



DEPARTMENT OF JUSTICE, EQUALITY AND LAW REFORM  
AN ROINN DLÍ AGUS CIRT, COMHIONANNAIS AGUS ATHCHÓIRITHE DLÍ

## RECEPTION AND INTEGRATION AGENCY

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Mr. Brian Ó'Raghallaigh,  
Principal Officer,  
Supplementary Welfare Allowance  
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Department of Social, Community  
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Áras Mhic Dhiarmada,  
Store Street,  
Dublin 1.

✓ 28/9/01

Doc 47

20th September, 2001.

Re : Draft S.W.A. Circular 04/01

Dear Brian,

I refer to our discussions in relation to the above circular which we understand has yet to issue.

Our understanding of the situation is that the contents of the circular - bar the question of when parents of Irish Born Children (IBCs) may enter employment pending the issuance of permission to remain in the State - has been agreed between us.

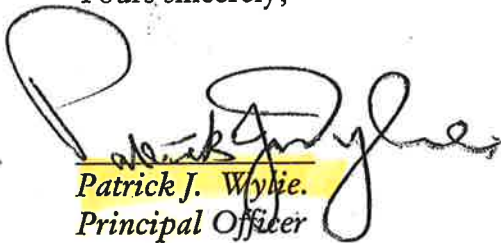
As you will recall our main concern is to ensure consistency of approach across Health Board areas on the circumstances in which asylum applicants may be permitted to leave Direct Provision for support through rent allowance, full SWA and so forth. A key issue in this respect is the need to ensure the discontinuance of the practice which appeared to have developed in at least one Health Board area of paying rent allowance etc. to asylum seekers in direct provision after six months notwithstanding the fact that this is in conflict with public policy. This issue was also raised at the Cabinet Sub-Committee held on 13th June last in the expectation that steps would be taken to ensure consistency of approach throughout Health Board regions.

Returning to the matter of when parents of IBC's can enter into the employment market, we have again taken up your views with the Immigration Division of the Department. That Division's view is that to allow asylum seekers who are the parents of IBC's ( and

who obviously have applied to remain in the State on that basis - notwithstanding their application for asylum) to enter into employment pending the determination of their application to remain in the State, would be totally at odds with Government policy in regard to asylum seekers not being allowed to work. Moreover, the Immigration Division has indicated that the law in relation to the rights of non-national parents to reside in the State on the basis of parentage of an Irish born citizen child is as set out by the Supreme Court in the Fajujonu case. In line with the decision in that case such a parent has a strong claim to be allowed to reside in the State. However, this does not mean that such a parent has an absolute right to remain in the State and each case is examined by reference to the right of the child to due care and company of its parents and the exigencies of the common good. Although it is true to say that at present, most such parents are given permission to reside in the State by the Minister, there have also been cases where such parents have been deported. Consequently, the mere fact of the birth of a child to a non-national parent in the State cannot be construed as confirmation that the parent in question will be given permission to reside in the State by the Minister. In the absence, therefore, of documentation that such permission has been given, the Immigration Division has indicated that in adherence to stated public policy on this issue, it would be strongly opposed to persons in this category being allowed enter the employment market.

If you feel that a meeting between all the appropriate people would identify common ground (while obviously remaining within the parameters of government policy) on which we could move forward, we would of course be happy to arrange it. In the meantime however, we here in the RIA are anxious that the situation on the ground in regard to the circumstances whereby asylum seekers can be taken out of direct provision is set out and operated consistently across all Health Board areas. It is also likely that this issue will be raised again at the next Cabinet Sub-Committee meeting in early October.

Yours sincerely,



*Patrick J. Wylie.*  
*Principal Officer*  
*Reception and Integration Agency.*