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Trádála agus Fostaíochta  
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# Employment Permits Act 2024

## Information Note on Key Changes

August 2024

# The Employment Permits Act 2024

The Employment Permits Act 2024 was signed into law by President Higgins on 25 June 2024. The new Act consolidates and updates the existing employment permits law and represents the biggest reform of employment permits legislation since the 2006 Act, creating a more flexible employment permits system better able to respond to the changing needs of the labour market which ensures the protection of permit holders.

It also introduces a number of new provisions and amendments to further enhance the employment rights and the terms and conditions of employment for those working on an employment permit in the State.

The Employment Permits Act 2024 applies to non-EEA nationals who wish to take up eligible employment and residence in the State. The non-EEA national must secure an offer of employment in the State before applying for an employment permit and applications will be subject to a range of conditions including for example, minimum remuneration and skills and qualifications.

This document gives an introduction to the main provisions in the Act.

## **1. Labour market needs test (LMNT)**

The labour market needs test is one of a range of criteria that must be met before an application for an employment permit can be granted. The legislation prohibits the grant of certain employment permits unless the Minister is satisfied that the employer has published a notice of the employment as prescribed and has, before making the application, offered the employment to an Irish or EEA or Swiss confederation citizen. This fulfils the State's obligation with regard to community preference and helps to protect the domestic and EEA labour market.

The criteria contained in primary legislation requiring employers to place the adverts for vacancies in print media has been removed and the Employment

Permits Act 2024 now provides for the publication of these adverts to be placed 'on one or more online platforms'. These online platforms can be an electronic system for the online publication of information that are easily accessible by Irish/EEA citizens including websites, software or any other electronic technology that provides for the online publication of information. Online platforms can include the newspapers websites or dedicated employment websites.

The requirement for vacancies to be published with the Jobs Ireland and EURES websites operated by the Department of Social Protection continues.

More detailed information and guidance on the labour market needs test will be made available to all employment permits users and on the Department's website.

## **2. Change of employer – CSEP and GEP**

The 2024 Act introduces a new provision allowing certain employment permit holders to change their permit employer to another employer after a period of nine months has passed since commencing their first employment permit in the State.

The provision eliminates the need for the permit holder to apply for a new permit and is restricted to movement within the occupation or occupation classification on the original permit.

The Change of Employer applies to the General Employment Permit (GEP) and the Critical Skills Employment Permit (CSEP).

- **The holder of a GEP** can apply to change to an employer within the type of employment for which they have been granted a permit (identified by its 4 digit SOC code). For example – a meat processing operative can move to another meat processing role.

- **The holder of a CSEP** can change to an employer across a broader category of employments, for example, different engineering roles (identified by its 3 digit SOC code). The additional flexibility for CSEP holders is due to the fact that their roles are identified on the Critical Skills Occupations List indicating a high demand for these skills in the labour market.

The permit must be in force and will remain in force for at least two months when making the application. The duration of the permit will remain unaffected.

The provision provides the permit holder with greater freedom of movement to employment with more attractive terms and conditions. The Minister is provided with refusal reasons for consideration where prescribed conditions are not met.

The following conditions apply to the change of employer process:

- The maximum number of applications for change of employer that may be granted to a permit holder has been set at three.
- A new contract of employment signed by both the new employer and employee is required to be submitted.
- The employee is required to commence employment with the new employer within one month of the new permit being issued. It is important to note that the new employment cannot be commenced until the employment permit has been reissued.

### **Is a new LMNT required?**

Unlike applications for new permits, there is no requirement to conduct a labour market needs test before the permit holder applies to change their employer.

The employment permit holder will be allowed to change employer provided that they are transferring to an occupation similar to the occupation for which they have been permitted to enter the State. This would be the occupation which has already been tested in the domestic and EEA labour market but failed to secure

suitable candidates to fill the vacancy through the labour market needs test or is in critical short supply.

A change of employer request form will be available for the new employer and employee to sign and submit through a dedicated email address. Information will be highlighted on the current EPOS online application landing page and the website, where full information will be provided.

### **3. Changing employment and employment permit**

The Employment Permits Act 2024 upholds the option for employment permit holders to seek employment in another eligible role and apply for a new employment permit allowing them to take up that opportunity, whether with their current employer or a new employer. The time restriction – where the permit holder is expected to remain with their first employer on the first employment in the State for a certain period – remains. However, the new legislation amends that period from 12 months to a period of at least nine months before a new application can be made. This provision takes into account the employer's efforts to source suitable candidates for employment. The legislation provides discretion to grant prior to the nine-month period in cases evidencing a change of circumstances or instances of exploitation.

This provision attempts to strike a reasonable balance between, on the one hand, the employer's expectations that the permit holder will remain in his or her employment for a reasonable period given the costs involved in recruitment and, on the other hand, not unduly binding the permit holder to the employer. The aim is to provide flexibility and transferability to protect migrant workers who may be at risk of unfair treatment.

### **4. Progression within the role**

The Act aims to improve the status and employment opportunities of permit holders by providing a provision to allow for promotion and internal transfer in the

same company where a permit holder would use the same skills and the employment remains eligible. This removes the requirement for the permit holder to undergo a new employment permit application process where they remain with the current employer but have been granted a promotion or uplift.

At renewal this situation will now be assessed on the basis of what would previously have been considered a change of employment permit. This amendment should reduce the administrative burden for companies and permit holders and reduce accidental non-compliance with employment permits legislation.

