



EMPLOYMENT, PENSIONS AND EMPLOYEE BENEFITS

Irish Immigration Law: A Review of Recent Developments

by **Jennifer O'Neill, Aoife Bradley**

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Jennifer O'Neill's review of recent changes to Irish immigration law and policy will be of practical assistance to employers based in Ireland or overseas, that wish to engage non-EEA employees, or to relocate employees to Ireland.

Public Consultation on Economic Migration Policy

The Department of Business, Enterprise and Innovation has invited the public to make submissions on proposed guiding principles to frame the State's economic migration policy.

It is envisioned that the submission process will provide an opportunity for employment representative bodies and interested parties to provide additional information and different perspectives on the nature and extent of skills and labour shortages in Ireland and how they might be addressed.

The current regime is based on the principle that offers of employment should be made to persons within the State and EEA labour markets in the first instance. This is reflected by the 50:50 rule restriction, the "Labour Market Needs Test" and the list of ineligible categories of employment in respect of which employment permits will not be issued.

These requirements significantly restrict an employer's ability to employ non-EEA citizens. As the State nears the full employment rate (in December 2017 the unemployment rate was 6.2% , and a 'full employment' rate is considered to be approximately 5.5%), there have been increasing calls to relax the current employment permit regime to address shortages in the labour market from employment sectors traditionally outside its scope. This was a factor in the recent removal of certain categories of chefs from the ineligible list, which it is hoped will help to address shortages in the restaurant sector.

It is understood that the review is likely to focus on increasing eligibility for employment permits for lower skilled workers in certain economic sectors, which is welcome news for employers struggling to fill roles where appropriate candidates are not available at a local or European level.

Employment Permits (Amendment) Regulations 2018. SI No. 70 Of 2018

The Employment Permits (Amendment) Regulations 2018 came into force on 26 March 2018 and introduced the following key changes:

- A copy of a signed contract of employment must now be submitted with all applications for employment permits – this applies to both new applications and renewals;
- The Ineligible Categories of Employment List no longer applies to Intra-Company Transfer employment permits;
- Changes have been made to the Ineligible Categories of Employment List and to the Highly Skilled Eligible Occupations List.

Employers should be mindful of recent changes and ensure that they review the updates and amendments carefully before completing or submitting new and renewal applications for any type of employment permit.

GNIB Cards

From 11 December 2017 the previous registration certificate known as the “GNIB card” has been replaced by the new Irish Residence Permit (IRP). An IRP indicates that immigration permission to stay in Ireland has been registered and denotes the type of immigration permission held, i.e. the stamp number. The IRP is not an identity card. It is a registration certificate and is not valid for any purpose except to certify that the holder is registered with immigration in Ireland. The holder of an IRP card should carry it with them at all times and present it to an immigration officer or a member of An Garda Síochána if requested. This includes whenever the holder leaves or re-enters the country. The new IRP has exactly the same legal status as the old GNIB card. It does not give any new rights or entitlements and the responsibilities on the holder remain the same.

There is no requirement on the holder of a valid GNIB card to apply for a new IRP and holders of valid GNIB cards should wait until their GNIB card expires and then apply as normal. Existing GNIB cards are valid until they expire (or are lost or stolen).

Atypical Working Scheme New Travel Timelines

The Department of Justice and Equality (Irish Naturalisation and Immigration Service - INIS) in agreement with the Department of Business, Enterprise and Innovation, administers the Atypical Working Scheme. The Scheme provides a streamlined mechanism to deal with atypical, short-term employment or certain other employment situations, which are not governed by the Employment Permits Acts. Applications under this Scheme must be made from outside the State and the applicant must not travel until in possession of an Atypical Working Scheme Letter of Approval and, where applicable, the appropriate entry visa.

Under a recent notice, INIS have advised that a letter of approval issued under the Atypical Working Scheme will only be valid for 90 days from date of issue. If it is not used within that time, a fresh application will be required and a new application fee will apply.

Visa Required Nationals List Updated

Since 31 January 2018 nationals of the United Arab Emirates no longer require a visa to travel to Ireland. It is proposed that this list be kept under regular review. Employers should ensure that they review this list regularly to check for updates and, in particular, before making any travel arrangements for non-EEA employees.

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