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*Number 16 of 2006*

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**EMPLOYMENT PERMITS ACT 2006**

**REVISED**

**Updated to 3 April 2017**

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This Revised Act is an administrative consolidation of the *Employment Permits Act 2006*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Health (Amendment) Act 2017 (5/2017)*, enacted 31 March 2017, and all statutory instruments up to and including *Employment Permits Regulations 2017 (S.I. No. 95 of 2017)*, made 27 March 2017, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to [revisedacts@lawreform.ie](mailto:revisedacts@lawreform.ie).





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**Introduction**

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

**Related legislation**

**Employment Permits Acts 2003 to 2014:** this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Employment Permits (Amendment) Act 2014* (26/2014), s. 1(2)). The Acts in the group are:

- *Employment Permits Act 2003* (7/2003)
- *Employment Permits Act 2006* (16/2006)
- *Industrial Relations (Amendment) Act 2012* (32/2012), s. 16(1)
- *European Union (Accession of the Republic of Croatia) (Access to the Labour Market) Act 2013* (21/2013), s. 4(2)
- *Employment Permits (Amendment) Act 2014* (26/2014), other than Parts 4 and 5

**Annotations**

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at [www.lawreform.ie/annotations](http://www.lawreform.ie/annotations).

**Material not updated in this revision**

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1996, may be found linked from the page of the Act or statutory instrument at

www.irishstatutebook.ie.

#### **Acts which affect or previously affected this revision**

- *Workplace Relations Act 2015* (16/2015)
- *Employment Permits (Amendment) Act 2014* (26/2014)
- *Protected Disclosures Act 2014* (14/2014)
- *Industrial Relations (Amendment) Act 2012* (32/2012)

All Acts up to and including *Health (Amendment) Act 2017* (5/2017), enacted 31 March 2017, were considered in the preparation of this revision.

#### **Statutory instruments which affect or previously affected this revision**

- *Employment Permits Regulations 2017* (S.I. No. 95 of 2017)
- *Employment Permits (Trusted Partner) (Amendment) Regulations 2016* (S.I. No. 403 of 2016)
- *Employment Permits (Amendment)(No. 2) Regulations 2016* (S.I. No. 363 of 2016)
- *Employment Permits (Amendment) Regulations 2016* (S.I. No. 33 of 2016)
- *Employment Permits (Amendment) (No. 2) Regulations 2015* (S.I. No. 602 of 2015)
- *Employment Permits (Amendment) Regulations 2015* (S.I. No. 349 of 2015)
- *Employment Permits (Trusted Partner) Regulations 2015* (S.I. No. 172 of 2015)
- *Employment Permits (Amendment) Regulations 2014* (S.I. No. 506 of 2014)
- *Employment Permits Regulations 2014* (S.I. No. 432 of 2014)
- *Protected Disclosures Act 2014 (Commencement) Order 2014* (S.I. No. 327 of 2014)
- *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006)
- *Employment Permits Act 2006 (Commencement) Order 2006* (S.I. No. 682 of 2006)
- *European Communities (Free Movement of Persons) (No. 2) Regulations 2006* (S.I. No. 656 of 2006)

All statutory instruments up to and including the *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), made 27 March 2017, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
- 1A. Definition of 'remuneration'.
2. Amendment of section 2 of Act of 2003.
3. Further amendment of Act of 2003.
- 3A. Different purposes in respect of which an employment permit may be granted.
- 3B. Recommendation by enterprise development agency.
- 3C. Spouses, civil partners and certain dependants relating to section 3A(2)(b).
- 3D. Supplemental provisions relating to the grant of employment permit for purpose referred to in section 3A(2)(d).
- 3E. Supplemental provisions relating to the grant of employment permit for purpose referred to in section 3A(2)(e).
- 3F. Consultation by Minister.
4. Application for employment permit.
5. Foreign national is grantee of permit, general provisions as respects applications, etc.
6. Application (other than by a foreign national) for permit — information to be provided.
7. Application by foreign national — information to be provided.
8. Grant of employment permit by Minister.
9. Original of permit to be issued to foreign national, information to be included in permit, etc.
10. Restriction on grant of employment permit.
- 10A. Establishing need for grant of certain employment permits.
11. Consideration by Minister of application for employment permit.
12. Refusal to grant employment permit.

13. Review of decision to refuse permit.
14. Regulations governing grant of permits, etc.
- 14A. Remuneration relating to employments.
15. Criteria to which regard is to be had in making regulations under *section 14*.
16. Revocation of employment permit.
17. Review of decision to revoke permit.
18. Prohibition on forgery, fraudulent alteration or fraudulent use of employment permit.
19. Prohibition on certain use of employment permit.
20. Renewal of employment permit.
- 20A. Redundancy of foreign national to whom employment permit granted for purpose referred to in section 3A(2)(a).
- 20B. Redundancy of foreign national to whom employment permit granted for purpose referred to in section 3A(2)(c).
- 20C. Information and documents to be provided with notification under section 20A or 20B of dismissal by reason of redundancy.
- 20D. Sections 20A and 20B: supplemental provisions.
21. Effect of order under section 3 or 4 of Immigration Act 1999.
22. Authorised officers.
23. Prohibition on deduction from remuneration and retention of personal documents.
24. Surrender of employment permit.
25. Provision of false or misleading information in relation to application under *section 4* or *20*.
26. Prohibition on penalisation.
27. Retention of records.
28. Register of employment permits.
29. Regulations.
30. Further provisions in relation to regulations.
31. Service of notices.
32. Penalties and proceedings.
33. Offences by body corporate.
34. Presumption that a person is being employed.
35. Evidence through television link.
36. Delegation of functions.
37. Data exchange in respect of certain matters.
38. Transitional provision.
39. Amendment of section 1(1) of Act of 2003.

40. Expenses.

41. Short title, collective citation, construction and commencement.

SCHEDULE 1

Enactments offences under which fall within *section 12(1)(c)*

SCHEDULE 2

Redress for Contravention of *section 26(3)*

ACTS REFERRED TO

Bankruptcy Act 1988	1988, No. 27
Carers Leave Act 2001	2001, No. 19
Companies Act 1963	1963, No. 33
Companies Act 1990	1990, No. 33
Companies (Amendment) Act 1982	1982, No. 10
Courts Act 1981	1981, No. 11
Electronic Commerce Act 2000	2000, No. 27
Employment Agency Act 1971	1971, No. 27
Employment Permits Act 2003	2003, No. 7
European Communities Acts 1972 to 2003	
Immigration Act 1999	1999, No. 22
Immigration Act 2004	2004, No. 1
Industrial Relations Act 1946	1946, No. 26
Industrial Relations Act 1990	1990, No. 19
Irish Nationality and Citizenship Act 1956	1956, No. 26
Minimum Notice and Terms of Employment Acts 1973 to 2005	
National Minimum Wage Act 2000	2000, No. 5
Organisation of Working Time Act 1997	1997, No. 20
Organisation of Working Time Act 1991	1991, No. 25
Petty Sessions (Ireland) Act 1851	14 & 15 Vic., c. 93
Protection of Employees (Employers' Insolvency) Act 1984	1984, No. 21
Protection of Employees (Fixed-Term Work) Act 2003	2003, No. 29
Protection of Employees (Part-Time Work) Act 2001	2001, No. 45
Protection of Young Persons (Employment) Act 1996	1996, No. 16
Redundancy Payments Act 1967	1967, No. 21
Refugee Act 1996	1996, No. 17
Safety, Health and Welfare at Work Act 2005	2005, No. 10
Unfair Dismissals Acts 1977 to 2005	



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Number 16 of 2006

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**EMPLOYMENT PERMITS ACT 2006**

**REVISED**

**Updated to 3 April 2017**

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AN ACT TO PROVIDE FOR THE GRANT OF EMPLOYMENT PERMITS TO CERTAIN FOREIGN NATIONALS FOR THE PURPOSE OF PERMITTING THEM TO BE IN EMPLOYMENT IN THE STATE, TO ENABLE THE MINISTER FOR ENTERPRISE, TRADE AND EMPLOYMENT TO MAKE, HAVING HAD REGARD TO CERTAIN CRITERIA, REGULATIONS IMPOSING A LIMIT ON THE NUMBER OF SUCH PERMITS THAT MAY BE GRANTED IN A PARTICULAR PERIOD AND IMPOSING CERTAIN OTHER RESTRICTIONS WITH REGARD TO THE GRANT OF SUCH PERMITS, TO OTHERWISE REGULATE THE EMPLOYMENT OF CERTAIN FOREIGN NATIONALS IN THE STATE AND PROVIDE CERTAIN PROTECTIONS FOR FOREIGN NATIONALS IN EMPLOYMENT IN THE STATE, TO AMEND THE EMPLOYMENT PERMITS ACT 2003 AND TO PROVIDE FOR RELATED MATTERS.

[23rd June, 2006]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.— (1) In this Act—

F1[‘Act of 1963’ means the Registration of Business Names Act 1963;

‘Act of 1967’ means the Redundancy Payments Act 1967;

‘Act of 1997’ means the Taxes Consolidation Act 1997;]

“Act of 2003” means the Employment Permits Act 2003;

F1[‘Act of 2010’ means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;]

“application” means an application under *section 4*;

F2[...]

“citizen” means an Irish citizen within the meaning of the Irish Nationality and Citizenship Act 1956;

F1[‘civil partner’ means a civil partner within the meaning of the Act of 2010;

‘civil partnership registration’ has the meaning assigned to it by the Act of 2010;

‘connected’, in relation to the connection between a connected person and a foreign employer, means—

(a) the connected person is a subsidiary of the foreign employer,



- (b) the foreign employer is a subsidiary of the connected person,
- (c) the connected person and the foreign employer are both subsidiaries of a holding company that carries on business in the State or outside the State, or
- (d) the connected person and the foreign employer 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;

‘connected person’ means a person carrying on business in the State who is connected to a foreign employer;

‘contractor’ shall be construed in accordance with section 2(1A)(b) of the Act of 2003;

‘contract service agreement’ means the agreement referred to in section 2(1A)(b) of the Act of 2003;

‘date of dismissal’, in relation to a foreign national who is dismissed by reason of redundancy, has the meaning assigned to it by section 2 of the Act of 1967;

‘dependant’ means a foreign national who—

- (a) has been determined by the Minister for Justice and Equality to be a dependant of a primary permit holder or a research project researcher,
- (b) has, since he or she landed in the State, resided in the State on a continual basis,
- (c) is not in full-time education, and
- (d) resides with the primary permit holder or the research project researcher referred to in paragraph (a) ;

‘Directive 2005/71/EC’ means Council Directive 2005/71/EC<sup>1</sup> of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research;

‘dismissed by reason of redundancy’ means—

- (a) the dismissal by an employer from employment within the meaning of section 9 of the Act of 1967, and
- (b) the dismissal is—
  - (i) attributable wholly or mainly to the condition specified in paragraph (a), (b), (c), (d) or (e) of section 7(2) of the Act of 1967, or
  - (ii) a dismissal referred to in section 21 of the Act of 1967;]

“economic sector” means a sector of the economy concerned with a specific economic activity requiring specific qualifications, skills or knowledge;

“employer” means the employer (as defined in the Act of 2003) who—

- (a) employs a foreign national pursuant to an employment permit, or
- F3[...]

“employment permit” means an employment permit granted under *section 8*;

F2[...]

<sup>1</sup>OJ L 289, 3.11.2005, p.15.

F1[‘enactment’ has the meaning assigned to it by the Interpretation Act 2005;

‘enterprise development agency’ means Enterprise Ireland or the Industrial Development Agency (Ireland);

‘exchange agreement’ means an agreement, including an international agreement to which the State is a party, that provides for the reciprocal employment—

(a) of citizens, or certain citizens, in the state in which a contracting party is located, and

(b) in the State, of foreign nationals, or certain foreign nationals, of a contracting party;

‘foreign employer’ means a person carrying on business outside the State;

‘health insurance’ means insurance providing for the costs and charges of medical treatment;

‘health insurer’ means a person entered in the Register of Health Benefits Undertakings referred to in section 14 of the Health Insurance Act 1994;]

“holder”, in relation to an employment permit, means the foreign national to whom it has been granted;

F1[‘holding company’ has the meaning assigned to it by section 155 of the Companies Act 1963;

‘medical treatment’ includes medical services or medical care;]

“Member State of the EEA” means a state that is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as amended for the time being;

“Minister” means the Minister for Enterprise, Trade and Employment;

“national minimum hourly rate of pay” has the meaning assigned to it by the National Minimum Wage Act 2000;

“foreign national” has the meaning assigned to it by the Act of 2003;

“foreign national concerned” shall be construed in accordance with *section 5(1)*;

“prescribed” means prescribed by regulations made by the Minister under this Act;

F1[‘primary permit holder’ means a foreign national to whom an employment permit in respect of the purpose referred to in section 3A(2)(a) —

(a) has been granted and is in force, or

(b) had been granted and has expired and following such expiration the foreign national has been given the permission referred to in section 2(10)(d) of the Act of 2003 to remain in the State and who is in employment in the State pursuant to the condition, referred to in section 2(10)(d) of the Act of 2003, of that permission;]

“public interest” includes—

(a) public order and the interests of national security,

(b) public health and safety,

F4[(c) the need to protect and strengthen the labour market, and

(d) supporting the economic growth of the State;]

F2[...]

F1[‘registered with the Revenue Commissioners’ means registered with the Revenue Commissioners in accordance with regulations under section 986 of the Act of 1997;

‘relevant person’ means the person referred to in section 2(1A)(b) of the Act of 2003 with whom a contractor has made the contract service agreement;]

F4[“remuneration” shall be construed in accordance with section 1A;]

F1[‘research project researcher’ means a foreign national—

(a) who, pursuant to Directive 2005/71/EC, has been granted permission by the Minister for Justice and Equality to be in the State to carry out research pursuant to the Directive, or

(b) who, having been granted the permission referred to in paragraph (a), has been given the permission referred to in section 2(10)(d) of the Act of 2003 to remain in the State and who is in employment in the State pursuant to the condition, referred to in section 2(10)(d) of the Act of 2003, of that permission;

‘subsidiary’ has the meaning assigned to it by section 155 of the Companies Act 1963.]

(2) For the purposes of this Act, a person (the “first person”) is not, by virtue of the following contract with another (the “second person”), an employer of the second person.

(3) That contract is one which—

(a) provides that the second person is to do work or perform a service for a third person (whether the third person is a party to the contract or not), and

(b) has been entered into by the first person in the course of carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971,

whether the contract is express or implied and if express, whether it is oral or in writing.

#### Annotations

#### Amendments:

**F1** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 5(a), S.I. No. 430 of 2014.

**F2** Definitions of "application by a foreign national", "employment regulation order" and "registered employment agreement" deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 5(b), (f), (g), S.I. No. 430 of 2014.

**F3** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 5(c), S.I. No. 340 of 2014.

**F4** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 5(e), S.I. No. 430 of 2014.

F5[Definition of ‘remuneration’

**1A.—** (1) In this Act ‘remuneration’ means—

(a) subject to paragraph (b), the total amount of—

- (i) the salary that is paid to the foreign national, the hourly rate of which shall not be less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in section 12(6)(b), and
    - (ii) a payment for health insurance in respect of a foreign national should he or she require medical treatment for illness or injury during the period for which the employment permit is in force and which is made to a health insurer by the person who made the offer of employment,

or

  - (b) in respect of an employment permit granted for the purposes referred to in section 3A(2)(d) and 3A(2)(e), the total amount of—
    - (i) the salary that is paid to the foreign national, the hourly rate of which shall be not less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in section 12(6)(b),
    - (ii) a payment for board and accommodation, or either of them, or the monetary value of board and accommodation directly provided by the connected person, foreign employer or contractor, and
    - (iii) a payment for health insurance in respect of a foreign national should he or she require medical treatment for illness or injury during the period for which the employment permit is in force and which is made by the foreign employer or the connected person or both of them or by the contractor to—
      - (I) a health insurer, or
      - (II) a person outside the State who provides insurance for medical treatment in respect of the foreign national that has the same, or similar, effect as the health insurance provided by a health insurer.
- (2) In this Act—
- (a) references to remuneration in relation to an application for the grant of an employment permit and the consideration of such application by the Minister shall be construed as the remuneration, specified in that application, that is proposed to be paid by—
    - (i) the person who has made the offer of employment in respect of which the application is made,
    - (ii) in the case of an employment permit for the purpose referred to in section 3A(2)(d), the foreign employer, in accordance with section 3D and the payments in respect of the remuneration to be paid, in accordance with section 3D, by the connected person, or
    - (iii) in the case of an employment permit for the purpose referred to in section 3A(2)(e), the contractor in accordance with section 3E,
- and
- (b) references to remuneration after a permit has been granted shall be construed as the remuneration paid to the holder of the permit by an employer, a foreign employer in accordance with section 3D, a connected person in accordance with section 3D, or a contractor in accordance with section 3E, during the period for which the employment permit has been granted in respect of the employment for which the employment permit was granted.]

**Annotations****Amendments:**

- F5** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 6, S.I. No. 430 of 2014.

Amendment of section 2 of Act of 2003.

**2.**— Section 2 of the Act of 2003 is amended by substituting the following for subsections (1) and (2):

“(1) A foreign national shall not—

- (a) enter the service of an employer in the State, or
- (b) be in employment in the State,

except in accordance with an employment permit granted by the Minister under *section 8* of the *Employment Permits Act 2006* that is in force.

(1A) Subsection (1)(b) applies whether the employment concerned results from—

- (a) the foreign national’s being employed in the State by a person,
- (b) his or her being employed by a person outside the State (the ‘contractor’) to perform duties in the State, the subject of an agreement between the contractor and another person, or
- (c) any other arrangement.

(2) A person shall not employ a foreign national in the State except in accordance with an employment permit granted by the Minister under *section 8* of the *Employment Permits Act 2006* that is in force.

(2A) Where a person (the ‘first person’) enters into an agreement with another person (the ‘second person’) whereby the second person agrees to cause, or arrange for, services (whether of a specific or general kind) to be rendered on behalf of the first person and either—

- (a) it is customary in the trade or business in which the agreement is entered into, or
- (b) the circumstances in which the agreement is entered into are such that it must reasonably have been in the contemplation of the parties to the agreement,

that the means to be used by the second person for complying with the agreement would consist of or involve, in whole or part, the services being rendered by persons employed by a person other than the second person (and whether or not that person is in a contractual relationship with the second person) then, if those means are used, it shall be the duty of the first person to take the following steps.

(2B) Those steps are all such steps as are reasonable to ensure, in so far as one or more of the persons so employed is or are a foreign national or foreign nationals employed in the State for the purpose of rendering those services, that that foreign national or each of those foreign nationals is employed in accordance with an employment permit granted by the Minister under *section 8* of the *Employment Permits Act 2006* that is in force.”.

Further amend-  
ment of Act of  
2003.

3.— The Act of 2003 is further amended—

(a) in subsection (3) of section 2—

(i) by inserting, after “subsection (1) or (2)”, “or fails to take the steps specified in subsection (2B)”, and

(ii) by inserting in paragraph (b), after “subsection (2)”, “or a failure to take the steps specified in subsection (2B)”,

(b) by substituting the following subsections for subsections (10) and (11) of section 2:

“(10) Without prejudice to the other provisions of this Act, this section does not apply to a foreign national—

(a) in respect of whom a declaration under section 17 of the Refugee Act 1996 is in force,

(b) who is entitled to enter the State pursuant to section 18 or 24 of that Act,

(c) who is entitled to enter the State and to be in employment in the State pursuant to the treaties governing the European Communities (within the meaning of the European Communities Acts 1972 to 2003), or

(d) who is permitted to remain in the State by the Minister for Justice, Equality and Law Reform and who is in employment in the State pursuant to a condition of that permission that the person may be in employment in the State without an employment permit referred to in subsection (1),

but this section, subject to section 2A and any order under section 3A(1) for the time being in force, does apply to a foreign national who is a national of the Republic of Bulgaria or Romania (including at a time subsequent to the accession of the Republic of Bulgaria or Romania to the European Union).

(11) The Minister, when determining which applications for employment permits should be granted, shall give preference to each of the following, namely—

(a) applications in respect of nationals of a state in relation to which an order under section 3 is in force, and

(b) applications in respect of nationals of the Republic of Bulgaria or Romania to whom this section for the time being applies.”,

(c) by inserting the following section after section 2:

“Supplemental provisions in relation to section 2.

2A.— (1) Notwithstanding subsection (10) of that section, section 2 does not apply to—

(a) a national of the Republic of Bulgaria or Romania who falls within the second or third subparagraph of paragraph 2 of Annex VI of the Treaty of Accession with the Republic of Bulgaria and Romania,

(b) a person, whatever his or her nationality, who falls within paragraph 8 of that Annex.

