**Work permit Ireland – What employers need to know**

Employers, as you may be aware, the Workplace Relation Commission (WRC) conducts thousands of inspections (many of which are unannounced) annually. It is within the WRC’s remit to investigate your compliance with Irish Immigration and Employment Permit requirements.

**Employers could be seriously penalised for employing individuals who do not hold valid a employment permit?**

* The Employment Permits Acts 2003 to 2014 makes it a criminal offence for a foreign national to work without a general employment permit. Employers are committing an offence themselves if they employ a foreign national without a valid work permit.
* The Acts place an onus on the Employer to carry out checks to be satisfied that a prospective employee does not require an Employment Permit, and if he or she does, that they have obtained one.
* WRC inspectors are authorised to exercise powers under the Employment Permit Acts. If, during an inspection, the WRC finds evidence showing that an employee does not have a valid employment permit, both the Employer and employee are advised of the need to correct the situation. They are also informed of the consequences of failing to do so.
* An Employer failing to rectify these matters could be prosecuted.
* An Garda Síochána are also an enforcement authority under Employment Permits legislation with prosecution powers.

For these reasons, before you decide to hire a non-EEA worker, ensure they possess a valid work permit, and are legally allowed to work in Ireland.

**Who needs an Employment Permit?**

According to the Department of Jobs, Enterprise and Innovation, a non-EEA national (except in the cases listed below) requires an employment permit to take up employment in Ireland. The EEA comprises of the Member States of the European Union together with Iceland, Norway and Liechtenstein.

Employment permit (or work permit) holders are only allowed to work for the Employer and in the occupation named on the permit. If the holder of an employment permit ceases to work for the Employer named on the permit during the permit’s period of validity, the original permit (along with the certified copy) must be returned immediately to the Department of Enterprise, Trade and Innovation.

Due to the economic climate and the struggles members are having recruiting it is worth noting that the employee on the Critical Skills Visa is committed to stay with the employer for a minimum 12 months so the company has this additional benefit of their commitment.

**Citizens of non-EEA countries who do not require Employment Permits include:**

Non-EEA nationals in the State on a Work Authorisation/Working Visa

• Van der Elst Case – The European Court of Justice delivered a judgement on the Van der Elst Case (Freedom to Provide Services) on 9 August 1994. The Court ruled that in the case of non-EEA workers legally employed in one Member State who are temporarily sent on a contract to another Member State, the Employer does not need to apply for employment permits regarding the non-nationals for the period of contract.

• Non-EEA nationals who have been granted permission to remain in the State on one of the following grounds:

o Permission to remain as a spouse or a dependent of an Irish/EEA national;

o Permission to remain as the parent of an Irish citizen;

o Temporary leave to stay in the State on humanitarian grounds, having been in the Asylum process;

o Explicit permission from the Department of Justice, Equality and Law Reform to remain resident and employed in the State;

o Appropriate business permission to operate a business in the State;

o A non-EEA national who is a registered student

Swiss Nationals: Under the terms of the European Communities and Swiss Confederation Act, 2001, which came into operation on 1 June, 2002, enables the free movement of workers between Switzerland and Ireland, without the need for Employment Permits.

Every labour market opportunity must be afforded to Irish and other EEA nationals in the first instance. This is also in accordance with EU obligations which recognises that Ireland’s labour market is part of a much greater EEA labour market which affords a considerable supply of skilled workers.

**Employing a Non-EAA**

Employers must ensure that the position offered is within the critical skills employment permit. The Critical skills employment permit is designed to attract highly skilled people and encourage them to reside and work in Ireland. Jobs such as ICT professionals, engineers and technologist are considered a highly skilled occupation. You can find the full list [here.](https://enterprise.gov.ie/en/What-We-Do/Workplace-and-Skills/Employment-Permits/Employment-Permit-Eligibility/Highly-Skilled-Eligible-Occupations-List/)

An interesting point to note is that work permits will not be considered for certain occupations. Some examples of professions listed as ineligible for work permits are as follows:

• Hotel, tourism and catering staff except for chefs

• Work riders – horseracing

• Clerical and administrative staff

• Drivers (including HGV drivers)

• Nursery/crèche workers, childminders/nannies

• Hairdresser or beauty salon Managers

• Domestic workers including carers in the home and child-minders\*

• Retail sales staff, sales representatives and supervisory or specialist sales staff\*\*

You can find the full list [here](https://enterprise.gov.ie/en/What-We-Do/Workplace-and-Skills/Employment-Permits/Employment-Permit-Eligibility/Ineligible-Categories-of-Employment/).

\* In exceptional circumstances an employment permit may be granted for a carer who is a professional medical caring for a person with a severe medical condition or for a carer who has a long caring relationship with a person with special needs where there are no alternative care options

\*\* Specialist language support and technical or sales support with fluency in a non-EEA language regarding those companies that have formal support from the State’s enterprise development agencies earning at least €27,000 a year may apply for a work permit.