

(3) Information and communications technology;

(4) Pharmaceuticals;

(5) Engineering;

(6) Sales, marketing and promotion;

(7) Agriculture/horticulture

diversification;

(8) Food processing;

(9) Furniture.

(b) Additional sectors may be added to or deleted from the list in paragraph (a) of this section upon the agreement of the Department and FAS and/or T&EA.

Dated: March 1, 2000.

Marc Grossman,

*Assistant Secretary for European Affairs,
Department of State.*

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DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 3259]

Visas: Nonimmigrant Classes; Irish Peace Process Cultural and Training Program Visitors, Q Classification

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim rule with request for comments.

SUMMARY: This rule establishes procedures and requirements for the issuance of visas in a new nonimmigrant visa category, "Q-2". The rule also makes certain changes to existing provisions of the Code of Federal Regulations to conform to relevant "plain language" requirements. Visas in the new category will be issued pursuant to a program, the Irish Peace Process Cultural and Training Program (IPPCTP), established by Congress to permit young people from designated areas of Ireland and Northern Ireland to temporarily enter the United States in order to develop their job skills and conflict resolution abilities so they will be better able to contribute to the Irish peace process and the economic regeneration of their homelands. The rule will result in the issuance of up to 4,000 visas in each of three program years to qualified applicants and their dependents, beginning in FY 2000.

DATES: This interim rule is effective March 17, 2000. Written comments must be received no later than May 16, 2000.

ADDRESSES: Written comments may be submitted, in duplicate, to H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Room L603-C, SA-1, Department of State, Washington, DC 20520-0106.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Room L603-C, SA-1, Department of State, Washington, D.C. 20520-0106, (202) 663-1204; or e-mail: *odomhe@state.gov*.

SUPPLEMENTARY INFORMATION:

Background

What does the Irish Peace Process Cultural and Training Program Act Do?

The Irish Peace Process Cultural and Training Program Act of 1998 ("IPPCTPA"), Public Law 105-319, amended the Immigration and Nationality Act ("INA") by creating a new nonimmigrant visa sub-category. Under the Act, section 101(a)(15)(Q) of the INA was amended by inserting "(i)" after the (Q) and adding the language of the Act as subpart (ii) in that section. Under this new provision, aliens 35 years or younger having a residence in Northern Ireland or in the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, or Donegal within the Republic of Ireland may be issued a visa in order to apply for entry into the United States for a period not to exceed 36 months. The purpose of this new nonimmigrant sub-category is to provide such aliens with practical training, employment, and the experience of coexistence and conflict resolution in a diverse society so that they may return to Ireland or Northern Ireland to bolster that region's economy and support the peace process.

The program envisioned in the legislation contains numerical and time limitations. The Immigration and Naturalization Service may only admit 4,000 aliens per year under this program, for a maximum of 36 months each, and only during fiscal years 2000, 2001 and 2002, as the Act provides that it is repealed on October 1, 2005. The numerical limitation includes a principal alien's spouse and minor children who may be accompanying or following to join the principal alien. As required in the IPPCTPA, for every alien admitted under the IPPCTP, the numerical limit for the H-2B category, described at INA section 214(g)(1)(B), shall be reduced by one for that fiscal year.

How Does the New Q Visa Program Differ From the Existing Q Visa Program?

Although part of the Q visa category, the new Q visa sub-category, designated Q-2 by the Department of State and INS, has important differences from the existing Q visa (which will now be referred to as the Q-1 visa). There are several obvious differences. First, only aliens aged 35 or younger may

participate. Further, in order that the IPPCTP not conflict with the labor laws of any state, the Department of State and INS have determined the minimum age for participation in the program to be 18. Second, participants must have been physically resident in the designated areas for at least three months immediately preceding application to the program. Finally, the entire program is short term in nature in that participants may be initially admitted into the United States only through FY 2002.

In addition, there are other less apparent, but significant differences, some of which have been established by the Department of State and INS for the purpose of the efficient administration of the IPPCTP. First, the IPPCTPA contains no provision for a petition to INS. Therefore, none will be required. Second, much of the visa application and employment placement process will be coordinated through a program administrator selected by the Department of State in consultation with the INS. Third, the program administrator will be required to work with the Training and Employment Authority of the Republic of Ireland (FAS) and the Training and Employment Agency of Northern Ireland (T&EA) to identify and train candidates for the program.