(2) Irrespective of whether the person falls within the second or third subparagraph of paragraph 2 of Annex VI of the Treaty of Accession with the Republic of Bulgaria and Romania, section 2 does not apply to a national of the Republic of Bulgaria or Romania on and from the expiration of—

(a) unless paragraph (b) applies, 5 years from the date that the Republic of Bulgaria and Romania become members of the European Union (the 'accession date'), or

(b) if at, or during the 2 months before, the end of the period of 5 years referred to in paragraph (a) an order under subsection (1) of section 3A is revoked by a subsequent order under that subsection, 7 years from the accession date.

(3) In this section 'Treaty of Accession with the Republic of Bulgaria and Romania' means the Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union signed at Luxembourg on the 25th day of April 2005.",

and

(d) by inserting the following sections after section 3:

"Non-application of section 2 to nationals of Bulgaria and Romania.

3A.— (1) Notwithstanding section 2(10), the Minister may, subject to subsection (2), make an order providing that section 2 shall apply neither to nationals of the Republic of Bulgaria nor to nationals of Romania and for so long as such an order remains in force that section shall not apply to such nationals accordingly.

(2) The Minister shall not make an order under subsection (1) at a particular time unless, having regard to the conditions of the labour market in the State at that time, the Minister is of the opinion—

(a) that it is desirable in the interests of the proper functioning of the economy to make such an order, and

(b) that, in the 24 months following the making of the order, employment in the State is likely to become available on a continuous basis for nationals of the states referred to in subsection (1) contemplating entry into employment in the State.

(3) An order under subsection (1) may not be revoked by a subsequent order under that subsection unless, in the opinion of the Minister, the labour market, at the time of the making of the second-mentioned order, is experiencing a disturbance or is likely thereafter to experience a disturbance.

(4) Notwithstanding section 2(10), where an order under subsection (1) is revoked by a subsequent order under that subsection section 2 shall not apply to a national of the Republic of Bulgaria or Romania if he or she has been in employment in the State for a period of not less than 6 weeks immediately before the commencement of the second-mentioned order and has been in receipt of remuneration for such employment.

(5) In this section—

'disturbance' shall be construed in accordance with the Treaty of Accession with the Republic of Bulgaria and Romania;

'labour market' shall be construed in accordance with the Treaty of Accession with the Republic of Bulgaria and Romania;

'Treaty of Accession with the Republic of Bulgaria and Romania' has the same meaning as it has in section 2A.

Non-appli-  
cation of  
certain  
require-  
ment of  
*Employ-  
ment  
Permits Act  
2006.*

3B.— (1) The Minister may, subject to subsection (2), by order provide that *section 10* of the *Employment Permits Act 2006* shall not apply to an application for an employment permit in respect of a national of the Republic of Bulgaria or Romania and for so long as such an order remains in force—

(a) that *section 10* shall not apply to such an application accordingly, and

(b) the other provisions of the *Employment Permits Act 2006* shall be construed and have effect subject to the order,

but without prejudice to any regulations for the time being in force under *section 14* of that Act.

(2) The Minister shall not make an order under subsection (1) at a particular time unless, having regard to the conditions of the labour market in the State at that time, the Minister is of the opinion that it is desirable in the interests of the proper functioning of the economy to make such an order.”.

#### Annotations

#### Editorial Notes:

- E1** Offence under section included in definition of “specified offence” for purposes of *Taxi Regulation Act 2013 (37/2013) (1.04.2014)* by *Taxi Regulation Act 2013 (37/2013)*, s. 30 and sch., S.I. No. 163 of 2014.

F6[Different  
purposes in  
respect of which  
an employment  
permit may be  
granted

**3A.—** (1) Subject to any requirement that this Act specifies is to be satisfied in respect of the grant of an employment permit, an employment permit granted under *section 8* shall be granted in respect of a purpose specified in subsection (2).

(2) The purposes for which an employment permit may, subject to any requirement referred to in subsection (1), be granted are:

(a) to ensure that appropriately skilled foreign nationals with skills that are required—

(i) in enterprises in an economic sector that is of importance for the economic and social development of the State, and

(ii) in employments that are essential to the development and growth of those enterprises or economic sector,

and that are in critical short supply in the State, are encouraged to become available for employment in the State, in such enterprises and employments and the Minister is satisfied that where such enterprises are unable to recruit such appropriately skilled persons, or there is a shortage of such persons, the inability to recruit or such shortage is likely to hinder—

(I) the development and growth of such enterprises, and

(II) the economic development of, and the development of industry, technology and enterprise in, the State and the services which support such development;

(b) to provide for the employment of a foreign national who is—

(i) the spouse or civil partner, referred to in *section 3C(2)*, of a foreign national who has, or had, been granted an employment permit in respect of the purpose referred to in paragraph (a) and to certain dependants, referred to in *section 3C(2)*, of that foreign national to whom an employment permit for that purpose has, or had, been granted, so as to encourage



foreign nationals referred to in paragraph (a) to take up employment in the State, and

- (ii) the spouse or civil partner, referred to in section 3C(3), of a research project researcher who, pursuant to Directive 2005/71/EC, has, or had, been granted the permission by the Minister for Justice and Equality to be in the State to carry out research pursuant to the Directive, and to certain dependants, referred to in section 3C(3), of that researcher so as to facilitate the carrying out of research in the State pursuant to that Directive;
- (c) where the Minister is satisfied that a person in the State has been unable to recruit an employee for a vacancy for an employment, to provide for the recruitment of a foreign national who has the required knowledge and skills for the employment and, where appropriate, the qualifications and experience as may be required for that employment;
- (d) to provide for a foreign national who is employed by a foreign employer outside the State to carry out duties for, or participate in a training programme provided by, a connected person—
  - (i) in employments that are the same, or substantially the same, employments in which the foreign national is employed, outside the State, by the foreign employer, or
  - (ii) in employments that require the foreign national to participate in such training programme,where the foreign national is required, pursuant to his or her employment with the foreign employer, to carry out those duties for the connected person or participate in such training programme;
- (e) in the case of a contract service agreement, to provide for the employment in the State of certain foreign nationals referred to in section 3E who are employed by a contractor, so that such foreign nationals may perform duties in the State that arise out of such contract service agreement;
- (f) to provide for the employment in the State of a foreign national—
  - (i) to whom an employment permit had been granted and the permit is no longer in force,
  - (ii) who is not in employment, or in the service of an employer, in the State,
  - (iii) who has received permission from the Minister for Justice and Equality to be in the State for the purposes of making an application for an employment permit, and
  - (iv) in respect of whom an offer of employment has been made in respect of an employment for which an employment permit is required;
- (g) to provide for the employment in the State of foreign nationals, to whom an exchange agreement, that is specified in regulations under section 14, applies in employments that are referred to in the exchange agreement or to which the exchange agreement applies;
- (h) to provide for the employment in the State of foreign nationals who have the required knowledge and skills and, where appropriate, qualifications and experience as may be required, for the development and operation of sporting or cultural activities in the State;
- (i) to provide for the employment in the State of a foreign national who is—

- (i) a full-time student, including a post-graduate student, enrolled in a course of study in a third-level institution outside the State,
- (ii) pursuing a course of study that is wholly or substantially concerned with the qualifications or skills referred to in section 15(1)(c) and the Minister is satisfied, having regard to section 15(1)(d), there is a shortage of those skills or qualifications, and
- (iii) required, for the completion of that course of study, to obtain experience in the practice of those skills or qualifications with which the course of study is concerned for a period of not more than 12 months in an employment that requires the practice of those skills or qualifications,

and at the end of the period of 12 months the foreign national is to return to that institution outside the State to complete that course of study.]

#### Annotations

#### Amendments:

- F6** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 7, S.I. No. 430 of 2014.

#### Editorial Notes:

- E2** Classes of permit that may be granted for purposes referred to in subs. (2) specified and procedures prescribed (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), regs. 14-64, in effect as per reg. 2.

**F7**[Recommendation by enterprise development agency

**3B.**— (1) An enterprise development agency may make a recommendation in writing to the Minister in respect of an application for—

- (a) the grant of an employment permit, or
- (b) the renewal of an employment permit referred to in section 20(11)(b),

that the employment permit that is the subject of the application be granted, or renewed, in respect of the employment concerned and to the foreign national concerned.

(2) The Minister shall have regard to a recommendation referred to in subsection (1).

(3) Nothing in subsection (2) shall be construed as requiring the Minister to grant or renew an employment permit on foot of a recommendation referred to in subsection (1).]

#### Annotations

#### Amendments:

- F7** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 7, S.I. No. 430 of 2014.

F8[Spouses, civil partners and certain dependants relating to section 3A(2)(b)]

**3C.—** (1) An application for an employment permit for the purpose referred to in section 3A(2)(b) may be made, under section 4, in respect of a foreign national referred to in subsection (2) or (3).

(2) An employment permit for the purpose referred to in section 3A(2)(b) may, subject to this Act, be granted, in accordance with section 8, to a foreign national who is—

(a) the spouse, civil partner or dependant of a primary permit holder and at the time the application for the employment permit is made—

(i) the employment permit granted to the primary permit holder is in force, and

(ii) that primary permit holder is in the employment specified in that employment permit,

or

(b) the spouse, civil partner or dependant of a primary permit holder and at the time the application for the employment permit is made the employment permit has expired and the primary permit holder is in employment in the State pursuant to the permission referred to in section 2(10)(d) of the Act of 2003 and the condition, referred to in that section, of that permission,

and such spouse, such civil partner or such dependant—

(i) has obtained permission to land, and reside, in the State by virtue of being the spouse, civil partner or dependant of a primary permit holder referred to in paragraph (a) or (b), and

(ii) is in the State pursuant to, and in compliance with, the permission referred to in paragraph (i) at the time the application for the employment permit is made.

(3) An employment permit for the purpose referred to in section 3A(2)(b) may, subject to this Act, be granted, in accordance with section 8, to a foreign national who is—

(a) the spouse, civil partner or dependant of a research project researcher and at the time the application for the employment permit is made—

(i) the permission granted, pursuant to Directive 2005/71/EC, to him or her by the Minister for Justice and Equality to carry out research in the State has not expired, and

(ii) the research project researcher is carrying out research pursuant to Directive 2005/71/EC,

or

(b) the spouse, civil partner or dependant of a research project researcher and at the time the application for the employment permit is made the research project researcher is in employment in the State pursuant to the permission referred to in section 2(10)(d) of the Act of 2003 and the condition, referred to in that section, of that permission,

and such spouse, such civil partner or such dependant—

(i) has obtained permission to land, and reside, in the State by virtue of being the spouse, civil partner or dependant of the research project researcher referred to in paragraph (a) or (b), and

(ii) is in the State pursuant to, and in compliance with, the permission referred to in paragraph (i) at the time the application for the employment permit is made.]

**Annotations**

**Amendments:**

**F8** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 7, S.I. No. 430 of 2014.

**F9**[Supplemental provisions relating to the grant of employment permit for purpose referred to in section 3A(2)(d)

**3D.—** (1) Where a foreign employer requires a foreign national employed by him or her outside the State to carry out duties for, or participate in a training programme provided by, a connected person without prejudice to any other requirement under this Act or to the employment outside the State of the foreign national—

(a) notwithstanding that the remuneration, in so far as it relates to salary is to be paid by the foreign employer, it shall be a condition of the grant of the employment permit for the purpose referred to in section 3A(2)(d) that, in respect of the remuneration, in so far as it relates to the salary to be paid to the foreign national by the foreign employer for the period for which the employment permit is granted, the hourly rate of that salary shall be not less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in section 12(6)(b),

(b) in respect of the payment of the remuneration to the foreign national in so far as it relates to—

(i) board and accommodation, or either of them, the payment may be made by the foreign employer and the connected person or by either of them, and

(ii) health insurance, the payment may be made by the foreign employer and the connected person or by either of them,

and

(c) it shall be a condition of the grant of the permit that the statement of earnings provided by the foreign employer to the foreign national during the period for which the employment permit is in force shall, in addition to the information on the gross amount of the remuneration and the deductions made from it, specify—

(i) the amount of the additional payment referred to in subsection (4)(b),

(ii) the total amount referred to in subsection (4)(c), and

(iii) the amount of the deductions referred to in subsection (4)(d).

(2) Where—

(a) in respect of the remuneration, in so far as it relates to the salary, to be paid to a foreign national in respect of whom an application for the grant of an employment permit for the purpose referred to in section 3A(2)(d) is made, and

(b) in respect of the condition referred to in subsection (1)(a),

the hourly rate of the salary paid outside the State by the foreign employer to the foreign national is less than the national minimum hourly rate of pay, the foreign employer shall, in respect of that condition, make an additional payment to the foreign

national for the period for which the employment permit is in force so that the hourly rate of the salary to be paid by the foreign employer to the foreign national during the period for which the employment permit is in force is not less than the national minimum hourly rate of pay.

(3) Where, in respect of the remuneration, in so far as it relates to the salary, to be paid to a foreign national in respect of whom an application for the grant of an employment permit for the purpose referred to in section 3A(2)(d) is made and the condition referred to in subsection (1)(a) —

- (a) the appropriate hourly rate of pay for the employment in respect of which the application is made is the hourly rate referred to in section 12(6)(b), and
- (b) the hourly rate of the salary paid outside the State by the foreign employer to the foreign national is less than that hourly rate of pay,

the foreign employer shall, in respect of that condition, make an additional payment to the foreign national for the period for which the employment permit is in force so that the hourly rate of the salary to be paid by the foreign employer to the foreign national during the period for which the employment permit is in force is not less than the hourly rate referred to in section 12(6)(b).

(4) Without prejudice to section 6, the connected person shall, when making an application pursuant to section 4(2)(b), provide, in addition to the information required under section 6(e), information and documents, including any information and documents as may be specified in regulations under section 29, in respect of—

- (a) the amount of the salary that is paid, on the day the application is made, by the foreign employer to the foreign national in respect of whom the application is made, in such form as may be specified in regulations under section 29,
- (b) where, having regard to the amount of salary referred to in paragraph (a) and the number of hours worked by the foreign national, the hourly rate of that amount of salary is less than—
  - (i) the national minimum hourly rate of pay and an additional payment referred to in subsection (2) is to be made, or
  - (ii) where appropriate, an hourly rate referred to in subsection (3), and an additional payment referred to in subsection (3) is to be made,

the amount of the additional payment to be made by the foreign employer to the foreign national for the period for which the employment permit is in force, in such form as may be specified in regulations under section 29,

- (c) the total amount of the amounts referred to in paragraphs (a) and (b) in such form as may be specified in regulations under section 29,
- (d) all deductions to be made by the foreign employer to—
  - (i) the amount referred to in paragraph (a), and
  - (ii) where an additional payment referred to in paragraph (b) is required to be made, the amount of that additional payment, referred to in paragraph (b),
- (e) the total amount referred to in paragraph (c), the amount to be paid to the foreign national during the period for which the employment permit is in force after the deductions referred to in paragraph (d) have been made, in such form as may be specified in regulations under section 29,

(f) the payment of board and accommodation, or either of them, and where either or both are provided directly by the connected person or the foreign employer, or both of them, the monetary value of the board and accommodation, or, as the case may be, either of them, and

(g) the arrangements for making the additional payment referred to in paragraph (b)(i) or (b)(ii).

(5) A foreign national referred to in section 3A(2)(d) shall be employed by the foreign employer concerned for a period that is not less than the minimum period of employment specified in regulations made under section 14 before an application for an employment permit may be made in respect of him or her.

(6) In this section ‘statement of earnings’ means the statement of the remuneration paid by a foreign employer to a foreign national—

(a) that is provided to the foreign national by the foreign employer to demonstrate that the foreign employer has paid the foreign national his or her remuneration, and

(b) that accompanies the periodic payment of that remuneration and specifies in writing the gross amount of the remuneration paid and any deductions made from that gross amount. ]

#### Annotations

#### Amendments:

**F9** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 7, S.I. No. 430 of 2014.

#### Editorial Notes:

**E3** Minimum period of employment specified for purposes of subs. (5) (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 35, in effect as per reg. 2.

**F10**[Supplemental provisions relating to the grant of employment permit for purpose referred to in section 3A(2)(e)

**3E.—** (1) Where, pursuant to the employment outside the State by a contractor of a foreign national, the contractor requires the foreign national to carry out duties in the State that arise out of a contract service agreement without prejudice to any other requirement under this Act or to the employment outside the State of the foreign national—

(a) notwithstanding that the remuneration in so far as it relates to salary, is paid to the foreign national outside the State, it shall be a condition of the grant of the employment permit for the purpose referred to in section 3A(2)(e) that, in respect of the remuneration, in so far as it relates to the salary to be paid to the foreign national by the contractor for the period for which the employment permit is granted, the hourly rate of that salary shall be not less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in section 12(6)(b), and

(b) it shall be a condition of the grant of the permit that the statement of earnings, within the meaning of section 3D, provided by the contractor to the foreign national during the period for which the employment permit is in force shall, in addition to the information on the gross amount of the remuneration and the deductions made from it, specify—

(i) the amount of the additional payment referred to in subsection (4)(b),

(ii) the total amount referred to in subsection (4)(c), and

(iii) the amount of the deductions referred to in subsection (4)(d).

(2) Where—

(a) in respect of the remuneration, in so far as it relates to the salary, to be paid to a foreign national in respect of whom an application for the grant of an employment permit for the purpose referred to in section 3A(2)(e) is made, and

(b) in respect of the condition referred to in subsection (1)(a),

the hourly rate of the salary paid outside the State by the contractor to the foreign national is less than the national minimum hourly rate of pay, the contractor shall, in respect of that condition, make an additional payment to the foreign national for the period for which the employment permit is in force so that the hourly rate of the salary to be paid by the contractor to the foreign national during the period for which the employment permit is in force is not less than the national minimum hourly rate of pay.

(3) Where, in respect of the remuneration, in so far as it relates to the salary, to be paid to a foreign national in respect of whom an application for the grant of an employment permit for the purpose referred to in section 3A(2)(e) is made and the condition referred to in subsection (1)(a) —

(a) the appropriate hourly rate of pay for the employment in respect of which the application is made is the hourly rate referred to in section 12(6)(b), and

(b) the hourly rate of the salary paid outside the State by the contractor to the foreign national is less than that hourly rate of pay,

the contractor shall, in respect of that condition, make an additional payment to the foreign national for the period for which the employment permit is in force so that the hourly rate of the salary to be paid by the contractor to the foreign national during the period for which the employment permit is in force is not less than the hourly rate referred to in section 12(6)(b).

(4) Without prejudice to section 6, the contractor shall, when making an application pursuant to section 4(2)(a), provide, in addition to the information required under section 6(e), information and documents, including any information and documents as may be specified in regulations under section 29, in respect of—

(a) the amount of the salary that is paid, on the day the application is made, by the contractor to the foreign national in respect of whom the application is made, in such form as may be specified in regulations under section 29,

(b) where, having regard to the amount of salary referred to in paragraph (a) and the number of hours worked by the foreign national, the hourly rate of that amount of salary is less than—

(i) the national minimum hourly rate of pay and an additional payment referred to in subsection (2) is to be made, or

(ii) where appropriate, the hourly rate referred to in subsection (3), and an additional payment referred to in subsection (3) is to be made,

the amount of the additional payment to be made by the contractor to the foreign national for the period for which the employment permit is in force, in such form as may be specified in regulations under section 29,

(c) the total amount of the amounts referred to in paragraphs (a) and (b) in such form as may be specified in regulations under section 29,

(d) all deductions to be made by the contractor to—

- (i) the amount referred to in paragraph (a), and
- (ii) where an additional payment referred to in paragraph (b) is required to be made, the amount of that additional payment, referred to in paragraph (b),
- (e) the total amount referred to in paragraph (c), the amount to be paid to the foreign national during the period for which the employment permit is in force after the deductions referred to in paragraph (d) have been made in such form as may be specified in regulations under section 29,
- (f) the payment of board and accommodation, or either of them, and where either or both are provided directly by the contractor, the monetary value of the board and accommodation, or as the case may be, either of them, and
- (g) the arrangements for making the additional payment referred to in paragraph (b)(i) or (b)(ii).

(5) A foreign national referred to in section 3A(2)(e) shall be employed by the contractor concerned for a period that is not less than the minimum period of employment specified in regulations made under section 14 before an application for an employment permit may be made in respect of him or her.]

#### Annotations

#### Amendments:

**F10** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 7, S.I. No. 430 of 2014.

#### Editorial Notes:

**E4** Minimum period of employment specified for purposes of subs. (5) (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 43, in effect as per reg. 2.

F11[Consultation by Minister

**3F.**— The Minister may, in the case of an application for an employment permit in respect of the purpose referred to in section 3A(2)(h), consult with any person who, the Minister is satisfied, has knowledge of or expertise in the sport or cultural activity concerned.]

#### Annotations

#### Amendments:

**F11** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 7, S.I. No. 430 of 2014.

Application for employment permit.

**4.**— (1) An application for the grant of an employment permit in respect of the employment in the State of a particular foreign national may F12[, subject to subsection (3),] be made, other than in a case referred to in subsection (2), by—

- (a) the person proposing to employ the foreign national, or
- (b) F13[...] the foreign national.

