



Number 17 of 2024

Employment Permits Act 2024



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EMPLOYMENT PERMITS ACT 2024

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Irish Nationality and Citizenship Act 1956 (No. 26)
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Medical Practitioners Act 2007 (No. 25)
Minimum Notice and Terms of Employment Act 1973 (No. 4)
National Minimum Wage Act 2000 (No. 5)
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Payment of Wages Act 1991 (No. 25)
Petty Sessions (Ireland) Act 1851 (14 & 15 Vict., c.93)
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Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007
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Protection of Young Persons (Employment) Act 1996 (No. 16)
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Taxes Consolidation Act 1997 (No. 39)

Terms of Employment (Information) Act 1994 (No. 5)

Trade Union Acts 1871 to 1990

Unfair Dismissals Act 1977 (No. 10)

Unfair Dismissals Acts 1977 to 2015

Workplace Relations Act 2015 (No. 16)



Number 17 of 2024

Employment Permits Act 2024

An Act to provide for the grant of employment permits to certain foreign nationals for the purpose of permitting such persons to be in employment in the State; to prohibit the employment in the State of certain foreign nationals who do not have such permits; to impose certain restrictions and conditions in respect of the grant of such permits; to enable the Minister for Enterprise, Trade and Employment to make, having regard to certain matters, regulations to impose certain other restrictions and conditions in respect of the grant of such permits; to provide for the enforcement of provisions of this Act and the imposition of penalties for contraventions of this Act; to provide for civil proceedings to recompense certain foreign nationals for work done or services rendered in certain circumstances; to otherwise regulate the employment in the State of certain foreign nationals; to repeal the Employment Permits Act 2003 and the Employment Permits Act 2006; to provide for consequential amendment to certain other enactments; and to provide for related matters. [25th June, 2024]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Employment Permits Act 2024.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions and for the repeal of different enactments or provisions of enactments effected by *section 6*.

Interpretation

2. (1) In this Act—
 - “Act of 1963” means the Registration of Business Names Act 1963;
 - “Act of 1967” means the Redundancy Payments Act 1967;

“Act of 1997” means the Taxes Consolidation Act 1997;

“Act of 2003” means the Employment Permits Act 2003;

“Act of 2006” means the Employment Permits Act 2006;

“applicant”, in relation to an application, means the person who made the application;

“application” means an application under *section 12* or, as the case may be, *section 36*;

“approved seasonal employer” has the meaning assigned to it by *section 10(5)*;

“approved seasonal employer certificate” has the meaning assigned to it by *section 10(6)*;

“civil partner” means a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“connected”, in relation to the connection between a connected person and a foreign employer, means—

- (a) the connected person is a subsidiary of the foreign employer,
- (b) the foreign employer is a subsidiary of the connected person,
- (c) the connected person and the foreign employer are both subsidiaries of a holding company that carries on business in the State or outside the State, or
- (d) the connected person and the foreign employer have entered into an agreement with another person whereby each of them agree to carry on business or provide services with each other in more than one state and to carry on business or provide services in the manner provided for in the agreement;

“connected person” means a person carrying on business in the State who is connected to a foreign employer;

“contract for service employment permit” has the meaning assigned to it by *section 9(2)(e)*;

“contract of employment” means—

- (a) a contract of service or apprenticeship, or
- (b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract),

whether the contract is express or implied and if express, whether it is oral or in writing;

“contract service agreement” means an agreement between a relevant person and a contractor whereby the contractor agrees to provide, cause, or arrange for, services to be rendered for or on behalf of the relevant person;

“contractor”, in relation to a contract service agreement, means the person who agrees to provide, cause, or arrange for, services the subject of the contract service agreement to be rendered for or on behalf of a relevant person;

“critical skills employment permit” has the meaning assigned to it by *section 9(2)(a)*;

“date of dismissal”, in relation to a foreign national who is dismissed by reason of redundancy, has the meaning assigned to it by section 2 of the Act of 1967;

“dependant” means a foreign national who—

- (a) has been determined by the Minister for Justice to be a dependant, other than the spouse or civil partner, of a primary permit holder or a research project researcher,
- (b) has, since he or she landed in the State, resided in the State on a continual basis,
- (c) is not in full-time education, and
- (d) resides with the primary permit holder or the research project researcher referred to in *paragraph (a)*;

“dependant employment permit” has the meaning assigned to it by *section 9(2)(b)*;

“Directive 2005/71/EC” means Council Directive 2005/71/EC of 12 October 2005¹ on a specific procedure for admitting third-country nationals for the purposes of scientific research;

“dismissed by reason of redundancy” means the dismissal by an employer within the meaning of section 9 of the Act of 1967 where the dismissal is—

- (a) attributable wholly or mainly to one or more of the matters specified in paragraphs (a) to (e) of section 7(2) of the Act of 1967, or
- (b) a dismissal referred to in section 21 of the Act of 1967;

“economic sector” means a sector of the economy concerned with a specific economic activity requiring specific qualifications, skills or knowledge;

“employer”, in relation to a foreign national who is in employment in the State, means the person with whom the foreign national has entered into or for whom the foreign national works under (or where the employment has ceased, entered into or worked under) a contract of employment;

“employment permit”, subject to *section 70*, means an employment permit granted under *section 19*;

“enactment” has the same meaning as it has in the Interpretation Act 2005;

“enterprise development agency” means Enterprise Ireland or the Industrial Development Agency (Ireland);

“exchange agreement” means an agreement, including an international agreement to which the State is a party, that provides for the reciprocal employment—

¹ OJ L289, 3.11.2005, p. 15

(a) of Irish citizens, or certain Irish citizens, in the state in which a contracting party is located, and

(b) in the State, of foreign nationals, or certain foreign nationals, of a contracting party;

“exchange agreement employment permit” has the meaning assigned to it by *section 9(2)(g)*;

“foreign employer” means a person carrying on business outside the State;

“foreign national” means a non-national within the meaning of the Immigration Act 1999;

“foreign national concerned” has the meaning assigned to it by *section 12(3)*;

“general employment permit” has the meaning assigned to it by *section 9(2)(c)*;

“health insurance” means insurance providing for the costs and charges of medical treatment;

“health insurer” means a person entered in the Register of Health Benefits Undertakings referred to in section 14 of the Health Insurance Act 1994;

“holder”, in relation to an employment permit, means the foreign national to whom it has been granted;

“holding company” shall be construed in accordance with section 8 of the Companies Act 2014;

“internship employment permit” has the meaning assigned to it by *section 9(2)(i)*;

“intra-company transfer employment permit” has the meaning assigned to it by *section 9(2)(d)*;

“Irish citizen” means an Irish citizen within the meaning of the Irish Nationality and Citizenship Act 1956;

“medical treatment” includes medical services or medical care;

“Member State of the EEA” means a state that is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as amended for the time being;

“Minister” means the Minister for Enterprise, Trade and Employment;

“national minimum hourly rate of pay” has the same meaning as it has in the National Minimum Wage Act 2000;

“non-consultant hospital doctor” means a person who is employed as a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007, other than a person registered in the Specialist Division within the meaning of that section;

“place” includes any dwelling or any building or part of a building;

“prescribed” means prescribed by regulations made by the Minister under this Act;

“primary permit holder” means a foreign national to whom a critical skills employment permit—

- (a) has been granted and is in force, or
- (b) had been granted and has expired and following such expiration—
 - (i) the foreign national has been given the permission referred to in *section 8(1)(f)* to remain in the State, and
 - (ii) is in employment in the State pursuant to the condition, referred to in *section 8(1)(f)*, of that permission;

“public interest” includes—

- (a) public order and the interests of national security,
- (b) public health and safety,
- (c) the need to protect and strengthen the labour market, and
- (d) supporting the economic growth of the State;

“reactivation employment permit” has the meaning assigned to it by *section 9(2)(f)*;

“register” has the meaning assigned to it by *section 64(2)*;

“registered with the Revenue Commissioners” means registered with the Revenue Commissioners in accordance with regulations made under section 986 of the Act of 1997;

“regulatory body” means a body which is concerned with regulating the entry to or the carrying on of, a profession, employment or trade in the State and includes a body established by or under any enactment;

“relevant person”, in relation to a contract service agreement, means the person for whom, or on whose behalf, services are rendered under the contract service agreement;

“remuneration” shall be construed in accordance with *section 3*;

“research project researcher” means a foreign national—

- (a) who, pursuant to Directive 2005/71/EC, has been granted permission by the Minister for Justice to be in the State to carry out research pursuant to the Directive, or
- (b) who, having been granted the permission referred to in *paragraph (a)*—
 - (i) has been given the permission referred to in *section 8(1)(f)* to remain in the State, and
 - (ii) is in employment in the State pursuant to the condition, referred to in *section 8(1)(f)*, of that permission;

“seasonal employment permit” has the meaning assigned to it by *section 9(2)(j)*;

“seasonally recurrent employment” means an employment that relates to a certain time of the year or seasonal conditions;

“sports and cultural employment permit” has the meaning assigned to it by *section 9(2)(h)*;

“standard working week remuneration” means the weekly remuneration that the foreign national concerned would receive if he or she were to work 39 hours each week at—

- (a) the national minimum hourly rate of pay, or
- (b) if the hourly rate of pay fixed under or pursuant to any enactment that applies to the employment concerned is greater than the national minimum hourly rate of pay, the hourly rate of pay that is fixed under or pursuant to that enactment;

“statement of earnings”, in relation to a foreign national who is in employment in the State, means a statement of the remuneration paid to the foreign national—

- (a) that is provided to the foreign national to demonstrate that the foreign national has been paid his or her remuneration, and
- (b) that accompanies the periodic payment of that remuneration and specifies in writing the gross amount of the remuneration paid and any deductions made from that gross amount;

“subcontractor”, in relation to a contract service agreement, means a person who enters into an agreement with a contractor to provide services (in whole or in part) the subject of the contract service agreement;

“subsidiary” shall be construed in accordance with section 7 of the Companies Act 2014.

- (2) In this Act, a reference to the United Kingdom of Great Britain and Northern Ireland includes the Channel Islands and the Isle of Man and “citizens of the United Kingdom of Great Britain and Northern Ireland” shall be construed accordingly.
- (3) In this Act, references to a document or record are references to a document or record in written or electronic form and, for this purpose “written” includes any form of notation or code whether by hand or otherwise and regardless of the method by which, or medium in or on which, the document or record concerned is recorded.

Definition of “remuneration”

3. (1) In this Act, “remuneration” means—

- (a) subject to *paragraphs (b) and (c)*, the total amount of—
 - (i) the salary that is paid to a foreign national, the hourly rate of which shall be not less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in *paragraph (b)* of the definition of “standard working week remuneration”, and

- (ii) any payment for health insurance in respect of a foreign national should he or she require medical treatment for illness or injury during the period for which the employment permit is in force,
- (b) in respect of an intra-company transfer employment permit or a contract service agreement employment permit, the total amount of—
 - (i) the salary that is paid to a foreign national, the hourly rate of which shall be not less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in *paragraph (b)* of the definition of “standard working week remuneration”,
 - (ii) any payment for board and accommodation, or either of them, or the monetary value of board and accommodation directly provided by the connected person, foreign employer, contractor or subcontractor, and
 - (iii) any payment for health insurance in respect of a foreign national should he or she require medical treatment for illness or injury during the period for which the employment permit is in force and which is made by the foreign employer or the connected person or both of them or by the contractor or subcontractor to—
 - (I) a health insurer, or
 - (II) a person outside the State who provides insurance for medical treatment in respect of the foreign national that has the same, or similar, effect as the health insurance provided by a health insurer,
- or
- (c) in respect of a seasonal employment permit, the total amount of—
 - (i) the salary that is paid to a foreign national, the hourly rate of which shall be not less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in *paragraph (b)* of the definition of “standard working week remuneration”,
 - (ii) any payment for board and accommodation, or either of them, or the monetary value of board and accommodation directly provided by the employer, and
 - (iii) any payment for health insurance in respect of a foreign national should he or she require medical treatment for illness or injury during the period for which the employment permit is in force.
- (2) In this Act—
 - (a) references to remuneration in relation to an application for the grant of an employment permit and the consideration of such application by the Minister shall be construed as the remuneration, specified in that application, that is proposed to be paid by—

- (i) the person who has made the offer of employment in respect of which the application is made,
 - (ii) in the case of an intra-company transfer employment permit, the foreign employer, in accordance with *section 24* and the payments in respect of the remuneration to be paid, in accordance with *section 24*, by the connected person,
 - (iii) in the case of a contract for services employment permit, the contractor or subcontractor in accordance with *section 25*, or
 - (iv) in the case of a foreign national who is employed under a contract of employment referred to in *paragraph (b)* of the definition of “contract of employment”, the employment agency or third person concerned,
- and
- (b) references to remuneration after a permit has been granted shall be construed as the remuneration paid to the holder of the permit by an employer, a foreign employer or connected person in accordance with *section 24*, or a contractor or subcontractor in accordance with *section 25*, during the period for which the employment permit has been granted in respect of the employment for which the employment permit was granted.

Regulations

4. (1) The Minister may make regulations in relation to any matter referred to in this Act as prescribed or to be prescribed.
- (2) Different regulations under *subsection (1)* may be made in respect of different classes of matter the subject of the prescribing concerned and for different circumstances or classes of circumstances in relation to such different matters or different classes of matters.
- (3) Regulations under this Act may contain such incidental, supplementary, consequential and transitional provisions as the Minister considers necessary for the purposes or in consequence of, or to give full effect to, such regulations.
- (4) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling such regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Expenses

5. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

Repeals and revocations

6. (1) The following enactments are repealed:
 - (a) the Act of 2003;
 - (b) the Act of 2006.
- (2) The Employment Permits Regulations 2017 (S.I. No. 95 of 2017) are revoked.

PART 2

EMPLOYMENT IN STATE OF FOREIGN NATIONALS

CHAPTER 1

*Prohibition on employment in State without employment permit***Employment in State of foreign nationals**

7. (1) A foreign national shall not—
 - (a) enter the service of an employer in the State, or
 - (b) be in employment in the State,except in accordance with an employment permit that is in force in respect of that foreign national.
- (2) *Subsection (1)(b)* applies whether the employment concerned results from—
 - (a) the foreign national being employed in the State by a person,
 - (b) the foreign national being employed outside the State by a foreign employer and being required by that foreign employer to carry out duties for, or participate in a training programme provided by, a person in the State who is connected to the foreign employer,
 - (c) the foreign national being employed outside the State by a person to perform duties in the State the subject of a contract service agreement, or
 - (d) any other arrangement.
- (3) A person shall not employ a foreign national in the State except in accordance with an employment permit that is in force in respect of that foreign national.
- (4) Where a contract service agreement is entered into between a relevant person and a contractor and either—
 - (a) it is customary in the trade or business in which the agreement is entered into, or
 - (b) the circumstances in which the agreement is entered into are such that it must reasonably have been in the contemplation of the parties to the agreement,that the means to be used by the contractor for complying with the agreement would consist of or involve, in whole or part, the services being rendered by persons

employed by a person other than the contractor (and whether or not that person is in a contractual relationship with the contractor) then, if those means are used, it shall be the duty of the relevant person to take all such steps as are reasonable to ensure, in so far as one or more of the persons so employed is or are a foreign national or foreign nationals employed in the State for the purpose of rendering those services, that that foreign national or each of those foreign nationals is employed in accordance with an employment permit that is in force in respect of that foreign national.

- (5) A person shall not permit a foreign national who is employed outside the State by a foreign employer to carry out duties for, or participate in a training programme provided by, that person where that person is connected to the foreign employer, except in accordance with an employment permit that is in force in respect of that foreign national.
- (6) A person who contravenes *subsection (1), (3), or (5)*, or fails to take the steps specified in *subsection (4)*, shall be guilty of an offence.
- (7) It shall be a defence for a person charged with an offence under *subsection (6)* consisting of a contravention of *subsection (1)* to show that he or she took all such steps as were reasonably open to him or her to ensure compliance with *subsection (1)*.
- (8) It shall be a defence for a person charged with an offence under *subsection (6)* consisting of a contravention of *subsection (3) or (5)* to show that he or she took all such steps as were reasonably open to him or her to ensure compliance with *subsection (3) or (5)*.

