

IRISH COUNCIL FOR INTERNATIONAL STUDENTS

Response

To the

**Government's Outline Proposals for an Immigration and
Residence Bill**

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1. Introduction

This submission is made on behalf of the Irish Council for International Students (ICOS). ICOS was established in 1970 to promote the welfare of international students in Ireland and its mission is to enhance the quality and the benefits of international education in Ireland by providing expert support services to international students and the institutions which host them. ICOS is an independent, non-profit organisation with over 40 members made up largely of representatives of Irish universities and institutes of technology. ICOS' mission statement and list of current members are attached as appendices.

ICOS welcomes this opportunity to contribute to the discussion on the Government's Immigration and Residence proposals. ICOS believes that immigration into this country is a permanent and positive reality. ICOS supports any attempt to make our immigration policies more transparent, accessible, and respectful of the human rights of all prospective migrants including international students. ICOS will focus its comments on elements of the proposals that refer to admission for the purposes of study which draw on the earlier report of the inter-departmental group on the Internationalisation of Irish Education Services published in November, 2004.

We note that the Minister for Education and Science has emphasized the need to recruit more international students and ICOS supports the Government's intention that the immigration system should support the education sector in attracting more international students to Ireland. In this context it is important to remember that international students bring many benefits to this country and to our host institutions. Although revenue created as a result of international education is a factor to consider, these benefits go well beyond commercial considerations. Transparent and consistent rules and efficient processing of genuine applications will all have an impact on Ireland's ability to recruit these students and to gain comparative advantage in what is a very competitive world market. Other factors such as access to the labour market and rules governing the admission and work rights of spouses will also be important in attracting or deterring international students.

2. Visa and Pre-Entry Clearance & Border Controls

ICOS welcomes the Government's proposal to provide a legislative basis to the visa system. It supports in particular the Government's proposal to expedite the processing of visa applications for genuine students on approved courses. ICOS is also pleased at the Government's proposals to return rather than to automatically refuse incomplete visa applications. Other welcome elements of the proposals are the elimination of the need for re-entry visas for holders of Irish residence permits and the commitment to adopt a customer service ethos in the service as a whole. Although ICOS believes that many of the above proposals will work to make the visa system more efficient and transparent, there are elements in the suggested proposals that give cause for concern. These are outlined as follows:

- **Clarification of visa decision-making process:** While accepting the principle of Ministerial discretion in relation to the refusal of visas, there should be a genuine effort to clarify the decision-making process through the publication of guidelines on the reasons why applications can be refused and the factors which are taken into account when making decisions;
- **Speed, quality and transparency in student visa processing:** ICOS recognizes that the Government has, in recent years, made some genuine efforts to bring more efficiency to the Irish visa processing service. The resulting improvements to the service have been appreciated by the education providers who are active in the international market. However, visa processes for students coming from some key target markets remain very slow and the refusal rates are high. This gives an unfavourable first impression of Ireland and its systems when compared to important competitors such as Australia, New Zealand, Canada and especially the UK. In China, students wishing to study in the UK receive visa decisions within three days. The British Embassy also operates a service where the visa can be submitted in representative offices in all major cities in China, thereby increasing the speed and efficiency of the system. Speed and transparency are needed if the immigration system is to achieve its desired intention to support the education sector in increasing the number of international student enrolments. The Government should make the achievement of international best practice in visa processing a stated intention in its proposals;
- **Right to appeal visa decisions:** While welcoming the proposal to give applicants reasons for visa refusals, ICOS is opposed to the Government's intention to limit the right to appeal to certain types of visa application. ICOS believes that all persons should have the right to appeal decisions and should not have to incur the additional costs and possible discrimination that could be attached if making a new application was the only available course of action open to them. The establishment of an independent appeals process would eliminate these concerns;
- **Cost of implementing data systems:** The introduction of computerised data systems including biometric identifiers into visa and residence permit documentation has obvious benefits in relation to efficiency and security. However, such systems are also costly and ICOS is concerned at the Government's proposal to consider passing on the full costs of new visa and residence permits to customers. Higher charges for visa processing and new charges for residence permits would have a definite negative impact on Ireland's competitiveness in the international student market;
- **Protection of students from bogus and sub-standard institutions:** We have already alluded to the advantages which will accrue from the operation of a fast-tracked process for visa applications in respect of courses which are on the DES register of approved courses. The benefits to institutions whose courses are listed are obvious. However, the ability of this system to protect vulnerable students from exploitation by bogus and sub standard institutions will only be as good as the rigour with which the list of courses and institutions are checked and monitored by the authorities and adequate resources should be applied to this process from the outset;
- **Students' basic right to choice in the market:** The Government proposes to consider in the future the circumstances in which international students might or might not be allowed to transfer from one institution to another after they have gained entry to the country. While ICOS accepts that there has to be some control to protect the state from the possible abuse of the student entry system and recognizes that there may be some loss to educational institutions in allowing students to transfer freely, ICOS is of the

view that the individual student's basic right to choice and free movement in an open market should not be infringed upon;

