

May 6, 2014

2014-054

Ireland – New Employment Permits Rules Meant To Attract Technology Skills

by KPMG, Dublin (KPMG in Ireland is a KPMG International member firm)

flash International Executive Alert

A Publication for Global Mobility and Tax Professionals by KPMG's International Executive Services Practice

The Irish government recently published the Employment Permits (Amendment) Bill 2014.¹ The Bill aims to reform and modernize Ireland's employment permits system as part of a plan to make Ireland the top global location for businesses hiring people with information and communication technology ("ICT") skills. The Bill sets out the government's policy preference to hire Irish/European Economic Area (EEA) nationals while recognizing the need to facilitate non-EEA national employments in a timely and fair manner. The Bill is expected to be enacted sometime this summer.

Why This Matters

The new rules will modify the existing regime governing the hiring of skilled workers, particularly in the ICT area. Organizations and individuals interested in securing work permits in this skills area need to familiarize themselves with the new rules and procedures.

The formal relaxation of the 50:50 rule on workforce composition related to "start up" companies, described below, is welcome, as previously this required specific agreement with the Department of Justice Enterprise and Innovation (DJEI) on a case-by-case basis.

The Labour Market Needs Test includes new requirements that will involve an increase in administration for employers when applying for certain permits. This will likely involve the formal advertisement of the position for a period in order to satisfy a requirement that a candidate has been sought from within the European Economic Area.

New Categories of Employment Permits

The Bill provides for nine different purposes for which an employment permit may be granted:

- A *Critical Skills Employment Permit* to replace the 'Green card' which currently exists. This type of permit has been designed to address critical shortages of skills. In order to attract individuals who possess such skills, this permit type allows immediate family reunification and a fast track to residency.
- A *Spouses, Civil Partners and Dependents Employment Permit* to enable the family members of holders of Critical Skills Employment Permits and Researchers to work in Ireland.
- A *General Employment Permit* which will be issued in cases where a contract for a designated highly skilled occupation has been offered for a duration of less than two years, or for other occupations, apart from those included on a list of ineligible jobs, where several other criteria have been met.
- An *Intra-Company Transfer Employment Permit* to allow for the temporary transfer of employees between affiliated foreign and Irish companies.

- A *Reactivation Employment Permit* to allow for the return of individuals to employment who had fallen out of the employment permits system through no fault of their own.
- A *Contract for Services Employment Permit* to allow the employee of a foreign company that has entered into a contract with an Irish company to work in Ireland.
- An *Exchange Agreement Employment Permit* to allow individuals to whom a designated exchange agreement applies to work in Ireland.
- A *Sports and Cultural Employment Permit* to allow individuals with sporting or cultural expertise to work in Ireland.
- An *Internship Employment Permit* to allow students of foreign institutions to work in Ireland, where that is a key component of the course which they are following.

Changes to Criteria for Issuance of Employment Permit

Previously it was possible for an employee or an employer to make permit applications. If an employee made the application, it was possible to side-step (i) Labour Market Needs Test and (ii) the 50:50 Rule. The Bill now brings focus on these two requirements for permit applications. The changes are briefly described below.

(i) Labour Markets Needs Test (LMNT)

The LMNT seeks to ensure that an offer of employment is first made to people already in the local and EEA labor markets before an application is made for an employment permit for purposes of employing a non-EEA national. The LMNT applies to *General Employment Permits* and *Contract for Services Agreements* permits only. The Bill outlines that the Minister may make regulations for advertising of the vacancy.

(ii) 50:50 Rule

The 50:50 Rule requires that employers seeking to hire non-EEA nationals on an employment permit have at least 50 percent of their workforce composed of nationals from the EEA. It also establishes that further employment permits will not be granted to employers in Ireland who have a workforce already consisting of a majority of non-EEA nationals. The Bill requires the 50:50 Rule to be applied for all permits.

The rule does not apply to a “start up” company. A start up company is a company that registered with the Revenue Commissioners within the two years preceding the permit application. This recognizes that often in start-up companies, the first few employees will be a team from headquarters (HQ) establishing the operation in Ireland.

KPMG Note

The Bill embodies and codifies much of the existing practice although there is a clear “re-brand” of the current permits. However, further information on the practical implications may follow once the Bill is enacted as law.

Overall, the changes, as well as the stated 58-percent reduction² in the processing time for permit applications, would appear to be an enhancement of Ireland’s permits system and, in particular, help build the country’s reputation in the ICT sector.

Next Steps

The Bill will now be put before the Irish parliament prior to formal enactment. Following this process, which is expected to be completed by mid-year, it is anticipated that the commencement of the new regime will take effect immediately after approval by the parliament.

KPMG Note

We will endeavour to keep our readers informed in a future edition of *Flash International Executive Alert* when this has taken place and also provide an update on any practical guidance issued by the DJEI in relation to these changes.

Footnotes:

1 For a 23 April 2014 press release about the Bill from the Department of Jobs, Enterprise and Innovation, see: <http://www.djei.ie/press/2014/20140423a.htm> .

2 Ibid.

* * * *

For additional information or assistance, please contact your local IES or People Services professional or one of the following professionals with the KPMG International member firm in Ireland:

Duncan Watson, tel. +353 1410 2391, e-mail: duncan.watson@kpmg.ie

Paula Ruane, tel. +353 1700 4398, e-mail: [paula.ruane@kpmg.ie](mailto: paula.ruane@kpmg.ie)

The information contained in this newsletter was submitted by the KPMG International member firm in Ireland. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Flash International Executive Alert is an IES publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our IES practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com> .