F14[(2) In a case—



- (a) where the application is made in respect of the purpose referred to in section 3A(2)(e), the application shall be made by the contractor concerned,
- (b) where the application is made in respect of the purpose referred to in section 3A(2)(d), the application shall be made by the connected person concerned, or
- (c) falling within section 2(1A)(c) of the Act of 2003, the application shall be made by the person party to the arrangement concerned.]

(3)F14[Subject to section 10A, an application under this section shall not be made] unless an offer of employment in the State has been made in writing F14[to a foreign national] within such period preceding the application as may be prescribed.

F12[(3A) An application—

- (a) referred to in subsection (2)(a), shall be made in respect of the employment that is the subject of the contract service agreement,
- (b) referred to in subsection (2)(b), shall be made in respect of the employment in the connected person, and
- (c) in the case of the arrangement referred to in subsection (2)(c), shall be made in respect of the employment that is the subject of the arrangement,

and references in this Act to an offer of employment insofar as such references refer to an application referred to in paragraph (a), (b) or (c) shall be construed accordingly.

(3B) When making an application for the grant of an employment permit, the person making the application shall specify the purpose, referred to in section 3A(2), in respect of which the employment permit concerned may be granted.

(3C) An application under this section for an employment permit in respect of the purpose referred to in section 3A(2)(a) shall not be made unless the duration of the employment, in respect of which the application is made, is for a period of not less than 2 years.]

(4)F15[...]

F12[(5) An application shall not be made for the grant of an employment permit in respect of an employment where, in the 6 months preceding the day on which the application is made—

- (a) a person was employed in the employment that is the subject of the application, and
- (b) that person was dismissed by reason of redundancy from that employment within that period of 6 months.

(6) Where—

- (a) an employment permit is in force immediately before the coming into operation of section 7 of the Employment Permits (Amendment) Act 2014,
- (b) following the coming into operation of section 7 of the Employment Permits (Amendment) Act 2014, the spouse, civil partner or dependant of the foreign national to whom that permit has been granted applies for an employment permit in respect of the purpose referred to in section 3A(2)(b), and
- (c) the Minister is satisfied that having regard to the employment in respect of which the employment permit referred to in paragraph (a) has been granted, that permit would, had it been granted after the coming into operation of section 7 of the Employment Permits (Amendment) Act 2014, have been granted in respect of the purpose referred to in section 3A(2)(a),

the foreign national to whom the employment permit referred to in paragraph (a) has been granted may be treated as the primary permit holder concerned—

(i) for the purposes of section 3C,

(ii) for the purposes of the application referred to in paragraph (b), and

(iii) where pursuant to such application an employment permit is granted under section 8, the grant of that employment permit.]

#### Annotations

#### Amendments:

- F12** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 8(1)(a), S.I. No. 430 of 2014.
- F13** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 8(1)(b), S.I. No. 430 of 2014.
- F14** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 8(2), S.I. No. 430 of 2014.
- F15** Repealed (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 38(a), S.I. No. 430 of 2014, subject to s. 39(1)-(3).

#### Editorial Notes:

- E5** Previous affecting provision: conditions prescribed for purposes of section (1.01.2007) by *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006), regs. 6 and 7, in effect as per reg. 1; revoked (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2.
- E6** Previous affecting provision: fee prescribed for purposes of section (1.01.2007) by *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006), reg. 3, in effect as per reg. 1; revoked (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2.

Foreign national is grantee of permit, general provisions as respects applications, etc.

**5.—** (1) In all cases, irrespective of who the applicant for the grant of the permit under *section 8* is—

(a) an application for the grant of an employment permit under *section 8* shall be expressed to be an application for the grant under that section of such a permit to the person proposed to be employed pursuant to the permit (in this Act referred to as the “foreign national concerned”), and

(b) a grant under *section 8* of an employment permit shall be to the foreign national concerned.

(2) An application for an employment permit shall be in writing and be accompanied by such fee as may be prescribed.

**F16**[Application for employment permit: information to be provided

**6.—** An application for an employment permit shall—

(a) provide a full and accurate description of the employment in respect of which the application is made (the ‘employment concerned’) and the terms and conditions, including the hours of work in each week, and the duration, of the employment concerned,

(b) provide information in respect of the qualifications, skills, knowledge and experience that are required for the employment concerned,

- (c) provide information and, where required, any relevant documents in respect of the qualifications, skills, knowledge or experience of the foreign national concerned,
- (d) specify the place at or in which the employment concerned is to be carried out and, where the employment concerned is to be carried out in more than one place, specify each such place,
- (e) specify the remuneration and any deductions, where agreed, for board and accommodation or either of them in respect of the employment concerned,
- (f) in respect of the foreign national concerned—
  - (i) specify whether or not he or she has sought permission to land in the State on a previous occasion or has been in the State on a previous occasion without permission to land,
  - (ii) where he or she is in the State at the time of the application, provide information and documents, where required by the Minister, relating to the permission granted to him or her to be in the State,
  - (iii) where he or she is in employment in the State at the time of the application, provide information and documents, where required by the Minister, relating to the permission granted to him or her to be in such employment, and
  - (iv) provide information as to whether he or she was at any time prior to such application in employment in the State and, where requested by the Minister, provide any information and documents relating to the permission granted to him or her to be in such employment, or, as the case may be, an employment permit granted in respect of that employment,
- (g) provide such other information, documents and evidence to verify such information and documents—
  - (i) as may be prescribed, or
  - (ii) which the Minister may request and which, in the Minister's opinion, might materially assist in the making of a decision on the application,
- (h) without prejudice to the generality of paragraph (g), provide information and documents, as the Minister may request, concerning the offer of employment referred to in section 4(3), and
  - (i) provide information, documents and evidence in respect of the requirement under section 4(5) in relation to—
    - (i) the employment, in the period referred to in section 4(5), of any person in the employment that is the subject of the application, and
    - (ii) the confirmation that such person was not, within such period, dismissed by reason of redundancy from that employment.]

**Annotations****Amendments:**

- F16** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 9, S.I. No. 430 of 2014.

**Editorial Notes:**

- E7** Information and documents prescribed for purposes of para. (g)(i) (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), regs. 5(2), 21, 28, 33, 41, in effect as per reg. 2.

Application by foreign national — information to be provided.

**7.—F17[...]**

**Annotations****Amendments:**

- F17** Repealed (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 38(b), S.I. No. 430 of 2014, subject to s. 39(1)-(3).

Grant of employment permit by Minister.

**8.—** (1) Subject to F18[sections 3A, 10, 10A, 12, 14, 20A and 20B] and section 2(11) of the Act of 2003, the Minister may, on application made to him or her, grant an employment permit.

F18[(2) The employment permit so granted shall operate to permit the employment in the State of the foreign national—

(a) in the employment specified in the application by—

- (i) the person, specified in the application, who made the offer of employment,
- (ii) in the case of an application referred to in section 4(2)(a), the contractor concerned, or
- (iii) in the case of an application referred to in section 4(2)(c), the person party to the arrangement referred to in that section who made the application,

or

(b) in the employment specified in the application in respect of which, in the case of an application referred to in section 4(2)(b), the foreign national is to carry out duties for, or participate in a training programme provided by, the connected person specified in that application.]

(3)F19[...]

(4) An employment permit shall specify the period for which the foreign national concerned may be employed in the State pursuant to the permit and the permit shall, subject to the provisions of this Act, remain in force for that period accordingly.

F20[(4A) An employment permit granted for the purpose referred to in section 3A(2)(d) shall specify the period for which the foreign national concerned may carry out duties for, or participate in a training programme provided by, the connected person, pursuant to the permit and the permit shall, subject to the provisions of this Act, remain in force for that period accordingly.]

(5) The period that shall be specified in the employment permit F18[shall, subject to subsections (6) and (7),] not exceed 2 years beginning on the date of the grant of the permit F18[or on the date specified in such permit, as the date on which it is to come into force].

F20[(6) The period that shall be specified in an employment permit granted for the purpose referred to in section 3A(2)(b) shall be the lesser of—

- (a) the period referred to in subsection (5), or
- (b) the period beginning on the date of the grant of the permit or on the date specified in such permit as the date on which it is to come into force and ending on the date of the expiry of—
  - (i) the employment permit granted to the primary permit holder referred to in section 3C(2)(a),
  - (ii) the permission, referred to in section 3C(2)(b), given to the primary permit holder referred to in section 3C(2)(b) to remain in the State and be in employment in the State,
  - (iii) the permission referred to in section 3C(3)(a), given to the research project researcher referred to in section 3C(3)(a), or
  - (iv) the permission referred to in section 3C(3)(b), given to the research project researcher referred to in section 3C(3)(b) to remain in the State and be in employment in the State.

(7) The period that shall be specified in the employment permit granted in respect of the purpose referred to in—

- (a) section 3A(2)(d), in respect of an employment referred to in section 3A(2)(d)(ii), or
- (b) section 3A(2)(i),

shall not exceed 12 months.

(8) Where in the case of a transfer to which the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003) applies, that takes effect during the period for which an employment permit is in force and pursuant to that transfer there is a change to the name of—

- (a) the employer or, as the case may be, the connected person, specified in the employment permit—
  - (i) the employer or, as the case may be, the connected person, shall notify the Minister of that change of name, and
  - (ii) the Minister may amend the employment permit to reflect that change of name of the employer or, as the case may be, the connected person and may request such information and documents, as may be specified in regulations under section 29, in respect of such change of name,

or

- (b) the relevant person—
  - (i) the contractor shall notify the Minister of that change of name, and
  - (ii) the Minister may amend the employment permit to reflect that change of name of the relevant person and may request such information and documents, as may be specified in regulations under section 29, in respect of such change of name.

(9) Nothing in subsection (6) shall be construed as preventing the specification of a period, in accordance with subsection (5), that is less than the period specified in subsection (5) in an employment permit referred to in subsection (6) in circumstances other than those specified in subsection (6).]

**Annotations****Amendments:**

- F18** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 10(1), (2), (4), S.I. No. 430 of 2014.
- F19** Repealed (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 38(c), subject to s. 39(2), S.I. No. 430 of 2014.
- F20** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 10(3), (5), S.I. No. 430 of 2014.

**Editorial Notes:**

- E8** Forms and information prescribed for purposes of subs. (8) (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 10 and sch. 6 forms R-T, in effect as per reg. 2.

Original of permit to be issued to foreign national, information to be included in permit, etc.

9.— (1) The Minister shall cause—

(a) the original of an employment permit granted under *section 8* to be issued to the foreign national concerned, and

F21[(b) a copy of the permit so granted to be issued to—

(i) the person referred to in *section 8(2)(a)(i)*,

(ii) in the case of an application referred to in *section 4(2)(a)*, the contractor referred to in *section 8(2)(a)(ii)*,

(iii) in the case of an application referred to in *section 4(2)(c)*, the person referred to in *section 8(2)(a)(iii)*, or

(iv) in the case of an application referred to in *section 4(2)(b)*, the connected person referred to in *section 8(2)(b)*.]

(2) An employment permit F21[shall specify the following information:]:

(a) F22[...] a description of the employment in respect of which the permit has been granted and a statement of the remuneration and any deductions, where agreed, for board and accommodation or either of them in respect of the employment;

(b) F22[...]

(c) a statement of the requirement under the National Minimum Wage Act 2000 that the foreign national concerned be paid the national minimum hourly rate of pay by his or her employer and the effect of *subsections (1), (3) and (4)* of F21[*section 23*];

(d) a statement that a new application for the grant of an employment permit may be made in respect of the foreign national concerned subject to, and in accordance with, the *Employment Permits Acts 2003* F21[*to 2014*; and]

F23[(e) any other information that, in the opinion of the Minister, is appropriate.]

(3) An employment permit shall include or be accompanied by a summary of the principal employment rights of F21[an employee].

(4) *Subsections (2) and (3)* are in addition to any other provision of this Act, or any provision of regulations under *section 29(2)*, specifying matters or information to be included in an employment permit.

**Annotations****Amendments:**

- F21** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 11(1)-(3), S.I. No. 430 of 2014.
- F22** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 11(b), S.I. No. 430 of 2014.
- F23** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 11(2), S.I. No. 430 of 2014.

Restriction on  
grant of employ-  
ment permit.

**10.—(1)F24[...]**

F25[(2) Subject to subsections (2A) and (2B), 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 referred to in section 4(2)(a), the contractor or the relevant person concerned,
- (c) in the case of an application referred to in section 4(2)(b), the connected person concerned, or
- (d) in the case of an application referred to in section 4(2)(c), the person party to the arrangement referred to in that section who made the offer of employment,

are nationals of any of the following:

- (i) one or more Member States of the EEA;
- (ii) the Swiss Confederation;
- (iii) a combination of any of the states referred to in paragraphs (i) and (ii).]

F26[(2A) In the case of an application for an employment permit in respect of the purpose referred to in paragraph (a), (c) or (d) of section 3A(2), subsection (2) shall not apply to such application where—

- (a) the person who has made the offer of employment or, as the case may be, the connected person has been registered with the Revenue Commissioners for a period not exceeding 2 years on the day the application is made,
- (b) an enterprise development agency has made a recommendation referred to in section 3B in respect of that application, and
- (c) the Minister is satisfied that, having regard to such recommendation, granting the employment permit that is the subject of the application concerned, will contribute to the further development of employment in the State.

(2B) In the case of an application for an employment permit in respect of the purpose referred to in paragraph (b), (c), (f) or (h) of section 3A(2), subsection (2) shall not apply to such application where—

- (a) on the day on which the application is made the person referred to in subsection (2)(a) has no employees,
- (b) the foreign national in respect of whom the application for the grant of the employment permit is made will be the sole employee of the person referred

to in subsection (2)(a) on the date on which the employment that is the subject of the application is to commence, and

- (c) the Minister is satisfied that having regard to the employment in respect of which the application is made, the foreign national concerned will be the sole employee of the employer concerned,

and the person making the application shall, in addition to any information required under section 6 or as may be specified in regulations under section 29 in respect of an application, provide the Minister with any information and documents the Minister may require to satisfy himself or herself of the matters specified in paragraphs (a) to (c).]

(3) F25[This section and section 10A are]—

F25[(a) in respect of section 10A, supplementary to Regulation (EU) No. 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union<sup>2</sup>,]

(b) in addition to the other requirements that this Act specifies must be satisfied with respect to the grant of an employment permit F25[and are] without prejudice to—

- (i) any regulations for the time being in force under *section 14*, and  
(ii) section 2(11) of the Act of 2003.

#### Annotations

#### Amendments:

- F24** Repealed (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 38(d), S.I. No. 430 of 2014, subject to s. 39(6).
- F25** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 10(1), (2), S.I. No. 430 of 2014.
- F26** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 10(1), S.I. No. 430 of 2014.

#### Editorial Notes:

- E9** Previous affecting provision: evidence acceptable to Minister under section specified (1.01.2007) by *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006), reg. 8, in effect as per reg. 1; revoked (1.10.2014) by *Employment Permit Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2.

F27[Establishing need for grant of certain employment permits

**10A.—** (1) This section applies to an application for an employment permit in respect of the purpose specified in section 3A(2)(c) or 3A(2)(e).

(2) Subject to subsections (6) and (7), the Minister shall not grant an employment permit referred to in subsection (1) unless the Minister is satisfied that a notice of the offer of the employment that is the subject of the application has been published in accordance with this section before the application referred to in subsection (1) is made and the application is made within the period referred to in subsection (5).

(3) Where an application referred to in subsection (1) is made—

- (a) the person who makes the offer of employment concerned, or

<sup>2</sup>O.J.L141, 27.5.2011, p. 1.



(b) in the case of an application under section 4(2)(a), the contractor, shall satisfy the Minister that he or she has, before making the application, offered the employment in respect of which the application is made to—

(i) a citizen, or

(ii) a foreign national referred to in any of paragraphs (a) to (d) of section 2(10) of the Act of 2003 or a person entitled to be in employment in the State pursuant to the European Union (Accession of the Republic of Croatia) (Access to the Labour Market) Act 2013,

by causing a notice of the offer of the employment concerned to be published in accordance with subsection (4).

(4) The person referred to in subsection (3)(a) or, as the case may be, the contractor referred to in subsection (3)(b) —

(a) shall cause the notice referred to in subsection (3) to be published—

(i) in at least one national newspaper circulating in the State,

(ii) on one or more websites, as may be specified in regulations under this section, the principal purpose of which is to publish offers of employments to citizens and foreign nationals referred to in subsection (3)(ii), and

(iii) in, or on, one of the following:

(I) at least one newspaper circulating in the area in which the employment is to be carried out, or

(II) at least one website, other than a website referred to in subparagraph (ii), the principal purpose of which is to publish offers of employment,

(b) shall, in respect of the publication of that notice on a website referred to in paragraph (a)(ii), place the notice referred to in subsection (3) for publication with one or more persons, as may be specified in regulations under this section,

(c) shall publish the notice referred to in subsection (3) in accordance with paragraph (a) for a period that is not less than the period, as may be specified in regulations under this section, for which the notice is to be published, and

(d) may, in addition to the publication under paragraphs (a), (b) and (c), publish the notice in such other manner as may be specified in regulations under this section.

(5) Where, following the publication of the notice referred to in subsection (3), an application referred to in subsection (1) is made under section 4, that application shall be made within the number of days, as may be specified by the Minister in regulations under this section, from the day on which that notice was first published on a website referred to in subsection (4)(a)(ii).

(6) Subsection (2) shall not apply to an application referred to in subsection (1) where—

(a) an enterprise development agency has made a recommendation referred to in section 3B in respect of the application, and

(b) the Minister is satisfied that, having had regard to such recommendation, granting the employment permit that is the subject of the application concerned will contribute to the further development of employment in the State.

(7) Subsection (2) shall not apply to an application referred to in subsection (1) where—

(a) the Minister is satisfied that, having regard to section 15(1)(d), there is a shortage of the skills referred to in section 15(1)(d) required for that employment and the Minister has, in regulations made under section 14(6), specified the employment as an employment to which subsection (2) shall not apply,

(b) the application is made in respect of a foreign national to whom section 20B applies and is an application referred to in section 20B(4), or

(c) the application is made in respect of an employment—

(i) for a carer of a person with exceptional medical needs and—

(I) the foreign national, in respect of whom that application is made, has been providing care to the person before the application was made, and

(II) that person has developed a high level of dependence on that foreign national,

and

(ii) that is not specified in regulations under section 14 as an employment for which, or a category of employment in respect of which, an employment permit shall not be granted,

and the Minister is satisfied that, having regard to the circumstances of that person and that foreign national, it is not appropriate to publish a notice of the offer of that employment.

(8) The Minister may, without prejudice to the generality of section 29(1), make regulations under this subsection for the publication of the notice referred to in subsection (3), that is required to be carried out before an application for the grant of an employment permit referred to in subsection (1) is made, to provide for—

(a) one or more persons with whom such notice shall be placed for publication on a website referred to in subsection (4)(a)(ii) where such person or persons own or operate the website or publish notices on such website,

(b) one or more websites, referred to in subsection (4)(a)(ii), on which such notice is to be published,

(c) the duration of the period, referred to in subsection (4)(c), for which such notice shall be published—

(i) in a newspaper referred to in subsection (4),

(ii) on a website referred to in subsection (4)(a)(ii) which shall be not less than 14 days, and

(iii) on a website referred to in subsection (4)(a)(iii),

which the Minister considers to be sufficient to afford an opportunity to citizens and the foreign nationals referred to in subsection (3)(ii) to apply for the employment concerned,

(d) the publication referred to in subsection (4)(d) of such notice, including the period for the publication of such notice, and different provision may be made for different classes of publication for any such notice including publication by electronic means and different provision may be made for such publication of the offer of employment to citizens and foreign nationals referred to in subsection (3)(ii),

- (e) the form, procedure for and the manner in which the publication of the offer of employment, referred to in subsection (2), to citizens and foreign nationals referred to in subsection (3)(ii) is to be made,
- (f) the number of days within which the application referred to in subsection (1) shall be made after the day the notice referred to in subsection (3) is first published on a website referred to in subsection (4)(a)(ii),
- (g) information and documents as the Minister may require to satisfy himself or herself that the notice was published in accordance with this section and the application was made within the period referred to in subsection (4) and without prejudice to the generality of the foregoing such information and documents may include—
  - (i) information and documents demonstrating that the notice was placed with the persons specified by the Minister in regulations under that section, and
  - (ii) documents identifying that the notice was published in a newspaper and a website as required under that section,

and

- (h) evidence that the Minister may reasonably require in order to verify any information or documents to be furnished to the Minister pursuant to this section.

(9) Before publishing a notice referred to in subsection (3) the person who makes the offer of employment, or, as the case may be, the contractor, shall ensure that the employment is specified in regulations under this Act as being an employment for which an employment permit may be granted.

(10) The Minister may make enquiries to satisfy himself or herself that the person referred to in subsection (3)(a) or the contractor referred to in subsection (3)(b) has complied with subsection (3).

(11) Section 10(3) applies to this section.]

#### Annotations

#### Amendments:

**F27** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 13, S.I. No. 430 of 2014.

#### Editorial Notes:

**E10** Power pursuant to section exercised (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), in effect as per reg. 2.

