

Important Notice regarding renewal of Intra-Company Transfer Employment Permits

The Employment Permits (Amendment) Act 2014, which is due to commence on 1 October, provides for a revised definition of remuneration for the purposes of the employment permit regime. This revised definition has implications for those Intra-Company Transfer Employment Permits (Intra-CT EPs) due for renewal post-commencement of the 2014 Act. We ask that you read the following information carefully. Failure to make the necessary changes could adversely affect an application for renewal.

Summary of changes

The following table sets out the composition of remuneration that will be acceptable to qualify for an Intra-CT EP and hence remain on a foreign payroll when applying for a **new** or **renewal** Intra-CT EP.

		Annual Salary	Hourly Rate
(a) Current Basic Annual Salary			
(b) Top up to bring Basic Annual Salary up to the Irish National Minimum Wage or the rate of pay fixed under or pursuant to any other enactment (if applicable)			
(c) Deductions from either (a) or (b) above (if applicable)			
(d) Total Basic Annual Salary less deductions at (c) (if applicable)			
Board and Accommodation	Payments in respect of (if applicable)		
	Monetary value of (if applicable)		
Payments in respect of Health Insurance (if applicable)			
Total Remuneration			

As you can see from the table above, in order to achieve the minimum annual remuneration threshold of €40,000 (or €30,000 in the case of an Intra-CT trainee) for an Intra-CT EP, the following components are deemed to be remuneration:

- Basic salary to achieve at least national minimum wage or a rate of pay fixed under or pursuant to any enactment, as the first component of the remuneration package.
- In addition, the following components only may be added to bring the proposed remuneration to the appropriate employment permit threshold of either €40,000 or €30,000:

- a payment for board and accommodation, or either of them, or the monetary value of board and accommodation directly provided by the connected person¹ or foreign employer² ;
- Health insurance payments made to a health insurer registered with the Health Insurance Authority on its Register of Health Benefits Undertakings under s14 Health Insurance Act, 1994 or an equivalent insurer outside the State.

All amounts which make up the basic salary³, including any top-up payments, must appear as payments on the payslips. Where board and accommodation payments, or the monetary value of board and accommodation (or either of them), or health insurance are being included in the Gross Annual Remuneration this must be verifiable by way of supporting documentation in the event of a National Employment Rights Authority (NERA) inspection and at renewal stage.

It is important to note that additional benefits such as pension, car, phone, travel allowances, bonuses, piece rates etc cannot be included as part of the remuneration package in order to achieve the minimum annual remuneration for an Intra-CT EP.

Who pays what elements of the remuneration package?

While the Intra-CT EP holder's employer is outside the State (ie the foreign employer), the employment permit holder is carrying out duties for, or participating in a training programme with, the connected person (ie the Irish entity). The Minister's intention is not to interfere or alter the contractual employment relationship that exists between the foreign national and foreign employer. Thus, the foreign employer is solely responsible for payment of salary to achieve NMW or a rate of pay fixed under or pursuant to any enactment. Having achieved that, it is then a matter for either the foreign employer or the connected person to pay the additional components for board and accommodation, and health insurance, in order to achieve the minimum annual remuneration of €40,000 (or €30,000 in the case of an Intra-CT trainee).

Requirements

On commencement of the Act, the following amounts must be included in the foreign national's payslips:

- (a) the amount of the basic salary that is paid at the time of the making of the application by the foreign employer to the foreign national,
- (b) where the amount of basic salary is less than NMW or a rate of pay fixed under or pursuant to any enactment, the additional payment to be made by the foreign employer to the foreign national,

¹ Connected person means a person carrying on business in the State and who is connected to a foreign employer ie

- Either one is a subsidiary of the other;
- Both are subsidiaries of a holding company; or
- Have entered into an agreement with another person whereby each of them agree to carry on business or provide services with each other in more than one state and to carry on business or provide services in the manner provided for in the agreement

² Foreign employer is the person carrying on business outside the State and is the foreign national's employer.

³ The amount reckonable for this purpose must be an amount that is deemed allowable under Schedule One of the National Minimum Wage Act, 2000.

- (c) the total amount of the amounts referred to in paragraphs (a) and (b),
- (d) all deductions to be made by the foreign employer on:
 - (i) the amount referred to in (a) above, and
 - (ii) the amount referred to in (b) above, (if any),
- (e) in respect of the total amount referred to in (c) above, the amount to be paid to the foreign national during the period for which the employment permit is to be granted net of the deductions referred to in (d) above.

Renewal requirements

Payslips are required to be submitted at time of renewal of an Intra-CT EP. Payslips that do not clearly set out the basic salary as set out above will affect the application for renewal.

Information that clearly demonstrates either the payment or monetary value of the board and/or accommodation component of the remuneration package and/or the payment of health insurance will also be required at time of application for renewal of the employment permit.

Intra-CT renewal applications immediately post-enactment

For Intra-CT EPs that are due for renewal shortly after commencement of the Act and for a period up to and including 31 December 2014, the Department will accept, in instances where the requirements set out at (a) to (e) above are not met, in addition to the existing requirement for payslips and a P60 (or a P21 where a P60 is not available), confirmation from the connected person and/or foreign employer that:

- the holder's basic salary component will continue to achieve NMW and that future payslips will adhere to the requirements set out above;
- where payment for board and accommodation or the monetary value of board and/or accommodation, and/or the payment of health insurance, are components of the current remuneration package, this will be verifiable by way of supporting documentation.

Documentary evidence confirming the above must be made available to Employment Permits Section within three months of the issue of the renewal Intra-CT EP.

Additional information

If you have any queries pertaining to this matter or wish to discuss the circumstances applying to your particular case please contact us at epbill2014@djei.ie or our call centre at 1890 201 616.