

UNOFFICIAL TRANSLATION

The Ministerial Order sets out the new residency requirements and some of the documentation applicants may be asked to present. We have prepared this unofficial translation of the Ministerial Order below in order to assist Irish citizens.

Residency requirements - for information only

This is an unofficial translation by the Irish Embassy to assist English-speaking EU citizens to understand the new residency requirements. The Embassy cannot take responsibility for any errors or differences between this and any future official translation, nor for any inconvenience or expense caused by any error or difference to the important parts of Spanish Order 1490 of 9 July 2012, setting out the rules on the entry, free movement and residence in Spain of nationals of other European Union (EU) Member States and European Economic Area States.

Article 1: Right of residence for a period of longer than three months

Nationals of:

- a member state of the European Union
- other States party to the Agreement on the European Economic Area
- Switzerland

have a right to reside in Spain for a period of longer than three months if they meet the conditions laid out in Article 7 of Royal Decree 240/2007, 16 February 2007, on entrance, free movement and residence in Spain of Nationals of European Union member states and of other states party to the Agreement on the European Economic Area.

Article 2: Attendance and registration on the Central Register of Foreign Nationals

1. Applications for registration as residents by the nationals mentioned in Article 1 shall comply with the provisions of sections 5 and 6 of Article 7 of Royal Decree 240/2007, of 16 February 2007.
2. Applications will be filed in person at the Immigration Office of the province where they intend to reside or in the relevant Police station.
3. If the application for registration does not meet the necessary requirements for it to be processed, the interested person will be required to correct any faults or attach the obligatory documents within a period of ten days and they will be informed that, if this is not done, it will be assumed that the application will be cancelled, by reasoned decision, which does not exhaust the administrative procedure and which may be appealed.
4. The certificate will be issued immediately, once compliance with the corresponding requirements has been confirmed. This certificate will give the name, nationality and address of the registered person, their foreign national identity number and the date of registration.

Article 3: Supporting documentation

1. All applications for registration must be accompanied by the applicant's passport or national identity document, which must be valid and in date. If these documents have expired, a copy of these and the application for renewal must be produced
2. In addition, the following documentation will be required, depending on the applicant's circumstances:
 - a) Employed workers must produce a declaration to the effect that they have been hired by the employer or a certificate of employment. These documents must include, as a minimum, details of the name and address of the company, tax identification and Employer's Social Security Number. Presentation of an employment contract registered with the corresponding Public Employment Service or a document of registration or situation similar to registration with the corresponding Social Security System will be accepted, although it will not be necessary to produce these documents if the interested party agrees to have their details checked against the General Social Security Finance Office files "Ficheros de la Tesorería General de la Seguridad Social"
 - b) Self-employed workers must produce evidence to the effect that they are self-employed. Registration on the Economic Activities List "Censo de Actividades Económicas" or proof of their establishment by means of registration in the Mercantile Registry "Registro Mercantil" or a document

of registration or situation similar to registration with the corresponding Social Security System will be accepted, although it will not be necessary to produce these documents if the interested person agrees to have their details checked against the General Social Security Finance Office or Taxation Office files “Ficheros de la Tesorería General de la Seguridad Social o de la Agencia Tributaria”