Non-application of section 7 to certain foreign nationals

8. (1) Without prejudice to any other provisions of this Act, *section 7* shall not apply to a foreign national—
 - (a) in respect of whom a declaration under section 47 of the Act of 2015 is in force,
 - (b) who is permitted to enter and reside in the State, or reside in the State, pursuant to section 56 or 57 of the Act of 2015,
 - (c) who is a programme refugee within the meaning of section 59 of the Act of 2015,
 - (d) who is an applicant or a recipient within the meaning of the European Communities (Reception Conditions) Regulations 2018 (S.I. No. 230 of 2018),
 - (e) who is entitled to enter the State and to be in employment in the State pursuant to the treaties governing the European Union (within the meaning of the European Communities Acts 1972 to 2012),
 - (f) who is permitted to remain in the State by the Minister for Justice and who is in employment in the State pursuant to a condition of that permission that the person may be in employment in the State without an employment permit, or
 - (g) who is entitled in the State to privileges and immunities under section 5 or 6 of the Diplomatic Relations and Immunities Act 1967, or under any other Act of the Oireachtas or any instrument made thereunder, and the Minister for Foreign Affairs has certified in writing that the foreign national concerned—

- (i) falls within an arrangement that permits a foreign national who is a member of the family of an assigned person, forming part of his or her household, to be in employment in the State for the duration of the assignment to official duties in the State of the assigned person concerned, or
 - (ii) is a member of the family of an assigned person, forming part of his or her household, and the assigned person concerned is a national of another Member State, a Member State of the EEA or the Swiss Confederation.
- (2) A foreign national referred to in *subsection (1)(g)* shall be entitled to be in employment in the State without an employment permit for the duration of the assignment to official duties in the State of the assigned person concerned.
- (3) In this section—
- “Act of 2015” means the International Protection Act 2015;
- “arrangement” means—
- (a) in relation to an assigned person to whom *paragraph (a)* of the definition of assigned person applies, a reciprocal arrangement (whether in the form of a memorandum of understanding or otherwise) or reciprocal agreement that is entered into by the Government with another state, or
 - (b) in relation to an assigned person to whom *paragraph (b)* of the definition of assigned person applies, an arrangement (whether in the form of a memorandum of understanding or otherwise) or agreement that is entered into by the Government with an international organisation, community or body;
- “assigned person” means—
- (a) a person who is assigned, by a government of another state, to carry out official duty in the State on behalf of the government of that other state, or
 - (b) a person who is assigned, by an international organisation, community or body, to carry out official duty in the State on behalf of that international organisation, community or body.

CHAPTER 2

Purposes for which employment permits may be granted

Purposes for which employment permit may be granted

9. (1) Subject to any requirement that this Act specifies is to be satisfied in respect of the grant of an employment permit, an employment permit shall be granted in respect of a purpose specified in *subsection (2)*.
- (2) The purposes for which an employment permit may, subject to any requirement referred to in *subsection (1)*, be granted are as follows:
- (a) to provide for the employment in the State of a foreign national who has skills that are required—

- (i) in enterprises in an economic sector that is of importance for either the economic or social development of the State or both, and
 - (ii) in employments that are essential to the development and growth of those enterprises or that economic sector,
- and that are in critical short supply in the State in such enterprises and employments and the Minister is satisfied that where such enterprises are unable to recruit such appropriately skilled persons, or there is a shortage of such persons, that inability to recruit or that shortage is likely to hinder—
- (I) the development and growth of such enterprises, and
 - (II) the economic development of, and the development of industry, technology and enterprise in, the State and the services which support such development,
- (in this Act referred to as a “critical skills employment permit”);
- (b) to provide for the employment of a foreign national who is—
 - (i) a dependant, referred to in *section 14(2)*, of a foreign national who has, or had, been granted a critical skills employment permit, so as to encourage foreign nationals referred to in *paragraph (a)* to take up employment in the State, or
 - (ii) a dependant, referred to in *section 14(3)*, of a research project researcher who, pursuant to Directive 2005/71/EC, has, or had, been granted the permission by the Minister for Justice to be in the State to carry out research pursuant to the Directive, so as to facilitate the carrying out of research in the State pursuant to that Directive,
 (in this Act referred to as a “dependant employment permit”);
 - (c) where the Minister is satisfied that a person in the State has been unable to recruit an employee for a vacancy for an employment in the State, to provide for the employment of a foreign national who has the required knowledge and skills for the employment and, where appropriate, the qualifications and experience as may be required for that employment (in this Act referred to as a “general employment permit”);
 - (d) to provide for a foreign national who is employed outside the State by a foreign employer to carry out duties in the State for, or participate in a training programme provided in the State by, a connected person—
 - (i) in an employment that is the same, or substantially the same, as the employment in which the foreign national is employed, outside the State, by the foreign employer, or
 - (ii) in an employment that requires the foreign national to participate in such training programme,
 where the foreign national is required, pursuant to his or her employment with the foreign employer, to carry out those duties for the connected person or participate

in such training programme (in this Act referred to as an “intra-company transfer employment permit”);

- (e) to provide for a foreign national who is employed outside the State by a contractor or a subcontractor to perform duties in the State that arise out of a contract service agreement where the foreign national is required, pursuant to his or her employment with the contractor or subcontractor, to perform those duties (in this Act referred to as a “contract for service employment permit”);

- (f) to provide for the employment in the State of a foreign national—
 - (i) to whom an employment permit had previously been granted but such permit is no longer in force,
 - (ii) who is not in employment, or in the service of an employer, in the State,
 - (iii) who has received permission from the Minister for Justice to be in the State for the purposes of making an application for an employment permit, and
 - (iv) in respect of whom an offer of employment has been made in respect of an employment,(in this Act referred to as a “reactivation employment permit”);

- (g) to provide for the employment in the State of a foreign national to whom an exchange agreement, that is specified in regulations under *section 47*, applies in an employment that is referred to in the exchange agreement or to which the exchange agreement applies (in this Act referred to as an “exchange agreement employment permit”);

- (h) to provide for the employment in the State of a foreign national who has the required knowledge and skills and, where appropriate, qualifications and experience as may be required, for the development and operation of a sporting or cultural activity in the State (in this Act referred to as a “sports and cultural employment permit”);

- (i) to provide for the employment in the State of a foreign national who is—
 - (i) a full-time student, including a post-graduate student, enrolled in a course of study in a third-level institution outside the State,
 - (ii) pursuing a course of study that is wholly or substantially concerned with the qualifications or skills referred to in *section 49(1)(c)* and the Minister is satisfied, having regard to *section 49(1)(d)*, that there is a shortage of those skills or qualifications,
 - (iii) required, for the completion of that course of study, to obtain experience in the practice of those skills or qualifications with which the course of study is concerned for a period not exceeding the period prescribed, in accordance with *subsection (3)*, in an employment that requires the practice of those skills or qualifications, and

- (iv) required, at the end of the period concerned, to return to that institution outside the State to complete that course of study,
(in this Act referred to as an “internship employment permit”);
- (j) to provide for the employment in the State of a foreign national who is employed by an approved seasonal employer—
 - (i) in a seasonally recurrent employment specified in regulations made under *subsection (4)(a)*, and
 - (ii) during a period specified in regulations made under *subsection (4)(b)*,
(in this Act referred to as a “seasonal employment permit”).
- (3) In prescribing a period for the purposes of *paragraph (i) of subsection (2)*, the Minister shall have regard to the requirements of third-level institutions outside the State in relation to the standard period of experience required, for the completion of courses of study referred to in that paragraph, to be obtained in the practice of the skills or qualifications with which those courses of study are concerned in employments that require the practice of those skills or qualifications.
- (4) The Minister may make regulations—
 - (a) without prejudice to the generality of *section 47(2)(b)*, specifying the seasonally recurrent employments for which a seasonal employment permit may be granted, and
 - (b) specifying the period or periods in a period of 12 months during which a foreign national may be employed in the State pursuant to a seasonal employment permit, each such period being not less than 3 and not more than 7 months,and such employments and periods may be specified by reference to categories of seasonally recurrent employments for which a seasonal employment permit may be granted and by reference to one or more economic sectors into which they fall.

CHAPTER 3

*Approved seasonal employer***Application for approval as approved seasonal employer**

- 10.** (1) A person who wishes to employ a foreign national under a seasonal employment permit shall apply each year for approval as an approved seasonal employer in accordance with regulations under *sections 47 and 50*.
- (2) In considering an application made under *subsection (1)*, the Minister shall have regard to—
- (a) the extent to which a decision to approve the person as an approved seasonal employer would be consistent with economic policy for the time being of the Government,
 - (b) such of the matters referred to in this section as are relevant to the application,

- (c) if any of the provisions of *section 11* fall to be applied in relation to the application, any matters that, in the opinion of the Minister, are material to the application of such a provision or provisions, and
 - (d) the purpose of a seasonal employment permit.
- (3) *Section 18(2), (3)(a) and (6)* shall, subject to the modifications specified in *subsection (4)*, apply to the approval of, or the refusal to approve, a person as an approved seasonal employer under this section as they apply to the grant of, or the refusal to grant, an employment permit.
- (4) The modifications mentioned in *subsection (3)* are—
- (a) construing the references to an application for an employment permit as references to an application under *subsection (1)*, and
 - (b) any other necessary modifications.
- (5) Subject to *section 11*, the Minister may, on consideration of an application made under *subsection (1)*, approve a person as an approved seasonal employer for a 12 month period (in this section referred to as an “approved seasonal employer”).
- (6) Where the Minister approves a person under *subsection (5)*, a certificate of approval as an approved seasonal employer (in this section referred to as an “approved seasonal employer certificate”) shall be issued to the person concerned.
- (7) An approved seasonal employer certificate shall specify the following information:
- (a) the 12 month period for which the person concerned is approved as an approved seasonal employer;
 - (b) the name of the person concerned;
 - (c) any other information that, in the opinion of the Minister, is appropriate.
- (8) *Subsection (7)* is in addition to any other provision of this Act, or any provision of regulations under *section 50(7)*, specifying matters or information to be included in an approved seasonal employer certificate.
- (9) An approved seasonal employer certificate may be issued under *subsection (6)* in electronic form and by such electronic means as may be provided for in regulations made under *section 50(17)*.
- (10) The Minister shall maintain a register of approved seasonal employers and shall publish the register in such manner as he or she considers appropriate.

Refusal to approve person as approved seasonal employer

11. (1) *Section 32(2)(a) and (7) and section 33(1)(a), (c), (d), (f), (g), (h), (m) and (p) and (7)* shall, subject to the modifications specified in *subsection (2)*, apply to the refusal to approve a change of employer under *section 10* as they apply to the refusal to grant an employment permit.
- (2) The modifications mentioned in *subsection (1)* are—

- (a) in *section 32(2)(a)*, construing the reference to the person who has made the offer of employment as the person who has made an application under *section 10*,
 - (b) in *section 32(7)*, the omission of the reference to that section being subject to *sections 44(5)* and *45(5)*,
 - (c) in *section 33*—
 - (i) in *subsection (1)(a)*, construing the reference to the applicant for the permit as a reference to the person applying under *section 10*,
 - (ii) in *subsection (1)(c)*, construing the reference to the foreign national or the person who made the offer of employment as a reference to the person applying under *section 10*,
 - (iii) in *subsection (1)(m)*, construing the reference to the remuneration to be paid to the foreign national concerned as a reference to the remuneration proposed to be paid to foreign nationals under a seasonal employment permit by the person applying under *section 10*,
 - (iv) in *subsection (1)(p)*, construing the reference to the person identified in the application in accordance with *section 12(6)*, or as the case may be, the connected person, as a reference to the person applying under *section 10*, and
 - (v) in *subsection (7)*, construing the reference to the person identified in the application in accordance with *section 12(6)* as a reference to the person applying under *section 10*,
 - (d) construing the references to the grant of an employment permit as references to the approval of a person as an approved seasonal employer under *section 10*,
 - (e) construing the references to the application or the application for the permit as a reference to the application under *section 10*, and
 - (f) any other necessary modifications.
- (3) The Minister may refuse to approve a person as an approved seasonal employer where—
- (a) the application relates to a proposed employment that is not a seasonally recurrent employment specified in regulations made under *section 9(4)*,
 - (b) the Minister is satisfied that the person has failed to comply with regulations made under *section 47(8)(c)* on a previous occasion,
 - (c) the person has not made appropriate arrangements—
 - (i) to provide accommodation for the foreign nationals proposed to be employed by the person under a seasonal employment permit, or
 - (ii) to provide appropriate health insurance in respect of the foreign nationals proposed to be employed by the person under a seasonal employment permit should they require medical treatment for illness or injury during the period for which they will be in the State pursuant to the employment permit,

or

- (d) the person had—
- (i) fewer than such number of employees as may be prescribed,
 - (ii) less than such turnover as may be prescribed, or
 - (iii) less than such balance sheet total as may be prescribed,
- in the financial year immediately preceding the year in which the application under *section 10(1)* is made.
- (4) Where the Minister refuses to approve a person as an approved seasonal employer, the Minister shall notify, in writing, the applicant of—
- (a) the decision,
 - (b) the reasons for it, and
 - (c) the fact that the applicant may, in accordance with regulations under *section 50(9)*, submit the decision to the Minister for review under *subsection (5)* within the period referred to in *section 35(2)* as applied by *subsection (6)*.
- (5) A decision of the Minister to refuse to approve a person as an approved seasonal employer may, in accordance with regulations under *section 50(14)*, be submitted by the applicant therefor to the Minister for review.
- (6) *Section 35(2) to (8)* shall, subject to the modifications specified in *subsection (7)*, apply to a review under *subsection (5)* as they apply to a review under *section 35(1)*.
- (7) The modifications mentioned in *subsection (6)* are—
- (a) in *section 35(2)*, construing the reference to a submission under *subsection (1)* of that section as a reference to a submission under *subsection (5)*,
 - (b) in *section 35(3)*—
 - (i) construing the reference to the application for the employment permit as a reference to the application for approval as an approved seasonal employer, and
 - (ii) construing the reference to *subsections (1) and (2)* of that section as a reference to *subsection (5)* and *section 35(2)* (as applied by this section),
 - (c) construing the references to a decision referred to in *subsection (1)* or *(3)* of *section 35* as references to a decision referred to in *subsection (5)*,
 - (d) construing the references to the refusal or grant of an employment permit as references to the refusal or grant of approval of a person as an approved seasonal employer,
 - (e) construing the references to *section 34* as references to *subsection (4)*, and
 - (f) any other necessary modifications.

- (8) This section is without prejudice to the other requirements under this Act that must be satisfied with respect to the approval of a person as an approved seasonal employer under *section 10*.
- (9) In this section—
- “balance sheet total”, in relation to a person, means the aggregate of the amounts shown as assets in the person’s balance sheet;
- “financial year” means the period of 12 months beginning on 1 January and ending on 31 December;
- “turnover”, in relation to a person, means the amounts of revenue derived from the provision of goods and services falling within the person’s ordinary activities, after deduction of—
- (a) trade discounts,
 - (b) value-added tax, and
 - (c) any other taxes based on the amounts so derived,
- and, in the case of a person whose ordinary activities include the making or holding of investments, includes the gross revenue derived from such activities.

CHAPTER 4

*Application for employment permit***Application for employment permit**

- 12.** (1) Subject to *subsections (2) and (4)* and *section 31(1)*, an application for the grant of an employment permit in respect of the employment in the State of a foreign national may be made by—
- (a) the person proposing to employ the foreign national, or
 - (b) the foreign national.
- (2) Subject to *subsections (4) and (5)*—
- (a) where the application is made in respect of an intra-company transfer employment permit, the application shall be made by the connected person concerned,
 - (b) where the application is made in respect of a contract for service employment permit, the application shall be made by—
 - (i) the contractor, or
 - (ii) where the foreign national concerned is employed by a subcontractor, the subcontractor,
 - (c) where the application is made in respect of a foreign national who is employed under a contract of employment referred to in *paragraph (b)* of the definition of “contract of employment”, the application shall be made by the employment

agency with whom the foreign national has entered into that contract of employment, or

- (d) where the application is made in respect of a seasonal employment permit, the application shall be made by the person proposing to employ the foreign national who is, at the time of the making of the application, an approved seasonal employer.
- (3) An application shall, irrespective of who the applicant is, be expressed to be an application for the grant under *section 19* of an employment permit to the foreign national proposed to be employed in the State pursuant to the permit (in this Act referred to as the “foreign national concerned”).
 - (4) Subject to *section 23*, an application under this section, other than an application referred to in *subsection (5)*, shall not be made unless an offer of employment in the State has been made in writing to a foreign national within such period, preceding the application, as may be prescribed.
 - (5) An application—
 - (a) in respect of an intra-company transfer employment permit, shall not be made unless the application is accompanied by confirmation in writing that the foreign national concerned is required, pursuant to his or her employment with a foreign employer, to carry out duties in the State for, or participate in a training programme provided in the State by, a connected person in an employment referred to in *section 9(2)(d)(i)* or *(ii)*, and
 - (b) in respect of a contract for service employment permit, shall not be made unless the application is accompanied by confirmation in writing that the foreign national concerned is required, pursuant to his or her employment with the contractor or subcontractor concerned, to perform duties in the State that arise out of a contract service agreement.
 - (6) When making an application for the grant of an employment permit, the person making the application shall identify the person who, in the event an employment permit is granted in respect of the application, is or will be the employer of the foreign national concerned in relation to the employment in respect of which the application is made.
 - (7) When making an application for the grant of an employment permit, the person making the application shall specify the purpose, referred to in *section 9(2)*, in respect of which the application is made.
 - (8) An application in respect of a critical skills employment permit shall not be made unless the duration of the employment in respect of which the application is made is for a period not less than the period prescribed in respect of that employment for the purposes of this subsection.
 - (9) An application in respect of an intra-company transfer employment permit or a contract for service employment permit shall not be made in respect of a foreign national who is employed under a contract of employment referred to in *paragraph (b)* of the definition of “contract of employment”.

