



# EMPLOYMENT MANUAL



**FIRST FOR JUSTICE**



## PRE-EMPLOYMENT

### 2.1 RECRUITMENT

It is essential to recruit the right people from the outset, therefore saving considerable time and expense which could occur at a later date. The recruitment drive should aim to attract people who are qualified for the job and who will fit within the culture of the organisation.

#### **Finding employees**

There are various sources for finding new personnel and all have benefits and costs which can influence your decision.

- (a) **Internal Applications.** These employees will have background knowledge of the company; however, this type of recruitment could result in openings elsewhere within the organisation.
- (b) **Agencies.** This form of recruitment should offer a pool of appropriately qualified staff but will charge a percentage of the starting salary as a fee.
- (c) **Newspaper Adverts.** Care needs to be taken to attract the right candidates; adverts are expensive, non-refundable, and have the potential to be very costly if any mistakes occur.
- (d) **Selection and Recruitment Consultants.** This tends to be an expensive process and is more appropriate for senior level positions.
- (e) **External Contacts.** These people could be those met through work, however, this method should be considered seriously as the enticement of staff could lead to a potentially dissatisfied client.

## PRE-EMPLOYMENT

### 2.1 RECRUITMENT (CONTINUED)

#### Advertising

- (a) Select the appropriate magazine or newspaper to your industry, particularly if the job is specialised. Local papers should be used if you are aware of a pool of potential employees in an area.
- (b) Presentation is all important; the advert must be sufficiently pleasing in appearance in order to attract the appropriate applicants. The advert must not discriminate on any of the nine grounds of discrimination i.e. age, race, gender, disability, member of the travelling community, family status, marital status, religious belief or sexual orientation, unless a valid statutory exemption can be claimed. If you feel you maybe entitled to claim an exemption from the above requirements, please contact our Legal Advisors first.
- (c) The advert should try to describe the culture of the organisation as well as the qualities of the applicant sought.

#### A summary of the main points in an advert are as follows:

- **Headline:** Job title, place of work, industry, location and salary.
- **Culture:** Aims of the company, atmosphere, working environment, place of work.
- **Applicant Details:** Qualifications and experience required for the position.
- **Benefits:** Pension, training, bonuses, hours of work.
- **Contact:** Contact point and next steps to take (for example, phone for application form, telephone interview or write with CV).

**It is very important that an employer does not restrict a person's access to employment on any discriminatory ground pursuant to The Equality Acts 1998 - 2004.**

#### Agencies

When dealing with an employment agency, you should be confident that they are aware of your requirements in terms of job description, personal qualities of the applicant and style of your company. An agency will filter applicants and present only those candidates who are qualified to carry out the job. Consequently, time is saved on screening through unsuitable application forms and interviewing candidates who are not ideally suited for the position. In general, agencies will charge a standard fee which is expressed as a percentage of the starting salary; rebates can be accounted for depending on the time period the candidate remains with your company.

## PRE-EMPLOYMENT

### 2.2 DISCRIMINATION

Over recent years, the field of protection from discrimination has grown very quickly and has become very complex. We will give an overview of the nine categories of discrimination. It is not intended to be a comprehensive statement and you are strongly advised to speak to your legal advice helpline whenever you have a matter relating to a potential discrimination claim.

- **Gender**

A man, a woman or a transsexual person (specific protection is provided for pregnant employees or in relation to maternity leave).

“Gender reassignment” is a process enabling individuals to match their bodies to their gender identity. Whilst it is not explicitly mentioned in current discrimination legislation, a recent ruling by the European Court of Justice means that it is likely to be considered within the gender ground.

- **Marital status**

“Marital status” is defined as meaning single, married, separated, divorced or widowed.

- **Family status**

“Family status” is defined as meaning having responsibility as a parent or as a person in loco parentis to someone under the age of 18, or as a parent or resident primary carer for someone of or over age 18 who has a disability.