- **Return of student fees for unsuccessful applicants:** One of the standard criteria for the granting of a student visa is the pre-payment of student fees up to one year in advance. There is at least anecdotal evidence that some private institutions fail to refund this money when a student visa application is refused thus damaging the image of the industry as a whole and causing considerable hardship to families who have made significant sacrifices to save the amounts of money involved. ICOS would urge the Government to introduce strong and very clear regulations in this area which should be included in any new quality framework for the sector. International students must have confidence that their rights will be protected in the Irish system;
- **Clarification of procedures regarding family reunification:** The Government proposes to allow for the admission of spouses and minor unmarried children of long term or permanent non-EEA residents and will introduce schemes setting out the conditions under which such admission may be granted. Different schemes will be introduced in relation to the admission even for short visits of the spouses and families of short term non-EEA nationals. It is not clear what definitions will apply to "long term" and "short term" in these situations. ICOS is aware as are other agencies involved with immigrants that there are difficulties surrounding the entry of spouses and family members of legitimate international students, academics and researchers. Visa applications even for short visits of family members are often refused. This is clearly not acceptable from a human rights perspective and will also hinder the education sector in its efforts to internationalise;
- **Current difficulties regarding family reunification:** The Government proposes to introduce schemes in the future to cover the admission, for family reunification purposes, of partners in non traditional and non marital relationships. ICOS would support the early introduction of any schemes which offer a wider definition of the family and which would better reflect the reality of the society in which we live today;
- **Change of status legislation:** The discussion document makes reference to the possible introduction of secondary legislation to allow some persons to change their immigrant status without having to leave the state. The circumstances in which this might be allowed would be very limited but might include the possibility for non-EEA students to change their status to workers after graduation if their skills were needed in the State. ICOS would favour the introduction of such secondary legislation. The necessity to leave the State to change status can involve considerable and unnecessary hardship for international students who have already invested heavily in this country.

3. RIGHT TO WORK

ICOS is pleased that the right of international students to work is reaffirmed in the Government's proposals. For international students, work experience has greatly enhanced their opportunities and ability to interact and integrate with Irish society and has also contributed to their acquisition of language skills. The right to work is also essential in funding the costs and fees associated with international education. ICOS, however, has some concerns in relation to the right to work as outlined in the Government's proposals and these are listed below:

- **Recent legislation on students' right to work:** ICOS accepts that there has to be some control to protect the state from the possible abuse of the student entry system by persons whose sole intention is to gain access to the Irish labour market. However, the recent rather hastily introduced restriction on the right to work of students who are on approved courses of more than one year was poorly communicated to the sector and still continues to cause a lot of disquiet and confusion. In China, for example, many intending students now think that it is not possible to work part-time in Ireland and are considering other countries for full-time education;
- **Abuse of students in the labour market:** ICOS is not convinced that this change to the regulations surrounding student work will eliminate abuse and is concerned that the focus of attention in the government's proposals has been on the possible abuses by students and little has been said of the on-going exploitation of students and particularly of international students by employers who continue to flout the labour laws in relation to minimum wage and working hours. The inability of short-term international students to access the labour market legally may well have the effect of driving them into the black market thus opening the way for even more exploitation by unscrupulous employers. Problems related to student access to the labour market may well be better addressed through more rigorous enforcement of Ireland's labour laws and greater regulation of bogus institutions;
- **Negative effects of current legislation:** Some segments of the market such as visiting students on exchange programmes and study abroad programmes have been negatively affected by the curtailment of students' right to work. Ireland is a very expensive destination by any standard and, while there is already a stipulation in current immigration law that students should have the funds to support themselves in Ireland for the duration of their stay, the ability to work allows them to supplement their finances, thus making their stay in Ireland more comfortable. These students also contribute hugely to the Irish economy by their large participation rates in service industry jobs. It should be noted that these students are already paying very high fees to third level institutions and any loss of this income is detrimental to the economy as a whole;
- **Work rights for non-EEA graduates of Irish institutions:** ICOS and many international students have raised the issue of the right of non-EEA graduates to gain work experience in Ireland after graduation from an Irish institution. We would welcome a government initiative on this. It is in the interest of the Irish economy that work rights are granted to graduates in certain sectors. Many international students in turn have indicated that the added value of a period of relevant work experience on top of their Irish qualification would significantly improve their own career prospects when they return to their home countries. It would also of course significantly add to the attraction of coming to Ireland in the first place;

- **Right to work for spouses/partners of international students:** Some consideration might also be given to the rights of spouses/partners of international researchers and postgraduate students to work while they are in Ireland under family re-unification schemes. Many prospective students choose not to attend Irish universities and instead accept places in other English speaking countries because their spouses are not legally entitled to work in Ireland. As well as the obvious economic benefits to the state and to the family, access to employment would also greatly enhance the family's opportunity to integrate into Irish society.