**E11** Previous affecting provision: power pursuant to section exercised (1.10.2014) by *Employment Permit Regulations 2014* (S.I. No. 432 of 2014), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

Consideration by Minister of application for employment permit.

**11.—** (1) In considering an application for an employment permit, the Minister shall have regard to—

- (a) the extent to which a decision to grant the permit would be consistent with economic policy for the time being of the Government,

F28[(b) whether the knowledge and skills and, where appropriate, the qualifications and experience referred to in section 6(b) are required for, or relevant to, the employment concerned,]

are necessary for, or relevant to, that employment,

(c) such of the other matters referred to in section 6 F29[...] as are relevant to F28[the application,]

(d) if any of paragraphs (a) to (j) of section 12(1) fall to be applied in relation to the application, any matters that, in the opinion of the Minister, are material to the application of such a paragraph F28[or paragraphs, and]

F30[(e) the different purposes, specified in section 3A(2) for which an employment permit may be granted.]

(2) In considering an application for an employment permit, the Minister may take such steps as he or she considers necessary to establish the accuracy or authenticity of the information provided in respect of the application.

(3) This section is subject to the provisions of any regulations under section 14 that apply in relation to the application concerned.

(4) Accordingly, nothing in this section authorises the Minister to make a decision on an application for a grant of an employment permit which he or she would not be authorised to make by reason of the operation of those regulations.

#### Annotations

#### Amendments:

**F28** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 14(a)-(c) S.I. No. 430 of 2014.

**F29** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 14(b)(i), S.I. No. 430 of 2014.

**F30** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 14(d), S.I. No. 430 of 2014.

Refusal to grant employment permit.

**12.—** (1) The Minister may refuse to grant an employment permit if—

(a) the applicant for the permit (the “applicant”) has failed to provide any information required by or under this Act in respect of the application for the permit (the “application”) F31[or has failed to provide any information, documents or evidence required by or under this Act in respect of the application within the period specified in regulations under section 29],

(b) the applicant has failed to furnish the prescribed fee with the application,

F32[(c) the foreign national or the person who made the offer of employment, or in the case of an application referred to—

(i) in section 4(2)(a), the contractor or the relevant person,

(ii) in section 4(2)(b), the connected person, or

(iii) in section 4(2)(c), the person party to the arrangement referred to in that section who made the application,

has been convicted of an offence under this Act, the Act of 2003, the Immigration Act 2004 or an enactment specified in Schedule 1, during the period of 5 years ending on the date of the application,]

(d) in the opinion of the Minister, the granting of the permit would be manifestly inconsistent with economic policy for the time being of the Government,

F32[(e) the following 2 conditions are satisfied namely:

(i) a period of less than 12 months has elapsed since the foreign national concerned first commenced employment in the State pursuant to an employment permit granted to him or her; and

(ii) the application is made within the period referred to in subparagraph (i) and on the date of the application—

(I) the employment permit referred to in subparagraph (i) is in force, or

(II) the foreign national has surrendered, in accordance with section 24, the employment permit referred to in subparagraph (i), within the period referred to in subparagraph (i),]

(f) in the opinion of the Minister, it is in the public interest to do so,

(g) a material misrepresentation in respect of the application has been made by the applicant,

(h) a forged or fraudulent document has been submitted in respect of the application,

(i) the foreign national concerned lands or has landed, or is or has been, in the State without permission,

F31[(ia) the foreign national in respect of whom the application is made—

(i) has landed in the State with the permission of the Minister for Justice and Equality but has not been given the permission referred to in section 2(10)(d) of the Act of 2003 by the Minister for Justice and Equality, and

(ii) was, on the date the application was made—

(I) employed by the person who made the offer of employment that is the subject of the application, or

(II) employed by another person on that date,

without an employment permit or the permission referred to in section 2(10)(d) of the Act of 2003,

(ib) the foreign national in respect of whom the application is made had been in employment in the State prior to the making of the application without an employment permit or permission of the Minister for Justice and Equality referred to in section 2(10)(d) of the Act of 2003,

(ic) the foreign national in respect of whom the application is made has landed in the State with the permission of the Minister for Justice and Equality and that permission is granted on the condition that the foreign national concerned shall not be in employment in the State,]

(j) the remuneration to be paid to the foreign national concerned in respect of the proposed weekly hours of work (whatever they may be) is less than the F32[standard working week remuneration,]

F32[(k) the skills, knowledge, and where appropriate, qualifications and experience, referred to in section 6(b), are not required for, or relevant to, the employment concerned, or,]

F31[(l) if he or she is satisfied that the foreign national concerned does not possess the qualifications, knowledge or skills for the employment concerned or the foreign national concerned does not have the appropriate level of experience required for the employment.]

F31[(1A) The Minister may refuse to grant an employment permit where the application in respect of an employment that, having regard to the different purposes referred to in section 3A(2), does not fall within the purpose in respect of which the application was made or is an employment that is specified in regulations under section 14 in respect of a different purpose.

(1B) In the case of an application in respect of the purpose referred to in section 3A(2)(d) —

(a) the Minister shall, subject to subsection (1C), refuse to grant an employment permit if the Minister is satisfied that—

(i) without prejudice to subsection (1G)(a)(ii), the connected person is not engaged in substantive business operations in the State,

(ii) the foreign employer is not engaged in substantive business operations in the place, outside the State, in which it is established, or

(iii) the connected person is not connected with the foreign employer,

(b) the Minister may refuse to grant an employment permit if, in the opinion of the Minister, the connected person or the foreign employer has not, or both of them have not, made appropriate arrangements—

(i) to provide appropriate accommodation and board (or either of them) for the foreign national during the period in which he or she is in the State to carry out duties for, or participate in a training programme provided by the connected person, or

(ii) to provide appropriate health insurance, in respect of the foreign national should he or she require medical treatment for illness or injury during the period for which he or she will be in the State pursuant to the employment permit,

(c) the Minister may refuse to grant an employment permit if the Minister is satisfied that the health insurance provided by the person referred to in paragraph (b)(iii)(II) of section 1A(1) does not have the same, or similar, effect as the health insurance provided by a health insurer, or

(d) the Minister may refuse to grant the employment permit if he or she is satisfied that the carrying out of the duties, or the participation in the training programme, by the foreign national is not appropriate to the requirements of the connected person.

(1C) Subsection (1B)(a)(i) shall not apply to the connected person where the connected person carrying on those business operations has been registered with the Revenue Commissioners for a period not exceeding 2 years on the date the application is made.

(1D) The Minister shall refuse to grant an employment permit in respect of the purpose referred to in section 3A(2)(e) where the Minister has reasonable grounds to believe that the foreign national concerned may not be employed by the contractor concerned during the period for which the employment permit is to be granted.

(1E) In the case of an application in respect of the purpose referred to in section 3A(2)(e), the Minister—

- (a) may refuse to grant an employment permit if, in the opinion of the Minister, the contractor has not made appropriate arrangements—
  - (i) to provide appropriate accommodation and board, or either of them, for the foreign national while he or she is in the State to perform the duties arising from the contract service agreement, or
  - (ii) to provide appropriate health insurance in respect of the foreign national should he or she require medical treatment for illness or injury during the period for which he or she will be in the State pursuant to the employment permit,

or

- (b) may refuse to grant an employment permit if the Minister is satisfied that the health insurance provided by a person referred to in paragraph (b)(iii)(II) of section 1A(1) does not have the same, or similar, effect as the health insurance provided by a health insurer.

(1F) In the case of an application for an employment permit for the purpose referred to in section 3A(2)(i), the Minister may refuse to grant an employment permit where—

- (a) the Minister is satisfied that—
  - (i) the foreign national concerned is not a full-time student enrolled in a third-level institution outside the State,
  - (ii) the course of study concerned is not wholly or substantially concerned with the qualifications or skills referred to in section 3A(2)(i), or
  - (iii) the employment in respect of which the application is made is not wholly or substantially concerned with the skills or qualifications referred to in subparagraph (ii),
- (b) the Minister is not satisfied that there is a shortage of those qualifications or skills, or
- (c) the Minister is satisfied there are reasonable grounds for believing that, at the end of the 12 month period, the foreign national may not return to the institution outside the State in which he or she is enrolled to complete the course of study concerned.

(1G) The Minister shall refuse to grant an employment permit where—

- (a) the person who has made the offer of employment—
  - (i) is not registered with the Revenue Commissioners, and
  - (ii) where such person is carrying on a business, the Minister is satisfied that such person is not engaged in substantive business operations in the State,

or

- (b) in the case of an application referred to in—
  - (i) section 4(2)(a), the contractor concerned is not registered with the Revenue Commissioners,
  - (ii) section 4(2)(b), the connected person is not registered with the Revenue Commissioners, or

- (iii) section 4(2)(c), the person referred to in that section who made the application referred to in that section, is not registered with the Revenue Commissioners.
- (1H) The Minister may refuse to grant an employment permit if he or she is satisfied that the person who made the offer of employment concerned—
- (a) where such person is a company within the meaning of the Companies Acts, does not comply with any requirement relating to the registration of the company pursuant to those Acts,
  - (b) does not comply with any requirement relating to the registration of the business name of that person pursuant to the Act of 1963,
  - (c) where such person is a limited partnership referred to in the Limited Partnerships Act 1907, does not comply with any requirement relating to the registration of the limited partnership under that Act,
  - (d) where such person is an industrial and provident society within the meaning of the Industrial and Provident Societies Acts 1893 to 1978, does not comply with any requirement relating to the registration of the society pursuant to those Acts,
  - (e) where such person is a friendly society within the meaning of the Friendly Societies Acts 1896 to 1977, does not comply with any requirement relating to the registration of the society pursuant to those Acts, or
  - (f) where such person is a trade union within the meaning of the Trade Union Acts 1871 to 1990, does not comply with any requirement relating to the registration of that trade union under those Acts.
- (1I) In the case of an application for the purpose referred to in—
- (a) section 3A(2)(f), the Minister may refuse to grant an employment permit where—
    - (i) an employment permit in respect of that purpose had been granted and had expired before the application was made and no application for renewal was made in respect of that employment permit, and
    - (ii) the Minister is satisfied that it is in the public interest to refuse to grant the employment permit,
  - (b) section 3A(2)(h), the Minister may refuse to grant an employment permit where, in accordance with section 3F, having consulted with a person referred to in section 3F, the Minister is satisfied that the employment that is the subject of the application concerned is not appropriate for the development and operation of sporting, or, as the case may be, cultural activities in the State,
  - (c) section 3A(2)(g), the Minister may refuse to grant an employment permit where the Minister is satisfied that—
    - (i) the exchange agreement concerned does not apply to the foreign national in respect of whom the application is made, or, without prejudice to subsection (3), the employment in respect of which the application is made, or
    - (ii) without prejudice to subsection (3), the employment in respect of which the application is made does not come within the exchange agreement,
- and



(d) section 3A(2)(b), the Minister may refuse to grant an employment permit where, in the opinion of the Minister, the requirements of section 3C(2) or, as the case may be, section 3C(3) have not been met.

(1J) The Minister, in the case of an application for an employment permit for the purpose referred to in paragraph (d) or (e) of section 3A(2), shall—

(a) without prejudice to subsection (1)(j), refuse to grant an employment permit if the Minister is satisfied that the hourly rate of the remuneration, in so far as it relates to the salary to be paid to the foreign national, is less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in subsection (6)(b),

(b) without prejudice to subsection (1)(a), refuse to grant an employment permit where the connected person did not provide the information and documents referred to in section 3D(4) or the contractor did not provide the information and documents referred to in section 3E(4), or

(c) refuse to grant an employment permit where the Minister is not satisfied with the arrangements for the additional payment referred to in section 3D(4)(g) or, as the case may be, section 3E(4)(g).

(1K) The Minister shall refuse to grant an employment permit where he or she is satisfied that in the 6 months preceding the day on which the application was made—

(a) a person was employed in the employment that is the subject of the application, and

(b) that person was dismissed by reason of redundancy from that employment.]

(2) F32[Subsections (1) to (1K) are] without prejudice to F32[sections 10 and 10A] and *subsection (3)*.

(3) F32[Subject to sections 20A(5) and 20B(5), the Minister shall] refuse to grant an employment permit if the granting of it would contravene regulations under *section 14* in force at the time the decision on the application for the permit is made.

(4) Where the Minister refuses to grant an employment permit, the Minister shall notify, in writing, the applicant of the decision and the reasons for it.

(5) Where an application for an employment permit is refused F31[or withdrawn], the Minister shall return to the applicant F31[or a person referred to in subsection (5A)] such portion, as may be prescribed, of the fee that has been submitted in respect of the application.

F31[(5A) An applicant referred to in subsection (5) may in the application made by him or her nominate a person to whom the portion of the fee is to be returned.]

(6) In this section “standard working week remuneration” means the weekly remuneration that the foreign national concerned would receive if he or she were to work 39 hours each week at—

(a) the national minimum hourly rate of pay, or

F32[(b) if the hourly rate of pay fixed under or pursuant to any enactment that applies to the employment concerned is greater than the national minimum hourly rate of pay, the hourly rate of pay that is fixed under or pursuant to that enactment.]

**Annotations****Amendments:**

**F31** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 15(1), (2), (5), (6), S.I. No. 430 of 2014.

**F32** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 15(1), (3), (4), (7), S.I. No. 430 of 2014.

**Editorial Notes:**

**E12** Portion prescribed for purposes of subs. (5) (1.10.2014) by *Employment Permit Regulations 2014* (S.I. No. 432 of 2014), reg. 4(3), in effect as per reg. 2.

**E13** Previous affecting provision: portion prescribed for the purposes of subs. (5) (1.01.2007) by *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006), reg. 5(7), in effect as per reg. 1; repealed (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2.

Review of decision to refuse permit.

**13.—** (1) A decision of the Minister to refuse to grant an employment permit may, in accordance with regulations under *section 29(3)*, be submitted by the applicant therefor to the Minister for review under this section.

(2) Such a submission of a decision for review shall be made within F33[28 days] from the date the decision is notified under *section 12* to the applicant.

F34[(2A) Where—

(a) following a decision to refuse to grant an employment permit—

(i) the Minister receives information or documents relating to the application for the employment permit concerned,

(ii) the information is, or documents are, received within 28 days from the date the decision is notified under *section 12* to the applicant, and

(iii) the applicant has not submitted the decision for a review, in accordance with subsections (1) and (2),

and

(b) the Minister, having considered such information or documents, is satisfied that having regard to all the circumstances that it is appropriate to review that decision and to take such information or documents into account in such review, the Minister—

(i) may direct that the decision to refuse to grant the employment permit concerned be reviewed under this section, and

(ii) where he or she so directs, shall notify the applicant of the review.]

(3) A review under this section of a decision F34[referred to in subsections (1) and (2A)] shall be carried out by an officer of the Minister appointed by the Minister for the purpose; the person so appointed—

(a) shall not be the person who made the decision, and

(b) shall be of a grade senior to the grade of the person who made the decision.

(4)F33[In the case of a review of a decision referred to in subsection (1), the person so appointed] having afforded the person who submitted the decision for review an opportunity to make representations in writing in relation to the matter, may—

- (a) confirm the decision (and, if the person does so, shall notify in writing the second-mentioned person of the reasons for the confirmation), or
- (b) cancel the decision and grant to the foreign national concerned the employment permit the subject of the application to which the review relates.

F34[(5) In the case of a review of a decision referred to in subsection (2A), the person so appointed, having taken into account the information or documents referred to in that subsection and afforded the applicant for the employment permit concerned an opportunity to make representations in writing in relation to the matter, may—

- (a) confirm the decision (and, if the person does so, shall notify such applicant in writing of the reasons for the confirmation), or
- (b) cancel the decision and grant to the foreign national concerned the employment permit the subject of the application to which the review relates.]

#### Annotations

##### Amendments:

**F33** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 16(a), (d), S.I. No. 430 of 2014.

**F34** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 16(b), (c), (e), S.I. No. 430 of 2014.

##### Editorial Notes:

**E14** Procedure for submission of decision for review prescribed (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 13 and sch. 6 form Q, in effect as per reg. 2.

**E15** Previous affecting provision: procedure for submission of decision for review prescribed (1.01.2007) by *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006), reg. 9, in effect as per reg. 1; revoked (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2.

Regulations governing grant of permits, etc.

**14.—F35[(1) The Minister may, having regard to sections 3A and 14A and the matters specified in section 15, make regulations providing for a class of employment permit for each purpose specified in paragraphs (a) to (i) of section 3A(2) and may, for each such class of employment permit, provide for one or more of the matters specified in subsection (1A) and may, in such regulations, make different provision for such classes of employment permit and such matters in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.]**

**F36[(1A) The matters referred to in subsection (1) are:**

- (a) the maximum number of employment permits that may be granted in respect of the purpose concerned or specified employments or categories of such employments and such employments or such categories may be provided for on the basis of one or more economic sectors into which they fall;
- (b) the employments for which an employment permit may be granted and such employments may be provided for by reference to categories of employments for which an employment permit may be granted and by reference to one or more economic sectors into which they fall;

- (c) the employments for which an employment permit shall not be granted and such employments may be provided for by reference to categories of employments for which an employment permit shall not be granted and to one or more economic sectors into which they fall;
- (d) economic sectors in respect of which employment permits for any employment that falls into such sector shall not be granted;
- (e) the minimum amount of remuneration that shall be payable in respect of an employment as a condition for the grant of an employment permit in respect of it, and without prejudice to the generality of the foregoing, in respect of such minimum amount of remuneration—
  - (i) in so far as it relates to the salary referred to in paragraphs (a)(i) and (b)(i) of section 1A(1), the hourly rate for the salary shall be not less than the national minimum hourly rate of pay, or where appropriate to the employment or the category of employment, the hourly rate of pay referred to in section 12(6)(b), and
  - (ii) in so far as it relates to the payments for board and accommodation, referred to in section 1A(1)(b)(ii) and the payments for health insurance referred to in paragraphs (a)(ii) and (b)(iii) of section 1A(1), a maximum amount that may be paid in respect of those payments or the maximum amount of the value of such board and accommodation that are directly provided;
- (f) the qualifications or skills that a foreign national, in respect of whom an application for an employment permit is made, is required to possess in order for a grant of the permit to be made;
- (g) the minimum number of hours of work that are required to be worked in each week for an employment as a condition for the grant of an employment permit in respect of it;
- (h) the minimum period of experience required for an employment, or a category of employment, as a condition for the grant of an employment permit in respect of it including different periods of experience by reference to different levels of remuneration;
- (i) the minimum period for which an employment permit may be granted.

(1B) Without prejudice to the generality of subsection (1A)(e), when specifying the minimum amount of remuneration, pursuant to that subsection, that shall be payable in respect of an employment as a condition for the grant of an employment permit in respect of it, the Minister may specify—

- (a) a minimum annual remuneration which shall be the minimum amount of remuneration to be paid to a foreign national for 39 hours of work in each week for 52 weeks,
- (b) the minimum hourly rate for the minimum annual remuneration referred to in paragraph (a) that shall be payable where the hours of work for an employment or category of employment exceed 39 hours, and
- (c) a minimum hourly rate for remuneration other than that referred to in paragraph (a) or (b),

in respect of any class of employment permit, employment or category of employment, and may, without prejudice to the generality of subsection (1), make different provision for any such class, employment or category in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.

(1C) The Minister may in regulations under subsection (1), when providing for the class of employment permit for—

- (a) the purpose referred to in section 3A(2)(a), make different provision for a foreign national to whom section 20A applies, and
- (b) the purpose referred to in section 3A(2)(c), make different provision for a foreign national to whom section 20B applies,

and may make different provision for such foreign nationals in respect of any matter to be provided for under subsection (1A) and without prejudice to subsections (1) and (1B), when providing for remuneration under subsection (1A)(e), such provision may include different amounts of remuneration in respect of such class or any employment or category of employment and different provision may be made for different cases in relation to different classes of cases and different circumstances or different classes of circumstances.

(1D) When making regulations under subsection (1) in respect of the class of employment permit provided under that subsection for the purpose referred to in section 3A(2)(g), the Minister, in addition to providing for any of the matters specified in subsection (1A) for that class of employment permit—

- (a) shall specify in those regulations each exchange agreement in respect of which an employment permit may be granted, and
- (b) may, without prejudice to subsections (1) and (1A), specify the employments referred to in that exchange agreement, or to which that exchange agreement applies, in respect of which an employment permit may be granted for that class of employment permit,

and when specifying the exchange agreement may, without prejudice to subsection (1), make different provision for such different exchange agreements in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.

(1E) In regulations under subsection (1) in relation to any class of employment permit or any matter specified under subsection (1A), the Minister may, when providing for any such class or matter, make provision in respect of a recommendation referred to in section 3B, and may, in respect of such recommendation, make different provision for such classes or such matter in relation to different cases and different classes of cases and different circumstances and different classes of circumstances.

(1F) When specifying in regulations under subsection (1) the qualifications, referred to in subsection (1A)(f), of a foreign national, the Minister may provide, in respect of such qualifications, for one or both of the following:

- (a) a requirement that the foreign national be registered with—
  - (i) a regulatory body, or
  - (ii) any Minister of the Government regulating the entry to or carrying on of any profession or employment in the State;
- (b) a requirement that the qualifications of a foreign national be recognised by—
  - (i) a regulatory body, or
  - (ii) any Minister of the Government regulating the entry to or carrying on of any profession or employment in the State.