- **Sexual orientation**

The legislation defines sexual orientation as meaning a sexual orientation towards persons of the same sex (homosexual) or persons of the opposite sex (heterosexual) or towards persons of the same sex and of the opposite sex (bisexual). It does not extend to other sexual practices and preferences. Employers are not obliged to recruit, retain in employment or promote an individual if the employer is aware, on the basis of a criminal conviction or other reliable information, that the individual engages, or has a propensity to engage, in unlawful sexual behaviour (especially as concerns minors or other vulnerable persons).

- **Religious belief**

The legislation prohibits discrimination on the grounds that one person has a different religious belief from another, or that one person has a religious belief and the other does not. Religious belief is defined as including religious background or outlook.

The legislation permits religious, educational and medical institutions to take actions that would otherwise be regarded as discriminatory on the grounds of religion, where such actions are reasonably necessary to maintain or protect the religious ethos of the institution.

## PRE-EMPLOYMENT

### 2.2 DISCRIMINATION (CONTINUED)

- **Age**

Legislation prohibits indirect discrimination, harassment and victimisation on the grounds of age. However, the legislation also provides numerous detailed exceptions to the prohibition, including:

- i differing compulsory retirement ages are permitted, as is offering a fixed term contract to a person who is over the compulsory retirement age for that employment;
- ii the protection only applies to those above the maximum age at which a person is statutorily obliged to attend school;
- iii persons no longer fully competent to undertake the duties of the position are excluded;
- iv maximum ages for recruitment are permitted where these relate to expected training requirements, or the need for a minimum effective period of employment before retirement. Employers may also set a minimum age, not exceeding 18 years, for recruitment to a post;
- v in respect of "occupational benefit schemes" employers are permitted to fix ages for admission and entitlement to benefits and to provide different rates of "severance payment" based on the period between the age of an employee on leaving employment and his or her compulsory retirement age, provided that it does not constitute discrimination on the gender ground;
- vi relating to licenses to drive planes, trains and ships; and
- vii in respect of defence, prison and security forces.

- **Disability**

The legislation gives a wide definition of disability and provides significant protection to those who are discriminated against because of their disability.

For the purposes of the legislation, disability is defined as meaning:

- i the total or partial absence of bodily or mental functions, including the absence of a part of a person's body;
- ii the presence in the body of organisms causing, or likely to cause, chronic disease or illness;
- iii the malfunction, malformation or disfigurement of a part of person's body;
- iv a condition or malfunction that results in a person learning differently from a person without the condition or malfunction; or
- v a condition, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour;

and shall be taken to include a disability that exists at present, or that previously existed but no longer exists, or that may exist in the future or that is imputed to a person.

## PRE-EMPLOYMENT

### 2.2 DISCRIMINATION (CONTINUED)

- **Race**  
Discrimination on the grounds of a particular race, skin colour, nationality or ethnic origin. The legislation prohibits discrimination on the grounds of race. "Race" is defined as including a person's colour, race, nationality or ethnic or national origins. The fact that a racial group may comprise two or more distinct racial groups does not prevent it from constituting a particular racial group for the purposes of the legislation. Generally, a person will belong to several different racial groups; for example, a person may be "black", "Afro-Caribbean", "Irish", etc.
- **Direct discrimination**  
If you directly treat one person less favourably than you treat or would have treated another person on racial grounds.
- **Indirect discrimination**  
This involves imposing a requirement or condition (such as a condition for job eligibility) where the proportion of people from a particular racial group who can comply with the requirement or condition is considerably smaller than the proportion of people from another racial group or groups who can comply with it, and where this is to the detriment of the individual concerned.
- **Victimisation**  
Racial Discrimination by way of victimisation happens where an individual is victimised because he has brought proceedings against you at common law for personal injury or alternatively pursuant to equality legislation another person. This is basically to stop individuals feeling intimidated by you if they make a complaint under the anti discrimination provisions. In certain circumstances, you can show that discrimination on racial grounds is permissible if it is due to a genuine occupational requirement. You need to be advised in detail on this and you should contact your legal advice helpline.
- **Membership of the traveller community**  
People who are commonly referred to as Travellers and who are identified both by Travellers and others as people with a shared history, culture and traditions, identified historically as a nomadic way of life on the island of Ireland.

