An Roinn Fiontar,
Turasóireachta agus Fostaíochta
Department of Enterprise,
Tourism and Employment

Employment (Miscellaneous Provisions) Bill 2026
General Scheme

Contents

Part 1: Preliminary and General 2

Head 01 – Short title and commencement 2

Head 02 – Definitions 3

Part 2: Amendments to Employment Permits Act 2024 4

Head 03 – Amendment of Section 3 (Definition of "remuneration") 4

Head 04 – Amendment of Section 22 (Restriction on grant of an employment permit) 5

Head 05 – Insertion of new Section 22A (Adjustment to restriction on grant of employment permit) 7

Head 06 – Amendment of Section 23 (Establishing need for grant of certain employment permits) 10

Head 07 – Amendment of Section 28 (Change of employer: refusal to approve change) 11

Head 08 – Amendment of Section 40 (Revocation of employment permit) 12

Head 09 – Amendment of Section 43 (Termination of employment) 13

Head 10 – Amendment of Section 47 (Regulations governing grant of employment permit, etc.) 14

Part 3: Amendments to other legislation 15

Head 11 – Amendment of section 42A(5) of the Industrial Relations Act, 1946 15

Head 12 – Amendment of section 36 of the Workplace Relations Act 2015 17

Head 13 – Amendments of Chemical Weapons Act 1997 19

Part 1: Preliminary and General

Head 01 – Short title and commencement

Provide that

(1) This Act may be cited as the Employment (Miscellaneous Provisions) Act 2026.

(2) The Employment Permits Act 2024 and Part 2 of this Act may be cited together as the Employment Permits Acts 2024 - 2026 and shall be construed together as one Act.

(3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Explanatory Note

This is a standard provision dealing with short title and commencement.

Head 02 – Definitions

Provide that

In this Act—

"Act of 2024" means the Employment Permits Act 2024;

"Minister" means the Minister for Enterprise, Tourism and Employment.

Explanatory Note

This is a standard provision dealing with definitions.

Part 2: Amendments to Employment Permits Act 2024

Head 03 – Amendment of Section 3 (Definition of "remuneration")

Provide that

Section 3 of the Act of 2024 is amended by adding a new subsection (3):

"(3) The remuneration paid to the foreign national shall be paid, (averaged over the prescribed period) and not be less than the remuneration stated pursuant to section 21 (2)(b), or 27 (15)(b) or 29 (14)(b) as the case may be, in the employment permit or, as the case may be, the remuneration stated in the notification referred to in section 31 (2), assessed during a prescribed reference period."

Explanatory Note

Section 3 of the Employment Permits Act 2024 defines remuneration.

This Head inserts a new subsection (3) in this section to introduce a defined statutory pay reference period within which minimum annual remuneration compliance must be assessed.

Under the Employment Permits Act 2024, the minimum annual remuneration is defined on an annual basis, and neither s.47(3) nor s.48(2) of the Act provides a legislative footing for a shorter assessment period.

The policy intention is to provide a clear statutory pay reference period for assessing remuneration compliance under the Employment Permits Act 2024, to support enforcement and address the legislative gap where remuneration can currently only be assessed on an annual basis.

The policy intent is that a 13-week reference period will be prescribed for this purpose. A 13-week period would align with existing employment legislation (the Minimum Notice and Terms of Employment Acts) and would reduce uncertainty while giving employers operational flexibility. Within that period, the remuneration paid must be equivalent to, or exceed, the remuneration as agreed when the permit was issued, pro-rated over the reference period. However, giving the Minister the power to prescribe other durations will give greater operational flexibility.

Head 04 – Amendment of Section 22 (Restriction on grant of an employment permit)

Provide that

Section 22(1) of the Act of 2024 is amended by:

(i) deleting *", on the date the application for the employment permit was made,"* to adjust the point of when an application is considered;

(ii) deleting "or" from subsection (iii);

(iii) inserting a new subparagraph (iv) after (iii) to provide for an additional category of employee that may be included in the 50 per cent as follows: "foreign nationals holding a permission referred to in regulations, or"

(iv) renumbering the existing subparagraph (iv) to (v); and

(v) inserting a reference to the new subsection (iv) in subparagraph (v):

Explanatory Note

Section 22 prohibits the granting of an employment permit unless 50 percent or more of the employees of an employer are nationals of the EEA, Swiss Confederation, citizens of the UK or a combination of these. This is commonly referred to as the "50:50 Rule" and applies to all permit types at both new grant and renewal of a permit. The Act provides two waivers to the rule depending on the permit type applied for.