- (10) An application shall not be made for the grant of an employment permit in respect of an employment where, in the 6 months preceding the day on which the application is made—
- (a) a person was employed in the employment that is the subject of the application, and
 - (b) that person was dismissed by reason of redundancy from that employment within that period of 6 months.
- (11) An application for an employment permit shall be in writing and, subject to *subsection (12)*, be accompanied by such fee (if any) as may be prescribed.
- (12) (a) The fee referred to in *subsection (11)* shall not be payable where the application is made in respect of a class of foreign national, employer or employment permit specified in regulations made under *paragraph (b)*.
- (b) The Minister may make regulations specifying a class or classes of foreign nationals, employers or employment permits in respect of which the prescribed fee for an application shall not be payable.

Application – information to be provided

13. An application for an employment permit shall—

- (a) provide a full and accurate description of the employment in respect of which the application is made (the “employment concerned”) and the terms and conditions, including the hours of work in each week, and the duration, of the employment concerned,
- (b) provide information in respect of the qualifications, skills, knowledge and experience that are required for the employment concerned,
- (c) provide information and, where required, any relevant documents, in respect of the qualifications, skills, knowledge or experience of the foreign national concerned,
- (d) specify the place at or in which the employment concerned is to be carried out and, where the employment concerned is to be carried out in more than one place, specify each such place,
- (e) specify the remuneration and any deductions, where agreed, for board and accommodation or either of them in respect of the employment concerned,
- (f) in respect of the foreign national concerned—
 - (i) specify whether or not he or she has sought permission to land or be in the State on a previous occasion or has been in the State on a previous occasion without permission to land or be in the State,
 - (ii) where he or she is in the State at the time of the application, provide information and documents, where required by regulations made under

section 50(2)(c), relating to the permission granted to him or her to be in the State,

- (iii) where he or she is in employment in the State at the time of the application, provide information and documents, where required by regulations made under *section 50(2)(c)*, relating to the permission granted to him or her to be in such employment, and
- (iv) provide information as to whether he or she was, at any time prior to the application, in employment in the State and, where required by regulations made under *section 50(2)(c)*, provide any information and documents relating to the permission granted to him or her to be in such employment, or, as the case may be, an employment permit granted in respect of that employment,
- (g) provide such other information, documents and evidence to verify such information and documents—
 - (i) as may be prescribed, or
 - (ii) that the Minister may request and that, in the Minister’s opinion, might materially assist in the making of a decision on the application,
- (h) without prejudice to the generality of *paragraph (g)*, provide information, documents and evidence concerning the offer of employment referred to in *section 12(4)* or the requirement referred to in *section 12(5)(a)* or *(b)*,
- (i) provide information, documents and evidence in respect of the requirement under *section 12(10)* in relation to—
 - (i) the employment, in the period referred to in *section 12(10)*, of any person in the employment that is the subject of the application, and
 - (ii) confirmation that such person was not, within such period, dismissed by reason of redundancy from that employment,
- (j) where, pursuant to regulations made under *section 47(12)(a)*, accommodation, training or expenses are required to be provided to the foreign national concerned in the event that an employment permit is granted, provide information, documents and evidence in relation to arrangements made in respect of the provision of such accommodation or training to the foreign national concerned,
- (k) where the person identified in the application in accordance with *section 12(6)* is to be required, in the event that an employment permit is granted to the foreign national concerned, to take measures specified in regulations made under *section 47(12)(b)*, provide information, documents and evidence in relation to the arrangements that will be made by that person in respect of the taking of such measures,
- (l) in respect of the person identified in the application in accordance with *section 12(6)* or a connected person—

- (i) specify whether or not the person is, or was previously, the employer of a foreign national to whom an employment permit has been granted on a previous occasion, or is, or was previously, a connected person in relation to such a foreign national, and
 - (ii) where the person is, or was previously, the employer of a foreign national to whom an employment permit has been granted on a previous occasion, or is, or was previously, a connected person in relation to such a foreign national, provide information, documents and evidence in relation to compliance by that person with any conditions attaching to that employment permit,
- and
- (m) in respect of the foreign national concerned—
 - (i) specify whether or not he or she has been granted an employment permit on a previous occasion,
 - (ii) where he or she has been granted an employment permit on a previous occasion, provide information and documents relating to that employment permit and the employment in respect of which it was granted, and
 - (iii) where such an employment permit is still in force, provide confirmation in writing from the foreign national concerned that the employment in respect of which that permit was granted will be terminated upon the grant of an employment permit in respect of the application concerned.

Foreign nationals who may apply for dependant employment permit

- 14.** (1) An application for a dependant employment permit may be made under *section 12* in respect of a foreign national referred to in *subsection (2)* or *(3)*.
- (2) A dependant employment permit may, subject to this Act, be granted, in accordance with *section 19*, to a foreign national who is—
- (a) a dependant of a primary permit holder where, at the time the application for the employment permit is made—
 - (i) the employment permit granted to the primary permit holder is in force, and
 - (ii) that primary permit holder is in the employment specified in that employment permit,
- or
- (b) a dependant of a primary permit holder where, at the time the application for the employment permit is made, the employment permit granted to the primary permit holder has expired and the primary permit holder is in employment in the State pursuant to the permission and the condition referred to in *section 8(1)(f)* and such dependant—
 - (i) has obtained permission to land, and reside, in the State by virtue of being the dependant of a primary permit holder referred to in this paragraph or *paragraph (a)*, and

- (ii) is in the State pursuant to, and in compliance with, the permission referred to in *subparagraph (i)* at the time the application for the employment permit is made.
- (3) A dependant employment permit may, subject to this Act, be granted, in accordance with *section 19*, to a foreign national who is—
 - (a) a dependant of a research project researcher where, at the time the application for the employment permit is made—
 - (i) the permission granted, pursuant to Directive 2005/71/EC, to the research project researcher by the Minister for Justice to carry out research in the State has not expired, and
 - (ii) the research project researcher is carrying out research pursuant to Directive 2005/71/EC,
 - or
 - (b) a dependant of a research project researcher where, at the time the application for the employment permit is made, the research project researcher is in employment in the State pursuant to the permission and the condition referred to in *section 8(1)(f)* and such dependant—
 - (i) has obtained permission to land, and reside, in the State by virtue of being the dependant of the research project researcher referred to in this paragraph or *paragraph (a)*, and
 - (ii) is in the State pursuant to, and in compliance with, the permission referred to in *subparagraph (i)* at the time the application for the employment permit is made.

Amendment by Minister of application

- 15.** (1) The Minister may, at the request of an applicant, amend, in accordance with regulations made under *subsection (2)*, such of the matters specified in an application as are prescribed in those regulations.
- (2) The Minister may make regulations—
- (a) prescribing the matters specified in an application that may be amended under *subsection (1)*, and
 - (b) the procedure relating to the making of any such amendment to an application.

Recommendation by enterprise development agency

- 16.** (1) An enterprise development agency may make a recommendation in writing to the Minister in respect of an application for—
- (a) the grant of an employment permit, or
 - (b) the renewal of an employment permit referred to in *section 39(4)*,

that the employment permit that is the subject of the application be granted or renewed, as the case may be, in respect of the employment concerned and to the foreign national concerned.

- (2) The Minister shall have regard to a recommendation referred to in *subsection (1)*.
- (3) Nothing in *subsection (2)* shall be construed as requiring the Minister to grant or renew an employment permit on foot of a recommendation referred to in *subsection (1)*.

Consultation by Minister in respect of certain applications

17. The Minister may, in respect of an application for a sports and cultural employment permit, consult with any person who, the Minister is satisfied, has knowledge of or expertise in the sport or cultural activity concerned.

Consideration by Minister of application

18. (1) In considering an application for an employment permit, the Minister shall, subject to *subsection (3)*, have regard to—
 - (a) the extent to which a decision to grant the permit would be consistent with economic policy for the time being of the Government,
 - (b) whether the knowledge and skills and, where appropriate, the qualifications and experience referred to in *section 13(b)* are required for, or relevant to, the employment concerned,
 - (c) such of the other matters referred to in *section 12* or *13* as are relevant to the application,
 - (d) if any of the provisions of *section 32* or *33* fall to be applied in relation to the application, any matters that, in the opinion of the Minister, are material to the application of such a provision or provisions, and
 - (e) the different purposes, specified in *section 9(2)*, for which an employment permit may be granted.
- (2) In considering an application for an employment permit, the Minister may take such steps as he or she considers necessary to establish the accuracy or authenticity of the information provided in respect of the application.
- (3) Where the Minister is of the opinion that the application is incomplete in any material respect, the Minister may return the application, together with any documentation received, to the applicant, and where the Minister does so, he or she shall—
 - (a) notify the applicant in writing of the matters that are incomplete and that the application will not be considered, and
 - (b) return a prescribed portion of the fee to the person who paid the fee or a person referred to in *subsection (4)*.

- (4) The person who paid the fee referred to in *subsection (3)(b)* may nominate a person to whom the portion of the fee is to be returned to in the case where such fee is to be returned.
- (5) The Minister may give priority to the consideration of applications for employment permits in respect of such of the purposes referred to in *section 9(2)* as he or she deems appropriate having regard to the demands of the economy and the skills required in certain economic sectors or employments in the State.
- (6) This section is subject to any regulations made under *section 47* or *50* that apply in relation to the application concerned and nothing in this section authorises the Minister to make a decision on an application for a grant of an employment permit that he or she would not be authorised to make by reason of the operation of those regulations.

CHAPTER 5

Grant of employment permit

Grant of employment permit by Minister

19. (1) Subject to *sections 9, 10, 22, 23, 31, 32, 33, 44, 45* and *47*, the Minister may, on consideration of an application made to him or her, grant an employment permit.
- (2) Subject to *sections 27, 29* and *31*, an employment permit granted under *subsection (1)* shall be granted to the foreign national concerned and shall, other than in a case referred to in *subsection (3)*, operate to permit the employment in the State of the foreign national concerned—
 - (a) in the employment specified in the application, and
 - (b) by the person identified in the application in accordance with *section 12(6)* as the employer of the foreign national in relation to that employment.
- (3) In the case of an application for an intra-company transfer employment permit, an employment permit granted under *subsection (1)* shall operate to permit the employment in the State of the foreign national concerned in the employment specified in the application in respect of which that foreign national is to carry out duties for, or participate in a training programme provided by, the connected person specified in that application.
- (4) An employment permit shall specify the period for which the foreign national concerned may be employed in the State pursuant to the permit and the permit shall, subject to the provisions of this Act, remain in force for that period.
- (5) An intra-company transfer employment permit shall specify the period for which the foreign national concerned may carry out duties for, or participate in a training programme provided by, the connected person, pursuant to the permit and the permit shall, subject to the provisions of this Act, remain in force for that period accordingly.
- (6) The period that shall be specified in the employment permit shall, subject to *subsections (7)* and *(8)* and *section 31*, not exceed a prescribed period beginning on

the date of the grant of the permit or, where a different date is specified in such permit as the date on which it is to come into force, that date.

- (7) The period that shall be specified in a dependant employment permit shall be the lesser of—
- (a) the period referred to in *subsection (6)*, or
 - (b) the period beginning on the date of the grant of the permit or, where a different date is specified in such permit as the date on which it is to come into force, that date and ending on the date of the expiry of—
 - (i) the employment permit granted to the primary permit holder referred to in *section 14(2)(a)*,
 - (ii) the permission, referred to in *section 14(2)(b)*, given to the primary permit holder referred to in *section 14(2)(b)*,
 - (iii) the permission referred to in *section 14(3)(a)*, given to the research project researcher referred to in *section 14(3)(a)*, or
 - (iv) the permission referred to in *section 14(3)(b)*, given to the research project researcher referred to in *section 14(3)(b)*.
- (8) The period that shall be specified in—
- (a) an intra-company transfer employment permit in respect of an employment referred to in *section 9(2)(d)(ii)* shall not exceed the period prescribed for the purposes of this paragraph,
 - (b) an internship employment permit shall not exceed the period prescribed for the purposes of *section 9(2)(i)*, and
 - (c) a seasonal employment permit shall not exceed the period referred to in *section 9(2)(j)(ii)*.
- (9) A foreign national to whom an employment permit is granted shall commence the employment in respect of which the permit is granted within a prescribed period beginning on the date of the grant of the permit or, where a different date is specified in such permit as the date on which it is to come into force, that date.

Cancellation of previous employment permit still in force

- 20.** (1) Where the Minister decides to grant an employment permit in respect of a foreign national, the Minister shall cancel any employment permit previously granted in respect of the foreign national concerned that is, on the date of the decision, still in force.
- (2) Where an employment permit in respect of a foreign national is cancelled in accordance with *subsection (1)*, the Minister shall notify in writing—
- (a) the foreign national, and
 - (b) the employer specified in the employment permit,

that the employment permit is cancelled with effect from the date specified therein and will cease to be in force from that date.

Issue of employment permit, information to be specified in permit, etc.

21. (1) The Minister shall, subject to *subsection (5)*, cause an employment permit granted under *section 19* to be issued to—
- (a) the foreign national concerned, and
 - (b) the person referred to in *section 19(2)(b)* or *section 19(3)*, as the case may be.
- (2) An employment permit shall specify the following information:
- (a) the purpose referred to in *section 9(2)* for which the permit is granted;
 - (b) a description of the employment in respect of which the permit has been granted and a statement of the remuneration and any deductions, where agreed, for board and accommodation or either of them in respect of the employment;
 - (c) the name of the employer of the foreign national concerned in relation to the employment in respect of which the permit has been granted;
 - (d) a statement of the requirement under the National Minimum Wage Act 2000 that the foreign national concerned be paid the national minimum hourly rate of pay and the effect of *subsections (1), (2), (3) and (4) of section 55*;
 - (e) a statement that a new application for the grant of an employment permit may be made in respect of the foreign national concerned subject to, and in accordance with, this Act;
 - (f) a statement of any conditions attaching to the grant of the employment permit;
 - (g) any other information that, in the opinion of the Minister, is appropriate.
- (3) An employment permit shall include or be accompanied by a summary of the principal employment rights of an employee.
- (4) *Subsections (2) and (3)* are in addition to any other provision of this Act, or any provision of regulations under *section 50(2)*, specifying matters or information to be included in an employment permit.
- (5) An employment permit shall not be issued under *subsection (1)* in respect of a foreign national to whom an employment permit was previously granted unless the employment permit previously granted—
- (a) is no longer in force, or
 - (b) is cancelled in accordance with *section 20(1)* and the date specified in the notice referred to in *section 20(2)* has passed.
- (6) An employment permit may be issued under this section in electronic form and by such electronic means as may be provided for in regulations made under *section 50(17)*.

Restriction on grant of employment permit

22. (1) Subject to *subsections (2) and (3)*, an employment permit shall not be granted unless the Minister is satisfied that, on the date the application for the employment permit was made, 50 per cent or more of the employees of—
- (a) the person who has made the offer of employment,
 - (b) in the case of an application for a contract for service employment permit, the contractor, subcontractor or the relevant person concerned, or
 - (c) in the case of an application for an intra-company transfer employment permit, the connected person concerned,
- are either—
- (i) nationals of one or more Member States of the EEA,
 - (ii) nationals of the Swiss Confederation,
 - (iii) citizens of the United Kingdom of Great Britain and Northern Ireland, or
 - (iv) a combination of any of the nationals or citizens referred to in *paragraphs (i), (ii) and (iii)*.
- (2) In the case of an application for a critical skills employment permit, a general employment permit or an intra-company transfer employment permit, *subsection (1)* shall not apply to such application where—
- (a) on the day on which the application is made, the person who has made the offer of employment or, as the case may be, the connected person has been registered with the Revenue Commissioners for a prescribed period,
 - (b) an enterprise development agency has made a recommendation referred to in *section 16* in respect of that application, and
 - (c) the Minister is satisfied that, having regard to such recommendation, granting the employment permit that is the subject of the application concerned, will contribute to the further development of employment in the State.
- (3) In the case of an application for a dependant employment permit, a general employment permit, a reactivation employment permit or a sports and cultural employment permit, *subsection (1)* shall not apply to such application where—
- (a) on the day on which the application is made, the person referred to in *subsection (1)(a)* has no employees, and
 - (b) the foreign national concerned will be the sole employee of the person referred to in *subsection (1)(a)* on the date on which the employment that is the subject of the application is to commence,
- and the person making the application shall, in addition to any information required under *section 13*, or as may be specified in regulations under *section 50*, in respect of an application, provide the Minister with any information and documents the Minister may require to be satisfied with regard to the matters specified in *paragraphs (a) and (b)*.

