7: Allocated Social Worker

Section 47 orders (dispensing with the parent's consent) normally allow for the issue of a 3 year passport. As all children are now entitled to a five year passport, TUSLA can inform the judge that up to five years can be requested.

Interim Care

Section 17 Orders

Who Signs Section 7: The Parents

A section 17 care order is known as an interim care order. Under an interim care order, both the social worker and parents are required to give their consent for a passport for the child in question.

Section 13 Orders

Who Signs Section 7: The Parents

A section 13 care order is known as an interim care order. Under an interim care order, both the social worker and parents are required to give their consent for a passport for the child in question.

Northern Irish Care Orders

Article 50 Orders

Who Signs Section 7: Allocated Social Worker (Sometimes parents may provide consent also)

Where the child has been committed to care under Article 50 of The Children (Northern Ireland) Order 1995, the allocated social worker must sign consent as well as all those who have parental responsibility for the child in question.

Article 33 Orders

Who Signs Section 7: Allocated Social Worker

Where the child has been committed to care under Article 33 of The Children (Northern Ireland) Order 1995, the child is taken into the full care of the local authority and so the allocated social worker must give their consent for a passport for the child in question.

Article 31 Orders

Who Signs Section 7: Allocated Social Worker

Under an article 31 Care Order, a child is in the full care of the local Authority and so the allocated social worker must give their consent for a passport for the child in question.

Article 38 Orders

Who Signs Section 7: Allocated Social Worker and Parents

Under an article 38 Care Order, a child is in the interim care of the local authority with the parents maintaining parental responsibility. This will require the parents to give their consent for a passport for the child in question.

Article 57 Orders

Who Signs Section 7: Allocated Social Worker and Parents

Under an article 38 Care Order, a child is in the interim care of the local authority with the parents maintaining parental responsibility. This will require the parents to give their consent for a passport for the child in question.

All **Court Orders** must be issued in the applicant's name as it is recorded on their Birth Certificate. If a Court Order has been issued in a different name or different version of the name a **Section 22** order will be required to amend the original Court Order. Please be aware if the name on the Court Order does not match the name on the Birth Certificate a **Section 22** order **MUST** be obtained from the Courts.

Sole Guardian Affidavits

SOLE GUARDIAN AFFIDAVIT is always required when there is only one guardian.

Examples include:

- Mother and father are not married. The father (nor any other person) has become a guardian by court order or any other means; or

- Both mother and father were guardians; guardianship was removed by court order from one parent, and no other person has been appointed a guardian by the courts or any other means; or
- One parent is deceased; no other person has been appointed a guardian by the courts or any other means.

Completing the Application Form

Passport Name (Section 2, Part A)

If the passport is requested in a name other than what is on the Birth Certificate it is necessary to provide evidence to show the child has been using the new name for a period of not less than 2 years. These name changes are usually derived from other surnames on the Birth Certificate (e.g. changing from single barrel to double barrel surname or changing from fathers surname to mothers surname or mother's maiden name). Proof of usage can include a letter from the child's medical practitioner, school reports, or childcare facility.

Citizenship (Section 3)

There are four categories of citizenship and the documents needed

- If the child is **born in Ireland before 1st January 2005** only the child's Birth Certificate is required;
- If the child is **born in Ireland after 1st January 2005, and at least one parent is a Irish or British citizen**, the child's Birth Certificate and Birth Certificate/Irish passport of a parent is required;
- If the child is **born in Ireland after 1st January 2005, and neither of the parents are Irish or British citizens** please refer to the website of the Department of Foreign Affairs and Trade (<https://www.dfa.ie/passports-citizenship/top-passport-questions/documentary-requirements-passport-applications/>)
- If the child is **born abroad** please refer to the website of the Department of Foreign Affairs and Trade (<https://www.dfa.ie/passports-citizenship/top-passport-questions/documentary-requirements-passport-applications/>).

If the child is not an Irish citizen, please contact the Department of Justice and Equality for further information. www.inis.gov.ie

Previous Passport (Section 5)

If you are unable to ascertain whether the child has held a previous passport or not you should contact the Passport Service at specialdesk@dfa.ie who will be able to confirm this for you.

If a previous passport was issued but its whereabouts are unknown then Section 6 of the form must be completed and signed in the presence of the Gardai by the same person who signs Section 8.

If a passport is being withheld by the birth parents, a new passport cannot issue until this has been retrieved and submitted to the passport office for cancellation.

Who should sign Section 7 of the form (consent)?

Please see paragraph above on [Types of Care Orders – Consent](#)

Note: If the designated social worker is signing consent in section 7, please be aware that the section that the Social Worker signs must be witnessed directly underneath by the team lead/Garda and all boxes **MUST** be filled in full on this section.

