

Buan-Mhisean na hÉireann chuig na Náisiún Aontaithe agus
Eagraíoch idirnáisúnta eile | An Ghinéiv
Permanent Mission of Ireland to the United Nations and
Other International Organisations | Geneva
Mission Permanente de l'Irlande auprès de l'Office des Nations Unies et
des autres organisations internationales | Genève



TPN/100/2026

The Permanent Mission of Ireland to the United Nations and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to refer to communication OL IRL 1/2026.

With reference to the aforementioned communication, please find enclosed a response from the Department of Housing, Local Government and Heritage.

The Permanent Mission of Ireland to the United Nations and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 13 August 2026



Office of the High Commissioner for Human Rights

Response to Special Rapporteur on Housing re Housing and Residential Tenancies (Miscellaneous Provisions) Act 2026

August 2026

Special Rapporteur Request:

The Special Rapporteur has requested Ireland to respond to the following:

- To provide any additional information and/or comments on his observations regarding the above Bill.
- To provide any additional information on the extent to which policies restricting access to housing on the basis of migration status are guided by the principles of legality (including compliance with international human rights law), reasonableness, necessity, proportionality, transparency, and assessment of the impact on particularly vulnerable groups.

Department of Housing, Local Government and Heritage Response:

The Housing and Residential Tenancies (Miscellaneous Provisions) Act 2026 (“the Act”) was signed into law by the President of Ireland in July 2026. The primary purpose of this legislation is to ensure clarity and consistency regarding the supports funded by the Department of Housing, Local Government and Heritage (“the Department”) and provided by local authorities, particularly for those seeking such services. The legislation is in line with existing policy and puts eligibility requirements for accessing social housing and homeless supports on a statutory footing. As such, the Act provides a clear legal basis for local authorities to make decisions in relation to the social supports provided by the State.

Social Housing Supports

It is open to anyone to apply for social housing support, the qualification criteria for which are the same in each case and no differentiation is made in terms of the type of support that is ultimately availed of. The qualification criteria are set down in Section 20 of the Housing (Miscellaneous Provisions) Act 2009 and Social Housing Assessment Regulations made under the 2009 Act and are applied by all local authorities in assessing individual households for support.

Longstanding policy in respect of social housing is to provide housing to those with a long-term need. The fact that the supports themselves are provided indefinitely goes towards the need being long term in nature. As housing legislation does not provide for the withdrawal of social housing support once granted (other than for tenancy breaches, anti-social behaviour etc.), it is, in effect a long-term benefit.

Part 3 Amendments to Housing (Miscellaneous Provisions) Act 2009

Section 20(A) of the Act provides that, as part of the eligibility criteria for social housing support, a household must be:

- lawfully resident; and
- habitually resident in the State, in accordance with the relevant provisions.

The lawful residency requirement does not apply to a member of the household who is a child within the meaning of the Children Act 2001.

The Act inserts a new section 20A into the Housing (Miscellaneous Provisions) Act 2009. Section 20A prescribes clearly the specific residency requirements for Irish, UK, EU/ EEA and non-EU/ EEA nationals.

These legislative reforms are building on existing policy and procedures which in the first instance, define social housing as a long-term housing support and therefore successful applicants must be in a position to demonstrate that they have a long-term entitlement to reside in the State, i.e. that their permission to reside here is not temporary or short-term. Putting these requirements on a statutory footing ensures that there is a robust statutory and regulatory framework in an area of increasing demand. Ultimately, the changes will provide legal certainty for applicants, decision makers and the Courts.

As stated above, the lawful residency requirement does not apply to a member of the household who is a child within the meaning of the Children Act 2001.

The reason for this is that, while often the residence application of a minor is linked to or dependent on that of their parents, it is not always the case. If a minor did have an independent residence application and its processing was delayed, this delay could affect the ability of the household as a whole to meet the residency requirements for social housing support. Therefore, the Act specifically removes children from the lawful residency assessment.

Connected members:

Section 20A(10) of the Act provides in circumstances where non-EEA nationals who are connected members of any other citizenship group (inc. non-EEA), meet the residency requirements for their citizenship group, the 'connected member' does not need to meet the 5 years requirement, instead they must have a valid permission specified under ss4 of 20A to reside lawfully in the country. This could be from day one of receipt of the said permission. A 'connected member' in this context means a member of a household who is one of the following in relation to another member of the household - a spouse of the main applicant, a civil partner or a cohabitant. This provision is intended to ensure that households can remain together while maintaining compliance with immigration law. The provision is designed to avoid situations where one member of a household qualifies but their spouse, civil partner, or cohabitant is excluded solely because they have not yet accumulated five years.