#### **General**

It is very important to be extra vigilant in several areas of employment. Make certain that all job adverts are "gender neutral" - do not use terms like "Workman" or "Manageress" – use "applications are welcomed from both men and women". Think hard before asking for evidence of nationality or right to work in the Republic of Ireland unless you ask all applicants for this information. Only asking applicants with foreign sounding names may risk a race discrimination claim. The use of pre-employment medical questionnaires is a double edged sword. A decision not to interview or employ an applicant based on specific information revealed could amount to disability discrimination.

Please remember that the Workplace Relations Commission Adjudicator has the power to order disclosure of all documentation that they consider relevant to the case in hand. This includes all application forms and is not confined to such documentation relating to the person making the claim. Consequently, it would be worth keeping any and all such documentation for a minimum period of 12 months after the date of appointment or interview.

PRE-EMPLOYMENT

2.3 JOB DESCRIPTIONS

These can take various forms but the purpose of the description is to give an outline of responsibility and accountability. They should be continually updated:

Job Title: ..... Grade (if appropriate): .....  
Department: ..... Date of Description: .....

**1 Job Details**  
i Reports to: .....  
ii Responsible for: .....  
    (a) Indirectly (numbers): .....  
    (b) Directly (numbers): .....  
Hours: .....  
Salary Range: .....

**2 Qualifications and Experience necessary**  
.....  
.....  
.....  
.....  
.....

**3 Job Purpose**  
Key Functions  
.....  
.....  
.....  
.....  
.....

**NOTE:** *This description is not intended to establish a total definition of the job, only an outline of the duties involved.*

PRE-EMPLOYMENT

2.4 EMPLOYMENT APPLICATION FORMS

Application for the Post of: .....  
Location of Post: .....  
Post Advertised In: .....  
Date of Application: .....

Please Tick Type of Post Wanted: Permanent  Temporary   
Full-time  Part-time  Relief

Please Tick Preference if Applicable: Residential/Shift Work   
Day Shifts Only?

**EMPLOYMENT APPLICATION FORM**

**Personal Details**

***NOTE:** Please complete in BLOCK capitals or type and return to the Personnel Department*

Surname: .....  
First Name(s): .....  
Address: .....  
.....  
.....  
.....  
.....

Email Address: .....  
Telephone Number: Home: .....  
Mobile: .....  
Work: .....

Driving Licence (please tick): Full  Provisional

Dates valid: .....  
Endorsements: .....

Driving Convictions (please give details):  
.....  
.....  
.....  
.....  
.....  
.....



**PRE-EMPLOYMENT**

**2.4 EMPLOYMENT APPLICATION FORMS (CONTINUED)**

	Yes	No	
Have you at any time been convicted of any offence?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you ever been the subject of an investigation or enquiry?	<input type="checkbox"/>	<input type="checkbox"/>	
	Yes	No	
Are you willing to attend the company Doctor for a pre-employment medical examination:	<input type="checkbox"/>	<input type="checkbox"/>	
Please mention any disability or medical condition that could interfere with the full performance of your duties in post applied for:			
.....			
.....			
.....			
.....			
.....			
.....			
<b>Education</b>			
Primary and Secondary Schools attended	From	To	Examinations passed/subjects taken

## PRE-EMPLOYMENT

### 2.4 EMPLOYMENT APPLICATION FORMS (CONTINUED)

Further education (to include apprenticeships, part-time courses, in-service courses etc.). Name and address of College and/or University attended:	From	To	Subjects studied	Qualifications obtained <i>(Verification will be sought)</i>

**(Continue on a separate sheet if required)**

**PRE-EMPLOYMENT**

**2.4 EMPLOYMENT APPLICATION FORMS (CONTINUED)**

**Employment History**

Please set out below your career in employment, both paid and voluntary; include 'work experience' schemes. Be clear in stating your responsibilities and your reporting line to more senior personnel. Give details of all positions since completing your full-time education. Start with your present or most recent position and work back.