- (4) This section and *section 23* are in addition to—
- (a) in respect of *section 23*, Regulation (EU) No. 492/2011 of the European Parliament and of the Council of 5 April 2011² on freedom of movement for workers within the Union, and
 - (b) the other requirements that this Act specifies must be satisfied with respect to the grant of an employment permit and are without prejudice to any regulations for the time being in force under *section 47*.

Establishing need for grant of certain employment permits

- 23.** (1) This section applies to an application for a general employment permit, seasonal employment permit and a contract for service employment permit.
- (2) Subject to *subsections (6) and (7)*, the Minister shall not grant an employment permit in respect of an application to which this section applies unless the Minister is satisfied that—
- (a) before the application was made, a notice referred to in *subsection (3)* in respect of the employment the subject of the application had been published in accordance with this section, and
 - (b) the application was made within the period referred to in *subsection (5)*.
- (3) Where an application to which this section applies is made—
- (a) the person who makes the offer of employment concerned, or
 - (b) in the case of an application for a contract for service employment permit, the contractor or where the application is made by a subcontractor, the subcontractor, concerned,
- shall satisfy the Minister that he or she has, before making the application, offered the employment in respect of which the application is made to—
- (i) an Irish citizen, or
 - (ii) a foreign national referred to in any of *paragraphs (a) to (g) of section 8(1)*,
- by causing a notice of the offer of the employment concerned to be published in accordance with *subsection (4)*.
- (4) The person referred to in *subsection (3)(a)* or, as the case may be, the contractor or subcontractor referred to in *subsection (3)(b)*—
- (a) shall cause the notice referred to in *subsection (3)* to be published—
 - (i) on one or more online platforms, as may be specified in regulations under this section, the principal purpose of which is to publish offers of employments to Irish citizens and foreign nationals referred to in *subsection (3)(ii)*, and

² OJ L141, 27.5.2011, p. 1

- (ii) on one or more online platforms, other than that referred to in *subparagraph (i)*, as may be specified in regulations under this section, the principal purpose of which is to publish offers of employment,
 - (b) shall, in respect of the publication of the notice referred to in *subsection (3)* on an online platform referred to in *paragraph (a)(i)*, place that notice for publication with one or more persons, as may be specified in regulations under this section,
 - (c) shall publish the notice referred to in *subsection (3)* in accordance with *paragraph (a)* for a period that is not less than the period, as may be specified in regulations under this section, for which the notice is to be published, and
 - (d) may, in addition to the publication under *paragraphs (a), (b) and (c)*, publish the notice in such other manner as may be specified in regulations under this section.
- (5) Where, following the publication of the notice referred to in *subsection (3)*, an application to which this section applies is made under *section 12*, that application shall be made within a prescribed period from the day on which that notice was first published on an online platform referred to in *subsection (4)(a)*.
- (6) *Subsection (2)* shall not apply to an application to which this section applies where—
- (a) an enterprise development agency has made a recommendation referred to in *section 16* in respect of the application, and
 - (b) the Minister is satisfied that, having had regard to such recommendation, granting the employment permit the subject of the application will contribute to the further development of employment in the State.
- (7) *Subsection (2)* shall not apply to an application to which this section applies where—
- (a) the Minister is satisfied that, having regard to *section 49(1)(d)*, there is a shortage of the skills referred to in *section 49(1)(d)* required for that employment and the Minister has, in regulations made under *section 47(20)*, specified the employment as an employment to which *subsection (2)* shall not apply,
 - (b) the application is made in respect of a foreign national to whom *section 45* applies and is an application referred to in *section 45(4)*, or
 - (c) the application is made in respect of an employment for the care of a person with exceptional medical needs and the Minister is satisfied that—
 - (i) the foreign national, in respect of whom the application is made, has been providing care to the person before the application was made,
 - (ii) the person has developed a high level of dependence on that foreign national,
 - (iii) the employment is not an employment to which regulations under *section 47(2)(c)* apply, and
 - (iv) having regard to the circumstances of the person and the foreign national concerned, it is not appropriate to publish a notice of the offer of that employment.

- (8) The Minister may, without prejudice to the generality of *section 50(1)*, make regulations under this subsection for the publication of the notice referred to in *subsection (3)*, to provide for—
- (a) one or more persons with whom such notice shall be placed for publication on an online platform referred to in *subsection (4)(a)(i)* or *(ii)* where such person or persons own or operate the online platform or publish notices on such online platform,
 - (b) one or more online platforms, referred to in *subsection (4)(a)(i)* or *(ii)* on which such notice is to be published,
 - (c) the duration of the period, referred to in *subsection (4)(c)* for which such notice shall be published on an online platform referred to in *subsection (4)(a)(i)* or *(ii)*, which the Minister considers to be sufficient to afford an opportunity to Irish citizens and the foreign nationals referred to in *subsection (3)* to apply for the employment concerned,
 - (d) the publication referred to in *subsection (4)(d)* of such notice, including the period for the publication of such notice, and different provision may be made for different classes of publication for any such notice including publication by electronic means and different provision may be made for such publication of the offer of employment to citizens and foreign nationals referred to in *subsection (3)(ii)*,
 - (e) the form, procedure for and the manner in which the publication of the offer of employment, referred to in *subsection (2)*, to Irish citizens and foreign nationals referred to in *subsection (3)* is to be made,
 - (f) the period within which an application to which this section applies shall be made after the day the notice referred to in *subsection (3)* is first published on an online platform referred to in *subsection (4)(a)(i)*,
 - (g) information and documents as the Minister may require to satisfy himself or herself that the notice was published in accordance with this section and the application was made within the period referred to in *subsection (5)* and without prejudice to the generality of the foregoing such information and documents may include—
 - (i) information and documents demonstrating that the notice was placed with the persons specified by the Minister in regulations under that section, and
 - (ii) documents identifying that the notice was published on the online platform as required under this section,
 - and
 - (h) such evidence that the Minister may reasonably require in order to verify any information or documents to be furnished to the Minister pursuant to this section.
- (9) The person who makes the offer of employment, or as the case may be, the contractor or subcontractor concerned shall not publish a notice referred to in *subsection (3)*

unless the employment is specified in regulations under this Act as being an employment for which an employment permit may be granted.

- (10) The Minister may make enquiries to satisfy himself or herself that the person referred to in *subsection (3)(a)* or *(b)* has complied with *subsection (3)*.
- (11) *Section 22(4)* applies to this section.
- (12) In this section, “online platform” means an electronic system for the online publication of information and includes websites, software or any other electronic technology that provides for the online publication of information.

Conditions of grant of intra-company transfer employment permit

24. (1) Where an intra-company transfer employment permit is granted to a foreign national, without prejudice to any other requirement under this Act or to the employment outside the State of the foreign national—
- (a) notwithstanding that the remuneration, in so far as it relates to salary is to be paid by the foreign employer, it shall be a condition of the grant of the employment permit that, in respect of the remuneration, in so far as it relates to the salary to be paid to the foreign national by the foreign employer for the period for which the employment permit is granted, the hourly rate of that salary shall be not less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in *paragraph (b)* of the definition of “standard working week remuneration”,
 - (b) in respect of the payment of the remuneration to the foreign national in so far as it relates to—
 - (i) board and accommodation, or either of them, the payment may be made by the foreign employer and the connected person or by either of them, and
 - (ii) health insurance, the payment may be made by the foreign employer and the connected person or by either of them,and
 - (c) it shall be a condition of the grant of the permit that the statement of earnings provided by the foreign employer to the foreign national during the period for which the employment permit is in force shall, in addition to the information on the gross amount of the remuneration and the deductions made from it, specify—
 - (i) the amount of the additional payment referred to in *subsection (4)(b)*,
 - (ii) the total amount referred to in *subsection (4)(c)*, and
 - (iii) the amount of the deductions referred to in *subsection (4)(d)*.
- (2) Where—
- (a) in respect of the remuneration, in so far as it relates to the salary, to be paid to a foreign national in respect of whom an application for the grant of an intra-company transfer employment permit is made, and

(b) in respect of the condition referred to in *subsection (1)(a)*,

the hourly rate of the salary paid outside the State by the foreign employer to the foreign national is less than the national minimum hourly rate of pay, the foreign employer shall, in respect of that condition, make an additional payment to the foreign national for the period for which the employment permit is in force so that the hourly rate of the salary to be paid by the foreign employer to the foreign national during the period for which the employment permit is in force is not less than the national minimum hourly rate of pay.

(3) Where, in respect of the remuneration, in so far as it relates to the salary, to be paid to a foreign national in respect of whom an application for the grant of an intra-company transfer employment permit is made and the condition referred to in *subsection (1)(a)*—

(a) the appropriate hourly rate of pay for the employment in respect of which the application is made is the hourly rate referred to in *paragraph (b)* of the definition of “standard working week remuneration”, and

(b) the hourly rate of the salary paid outside the State by the foreign employer to the foreign national is less than that hourly rate of pay,

the foreign employer shall, in respect of that condition, make an additional payment to the foreign national for the period for which the employment permit is in force so that the hourly rate of the salary to be paid by the foreign employer to the foreign national during the period for which the employment permit is in force is not less than the hourly rate referred to in *paragraph (b)* of the definition of “standard working week remuneration”.

(4) Without prejudice to *section 13*, the connected person shall, when making an application pursuant to *section 12(2)(a)*, provide, in addition to the information required under *section 13(e)*, information and documents, including any information and documents as may be specified in regulations under *section 50*, in respect of—

(a) the amount of the salary that is paid, on the day the application is made, by the foreign employer to the foreign national in respect of whom the application is made, in such form as may be specified in regulations under *section 50*,

(b) where, having regard to the amount of salary referred to in *paragraph (a)* and the number of hours worked by the foreign national, the hourly rate of that amount of salary is less than—

(i) the national minimum hourly rate of pay and an additional payment referred to in *subsection (2)* is to be made, or

(ii) where appropriate, an hourly rate referred to in *subsection (3)*, and an additional payment referred to in *subsection (3)* is to be made,

the amount of the additional payment to be made by the foreign employer to the foreign national for the period for which the employment permit is in force, in such form as may be specified in regulations under *section 50*,

- (c) the total amount of the amounts referred to in *paragraphs (a) and (b)* in such form as may be specified in regulations under *section 50*,
 - (d) all deductions to be made by the foreign employer to—
 - (i) the amount referred to in *paragraph (a)*, and
 - (ii) where an additional payment referred to in *paragraph (b)* is required to be made, the amount of that additional payment, referred to in *paragraph (b)*,
 - (e) the total amount referred to in *paragraph (c)*, the amount to be paid to the foreign national during the period for which the employment permit is in force after the deductions referred to in *paragraph (d)* have been made, in such form as may be specified in regulations under *section 50*,
 - (f) the payment of board and accommodation, or either of them, and where either or both are provided directly by the connected person or the foreign employer, or both of them, the monetary value of the board and accommodation, or, as the case may be, either of them, and
 - (g) the arrangements for making the additional payment referred to in *paragraph (b)(i) or (b)(ii)*.
- (5) A foreign national referred to in *section 9(2)(d)* shall be employed by the foreign employer concerned for a period that is not less than the minimum period of employment specified in regulations made under *section 47* before an application for an employment permit may be made in respect of him or her.

Conditions of grant of contract for service employment permit

25. (1) Where a contract for service employment permit is granted to a foreign national, without prejudice to any other requirement under this Act or to the employment outside the State of the foreign national—
- (a) notwithstanding that the remuneration in so far as it relates to salary, is paid to the foreign national outside the State, it shall be a condition of the grant the employment permit that, in respect of the remuneration, in so far as it relates to the salary to be paid to the foreign national by the contractor or the subcontractor, as the case may be, for the period for which the employment permit is granted, the hourly rate of that salary shall be not less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in *paragraph (b)* of the definition of “standard working week remuneration”, and
 - (b) it shall be a condition of the grant of the permit that the statement of earnings provided by the contractor or the subcontractor, as the case may be, to the foreign national during the period for which the employment permit is in force shall, in addition to the information on the gross amount of the remuneration and the deductions made from it, specify—
 - (i) the amount of the additional payment referred to in *subsection (4)(b)*,
 - (ii) the total amount referred to in *subsection (4)(c)*, and

(iii) the amount of the deductions referred to in *subsection (4)(d)*.

(2) Where—

(a) in respect of the remuneration, in so far as it relates to the salary, to be paid to a foreign national in respect of whom an application for the grant of a contract for service employment permit is made, and

(b) in respect of the condition referred to in *subsection (1)(a)*,

the hourly rate of the salary paid outside the State by the contractor or the subcontractor, as the case may be, to the foreign national is less than the national minimum hourly rate of pay, the contractor or the subcontractor, as the case may be, shall, in respect of that condition, make an additional payment to the foreign national for the period for which the employment permit is in force so that the hourly rate of the salary to be paid by the contractor or the subcontractor to the foreign national during the period for which the employment permit is in force is not less than the national minimum hourly rate of pay.

(3) Where, in respect of the remuneration, in so far as it relates to the salary, to be paid to a foreign national in respect of whom an application for the grant of a contract for service employment permit is made and the condition referred to in *subsection (1)(a)*—

(a) the appropriate hourly rate of pay for the employment in respect of which the application is made is the hourly rate referred to in *paragraph (b)* of the definition of “standard working week remuneration”, and

(b) the hourly rate of the salary paid outside the State by the contractor or the subcontractor, as the case may be, to the foreign national is less than that hourly rate of pay,

the contractor or the subcontractor, as the case may be, shall, in respect of that condition, make an additional payment to the foreign national for the period for which the employment permit is in force so that the hourly rate of the salary to be paid by the contractor or the subcontractor to the foreign national during the period for which the employment permit is in force is not less than the hourly rate referred to in *paragraph (b)* of the definition of “standard working week remuneration”.

(4) Without prejudice to *section 13*, the contractor or the subcontractor, as the case may be, shall, when making an application pursuant to *section 12(2)(b)*, provide, in addition to the information required under *section 13(e)*, information and documents, including any information and documents as may be specified in regulations under *section 50*, in respect of—

(a) the amount of the salary that is paid, on the day the application is made, by the contractor or the subcontractor to the foreign national in respect of whom the application is made, in such form as may be specified in regulations under *section 50*,

- (b) where, having regard to the amount of salary referred to in *paragraph (a)* and the number of hours worked by the foreign national, the hourly rate of that amount of salary is less than—
 - (i) the national minimum hourly rate of pay and an additional payment referred to in *subsection (2)* is to be made, or
 - (ii) where appropriate, the hourly rate referred to in *subsection (3)*, and an additional payment referred to in *subsection (3)* is to be made,the amount of the additional payment to be made by the contractor or the subcontractor to the foreign national for the period for which the employment permit is in force, in such form as may be specified in regulations under *section 50*,
 - (c) the total amount of the amounts referred to in *paragraphs (a)* and *(b)* in such form as may be specified in regulations under *section 50*,
 - (d) all deductions to be made by the contractor or the subcontractor to—
 - (i) the amount referred to in *paragraph (a)*, and
 - (ii) where an additional payment referred to in *paragraph (b)* is required to be made, the amount of that additional payment, referred to in *paragraph (b)*,
 - (e) the total amount referred to in *paragraph (c)*, the amount to be paid to the foreign national during the period for which the employment permit is in force after the deductions referred to in *paragraph (d)* have been made in such form as may be specified in regulations under *section 50*,
 - (f) the payment of board and accommodation, or either of them, and where either or both are provided directly by the contractor or, as the case may be, the subcontractor, the monetary value of the board and accommodation, or as the case may be, either of them, and
 - (g) the arrangements for making the additional payment referred to in *paragraph (b)(i)* or *(b)(ii)*.
- (5) A foreign national referred to in *section 9(2)(e)* shall be employed by the contractor or the subcontractor concerned for a period that is not less than the minimum period of employment specified in regulations made under *section 47* before an application for an employment permit may be made in respect of him or her.

Change of ownership of business: change to name of employer, connected person or relevant person

26. Where, in the case of a transfer to which the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003) applies that takes effect during the period for which an employment permit is in force, and pursuant to that transfer, there is—
- (a) a change to the name of the employer or, as the case may be, the connected person, specified in the employment permit—

- (i) the employer or, as the case may be, the connected person, shall notify the Minister of that change of name, and
 - (ii) the Minister may amend the employment permit to reflect that change of name of the employer or, as the case may be, the connected person and may request such information and documents, as may be specified in regulations under *section 50* in respect of such change of name,
- or
- (b) a change to the name of the relevant person—
 - (i) the contractor or the subcontractor, or, as the case may be, shall notify the Minister of that change of name, and
 - (ii) the Minister may amend the employment permit to reflect that change of name of the relevant person and may request such information and documents, as may be specified in regulations under *section 50*, in respect of such change of name.