- c) People who do not work in Spain must produce documentation proving that they comply with the following two conditions:
- i. Public or private health insurance contracted in Spain or in another country, provided that it ensures cover in Spain during their period of residence equivalent to the cover provided by the National Health System. Pensioners will be considered to meet this condition if they can prove, by means of the corresponding certificate, that they are entitled to health care paid for by the State from which they receive their pension
- ii. have sufficient resources, for themselves and their family members, not to become a burden on Spain’s social assistance system during their period of residence. Proof of the possession of sufficient resources, whether from regular income, including work income or income of another kind, or from ownership of assets, will be given by any legally admissible evidence, such as property deeds, certified cheques, documentation proving that income from capital is received or credit cards. In this latter case, an up-to-date bank certificate proving the amount available by way of credit on the aforesaid card must be produced. The assessment of sufficient resources must be carried out on an individual basis, taking into account the applicant’s personal and family circumstances. The possession of resources that are more than the amount established each year by the State General Budgets Act “Ley de Presupuestos Generales de Estado” that justifies the right to receive non-contributory benefits, taking into account the interested persons’ personal and family circumstances, will be regarded as sufficient proof to meet this requirement
- d) Students, including those who are taking vocational training courses, must present documents proving fulfillment of the following conditions:
 - i. Enrolment in a public or private establishment, accredited or financed by the competent educational administration
 - ii. Public or private health insurance contracted in Spain or in another country, provided that it ensures complete cover in Spain. However, this condition will be deemed to be met if the student has a European Health Insurance Card that is valid for a period that covers the entire period of residence and that allows them to receive, exclusively, any medical assistance that is necessary from a medical point of view, taking into account the nature of the assistance and the envisaged duration.
 - iii. Sworn Statement that they have sufficient resources for themselves and their family members, so that they do not become a burden on Spain’s social assistance system during their period of residence. Participation in European Union programmes that promote educational exchanges for students and teachers will be regarded as sufficient proof of compliance with these requirements.

Article 4: Application of the right to reside for a period of longer than three months to family members

1. This Order will also apply to family members, as set out in Article 2 of Royal Decree 240/2007 of 16 February 2007, who are nationals of an EU Member State or of another State party to the Agreement on the European Economic Area and of Switzerland, who meet or accompany a national of a Member State of the European Union or of another State party to the Agreement on the European Economic Area and of Switzerland.
2. In the case of students, who are nationals of an EU Member State or of another State party to the Agreement on the European Economic Area or Switzerland, the right of residence for a period of longer than three months will only apply, regardless of their nationality, to their spouse or de facto partner registered in a public register in the terms established in Article 2 of Royal Decree 240/2007, of 16 February 2007, and dependent children, provided that they meet the conditions laid down in letter d) of section 2 of Article 3 of this Order.
3. In other cases, the right of residence will also be extended to the spouse or de facto partner registered in a public register, to their direct descendants and to those of their spouse or registered partner, who are less than 21 years of age or disabled or who are older than this age and dependent on them and also to the direct ascendant and to those of the spouse or registered partner who are dependent on them, when they are not nationals of a Member State of the European Union and accompany the national of a Member State of the European Union or of another State party to the Agreement on the European Economic Area and of Switzerland or meet him in the Spanish State,

provided that the conditions laid down in letters a), b) or c) of section 2 of Article 3 of this Order are met.

4. Family members who are nationals of a Member State of the European Union or of another State party to the Agreement on the European Economic Area and of Switzerland, set out in sections 1, 2 and 3 of this Article, must apply for registration in the Central Register of Foreign Nationals in accordance with the provisions of this Order. Family members who are not nationals of a Member State of the European Union or of another State party to the Agreement on the European Economic Area and of Switzerland, set out in Articles 2 and 3 of this Article, must apply for a residence card to be issued for a family member of a Union national, in accordance with the provisions of Article 8 of Royal Decree 240/2007, of 16 February 2007.

Single Interim Provision.

This Order will apply to applications presented after 24 April 2012.

First Final Provision: Competency Title

This Ministerial Order is passed under the provisions of Article 149.1.2 of the Spanish Constitution, which gives the State sole jurisdiction in matters of nationality, immigration, emigration, foreign affairs and right of asylum.

Second Final Provision: Entry into force

This Order will come into force on the day after its publication in the "State Official Bulletin". (10 July 2012)

Non-EU family members

There is also provision for non-EU family members, who have entered on valid passports and visas (where required), to reside with EU citizens, providing they too register in person at the Oficina de Extranjeros or designated police stations within 3 months of entry. They will be issued with Tarjetas de Residencia de Familiar de Ciudadano de la Union (Residency cards for family members of EU citizens). Additional documents will be required.