## **5. Cancel previous permit on grant of new employment permit**

Upon the grant of an employment permit, the Minister shall cancel any other permit which is in force for that foreign national, ensuring only one permit per foreign national can be in place at one time. The Minister shall notify the foreign national and the employer identified on that employment permit in writing that the permit is cancelled with effect from a date specified.

A new provision also requires that the foreign national must commence employment within a period of six months from when the permit is granted or comes into force.

## **6. Dependant Employment Permit**

The Dependant/Partner/Spouse Employment Permit has been revised to cater for the dependants of Critical Skills Employment Permit holders and Researchers under Directive 2005/71/EC. Spouses and partners of these non-EEA nationals may apply to the Department of Justice for immigration permission giving them access to the labour market without the need to hold an employment permit.

## **7. Non-consultant hospital doctors (NCHDs)**

This new provision allows the Minister to provide a two year multi site General Employment Permit to suitably qualified foreign nationals who take 6-month employment contracts as non-consultant hospital doctors (NCHD) in health facilities in different locations. The introduction of the new multi side GEP eliminates the need for multiple applications for each employer hospital and ensures a smooth transition from one employment to the next, up to two years.

## **8. Amending an employment permit application**

A power allows the Minister to consider making an amendment to an application in certain circumstances. The purpose of this provision is to reduce the administrative burden on users of the employment permits system by eliminating in certain circumstances, the need for re-submitting of applications.

## **9. Return of incomplete applications; return of fee**

The Act now provides the option for the Minister to return incomplete applications without full consideration, with a written notification to the applicant, along with the fee and any documentation provided. The Act also allows for the person who paid the application fee to nominate a person to receive the refund.

## **10. Agencies and subcontractors arrangements**

The employment permits legislation requires a direct employer employee relationship however the world of work now provides for a wider range of contractual arrangements for workers in employment situations such as short-term subcontracting and employment agency placements.

The Act allows for employment relationships that can facilitate the salary of a permit holder to be paid by an entity other than the employer. The change would allow for an employment agency to be the employer of a permit holder carrying out the work of a client of that agency, where the client or the agency provide for

the salary while the agency remains as the employer. This will make the system easier to navigate for agencies and their clients and employees and simplify processing of such applications.

A definition of subcontractor is also included which allows these entities to avail of the Contract for Service Employment Permit in the same manner as a standard contractor.

## **11. Restriction on grant – 50:50 rule**

In order to support the future expansion of businesses, the waiver to the 50:50 criteria for employers who have no employees at time of application has been revised and no longer restricts the employer to the one employee permit holder after grant. It no longer restricts the employer from expansion of their business in the future. The 50:50 rule will be triggered when a second application is made for an employment permit for the same employer.

Provision is also made so that in the case of a contract for service agreement, the 50:50 criteria can be satisfied by the contractor, subcontractor or relevant person, in recognition of the fact that a contractor or subcontractor from outside the EEA may not have at least 50 percent EEA workers in its workforce.

## **12. Indexing of minimum annual remuneration**

In order to ensure that remuneration thresholds for employment permits remain, at least, in line with average wage growth and to prevent future stagnation, a provision has been made to achieve this by indexation against the annual change in mean weekly earnings as calculated by the CSO. This will increase Ireland's attractiveness as a destination to come to work and ensure that permit holders will continue to be able to afford to live in Ireland.

The Minister can carry out a yearly review with regard to the remunerations using the most recent information on average weekly earnings to calculate increases in



the remuneration specified in regulations by a percentage equal to or exceeding the percentage increase in such average weekly earnings. This will continue to ensure a fair system of remuneration for employment permit holders.

### **13. New refusal reason (additional conditions) and additional review provisions**

The refusal reasons under the current legislation remain largely unchanged except for the introduction of a discretionary ground for refusal where additional conditions that were attached to the grant of a certain permit type or occupation have not been respected or provided to the permit holder.

The review of decision to refuse grant process is adjusted under two circumstances. Where the reviewing officer is of the view that new refusal reasons that differ to the reasons notified is relevant, the officer may consider acting on that additional refusal. Before making a final decision the applicant will be afforded opportunity to make representations in relation to those reasons.

In addition, in circumstances where new information or change in circumstances is identified that is relevant to the decision to refuse or grant, the review officer may consider reverting the application back for full reconsideration.

### **14. Seasonal Employment Permit (SEP)**

The new Seasonal Employment Permit is a short-term employment permit for a non-EEA national to work for a maximum of 7 months per calendar year in a seasonally recurrent employment. It is designed to support targeted economic sectors, such as horticulture and agriculture, in addressing labour shortages and will be renewable across multiple years for the set calendar season. The provision of appropriate arrangements for accommodation and health insurance will be included in the scheme. The Permit will be first introduced under a limited pilot scheme later this year with the intention that it commence in early 2025.

## **15. Approved seasonal employer**

Employers wishing to apply for the new SEP will be required to apply annually to become registered pre-approved seasonal employers in order to access the scheme. Applications will be considered based on relevant criteria including the need for the employment to be in a seasonally recurrent employment and the size of the employer. Eligible employers will be granted approved status for a period of 12 months and issued with a certificate of approval as an approved seasonal employer. The Minister shall maintain a register of those approved which shall be published. Any breaches of conditions of the permits or non-compliance with rules will negatively impact on any subsequent approval processes.

## **16. Change of approved seasonal employer**

Seasonal employment permit holders will have the option to transfer their SEP to another Approved Seasonal Employer under the scheme through a simplified notification procedure. In addition to a simplified renewal process for the same Seasonal Worker to remain with the same employer each season, during the working season the SEP holder can move to another approved seasonal employer. The Minister is provided with refusal reasons for consideration where prescribed conditions are not met.

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