Change of employer: application and approval of change

27. (1) This section applies where—

- (a) a general employment permit or a critical skills employment permit has been granted to a foreign national,
 - (b) a prescribed period has elapsed since the foreign national first commenced employment in the State pursuant to an employment permit, and
 - (c) the permit referred to in *paragraph (a)* is in force and will remain in force for at least 2 months from the date of the making of an application under this section.
- (2) An application to change the employer specified in a permit referred to in *subsection (1)(a)* (in this section referred to as the “existing employer”) to a different employer (in this section referred to as the “new employer”) may be made by—
- (a) the new employer, or
 - (b) the foreign national.
- (3) An application under this section shall not be made unless an offer of employment in the State has been made in writing to the foreign national by the new employer within such period, preceding the application, as may be prescribed.
- (4) A person making an application under this section shall provide, with the application, such information, documents and evidence as may be specified in regulations under *section 50* in respect of a change to the employer specified in an employment permit.
- (5) A person making an application under this section shall furnish to the Minister—
- (a) such information (being information of a similar nature to that referred to in *section 13*) as the Minister specifies in a direction in writing given by him or her for the purposes of this subsection, and

- (b) if the Minister so requests, such statement or evidence, in such form as the Minister requests, confirming that the applicant has complied with the terms of the employment permit and the provisions of this Act during the period ending on the making of the application under this section.
- (6) The Minister shall publish, in such manner as he or she considers appropriate, any direction given under *subsection (5)(a)*.
- (7) An application under this section shall be in writing and, subject to *subsection (8)*, be accompanied by such fee (if any) as may be prescribed.
- (8) (a) The fee referred to in *subsection (7)* shall not be payable where the application is made in respect of a class of foreign national, employer or employment permit specified in regulations made under *paragraph (b)*.
- (b) The Minister may make regulations specifying a class or classes of foreign nationals, employers or employment permits in respect of which the prescribed fee for such application shall not be payable.
- (9) *Sections 18* and *22* shall, subject to the modifications specified in *subsection (10)*, apply to the approval of, or the refusal to approve, a change of employer under this section as they apply to the grant of, or the refusal to grant, an employment permit.
- (10) The modifications mentioned in *subsection (9)* are—
- (a) in *section 18*—
- (i) in *subsection (1)(c)*, construing the reference to *section 12* or *13* as a reference to this section, and
- (ii) in *subsection (1)(d)*, construing the reference to *section 32* or *33* as a reference to *section 28*,
- (b) construing the references to the grant of an employment permit as references to the approval of a change of employer under this section,
- (c) construing the references to an application for an employment permit or an application for a grant of an employment permit as references to an application under this section, and
- (d) any other necessary modifications.
- (11) Subject to *sections 9, 22* (as applied by *subsection (9)*) and *28*, the Minister may, on consideration of an application made under this section, approve a change to the employer specified in a permit referred to in *subsection (1)*.
- (12) Where the Minister approves a change of employer under *subsection (11)*, the permit concerned shall operate to permit the employment in the State of the foreign national concerned by the new employer in the employment specified in the application.
- (13) The approval by the Minister of a change of employer under this section shall not operate to change the period for which the foreign national concerned may be employed in the State pursuant to the permit.

- (14) Where the Minister approves a change of employer under this section, the foreign national concerned shall commence employment with the new employer within a prescribed period.
- (15) Where the Minister approves a change of employer under this section—
- (a) the Minister shall amend the permit concerned to specify the name of the new employer,
 - (b) the Minister may, where appropriate, amend the permit concerned in so far as it specifies the description and statement referred to in *section 21(2)(b)*, any statement of conditions attaching to the permit referred to in *section 21(2)(f)*, and any information referred to in *section 21(2)(g)*, and
 - (c) the Minister shall, after making the amendments in *paragraph (a)* and, where applicable, *paragraph (b)*, issue the permit to the foreign national concerned and the new employer.

Change of employer: refusal to approve change

28. (1) *Section 32(1), (2)(a) and (7) and section 33(1) (other than paragraph (n)), (2), (3), (4) and (7)* shall, subject to the modifications specified in *subsection (2)*, apply to the refusal to approve a change of employer under *section 27* as they apply to the refusal to grant an employment permit.
- (2) The modifications mentioned in *subsection (1)* are—
- (a) in *section 32(7)*, the omission of the reference to that section being subject to *sections 44(5) and 45(5)*,
 - (b) in *section 33*—
 - (i) in *subsection (1)(b)*, construing the reference to *section 12(12)* as a reference to *section 27(8)*,
 - (ii) in *subsection (1)(p)*, construing the reference to the person identified in the application in accordance with *section 12(6)*, or as the case may be, the connected person, as a reference to the new employer, and
 - (iii) in *subsection (7)*, construing the reference to the person identified in the application in accordance with *section 12(6)* as a reference to the new employer,
 - (c) construing the references to the grant of an employment permit as references to the approval of a change of employer under *section 27*,
 - (d) construing the references to the application for the permit or the application as a reference to the application under *section 27*, and
 - (e) any other necessary modifications.
- (3) The Minister may refuse to approve a change of employer under *section 27* if—

- (a) the foreign national is not, in the opinion of the Minister, employed by the existing employer in the employment specified in the employment permit referred to in *section 27(1)*,
 - (b) the employment of the foreign national by the new employer—
 - (i) in the case of a general employment permit, is not the same type of employment for which the employment permit referred to in *section 27(1)* was granted, or
 - (ii) in the case of a critical skills employment permit, does not fall within the same category of employment (being a category of employment specified in regulations under *section 47* in respect of which a critical skills employment permit may be granted) as the employment for which the employment permit referred to in *section 27(1)* was granted,
 - (c) the terms and conditions of the employment of the foreign national by the new employer are not comparable to those of the employment of the foreign national by the existing employer, including, in the case of a general employment permit, those relating to any of the matters specified under *section 47(12)* as a condition for the grant of such a permit,
 - (d) the foreign national has spent a continuous period of not less than 3 months outside the State during the period for which the employment permit has been in force that was not connected to his or her employment, or
 - (e) the foreign national has already made, under *section 27*, the maximum number of applications specified in regulations under *section 47(5)*.
- (4) Where the Minister refuses to approve a change of employer, the Minister shall notify, in writing, the applicant of—
- (a) the decision,
 - (b) the reasons for it, and
 - (c) the fact that the applicant may, in accordance with regulations under *section 50(14)*, submit the decision to the Minister for review under *subsection (5)* within the period referred to in *section 35(2)* as applied by *subsection (6)*.
- (5) A decision of the Minister to refuse to approve a change of employer may, in accordance with regulations under *section 50(14)*, be submitted by the applicant therefor to the Minister for review.
- (6) *Section 35(2) to (8)* shall, subject to the modifications specified in *subsection (7)*, apply to a review under *subsection (5)* as they apply to a review under *section 35(1)*.
- (7) The modifications mentioned in *subsection (6)* are—
- (a) in *section 35(2)*, construing the reference to a submission under *subsection (1)* of that section as a reference to a submission under *subsection (5)*,
 - (b) in *section 35(3)*—

- (i) construing the reference to the application for the employment permit as a reference to the application under *section 27*, and
 - (ii) construing the reference to *subsections (1) and (2)* of that section as a reference to *subsection (5)* and *section 35(2)* (as applied by this section),
 - (c) construing the references to a decision referred to in *subsection (1)* or *(3)* of *section 35* as references to a decision referred to in *subsection (5)*,
 - (d) construing the references to the refusal or grant of an employment permit as references to the refusal or grant of approval of a change of employer under *section 27*,
 - (e) construing the references to *section 34* as references to *subsection (4)*, and
 - (f) any other necessary modifications.
- (8) This section is without prejudice to the other requirements under this Act that must be satisfied with respect to the approval of a change of employer under *section 27*.
- (9) In this section—
- “existing employer” has the meaning assigned to it by *section 27(2)*;
- “new employer” has the meaning assigned to it by *section 27(2)*.

Change of approved seasonal employer: application and approval of change

- 29.** (1) This section applies where—
- (a) a seasonal employment permit has been granted to a foreign national, and
 - (b) that permit is in force and will remain in force for at least 3 weeks from the date of the making of an application under this section.
- (2) An application to change the employer specified in a permit referred to in *subsection (1)* (in this section referred to as the “existing employer”) to a different employer, being an approved seasonal employer, (in this section referred to as the “new employer”) may be made by a foreign national.
- (3) An application under this section shall not be made unless an offer of employment in the State has been made in writing to the foreign national by the new employer within such period, preceding the application, as may be prescribed.
- (4) The foreign national shall provide, with the application, such information, documents and evidence as may be specified in regulations under *section 50* in respect of a change to the employer specified in a seasonal employment permit.
- (5) The foreign national shall furnish to the Minister—
- (a) such information (being information of a similar nature to that referred to in *section 13*) as the Minister specifies in a direction in writing given by him or her for the purposes of this subsection, and
 - (b) if the Minister so requests, such statement or evidence, in such form as the Minister requests, confirming that the foreign national has complied with the

terms of the employment permit and the provisions of this Act during the period ending on the making of the application under this section.

- (6) The Minister shall publish, in such manner as he or she considers appropriate, any direction given under *subsection (5)(a)*.
- (7) An application under this section shall be in writing.
- (8) *Sections 18* and *22* shall, subject to the modifications specified in *subsection (9)*, apply to an application to change employer under this section as they apply to an application to grant an employment permit.
- (9) The modifications mentioned in *subsection (8)* are—
 - (a) in *section 18*—
 - (i) the omission of *subsections (1)(b), (3)(b) and (4)*,
 - (ii) in *subsection (1)(c)*, construing the reference to *section 12* or *13* as a reference to this section, and
 - (iii) in *subsection (1)(d)*, construing the reference to *section 32* or *33* as a reference to *section 30*,
 - (b) construing the references to the grant of an employment permit as references to the approval of a change of employer under this section,
 - (c) construing the references to an application for an employment permit or an application for a grant of an employment permit as references to an application under this section, and
 - (d) any other necessary modifications.
- (10) Subject to *sections 9(2)(j), 22* (as applied by *subsection (8)*) and *30*, the Minister may, on consideration of an application made under this section, approve a change to the approved seasonal employer specified in a permit referred to in *subsection (1)(a)*.
- (11) Where the Minister approves a change of employer under *subsection (10)*, the permit concerned shall operate to permit the employment in the State of the foreign national concerned by the new employer in the employment specified in the application.
- (12) The approval by the Minister of a change of employer under this section shall not operate to change the period for which the foreign national concerned may be employed in the State pursuant to the permit.
- (13) Where the Minister approves a change of employer under this section, the foreign national concerned shall commence employment with the new employer within a prescribed period.
- (14) Where the Minister approves a change of employer under this section—
 - (a) the Minister shall amend the permit concerned to specify the name of the new employer,
 - (b) the Minister may, where appropriate, amend the permit concerned in so far as it specifies the description and statement referred to in *section 21(2)(b)*, any

statement of conditions attaching to the permit referred to in *section 21(2)(f)*, and any information referred to in *section 21(2)(g)*, and

- (c) the Minister shall, after making the amendments in *paragraph (a)* and, where applicable, *paragraph (b)*, issue the permit to the foreign national concerned and the new employer.

Change of approved seasonal employer: refusal to approve change

30. (1) *Section 32(7)* and *section 33(1)(a), (c), (d), (f) to (m)* and *(p)* shall, subject to the modifications specified in *subsection (2)*, apply to the refusal to approve a change of employer under *section 29* as they apply to the refusal to grant an employment permit.
- (2) The modifications mentioned in *subsection (1)* are—
- (a) in *section 32(7)*, the omission of the reference to that section being subject to *sections 44(5)* and *45(5)*,
 - (b) in *section 33(1)(p)*, construing the reference to the person identified in the application in accordance with *section 12(6)*, or as the case may be, the connected person, as a reference to the new employer,
 - (c) construing the references to the grant of an employment permit as references to the approval of a change of employer under *section 29*,
 - (d) construing the references to the application for the permit or the application as a reference to the application under *section 29*, and
 - (e) any other necessary modifications.
- (3) The Minister may refuse to approve a change of employer under *section 29* if—
- (a) the foreign national is not, in the opinion of the Minister, employed by the existing employer in the employment specified in the employment permit referred to in *section 29(1)*,
 - (b) the employment of the foreign national by the new employer is not the same type of seasonally recurrent employment for which the employment permit referred to in *section 29(1)(a)* was granted,
 - (c) the terms and conditions of the employment of the foreign national by the new employer are not comparable to those of the employment of the foreign national by the existing employer, including those relating to any of the matters specified under *section 47(12)* as a condition for the grant of such a permit,
 - (d) the foreign national has spent a continuous period of not less than one month outside the State during the period for which the employment permit has been in force that was not connected to his or her employment,
 - (e) the foreign national has already made, under *section 29*, the maximum number of applications specified in regulations under *section 47(5)*, or
 - (f) in the opinion of the Minister, the new employer has not made appropriate arrangements—

- (i) to provide appropriate accommodation for the foreign national during the period for which he or she will be in the State pursuant to the employment permit referred to in *section 29(1)*, or
 - (ii) to provide, without any cost to the foreign national, appropriate health insurance in respect of the foreign national should he or she require medical treatment for illness or injury during the period for which he or she will be in the State pursuant to the employment permit referred to in *section 29(1)*.
- (4) *Section 28(4) to (8)* shall, subject to any necessary modifications, apply to a refusal to approve a change of employer under this section as they apply to a refusal to approve a change of employer under *section 28*.
- (5) In this section—
- “existing employer” has the meaning assigned to it by *section 29(2)*;
- “new employer” has the meaning assigned to it by *section 29(2)*.

Employment of non-consultant hospital doctors

- 31.** (1) Where an application is made for the grant or renewal of an employment permit in respect of the employment of a foreign national as a non-consultant hospital doctor—
- (a) the application shall be made by the person proposing to employ the foreign national concerned,
 - (b) the period for which the foreign national concerned may be employed in the State pursuant to an employment permit granted or renewed in respect of such an application shall be a period of 2 years, and
 - (c) an employment permit referred to in *paragraph (b)* shall operate to permit the employment in the State of the foreign national concerned as a non-consultant hospital doctor by—
 - (i) the person who made the application, or
 - (ii) any other person who has made a notification to the Minister under *subsection (2)*.
- (2) Where, during the period for which an employment permit referred to in *subsection (1)(b)* is in force—
- (a) the employment of the foreign national by a person referred to in *subsection (1)(c)(i) or (ii)*, for whatever reason, ceases, and
 - (b) another person proposes to employ the foreign national as a non-consultant hospital doctor pursuant to such employment permit,
- the person referred to in *paragraph (b)* shall, within such period as may be prescribed in advance of the date of commencement of the proposed employment, notify the Minister of the matters referred to in *subsection (3)*.
- (3) A notification referred to in *subsection (2)* shall specify—

- (a) the name of the person proposing to employ the foreign national,
 - (b) the place at or in which the employment concerned is to be carried out,
 - (c) the terms and conditions, including the hours of work in each week, and the duration, of the employment concerned, and
 - (d) the remuneration and any deductions, where agreed, for board and accommodation or either of them in respect of the employment concerned.
- (4) Upon receipt of a notification referred to in *subsection (2)*, the Minister—
- (a) may request such information and documents, as may be specified in regulations under *section 50*, in respect of the matters referred to in *subsection (3)*,
 - (b) shall amend the particulars contained in the register in respect of the employment permit concerned to reflect the matters referred to in *subsection (3)(a)* and *(b)*, and
 - (c) may, upon request made to him or her by the foreign national or the person who made the notification, issue to the person who made the request an amended employment permit to reflect the matters referred to in *subsection (3)*.

CHAPTER 6

*Refusal to grant employment permit***Mandatory grounds for refusal of employment permit**

32. (1) The Minister shall refuse to grant an employment permit where he or she is satisfied that in the 6 months preceding the day on which the application was made—
- (a) a person was employed in the employment that is the subject of the application, and
 - (b) that person was dismissed by reason of redundancy from that employment.
- (2) The Minister shall refuse to grant an employment permit where—
- (a) the person who has made the offer of employment—
 - (i) is not registered with the Revenue Commissioners, or
 - (ii) in a case where the person is carrying on a business, the Minister is satisfied that such person is not engaged in substantive business operations in the State,or
 - (b) in the case of an application for a contract for service employment permit—
 - (i) the contractor, or
 - (ii) where the foreign national concerned is employed by a subcontractor, the subcontractor,is not registered with the Revenue Commissioners.