ICOS acknowledges the issue of brain drain in the context of extending the rights of international students to work and reside in the state after completion of their studies . However, the problems related to the loss, albeit temporarily, of highly skilled graduates and researchers to their home economies is one which cannot be addressed at the level of the individual application. Policies on this issue should be formulated in cooperation with the affected countries at governmental level and involving relevant civil society actors.

ICOS would be very happy to provide further information or discuss with relevant officials any of the points raised in this document.

Submitted by:

Sheila Power
Director
Irish Council for International Students (ICOS)

31 July, 2005

Appendix 1

ICOS Council: Institutional Representatives and Individual Members

June 2005

President of Honour	Dr. Patrick Hillery	
Chair	Ms. Marie Lawlor	Manager, International Office University College Dublin

Name of Representative	Position	Institution
Ms. Kathleen Shehan	International Admissions Officer	American College Dublin
Ms. Mary Simpson	International Officer	Athlone Institute of Technology
Mr. Robert Griffiths	Head of EFL Department	Ballsbridge College of Further Education
Ms. Liza Kelly	Chinese Marketing Manager	DBS/LSB
Ms. Helena Ahern	Head of Counselling Services	Dublin City University
Dr. Claire Bohan	Dean of International Studies	Dublin City University
Ms. Marie E. Kennedy	International Student Officer	Dublin Institute of Technology
Ms. Ann Campbell	Senior Lecturer / International Officer	Dundalk Institute of Technology
Mr. David Doyle	Academic Administration & Student Affairs Manager	Dun Laoghaire Institute of Art, Design and Technology
Mr. Eoin O'Brien	Director	English Language Institute
Mr. Leo O'Brien	Director of International Office	Griffith College Dublin
Ms Fiona Canning	International Officer	IT Blanchardstown
Mr. Padraic Cuffe	Academic Administrator and Student Affairs Officer	IT Sligo
Ms. Stella Browne	Administrative Officer	IT Tallaght
Mr. Vincent Lennon	Head of Student Services	IT Tallaght
Mr. Gerard O'Carroll	International Education Officer	IT Tralee
Ms. Christine Houlahan	Executive Officer	Irish School of Ecumenics
Mr. Mustafiz Gani	Youth Coordinator	Islamic Cultural Centre of Ireland
Rev. Dr. John Stephens	Student Chaplain	Methodist Student Chaplaincy
Ms. Cecily Grant	Admissions Officer	NCAD

Name of Representative	Position	Institution
Professor Conleth Cunnane	Department of Eng. Hydrology	NUI Galway
Ms. Ann Monahan	Overseas Student Officer	NUI Galway
Ms. Melanie Kilduff	International Officer	NUI Maynooth
Ms. Brendan Gainey	Business Development Co-ordinator	Portobello College Dublin
Rev. William McClaren	Student Chaplain	Presbyterian Church in Ireland
Mr. Philip Curtis	Admissions & Student Services Office	RCSI
Ms. Corriena Brien	Student Services Advisor	RCSI
Mr. Phillip J Smyth	Director	Shannon Coll. of Hotel Management
Ms. Tara Ryan	Client Services Manager	Tipperary Institute
Ms. Sarah Coyle	Acting Director of International Office	Trinity College Dublin
	President	Union of Students in Ireland
Mr. Matt Murphy	Faculty of Food Science and Technology	UCC
Ms. Suzanne Buckley	International Student Officer	UCC
Professor Rodney Thom	Dean of International Affairs	UCD
Mr. Liam Ó Dochartaigh	Director, International Division	University of Limerick
Ms. Josephine Page	Manager, International Division	University of Limerick
Ms. Sinéad Cooke	International Affairs Manager	Waterford Institute of Technology
Individual Members	Ms. Alice Grattan Esmonde	(TCD)
	Professor Brian McMurry	(TCD)
	Mr. Don Niall	(DBS/LSB)
	Professor Louis Smith	(UCD)
	Mr. John Magoye	
	Mr. Oran O'Kennedy	
	Mr. James Vale	
	Professor Eamonn Gallagher	

Appendix 2

The Irish Council for International Students (ICOS) was established in 1970 to promote the welfare of international students in Ireland.

It's mission is to enhance the quality and the benefits of international education in Ireland by providing expert support services to international students, to host institutions and to Government, and by actively promoting good policy and practice at all levels in relation to the recruitment and support of international students.

ICOS is an independent, non-governmental and non-profit organisation, whose members include Irish universities, institutes of technology and other institutions involved in international education and training at post-secondary level. Its main activities are:

- Providing specialized advisory, support and training services to international students and to its member institutions;
- Administering Irish Government funded and other official Study Fellowship Programmes;
- Promoting good policies and practice in international education, particularly through research, publications, conferences and meetings.

ICOS has always had a special involvement with students from the majority world, and an interest in the issues that most affect them. It contributes its expertise to relevant initiatives in the non-Governmental sector and to bodies established by the Government which work in related areas.

The ICOS secretariat is based in Dublin, with a core staff of seven.