



Immigration & Employment Permits Update – May 2006 *

Summary of Proposed Changes to Employment Permit Policy

New legislation, which is expected to come into effect over the coming year, will see the launch of a revamped employment permits system. The proposed changes include a range of additional conditions which must be met by Irish employers seeking to recruit individuals from outside the European Economic Area (EEA), together with the introduction of a "green card" system to facilitate the deployment of highly skilled workers within certain industry sectors facing resource shortages.

Background

Earlier this month, the Employment Permits Bill was passed by the Dáil (Irish Parliament). It is the Government's intention that the Bill will provide a statutory framework to allow for the implementation of an active, managed economic migration policy.

Work Permits

Current Arrangements

Under current arrangements, the employer is responsible for making a work permit application on behalf of a prospective employee. Companies intending to process work permit applications are generally required to advertise the position on the Government employment agency (FÁS) website for a minimum period of 4 weeks. At present, a work permit is valid for a maximum period of 12 months, although it may be renewed.

Proposals

The new legislation introduces a number of additional conditions which must be met before a work permit will be granted, including a salary test which will equate high skills with high earnings. In future, work permits will generally only be granted where a minimum salary requirement (expected to be €30,000) is met.

Additionally, the employer must show that, at the time of application, more than 50 % of current employees are nationals of the EU/EEA/Switzerland.

Work Permit Alternatives

Work Authorisation/ Working Visa

The Work Authorisation/Working Visa scheme will be replaced by the proposed "green card" scheme outlined below.

Intra-Company Transfers

It is planned to re-introduce the Intra Company Transfer Scheme, which was suspended in late 2002 and currently operates on a case-by-case basis.

In the past, this scheme enabled multi-national organisations to post workers to Ireland for a temporary period of up to 4 years without the requirement for a work permit, provided certain conditions were satisfied. Under the current proposals, the duration of the approval is likely to be extended up to a maximum of 5 years.

Administrative Changes

The legislation also provides for a number of administrative changes to the existing work permit arrangements.

Under the proposals, employment permits will be granted initially for a period of 2 years, with scope to apply for an extension for a further period of 3 years.

In addition, it is proposed that applications may be made either by the employer or the employee.

It is also proposed that the fee for employment permits will remain at the current rate of €500 per annum.

New “Green Card” System

As part of the new arrangements, the Government also plans to introduce a “green card” system for the first time in Ireland. “Green cards” will only apply to suitably qualified, high-earning individuals who are deemed to have skills which are in short supply and cannot be met from within the EU/EEA and will initially be issued for a period of 2 years, with the possibility of permanent or long term residence after that.

Initial indications are that, in order to be eligible to apply for a “green card”, the annual salary on offer must be in excess of €60,000 and the occupation must come within specific sectors identified by the Government as lacking specialised skilled workers.

In certain circumstances, where the salary on offer is between €30,000 and €60,000, a “green card” may also be available for a restricted number of occupations where there is a skills shortage.

It is also proposed to relax the visa and work permit requirements for spouses of “green card” holders.

Protection of Foreign Nationals

The new legislation also provides for increased protection of foreign nationals working in Ireland.

The measures include issuing the original work permit directly to the employee and providing for a statutory prohibition on both recruitment-related deductions from salary and the retention of the employee's personal documents by the employer.

Penalties for Non Compliance

Employers who exploit migrant workers face tougher fines of up to €50,000 or a potential prison term of up to 5 years.

Summary

Irish employers who avail of the services of a foreign worker, whether directly or indirectly, should satisfy themselves that they have met their obligations by ensuring that the foreign worker holds a work permit or equivalent immigration clearance.

Further regulations will be required in order to implement the changes outlined in the Employment Permits Bill, which are likely to take effect from 2007.

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