Paragraph (i) of this Head deletes the reference to a point in time when an application is assessed for the purposes of this section. The policy intention of this amendment is to address cases where an employer may be compliant with Section 22(1) on the date an application was made where one application is submitted and granted. However, in cases where an employer submits multiple applications (for example 50 applications) on the same day, all 50 applications may be compliant under Section 22 and are granted. With the grant of all 50 applications, the employer breaches the 50:50 rule after grant.

Under the legislation as it stands, the Minister is not provided with an option to refuse any of the applications assessed on that date as the employer was compliant with the 50:50 rule. The amendment is intended to close that gap and allow for the grant or refusal of each application subject to Section 22(1).

Paragraph (ii) of this Head is a technical drafting change.

Paragraph (iii) of this Head gives the Minister the power to adjust the categories of employees that can be included in the count of an employer's ratio under the 50:50 rule. This amendment allows the Minister make regulations to facilitate the inclusion of

an additional category of foreign national employee in addition to employees who are EEA/Swiss/UK nationals.

This category of foreign national employee must be the holder of a valid immigration or residence permission granted by the Minister of Justice, Home Affairs and Migration, to be prescribed. Head 10 provides for this new regulation-making power.

The policy intention is to prescribe in regulations the specific immigration permissions held by this category of foreign national employee that can be included in addition to the EEA/Swiss/UK national employee count (i.e., those who have long term leave to remain).

The purpose of the amendment is to address concerns in certain critical sectors of the economy that provide nationwide services and are highly reliant on supply of labour through the employment permit route. As a result of global labour shortages in supply of certain skills, these critical services are at risk of failing to deliver on Government commitments.

Paragraph (iv) and (v) of this Head are technical drafting changes.

Consolidated Text

"22. (1) Subject to subsections (2) and (3), an employment permit shall not be granted unless the Minister is satisfied that~~, on the date the application for the employment permit was made,~~ 50 per cent or more of the employees of—

(a) the person who has made the offer of employment,

(b) in the case of an application for a contract for service employment permit, the contractor, subcontractor or the relevant person concerned, or

(c) in the case of an application for an intra-company transfer employment permit, the connected person concerned,

are either—

(i) nationals of one or more Member States of the EEA,

(ii) nationals of the Swiss Confederation,

(iii) citizens of the United Kingdom of Great Britain and Northern Ireland, ~~or~~

(iv) foreign nationals holding a permission referred to in regulations, or

~~(iv)~~ (v) a combination of any of the nationals or citizens referred to in paragraphs (i), (ii), ~~and~~ (iii) and (iv)."

Head 05 – Insertion of new Section 22A (Adjustment to restriction on grant of employment permit)

Provide that

A new section 22A is inserted into the Act of 2024 to provide a regulatory power for the Minister to adjust the percentage restriction referred to in Section 22 subject to limits:

"22A. *(1) In the case of the grant of an employment permit to which Section 22 applies, where the Minister is satisfied that there are shortages of nationals from Member States of the EEA, the Swiss Confederation or the United Kingdom of Great Britain and Northern Ireland to achieve the percentage referred to in Section 22(1), the Minister may adjust the percentage referred to in Section 22(1),*

(i) in certain circumstances in accordance with this section;

(ii) for employments to be prescribed;

(iii) in sectors vital to the delivery of public services for the public good to be prescribed;

The percentage referred to in Section 22(1) shall not fall below a minimum 25 per cent.

The adjustment will not exceed a 5 year period.

(2) Subject to subsection (1), the Minister may, following consultation with the Minister for Justice, Home Affairs and Migration, prescribe the adjustment as he or she considers appropriate having regard to:

a) the consent of the relevant Minister of Government for the sector prescribed;
b) the views of other relevant government Departments,
c) the evidence compiled by relevant sector stakeholders seeking the change;
d) the views of employer representative bodies, trade unions and other relevant stakeholders;
e) expert opinion, research, national or international reports relating to the labour shortages and recruitment difficulties that the Minister considers relevant; and
f) such other matters as the Minister considers relevant."

Explanatory Note

This Head inserts a new section 22A into the Employment Permits Act 2024 to provide the Minister with a regulatory power to adjust the percentage of employees that applies in the count of an employer in order to achieve the percentage threshold referred to in section 22(1).

The purpose of the amendment is to address concerns in certain critical sectors of the economy that provide nationwide services and are highly reliant on supply of labour through the employment permit route. As a result of global labour shortages in supply of certain skills, these critical services are at significant operational risk.