(1G) The Minister may, in regulations under subsection (1), provide for the names of the different classes of employment permits provided for under that subsection.

(1H) Without prejudice to the generality of subsection (1A)(b), when specifying the employments for which an employment permit may be granted, including employments

specified by reference to categories of employments and to one or more economic sectors, the Minister may specify such employments by reference to employments that require qualifications, experience or skills, referred to in section 15(1)(c), that are required for the proper functioning of one or more economic sectors and the Minister is satisfied that there is a shortage, referred to in section 15(1)(d), of those skills, experience or qualifications.

(1I) The Minister may, having regard to section 3A and the matters specified in section 15, make regulations providing that no permits shall be granted in respect of any purpose referred to in section 3A(2) for a period as the Minister shall specify in the regulations.

(1J) Where the Minister has made regulations under this section he or she shall from time to time carry out a review of the regulations having regard to section 15 and, without prejudice to the generality of the foregoing, the shortages and surpluses referred to in section 15(1)(d) in respect of the matters specified in the regulations pursuant to this section.

(1K) Where under subsections (1) and (1A)(a), the Minister makes regulations providing for the maximum number of employment permits that may be granted in respect of a purpose or specified employments or categories of employments, whether the maximum number is provided for on the basis of an economic sector or otherwise, the Minister shall specify a period during which that maximum number of employment permits shall be granted.]

F35[(2) In regulations under subsection (1) the Minister may, having regard to sections 3A and 14A and the matters specified in section 15, provide, in respect of each class of employment permit referred to in subsection (1), for—

- (a) one or more of the matters specified in subsection (1A) other than the matters specified in paragraphs (a), (c) and (d) of that subsection, and
- (b) any matter specified in subsections (1B) and (1D) to (1H),

in relation to the renewal, under section 20, of an employment permit and may, for each such class of employment permit in such regulations, make provision for such classes of employment permit in relation to any of the matters specified in paragraphs (a) and (b) in relation to such renewal that is different to the provision made by the Minister in relation to the grant of an employment permit under section 8 and may, in such regulations, make different provision for such classes of employment permit and such matters in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.]

F36[(2A) The following modifications apply in respect of the regulations referred to in subsection (2):

- (a) the substitution of references to an application for the renewal of an employment permit for references to an application for the grant of an employment permit;
- (b) the substitution of references to a condition for the grant of the renewal of an employment permit for references to a condition for the grant of an employment permit;
- (c) the substitution of references to the grant of the renewal of an employment permit for the grant of an employment permit.]

F35[(3) Where regulations under subsection (1) are in force, the relevant powers of the Minister under this Act in relation to employment permits shall, subject to this Act, be exercised subject to, and in accordance with, those regulations.]

(4) To avoid doubt F37[...] the preference required to be given by section 2(11) of the Act of 2003 to an application in respect of a foreign national referred to in that provision shall only be given if an employment permit, the subject of the application,

could, consistently with the regulations referred to in *subsection (3)*, be granted F36[, subject to this Act,] to the foreign national.

F36[(5) The Minister may, having regard to paragraphs (d) and (e) of section 3A(2), section 14A and the matters specified in section 15, make regulations specifying—

- (a) the minimum period of employment for which a foreign national referred to in section 3D is employed with the foreign employer before an application for an employment permit may be made in respect of him or her, which period shall be not less than 1 month, and
- (b) the minimum period of employment for which a foreign national referred to in section 3E is employed by the contractor before an application for an employment permit may be made in respect of him or her, which period shall be not less than 1 month.

(6) Where—

- (a) the Minister is satisfied that, having regard to section 15(1)(d), there is a shortage of the skills referred to in section 15(1)(d), and
- (b) those skills are required for an employment, or a category of employment, specified in regulations under this section as an employment or a category of employment for which an employment permit may be granted in respect of the purpose referred to in paragraphs (c) or (e) of section 3A(2),

the Minister may specify in regulations under this section the employments or categories of employments to which section 10A(2) shall not apply—

(i) in respect of—

- (I) an employment, and
- (II) a category of employment or an employment falling into a category of employment,

specified in regulations under this section as employments or categories of employment for which an employment permit may be granted for the purpose referred to in section 3(2A)(c), and

(ii) in respect of—

- (I) an employment, and
- (II) a category of employment or an employment falling into a category of employment,

specified in regulations under this section as employments or categories of employment for which an employment permit may be granted for the purpose referred to in section 3(2A)(e).

(7) In this Act, ‘regulatory body’ means a body which is concerned with regulating the entry to or the carrying on of, a profession or an employment in the State and includes a body established by or under any enactment.]

#### Annotations

#### Amendments:

- F35** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 17(1), (3), (4), S.I. No. 430 of 2014.



**F36** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 17(2), (3), (5)(b), (6), S.I. No. 430 of 2014.

**F37** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 17(5)(a), S.I. No. 430 of 2014.

**Editorial Notes:**

**E16** Power pursuant to section exercised (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), in effect as per reg. 2.

**E17** Previous affecting provision: power pursuant to section exercised (2.08.2016) by *Employment Permits (Amendment) (No. 2) Regulations 2016* (S.I. No. 363 of 2016), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

**E18** Previous affecting provision: power pursuant to section exercised (1.02.2016) by *Employment Permits (Amendment) Regulations 2016* (S.I. No. 33 of 2016); revoked (2.08.2016) by *Employment Permits (Amendment) (No. 2) Regulations 2016* (S.I. No. 363 of 2016), reg. 17, in effect as per reg. 2.

**E19** Previous affecting provision: power pursuant to section exercised (1.01.2016) by *Employment Permits (Amendment) (No. 2) Regulations 2015* (S.I. No. 602 of 2015), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

**E20** Previous affecting provision: power pursuant to section exercised (1.09.2015) by *Employment Permits (Amendment) Regulations 2015* (S.I. No. 349 of 2015), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

**E21** Previous affecting provision: power pursuant to section exercised (1.10.2014) by *Employment Permit Regulations 2014* (S.I. No. 432 of 2014), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

**E22** Previous affecting provision: power pursuant to section exercised (11.11.2014) by *Employment Permit (Amendment) Regulations 2014* (S.I. No. 506 of 2014); revoked (1.09.2015) by *Employment Permits (Amendment) Regulations 2015* (S.I. No. 349 of 2015), reg. 11, in effect as per reg. 2.

**F38**[Remuneration relating to employments

**14A.—** (1) When specifying, in regulations made under section 14, an amount of remuneration for an employment or a category of employment, the Minister may have regard to the amounts of remuneration paid in respect of different employments and categories of employment.

(2) Where—

(a) regulations under section 14 specify a minimum annual remuneration referred to in section 14(1B)(a) that shall be payable in respect of an employment as a condition for the grant of an employment permit, and

(b) the number of hours of work in each week for an employment in respect of which an employment permit may be granted as a condition for the grant of an employment permit in respect of it is—

(i) less than 39 hours in each week, the minimum annual remuneration specified in regulations under section 14 in respect of an employment as a condition for the grant of an employment permit for that employment shall not be reduced in accordance with the lesser number of hours to be worked in each week, or

(ii) greater than 39 hours in each week, the minimum annual remuneration specified in regulations under section 14 in respect of an employment as



a condition for the grant of an employment permit for that employment shall be increased in proportion to the minimum hourly rate specified for the employment concerned in accordance with the number of hours, or any portion of an hour, that exceed, or exceeds, 39 hours.]

#### Annotations

#### Amendments:

**F38** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 18, S.I. No. 430 of 2014.

#### Editorial Notes:

**E23** Power pursuant to section exercised (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), in effect as per reg. 2.

**E24** Previous affecting provision: power pursuant to section exercised (1.01.2016) by *Employment Permits (Amendment) (No. 2) Regulations 2015* (S.I. No. 602 of 2015), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

**E25** Previous affecting provision: power pursuant to section exercised (1.09.2015) by *Employment Permits (Amendment) Regulations 2015* (S.I. No. 349 of 2015), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

**E26** Previous affecting provision: power pursuant to section exercised (1.10.2014) by *Employment Permit Regulations 2014* (S.I. No. 432 of 2014), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

Criteria to which regard is to be had in making regulations under section 14.

**15.—** (1) The matters mentioned in *subsections (1) and (2) of section 14* are—

- (a) the qualifications F39[, **experience**] or skills that, in the opinion of the Minister, are required for economic and social development and competitiveness F40[...]
- (b) the economic sector or sectors that, in the opinion of the Minister, will be involved in the achievement of such economic and social development and competitiveness,
- (c) the qualifications F39[, **experience**] or skills that, in the opinion of the Minister, are required for the proper functioning of such economic sector or sectors F40[...], and
- (d) if, in the opinion of the Minister, there is likely to be F40[...] a shortage or surplus in respect of qualifications F39[, **experience**] or skills falling within *paragraph (c)*, an estimate as best the Minister may make (and which estimate the Minister is, by virtue of this section, required to make) of what the extent of that shortage or surplus will be.

F41[(2) References in subsection (1) to qualifications, experience or skills are references to qualifications, experience or skills of employees.]

**Annotations****Amendments:**

- F39** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 19(1)(a)(i), (b)(i), (c)(ii), S.I. No. 430 of 2014.
- F40** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 19(1)(a)(ii), (b)(ii), (c)(i), S.I. No. 430 of 2014.
- F41** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 19(2), S.I. No. 430 of 2014.

Revocation of  
employment  
permit.

**16.—** (1) The Minister may revoke an employment permit if—

- (a) in the opinion of the Minister, the holder of the permit or the employer F42[or connected person] has not complied with section 19(1) or (2),
- (b) the holder of the permit or the employer F42[, connected person or relevant person] has been convicted of an offence under this Act, F42[the Act of 2003, the Immigration Act 2004 or an enactment specified in Schedule 1].
- (c) in the opinion of the Minister, it was obtained by fraud or misrepresentation,
- (d) in the opinion of the Minister, any information provided in respect of the application for it was false or misleading in a material respect,

F42[(da) in the case of an employment permit granted for the purpose specified in section 3A(2)(b) —

- (i) the primary permit holder referred to in section 3C(2)(a) has been redundant within the meaning of section 7(2) of the Act of 1967 for a period exceeding 6 months,
  - (ii) the employment permit granted to the primary permit holder referred to in section 3C(2)(a) has been revoked, or
  - (iii) the primary permit holder referred to in section 3C(2)(b) or the research project researcher referred to in section 3C(3)(b) no longer has the permission referred to in section 2(10)(d) of the Act of 2003,
- (db) in the case of an employment permit granted in respect of the purpose specified in section 3A(2)(d), in the opinion of the Minister the connected person or the foreign employer has failed to—
- (i) provide appropriate accommodation and board (or either of them) for the foreign national while he or she is in the State to perform duties for, or participate in a training programme provided by, the connected person, or
  - (ii) provide appropriate health insurance in respect of the foreign national during some or all of the period for which the employment permit has been in force should he or she require medical treatment for illness or injury during such period,
- (dc) in the case of an employment permit granted in respect of the purpose specified in section 3A(2)(e), in the opinion of the Minister the contractor has failed to—
- (i) provide appropriate accommodation and board (or either of them) for the foreign national while he or she is in the State to perform the duties arising from the contract service agreement concerned, or

- (ii) provide appropriate health insurance in respect of the foreign national during some or all of the period for which the employment permit has been in force should he or she require medical treatment for illness or injury during such period,
- (dd) the foreign national is not, in the opinion of the Minister—
- (i) employed in the employment specified, in accordance with section 9(2), in the employment permit,
- (ii) employed by the person referred to in section 8(2)(a)(i), or, as the case may be, the contractor referred to in section 8(2)(a)(ii), or the person referred to in section 8(2)(a)(iii), or
- (iii) employed by the foreign employer or is not carrying out the duties for, or participating in a training programme provided by, the connected person referred to in section 8(2)(b),
- (de) in the opinion of the Minister, the remuneration paid, insofar as it relates to the salary referred to in paragraphs (a)(i) and (b)(i) of section 1A(1), to the foreign national is less than the national minimum hourly rate of pay or the hourly rate referred to in section 12(6)(b),
- (df) without prejudice to paragraph (de), in the opinion of the Minister, the remuneration paid to the foreign national, during the period for which the employment permit has been in force, is less than the remuneration stated, pursuant to section 9(2), in the employment permit, or the deductions referred to in section 9(2), stated pursuant to that section in the employment permit, were different to the deductions made by the employer,
- (dg) the statement of earnings, referred to in section 3D or section 3E, does not comply with the requirements of section 3D(1)(c) or, as the case may be, section 3E(1)(b),]
- (e) the employment permit was granted by virtue of an administrative error, or
- (f) in the opinion of the Minister, it is in the public interest to do so.
- (2) Where the Minister decides to revoke an employment permit, he or she shall notify in writing the holder of the permit and the employer F42[or, as the case may be, the connected person] of—
- (a) the decision,
- (b) the reasons for it, and
- (c) the fact that F43[the holder or the employer or both of them, or, as the case may be, the holder or the connected person, or both of them, may], in accordance with regulations under *section 29(3)* and within 28 days from the date of notification of the decision, submit the decision to the Minister for review under *section 17*.
- (3) Subject to *subsection (5)* a decision to revoke an employment permit under this section shall, if such decision has not been submitted to the Minister for review under *section 17* in accordance with that section, take effect on the expiration of the period mentioned in *subsection (2)(c)*.
- (4) Where such a decision is submitted to the Minister for review under *section 17* in accordance with that section, the revocation of the employment permit concerned shall, subject to *subsection (5)*, not take effect until the review is determined (and the decision is confirmed on that review) or the submission of the decision for review is withdrawn.

(5) Where, in the opinion of the Minister, the circumstances concerning the revocation of an employment permit are such that, having regard to the public interest, it is appropriate that the decision to revoke the permit should take effect immediately and he or she states that opinion in the notification of the decision under *subsection (2)*, then the revocation shall take effect immediately on that notification.

#### Annotations

#### Amendments:

- F42** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 20(1), (2)(a), S.I. No. 430 of 2014.
- F43** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 20(2)(b), S.I. No. 430 of 2014.

Review of decision to revoke permit.

**17.—** (1) A decision of the Minister to revoke an employment permit, may, in accordance with regulations under *section 29(3)*, be submitted by F44[**the holder of the permit, the employer or the connected person**] to the Minister for review under this section.

(2) Such a submission of a decision for review shall be made within 28 days from the date the decision is notified under *section 16(2)* to the person.

(3) A review under this section of a decision shall be carried out by an officer of the Minister appointed by the Minister for the purpose; the person so appointed—

(a) shall not be the person who made the decision, and

(b) shall be of a grade senior to the grade of the person who made the decision.

(4) The person so appointed, having afforded the person who submitted the decision for review an opportunity to make representations in writing in relation to the matter, may—

(a) confirm the decision (and, if the person does so, shall notify in writing the second-mentioned person of the reasons for the confirmation), or

(b) cancel the decision.

(5) If a decision to revoke an employment permit—

(a) has, by virtue of *section 16(5)*, taken effect on the notification of the decision to the holder, and

(b) is, on a review under this section, cancelled,

then, in determining the period for which the employment permit shall remain in force, the period for which the permit ceased to be in force by virtue of *section 16(5)* shall be disregarded.

#### Annotations

#### Amendments:

- F44** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 21, S.I. No. 430 of 2014.

**Editorial Notes:**

- E27** Procedure for submission of decision for review prescribed (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 13 and sch. 6 form Q, in effect as per reg. 2.
- E28** Previous affecting provision: procedure for submission of decision for review prescribed (1.01.2007) by *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006), reg. 9, in effect as per reg. 1; revoked (1.10.2014) *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2.

Prohibition on forgery, fraudulent alteration or fraudulent use of employment permit.

**18.—** (1) A person shall not—

- (a) forge a document purporting to be an employment permit,
- (b) alter an employment permit with intent to deceive,
- (c) use an employment permit with intent to deceive,
- (d) permit the alteration of an employment permit with intent to deceive,
- (e) permit the use of an employment permit with intent to deceive, or
- (f) use, with intent to deceive, a forged document purporting to be an employment permit.

(2) A person who contravenes *subsection (1)* is guilty of an offence.

Prohibition on certain use of employment permit.

**19.—** (1) Where an employment permit has been granted F45[...]the employer F46[or the connected person] shall not purport to—

- (a) transfer the employment permit to another person,
- (b) use the employment permit to employ a foreign national other than the foreign national to whom it has been granted, or
- (c) use the employment permit in respect of an employment other than the employment in respect of which it has been granted.

(2) The holder of an employment permit shall not purport to—

- (a) transfer the employment permit to another foreign national,
  - (b) allow another foreign national to use the employment permit to enter into the service of an employer in the State or be in employment in the State, or
- F46[(c) use the employment permit to enter into a contract of employment in respect of an employment other than the employment in respect of which it has been granted.]

(3) A person who contravenes *subsection (1)* or *(2)* is guilty of an offence.

**Annotations****Amendments:**

- F45** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 22(a)(i), S.I. No. 430 of 2014.
- F46** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 22(a)(ii), (b), S.I. No. 430 of 2014.

Renewal of  
employment  
permit.

**20.—** (1) F47[Subject to subsection (1A), the Minister] may from time to time F48[...] renew an employment permit in accordance with this section.

F49[(1A) An employment permit granted in respect of the purpose referred to in—

(a) section 3A(2)(d) in respect of an employment referred to in section 3A(2)(d)(ii),  
and

(b) section 3A(2)(i),

shall not be renewed.]

(2) An application for the renewal of an employment permit shall be made either—

(a) within such period before the expiry of the period for which it has been granted (or for which it has last been renewed under this section) as may be prescribed, or

(b) within such period after the expiry of that period as may be prescribed.

F49[(2A) An application for the renewal of an employment permit—

(a) may be made by the holder of the employment permit concerned or the employer, or

(b) where the application for the grant of the employment permit was made—

(i) in accordance with section 4(2)(a), in respect of an employment referred to in subsection (3B) shall be made by the contractor concerned,

(ii) in accordance with section 4(2)(b), in respect of an employment referred to in subsection (3A) shall be made by the connected person concerned, or

(iii) in accordance with section 4(2)(c), shall be made by the person referred to in section 4(2)(c).]

(3) The period for which an employment permit may be renewed shall, subject to F47[subsections (3A), (3B), (4), (11)(b), (12) and (13) ], not exceed 3 years F48[...].

F49[(3A) In the case of the renewal of an employment permit granted in respect of an employment referred to in section 3A(2)(d)(i), where the Minister is satisfied that the duties to be carried out for the connected person will not be completed on the date of the expiration of the permit that is the subject of the application for renewal, the Minister may, subject to subsection (3C), renew the permit in accordance with this section, for the period referred to in subsection (3) or where the remaining period in which those duties are to be completed is less than the period referred to in subsection (3), for the lesser period.

(3B) In the case of the renewal of an employment permit granted in respect of the purpose referred to in section 3A(2)(e), where the Minister is satisfied that the duties to be performed in the State pursuant to the contract service agreement will not be completed on the date of the expiration of the permit that is the subject of the application for renewal, the Minister may, subject to subsection (3C), renew the permit, in accordance with this section, for the period referred to in subsection (3) or where the remaining period in which those duties are to be completed is less than the period referred to in subsection (3), for the lesser period.

(3C) The period for which an employment permit referred to in subsections (3A) and (3B) shall be in force whether granted or renewed, shall not exceed a period of 5 years from the date on which it was first granted.]

(4) F47[Subject to subsection (4B), if, at the date] of the making of an application for the renewal of an employment permit, the period for which the permit has been in force (including the periods for which it has been previously renewed) is 5 or more

years, then the period for which the permit may be renewed on foot of that application may be an unlimited period.

F49[(4A) The person making the application for the renewal of an employment permit shall—

(a) provide, with the application for renewal, information, documents and evidence as may be specified in regulations under section 29 in respect of the renewal of an employment permit, and

(b) without prejudice to the generality of paragraph (a), in the case of an application for the renewal of an employment permit referred to in subsection (3A) or, as the case may be, subsection (3B), provide, with the application for renewal, information, documents and evidence as may be specified in regulations under section 29, in respect of the payment of the additional payment referred to in section 3D(2) or 3D(3) or, as the case may be, section 3E(2) or 3E(3), during the period for which the employment permit, that is the subject of the application for renewal, has been granted.

(4B) Subsection (4) shall not apply to the renewal of an employment permit referred to in subsections (3A), (3B) and (13).]

(5) An application for a renewal of an employment permit shall be accompanied by the prescribed fee.

(6) The applicant for a renewal of an employment permit shall furnish to the Minister—

(a) such information (being information of a similar nature to that referred to in section 6 F48[...]) as the Minister specifies in a direction in writing given by him or her for the purposes of this subsection, and

(b) if the Minister requests such a statement or evidence, a statement or evidence, in such form as the Minister specifies, confirming that the applicant has complied with the terms of the employment permit and the provisions of this Act during the period ending on the making of the application for renewal.