Yes No

Please may we have your permission to contact previous employers who are not named as referees?

Name of Employer	Address and nature of business	Dates From/To	Position and duties	Reporting to	Starting salary	Leaving salary	Reason for leaving or wanting to leave

**If you wish to give further details please continue on a separate sheet of paper**

**References**

Please give the names of three persons, not related to you, or firms from whom the company can obtain references. (Please name person(s) in previous places of employment as referees.)

Name:	Name:	Name:
Address:	Address:	Address:
Telephone Number:	Telephone Number:	Telephone Number:
Position:	Position:	Position:
Email Address:	Email Address:	Email Address:

Yes No

Do you wish these references to be contacted at this time?



PRE-EMPLOYMENT

2.4 EMPLOYMENT APPLICATION FORMS (CONTINUED)

**DECLARATION**

**It is important that you read this Declaration carefully and then sign.**

I declare that to the best of my knowledge and belief all of the statements contained herein and on any attachments are true, correct, complete and made in good faith and there is nothing of any nature in relation to my conduct, character or personal background that would adversely affect the position of trust in which I would be placed by virtue of this appointment.

I hereby confirm my irrevocable consent to the release of information about my ability, employment history, and fitness for employment by employers, schools/colleges, An Garda Siochana or any other relevant individuals or organisations and for the Company to make such enquiries, as the Company deems relevant and necessary regarding my suitability for the post in respect of which this application is made. This consent shall continue to be effective during my employment if I am hired.

I hereby accept and confirm the entitlement of the Company to reject my application or to terminate my employment (in the event of a Contract of Employment having been entered into, or, my continued employment) if I have omitted to furnish the Company with any information relevant to my application, or where I have made any false statement or misrepresentation relevant to this application.

Furthermore, I hereby declare that all the particulars furnished on this application are true, and that I am aware of the qualifications and particulars for this position. I understand that I may be required to submit documentary evidence in support of any particulars given by me on my application form. I understand that any false or misleading information submitted by me will render me liable to automatic disqualification.

**Failure to sign the application will render it invalid.**

Signed: .....  
Dated: .....

PRE-EMPLOYMENT

2.4 EMPLOYMENT APPLICATION FORMS (CONTINUED)

DATA PROTECTION

Consent to Process Sensitive Data

The information you supply on this application form will be used to assess your suitability for the post applied for (or another relevant post). In order to comply with The Data Protection Act, 1998 and The Data Protection (Amendment) Act, 2003 the Company will need permission from you to hold and use personal information that could be considered sensitive. This information will be used for any purpose relevant to the effective management of our services, including but not limited to the following categories:

- Checking suitability and fitness to work
• Administration in the selection process or personal administration
• Administration of pay and payroll functions
• Administration of sick pay and sick leave schemes
• Recording and managing training and personal development and performance
• Managing access to company premises
• Recording all leave entitlements
• Managing and maintaining a safe working environment

Should you be successful, certain details from the information supplied in this form may be checked, and it will be entered in our Personnel files, which will allow the Company to administer your employment. This form will then be placed into your Personnel file and retained until after you complete your employment with the Company - for as long as the above legislation dictates.

The Company will retain the forms of unsuccessful applicants for twelve months in accordance with current guidance.

Please be assured that the Company will protect your information and treat it as confidential at all times.

I understand that the above mentioned information will be used only for the purposes set out in the statement above, and my consent is conditional upon the Company complying with the obligations and duties under The Data Protection Act, 1998 and The Data Protection (Amendment) Act, 2003.

Signed: .....
Dated: .....

PRE-EMPLOYMENT

2.5 INTERVIEW RECORDS AND REFERENCES

Health

Have you suffered, or do you currently suffer, from any serious illness which may affect work? If so, please give details

.....  
.....

Have you had any major operations? If so, please give details

.....  
.....

When were your eyes last tested?

.....

References

Name, Address and Telephone Number

Name, Address and Telephone Number

.....  
.....  
.....  
.....

Occupation

Occupation

.....

Please provide a referee from your current or previous employer and tick if you do not want us to contact them before an offer is made.