The power to provide an adjustment to the percentage under this new section will be limited to certain employments to be prescribed that are in sectors of the economy vital to the delivery of public services for the public good to be prescribed. An example of the role and sector would be within the health and social care sector and employments in the provision of services to the elderly.

The policy intention is that an adjustment to the percentage of employees of an employer that should be EEA/Swiss/UK could be initially introduced as 60% non-EEA / 40% EEA but it shall be limited in primary legislation to a maximum boundary of 75% non-EEA / 25% EEA. The purpose of this 25% minimum is to balance the commitment to Union Preference in the Act (which gives preferential treatment to EEA citizens in respect of access to employment), with the introduction of a sector-specific adjustment ensure service delivery in vital public service sectors.

The derogation provided will be temporary and time bound for a maximum of 5 years to allow the Minister to assess on a periodic basis whether the ratio should be readjusted, decreasing or increasing as labour market needs dictate. Any possible subsequent derogation will be subject to the same evaluation process, with updated economic indicators.

Subsection (2) of this Head sets out certain matters the Minister will have regard to when considering making a derogation under this section.

A request for derogation may only be considered where the Minister is satisfied that market conditions and extenuating circumstances are clearly evidenced through verifiable, reliable and robust evidence and data provided in the business case provided under subsection (2)(c). The sector would also have to provide an updated business case to the Minister substantiating any consideration of an additional temporary derogation.

Before making a derogation, the Minister must also consider the views of employer and employee representative groups, as well as other relevant stakeholders.

Any extension of agreed adjustments to other roles or sectors must be considered carefully in terms of both economic migration policy and wider migration policy generally and must have regard to prevailing economic/market conditions.

Head 06 – Amendment of Section 23 (Establishing need for grant of certain employment permits)

Provide that

Section 23(7) of the Act of 2024 is amended by inserting a new subsection (d) after subsection (c):

> *"d) the application is made in respect of an employment the foreign national has already entered into pursuant to a permission referred to in either section 8(1) or 9(2), and is in respect of the employment which that permission provides for."*

Explanatory Note

Section 23 requires an employer to conduct a Labour Market Needs Test in certain circumstances before an employment permit can be granted. Section 23(7) sets out several exemptions where a Labour Market Needs Test is not required.

This amendment provides an exemption to the requirement for a Labour Market Needs Test in cases where the foreign national holds an existing permission and is transitioning to an employment permit or different employment permit type to continue working in a role.

The policy intention is to introduce an exemption to the Labour Market Needs Test where foreign nationals, who are already legally resident in the State on a valid immigration permission, are employed in the employment that is the subject of the application.

For example, where the foreign national is already employed in a role, is authorised by another permission to do so (e.g. EU Family Member, Graduate permission, spouse of a permit holder etc.) and is now applying for an employment permit. The employer is exempt from having to advertise the role the foreign national already works in.

Head 07 – Amendment of Section 28 (Change of employer: refusal to approve change)

Provide that

Section 28(1) of the Act of 2024 is amended to refer to Section 32(8) instead of 32(7).

Explanatory Note

This amendment corrects a numbering error in the Employment Permits Act 2024.

Consolidated Text

"28. (1) Section 32 (1), (2)(a) and ~~(7)~~ (8) and section 33 (1) (other than paragraph (n)), (2), (3), (4) and (7) shall, subject to the modifications specified in subsection (2), apply to the refusal to approve a change of employer under section 27 as they apply to the refusal to grant an employment permit."

Head 08 – Amendment of Section 40 (Revocation of employment permit)

Provide that

Section 40 of the Act of 2024 is amended by inserting a new subsection (6):

> *"(6) Where an application for an employment permit is revoked under section 40(1)(n), the Minister shall return to the person who paid the fee, or a person referred to in Section 34(3), such portion, as may be prescribed, of the fee that has been submitted in respect of the application."*

Explanatory Note

Section 40 provides for revocation of an employment permit in certain cases including in cases of fraud, convictions for offences under this Act or an enactment specified in Schedule 1, or where prescribed conditions were not provided.

The Minister currently has powers to provide a refund of the fee in cases where an application has been refused or withdrawn under section 34 or in cases where an application is received incomplete and not processed under section 18(3).

This Head provides the Minister with the additional power to provide a refund in cases where a permit has been granted through administrative error, and then revoked under section 40(1)(n).

Head 09 – Amendment of Section 43 (Termination of employment)

Provide that

Section 43(3) is amended by substituting “upon” with “following”.

Explanatory Note:

Section 43 requires that where an employment is terminated, regardless of whether the employment is terminated by the employer or foreign national, the holder of the permit and the employer shall both notify the Minister of the date of termination. This shall be done within a period to be specified in regulations. Failure to comply with this section shall constitute an offence.