- (3) The Minister shall refuse to grant a contract for service employment permit where the Minister has reasonable grounds to believe that the foreign national concerned may not be employed by the contractor or subcontractor concerned during the period for which the employment permit is to be granted.
- (4) In the case of an application for an intra-company transfer employment permit, the Minister shall, subject to *subsection (5)*, refuse to grant an employment permit if the Minister is satisfied that—
 - (a) the connected person is not engaged in substantive business operations in the State,
 - (b) the connected person is not registered with the Revenue Commissioners,
 - (c) the foreign employer is not engaged in substantive business operations in the place, outside the State, in which it is established, or
 - (d) the connected person is not connected with the foreign employer.
- (5) *Subsection (4)(a)* shall not apply to the connected person where, on the date the application is made, the connected person carrying on those business operations has been registered with the Revenue Commissioners for a period not exceeding such period as may be prescribed by the Minister.
- (6) In the case of an application for an intra-company transfer employment permit or a contract for service employment permit, the Minister shall—
 - (a) without prejudice to *section 33(1)(m)*, refuse to grant an employment permit if the Minister is satisfied that the hourly rate of the remuneration, in so far as it relates to the salary to be paid to the foreign national, is less than the national minimum hourly rate of pay or, where appropriate to the employment in respect of which the application is made, the hourly rate referred to in *paragraph (b)* of the definition of “standard working week remuneration”,
 - (b) without prejudice to *section 33(1)(a)*, refuse to grant an employment permit where the connected person did not provide the information and documents referred to in *section 24(4)* or the contractor or subcontractor, as the case may be, did not provide the information and documents referred to in *section 25(4)*, or
 - (c) refuse to grant an employment permit where the Minister is not satisfied with the arrangements for the additional payment referred to in *section 24(4)(g)* or, as the case may be, *section 25(4)(g)*.
- (7) Subject to *sections 44(5)* and *45(5)*, the Minister shall refuse to grant an employment permit if the granting of it would contravene regulations under *section 47* in force at the time the decision on the application for the permit is made.
- (8) This section and *section 33* are without prejudice to the other requirements under this Act that must be satisfied with respect to the grant of an employment permit.

Discretionary grounds for refusal of employment permit

- 33.** (1) The Minister may refuse to grant an employment permit if—

- (a) the applicant for the permit has failed to provide any information required by or under this Act in respect of the application for the permit or has failed to provide any information, documents or evidence required by or under this Act in respect of the application within the period specified in regulations under *section 50*,
- (b) subject to *section 12(12)*, the application has not been accompanied by the prescribed fee,
- (c) the foreign national or the person who made the offer of employment, or in the case of an application in respect of—
 - (i) a contract for service employment permit, the contractor, subcontractor or the relevant person,
 - (ii) an intra-company transfer employment permit, the connected person, or
 - (iii) a foreign national who is employed under a contract of employment referred to in *paragraph (b)* of the definition of “contract of employment”, the employment agency with whom the foreign national has entered into that contract of employment,has been convicted of an offence under this Act or an enactment specified in *Schedule 1* during the period of 5 years ending on the date of the application,
- (d) in the opinion of the Minister, the granting of the permit would be manifestly inconsistent with economic policy for the time being of the Government,
- (e) subject to *subsection (2)*, the following 2 conditions are satisfied:
 - (i) a period of less than a period to be prescribed (which period shall be not less than 6 and not more than 12 months) has elapsed since the foreign national concerned first commenced employment in the State pursuant to an employment permit granted to him or her;
 - (ii) the application is made within the period referred to in *subparagraph (i)* and on the date of the application—
 - (I) the employment permit referred to in *subparagraph (i)* is in force, or
 - (II) the employment permit referred to in *subparagraph (i)* has been cancelled, in accordance with *section 43*, within the period referred to in *subparagraph (i)*,
- (f) in the opinion of the Minister, it is in the public interest to do so,
- (g) a material misrepresentation in respect of the application has been made by the applicant,
- (h) a forged or fraudulent document has been submitted in respect of the application,
- (i) the foreign national concerned lands or has landed, or is or has been, in the State without permission,
- (j) the foreign national in respect of whom the application is made—

- (i) has landed in the State with the permission of the Minister for Justice but has not been given the permission referred to in *section 8(1)(f)* by the Minister for Justice, and
 - (ii) was, on the date the application was made—
 - (I) employed by the person who made the offer of employment that is the subject of the application, or
 - (II) employed by another person on that date,without an employment permit or the permission referred to in *section 8(1)(f)*,
 - (k) the foreign national in respect of whom the application is made had been in employment in the State prior to the making of the application without an employment permit or permission of the Minister for Justice referred to in *section 8(1)(f)*,
 - (l) the foreign national in respect of whom the application is made has landed in the State with the permission of the Minister for Justice and that permission is granted on the condition that the foreign national concerned shall not be in employment in the State,
 - (m) the remuneration to be paid to the foreign national concerned in respect of the proposed weekly hours of work (whatever they may be) is less than the standard working week remuneration,
 - (n) the skills, knowledge, and where appropriate, qualifications and experience, referred to in *section 13(b)*, are not required for, or relevant to, the employment concerned,
 - (o) the Minister is satisfied that the foreign national concerned does not possess the qualifications, knowledge or skills for the employment concerned or the foreign national concerned does not have the appropriate level of experience required for the employment, or
 - (p) the Minister is satisfied that the person identified in the application in accordance with *section 12(6)*, or as the case may be, the connected person, has failed to comply with any conditions attaching to the grant of an employment permit on a previous occasion.
- (2) In deciding whether or not to refuse an application under *subsection (1)(e)*, the Minister shall have regard to whether any changes were made, subsequent to the grant of the employment permit referred to in *subsection (1)(e)(i)*, to the conditions of employment of the foreign national to whom the permit was granted.
- (3) The Minister may refuse to grant an employment permit where the application is in respect of an employment that, having regard to the different purposes referred to in *section 9(2)*, does not fall within the purpose in respect of which the application was made or is an employment that is specified in regulations under *section 47* in respect of a different purpose.
- (4) The Minister may refuse to grant an employment permit if—

- (a) the foreign national in respect of whom the application is made is not registered with, or
 - (b) the qualifications of the foreign national concerned are not recognised by, a regulatory body or a Minister of Government as required in any regulations made under *section 47(2)(f) or (10)*.
- (5) In the case of an application for an intra-company transfer employment permit, the Minister may refuse to grant an employment permit if—
- (a) in the opinion of the Minister, the connected person or the foreign employer has not, or both of them have not, made appropriate arrangements—
 - (i) to provide appropriate accommodation and board, or either of them, for the foreign national during the period in which he or she is in the State to carry out duties for, or participate in a training programme provided by the connected person, or
 - (ii) to provide appropriate health insurance in respect of the foreign national should he or she require medical treatment for illness or injury during the period for which he or she will be in the State pursuant to the employment permit,
 - (b) the Minister is satisfied that the health insurance provided by the person referred to in *paragraph (b)(iii)(II) of section 3(1)* does not have the same, or similar, effect as the health insurance provided by a health insurer, or
 - (c) the Minister is satisfied that the carrying out of the duties, or the participation in the training programme, by the foreign national is not appropriate to the requirements of the connected person.
- (6) In the case of an application for a contract for service employment permit, the Minister may refuse to grant an employment permit if—
- (a) in the opinion of the Minister, the contractor or the subcontractor, as the case may be, has not made appropriate arrangements—
 - (i) to provide appropriate accommodation and board, or either of them, for the foreign national while he or she is in the State to perform the duties arising from the contract service agreement, or
 - (ii) to provide appropriate health insurance in respect of the foreign national should he or she require medical treatment for illness or injury during the period for which he or she will be in the State pursuant to the employment permit,
- or
- (b) the Minister is satisfied that the health insurance provided by a person referred to in *paragraph (b)(iii)(II) of section 3(1)* does not have the same, or similar, effect as the health insurance provided by a health insurer.

- (7) In the case of an application for a seasonal employment permit, the Minister may refuse to grant an employment permit if, in the opinion of the Minister, the approved seasonal employer has not made appropriate arrangements—
- (a) to provide appropriate accommodation for the foreign national during the period for which he or she will be in the State pursuant to the employment permit, or
 - (b) to provide, without any cost to the foreign national, appropriate health insurance in respect of the foreign national should he or she require medical treatment for illness or injury during the period for which he or she will be in the State pursuant to the employment permit.
- (8) The Minister may refuse to grant an employment permit if he or she is satisfied that the person identified in the application in accordance with *section 12(6)*—
- (a) is a company within the meaning of the Companies Act 2014, and does not comply with any requirement relating to the registration of the company pursuant to that Act,
 - (b) does not comply with any requirement relating to the registration of the business name of that person pursuant to the Act of 1963,
 - (c) is a limited partnership referred to in the Limited Partnerships Act 1907, and does not comply with any requirement relating to the registration of the limited partnership under that Act,
 - (d) is an industrial and provident society within the meaning of the Industrial and Provident Societies Acts 1893 to 2021, and does not comply with any requirement relating to the registration of the society pursuant to those Acts,
 - (e) is a friendly society within the meaning of the Friendly Societies Acts 1896 to 2021, and does not comply with any requirement relating to the registration of the society pursuant to those Acts, or
 - (f) is a trade union within the meaning of the Trade Union Acts 1871 to 1990, and does not comply with any requirement relating to the registration of that trade union under those Acts.
- (9) The Minister may refuse to grant an employment permit in the case of an application for—
- (a) a reactivation employment permit, where—
 - (i) a reactivation employment permit had previously been granted and had expired before the application was made and no application for renewal was made in respect of that employment permit, and
 - (ii) the Minister is satisfied that it is in the public interest to refuse to grant the employment permit,
 - (b) a sports and cultural employment permit, where, having consulted with a person referred to in *section 17*, the Minister is satisfied that the employment that is the subject of the application concerned is not appropriate for the development and operation of sporting, or, as the case may be, cultural activities in the State,

- (c) an exchange agreement employment permit, where the Minister is satisfied that—
 - (i) the exchange agreement concerned does not apply to the foreign national in respect of whom the application is made, or, without prejudice to *section 32(7)*, the employment in respect of which the application is made, or
 - (ii) without prejudice to *section 32(7)*, the employment in respect of which the application is made does not come within the exchange agreement,and
 - (d) a dependant employment permit, where, in the opinion of the Minister, the requirements of *section 14(2)* or, as the case may be, *section 14(3)* have not been met.
- (10) In the case of an application for an internship employment permit, the Minister may refuse to grant an employment permit where—
- (a) the Minister is satisfied that—
 - (i) the foreign national concerned is not a full-time student enrolled in a third-level institution outside the State,
 - (ii) the course of study concerned is not wholly or substantially concerned with the qualifications or skills referred to in *section 9(2)(i)*, or
 - (iii) the employment in respect of which the application is made is not wholly or substantially concerned with the skills or qualifications referred to in *subparagraph (ii)*,
 - (b) the Minister is not satisfied that there is a shortage of those qualifications or skills, or
 - (c) the Minister is satisfied there are reasonable grounds for believing that, at the end of the period referred to in *section 9(2)(i)*, the foreign national may not return to the institution outside the State in which he or she is enrolled to complete the course of study concerned.

Notification of refusal and return of fee

34. (1) Where the Minister refuses to grant an employment permit, the Minister shall notify, in writing, the applicant of—
- (a) the decision,
 - (b) the reasons for it, and
 - (c) the fact that the applicant may, in accordance with regulations under *section 50(14)*, submit the decision to the Minister for review under *section 35* within the period referred to in *section 35(2)*.
- (2) Where an application for an employment permit is refused or withdrawn, the Minister shall return to the person who paid the fee, or a person referred to in *subsection (3)*, such portion, as may be prescribed, of the fee that has been submitted in respect of the application.

- (3) The person who paid the fee referred to in *subsection (2)* may nominate a person to whom the portion of the fee is to be returned in the case where such fee is to be returned.

Review of decision to refuse grant of employment permit

- 35.** (1) A decision of the Minister to refuse to grant an employment permit may, in accordance with regulations under *section 50(14)*, be submitted by the applicant therefor to the Minister for review under this section.
- (2) A submission under *subsection (1)* shall be made within a prescribed period from the date the decision is notified under *section 34* to the applicant.
 - (3) Where following a decision to refuse to grant an employment permit—
 - (a) the Minister receives information or documents relating to the application for the employment permit concerned,
 - (b) the information is, or documents are, received within a prescribed period from the date the decision is notified under *section 34* to the applicant,
 - (c) the applicant has not submitted the decision for a review, in accordance with *subsections (1)* and *(2)*, and
 - (d) the Minister is satisfied, having considered such information or documents and having regard to all the circumstances, that it is appropriate to review that decision and to take such information or documents into account in such review,the Minister may direct that the decision to refuse to grant the employment permit concerned be reviewed under this section, and where he or she so directs, shall notify the applicant of the review.
 - (4) A review under this section of a decision referred to in *subsection (1)* or *(3)* shall be carried out by an officer of the Minister appointed by the Minister for that purpose and the person so appointed—
 - (a) shall not be the person who made the decision, and
 - (b) shall be of a grade senior to the grade of the person who made the decision.
 - (5) In the case of a review of a decision referred to in *subsection (1)*, the person so appointed having afforded the applicant an opportunity to make representations in writing in relation to the matter, may, subject to *subsections (7)* and *(8)*—
 - (a) confirm the decision (and, if the person does so, he or she shall notify in writing the applicant of the reasons for the confirmation), or
 - (b) cancel the decision and grant to the foreign national concerned the employment permit the subject of the application to which the review relates.
 - (6) In the case of a review of a decision referred to in *subsection (3)*, the person so appointed, having taken into account the information or documents referred to in that subsection and afforded the applicant for the employment permit concerned an

opportunity to make representations in writing in relation to the matter, may, subject to *subsection (7) and (8)*—

- (a) confirm the decision (and, if the person does so, he or she shall notify such applicant in writing of the reasons for the confirmation), or
 - (b) cancel the decision and grant to the foreign national concerned the employment permit the subject of the application to which the review relates.
- (7) Where, during the course of a review of a decision referred to in *subsection (1) or (3)*, the person so appointed is of the view that there are reasons to confirm the decision that differ to the reasons notified to the applicant in accordance with *section 34*, the person so appointed shall, before deciding whether to confirm or cancel the decision in accordance with *subsection (5) or (6)*—
- (a) notify, in writing, the applicant of those reasons, and
 - (b) afford the applicant an opportunity to make representations in writing in relation to those reasons.
- (8) Where, during the course of a review of a decision referred to in *subsection (1) or (3)*, the person so appointed is informed of—
- (a) new information or documentation that was not available to the decision-maker when he or she made the decision, or
 - (b) a change in circumstances relating to the application in respect of which the decision was made,

that is relevant to the refusal or grant of an employment permit in that case, the person so appointed shall refer the application back to the decision-maker for reconsideration and the making of a new decision in relation to it, or where the decision-maker is unable (for whatever reason) to reconsider or make such a decision, an officer of the Minister appointed by the Minister for that purpose.

CHAPTER 7

Renewal of employment permit

Renewal of employment permit

- 36.** (1) Subject to *subsection (2) and section 72*, the Minister may from time to time, on application to him or her under this section, renew an employment permit in accordance with this section.
- (2) The following employment permits shall not be renewable:
- (a) an intra-company transfer employment permit granted in respect of an employment referred to in *section 9(2)(d)(ii)*;
 - (b) an internship employment permit.
- (3) An application for the renewal of an employment permit shall be made either—

- (a) within such period before the expiry of the period for which it has been granted (or for which it has last been renewed under this section) as may be prescribed, or
 - (b) within such period after the expiry of that period as may be prescribed.
- (4) Subject to *section 31*, an application for the renewal of an employment permit—
- (a) may be made by the holder of the employment permit concerned or the employer, or
 - (b) where the application is—
 - (i) for the renewal of a contract for service employment permit, shall be made by the contractor or subcontractor concerned,
 - (ii) for the renewal of an intra-company transfer employment permit in respect of an employment referred to in *section 9(2)(d)(i)*, shall be made by the connected person concerned,
 - (iii) for the renewal of an employment permit in respect of a foreign national referred to in *section 12(2)(c)*, shall be made by the person referred to in *section 12(2)(c)*, or
 - (iv) for the renewal of a seasonal employment permit, shall be made by the employer concerned who is, at the time of the making of the application, an approved seasonal employer.
- (5) The person making the application for the renewal of an employment permit shall—
- (a) provide, with the application for renewal, such information, documents and evidence as may be specified in regulations under *section 50* in respect of the renewal of an employment permit, and
 - (b) without prejudice to the generality of *paragraph (a)*, in the case of an application for the renewal of an employment permit referred to in *section 37(2)* or *(3)*, as the case may be, provide, with the application for renewal, such information, documents and evidence as may be specified in regulations under *section 50*, in respect of the payment of the additional payment referred to in *section 24(2)* or *(3)* or, as the case may be, *section 25(2)* or *(3)*, during the period for which the employment permit, that is the subject of the application for renewal, has been granted.
- (6) The applicant for a renewal of an employment permit shall furnish to the Minister—
- (a) such information (being information of a similar nature to that referred to in *section 13*) as the Minister specifies in a direction in writing given by him or her for the purposes of this subsection, and
 - (b) if the Minister so requests, such statement or evidence, in such form as the Minister requests, confirming that the applicant has complied with the terms of the employment permit and the provisions of this Act during the period ending on the making of the application for renewal.