Declaration

I confirm that the information contained in this application is correct and that any false information may disqualify me from employment or render me liable for dismissal.

Signed: .....

Dated: .....

Whilst not included, you may think it appropriate to mention your hobbies, interests, etc.

NOTE: Do not seek a reference unless an offer is given.





PRE-EMPLOYMENT

2.5 INTERVIEW RECORDS AND REFERENCES (CONTINUED)

Reference letters

References are an invaluable aid to recruitment and should be sought whenever an offer is made. A reference letter, although time consuming, is able to provide a number of advantages:

- It can confirm the honesty of the individual
- It reveals information not available from the application and interview
- It can provide an answer to the questions of suitability for the particular job

References can be sought by telephone and provide a fast response and valuable "off the record" information. Additionally, the method of writing is able to provide a record which can be referred to later and is also able to answer general and specific questions, thus avoiding ambiguity.

SAMPLE REFERENCE REQUEST

Confidential

The following employee has applied for the job as ..... within our company.

- 1 How many days sickness has he had in the last 2 years? .....
- 2 Was the applicant - trustworthy and honest? Yes  No
- numerate? Yes  No
- punctual? Yes  No
- 3 How did the applicant react to pressure? Well  Not Well
- 4 Was the applicant able to work - as part of a team? Yes  No
- without supervision? Yes  No

Please provide us with any other information relevant to this application overleaf.

NOTE: If you wish to offer a candidate a position, prior to contacting a referee, ensure that you make it clear in writing that the offer is subject to the receipt of two satisfactory references. If the subsequent references are then unsatisfactory, you can dismiss the employee.

If you do not receive a reply in approximately 10 days, you should chase the reference in writing.

Note of caution: beware of personal references and "to whom it may concern" references.

MEDICAL QUESTIONNAIRE

The value of medical questionnaires is currently debatable. If the questionnaire discloses a disability falling within Equality Legislation and you fail to interview the candidate, it could be argued that this amounts to unlawful discrimination.

## PRE-EMPLOYMENT

### 2.6 PARTICULARS OF EMPLOYMENT

Under **The Terms of Employment (Information) Acts, 1994 - 2001** employers are legally obliged to provide employees with a minimum statement of their particulars of employment. This is sometimes referred to as the written statement of the terms and conditions. Employees are entitled to these particulars within two months after the commencement of their employment. The basic information that should be contained in this statement is given in the sample below.

**Please note that the particulars appearing below are not intended to replace a full set of employment documents. DAS are able to provide a bespoke contract drafting service. Please contact our legal advice helpline.**

**From:** [name of the employer]

**To:** [name of the employee]

**General:**

This clause should include reference to:

The following particulars are given to you in accordance with **The Terms of Employment (Information) Acts, 1994 - 2001**. Start date of employment and whether any previous employment with another employer counts as part of continuing employment. Acceptance of employment implies that the employee accepts all the terms and conditions set out in these Particulars of Employment. Any probationary periods which are applicable during the initial employment.

**Place of work:**

Either the place of work or, where the employee is required or permitted to work at various places, an indication of that and of the address of the employer.

**Collective agreements:**

Any collective agreements affecting the employment, including national agreements.

**Job title/duties:**

The title of the job which the employee is employed to do or a brief description of the work for which he is employed.

**Remuneration:**

Scale, rate, method of calculating remuneration and pay intervals. Must conform to the Minimum Wage Regulations.

**Hours of work:**

Terms and conditions of the hours of work, e.g. day, work Monday to Friday, shift work and rosters, weekend work and overtime. An employer must adhere to **The Organisation of Working Time Act, 1997**.

**Absence from work:**

Include procedures for reporting absence, e.g. to who and when, also sickness, incapacity details and any entitlements.

## PRE-EMPLOYMENT

### 2.6 PARTICULARS OF EMPLOYMENT (CONTINUED)

**Holidays:**

Holiday entitlements including bank holidays, how holidays are accrued, holiday periods e.g. January 1st – December 31st. Procedures for taking holidays and calculation upon termination of employment, the particulars given being sufficient to enable the employee's entitlement, including any entitlement to accrued holiday pay on the termination of employment, to be precisely calculated.