Why Are the Participation of a Program Administrator and the Training and Employment Agencies Necessary?

The use of the program administrator is designed to make the program cohesive and efficient and to permit it to be carried out with a minimum of bureaucratic delay. The program administrator will also have the capacity to work directly with U.S. employers to identify suitable jobs for the program and to fill those jobs with eligible program candidates. In this regard, the program administrator will have the responsibility not only to work with FAS and T&EA to identify eligible candidates for participation in the program, but will also be responsible for identifying employers in the United States who can offer employment and training consistent with the goals of the program and for placing the candidates with those employers. The program administrator will also have the responsibility to monitor and assist program participants throughout their stay in the United States. The involvement of the training and employment agencies of Ireland and Northern Ireland will insure that the program meets the needs of those countries and thus, best fulfills Congressional intent.

Who Will Be the Program Administrator?

The Department of State, after consultation with INS, has selected Logicon, Inc. to be the program administrator through September 30, 2000. Logicon's Irish Peace Process Training and Cultural Program project office may be reached toll free at 1-877-(WALSHVISA) 925-7484. Logicon's mailing address is 1831 Wiehle Avenue, Suite 100, Reston, Virginia 20190-5241. Logicon has established a web site for this program. Its internet address is: *www.walshvisa.net*. is its internet address. Employers wishing to participate in the IPPCTP should contact the project office.

Program Requirements and Offerings*Who May Qualify as a Candidate for the IPPCTP?*

Candidates for the IPPCTP will be selected from two categories. The first includes those who have been unemployed for at least three months, or who have completed or are currently participating in a T&EA- or FAS-sponsored training program, or other publicly funded employment/training program, or who have been made redundant (lost their job through a reduction in force) or have received a notice of redundancy. The second category includes those persons already employed and whose current employer has nominated them to participate in the program for additional training/job experience that will benefit both the employer and the employee upon that person's return to employment in Northern Ireland or the Republic of Ireland. FAS and T&EA will be responsible for the initial selection of candidates from the first category. Employers of employees in the second category may nominate the employee directly to the program administrator.

What Types of Employment and Training Will the IPPCTP Offer?

The program will focus on employment and training in occupations that will be the most beneficial to the economies of the relevant areas, as determined by the Department of State in consultation with T&EA, FAS, and the program administrator. Initially, the following sectors have been identified: hospitality and tourism; customer service; information and communications technology; pharmaceuticals; engineering; sales, marketing and promotion; agriculture/horticulture diversification; food processing, and furniture.

Obtaining a Q-2 or Q-3 Visa*Must All IPPCTP Participants Obtain a Q-2 Visa?*

Every IPPCTP participant must obtain a Q-2 visa and his or her spouse and children must obtain Q-3 visas. Program participants will not be allowed to enter the United States under the Visa Waiver Pilot Program in order to participate in the IPPCTP. Except as otherwise provided in this rule, the procedures for application for a nonimmigrant visa found in Subpart J of Part 41 of 22 CFR are applicable to applications for the Q-2 and Q-3 visas.

What Are the Requirements To Obtain a Q-2 Visa?

Generally, as part of the process to gain the new Q-2 visa, after selection by FAS or T&EA or nomination by his or her current employer, an alien must be able to show to the consular officer's satisfaction that he or she meets the statutory age and residence requirements for this category, has no intention of abandoning his or her foreign residence, is qualified for the position in question, will be employed while in the United States and is not otherwise ineligible for a nonimmigrant visa. The alien must provide the information concerning selection for the program, position qualifications and employment to the consular officer in the form of a certification letter provided and approved by the program administrator. While this certification letter will be considered prima facie evidence that the alien has met the requirements for participation in the IPPCTP, before issuing a visa the consular officer still will have the responsibility to evaluate all aspects of the alien's application and the information gained at the visa interview.

What Will Be the Period of Validity of the Q-2 and Q-3 Visas?

In most cases, the visas for the principal alien and for the spouse and children will be issued for 36 months, the maximum possible period of work and training permitted under the IPPCTPA. If, however, the job to which the alien has been contracted and the planned period of training is of a duration less than 36 months, for example, or if the consular officer, at his or her discretion, determines that the visa should be issued for a shorter period of time, then the consular officer may issue the visa for the period most suitable to that particular applicant.