Habitual residency

The habitual residency condition is to ensure a genuine link to the State for the purposes of housing support which is long term in nature and the link between the two is a legitimate objective for the State to have.

It is neither intended nor anticipated that the introduction of the new habitual residency requirement will have a disproportionate impact on those applying for social housing support or seeking homeless accommodation.

When a local authority is determining whether a member of a household is habitually resident in the State, they will take into consideration all the circumstances of the case, as set down in s20A(7) of the Act. The five factors are not exhaustive, and other evidence may be drawn upon to support a positive decision by the local authority. Additionally, no one factor is decisive and an applicant need not score strongly on all five factors to achieve a positive decision.

The Department, in collaboration with the Housing Agency, is preparing comprehensive guidance, training and workshops for all local authorities. This guidance will be a live, working framework that will benefit from ongoing updating arising from practical experience of implementing the new requirements.

The Department has had extensive dialogue and legal advice on this and we are satisfied that the Act complies with the Constitution and with European and international law.

The Department did consider whether any legislative proposals in relation to access to social housing supports must take account of the Department's Public Sector Duty obligations under Section 42 of the Irish Human Rights and Equality Commission Act 2014.

While legal advice received is that it is not required, the Department has had extensive engagement with legal advisors during initial drafting of residency requirements right through to completing the final draft and is satisfied 20A is compatible with the Constitution, European and International law.

New social housing appeals process

The Act also puts in place a new statutory appeals mechanism for local authority decisions relating to social housing eligibility and assessment.

The introduction of Section 20B is creates a formal appeals process that embeds greater transparency, consistency and procedural safeguards across all housing authorities. A defining feature of the new Section 20B appeals framework is its strong emphasis on independence, supported not only by the legislative provisions themselves but also by the guidance, governance and operational arrangements that will underpin implementation.

Homeless related amendments

The introduction of primary legislation providing for legal and habitual residency as eligibility criteria for access to homeless supports and services will ensure that the State operates a harmonised and consistent approach to the provision of social entitlements. This will provide greater fairness in the provision of housing and homeless supports to those that need them.

The homelessness-related amendments in the Act were enacted following extensive consideration including advice from the Office of the Attorney General. The Department is satisfied that provisions are compatible with the Constitution, European and International law and strike a reasonable balance between the rights and interests arising.

In putting these eligibility criteria on a statutory footing, the Minister was very aware of the State's obligations under the European Convention on Human Rights (ECHR), particularly regarding the risk of rough sleeping. The views and comments provided in 2024 by the Irish Human Rights and Equality commission (IHREC) and by the Joint Committee on Housing, Local Government and Heritage in its Report following Pre-Legislative Scrutiny were considered in the drafting of the Bill.

The availability for homeless supports for potentially vulnerable groups was also considered in drafting the Bill. For example:

- **Households seeking international protection will be entitled to access the International Protection Accommodation Service (IPAS) provided accommodation** – there is no change to the current situation.
- **Households granted a Permission to Remain through the international protection process** will be entitled to homeless accommodation and to apply for social housing – again, there is no change to the current provision.
- **Undocumented households from outside Europe who do not have a lawful right to be here, or European households who do not have worker status and / or have arrived in the last 90 days** will be entitled to access the safety net service while they can avail of available assistance to return home. The introduction of this safety net on a statutory basis clarifies the entitlement for these households.
- **EEA households who have worker status, are habitually resident and are here for more than 90 days** will be entitled to access homeless services and eligible to apply for social housing supports.
- **Victims of domestic violence, people presenting from an institution or members of the Traveller community:** This legislation relates to a person's legal and habitual residency in the State. It does not relate to the individual's established connection to a specific local authority. Therefore, this has no impact on a victim of domestic violence, persons presenting from an institution or Traveller households who present to a local authority where they had not been previously resident.
- **Victims of human trafficking:** Currently victims of human trafficking who present to local authority homeless services are referred to the anti-human trafficking unit of An Garda Síochána, Ireland's National Police and Security Service, who refer them further to the Department of Justice, Home Affairs and Migration. There is no change to the current situation.

It is important to note that guidance and training will be provided to local authorities to ensure the provisions of the legislation are applied as intended with a particular focus on vulnerable groups.

The Department considers that the Act strikes an appropriate balance between the State's obligation to assist persons experiencing homelessness, the rights of individuals affected by decisions concerning emergency accommodation, and the proper administration of public housing resources.

The provisions of the Act have been carefully reviewed and developed in order to strike the appropriate balance between these interests. The Department is satisfied that the provisions are proportionate and constitutionally compliant.