**Pensions and health insurance:**

Information on whether a pension scheme is included in the employment. Specify the type of pension operated by the company and state location of where the rules can be obtained. If a pension scheme is not operated by the company then access must be facilitated to a PRSA which may be deducted at salary source for tax benefit purposes. Also include any health insurance that the company may operate.

**Termination of employment:**

Reference should be made to the statutory minimum notice periods required from both parties, unless more favourable terms are applicable.

**Normal retirement date:**

This should stipulate the date at which the employee should retire, e.g. at the end of the month in which the employee attains the age of 65. It should be noted that in accordance with the Equality (Miscellaneous) Provisions Act, 2015, compulsory retirement ages have to be objectively and reasonably justified by a legitimate aim, and the means of achieving that aim must be appropriate and necessary.

**Grievance and disciplinary procedures:**

This must specify any grievance and disciplinary rules applicable to the employee. Reference must be made to where the rules are kept and how they are obtained if they are not included in this statement.

**Working abroad:**

Details must be given if the employee is working abroad for more than one month. Including the currency in which remuneration is to be paid while working outside the Republic of Ireland.

**Temporary work:**

Where the employment is not intended to be permanent, the period for which it is expected to continue or, if it is for a fixed term, the date when it is to end.

**Pay Reference Period:**

Details of the pay reference period under the National Minimum Wage Act, 2000 must be included in the employment contract.

**Statement Regarding S23 of the National Minimum Wage Act, 2000:**

This statement must inform the employee that they can seek a written statement of their average hourly rate of pay for any pay reference period falling within a 12 month period immediately preceding the request.

**Rest Periods and Breaks:**

The statement must set out particulars of the times and duration of rest periods and breaks referred to in sections 11, 12 and 13 of the Organisation of Working Time Act, 1997. Any terms and conditions attached to those rest periods and breaks must also be included.

## PRE-EMPLOYMENT

### 2.7 PRE-EMPLOYMENT CHECKS FOR NON-NATIONALS

Under **The Employment Permits Act, 2003** as amended by **The Employment Permits Act, 2006**, (“EPAS”) it is a criminal offence to employ a person who is not entitled to work.

The penalties for employing such a person range from between a fine of €3,000 or imprisonment for a term not exceeding 12 months or both (on summary conviction), through to a fine not exceeding €250,000 or imprisonment for a term not exceeding 10 years or both (on conviction on indictment).

These Acts regulate the employment of non-nationals. Specifically, a non-national shall not be employed unless they have a valid employment permit. Before hiring a non-national employee, it would be prudent for an employer to make the following checks and obtain the following documentation:

- (a) European Union (EU) passport
- (b) Birth Certificate
- (c) Document or residence permit indicating employee is an EU national
- (d) Passport or document endorsed (issued by Immigration Department) to say person can stay indefinitely in Ireland/EU
- (e) PPS Number
- (f) Valid work permit

In general non-EEA nationals must have a permit to work in Ireland. The EEA (European Economic Area) consists of EU member states together with Norway, Iceland and Liechtenstein. EEA and Swiss nationals do not need an employment permits. There are four categories of employment permit which are as follows:

- Green Card Permits are available for all occupations with an annual salary above €60,000 and for a restricted range of occupations with an annual salary above €30,000 and below €60,000.
- Work permits are available for occupations with an annual salary above €30,000 which are not eligible for a Green Card. They are also available for a very limited list of occupations with salaries below €30,000. The work permit application must meet a labour market test (see below) showing that the position could not be filled from within the EEA.
- Spousal/dependant work permits allow the spouses and dependants of employment permit holders to apply for a work permit without the need for a labour market test.
- Intra-company transfer scheme permits are for senior management, key personnel and trainees who have been working for 12 months in an overseas branch of a multi-national company is being introduced.

