

Policy for 5 year workers and redundant workers

Updated immigration arrangements for 5 year workers and redundancy policy in respect of non-EEA workers.

The following arrangements apply as and from the date of this notice.

On 27 October 2009 INIS set out detailed arrangements which would apply in cases of persons who had worked for 5 years or more with work permits and of persons who were made redundant. This is a consolidated set of arrangements and replaces all previous versions for non-EEA migrant workers (i) who have been employed for 5 or more years with a work permit.

NB: It should be noted that the arrangements set out here reflect the current policy. Immigration policies are kept under on-going review and are subject to change at a future date.

Outline of Policy

There are two elements to this policy. In summary these are;

1. Provision for the exemption, subject to conditions from the requirement to hold a work permit of lawfully resident persons who have worked for 5 consecutive years or more with a work permit issued by the Minister for Enterprise, Trade and Innovation. This concession also applies to lawfully resident persons who have worked for 5 consecutive years on the basis of a work permit under the Work Authorisation/Working Visa Scheme.*
2. This concession also applies to those persons who held a combination of work permits and spousal/dependant work permits. The Permits must cover a continuous 5 year period in their passport covering that period of work.

***Explanatory Note:** Prior to the implementation in 2007 of the Employment Permits Act 2006, a scheme was operated whereby persons were authorised to work in specific sector under a permit. This Scheme was the Work Authorisation/Working Visa Scheme and was in operation from June 2000 to 31 December 2006. The Work Authorisation/Working Visa Scheme restricted the sector to which employment was restricted. While no new stickers were issued after the scheme expired those already in the system were renewed as required. Individuals who would hold Immigration Stamp 4 and these would have been renewed on a 2 year basis.

Section 1

Provisions for 5 year workers

This part covers:

- Persons who have worked for 5 consecutive years or more with work permits (which can now include spousal/dependant permits) and who currently hold a valid work permit (or spousal/dependant permit) or
- Persons who have worked for 5 consecutive years or more and currently hold a Work Authorisation/Working Visa issued under the Work Authorisation/ Working Visa Scheme.

The two categories of persons above and who have been working lawfully during that time will be exempted from the requirement to hold a work permit on the next renewal of their work permit who are still in employment and to those with a work permit who, having completed 5 years work, have since been made redundant. Certain conditions will apply.

Eligibility

Work Permit Holders

To avail of this concession the non-EEA worker must meet the following requirements:

The person must have completed 5 consecutive years employment in Ireland with work permits issued by the Minister for Enterprise, Trade and Innovation.

NB: A person who was made redundant before completing their 5 years employment does not qualify for this particular concession but may qualify for an extended "grace period" under the provisions of the Act. A work permit that has expired in the previous 3 months will be accepted as "current".

Evidence required from applicant:

- Your current Passport endorsed with immigration Stamp 1 and your current Irish Residence Permit (IRP) or GNIB Card and
- Your P60 form for previous tax year and
- You must have a clean record as regards criminality and immigration.

Acceptable Gaps in Registration

It is recognised that there will be cases where the applicant has for one reason or another some short gaps in their immigration registration in the 5 year period. Some tolerance will be allowed which can exceed 6 months.

In certain cases where a person has been refused registration on Stamp 4 basis due to gaps in their immigration history, or due to the fact that they are no longer economically active, they may be referred to the Immigration Service, General Immigration Division, 13/14 Burgh Quay, Dublin 2 to have the details of their case reviewed. Each case will be assessed on its own merits and the Minister for Enterprise, Trade and Innovation will make the final decision on the arrangement only where the total period of the gaps does not exceed 12 months.

No backdating of permissions will be possible.

NB: To enable this concession to work efficiently in the interests of migrant workers and the immigration authorities it is necessary to operate simple guidelines and to be able to deal with cases where the gaps in registration exceed those set out above. The immigration authorities will not be in a position to engage in a case by case basis. It is the responsibility of any non-EEA national to ensure that their registration is kept up to date. Therefore any case that does not meet the eligibility requirements for the concession under Section 2 and the migrant worker will require a work permit from the Department of Enterprise, Trade and Innovation.

Qualifying Applicants

Persons who satisfy the eligibility criteria for this concession will be issued a Stamp 4 immigration permission for 1 year signifying the right to be present in the State and to be employed. The conditions of the permission will include:

- Permissions granted may be renewed annually.
- Persons granted the permission are expected to work and to support themselves and any dependents and, if made redundant, the person concerned must seek new employment.
- The holder of this permission cannot become an undue burden on the State.
- The holder of this permission will be free to work in any employment and will no longer be limited to the current employer. Should they subsequently be made redundant they are not entitled to any special treatment.
- It is not long term residence and it cannot be seen as any guarantee of permanent status.
- The Stamp 4 in this situation allows the person to establish a business or become self-employed.
- The concession is being made irrespective of whether the person is currently an applicant for Long Term Residence.