Where May Q-2 and Q-3 Visas Be Obtained?

Generally, according to 22 CFR 41.101(a), a nonimmigrant visa applicant may apply for a visa at either: (1) the consular office with jurisdiction over the alien's place of residence (22 CFR 41.101(a)(1)); or (2) the consular office with jurisdiction over the area of the alien's physical presence (at the consular officer's or the Department's discretion) (22 CFR 41.101(a)(1)(ii)). In the case of the Q-2 and Q-3 visa, since according to the IPPCTPA principal applicants must be resident in either Northern Ireland or one of the six designated counties of the Republic of Ireland, an alien residing in Northern Ireland or one of the six counties of the Republic of Ireland may apply at the American Consulate General at Belfast or the American Embassy at Dublin respectively. Consular officers at the Consulate General and at the Embassy also will retain the discretion to accept an application for a Q-2 visa from an applicant who is physically present in their consular district, but who is a resident of the Q-2 geographic area over which the other post has jurisdiction. However, consular officers at other consular posts will not have the discretion to accept applications from an applicant for a Q-2 or Q-3 visa who is a resident of a Q-2 geographic area, but who is physically present in their respective consular district. Amendatory language has been added to 22 CFR 41.101 to reflect this.

Interim Rule*How Is the Department of State Amending Its Regulations?*

This rule amends 22 CFR 41.57 by making the existing section paragraph (a) and by adding a new paragraph (b). This change is necessary to make that section conform to the requirements of the IPPCTPA. There are also stylistic changes made to 22 CFR 41.57 that are intended solely to make it conform to the President's plain writing initiative.

The new paragraph (b) contains the visa processing aspects of the IPPCTPA. It establishes the requirements in order for a consular officer to issue a nonimmigrant visa under INA § 101(a)(15)(Q)(ii). These changes, published in conjunction with the publication of a similar rule by the Immigration and Naturalization Service, establish the procedures for an alien to obtain a visa and enter the United States in order to participate in the IPPCTP.

Paragraph (1) of the new subsection (b) states the requirements of the Q-2 visa classification, with the main focus being the certification letter received

from the designated program administrator responsible for the operation of the IPPCTP.

Paragraph (2) of new subsection (b) provides for the issuance of a letter of certification by the program administrator to the consular officer in order to verify the selection of an individual visa applicant for the IPPCTP.

Paragraph (3) of new subsection (b) allows the consular officer to suspend processing of the application in those cases where the consular officer, at the consular officer's discretion, believes or has reason to believe that the applicant is not qualified under paragraph (1) or (2).

Administrative Procedure Act

The Department's implementation of this regulation as an interim rule, with a provision for public comments, is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The Department decided that there was not enough time to issue a proposed rule with request for comments as the Irish Peace Process Cultural and Training Program is limited by law to a period that has already begun (FY 2000 through FY 2005, i.e., October 1, 1999 through September 30, 2005). Publication of this regulation as an interim rule will expedite implementation of Public Law 105-319 that is already in effect and allow eligible aliens to apply for and participate in this program as soon as possible in light of the statutory expiration of the program on October 1, 2005.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact

on a substantial number of small entities. Participation in the Irish Peace Process Cultural and Training Program Act of 1998 is limited to 4,000 individuals annually for three consecutive years. The activities of the participants in the United States will take place in various locations and in a number of sectors of the economy so that no significant economic impact should occur.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Department of State does not consider this rule, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements. The information collection requirement (Form OF-156) contained by reference in this rule was previously approved for use by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 41

Aliens, Applications, Nonimmigrants, Passports and visas.

Accordingly, amend 22 CFR part 41 as follows:

PART 41—[AMENDED]

1. The authority citation for Part 41 continues to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105-277, 112 Stat. 2681 *et seq.*

2. Amend § 41.12 in the table as follows:

a. Revise the section of law "101(a)(15)(Q)" for category "Q-1" to read "101(a)(15)(Q)(i)";

b. Add two new entries in alpha-numeric order to read as follows:

§ 41.12 Classification symbols.

