



**ARCO INFORMATION BRIEF**  
**CITIZENSHIP OF CHILDREN BORN ABROAD TO OFFICERS**  
**SERVING ON OFFICIAL DUTY OVERSEAS**

**General Overview**

A person is an Irish citizen where they were born abroad to an Irish citizen parent. This is the situation that gives Irish citizenship to those children born abroad to Irish Defence Forces officers on duty overseas.

In circumstances where a parent is also born outside the island of Ireland (e.g. a child born abroad to an officer on duty overseas), then as a consequence of various changes to and revision of legislation, a range of administrative issues arise when an Irish passport is being sought for that parent's children (i.e. officers' grandchildren).

ARCO is aware that 49 children were born abroad to officers serving on official overseas duty.

In the light of the recent experience of an ARCO member, ARCO strongly recommends that officers (with children born abroad while the officer served on official duty overseas) make themselves aware of the prevailing legislative administrative procedures regarding overseas births. Officers falling within this category should also advise their affected child or children regarding the new requirements.

**Legislative Information**

Children born abroad of Defence Forces officers serving overseas on official duties were registered in compliance with the legal requirements prescribed in section 6 of the Defence (Amdt) Act (No 2) (1960). This section of the Defence Act was repealed in 2005.

The legal background to the information contained in this brief is based on the current provisions laid down by Irish law with particular reference to the Passports Act 2008 (as amended) and the Irish Nationality and Citizenship Act 1956 (as amended).

**Passports Act 2008**

All passport applications are subject to the Passports Act, 2008. Under this Act, before a passport can be issued, the Passport Service must be satisfied as to the identity of the applicant and that he/she is an Irish citizen.

**The Irish Nationality and Citizenship Acts 1956 to 2015**

The Irish Nationality and Citizenship Acts 1956 to 2015 are the main statutory legislation providing details for the granting and administration of Irish citizenship. Following a Referendum of the Irish people, the 27th Amendment to the Constitution changed the situation in relation to entitlement to Irish Citizenship. As a result, the 1956 principle Act was amended by the Irish Nationality and Citizenship Act, 2004. The associated changes came into effect on 1st January 2005.



Under the Irish Nationality and Citizenship Acts 1956 to 2015, Irish citizenship may be obtained by birth in the island of Ireland prior to 1 January 2005, or by birth in the island of Ireland after that date where certain conditions are met: by descent, or by naturalisation.

Section 7 of the principle Act (1956) makes provision for citizenship by descent. Section 7(1) and (3) are relevant in the cases of children born to a parent where he or she was born abroad when their father was serving on official duties overseas.

Section 7(1) states "A person is an Irish citizen from birth if at the time of his or her birth either parent was an Irish citizen or would if alive have been an Irish citizen".

This means that a person is an Irish citizen where they were born abroad to an Irish citizen parent.

Section 7(3) adds an exception to this where that parent was also born abroad. It states, "subsection (1) shall not confer Irish citizenship on a person born outside the island of Ireland if the parent through whom he or she derives citizenship was also born outside the island of Ireland unless (a) that person's birth is registered under section 27, (of the 1956 Act) or (b) the parent through whom that person derives citizenship was at the time of that person's birth abroad in the public service".

The first case coming to the attention of ARCO, which implemented the provisions of the Nationality and Citizenship Act 2004, occurred in 2018, when two grandchildren, born abroad of an officer serving overseas on official duties, applied for renewal of Irish passports in 2018.

### **Defence (Amdt) Act (No 2) (1960)**

In the context of Section 6 of the Defence (Amdt) Act (No 2) (1960), it should be noted that the Section was amended consequent to the commencement of the Registration of Births Act 1996, (01 October 1997)<sup>1</sup>. Of major importance, Section 6 was repealed consequent to the commencement of the Civil Registration Act 2004 (05 December 2005)<sup>2</sup>

### **Repeal of Section 6 of the Defence (Amdt) Act (No 2) 1960**

The repeal of Section 6 of the Defence (Amdt) Act (No 2) 1960 on 05 December 2005 is a significant alteration to the situation which prevailed before 2005.

The net effect of repealing Section 6 of the Defence (Amdt) Act (No 2) 1960 is that, in some circumstances, children born of a child born abroad when his or her father was serving overseas on official duties, will be required to be registered under Section 27 of the Nationality and Citizenship Acts 1956 to 2004, to be entered on the Foreign Birth Register.

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<sup>1</sup> Deletion of subpara b in section 6 (3) (c): technical amendment catering for posting of entries into the Defence Forces Births Register Book.

<sup>2</sup> The provisions of Section 6, (registration of certain births and deaths occurring outside the State), were repealed in accordance with the Second Schedule of this Act.



Applications for Foreign Birth Registration can take up to six months to process from the date of receipt of a complete application with all the required supporting documentation.

### **Way Ahead**

ARCO remains proactive with the Department of Defence, Defence Forces Headquarters, and with its affected membership, in addressing the ramifications associated with the registration of those children born abroad to Irish Defence Forces officers on duty overseas, and, in particular, the children of those children (grandchildren) who also were born outside of Ireland.

### **Further Information**

Links to information on Foreign Birth Registration:

<https://www.dfa.ie/passports-citizenship/citizenship/born-abroad/registering-a-foreign-birth/>

<https://www.dfa.ie/about-us/contact-us/contact-foreign-birth-registration-citizenship/>

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