Work Authorisation and Working Visa holders

To avail of the concession under Section 1, the non-EEA migrant worker must meet the following requirements:-

Persons who have held immigration Stamp 4 for five or more consecutive years on the basis of a work authorisation or working visa and be lawfully present in the State.

Evidence Required from applicant

- Current Passport endorsed with immigration Stamp 4 and work authorisation or working visa sticker
- Current Irish Residence Permit (IRP) or GNIB Card
- Must have a clean record as regards criminality and immigration.

Acceptable Gaps in Registration

As per work permit holders. Again, the determination of eligibility will be on the basis of the stamps in the passport and the immigration authorities cannot enter into any consideration of

Qualifying Applicants

Persons in this category already hold Stamp 4 permission. The effect of the concession in these cases is that the restriction as to the sector in which the person can work is removed "on the work authorisation or working visa. Persons who satisfy the eligibility criteria for this concession will be issued a Stamp 4 immigration permission for 1 year signifying without a work permit and without restriction to a particular sector.

The same terms and conditions as above apply to work authorisation or working visa persons.

Evidence required from applicant:

- Your recent work permit and recent payslip.

and

- You will need a redundancy notice showing that you have been made redundant involuntarily and a P45 form (applies to workers made redundant).

and

- The person concerned must have immigration permission Stamp 1 (Stamp 4 in the case of Work Authorisation/Working Visa persons) for that 5 year period and be lawfully present

Section 2**Redundancy**

This part covers:

- Those who have been living and working legally in Ireland for less than 5 continuous years on the basis of a work permit (with Immigration Stamp 1) and who have been made redundant
- Persons with 5 or more years residence but who fail to meet the criteria for section 1.

Such persons are now being given a 6 month grace period by the Department of Enterprise, Trade and Innovation during which they can seek to find another employer. No labour market test is required. This period will operate from the date of being made redundant involuntarily. Persons who voluntarily quit their employment will not qualify. The non-EEA national should be given the opportunity to remain on another basis without delay.

The practical effect will be as follows:

Persons with more than 6 months remaining on their immigration permission (as indicated on their Irish Residence Permit (IRP) or GNIB Card) and who have been made redundant will be entitled to remain on their immigration permission for 6 months. Following completion of the 6 month "grace period" the permission will be liable to be terminated unless in the meantime the holder has obtained further employment or has been permitted to remain on another basis.

Persons who become redundant with less than 6 months left on their immigration permission (as indicated on their Irish Residence Permit (IRP) or GNIB Card) will be entitled to be re-permitted to ensure that you receive the full 6 months grace period. (The issue of a new Irish Residence Permit (IRP) or GNIB Card is subject to the normal fee of €300).

(Example: You are made redundant with 2 months still to run on your immigration permission. On presentation to an immigration officer or counter staff you will be entitled to be re-permitted for the 6 month period the non-EEA national will be required to leave the State unless they have in the meantime obtained a work permit to be terminated unless in the meantime the holder has obtained further employment or has been permitted to remain on another basis.

Evidence required from a non-EEA national:

- Redundancy notice or P45
- Most recent payslip
- Most recent work permit
- Passport and Irish Residence Permit (IRP) or GNIB Card

Note: No extension of the 6 month period is permissible.

Work Authorisation or Working visa holders with less than 5 years immigration permission and who are made redundant.

Persons with more than 6 months remaining on their immigration permission (as indicated on their Irish Residence Permit (IRP) or GNIB Card) when made redundant.

You will be permitted to continue to reside under your existing Stamp 4 permission for 6 months. Following completion of the 6 month "grace period" the permission will be liable to be terminated unless in the meantime the holder has obtained further employment or has been permitted to remain on another basis.

Persons who become redundant with less than 6 months left on their immigration permission (as indicated on their GNIB card).

You will be entitled to have your immigration permission (Stamp 4) extended to ensure that you receive the full 6 months grace period. (The issue of a new Irish Residence Permit (IRP) or GNIB Card is subject to the normal fee of €300).

(Example: Non-EEA national is made redundant with 2 months still to run on their immigration permission. On presentation to an immigration officer or counter staff they will be entitled to be re-permitted for the 6 month period the non-EEA national will be required to leave the State unless they have in the meantime obtained a work permit to be terminated unless in the meantime the holder has obtained further employment or has been permitted to remain on another basis.

At the end of the 6 month period the non-EEA national will be required to leave the State unless in the meantime the holder has obtained further employment or has been permitted to remain on another basis.

Evidence Required from non-EEA national:

- Redundancy notice or P45
- Most recent payslip
- Passport and GNIB Card

Note: No extension of the 6 month period is permissible.

25 November 2010