(7) The Minister shall publish, in such manner as he or she considers appropriate, any direction given under subsection (6)(a).

(8) F47[Sections 10, 11, 12 and 13] shall, with the modifications specified in subsection (9), apply to the grant of, or the refusal to grant, a renewal of an employment permit as they apply to the grant of, or the refusal to grant, an employment permit.

F49[(8A) In addition to, pursuant to subsection (8), the grounds specified in section 12 for refusing an application for renewal, the Minister may refuse to renew an employment permit if—

(a) the foreign national is not, in the opinion of the Minister—

(i) employed in the employment specified, in accordance with section 9(2), in the employment permit,

(ii) employed by the person referred to in section 8(2)(a)(i), or, as the case may be, the contractor referred to in section 8(2)(a)(ii), or the person referred to in section 8(2)(a)(iii), or

(iii) employed by the foreign employer or is not carrying out duties for, or participating in a training programme provided by, the connected person referred to in section 8(2)(b),

- (b) in the opinion of the Minister, the remuneration paid to the foreign national, during the period for which the employment permit has been in force, is less than the remuneration stated, pursuant to section 9(2), in the employment permit or the deductions referred to in section 9(2), and stated, pursuant to that section, in the employment permit, were different to the deductions made by the employer,
- (c) the foreign national has spent a continuous period of not less than 3 months outside the State during the period for which the employment permit has been in force that was not connected to his or her employment,
- (d) without prejudice to the generality of the foregoing, the granting of the application to renew the permit would contravene regulations under section 14 in so far as those regulations make provision for, pursuant to section 14(2), the renewal of an employment permit, or
- (e) the information, documents and evidence referred to in paragraphs (a) and (b) of subsection (4A) were not provided as required under those paragraphs.]

(9) The modifications mentioned in *subsection (8)* are—

(a) the omission of *subsection (1)(b)* from *section 11*,

F49[(aa) in respect of section 10, construing references to—

- (i) the date of the application for an employment permit as references to the date of the application for the renewal of an employment permit, and
- (ii) the person who made the offer of employment as references to the employer of the foreign national in respect of whom the application for the renewal of an employment permit is made.]
- (b) the substitution of references to a decision of the Minister to refuse to grant a renewal of an employment permit for references to a decision of the Minister to refuse to grant an employment permit, and
- (c) any other necessary modifications.

F49[(10) Notwithstanding the application, under subsection (8), of section 12 to the renewal of an employment permit, the Minister may, notwithstanding section 12(3), renew an employment permit in respect of an employment that—

- (a) at the date of the grant of such permit was an employment, specified in regulations under section 14, in respect of which an employment permit may have been granted or fell within a category of employment specified in regulations made under section 14 for which an employment permit may have been granted, and
- (b) at the date of the application for the renewal, is an employment, or falls within a category of employment, specified in regulations made under section 14 as an employment or category of employment for which an employment permit shall not be granted.

(11) Where an application is made for the renewal of an employment permit granted in respect of the purpose specified in paragraph (c) or (d) of section 3A(2) and section 10(2A) applied in respect of such grant and, on the date the application for such renewal was made, 50 per cent or more of the employees of the employer or, as the case may be, the connected person, are not nationals referred to in section 10(2), the Minister shall not grant the renewal of the permit concerned unless—

- (a) an enterprise development agency has made a recommendation referred to in section 3B in respect of that application, and



(b) the Minister is satisfied that, having regard to such recommendation, renewing the employment permit concerned will contribute to the further development of employment in the State,

and where the employment permit concerned is renewed, the period for which the employment permit is renewed shall not exceed 1 year.

(12) Where a subsequent application is made for the renewal of an employment permit that was last renewed in accordance with subsection (11)(b), the Minister shall not renew the employment permit unless 50 per cent or more of the employees of the employer, or, as the case may be, the connected person, are nationals referred to in section 10(2) and where, pursuant to that subsequent application, the employment permit concerned is renewed, the period for which it is renewed shall not exceed 2 years.

(13) Notwithstanding the application, under subsection (8), of section 10 to the renewal of an employment permit, where—

(a) an application is made to renew an employment permit that was granted for the purpose referred to in paragraph (b), (c), (f) or (h) of section 3A(2),

(b) on the day the application to renew the employment permit is made the holder in respect of whom that application is made is the sole employee of the employer concerned, and

(c) at the time the application to grant the employment permit was made, section 10(2B) applied in respect of the grant of that employment permit,

section 10 shall not apply to that application to renew that employment permit.

(14) The period for which an employment permit granted for the purpose referred to in section 3A(2)(b) may, under subsection (3), be renewed shall be the lesser of—

(a) the period referred to in subsection (3), or

(b) the period beginning on the date on which the employment permit is to be renewed and ending on the date of the expiry of—

(i) the employment permit granted to the primary permit holder referred to in section 3C(2)(a),

(ii) the permission, referred to in section 3C(2)(b), given to the primary permit holder referred to in section 3C(2)(b) to remain in the State and be in employment in the State,

(iii) the permission referred to in section 3C(3)(a), given to the research project researcher referred to in section 3C(3)(a), or

(iv) the permission, referred to in section 3C(3)(b), given to the research project researcher referred to in section 3C(3)(b) to remain in the State and be in employment in the State.

(15) Nothing in subsection (14) shall be construed as preventing an employment permit referred to in that subsection being renewed for a period that is less than the period specified in subsection (3) in circumstances other than those specified in subsection (14).

(16) Where, on or after the coming into operation of sections 7 and 23 of the Employment Permits (Amendment) Act 2014, an application is made to renew an employment permit that was in force immediately before those provisions came into operation, and—

(a) where that employment permit is renewed, it shall be renewed in respect of a purpose referred to in section 3A(2) and the Minister shall determine the purpose for which that employment permit is to be renewed having had

regard to the employment in respect of which the employment permit that is the subject of the renewal had been granted and where appropriate, the foreign national concerned, and

(b) in the case of an employment permit that the Minister has determined shall be renewed for the purpose referred to in section 3A(2)(c), but the remuneration to be paid in respect of the employment that is the subject of the application for renewal is less than the remuneration specified in regulations under section 14 for that employment or the category of employment into which the employment falls, such lesser remuneration shall not, notwithstanding section 12(3), operate to prevent the Minister from—

(i) renewing that employment permit in respect of such purpose, or

(ii) renewing that employment permit pursuant to any subsequent application for renewal.

(17) Where, on or after the coming into operation of section 23 of the Employment Permits (Amendment) Act 2014, an application is made to renew an employment permit that was in force immediately before that section came into operation, notwithstanding subsection (8), section 10 shall not apply in respect of that application to renew that employment permit or to any subsequent application to renew that permit.]

#### Annotations

##### Amendments:

- F47** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 23(1)(a)(i), (2)(a), (4), (6)(b), S.I. No. 430 of 2014.
- F48** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 23(1)(a)(ii), (2)(b), (6)(a), S.I. No. 430 of 2014.
- F49** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 23(1)(b), (c), (3), (5), (7), (8), (9), S.I. No. 430 of 2014.

##### Editorial Notes:

- E29** Time period prescribed for purposes of subs. (2) (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 6(3), in effect as per reg. 2.
- E30** Information, documents and evidence prescribed for purposes of subs. (4A) (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 6(2), 22, in effect as per reg. 2.
- E31** Previous affecting provision: conditions prescribed for purposes of section (1.01.2007) by *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006), reg. 6, in effect as per reg. 1; revoked (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2.
- E32** Previous affecting provision: fee prescribed for purposes of section (1.01.2007) by *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006), reg. 4, in effect as per reg. 1; revoked (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2.

Redundancy of foreign national to whom employment permit granted for purpose referred to in section 3A(2)(a)

**F50[20A.—** (1) This section applies to a foreign national to whom an employment permit in respect of the purpose referred to in section 3A(2)(a) has been granted and he or she is dismissed by reason of redundancy from the employment concerned during the period for which the employment permit is in force.

(2) Without prejudice to section 24, a foreign national to whom this section applies shall notify the Minister of the date of dismissal within 4 weeks of that date of dismissal and the notification shall be in such form as may be specified in regulations under section 29 and shall include the information and documents specified in section 20C.

(3) Where the Minister is satisfied that the foreign national was dismissed by reason of redundancy from the employment for which the employment permit referred to in subsection (1) was granted, an application for an employment permit may be made under, and in accordance with the requirements of, section 4 in respect of a foreign national to whom this section applies, within 6 months of the date of dismissal of that foreign national, and such application shall be for an employment permit in respect of the purpose referred to in section 3A(2)(a) for—

- (a) an employment that is the same type of employment for which the employment permit referred to in subsection (1) was granted, or
- (b) an employment for a different employment to that for which the employment permit referred to in subsection (1) was granted that is specified in regulations under section 14, in respect of the purpose referred to in subsection (1), as an employment for which an employment permit may be granted.

(4) Where—

- (a) on the date an application referred to in subsection (3) is made, the type of employment referred to in subsection (3)(a) —
  - (i) is no longer specified in regulations under section 14 as an employment, or no longer falls within a category of employment specified in those regulations, for which an employment permit may be granted in respect of the purpose referred to in subsection (1), or
  - (ii) is specified in regulations under section 14 as an employment, or falls within a category of employment, in respect of which an employment permit shall not be granted,

and

- (b) the Minister is satisfied that the dismissal by the employer of the foreign national from the employment in respect of which the employment permit referred to in subsection (1) was granted, was a dismissal by reason of redundancy,

the application may be made for that employment by a foreign national to whom this section applies notwithstanding that the employment is no longer an employment, or falls within a category of employment, for which an employment permit may be granted or is an employment, or falls within a category of employment specified in regulations under section 14 for which an employment permit shall not be granted.

(5) Notwithstanding section 12(3), the Minister may, subject to subsection (6), grant, under section 8, an employment permit for the employment referred to in subsection (4) pursuant to an application referred to in subsection (4) that is made within the period referred to in subsection (3) and for the avoidance of doubt—

- (a) section 12(3) shall apply in respect of any other provision or requirement, specified in regulations under section 14 that is required to be satisfied, and

(b) section 14 shall, in respect of such grant under section 8, apply in respect of any other provision or requirement specified in regulations under section 14 that is required to be satisfied.

(6) Without prejudice to subsection (3) or (4), where an application referred to in subsection (3) or (4) is made by a foreign national who has made a notification to the Minister under this section, the Minister shall not grant the employment permit concerned unless the Minister is satisfied that the foreign national was dismissed by reason of redundancy from the employment in respect of which the employment permit referred to in subsection (1) was granted.

(7) Having regard to the consideration, under section 11, of an application referred to in subsection (4) —

(a) the provisions of any regulations referred to in section 11(3), other than the provisions of such regulations referred to in subsection (4), shall continue to apply in relation to the application concerned, and

(b) section 11(4) shall apply in respect of a provision or requirement of regulations under section 14, other than the provision referred to in subsection (4).

(8) Nothing in this section shall be construed as providing a permission to be in the State for the period of 6 months referred to in subsection (3).

(9) Without prejudice to section 20C, a foreign national who makes an application referred to in subsection (3) or (4) shall provide the Minister with any information or documents that the Minister may require to satisfy himself or herself that the dismissal of the foreign national was a dismissal by reason of redundancy.]

#### Annotations

#### Amendments:

**F50** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 24, S.I. No. 430 of 2014.

#### Editorial Notes:

**E33** Forms and information prescribed (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 11(1) and sch. 6 form P, in effect as per reg. 2.

Redundancy of foreign national to whom employment permit granted for purpose referred to in section 3A(2)(c)

**F51[20B.—** (1) This section applies to a foreign national to whom an employment permit in respect of the purpose referred to in section 3A(2)(c) has been granted and he or she is dismissed by reason of redundancy from the employment concerned during the period for which the employment permit is in force.

(2) Without prejudice to section 24, a foreign national to whom this section applies shall notify the Minister of the date of dismissal within 4 weeks of that date of dismissal and the notification shall be in such form as may be specified in regulations under section 29 and include the information and documents specified in section 20C.

(3) Where the Minister is satisfied that the foreign national was dismissed by reason of redundancy from the employment for which the employment permit referred to in subsection (1) was granted, an application for an employment permit may be made under, and in accordance with the requirements of, section 4 in respect of a foreign national to whom this section applies within 6 months of the date of dismissal of that foreign national and such application shall be for an employment permit in respect of the purpose referred to in section 3A(2)(c) for—

(a) an employment that is the same type of employment for which the employment permit referred to in subsection (1) was granted, or

(b) a different employment to the one for which the employment permit referred to in subsection (1) was granted that—

(i) is specified in regulations under section 14, in respect of the purpose referred to in subsection (1), as an employment for which an employment permit may be granted, or

(ii) is not an employment that is specified in such regulations as an employment for which an employment permit shall not be granted or falls within a category of employment for which an employment permit shall not be granted.

(4) Where—

(a) at the time an application referred to in subsection (3) is made the type of employment referred to in subsection (3)(a) is specified in regulations under section 14 as an employment, or falls within a category of employment, in respect of which an employment permit shall not be granted, and

(b) the Minister is satisfied that the dismissal by the employer of the foreign national from the employment in respect of which the employment permit referred to in subsection (1) was granted was a dismissal by reason of redundancy,

the application may be made in respect of that employment by a foreign national to whom this section applies notwithstanding that the employment is an employment, or falls within a category of employment, that is specified in regulations under section 14 as an employment, or category of employment, for which an employment permit shall not be granted.

(5) Notwithstanding section 12(3), the Minister may, subject to subsection (6), grant, under section 8, an employment permit for an employment referred to in subsection (4) pursuant to an application referred to in subsection (4) that is made within the period referred to in subsection (3) and for the avoidance of doubt—

(a) section 12(3) shall apply to any other provision or requirement specified in regulations under section 14, that is required to be satisfied, and

(b) section 14 shall, in respect of such grant under section 8, apply in respect of any other provision or requirement specified in regulations under section 14 that is required to be satisfied.

(6) Without prejudice to subsection (3) or (4), where an application referred to in subsection (3) or (4) is made by a foreign national who has made a notification to the Minister under this section, the Minister shall not grant the employment permit concerned unless the Minister is satisfied that the foreign national was dismissed by reason of redundancy from the employment in respect of which the employment permit referred to in subsection (1) was granted.

(7) Having regard to the consideration, under section 11, of an application referred to in subsection (4) —

(a) the provisions of any regulations referred to in section 11(3), other than the provisions of such regulations referred to in subsection (4), shall continue to apply in relation to the application concerned, and

(b) section 11(4) shall apply in respect of a provision or requirement of regulations under section 14, other than the provision referred to in subsection (4).

(8) Nothing in this section shall be construed as providing a permission to be in the State for the period of 6 months referred to in subsection (3).

(9) Without prejudice to section 20C, a foreign national who makes an application referred to in subsection (3) or (4) shall provide the Minister with any information or

documents that the Minister may require to satisfy himself or herself that the dismissal of the foreign national was a dismissal by reason of redundancy.]

#### Annotations

#### Amendments:

**F51** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 23, S.I. No. 430 of 2014.

#### Editorial Notes:

**E34** Forms and information prescribed (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 11(1) and sch. 6 form P, in effect as per reg. 2.

Information and documents to be provided with notification under section 20A or 20B of dismissal by reason of redundancy

**F52[20C.—** The information and documents to be provided to the Minister with the notification referred to in section 20A(2) and 20B(2) are—

- (a) the date of dismissal,
- (b) the reason for the dismissal by reason of redundancy as specified in paragraph (a), (b), (c), (d) or (e) of section 7(2) of the Act of 1967 or in section 21 of that Act,
- (c) such information and documents as may be specified in regulations under section 29 that the Minister may require to satisfy himself or herself that the dismissal of the foreign national was a dismissal by reason of redundancy, and
- (d) a statement specifying whether the foreign national has surrendered the employment permit in accordance with section 24.]

#### Annotations

#### Amendments:

**F52** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 24, S.I. No. 430 of 2014.

#### Editorial Notes:

**E35** Forms and information prescribed (1.10.2014) by *Employment Permits Regulations 2014* (S.I. No. 432 of 2014), reg. 11(2), in effect as per reg. 2.

Sections 20A and 20B: supplemental provisions

**F53[20D.—** Where—

- (a) an employment permit is in force immediately before the coming into operation of section 7 and section 24 of the *Employment Permits (Amendment) Act 2014*,
- (b) following the coming into operation of those sections, a foreign national to whom such permit was granted is dismissed by reason of redundancy from the employment in respect of which the employment permit was granted, and
- (c) the Minister is satisfied that—
  - (i) the dismissal is a dismissal by reason of redundancy, and

(ii) having regard to the employment in respect of which the employment permit referred to in paragraph (a) has been granted, that employment permit would, had it been granted after the coming into operation of section 7 and section 24 of the Employment Permits (Amendment) Act 2014, have been granted in respect of the purpose referred to in section 3A(2)(a) or 3A(2)(c),

the foreign national to whom the employment permit referred to in paragraph (a) was granted may be treated, for the purposes of section 20A or as the case may be section 20B, as a foreign national to whom section 20A or, as the case may be, section 20B applies.]

#### Annotations

#### Amendments:

**F53** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 24, S.I. No. 430 of 2014.

Effect of order under section 3 or 4 of Immigration Act 1999.

**21.—** (1) If an order under section 3 or 4 of the Immigration Act 1999 is made in relation to a foreign national in respect of whom an employment permit has been granted, the permit shall, subject to *subsection (2)*, cease to be in force.

(2) If the order concerned under section 3 or 4 of the Immigration Act 1999 is revoked or otherwise ceases to be in force, the employment permit referred to in *subsection (1)* shall, on that revocation or cesser, be revived in force.

(3) If an employment permit is so revived in force, in determining the period for which the permit shall remain in force the period for which the permit ceased to be in force by virtue of *subsection (1)* shall be disregarded.

Authorised officers.

**22.—** (1) The Minister may appoint in writing such and so many of his or her officers to be authorised officers for the purposes of all or any of the provisions of this Act or the Act of 2003 and such appointment may be specified to be for a fixed period.

(2) Every authorised officer appointed under this section shall be furnished with a warrant of appointment and shall, when exercising any power conferred on him or her by this section, if requested by a person affected, produce the warrant of appointment or a copy of it to that person.

(3) An appointment under this section as an authorised officer shall cease—

- (a) if the Minister revokes the appointment,
- (b) if the appointment is for a fixed period, on the expiry of that period, or
- (c) if the person appointed ceases to be an officer of the Minister.

(4) An authorised officer may, for the purpose of obtaining any information which may be required in relation to a matter under investigation under this Act or the Act of 2003—

- (a) at all reasonable times enter any premises, place or vehicle, on, at or in which there are grounds to believe that any trade or business or any activity in connection with a trade or business is being, or has been, carried on, or that records relating to such trade, business or activity are kept, and search and inspect the premises, place or vehicle and any records that are on, at or in such premises, place or vehicle,

- (b) secure for later inspection any, or any part of any, premises or place or any vehicle on, at or in which such records are kept or there are reasonable grounds for believing that such records are kept,
  - (c) require any person who carries on such trade, business or activity or any person employed in respect of such trade, business or activity to produce to him or her such records and where such records are kept in a non-legible form to reproduce them in a legible form or to give to him or her any information as the authorised officer may reasonably require in relation to any entries in such records,
  - (d) inspect and take copies of or extracts from any such records, files, papers or electronic information system on, at or in the premises, place or vehicle, including, in the case of information in a non-legible form, copies of or extracts from such information in a permanent legible form,
  - (e) remove and retain such records for such periods as may be reasonable for future examination, subject to a warrant being issued for that purpose by the District Court,
  - (f) require any such person to give to the authorised officer any information which the authorised officer may reasonably require in respect of such trade, business or activity or in respect of the persons carrying on such trade, business or activity or employed in connection with such trade, business or activity,
  - (g) require any such person to give to the authorised officer any other information which the authorised officer may reasonably require in respect of such trade, business or activity,
  - (h) require any person by or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the operation of the data equipment or any associated apparatus or material, to afford the authorised officer all reasonable assistance in relation to it and assist in the retrieval of information connected with the operation of such data equipment, apparatus or material,
  - (i) summon, at any reasonable time, any other person employed in connection with such trade, business or activity to give to the authorised officer any information which the authorised officer may reasonably require in relation to such trade, business or activity and to produce to the authorised officer any records which are in the control of that other person,
  - (j) have photographs taken of any thing on, at or in the premises, place or vehicle and remove the photographs from the place, and
  - (k) inspect any vehicle relating to such trade, business or activity.
- (5) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under *subsection (8)* authorising such entry.
- (6) Where an authorised officer, in the exercise of his or her powers under this section, is prevented from entering any premises, place or vehicle, an application may be made for a warrant under *subsection (8)* authorising such entry.
- (7) An authorised officer appointed under this section, when exercising any powers conferred on an authorised officer by this Act, may be accompanied by such other authorised officers or members of the Garda Síochána or both as he or she considers necessary.
- (8) Without prejudice to the powers conferred on an authorised officer by or under any provision of this section, if a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting



that there is information required by an authorised officer under this section held on or at any, or any part of any, premises or place or in any vehicle, the judge may issue a warrant authorising an authorised officer, accompanied by such other authorised officers and members of the Garda Síochána as provided for in *subsection (7)*, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter the premises, place or vehicle, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under this section.

