

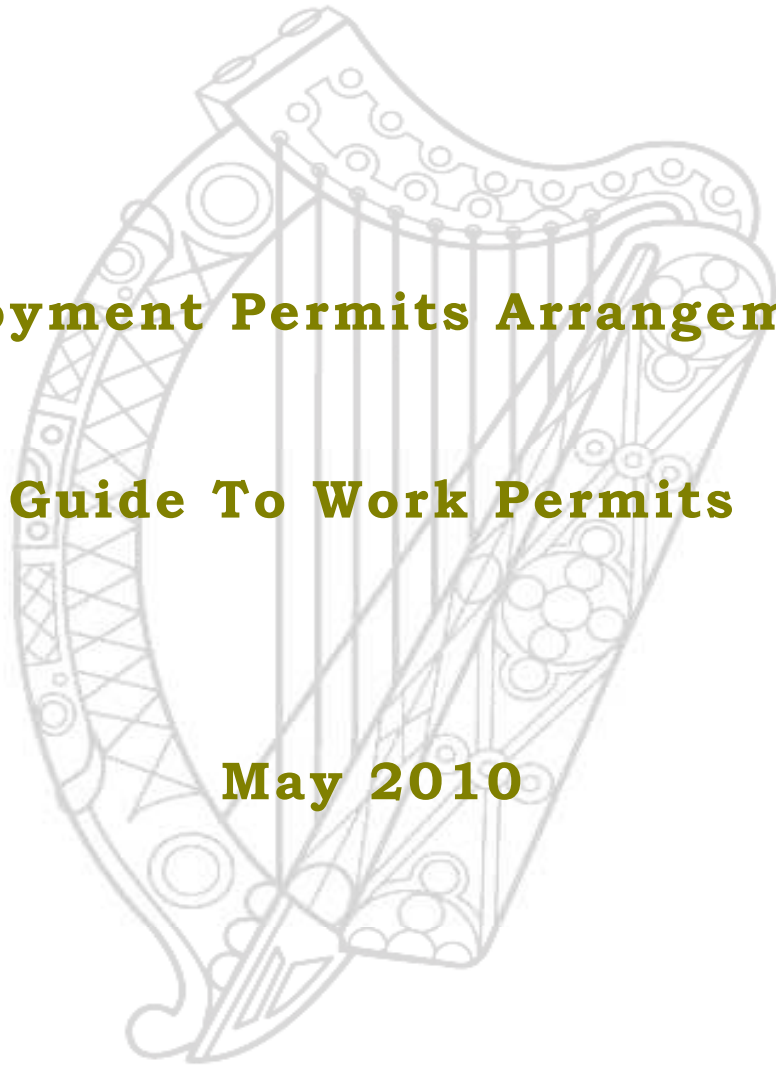


An Roinn Fiontar, Trádála agus Nuálaíochta
Department of Enterprise, Trade and Innovation

Employment Permits Arrangements

Guide To Work Permits

May 2010



Guide to Work Permits

Introduction

The Employment Permits Acts 2003 and 2006 allow for the issuing of a Work Permit for those occupations with a salary of €30,000 or more where Green Card Permits are not available and, in exceptional cases, in the salary range below €30,000.

What is a Work Permit?

A Work Permit is an employment permit issued to the employee, which permits his or her employment in the State by the employer in the occupation specified on the permit. It will be issued for an initial period of two years and can then be renewed for a further three years. After five years, the work permit can be renewed indefinitely.

Who can apply for a Work Permit?

Either the employee or the employer can apply for a Work Permit.

What criteria do I have to fill to be eligible for a Work Permit?

Occupations

There are two categories of application based on salary level.

- (i) Firstly, where the annual salary (excluding bonuses) on offer is €30,000 or more the Work Permit can be considered for occupations other than those which are contrary to the public interest.
- (ii) Secondly, Work Permits will only be considered in exceptional cases for occupations with an annual salary below €30,000.

Notwithstanding the above, work permits **will not** be considered for any of the job categories specified on the ineligible list for work permits at Appendix A.