Identification of the Applicant (Section 8)

It is the responsibility of the Gardai to verify the identity of an applicant. The applicant should sign section 8 of the form in the presence of the Garda who will then complete section 9 and sign one of the photographs. If the applicant is too young or unable to sign one of the people who gave consent in section 7 (parent/guardian/social worker) should sign their signature in section 8.

NB If the designated social worker is signing consent in section 7, please be aware that the section that the Social Worker signs must be witnessed directly underneath by the team lead/Garda and all boxes **MUST** be filled in full on this section.

Relevant Legislation: Passports Act, Passports for Children

14.— (1) *Subject to this section, the Minister shall, before issuing a passport to a child, be satisfied on reasonable grounds that each person who is a guardian of the child consents to the issue of a passport to the child.*

(2) *If a parent of a child is not a guardian of the child, the Minister shall, in determining whether to issue a passport to the child without the consent to such issue of that parent of the child, have regard to the circumstances of the case in so far as they are known to the Minister.*

(3) *Subject to this Act, the Minister may issue a passport to a child without the consent to such issue of a guardian of the child if a court in the State makes an order directing that a passport may be issued to the child without the consent to such issue of that guardian of the child.*

(4) *If a court in the State makes an order under any enactment which authorises a person other than a guardian of the child (including the Health Service Executive) to give consent to the issue of a passport to the child, the Minister may, subject to this Act and for so long as the order is in force, issue a passport to the child in accordance with the order.*

(5) *Subject to this Act, the Minister may, on application in that behalf to him or her in accordance with section 6 by a guardian of a child, issue a passport to the child without the consent to such issue of the other guardian of the child if it is not practicable or appropriate, by reason of the fact that the first-mentioned guardian and the child are ordinarily resident outside the State, for that guardian of the child to obtain an order of a court in the State directing that a passport may be issued to the child without the consent to such issue of the other guardian of the child and the Minister is satisfied that—*

(a) having regard to all the circumstances of the case, including whether or not that other guardian of the child has notified the Minister in writing that he or she objects to the issue of a passport to the child, and

(b) for the purpose of securing the welfare of the child, a passport should be issued to the child.

(6) *Subject to this Act, the Minister may, on application in that behalf to him or her in accordance with section 6 by a guardian of the child or any other person who has an interest in the welfare of the child, issue a passport to the child without the consent to such issue of the other guardian or, if appropriate, any of the guardians of the child if the Minister is satisfied that—*

(a) there exist in relation to the child exceptional circumstances involving an immediate and serious risk of harm to his or her life, health or safety requiring him or her to undertake travel for which a passport is required, and

(b) for the purpose of securing the welfare of the child, a passport should be issued to the child.

(7) *A passport issued under subsection (6) shall be valid for such period as the Minister considers appropriate in the circumstances.*

(8) *The Minister may, for the purposes of subsection (1), regard a consent given in writing by a guardian of a child to the issue of a passport to the child as being the consent of that guardian of the child to the issue of a passport to the child at any time or times after the consent is given until the child attains full age, unless that guardian of the child revokes the consent by notification in writing to the Minister.*

(9) *Notwithstanding subsection (8), the Minister shall require one guardian of a child who applies to the Minister for the issue of a passport to the child to give consent in writing to such issue*

7.—(1) Before issuing a passport to a person, the Minister shall be satisfied—

- (a) that the person is an Irish citizen, and*
- (b) as to the identity of the person.*

(2) The Minister may require an applicant for a passport to provide such information as the Minister may require for the purposes of the application and to produce to him or her such documents as he or she considers necessary or expedient to enable him or her to perform the functions of the Minister under this Part.

(3) The Minister may require that information furnished to him or her under this section shall be accompanied by a statutory declaration made or affidavit sworn by the applicant concerned to the effect that, to the best of the applicant's knowledge and belief, the information is correct in every material respect and that the applicant has taken all reasonable steps to ensure the accuracy of the information.

Annex 1: Template Letter

Note: to be completed by allocated social worker and printed on Tusla headed paper. All information must be either typed or printed in block capitals.

To the Passport Service:

I am the allocated Social Worker for *(full name of applicant)* born on *(insert date of birth of applicant)*.

(Name of applicant) is currently residing with *(name of foster carers)* at *(address of foster carers)*.

(Name of applicant) has been under a *(type of care order)* care order since *(date of care order)*.

When the passport issues, it should be posted to *(name and address)*. Original documents should be returned to *(name and address)*.

I confirm that I have read the guidelines for the issue of passport applications for children under the care of TUSLA. On behalf of Tusla, I request that a passport be issued to *(name of applicant)*.

Travel Date of Applicant: _____

Name of allocated social worker: _____

Email of social worker: _____

Phone number of social worker: _____

Signature _____

Enclosed:

- ☐ Completed witnessed form and four photographs;
- ☐ Court order (if applicable);
- ☐ Relevant Certificates ie birth certificate, sole guardian affidavit, parents' documents etc
- ☐ Relevant Fee