* * * * *

NONIMMIGRANTS

Symbol	Class	Section of law
Q-2	Irish Peace Process Program Participant	101(a)(15)(Q)(ii)
Q-3	Spouse or child of Q-2	101(a)(15)(Q)(ii)

3. Revise § 41.57 to read as follows:

§ 41.57 International cultural exchange visitors and visitors under the Irish Peace Process Cultural and Training Program Act (IPPCTPA).

(a) *International cultural exchange visitors.* (1) *Requirements for classification under INA section*

101(a)(15)(Q)(i). A consular officer may classify an alien under the provisions of INA 101(a)(15)(Q)(i) if:

(i) The consular officer is satisfied that the alien qualifies under the provisions of that section, and

(ii) The consular officer has received official evidence of the approval by INS

of a petition or the extension by INS of the period of authorized stay in such classification.

(2) *Approval of petition.* INS approval of a petition does not establish that the alien is eligible to receive a nonimmigrant visa.

(3) *Validity of visa.* The period of validity of a visa issued on the basis of this paragraph (a) must not exceed the period indicated in the petition, notification, or confirmation required in paragraph (a)(2) of this section.

(4) *Alien not entitled to Q classification.* The consular officer must suspend action on the alien's application and submit a report to the approving INS office if the consular officer knows or has reason to believe that an alien does not qualify under INA section 101(a)(15)(Q)(i).

(b) *Trainees under INA section 101(a)(15)(Q)(ii).* (1) *Requirements for classification under INA section 101(a)(15)(Q)(ii).* A consular officer may classify an alien under the provisions of INA section 101(a)(15)(Q)(ii) if:

(i) The consular officer is satisfied that the alien qualifies under the provisions of that section;

(ii) The consular officer has received a certification letter prepared by a program administrator charged by the Department of State in consultation with the Department of Justice with the operation of the Irish Peace Process Cultural and Training Program which states at a minimum:

(A) The name of the alien's employer in the United States;

(B) That the employment is in an occupation designated by the employment and training administration of the alien's place of residence as being most beneficial to the local economy;

(C) That the program administrator has registered the alien in the program;

(D) That the alien has been physically resident in Northern Ireland or in the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal in the Republic of Ireland and the length of

time immediately prior to the application that the alien has claimed such place as his or her residence;

(E) The alien's date and place of birth;

(iii) If applicable, the consular officer is satisfied the alien is the spouse or child of an alien classified under INA section 101(a)(15)(Q)(ii), and is accompanying or following to join the principal alien.

(2) *Requirements for certification letter.* Before the program administrator (or its agent) may properly issue the certification letter required under paragraph (a)(1)(ii) of this section, the program administrator (or agent) must establish:

(i) Either that the alien:

(A) Has been unable to maintain regular employment for the three months prior to the date of application for participation in the program; or

(B) Has completed or is currently participating in a T&EA or FAS or other publicly funded training/employment program; or

(C) Has received a redundancy notice (notice of loss of employment by reduction in force); or

(D) If the alien is regularly employed, the alien's employer has nominated the alien to leave such employer temporarily in order to participate in the program;

(ii) That the position selected for the alien by the program administrator reasonably fits within the alien's background and experience; and

(iii) That the alien understands both the requirements for maintenance of lawful nonimmigrant status in the United States and that to qualify for visa issuance the alien must have a residence abroad that the alien has no intention of abandoning.

(3) *Aliens not entitled to such classification.* The consular officer must suspend action on the alien's application and notify the alien and the designated program administrator described in paragraph (b)(1)(ii) of this section if the consular officer knows or has reason to believe that an alien does not qualify under INA section 101(a)(15)(Q)(ii).

4. Amend § 41.101 by adding new paragraph (f) to read as follows:

§ 41.101 Place of application.

* * * * *

(f) *Q-2 nonimmigrant visas.* The American Consulate General at Belfast is designated to accept applications for the Q-2 visa from residents of the geographic area of Northern Ireland. The American Embassy at Dublin is designated to accept applications for Q-2 visas from residents of the geographic area of the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal in the Republic of Ireland. Notwithstanding any other provision of this section, an applicant for a Q-2 visa may not apply at any other consular post. Consular officers at the Consulate General at Belfast and at the Embassy at Dublin have discretion to accept applications for Q-2 visas from aliens who are resident in a qualifying geographic area outside of their respective consular districts, but who are physically present in their consular district.

Dated: March 2, 2000.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, U.S. Department of State.

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