- (7) The Minister shall publish, in such manner as he or she considers appropriate, any direction given under *subsection (6)(a)*.
- (8) An application for a renewal of an employment permit shall be in writing and, subject to *subsection (9)*, be accompanied by such fee (if any) as may be prescribed.
- (9) (a) The fee referred to in *subsection (8)* shall not be payable where the application is made in respect of a class of foreign national, employer or employment permit specified in regulations made under *paragraph (b)*.

(b) The Minister may make regulations specifying the class or classes of foreign national, employer or employment permit in respect of which the prescribed fee for an application under this section shall not be payable.

Period for which employment permit may be renewed

37. (1) The period for which an employment permit may be renewed under *section 36* shall, subject to this section, *section 9(2)(j)(ii)*, *section 31(1)(b)*, *section 38(3)* and *section 39(4)* and (5), not exceed such period as may be prescribed by the Minister in accordance with *section 47(2)(j)*.
- (2) In the case of the renewal of an intra-company transfer employment permit granted in respect of an employment referred to in *section 9(2)(d)(i)*, where the Minister is satisfied that the duties to be carried out for the connected person will not be completed on the date of the expiration of the permit that is the subject of the application for renewal, the Minister may, subject to *subsection (4)*, renew the permit in accordance with this section, for the period referred to in *subsection (1)* or, where the remaining period in which those duties are to be completed is less than the period referred to in *subsection (1)*, for the lesser period.
 - (3) In the case of the renewal of a contract for service employment permit, where the Minister is satisfied that the duties to be performed in the State pursuant to the contract service agreement will not be completed on the date of the expiration of the permit that is the subject of the application for renewal, the Minister may, subject to *subsection (4)*, renew the permit, in accordance with this section, for the period referred to in *subsection (1)* or, where the remaining period in which those duties are to be completed is less than the period referred to in *subsection (1)*, for the lesser period.
 - (4) Subject to *section 31*, the total period for which an employment permit referred to in *subsections (2)* or (3) may be in force, whether granted or renewed, shall not exceed such period as may be prescribed by the Minister from the date on which it was first granted.
 - (5) Subject to *subsection (6)*, if, at the date of the making of an application for the renewal of an employment permit, the period for which the permit has been in force (including the periods for which it has been previously renewed) is 5 or more years, then the period for which the permit may be renewed on foot of that application may be an unlimited period.

- (6) *Subsection (5)* shall not apply to the renewal of an employment permit referred to in *subsections (2) or (3) or section 38(3)*.
- (7) In the case of the renewal of a seasonal employment permit, the permit shall be in force only during the period for which the employment permit is renewed, which shall be during a period or periods specified in regulations under *section 9(4)(b)*.
- (8) The period for which a dependant employment permit may be renewed shall be the lesser of—
 - (a) the period referred to in *subsection (1)*, or
 - (b) the period beginning on the date on which the employment permit is to be renewed and ending on the date of the expiry of—
 - (i) the employment permit granted to the primary permit holder referred to in *section 14(2)(a)*,
 - (ii) the permission, referred to in *section 14(2)(b)*, given to the primary permit holder referred to in *section 14(2)(b)* to remain in the State and be in employment in the State,
 - (iii) the permission referred to in *section 14(3)(a)*, given to the research project researcher referred to in *section 14(3)(a)*, or
 - (iv) the permission, referred to in *section 14(3)(b)*, given to the research project researcher referred to in *section 14(3)(b)* to remain in the State and be in employment in the State.
- (9) Nothing in *subsection (8)* shall be construed as preventing a dependant employment permit being renewed for a period that is less than the period specified in *subsection (1)* in circumstances other than those specified in *subsection (8)*.

Application of certain sections to renewal of employment permit

- 38.** (1) *Sections 18, 21, 22, 32* (other than *subsection (7)*), *33, 34* and *35* shall, subject to *subsection (3)* and the modifications specified in *subsection (2)*, apply to the grant of, or the refusal to grant, a renewal of an employment permit as they apply to the grant of, or the refusal to grant, an employment permit.
- (2) The modifications mentioned in *subsection (1)* are—
- (a) the omission of *subsection (1)(b)* from *section 18*,
 - (b) in respect of *section 22*, construing references to—
 - (i) the date of the application for an employment permit as references to the date of the application for the renewal of an employment permit, and
 - (ii) the person who made the offer of employment as references to the employer of the foreign national in respect of whom the application for the renewal of an employment permit is made,

- (c) the substitution of references to a decision of the Minister to refuse to grant a renewal of an employment permit for references to a decision of the Minister to refuse to grant an employment permit, and
 - (d) any other necessary modifications.
- (3) *Section 22* shall not apply to an application for the renewal of an employment permit, where—
- (a) the application is made to renew a dependant employment permit, general employment permit, reactivation employment permit or a sports and cultural permit,
 - (b) on the day the application is made the holder in respect of whom that application is made is the sole employee of the employer concerned, and
 - (c) at the time the application to grant the employment permit was made, *section 22(3)* applied in respect of the grant of that employment permit.

Additional grounds for refusing renewal of employment permit

- 39.** (1) The Minister may, subject to *subsection (2)*, refuse to renew an employment permit if—
- (a) the foreign national is not or, in the case of a seasonal employment permit, was not during any period for which the permit was in force, in the opinion of the Minister—
 - (i) employed in the employment specified in accordance with *section 21(2)(b)*, or *27(15)(b)* or *29(14)(b)* as the case may be, in the employment permit,
 - (ii) employed by the person referred to in *section 19(2)(b)* or, where applicable, a person referred to in *section 31(1)(c)*, or the new employer within the meaning of *section 27* or *29*, or
 - (iii) in the case of an intra-company transfer employment permit, employed by the foreign employer or is not carrying out duties for the connected person referred to in *section 19(3)*,
 - (b) in the opinion of the Minister—
 - (i) the remuneration paid to the foreign national, during the period for which the employment permit has been in force, is less than the remuneration stated pursuant to *section 21(2)(b)*, or *27(15)(b)* or *29(14)(b)* as the case may be, in the employment permit or, as the case may be, the remuneration stated in the notification referred to in *section 31(2)*, or
 - (ii) the deductions stated pursuant to *section 21(2)(b)*, or *27(15)(b)* or *29(14)(b)* as the case may be, in the employment permit or, as the case may be, the deductions stated in the notification referred to in *section 31(2)*, were different to the deductions made by the employer,
 - (c) the foreign national has spent a continuous period of not less than—

- (i) 3 months, or
 - (ii) in the case of a seasonal employment permit, one month, outside the State during the period for which the employment permit has been in force that was not connected to his or her employment,
- (d) subject to *subsection (3)*, the granting of the application to renew the permit would contravene regulations under *section 47* in so far as those regulations make provision for, pursuant to *section 47(17)*, the renewal of an employment permit, or
- (e) the information, documents and evidence referred to in *paragraphs (a) and (b) of section 36(5)* were not provided as required under those paragraphs.
- (2) *Subsection (1)(a)(i)* shall not apply where the foreign national is employed with the same employer specified in the employment permit and the skills, qualifications or experience required for the employment in respect of the application is made are the same, or substantially the same, as the skills, qualifications or experience required for the employment in respect of which the employment permit was granted.
- (3) The Minister may, notwithstanding *subsection (1)(d)*, renew an employment permit in respect of an employment that—
- (a) at the date of the grant of such permit was an employment, specified in regulations under *section 47*, in respect of which an employment permit may have been granted or fell within a category of employment specified in regulations made under *section 47* for which an employment permit may have been granted, and
 - (b) at the date of the application for the renewal, is an employment, or falls within a category of employment, specified in regulations made under *section 47* as an employment or category of employment for which an employment permit shall not be granted.
- (4) Where an application is made for the renewal of a general employment permit or an intra-company transfer employment permit granted in respect of an employment referred to in *section 9(2)(d)(i)*, and *section 22(2)* applied in respect of such grant and, on the date the application for such renewal was made, 50 per cent or more of the employees of the employer or the connected person, as the case may be, are not nationals referred to in *section 22(1)*, the Minister shall not grant the renewal of the permit concerned unless—
- (a) an enterprise development agency has made a recommendation referred to in *section 16* in respect of that application, and
 - (b) the Minister is satisfied that, having regard to such recommendation, renewing the employment permit concerned will contribute to the further development of employment in the State,

and where the employment permit concerned is renewed, the period for which the employment permit is renewed shall not exceed such period as may be prescribed by the Minister.

- (5) Where a subsequent application is made for the renewal of an employment permit that was last renewed in accordance with *subsection (4)*, the Minister shall not renew the employment permit unless 50 per cent or more of the employees of the employer or the connected person, as the case may be, are nationals referred to in *section 22(1)* and where, pursuant to that subsequent application, the employment permit concerned is renewed, the period for which it is renewed shall not exceed such period as may be prescribed by the Minister.
- (6) This section is—
- (a) in addition to, pursuant to *section 38*, the grounds specified in *sections 32* and *33* for refusing an application for renewal, and
 - (b) without prejudice to the other requirements under this Act that must be satisfied with respect to the renewal of an employment permit.

CHAPTER 8

*Cessation of employment permit***Revocation of employment permit**

40. (1) The Minister may revoke an employment permit if—
- (a) in the opinion of the Minister, the holder of the permit or the employer or connected person has not complied with *section 54(1)* or *(2)*,
 - (b) the holder of the permit or the employer, connected person or relevant person has been convicted of an offence under this Act or an enactment specified in *Schedule 1*,
 - (c) in the opinion of the Minister, it was obtained by fraud or misrepresentation,
 - (d) in the opinion of the Minister, any information provided in respect of the application for it was false or misleading in a material respect,
 - (e) in the case of a dependant employment permit—
 - (i) the primary permit holder referred to in *section 14(2)(a)* has been redundant within the meaning of *section 7(2)* of the Act of 1967 for a period exceeding 6 months,
 - (ii) the employment permit granted to the primary permit holder referred to in *section 14(2)(a)* has been revoked, or
 - (iii) the primary permit holder referred to in *section 14(2)(b)* or the research project researcher referred to in *section 14(3)(b)* no longer has the permission referred to in *section 8(1)(f)*,
 - (f) the foreign national has not—
 - (i) commenced employment in accordance with the employment permit within the period prescribed under *section 19(9)*, or

- (ii) where the Minister has approved a change of employer under *section 27(11)* or *29(10)*, commenced employment with the new employer (within the meaning of *section 27* or *29*, as the case may be) within the period prescribed under *section 27(14)* or *29(13)*, as the case may be,
- (g) in the case of an intra-company transfer employment permit, in the opinion of the Minister the connected person or the foreign employer has failed to—
 - (i) provide appropriate accommodation and board (or either of them) for the foreign national while he or she is in the State to perform duties for, or participate in a training programme provided by, the connected person, or
 - (ii) provide appropriate health insurance in respect of the foreign national during some or all of the period for which the employment permit has been in force should he or she require medical treatment for illness or injury during such period,
- (h) in the case of a contract for service employment permit, in the opinion of the Minister, the contractor or subcontractor, as the case may be, has failed to—
 - (i) provide appropriate accommodation and board (or either of them) for the foreign national while he or she is in the State to perform the duties arising from the contract service agreement concerned, or
 - (ii) provide appropriate health insurance in respect of the foreign national during some or all of the period for which the employment permit has been in force should he or she require medical treatment for illness or injury during such period,
- (i) in the case of a seasonal employment permit, in the opinion of the Minister, the approved seasonal employer has failed to—
 - (i) provide appropriate accommodation for the foreign national during the period for which he or she will be in the State pursuant to the employment permit, or
 - (ii) provide, without any cost to the foreign national, appropriate health insurance in respect of the foreign national during the period for which the employment permit has been in force should he or she require medical treatment for illness or injury during such period,
- (j) the foreign national is not, in the opinion of the Minister—
 - (i) employed in the employment specified, in accordance with *section 21(2)(b)*, or *27(15)(b)* or *29(14)(b)* as the case may be, in the employment permit,
 - (ii) employed by the person referred to in *section 19(2)(b)* or, where applicable, a person referred to in *section 31(1)(c)* or the new employer within the meaning of *section 27* or *29*, or
 - (iii) employed by the foreign employer or is not carrying out the duties for, or participating in a training programme provided by, the connected person referred to in *section 19(3)*,

- (k) in the opinion of the Minister, the remuneration paid, insofar as it relates to the salary referred to in *paragraphs (a)(i), (b)(i) and (c)(i) of section 3(1)*, to the foreign national is less than the national minimum hourly rate of pay or the hourly rate referred to in *paragraph (b) of the definition of “standard working week remuneration”*,
- (l) without prejudice to *paragraph (k)*, in the opinion of the Minister—
- (i) the remuneration paid to the foreign national, during the period for which the employment permit has been in force, is less than the remuneration stated pursuant to *section 21(2)(b), or 27(15)(b) or 29(14)(b)* as the case may be, in the employment permit or, as the case may be, the remuneration stated in the notification referred to in *section 31(2)*, or
 - (ii) the deductions stated pursuant to *section 21(2)(b), or 27(15)(b) or 29(14)(b)* as the case may be, in the employment permit or, as the case may be, the deductions stated in the notification referred to in *section 31(2)*, were different to the deductions made by the employer,
- (m) the statement of earnings, referred to in *section 24 or 25*, does not comply with the requirements of *section 24(1)(c), or section 25(1)(b)*, as the case may be,
- (n) the employment permit was granted by virtue of an administrative error, or
- (o) in the opinion of the Minister, it is in the public interest to do so.
- (2) Where the Minister decides to revoke an employment permit, he or she shall notify, in writing, the holder of the permit and the employer or the connected person, as the case may be, of—
- (a) the decision,
 - (b) the reasons for it, and
 - (c) the fact that the holder or the employer or both of them, or, as the case may be, the holder or the connected person or both of them, may, in accordance with regulations under *section 50(14)*, submit the decision to the Minister for review under *section 41* within the period referred to in *section 41(2)*.
- (3) Subject to *subsection (5)*, a decision to revoke an employment permit under this section shall, if such decision has not been submitted to the Minister for review under *section 41* in accordance with that section, take effect on the expiration of the period mentioned in *subsection (2)(c)*.
- (4) Where such a decision is submitted to the Minister for review under *section 41* in accordance with that section, the revocation of the employment permit concerned shall, subject to *subsection (5)*, not take effect until the review is determined (and the decision is confirmed on that review) or the submission of the decision for review is withdrawn.
- (5) Where, in the opinion of the Minister, the circumstances concerning the revocation of an employment permit are such that, having regard to the public interest, it is appropriate that the decision to revoke the permit should take effect immediately and

he or she states that opinion in the notification of the decision under *subsection (2)*, then the revocation shall take effect immediately on that notification.

Review of decision to revoke employment permit

- 41.** (1) A decision of the Minister to revoke an employment permit may, in accordance with regulations under *section 50(14)*, be submitted by the holder of the permit, the employer or the connected person, as the case may be, to the Minister for review under this section.
- (2) A submission under *subsection (1)* shall be made within a prescribed period from the date the decision is notified under *section 40* to the person.
- (3) A review under this section of a decision shall be carried out by an officer of the Minister appointed by the Minister for that purpose and the person so appointed—
- (a) shall not be the person who made the decision, and
 - (b) shall be of a grade senior to the grade of the person who made the decision.
- (4) The person so appointed, having afforded the person who submitted the decision for review an opportunity to make representations in writing in relation to the matter, may, subject to *subsections (5) and (6)*—
- (a) confirm the decision (and, if the person does so, he or she shall notify in writing the person who submitted the decision for review of the reasons for the confirmation), or
 - (b) cancel the decision.
- (5) Where, during the course of a review of a decision under this section, the person so appointed is of the view that there are reasons to confirm the decision that differ to the reasons notified to the applicant in accordance with *section 40*, the person so appointed shall, before deciding whether to confirm or cancel the decision in accordance with *subsection (4)*—
- (a) notify, in writing, the person who submitted the decision for review of those reasons, and
 - (b) afford that person an opportunity to make representations in writing in relation to those reasons.
- (6) Where, during the course of a review of a decision under this section, the person so appointed is informed of—
- (a) new information or documentation that was not available to the decision-maker when he or she made the decision, or
 - (b) a change in circumstances relating to the holder of the permit, the employer or the connected person,

that is relevant to the revocation of the employment permit, the person so appointed shall refer the matter back to the decision-maker for reconsideration and the making of a new decision in relation to it, or where the decision-maker is unable (for

whatever reason) to reconsider the application or make such a decision, an officer of the Minister who is appointed by the Minister for that purpose.