(9) A person shall comply with any request or requirement of an authorised officer under this Act.

(10) A person who—

- (a) obstructs or impedes an authorised officer in the exercise of a power under this section,
- (b) without reasonable excuse, does not comply with a requirement under this section, or
- (c) in purported compliance with such a requirement gives information that is false or misleading in a material respect,

is guilty of an offence.

Prohibition on deduction from remuneration and retention of personal documents.

**23.—** (1) The employer shall not make any deductions from the remuneration of, or seek to recover from, the holder of the employment permit concerned any charge, fee or expense arising out of or concerning one or more of the following:

- (a) the application for the employment permit or a renewal of the permit under *section 20* or any matter relating to or concerning such an application or the grant or renewal of the permit;
- (b) the recruitment of the holder for the employment in respect of which the application was made; or
- (c) any amount previously paid to the holder in respect of travelling expenses incurred by the holder in connection with taking up the employment in the State.

(2) F54[...]

(3) Neither a person referred to in *subsection (1)* F54[...] nor a person acting on his or her behalf shall keep any personal document belonging to a holder referred to in that subsection.

F55[(3A) A connected person shall not seek to recover from the holder of the employment permit any charge, fee or expense arising out of the application for the employment permit or the renewal of the permit under section 20 or any matter relating to or concerning such an application or the grant or renewal of the permit.]

(4) A person who contravenes *subsection (1)*, F56[(3) or (3A)] is guilty of an offence.

(5) In this section “personal document” includes a passport, a driving licence, an identity card, a document relating to any account held with a financial institution, a document relating to the skills, qualifications or experience of the foreign national and travel documents.

**Annotations****Amendments:**

- F54** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 25(a), (b), S.I. No. 430 of 2014.
- F55** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 25(c), S.I. No. 430 of 2014.
- F56** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 25(d), S.I. No. 430 of 2014.

Surrender of  
employment  
permit.

**24.—** (1) If the employment of a foreign national pursuant to an employment permit F57[...] is terminated by the employer or the holder of the permit or otherwise, for whatever reason, ceases, there shall be surrendered to the Minister, within 4 weeks from the date of termination or cessation—

(a) by the holder — the original of the permit, and

(b) by the employer — the copy of the permit.

F58[(1A) In the case of an employment permit granted for the purpose referred to in section 3A(2)(d), if—

(a) the employment of the foreign national is terminated by the foreign employer or the holder of the permit, or

(b) the foreign national ceases, for whatever reason, to carry out duties for, or participate in a training programme provided by, the connected person,

there shall be surrendered to the Minister within 4 weeks from the date of termination or cessation—

(i) by the holder — the original of the permit, and

(ii) by the connected person — the copy of the permit.]

(2) A person who fails to comply with *subsection (1) F58[or (1A)]* is guilty of an offence.

(3) It shall be a defence for a person charged with an offence under *subsection (2)* to show that he or she took all reasonable steps to surrender the original or, as the case may be, copy of the employment permit concerned to the Minister within 4 weeks from the date of cessation or termination of the employment concerned.

**Annotations****Amendments:**

- F57** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 26(a), S.I. No. 430 of 2014.
- F58** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 26(b), (c), S.I. No. 430 of 2014.

Provision of false or misleading information in relation to application under *section 4 or 20*.

**25.—** A person who furnishes to the Minister, on an application under *section 4 or 20*, information that is false or misleading in a material respect knowing that it is so false or misleading or being reckless as to whether it is so false or misleading is guilty of an offence.

Prohibition on penalisation.

**26.—** (1) In this section “penalisation” includes any act or omission by an employer or a person acting on behalf of an employer that affects, to his or her detriment, an employee with respect to any term or condition of his or her employment.

(2) Without prejudice to the generality of *subsection (1)*, “penalisation” in this section includes—

- (a) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2005), or the threat of suspension, lay-off or dismissal,
- (b) demotion or loss of opportunity for promotion,
- (c) transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- (d) imposition or the administering of any discipline, reprimand or other penalty (including a financial penalty), and
- (e) coercion or intimidation.

(3) An employer shall not penalise or threaten penalisation against an employee for—

- (a) making a complaint to a member of the Garda Síochána or the Minister that a provision of the Act of 2003 or this Act is not being complied with,
- (b) giving evidence in any proceedings under the Act of 2003 or this Act, or
- (c) giving notice of his or her intention to do any of the things referred to in the preceding paragraphs.

**F59**[(3A) Subsection (3) does not apply where the complaint is a protected disclosure within the meaning of the Protected Disclosures Act 2014.]

(4) *Schedule 2* has effect in relation to an alleged contravention of *subsection (3)* and matters consequential thereon and includes amendments of other enactments.

(5) If a penalisation of an employee, in contravention of *subsection (3)*, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2005, relief may not be granted to the employee in respect of that penalisation both under *Schedule 2* and under those Acts.

#### Annotations

#### Amendments:

**F59** Inserted (15.07.2014) by *Protected Disclosures Act 2014*, s. 24(1) and sch. 4 part 1, S.I. No. 327 of 2014.

**Editorial Notes:**

- E36** Subs. (3) included in the definitions of “employment enactment” and “relevant enactment” by *Workplace Relations Act 2015* (16/2015), s. 2 and sch. 1 part 2 item 5, S.I. No. 338 of 2015, as substituted (8.02.2016) by *Credit Guarantee (Amendment) Act 2016* (1/2016), s. 19(b), commenced on enactment, with the following effects.
- Authorised officers or inspectors under employment enactments deemed to be appointed under *Workplace Relations Act 2015* (16/2015), s. 26(2) and subject to termination under s. 26(4).
  - Powers of inspectors for purposes of relevant enactments defined in *Workplace Relations Act 2015* (16/2015), s. 27.
  - Workplace Relations Commission, an inspector or an adjudication officer authorised to disclose employer’s registered number or employee’s PPSN to enable Labour Court to perform functions under relevant enactments by *Workplace Relations Act 2015* (16/2015) s. 31(5).
  - Power of Workplace Relations Commission and official body to disclose information to each other concerning the commission of offence under relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 32.
  - Power of Workplace Relations Commission and contracting authority to disclose information to each other concerning the commission of offence under employment enactment/ relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 33.
  - Powers of Minister to prosecute under relevant enactments transferred to Workplace Relations Commission and references construed by *Workplace Relations Act 2015* (16/2015), s. 37.
  - Functions of EAT to hear claims under employment enactments transferred to Workplace Relations Commission and references to EAT construed by *Workplace Relations Act 2015* (16/2015) s. 66(1), (2).
- E37** Redress and appeal procedures in respect of requirements in subs. (3) provided (1.10.2015) by *Workplace Relations Act 2015* (16/2015), ss. 41, 44 and sch. 5 part 1 item 16, sch. 6 part 1 item 23, sch. 6 part 2 item 23, S.I. No. 410 of 2015.

Retention of records.

**27.—** (1) The employer shall keep, in relation to the foreign national to whom an employment permit has been granted F60[...], a record of the employment concerned, the duration of the employment and particulars of the permit and that record shall be kept for the period specified in *subsection (5)*.

(2) F60[...]

(3) The employer F60[...] shall—

(a) keep and have available for inspection by an authorised officer exercising his or her powers under this Act such books and records, including accounts, as may be prescribed concerning the employment of the foreign national to whom the employment permit concerned has been granted at the premises or place of business of that person in or at which the employment is carried out in the State, and

(b) furnish, when requested by the Minister to do so, information to the Minister concerning the books and records referred to in *paragraph (a)*.

(4) The records that may be prescribed for the purposes of *subsection (3)(a)* include—

(a) records concerning the remuneration paid during a specified period to the relevant foreign national,

(b) records concerning the trade or business to which the employment referred to in that subsection relates, and

(c) if F61[one or more foreign nationals are] employed by the employer concerned pursuant to F61[an employment permit], records of the number for the time being, if any, of those foreign nationals who are nationals of—

- (i) a Member State of the EEA, or
- (ii) a state other than a Member State of the European Union or a Member State of the EEA.

(5) The period referred to in *subsection (1)* F60[...] is—

- (a) subject to *paragraph (b)*, 5 years, or
- (b) if the relevant foreign national remains in the employment of the employer F60[...] for a period exceeding 5 years from the date of the grant of the permit, a period equal to the duration of the period for which the foreign national remains in such employment.

F62[(5A) A connected person shall keep, in relation to the foreign national to whom an employment permit for the purpose referred to in section 3A(2)(d) has been granted, a record of the employment concerned, a record of the duties carried out by the foreign national or the training programme concerned, the duration of the employment and particulars of the permit and that record shall be kept for the period specified in subsection (5).

(5B) Where the connected person makes, pursuant to section 3D(1)(b), the payment for board and accommodation, or either of them, or health insurance, the connected person shall—

- (a) keep and have available for inspection by an authorised officer exercising his or her powers under this Act the records, specified in subsection (5C) in respect of the foreign national to whom the employment permit referred to in subsection (5A) has been granted at the premises or place of business of that connected person in or at which the duties or training programme is carried out in the State, and
- (b) furnish, when requested by the Minister to do so, information to the Minister concerning the records referred to in paragraph (a).

(5C) The records referred to in subsection (5B) are—

- (a) records relating to the payment for—
  - (i) board and accommodation, or either of them, and
  - (ii) health insurance,

and

- (b) if one or more foreign nationals are, pursuant to an employment permit granted for the purpose referred to in section 3A(2)(d), carrying out duties for, or participating in a training programme provided by, the connected person, records of the number for the time being, if any, of those foreign nationals who are nationals of a Member State referred to in subsection (4)(c)(i) or a state referred to in subsection (4)(c)(ii).]

(6) A person who fails to comply with *subsection (1)* F61[, (3), (5A) or (5B)] is guilty of an offence.

#### Annotations

#### Amendments:

- F60** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 27(a)-(c), (e), S.I. No. 430 of 2014.

**F61** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 27(d), (g), S.I. No. 430 of 2014.

**F62** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 27(f), S.I. No. 430 of 2014.

Register of  
employment  
permits.

**28.**— The Minister shall establish and maintain a register of employment permits granted under this Act and shall cause to be entered in such register—

F63[(a) the name of—

- (i) the foreign national in respect of whom the employment permit has been granted, and
- (ii) the employer or—
  - (I) in the case of an employment permit granted in respect of the purpose referred to in section 3A(2)(d), the connected person and the foreign employer, or
  - (II) in the case of an employment permit granted in respect of the purpose referred to in section 3A(2)(e), the contractor and the relevant person,]
- (b) the employment or economic sector in respect of which each employment permit has been granted,

F63[(c) the address of—

- (i) the foreign national, as specified in the application for the employment permit, in respect of whom the employment permit has been granted,
- (ii) the employer or—
  - (I) in the case of an employment permit granted in respect of the purpose referred to in section 3A(2)(d), the connected person and the foreign employer, or
  - (II) in the case of an employment permit granted in respect of the purpose referred to in section 3A(2)(e), the contractor and the relevant person,
- and
- (iii) the place at which the employment is to be carried out and where such employment is to be carried out at more than one place, the address of each such place.]
- (d) the duration of each employment permit and its commencement and expiry dates,
- (e) in the case of a renewal of an employment permit under *section 20*, the fact of its renewal, the period for which it has been renewed and the commencement and expiry dates of that period,
- (f) in the case of a revocation of an employment permit under *section 16*, the fact of its being revoked, the date and reason for its revocation and, if a review under *section 17* occurs, the fact of the decision being reviewed and the outcome of the review, and
- (g) if the employment permit is surrendered, the date and reason for such surrender.

**Annotations****Amendments:**

**F63** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 28, S.I. No. 430 of 2014.

Regulations.

**29.—** (1) The Minister shall make regulations providing for the procedure relating to the making of an application for an employment permit under *section 4* or the renewal of an employment permit under *section 20* and the grant or renewal of an employment permit on foot of such an application F64[and may, when making the regulations, make provision for the purposes specified in paragraphs (a) to (i) of *section 3A(2)* for which employment permits may be granted and the different classes of employment permit provided for in regulations under *section 14(1)* in respect of those purposes].

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision for all or any of the following:

- (a) the form in which an application for an employment permit shall be made and the form of an employment permit;
- (b) the form in which an application for the renewal of an employment permit shall be made and the form of an employment permit as renewed;

F64[(ba) the production to the Minister, with an application under *section 4*, of information and documents—

- (i) as the Minister may, without prejudice to the requirement under *section 6(a)*, specify, in respect of the employment concerned and the terms, conditions and the duration of it,
- (ii) as the Minister may, without prejudice to the requirement under *section 6(c)*, specify, in respect of the qualifications, skills, knowledge and experience, of the foreign national in respect of whom the application is made,
- (iii) as the Minister may, without prejudice to the requirement under *section 6(e)*, specify, in respect of the remuneration that is proposed to be paid to the foreign national and deductions to be made from it,
- (iv) as the Minister may, without prejudice to the requirement under *section 6(f)*, specify, concerning—
  - (I) any permission given to the foreign national in respect of whom the application is made by the Minister for Justice and Equality to land in the State or to be in the State, and
  - (II) any application, made before the date on which the application under *section 4* is made, to the Minister for Justice and Equality for which the foreign national has sought permission to land in the State or to be in the State,
- (v) as the Minister may, without prejudice to the requirement under *section 6(f)*, specify, concerning the employment in the State of the foreign national in respect of whom the application is made, at the time of the application or at any other time,
- (vi) as the Minister may specify concerning the identity of the foreign national in respect of whom the application is made and without prejudice to the generality of the foregoing may include the production to the Minister of a copy of the passport of that foreign national and in respect

of which the expiry date of that passport is not less than a period as the Minister may specify under paragraph (bh),

(vii) as the Minister may, without prejudice to the requirement under section 6(i), specify, in respect of the requirement under section 4(5) in relation to—

(I) the employment of any person employed in the employment that is the subject of the application in the period referred to in section 4(5), and

(II) the dismissal by reason of redundancy within that period of any person employed in the employment that is the subject of the application,

and

(viii) as the Minister may specify in respect of—

(I) without prejudice to subsection (1), the making of an application under section 4,

(II) without prejudice to the requirement under section 6, any matter specified in paragraphs (a) to (i) of section 6,

(III) the requirement under section 10 for the employees referred to in that section to be nationals of the states referred to in that section and the matters specified in section 10(2B),

(IV) without prejudice to the generality of subsection (1), a purpose specified in section 3A(2), and

(V) any other requirement under this Act that, in respect of the grant of an employment permit, is required to be satisfied;

(bb) the production to the Minister, with an application under section 20 to renew an employment permit, of information and documents—

(i) as the Minister may specify, in respect of the employment that is the subject of such application and the terms and conditions of that employment,

(ii) as the Minister may specify, in respect of the qualifications, skills and knowledge, of the foreign national in respect of whom the application is made,

(iii) as the Minister may specify, in respect of—

(I) the remuneration that is proposed to be paid to the foreign national on and after such renewal and deductions to be made from such remuneration, and

(II) the remuneration paid to the foreign national in respect of whom such application is made, for all or part of the period commencing on the date on which the employment permit was granted and ending on the date on which such application was made,

(iv) as the Minister may specify that have been issued by the Revenue Commissioners in relation to the remuneration paid to, and tax paid in respect of such remuneration by, the foreign national in respect of whom such application is made,

(v) as the Minister may specify concerning the permission given by the Minister for Justice and Equality to the foreign national in respect of whom such application is made to land in the State or to be in the State during the period for which the employment permit has been in force,



- (vi) as the Minister may specify concerning the identity of the foreign national in respect of whom such application is made and without prejudice to the generality of the foregoing may include the production to the Minister of a copy of the passport of that foreign national and in respect of which the expiry date of that passport is not less than a period as the Minister may specify under paragraph (bh), and
- (vii) as the Minister may specify in respect of—
  - (I) without prejudice to the generality of subsection (1), the making of an application to renew an employment permit under section 20,
  - (II) without prejudice to the generality of subsection (1), the requirements under section 10, referred to in paragraph (ba)(viii)(III), in relation to an application for the renewal of an employment permit,
  - (III) without prejudice to the generality of subsection (1), a purpose referred to in section 3A(2), and
  - (IV) any other requirement under this Act that, in respect of the renewal of an employment permit, is required to be satisfied;
- (bc) the production to the Minister, with an application under section 4, of documents and evidence to verify such documents—
  - (i) demonstrating that the person who makes the offer of employment or as the case may be the contractor, connected person or the person referred to in section 4(2)(c), is registered with the Revenue Commissioners,
  - (ii) where the person who makes the offer of employment is a company within the meaning of the Companies Acts, relating to the registration of the company pursuant to the Companies Acts,
  - (iii) relating to the registration of the business name, pursuant to the Act of 1963, of the person who makes the offer of employment where that person has a registered business name, and
  - (iv) where the person who makes the offer of employment is—
    - (I) a limited partnership under the Limited Partnerships Act 1907, documents and such evidence relating to the registration of the limited partnership under that Act,
    - (II) an industrial and provident society, documents and such evidence relating to the registration of the society under the Industrial and Provident Societies Acts 1893 to 1978,
    - (III) a friendly society, documents and such evidence relating to the registration of the society under the Friendly Societies Acts 1896 to 1977, and
    - (IV) a trade union, documents and such evidence relating to the registration of the trade union under the Trade Union Acts 1871 to 1990;
- (bd) the production to the Minister with an application for a renewal of an employment permit under section 20 of documents and evidence referred to in paragraph (bc);
- (be) without prejudice to paragraph (ba), in the case of an application for an employment permit for the purposes referred to in paragraphs (d) and (e) of section 3A(2), the production to the Minister, with an application under section 4, of information and documents as the Minister may specify in respect of—
  - (i) the remuneration paid to the foreign national concerned,

- (ii) the currencies and exchange rate to be used in the description of the amount of such remuneration and in any computation and statement of remuneration,
  - (iii) the translations of any information or document relating to such remuneration,
  - (iv) the payment to the foreign national of the additional payment referred to in sections 3D(2), 3D(3), 3E(2) and 3E(3), and
  - (v) the arrangements for making the additional payment referred to in subparagraph (iv),
- and, without prejudice to paragraph (a), the Minister may specify the form in which such information is to be provided to the Minister;
- (bf) without prejudice to paragraph (bb), in the case of an application for the renewal of an employment permit for the purposes referred to in paragraphs (d) and (e) of section 3A(2), the production to the Minister, with an application under section 20, of—
    - (i) information and documents as the Minister may specify in respect of—
      - (I) the remuneration that is proposed to be paid to the foreign national on and after such renewal and deductions to be made from such remuneration, and
      - (II) the remuneration paid to the foreign national in respect of whom such application is made, for all or part of the period commencing on the date on which the employment permit was granted and ending on the date on which such application was made,
    - (ii) documents, as the Minister may specify, issued by the Revenue Commissioners in relation to the remuneration paid to, and tax paid in respect of such remuneration by, the foreign national in respect of whom such application is made,
    - (iii) documents, as the Minister may specify, issued by the Revenue Commissioners in relation to the remuneration and tax paid by the connected person, the foreign employer, and contractor,
    - (iv) information and documents as the Minister may specify in respect of the currencies and exchange rate to be used in the description of the amount of such remuneration and in any computation and statement of remuneration, and
    - (v) information and documents as the Minister may specify in respect of the translations of any information or document relating to such remuneration,
- and without prejudice to paragraph (b), the form in which such information is to be provided to the Minister;
- (bg) the form of the notification referred to in sections 20A and 20B and the information and documents the Minister may require to satisfy himself or herself—
    - (i) that, for the purposes of sections 20A and 20B, the dismissal by an employer of a foreign national referred to in section 20A or 20B is a dismissal by reason of redundancy, and
    - (ii) the date on which the redundancy takes effect;
  - (bh) the specification of the minimum period for which a passport referred to in paragraphs (ba) and (bb) shall be in force on the date of an application for the grant, or renewal, of an employment permit;]

- (c) the period within which any information or documents, including additional information or documents requested by the Minister relating to the grant or renewal of an employment permit, shall be furnished to the Minister; and
- (d) the production to the Minister, within a specified period, of such evidence as he or she may reasonably require in order to verify any information or documents previously furnished to the Minister in respect of an application for the grant or renewal of an employment permit.

F64[(2A) Without prejudice to the generality of subsections (1) and (2), regulations under this section may provide for the production, with an application for the grant or renewal of an employment permit, to the Minister of—

- (a) in the case of an application for the grant or renewal of an employment permit for the purpose referred to in section 3A(2)(e), information and documents in respect of the contract service agreement concerned,
- (b) in the case of an application for the grant or renewal of an employment permit for the purposes referred to in paragraphs (d) and (e) of section 3A(2), information and documents relating to—
  - (i) the business carried on by a connected person and a foreign employer and the connection between the connected person and the foreign employer, and
  - (ii) the arrangements made by a connected person, foreign employer and a contractor for accommodation, board and health insurance referred to in section 1A(1)(b)(iii) provided for the foreign nationals,

and

- (c) evidence as the Minister may reasonably require in order to verify such information or documents.