Labour Market Needs Test

A vacancy, in respect of which an application for a work permit is being made, must be advertised with the FÁS/EURES employment network for at least 8 weeks and additionally in local and national newspapers for six days. This is to ensure that the vacancy has been advertised in the local and wider EEA labour market, and that in the first instance a national of the EEA or Norway, Iceland, Liechtenstein and Switzerland, or in the second instance a national of Bulgaria or Romania, cannot be found to fill the vacancy. Evidence that this has been done must be included with the application. Applications should not be submitted unless the Labour Market Needs Test has been completed.

Qualifications

The foreign-national concerned must possess the relevant qualifications, skills or experience that are required for the employment.

What are the processing fees for a Work Permit?

The processing fees for a Work Permit, which must be paid by the applicant, are as follows:

Fees in respect of Work Permits where the application for the foreign national's first Employment Permit in the State was received before 1 June 2009

First Application FEE	Renewal FEE
€500 - six months or less	€500 - six months or less
€1,000 - up to 24 months	€1,000 -up to 24 months
	€1,500 -up to 36 months

Fees in respect of Work Permits where the application for the foreign national's first Employment Permit in the State was received on or after 1 June 2009

First Application FEE	Renewal FEE
€500 - six months or less	€750 - six months or less
€1,000 up to 24 months	€1,500 - up to 24 months
	€2,250 - up to 36 months

Am I free to move employer?

If this is your first work permit in the State then (apart from in exceptional circumstances) you are normally expected to stay with your initial employer for a period of 12 months, but then you may move employer provided that a new application for a work permit is made for the same employment sector or to another eligible employment sector. A Labour Market Needs test does **not** need to be undertaken.

Can my Spouse and Dependants work?

Yes once they **are legally resident in the State** on the basis of being your Spouse or Dependant, and you applied for your first Work Permit

before 1 June 2009, they are free to seek employment and to apply for a Spousal/Dependant work permit.

However, if you applied for your first Work Permit on or after 1 June 2009, your Spouse or Dependant will be required to apply for a Work Permit in their own right according to standard work permit eligibility criteria, including a labour market needs test, restriction to vacancies in eligible job categories and payment of the standard application fee.

A Work Permit issues to me - what then?

If a Work Permit issues to a foreign national they should, where necessary, obtain an entry visa from their local Irish Embassy/Consulate. Contact details for the Irish Embassies/consulates abroad can be obtained from the Department of Foreign Affairs website at www.dfa.ie.

On arrival in the State the employee should register with the National Garda Registration Office (Immigration Registration Office, Garda National Immigration Bureau, Burgh Quay, Dublin 2, for persons intending to reside in the Dublin area, or the Garda Superintendent's office in the relevant Garda District for persons intending to reside elsewhere in the State) to obtain the appropriate permission to remain in the State as an employee. This must be done in order to have the correct immigration status for permission to remain in the State.

Will employment permits be granted for applications proposing to pay wages below Registered Employment Agreement/ Employment Registered Order rates?

No.

I am a Work Permit holder who has been placed on short-time working. Am I eligible to have my permit renewed even though I am working fewer hours?

The Department will consider applications for the renewal of work permits received in respect of employees placed on short-time working during the currency of their work permit. Applications will be considered on a case-by-case basis.

What happens if I am made redundant while I am a Work Permit holder?

You should notify the Employment Permits Section of the Department when you are informed of your redundancy. If your permission to remain in Ireland allows, you will have up to six months from the date of your redundancy to seek alternative employment. A labour market needs test will **not** be required in respect of any subsequent work permit application you make. If the job from which you were made redundant was among the list of ineligible job categories, you will be entitled to apply for a new work permit for a position from that ineligible list, if you so wish.

What happens if I cannot get another job within six months of being made redundant?

If you cannot get another job within six months of being made redundant you should contact the immigration authorities to establish your immigration status beyond that period. Should you opt to leave the country, and are later successful in getting another job offer in Ireland, you are free to apply for a new employment permit.

Guide for Employers

What can an employer do to ascertain whether an application may be made under this scheme?