#### **Employment Permit Rules**

- Either the employer or employee can apply for the employment permit, based on an offer of employment.
- It will be granted to the employee and will include a statement of the employee’s rights and entitlements.
- It will be granted for two years initially, and then for a further three years (a Green Card permit may be renewed indefinitely).
- The employer is prohibited from deducting recruitment expenses from the employee’s pay or retaining the employee’s personal documents.

## PRE-EMPLOYMENT

### 2.7 PRE-EMPLOYMENT CHECKS FOR NON-NATIONALS (CONTINUED)

#### **Bulgarian and Romanian nationals**

Applications for work permits for them will be given preference over those for non-EEA nationals. Romanian and Bulgarian nationals who have been resident in the State on a employment permit, expiring on or after 31st December 2006, for a continuous period of 12 months, are not required to have employment permits. ***The changes to rules for work permit applications on or after 1st June 2009 do not apply to Romanian or Bulgarian nationals.***

Apart from some long-standing asylum seekers, people applying for refugee status in Ireland are not entitled to work at all.

Once you have been issued with an employment permit you have all the employment rights of Irish or EU citizens for the duration of the employment permit.

#### **Applications for work permits**

Work permits are issued by the Department of Enterprise, Trade and Innovation. Either the employer or the employee can apply for the permit. The employer must be trading in Ireland, registered with the Revenue Commissioners and with the Companies Registration Office. A work permit will not be issued to companies where the granting of the permit would mean that more than 50% of the employees would be non-EEA nationals.

#### **Changes to new work permit applications (1st June 2009)**

There are changes to eligibility for work permits for those who are applying for a work permit for the first time on or after 1st June 2009. These changes do not apply to those who have already been granted a work permit or who apply for a work permit before 1st June 2009. ***In addition the changes do not apply to Romanian or Bulgarian nationals.***

The changes for new work permit applications received on or after 1st June 2009 include:

- Additional excluded categories: work riders (horse racing), domestic workers and HGV drivers no longer eligible for new applications for work permits - see below.
- No work permits granted for jobs with salary of under €30,000 a year, (may be considered in exceptional cases).
- Labour market needs test changed to advertising with FÁS/EURES for 8 weeks and in national media for 6 days.
- Spouses and dependants of new employment permit holders no longer exempt from labour markets needs test and fee.
- Increased renewal fees for new work permit holders.

#### **Job offer**

The employee must be directly employed and paid by the employer, work permit applications from recruitment agencies and other intermediaries are not acceptable under the scheme.

#### **Labour market needs test**

A new application for a work permit must be accompanied by documentary evidence that a labour market needs test has been carried out. The test requires that the vacancy must have been advertised with the FÁS/EURES employment network and in local and national newspapers for three days. This is to ensure that, in the first instance an EEA or Swiss national or in the second instance, a Bulgarian or Romanian national cannot be found to fill the vacancy. Applicants for spousal/dependant work permits are exempt from the labour market needs test.

If an employer applies for a work permit in respect of a former employee who has left the state, this will be considered a new application.

## PRE-EMPLOYMENT

### 2.7 PRE-EMPLOYMENT CHECKS FOR NON-NATIONALS (CONTINUED)

#### **Occupations that are ineligible for work permits**

Since April 2004 the Department of Enterprise, Trade and Innovation, following consultation with FÁS, has announced, on a quarterly basis, occupational sectors that are considered ineligible for work permits.

From the 1st of February 2007 work permits are not available for the following occupations:

- Clerical and administrative staff.
- General operatives and labourers.
- Operator and production staff.
- Retail sales staff, sales representatives and management/supervisory/specialist sales staff.
- Drivers (excluding HGV).
- Nursery/crèche workers, child minders/nannies.
- Hotel, tourism and catering except chefs.
- The following craft workers and apprentice/trainee craft workers: bookbinders, bricklayers, cabinet makers, carpenters/joiners, carton makers, fitters - construction plant, electricians, instrumentation craftspeople, fitters, tilers - floor/wall, mechanics - heavy vehicles, instrumentation craftspeople, metal fabricators, mechanics - motor, originators, painters and decorators, plumbers, printers, engineers - refrigeration, sheet metal workers, tool makers, vehicle body repairers, machinists - wood, plasterers and welders.