(2B) Without prejudice to the generality of subsections (1) and (2), regulations under this section may provide for the production to the Minister, in respect of the grant or renewal of an employment permit for the purpose referred to in section 3A(2)(b), of information, documents and evidence to verify such information, with—

- (a) an application under section 4 for the grant of an employment permit, or
- (b) an application under section 20 for the grant of a renewal of an employment permit,

that the Minister may reasonably require in order to satisfy himself or herself that the foreign national in respect of whom the application is made is the spouse or the civil partner, or a dependant, of a primary permit holder and satisfies the requirements of section 3C(2) or is the spouse or the civil partner, or a dependant, of a research project researcher and satisfies the requirements of section 3C(3) and in so providing may include information, documents and evidence referred to in paragraphs (a) to (j) of subsection (2C).

(2C) The information, documents and evidence referred to in subsection (2B) that may be included in regulations under this section are information, documents and evidence verifying such information and documents in respect of—

- (a) the marital status of a foreign national in respect of whom an application for an employment permit for the purpose referred to in section 3A(2)(b) is made and the primary permit holder or, as the case may be, the research project researcher concerned, which may include copies of marriage certificates and other documents providing evidence of such marital status,
- (b) the civil partnership status of a foreign national in respect of whom an application for an employment permit referred to in section 3A(2)(b) is made and

the primary permit holder or, as the case may be, the research project researcher concerned, which may include copies of the civil partnership registration,

- (c) the legal relationship, in the case of a civil partner who is a party to a legal relationship referred to in section 3(b) of the Act of 2010, of a foreign national in respect of whom an application for an employment permit referred to in section 3A(2)(b) is made and the primary permit holder or, as the case may be, the research project researcher concerned, which may include copies of documents relating to such legal relationship,
- (d) the nature of the dependence of a foreign national, in respect of whom an application for an employment permit referred to in section 3A(2)(b) is made, on the primary permit holder or, as the case may be, the research project researcher concerned, which may include copies of birth certificates or other documents providing evidence of the nature of such dependence,
- (e) the identity of the primary permit holder and the grant to him or her of the employment permit for the purpose referred to in section 3A(2)(a),
- (f) the identity of the research project researcher,
- (g) the permission—
  - (i) given to a primary permit holder referred to in section 3C(2)(a) to be in the State and be in employment in the State,
  - (ii) referred to in section 2(10)(d) of the Act of 2003 given to a primary permit holder referred to in section 3C(2)(b), and
  - (iii) given to the foreign national in respect of whom the application for an employment permit for the purpose referred to in section 3A(2)(b) is made, to land in the State and reside in the State,
- (h) in the case of a research project researcher referred to in section 3C(3)(b), the permission referred to in section 2(10)(d) of the Act of 2003 given to him or her and the permission given to the foreign national in respect of whom the application for an employment permit for the purpose referred to in section 3A(2)(b) is made, to land in the State and reside in the State,
- (i) the verification, by the employer of the primary permit holder, that the primary permit holder is in employment with the employer, and
- (j) the verification—
  - (i) that the research project researcher is carrying out research in the State pursuant to Directive 2005/71/EC by the person in the State with whom that research is being carried out, and
  - (ii) by the employer of a research project researcher referred to in section 3C(3)(b), of the employment of the research project researcher.

(2D) Without prejudice to the generality of subsections (1) and (2), regulations under this section may provide for the production to the Minister, with an application under section 4, of information, documents and evidence to verify such information and documents as the Minister may require to satisfy himself or herself—

- (a) that the exchange agreement applies to the foreign national in respect of an application for the grant of an employment permit for the purpose referred to in section 3A(2)(g), and
- (b) that, in respect of the purpose referred to in section 3A(2)(i) —
  - (i) the third level institution outside the State confirms—

- (I) that the foreign national is enrolled as a full-time student at that institution and the name and description of the course of study in which the foreign national is enrolled,
- (II) the qualifications or skills with which the course of study is wholly or substantially concerned,
- (III) that the employment in respect of which the application is made is wholly or substantially concerned with the course of study on which the foreign national is enrolled,
- (IV) the requirement referred to in section 3A(2)(i)(iii), and
- (V) that the foreign national is required to return to that institution at the end of the 12 month period in order to complete that course of study,

and

- (ii) the person who has made the offer of employment concerned confirms that—
  - (I) the employment is for a period not exceeding 12 months, and
  - (II) the employment is wholly or substantially concerned with the skills or qualifications referred to in section 3A(2)(i).

(2E) The Minister may, in respect of the notification referred to in section 8(8), make regulations under this section specifying—

- (a) the information and documents to be provided to the Minister that relate to the transfer, and the change of name, that arises pursuant to such transfer, of—
  - (i) the employer or connected person specified in an employment permit referred to in that section, or
  - (ii) the relevant person,
- (b) the form in which the notification under section 8(8) is to be made, and
- (c) the procedure for the making of that notification.

(2F) Without prejudice to subsections (1) and (2), in regulations under this section the Minister may provide for the production to the Minister, with an application for the grant or renewal of an employment permit, of information, documents and evidence to verify such information and documents concerning—

- (a) compliance by a person who makes an offer of employment with an enactment, as the Minister may specify in the regulations, with which compliance is required by such person in order to carry on his or her business,
- (b) compliance by a contractor, relevant person or connected person with an enactment, as the Minister may specify in the regulations, with which compliance is required by such contractor, relevant person or connected person in order to carry on his or her business,
- (c) compliance by a person who makes an offer of employment with a requirement, as the Minister may specify in the regulations, with which compliance is required by such person in order to carry on his or her business, and
- (d) without prejudice to paragraphs (a) and (b), compliance by a person who made the offer of employment, a contractor or connected person with the Act of 1997 that is in addition to the documents and evidence that may be specified in regulations under subsections (2)(bc)(i) and (2)(bd),

and the Minister may make different provision for different cases and different classes of cases and different circumstances and different classes of circumstances.

(2G) In regulations under this section the Minister may provide for the procedure for the payment of any fee that is to accompany an application for the grant or renewal of an employment permit.]

(3) The Minister may make regulations providing for the procedures in relation to the submission of a decision for review under *section 13* or *17* and the carrying out of such a review and, without prejudice to the generality of the foregoing, such regulations may make provision for all or any of the following:

- (a) the form in which such a submission is to be made;
- (b) the furnishing of specified information to the person carrying out the review for the purposes of the review;
- (c) the furnishing of such additional information as that person thinks appropriate for the purposes of the review;
- (d) the period within which any such information, including any additional such information requested by that person, shall be furnished; and
- (e) the production to that person, within a specified period, of such evidence as he or she may reasonably require in order to verify any information or particulars previously furnished to him or her for the purposes of the review.

(4) Regulations under this section may make provision for the making of an application under *section 4* or *20* by electronic means (within the meaning of the Electronic Commerce Act 2000).

#### Annotations

##### Amendments:

**F64** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 29, S.I. No. 430 of 2014.

##### Editorial Notes:

**E38** Power pursuant to section exercised (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), in effect as per reg. 2.

**E39** Previous affecting provision: power pursuant to section exercised (3.08.2016) by *Employment Permits (Trusted Partner) (Amendment) Regulations 2016* (S.I. No. 403 of 2016), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

**E40** Previous affecting provision: power pursuant to section exercised (2.08.2016) by *Employment Permits (Amendment) (No. 2) Regulations 2016* (S.I. No. 363 of 2016), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

**E41** Power pursuant to section exercised (1.09.2015) by *Employment Permits (Amendment) Regulations 2015* (S.I. No. 349 of 2015), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

**E42** Previous affecting provision: power pursuant to section exercised (8.05.2015) by *Employment Permits (Trusted Partner) Regulations 2015* (S.I. No. 172 of 2015), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.

- E43** Previous affecting provision: power pursuant to section exercised (1.10.2014) by *Employment Permit Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.
- E44** Previous affecting provision: power pursuant to section exercised (1.01.2007) by *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006), in effect as per reg. 1; revoked (1.10.2014) by *Employment Permit Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2.

Further provisions in relation to regulations.

**30.—** (1) The Minister may make regulations in relation to any matter referred to in this Act as prescribed or to be prescribed.

F65[(2) Different regulations under subsection (1) may be made in respect of different classes of matter the subject of the prescribing concerned and for different circumstances or classes of circumstances in relation to such different matters or different classes of matters.]

(3) Regulations under this Act may contain such incidental, supplementary, consequential and transitional provisions as the Minister considers necessary for the purposes or in consequence of, or to give full effect to, such regulations.

(4) Every regulation made under this Act F66[...] shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling such regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(5)F66[...]

#### Annotations

#### Amendments:

- F65** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 30(a), S.I. No. 430 of 2014.
- F66** Deleted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 30(b), (c), S.I. No. 430 of 2014.

#### Editorial Notes:

- E45** Power pursuant to section exercised (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), in effect as per reg. 2.
- E46** Previous affecting provision: power pursuant to section exercised (3.08.2016) by *Employment Permits (Trusted Partner) (Amendment) Regulations 2016* (S.I. No. 403 of 2016), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.
- E47** Previous affecting provision: power pursuant to section exercised (2.08.2016) by *Employment Permits (Amendment) (No. 2) Regulations 2016* (S.I. No. 363 of 2016), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.
- E48** Previous affecting provision: power pursuant to section exercised (1.09.2015) by *Employment Permits (Amendment) Regulations 2015* (S.I. No. 349 of 2015), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.



- E49** Previous affecting provision: power pursuant to section exercised (8.05.2015) by *Employment Permits (Trusted Partner) Regulations 2015* (S.I. No. 172 of 2015), in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.
- E50** Previous affecting provision: power pursuant to section exercised (1.10.2014) by *Employment Permit Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2; revoked (3.04.2017) by *Employment Permits Regulations 2017* (S.I. No. 95 of 2017), reg. 69, in effect as per reg. 2.
- E51** Previous affecting provision: power pursuant to section exercised (1.01.2007) by *Employment Permits Act 2006 (Prescribed Fees and Miscellaneous Procedures) Regulations 2006* (S.I. No. 683 of 2006), in effect as per reg. 1; revoked (1.10.2014) by *Employment Permit Regulations 2014* (S.I. No. 432 of 2014), reg. 65, in effect as per reg. 2.

Service of notices.

**31.—** (1) A notice or document that is required to be served, issued or given under this Act shall be addressed to the person concerned by name and may be served on or issued or given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address;
- (c) by sending it by F67 [ordinary prepaid post] to the address at which that person ordinarily resides or, in a case in which an address for service has been furnished, to that address; or
- (d) by such other means as may be prescribed.

(2) For the purposes of this section, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

#### Annotations

#### Amendments:

- F67** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 31, S.I. No. 430 of 2014.

Penalties and proceedings.

**32.—** (1) A person guilty of an offence under *section 18(2), 19(3), 23(4) or 25* is liable—

- (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

(2) A person guilty of an offence under *section 22(10), 24(2) or 27(6)* is liable on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

(3) Notwithstanding *section 10(4) of the Petty Sessions (Ireland) Act 1851*, summary proceedings for an offence under the Act of 2003 or this Act may be brought within 24 months from the date of the offence.

(4) Summary proceedings for an offence under this Act may be brought and prosecuted by the Minister.



Offences by body corporate.

**33.—** (1) Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Presumption that a person is being employed.

**34.—** In proceedings for an offence under section 2(3) of the Act of 2003, where evidence is given by—

- (a) a member of the Garda Síochána,
- (b) an immigration officer (within the meaning of the Immigration Act 2004), or
- (c) an authorised officer under *section 22*,

that he or she observed a person doing an act in a particular place, being an act the doing of which, in the circumstances concerned, is consistent with that person's having been employed to do that act in that place, then it shall be presumed, until the contrary is shown, that that person was employed to do that act in that place.

Evidence through television link.

**35.—** (1) In any proceedings for an offence under this Act or the Act of 2003, a person, other than the accused, may, with the leave of the court, give evidence through a live television link if the person is outside the State.

(2)F68[...]

(3) In any proceedings referred to in *subsection (1)* in any circuit or district court district where the court is satisfied that leave should be granted for evidence to be given through a live television link pursuant to that subsection but the necessary facilities for doing so are not available in that circuit or district, the court may by order transfer the proceedings to a circuit or district court district where such facilities are available and, where such an order is made, the jurisdiction of the court to which the proceedings have been transferred may be exercised—

- (a) in the case of the Circuit Court, by the judge of the circuit concerned, and
- (b) in the case of the District Court, by the judge of that court for the time being assigned to the district court district concerned.

(4) A person who, in giving evidence under *subsection (1)* from outside the State, makes a statement material in the proceedings which the person knows to be false or does not believe to be true shall be guilty of perjury.

(5) Proceedings for an offence referred to in *subsection (4)* may be taken, and the offence may, for the purposes of the jurisdiction of the court, be treated as having been committed, in any place in the State.

(6) This section is without prejudice to any other enactment providing for the giving of evidence through a live television link.

**Annotations****Amendments:**

**F68** Repealed (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 38(e), S.I. No. 430 of 2014, subject to s. 39(7).

Delegation of functions.

**36.—** (1) The Minister may, with the consent of the Minister of the Government concerned, delegate the performance of functions under any or all of *sections 6 to 13, 16, 17 and 20* in a specified class of cases to an officer, of a specified class, of another Minister of the Government.

(2) Functions so delegated shall be performable by such an officer accordingly.

(3) If such a delegation is made of functions under *section 13 or 17*, the reference in that section to an officer of the Minister appointed by the Minister for the purpose of carrying out the review shall, in relation to any performance of the function the subject of the delegation, be construed as a reference to the officer of the Minister of the Government concerned appointed by the Minister for Enterprise, Trade and Employment for the purpose of carrying out the review.

(4) *Subsection (1)* shall not be construed as affecting the application to this Act of the general law concerning the imputing of acts of an officer of a Minister of the Government to the Minister of the Government.

(5) In this section “specified” means specified in the delegation concerned.

Data exchange in respect of certain matters.

**37.—** (1) Information held by the Minister for the purposes of this Act or the Act of 2003 may be supplied by the Minister to each of the following, namely:

(a) the Minister for Social and Family Affairs;

F69[(aa) the Garda Síochána;]

(b) the Minister for Justice, Equality and Law Reform; and

(c) the Revenue Commissioners,

if such supply is reasonably necessary for the purpose of the performance by the Minister of the Government referred to in *paragraph (a) or (b)* or, as the case may be, the Revenue Commissioners F69[or the Garda Síochána] of functions under any enactment.

(2) Information held by—

(a) the Minister for Social and Family Affairs,

F69[(aa) the Garda Síochána,,]

(b) the Minister for Justice, Equality and Law Reform, or

(c) the Revenue Commissioners,

may, notwithstanding any other enactment, be supplied by that Minister of the Government or, as the case may be, the Revenue Commissioners F69[or the Garda Síochána] to the Minister if such supply is reasonably necessary for the purpose of the performance by the Minister of functions under this Act or the Act of 2003.

**Annotations****Amendments:**

**F69** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 32, S.I. No. 430 of 2014.

Transitional provision.

**38.—** (1) An employment permit granted by the Minister under a scheme administered by the Minister before the commencement of this section and which permit is in force immediately before such commencement shall, subject to *subsection (2)*, continue in force for the period for which it was granted or renewed or, as appropriate, last renewed under that scheme.

(2) An employment permit continued in force by *subsection (1)* shall, for the purposes of this Act and the Act of 2003, be regarded as an employment permit granted under this Act and may be revoked and may be renewed accordingly.

Amendment of section 1(1) of Act of 2003.

**39.—** Section 1(1) of the Act of 2003 is amended—

(a) by inserting the following definition after the definition of “employer”:

“ ‘foreign national’ means a non-national (within the meaning of the Immigration Act 1999);”,

and

(b) by deleting the definition of “non-national”.

Expenses.

**40.—** The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Short title, collective citation, construction and commencement.

**41.—** (1) This Act may be cited as the Employment Permits Act 2006.

(2) The Employment Permits Act 2003 and this Act may be cited together as the Employment Permits Acts 2003 and 2006.

(3) The Employment Permits Act 2003 and this Act shall be construed together as one.

(4) 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.

**Annotations****Editorial Notes:**

**E52** Power pursuant to section exercised (1.01.2007) by *Employment Permits Act 2006 (Commencement) Order 2006* (S.I. No. 682 of 2006).

2. The 1st day of January 2007 is appointed as the day on which the Employment Permits Act 2006 (No. 16 of 2006) comes into operation.

## SCHEDULE 1

## ENACTMENTS OFFENCES UNDER WHICH FALL WITHIN SECTION 12(1)(c)

Employment Agency Act 1971

Carers Leave Act 2001

Minimum Notice and Terms of Employment Acts 1973 to 2005

National Minimum Wage Act 2000

Organisation of Working Time Act 1997

Payment of Wages Act 1991

Protection of Employees (Fixed-Term Work) Act 2003

Protection of Employees (Part-Time Work) Act 2001

F70[Protection of Employment Act 1977]

Protection of Young Persons (Employment) Act 1996

Safety, Health and Welfare at Work Act 2005

F71[Unfair Dismissals Acts 1977 to 2007]

**Annotations****Amendments:**

**F70** Inserted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 33(b), S.I. No. 430 of 2014.

**F71** Substituted (30.09.2014) by *Employment Permits (Amendment) Act 2014* (26/2014), s. 33(a), S.I. No. 430 of 2014.

## SCHEDULE 2

## REDRESS FOR CONTRAVENTION OF SECTION 26 (3)

F72[1. A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of section 26(3) shall do one or more of the following, namely—

- (a) declare that the complaint was or, as the case may be, was not well founded,
- (b) require the employer to take a specified course of action, or
- (c) require the employer to pay to the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all of the circumstances.]

F72[2. A decision of the Labour Court under section 44 of the Workplace Relations Act 2015 on appeal from a decision of an adjudication officer referred to in paragraph 1 shall affirm, vary or set aside the decision of the adjudication officer.]

3. F73[...]

4. F73[...]

**Provisions relating to winding up and bankruptcy.**

5. (1) There shall be included among the debts which, under section 285 of the Companies Act 1963 (as amended by section 10 of the Companies (Amendment) Act 1982 and section 134 of the Companies Act 1990) are, in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, all compensation payable by virtue of a decision under *paragraph 1(2)(b)* or a determination under *paragraph 2(1)* by the company to an employee, and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this subparagraph shall not be required except in cases where it may otherwise be provided by rules made under that Act.

(2) There shall be included among the debts which, under section 81 of the Bankruptcy Act 1988 are, in the distribution of the property of a bankrupt or arranging debtor, to be paid in priority to all other debts, all compensation payable by virtue of a decision under *paragraph 1(2)(b)* or a determination under *paragraph 2(1)* by the bankrupt or arranging debtor, as the case may be, to an employee, and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this subparagraph shall not be required except in cases where it may otherwise be provided under that Act.

**Amendment of Protection of Employees (Employers' Insolvency) Act 1984.**

6. (1) Section 1(1) of the Protection of Employees (Employers' Insolvency) Act 1984 (as amended by the European Communities (Protection of Employees (Employers' Insolvency)) Regulations 2005) is amended by inserting, after the definition of "the Act of 2004", the following:

“ ‘the Act of 2006’ means the *Employment Permits Act 2006*;”.

(2) Section 6 of the Protection of Employees (Employers' Insolvency) Act 1984 (as so amended) is amended—

(a) in subsection (2)(a)—

(i) in subparagraph (xxiv), after “of the Act of 1990,” by deleting “and”,

(ii) in subparagraph (xxv), by substituting “Act of 2004, and” for “Act of 2004.”,

(iii) by inserting after subparagraph (xxv) the following:

“(xxvi) any amount which an employer is required to pay by virtue of a decision of a rights commissioner under paragraph 1(2)(b) of *Schedule 2* to the Act of 2006 or a determination by the Labour Court under paragraph 2(1) of that Schedule.”,

(b) in subsection (2)(b), by substituting “, (xxv) or (xxvi)” for “or (xxv)”,

(c) in subsection (2)(c), by substituting “, (xxv) or (xxvi)” for “or (xxv)”, and

(d) in subsection (9), in the definition of “relevant date”, by substituting “, (xxv) or (xxvi)” for “or (xxv)”.

**Annotations****Amendments:**

**F72** Substituted (1.10.2015) by *Workplace Relations Act 2015 (16/2015)*, s. 52(1) and sch. 7 part 1 item 23, S.I. No. 410 of 2015, subject to transitional provision in subs. (3).

**F73** Repealed (1.10.2015) by *Workplace Relations Act 2015 (16/2015)*, s. 8(1) and sch. 2 part 1 item 22, S.I. No. 410 of 2015, subject to transitional provision in subs. (2).