To ascertain whether or not an application may be made under this scheme, an employer should satisfy him/herself that the following are all in order:

- Is your company registered and trading in Ireland - Applications will only be accepted from companies or employers that are registered with the Office of the Revenue Commissioners and with the Companies Registration Office and which are currently trading in Ireland.
- Employer/employee relationship – the foreign national concerned must be employed, salaried and paid directly by you. Applications from recruitment agencies, agents, intermediaries or companies who intend to outsource or subcontract the employee to work in another company will not be accepted under this scheme.
- Ratio of EEA/non-EEA nationals – An employment permit cannot issue where a consequence of granting the permit would be that more than 50% of employees in a firm would be non-EEA nationals.
- Occupations – Applications will be considered, where the salary is over €30,000 for all occupations other than those which are contrary to public interest and, in exceptional circumstances for occupations with a salary below €30,000. Applications **will not** be considered for the job categories specified in Appendix A.

- Labour Market Needs Test - evidence must be provided that a labour market needs test has been undertaken for the vacancy. Applications should not be submitted unless the Labour Market Needs Test has been completed i.e. vacancy must be advertised with the FÁS/EURES employment network for at least 8 weeks and additionally in local and national newspapers for six days.
- If you are a foreign national and wish to operate a business in the State, you are required to obtain business permission from Department of Justice, Equality and Law Reform. Copies of documentary evidence clearly demonstrating your status within the State and your entitlement to operate a business must accompany your application.

What can an employer do to ascertain whether or not a proposed employee is eligible under this scheme?

- Does the foreign national concerned possess the relevant qualifications, skills and experience that are required for the employment?
- If the foreign national is resident in the State - have they valid permission to remain in the State granted by the immigration authorities as evidenced by a stamp in their passport and do they hold a current Garda Registration Card?
- If the foreign national is resident in the State and is a visa required national – have they the appropriate visa to enable them to enter full-time employment?

Application Process for Employers and Employees

New application

An application for a Work Permit can be made by, either, the employer or the employee. The following documentation must be supplied.

- A fully completed new employment permit application form specifying that it is a Work Permit application and including all relevant documentation. The form must be signed by both the employer and the employee.

Note: The passport of the foreign national must be in date and valid for at least 3 months after the proposed expiry date of the Work Permit.

- Documentary evidence that a labour market needs test has been undertaken for the vacancy. This is not required in respect of new applications for foreign nationals who are already the holder of a valid work permit and who wish to change employer.
- Documentary evidence of the employee's certified qualifications.
- The appropriate processing fee paid for by the applicant.
- In the case of medical professionals, a copy of the registration with the appropriate medical body or validation of qualifications from the Department of Health and Children should also be attached (List of registration and validation bodies for medical professionals attached at Appendix B).

Renewal application

An application for a renewal of a Work Permit can be made by either the employer or the employee. The following documentation must be supplied.

- A fully completed renewal employment permit application form specifying that it is a Work Permit application and including all relevant documentation.
- **Applications received before 1 June 2009:** A labour market needs test is **not** required for a renewal application if the Work Permit holder applied for their first Work Permit before 1 June 2009.
- **Applications received on or after 1 June 2009:** A labour market needs test **is** required for a renewal application if the Work Permit holder applied for their first Work Permit on or after 1 June 2009.
- The form must be signed by both the employer and the employee.

Note: The passport of the foreign national must be in date and valid for at least 3 months after the proposed expiry date of the Work Permit.

- A copy of the P60s of the employee concerned, for each year of employment in respect of which a Work Permit has previously been granted and copies of 3 recent payslips dated within the last 3 months.
- The appropriate processing fee paid for by the applicant.

Holders of Permits for 5 consecutive years

Following the announcement made on 28th August 2009 by the Minister for Justice, Equality and Law Reform in consultation with the Tánaiste and Minister for Enterprise, Trade and Employment, it will not be necessary for those who have been working lawfully and who have held an employment permit for 5 consecutive years to have an employment permit to remain in employment. In those circumstances, the Department of Justice, Equality and Law Reform will give immigration permission to reside in Ireland and to work without the need for an employment permit. This arrangement will apply to those made redundant after 5 years working on a permit and to those still in employment.