The amendment will provide the Minister with greater flexibility as to when to cancel a permit within a period of time following the notification, rather than immediately upon receipt of the notification.

Consolidated Text

“43 (3) The Minister shall, ~~upon~~ following receipt of a notification under subsection (1) or (2), cancel the employment permit concerned and notify in writing—"

Head 10 – Amendment of Section 47 (Regulations governing grant of employment permit, etc.)

Provide that

Section 47(2) of the Act of 2024 is amended by inserting a new subsection (k) providing for a new regulatory power for the Minister to prescribe the immigration permissions which can be counted in the calculation of the 50 per cent:

> *"(k) the permissions foreign nationals may hold in respect of the calculation under s.22(1), subject to the permissions in s.8(1).".*

Explanatory Note:

Section 47 sets out the regulation making powers of the Minister with regard to granting of employment permits.

This Head amends Section 47 to provide a new regulatory power for the Minister to prescribe the immigration permissions of the category of foreign national employees that may be included in the count of employees of an employer to meet the 50 percent criteria, as set out in Head 04.

The policy intention is to prescribe in regulations the specific immigration permissions held by this category of foreign national employee that can be included in addition to the EEA/Swiss/UK national employee count (i.e., those who have long term leave to remain).

The purpose of the amendment is to address concerns in certain critical sectors of the economy that provide nationwide services and are highly reliant on supply of labour through the employment permit route. As a result of global labour shortages in supply of certain skills, these critical services are at risk of failing to deliver on Government commitments.

Part 3: Amendments to other legislation

Head 11 – Amendment of section 42A(5) of the Industrial Relations Act, 1946

Provide that

Section 42A of the Industrial Relations Act 1946 is amended by substituting the following subsection for subsection (5):

"Proposals under subsection (1) to fix remuneration shall provide that a worker to whom the proposals are intended to apply who

(a) has not attained the age of 18 years,

(b) is 18 years of age, or

(c) is 19 years of age,

shall be remunerated at an hourly rate equal to the percentage of the national minimum hourly rate of pay prescribed under section 15(1) of the National Minimum Wage Act 2000 in relation to an employee of the age concerned, and section 15 of that Act shall apply, with the necessary modifications, as if the worker were an employee for the purposes of that Act.

For the purposes of this subsection—

(i) a rate calculated in accordance with this subsection shall not be regarded as a higher hourly rate for the purposes of subsection (4).

Nothing in this subsection shall be construed as permitting the payment of an hourly rate lower than the rate to which the worker is entitled to under the National Minimum Wage Act 2000."

Explanatory Note:

Section 42A of the Industrial Relations Act 1946 provides that Joint Labour Committees may make proposals in respect of employment regulation orders.

This Head is a technical amendment to amend section 42A(5) of the Industrial Relations Act 1946 by removing now outdated references to training-based minimum wage rates and replacing them with the current age-based system of sub-minimum rates, as provided for under section 15 of the National Minimum Wage Act 2000. The existing

section 42A(5) reflects the previous statutory framework provided for under section 15 of the National Minimum Wage Act 2000 which has since been repealed.

This Head therefore:

1. removes the existing first-employment and employment-history categories from section 42A(5),
2. removes the category relating to prescribed courses of study or training,
3. replaces those categories with the three age-based categories as contained in section 15(1) of the National Minimum Wage Act 2000 and
4. removes the obsolete references to sections 14 and 16 of the National Minimum Wage Act 2000.

The effect is that proposals made by a Joint Labour Committee to fix remuneration under the Industrial Relations legislation must apply the same age-based system of reduced rates to workers under the age of 20 as provided for under the National Minimum Wage Act. This will ensure consistency across the two pieces of legislation and the uniform application of Government policy to comparable categories of workers.

The Head also clarifies the interaction between the age-based rates and section 42A(4) through the addition of the below:

> *"For the purposes of this subsection—*
>
> *a rate calculated in accordance with this subsection shall not be regarded as a higher hourly rate for the purposes of subsection (4)."*

Section 42A(4) permits a minimum hourly rate of remuneration and not more than two higher hourly rates of remuneration based on length of service in the sector or enterprise concerned, or the attainment of recognised standards or skills in the sector concerned, for all or any such workers.

Without the above clarification, there may be some uncertainty over whether the age-based rates specified under the National Minimum Wage Act 2000 for workers under 18, aged 18 and aged 19 form statutory rate categories for the purpose of calculating higher rates as per subsection (4) of section 42A of the IR Act 1946.