#### **Renewal of work permits**

An employee on an existing work permit should continue to work until it expires. When it is to be renewed the new arrangements apply. Either an employer or an employee can apply for a renewal and a labour market needs test is not required. After five years an application for an unlimited work permit can be made.

#### **Work permit not necessary**

A foreign national does not need a work permit if they are in one of the following categories:

- EEA/Swiss citizen and their spouse (whether he/she is a EEA/Swiss citizen or not) and their dependent children - except Bulgarian and Romanian nationals, see above.
- Persons who have been granted refugee status - whether through the normal process or as a programme refugee.
- Postgraduate students where the work is an integral part of the course of study being undertaken.
- Persons who have been given permission to stay in the country because they are the spouse of an Irish citizen or the parent of an Irish citizen.
- Persons who have been refused refugee status but have been granted leave to remain on humanitarian grounds.
- Students present in the country with a Valid stamp 2 visa are permitted to work part-time (20 hours per week during term time), and full time out of term time.
- Persons on a valid stamp 2 visa having graduated and having been placed on the graduate scheme may work full time while their visa remains valid.

## PRE-EMPLOYMENT

### 2.7 PRE-EMPLOYMENT CHECKS FOR NON-NATIONALS (CONTINUED)

#### **Work permit necessary**

If a person does not fall within one of the categories mentioned above and they are a non-EEA national who wishes to work in Ireland.

The following categories of people will need a work permit but it will be granted without the need to establish that there are no suitable Irish/EEA/Swiss national available, if they are:

- An entertainer who is coming to Ireland to perform at a particular event - this includes performers and their back up crews and film crews.
- A professional sportsperson and the granting of the permit would comply with the terms of an agreement made between the Department and the relevant sporting organisation.
- A participant in an exchange programme recognised by the Minister for Department of Enterprise, Trade and Innovation.
- Entitled to take up employment in Ireland under the terms of any international bilateral agreement ratified by Ireland.

## PRE-EMPLOYMENT

### 2.8 INDUCTION PROCEDURES

It is important to plan an induction programme for new staff in consultation with staff representatives and trade unions if there are any. The aim is to achieve a positive attitude with the new recruit.

#### **First contact**

Initially it is a good idea to provide the new employee with an information pack. On the first day the employer should be prepared to greet the new recruit and the employer should have a written checklist of the important items that need to be covered in the induction programme. The employee should then be provided with a copy of the checklist which he can sign and retain.

#### **Employers need to consider:**

- Health and safety matters need to be taken into consideration especially if the employees will be working around chemicals and machinery. It is for the employer to provide all the necessary training required.
- People can only take in only so much information and it should be spread out to make it palatable.
- It should be carried out by a person who will be working with the new recruit.
- Should be informal and involve a tour of the building, meeting other members of staff and showing the new recruit fire exits etc. The new recruit should also be introduced to colleagues.
- Employers should pay particular attention to any sensitivities and particular cultural or religious customs so misunderstandings do not occur.
- A company handbook can also assist in this process providing the employee with more information and a structure to the induction.
- Provide the employee with a copy of the policies of the company.
- Induction should be tailored to the individual new recruit.
- The induction should be specifically tailored to the job to be done.

#### **School leavers and young people**

School leavers and young people starting work may need to be made more aware of workplace dangers.



## PRE-EMPLOYMENT

### 2.8 INDUCTION PROCEDURES (CONTINUED)

#### **Employees with disabilities**

It may be necessary to carry out alterations to the work surroundings regarding access and equipment and also take into consideration their dealings with colleagues.

#### **People returning to work or a change of work**

Employees returning to work after a break often feel vulnerable and apprehensive and therefore may need reassurance. It is important to offer them training and extra help to get settled within their new position.

#### **Monitoring**

It is important that the induction process is monitored and reviewed. It is important that the policy is kept up to date with new practices and legislation. The outcome of the induction would be to provide the new recruit with information about the company and the role they will play within that organisation.