Accordingly, non-EEA nationals who fall within the above criteria will no longer require an employment permit and should contact the Immigration Services of the Department of Justice, Equality and Law Reform. Further information on the announcement can be found at [Link to INIS Website](#).

The Employment Permits Section will be taking the above into account when processing applications on hand. Any applications for unlimited permits or where the employees have been in employment for five consecutive years will be automatically refused on the grounds that the non-EEA national does not require an employment permit. Any applicable fees will be refunded.

Unlimited application (after 5 years)

An unlimited work permit is issued at the renewal stage if an employee has been in continuous employment with the same employer for five years or more. An unlimited permit has a start date but no expiry date and entitles the employee to work for the specified employer for an unlimited period without the need to renew the permit. The unlimited

permit provision has, for the most part, been superseded by the changes announced by the Department of Justice as outlined above.

However, where the Department of Justice does not grant permission to work in Ireland without the need for an employment permit to an individual who would qualify for an unlimited Work Permit, an application for an unlimited Work Permit can be made by either the employer or the employee. The following documentation must be supplied.

- A fully completed renewal employment permit application form including all relevant documentation.
- **First application received before 1 June 2009:** A labour market needs test is **not** required for an unlimited application if the Work Permit holder applied for their first Work Permit before 1 June 2009.
- **First application received on or after 1 June 2009:** A labour market needs test **is** required for an unlimited application if the Work Permit holder applied for their first Work Permit on or after 1 June 2009.
- The form must be signed by both the employer and the employee.

Note: The passport of the foreign national must be in date and valid for at least 12 months.

- A copy of the P60s of the employee concerned, for each year of employment in respect of which a Work Permit has previously been granted and copies of three recent payslips dated within the last three months.

- No processing fee is required.

Disclaimer

The information contained in this guide does not constitute legal advice and is provided for information purposes only.



Appendix A

Ineligible Job Categories

(With effect from 16 April 2009)

<input type="checkbox"/>	All Clerical and Administrative Positions
	All General Operatives/Labourers
	All Operator and Production Staff
	All Domestic Workers (including Carers in the Home and Childminders)
	All Work Riders (Horse Racing)
	In the category 'Sales Staff' All retail sales vacancies, sales representatives, Supervisory/ Specialist Sales
	In the category 'Transport Staff': All drivers including HGV
	In the category Childcare Workers: Nursery/ Crèche Workers, Child Minder/ Nanny
	In the category 'Hotel Tourism and Catering': All staff except chefs
	In the category 'Craft Workers and Apprentice/Trainee Craft Workers': Bookbinder, Bricklayer, Cabinet Maker, Carpenter/Joiner, Carton Maker, Fitter - Construction Plant, Electrician, Instrumentation Craftsperson, Fitter, Tiler - Floor/Wall, Mechanic - Heavy Vehicles, Instrumentation Craftsperson, Metal Fabricator, Mechanic - Motor, Originator, Painter And Decorator, Plumber, Printer, Engineer - Refrigeration, Sheet Metal Worker, Tool Maker, Vehicle Body Repairer, Machinist – Wood, Plasterers and Welders

Appendix B

List of registration bodies for medical professionals

Profession	The designated authority responsible for the validation of qualifications
Medical Practitioner	Medical Council of Ireland
Dentist	The Dental Council
Nurse	An Bord Altranais
Diagnostic or Therapeutic Radiographer	Minister for Health & Children
Dietician	Minister for Health & Children
Occupational Therapist	Minister for Health & Children
Orthoptist	Minister for Health & Children
Medical Physicist	Minister for Health & Children
Psychologist	Minister for Health & Children
Speech and Language Therapist	Minister for Health & Children
Biochemist	Minister for Health & Children
Audiologist	Minister for Health & Children
Social Worker	National Social Work Qualification Board
Medical Scientist	Academy of Medical Laboratory Sciences
Physiotherapist	Irish Society of Chartered Physiotherapists
Pharmacist	Pharmaceutical Society of Ireland
Chiropractor	Chiropractic Association of Ireland
ECG Technician	N/A –employer’s letter will suffice
Neurophysiological Measurement Technician	N/A –employer’s letter will suffice
Cardiac Catheterisation Technician	N/A –employer’s letter will suffice