Head 12 – Amendment of section 36 of the Workplace Relations Act 2015

Provide that

the WRC inspectorate can issue a Fixed Payment Notice in addition to the power to prosecute under Section 25 of the Organisation of Working Time Act 1997 by:

(1) Inserting a new paragraph (f) in section 36(5) of the Workplace Relations Act 2015:

"(f) section 25 of the Organisation of Working Time Act 1997."

Explanatory Note:

The proposed legislative change to the current enforcement framework will introduce a Fixed Payment Notice option in addition to the power to prosecute under Section 25 of the Organisation of Working Time Act 1997.

This is an established enforcement process in the WRC and is currently applied in the following legislation under section 36 of the Workplace Relations Act 2015:

- Section 11 of the Protection of Employment Act 1977.
- Sections 4(4), 4B (8), 4D (2), 4E (3) and 4F (3) of the Payment of Wages Act 1991.
- Section 23 of the National Minimum Wage Act 2000.
- Section 6B of the Terms of Employment (Information) Act 1994.
- Section 10(1) of the Employment (Contractual Retirement Ages) Act 2025.

The Organisation of Working Time Act 1997 (OWTA) requires employers to maintain certain records in relation to their employees and failure to maintain these records can result in a criminal prosecution or the issue of a Fixed Payment Notice.

Section 25 of the OWTA requires:

- The employer to keep detailed records of:
    - Employee names, addresses, PPS numbers and job descriptions
    - Daily and weekly hours worked
    - Leave taken and payments made for leave and public holidays
    - Notifications of working time – rosters
- Employers must maintain these records in the prescribed form (OWT1 Form or an electronic system)
- Employers must also retain a copy of the records for a minimum of three years.
- Employers also have to retain records available for inspection by WRC Inspectors.

Fixed Payment Notices are fast, proportionate and compliance oriented for record offences, reducing the administrative burden and enabling immediate corrective action.

The impact of this is as follows:

1. Reduced legal costs and streamlined enforcement: A significant proportion of non-compliant employers are expected to comply with the FPN, thereby avoiding the need for prosecution and reducing the cost of court proceedings,
2. Discretionary enforcement: The WRC would retain discretion over the enforcement mechanism, allowing it to escalate serious or repeated breaches directly to prosecution.
3. Resource allocation: WRC inspection resources could be redirected from administrative and court-related duties to inspection activities.
4. Employees rights: the rights of employees would be protected though a more timely and effective enforcement measure.

By enabling the WRC to extend the issue of FPNs under the Organisation of Working Time Act, the WRC will maintain a compliance-first approach while introducing proportionate sanctions for repeat offenders, reduce reliance on court proceedings and better allocate resources toward additional inspection activities.

Head 13 – Amendments of Chemical Weapons Act 1997

Provide that

(1) Section 2(3)(c) of the Chemicals Weapons Act 1997 is amended by deleting "(a copy of which Schedules are set out in the Schedules to this Act)".

(2) The First, Second and Third Schedules to the Chemicals Weapons Act 1997 are repealed.

Explanatory Note:

The Chemical Weapons Act 1997 transposed the Chemical Weapons Convention (CWC) into Irish law. When the CWC was updated in 2019, following consideration of whether legislative updates were required, it was determined that it was not strictly necessary, however, an update to the 1997 Act would strengthen it.

Under the CWC, the Department of Enterprise, Tourism and Employment (DETE) coordinates the Irish response to questionnaires for the Organisation for the Prohibition of Chemical Weapons. DETE also attends a cross-Government Committee for chemical and biological weapons, coordinated by the Department of Foreign Affairs and Trade.

An amendment to the Chemical Weapons Act is proposed to incorporate updates to the Chemical Weapons Convention. There is no immediate requirement to amend the Chemical Weapons Act 1997 to give effect to the changes to the Convention approved in December 2019 as they are already encompassed and would be interpreted under Irish law as being directly applicable. However, further clarity would be achieved, and any future ambiguity eliminated by this amending of the Act.

To achieve this, the Schedules are being removed from the Act and Section 2(3)(c) is being amended by deleting "(a copy of which Schedules are set out in the Schedules to this Act)". This section will now read as follows:

"A reference to a Schedule by number is a reference to the Schedule so numbered in the Schedules of Chemicals set out in the Annex on Chemicals in the Convention."

Given that section 2(1) of the Act makes it clear that any reference to the Convention is to the Convention "as amended from time to time", any amendment to the Convention will then be automatically reflected in the Chemical Weapons Act.