- (7) If a decision to revoke an employment permit—
- (a) has, by virtue of *section 40(5)*, taken effect on the notification of the decision to the holder, and
 - (b) is, on a review under this section, cancelled,

then, in determining the period for which the employment permit shall remain in force, the period for which the permit ceased to be in force by virtue of *section 40(5)* shall be disregarded.

Order under section 3 or 4 of Immigration Act 1999

42. (1) If an order under section 3 or 4 of the Immigration Act 1999 is made in relation to a foreign national in respect of whom an employment permit has been granted, the permit shall, subject to *subsection (2)*, cease to be in force.
- (2) If the order concerned under section 3 or 4 of the Immigration Act 1999 is revoked or otherwise ceases to be in force, the employment permit referred to in *subsection (1)* shall, on that revocation or cesser, be revived in force.
- (3) If an employment permit is so revived in force, in determining the period for which the permit shall remain in force the period for which the permit ceased to be in force by virtue of *subsection (1)* shall be disregarded.

Termination of employment

43. (1) Subject to *subsections (6) and (7)*, if the employment of a foreign national pursuant to an employment permit is terminated by the employer or the holder of the permit or otherwise, for whatever reason, ceases, the—
- (a) holder of the permit, and
 - (b) employer specified in the permit,
- shall, within a prescribed period from the date of such termination or cessation, notify the Minister in writing of the date of termination or cessation of the employment concerned.
- (2) In the case of an intra-company transfer employment permit, if—
- (a) the employment of the foreign national is terminated by the foreign employer or the holder of the permit, or
 - (b) the foreign national ceases, for whatever reason, to carry out duties for, or participate in a training programme provided by, the connected person,
- the—
- (i) holder of the permit, and
 - (ii) connected person,

shall, within a prescribed period from the date of such termination or cessation, notify the Minister in writing of the date of termination of the employment concerned or cessation of duties or participation referred to in *paragraph (b)*, as the case may be.

- (3) The Minister shall, upon receipt of a notification under *subsection (1)* or *(2)*, cancel the employment permit concerned and notify in writing—
 - (a) the foreign national, and
 - (b) the employer specified in the employment permit,that the employment permit is cancelled with effect from the date of termination of the employment concerned or cessation of duties or participation referred to in *subsection (2)(b)*, as the case may be, and is no longer in force.
- (4) A person who fails to comply with *subsection (1)* or *(2)* shall be guilty of an offence.
- (5) It shall be a defence for a person charged with an offence under *subsection (4)* to show that he or she took all reasonable steps to notify the Minister within the period referred to in *subsection (1)* or *subsection (2)*, as the case may be.
- (6) *Subsection (1)* shall not apply to a change of employer that is approved by the Minister under *section 27(11)* or *29(10)*.
- (7) *Subsection (1)* shall not apply to the termination or cessation of the employment of a foreign national as a non-consultant hospital doctor pursuant to an employment permit referred to in *section 31(1)(b)* where a notification referred to in *section 31(2)* has been made to the Minister by another person proposing to employ the foreign national as a non-consultant hospital doctor within the period referred to in that section.

CHAPTER 9

Redundancy of certain permit holders

Redundancy of critical skills employment permit holder

- 44.** (1) This section applies to a foreign national to whom a critical skills employment permit has been granted and who is dismissed by reason of redundancy from the employment concerned during the period for which the employment permit is in force.
- (2) Without prejudice to *section 43*, a foreign national to whom this section applies shall notify the Minister of the date of dismissal within a prescribed period of that date of dismissal and the notification shall be in such form as may be specified in regulations under *section 50* and shall include the information and documents specified in *section 46*.
 - (3) Where the Minister is satisfied that the foreign national was dismissed by reason of redundancy from the employment for which a critical skills employment permit was granted, an application for an employment permit may be made under, and in accordance with the requirements of, *section 12* in respect of the foreign national to whom this section applies, within 6 months of the date of dismissal of that foreign national, and such application shall be for a critical skills employment permit for—

- (a) an employment that is the same type of employment for which the employment permit referred to in *subsection (1)* was granted, or
 - (b) a different employment to the one for which the employment permit referred to in *subsection (1)* was granted, that is specified in regulations under *section 47* as an employment for which a critical skills employment permit may be granted.
- (4) Where—
- (a) on the date an application referred to in *subsection (3)* is made, the type of employment referred to in *subsection (3)(a)*—
 - (i) is no longer specified in regulations under *section 47* as an employment, or no longer falls within a category of employment specified in those regulations, for which a critical skills employment permit may be granted, or
 - (ii) is specified in regulations under *section 47* as an employment, or falls within a category of employment, in respect of which a critical skills employment permit shall not be granted,
- and
- (b) the Minister is satisfied that the dismissal by the employer of the foreign national from the employment in respect of which the employment permit referred to in *subsection (1)* was granted, was a dismissal by reason of redundancy,
- the application may be made for that employment by a foreign national to whom this section applies notwithstanding that the employment is no longer an employment, or falls within a category of employment, for which an employment permit may be granted or is an employment, or falls within a category of employment, specified in regulations under *section 47* for which an employment permit shall not be granted.
- (5) Notwithstanding *section 32(7)*, the Minister may, subject to *subsection (6)*, grant, under *section 19*, an employment permit for the employment referred to in *subsection (4)* pursuant to an application referred to in *subsection (4)* that is made within the period referred to in *subsection (3)* and for the avoidance of doubt—
- (a) *section 32(7)* shall apply in respect of any other provision or requirement, specified in regulations under *section 47* that is required to be satisfied, and
 - (b) *section 47* shall, in respect of such grant under *section 19*, apply in respect of any other provision or requirement specified in regulations under *section 47* that is required to be satisfied.
- (6) Without prejudice to *subsection (3)* or *(4)*, where an application referred to in *subsection (3)* or *(4)* is made by a foreign national who has made a notification to the Minister under this section, the Minister shall not grant the employment permit concerned unless the Minister is satisfied that the foreign national was dismissed by reason of redundancy from the employment in respect of which the employment permit referred to in *subsection (1)* was granted.
- (7) Having regard to the consideration, under *section 18*, of an application referred to in *subsection (4)*—

- (a) the provisions of any regulations referred to in *section 18(6)*, other than the provisions of such regulations referred to in *subsection (4)*, shall continue to apply in relation to the application concerned, and
 - (b) *section 18(6)* shall apply in respect of a provision or requirement of regulations under *section 47*, other than the provision referred to in *subsection (4)*.
- (8) Nothing in this section shall be construed as providing a permission to be in the State for the period of 6 months referred to in *subsection (3)*.
- (9) Without prejudice to *section 46*, a foreign national who makes an application referred to in *subsection (3)* or *(4)* shall provide the Minister with any information or documents that the Minister may require to be satisfied that the dismissal of the foreign national was a dismissal by reason of redundancy.

Redundancy of general employment permit holder

45. (1) This section applies to a foreign national to whom a general employment permit has been granted and who is dismissed by reason of redundancy from the employment concerned during the period for which the employment permit is in force.
- (2) Without prejudice to *section 43*, a foreign national to whom this section applies shall notify the Minister of the date of dismissal within a prescribed period of that date of dismissal and the notification shall be in such form as may be specified in regulations under *section 50* and include the information and documents specified in *section 46*.
- (3) Where the Minister is satisfied that the foreign national was dismissed by reason of redundancy from the employment for which a general employment permit was granted, an application for an employment permit may be made under, and in accordance with the requirements of, *section 12* in respect of the foreign national to whom this section applies within 6 months of the date of dismissal of that foreign national and such application shall be for a general employment permit for—
- (a) an employment that is the same type of employment for which the employment permit referred to in *subsection (1)* was granted, or
 - (b) a different employment to the one for which the employment permit referred to in *subsection (1)* was granted that—
 - (i) is specified in regulations under *section 47* as an employment for which a general employment permit may be granted, or
 - (ii) is not an employment that is specified in such regulations as an employment for which a general employment permit shall not be granted or falls within a category of employment for which such an employment permit shall not be granted.
- (4) Where—
- (a) on the date an application referred to in *subsection (3)* is made the type of employment referred to in *subsection (3)(a)* is specified in regulations under *section 47* as an employment, or falls within a category of employment, in respect of which an employment permit shall not be granted, and

- (b) the Minister is satisfied that the dismissal by the employer of the foreign national from the employment in respect of which the employment permit referred to in *subsection (1)* was granted was a dismissal by reason of redundancy,

the application may be made in respect of that employment by a foreign national to whom this section applies notwithstanding that the employment is an employment, or falls within a category of employment, that is specified in regulations under *section 47* as an employment, or category of employment, for which an employment permit shall not be granted.

- (5) Notwithstanding *section 32(7)* the Minister may, subject to *subsection (6)*, grant, under *section 19*, an employment permit for an employment referred to in *subsection (4)* pursuant to an application referred to in *subsection (4)* that is made within the period referred to in *subsection (3)* and for the avoidance of doubt—
- (a) *section 32(7)* shall apply to any other provision or requirement specified in regulations under *section 47*, that is required to be satisfied, and
- (b) *section 47* shall, in respect of such grant under *section 19*, apply in respect of any other provision or requirement specified in regulations under *section 47* that is required to be satisfied.
- (6) Without prejudice to *subsection (3)* or *(4)*, where an application referred to in *subsection (3)* or *(4)* is made by a foreign national who has made a notification to the Minister under this section, the Minister shall not grant the employment permit concerned unless the Minister is satisfied that the foreign national was dismissed by reason of redundancy from the employment in respect of which the employment permit referred to in *subsection (1)* was granted.
- (7) Having regard to the consideration under *section 18* of an application referred to in *subsection (4)*—
- (a) the provisions of any regulations referred to in *section 18(6)*, other than the provisions of such regulations referred to in *subsection (4)*, shall continue to apply in relation to the application concerned, and
- (b) *section 18(6)* shall apply in respect of a provision or requirement of regulations under *section 47*, other than the provision referred to in *subsection (4)*.
- (8) Nothing in this section shall be construed as providing a permission to be in the State for the period of 6 months referred to in *subsection (3)*.
- (9) Without prejudice to *section 46*, a foreign national who makes an application referred to in *subsection (3)* or *(4)* shall provide the Minister with any information or documents that the Minister may require to be satisfied that the dismissal of the foreign national was a dismissal by reason of redundancy.

Information, documents, supplementary provisions relating to redundancy

46. The information and documents to be provided to the Minister with the notification referred to in *section 44(2)* and *section 45(2)* are—
- (a) the date of dismissal,

- (b) the reason for the dismissal by reason of redundancy as specified in paragraph (a), (b), (c), (d) or (e) of section 7(2) of the Act of 1967 or in section 21 of that Act,
- (c) such information and documents as may be specified in regulations under *section 50* that the Minister may require to be satisfied that the dismissal of the foreign national was a dismissal by reason of redundancy, and
- (d) a statement specifying whether the foreign national has notified the Minister in accordance with *section 43*.

PART 3

REGULATIONS RELATING TO EMPLOYMENT PERMITS

Regulations governing grant of employment permit, etc.

47. (1) The Minister may, having regard to *sections 9* and *48* and the matters specified in *section 49*, make regulations providing for each class of employment permit specified in *paragraphs (a) to (j)* of *section 9(2)* and may, for each such class of employment permit, provide for one or more of the matters specified in *subsection (2)* and may, in such regulations, make different provision for such classes of employment permit and such matters in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.
- (2) The matters referred to in *subsection (1)* are as follows:
- (a) the maximum number of employment permits that may be granted in respect of a particular class of employment permit or specified employments or categories of such employments and such employments or such categories may be provided for on the basis of one or more economic sectors into which they fall;
 - (b) the employments for which an employment permit may be granted and such employments may be provided for by reference to categories of employments for which an employment permit may be granted and by reference to one or more economic sectors into which they fall;
 - (c) the employments for which an employment permit shall not be granted and such employments may be provided for by reference to categories of employments for which an employment permit shall not be granted and to one or more economic sectors into which they fall;
 - (d) economic sectors in respect of which employment permits for any employment that falls into such sector shall not be granted;
 - (e) the minimum amount of remuneration that shall be payable in respect of an employment as a condition for the grant of an employment permit in respect of it, and without prejudice to the generality of the foregoing, in respect of such minimum amount of remuneration—

- (i) in so far as it relates to the salary referred to in *paragraphs (a)(i), (b)(i) and (c)(i) of section 3(1)*, the hourly rate for the salary shall be not less than the national minimum hourly rate of pay, or where appropriate to the employment or the category of employment, the hourly rate of pay referred to in *paragraph (b) of the definition of “standard working week remuneration”*, and
 - (ii) in so far as it relates to the payments for board and accommodation, referred to in *section 3(1)(b)(ii) and 3(1)(c)(ii)* and the payments for health insurance referred to in *paragraphs (a)(ii), (b)(iii) and (c)(iii) of section 3(1)*, a maximum amount that may be paid in respect of those payments or the maximum amount of the value of such board and accommodation that are directly provided;
- (f) the qualifications or skills that a foreign national, in respect of whom an application for an employment permit is made, is required to possess in order for a grant of the permit to be made in respect of a specified employment or category of employment;
 - (g) the minimum number of hours of work that are required to be worked in each week for an employment as a condition for the grant of an employment permit in respect of it;
 - (h) the minimum period of experience required for an employment, or a category of employment, as a condition for the grant of an employment permit in respect of it including different periods of experience by reference to different levels of remuneration;
 - (i) the minimum and maximum periods for which an employment permit may be granted;
 - (j) the minimum and maximum periods for which an employment permit may be renewed.
- (3) Without prejudice to the generality of *subsection (2)(e)*, when specifying the minimum amount of remuneration, pursuant to that subsection, that shall be payable in respect of an employment as a condition for the grant of an employment permit in respect of it, the Minister may specify—
- (a) a minimum annual remuneration which shall be the minimum amount of remuneration to be paid to a foreign national for 39 hours of work in each week for 52 weeks,
 - (b) the minimum hourly rate for the minimum annual remuneration referred to in *paragraph (a)* that shall be payable where the hours of work for an employment or category of employment exceed 39 hours, and
 - (c) a minimum hourly rate for remuneration other than that referred to in *paragraph (a) or (b)*,
- in respect of any class of employment permit, employment or category of employment, and may, without prejudice to the generality of *subsection (1)*, make

different provision for any such class, employment or category in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.

- (4) Without prejudice to the generality of *subsection (2)(e)*, where the Minister has made regulations, pursuant to *subsection (2)(e)*, specifying the minimum amount of remuneration that shall be payable in respect of an employment as a condition for the grant or renewal of an employment permit in respect of it, he or she shall, every year from the date of the making of the regulations concerned, carry out a review of those regulations having regard to the most recent information on average weekly earnings made available by the Central Statistics Office and where, following such review, the Minister is satisfied that there has been an increase in the average weekly earnings as calculated by the Central Statistics Office since the date of the making of the regulations or the date of the last review carried out under this subsection (whichever occurs later), he or she shall increase the minimum amount of remuneration specified in those regulations in respect of an employment by a percentage equal to or exceeding the percentage increase in such average weekly earnings since that date.
- (5) When making regulations under *subsection (1)* in respect of a general employment permit, critical skills employment permit or seasonal employment permit, the Minister, in addition to providing for any of the matters specified in *subsection (2)* for those classes of employment permit, may specify the maximum number of applications that may be made in respect of a particular foreign national under *section 27* or *29*, and may make different provision for different classes of employment permit, employments or categories of employments in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.
- (6) The Minister may, in regulations under *subsection (1)*, when providing for—
- (a) a critical skills employment permit, make different provision for a foreign national to whom *section 44* applies, and
 - (b) a general employment permit, make different provision for a foreign national to whom *section 45* applies,
- and may make different provision for such foreign nationals in respect of any matter to be provided for under *subsection (2)* and, without prejudice to *subsections (1)* and *(3)*, when providing for remuneration under *subsection (2)(e)*, such provision may include different amounts of remuneration in respect of such class of employment permit or any employment or category of employment and different provision may be made for different cases in relation to different classes of cases and different circumstances or different classes of circumstances.
- (7) When making regulations under *subsection (1)* in respect of an exchange agreement employment permit, the Minister, in addition to providing for any of the matters specified in *subsection (2)* for that class of employment permit—
- (a) shall specify in those regulations each exchange agreement in respect of which an employment permit may be granted, and

(b) may, without prejudice to *subsection (1)* and *(2)*, specify the employments referred to in that exchange agreement, or to which that exchange agreement applies, in respect of which an employment permit may be granted for that class of employment permit,

and when specifying the exchange agreement may, without prejudice to *subsection (1)*, make different provision for such different exchange agreements in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.

(8) When making regulations under *subsection (1)* in respect of a seasonal employment permit, the Minister, in addition to providing for any of the matters specified in *subsection (2)* for that class of employment permit, shall specify—

- (a) the period or periods each year during which a person may make an application for approval as an approved seasonal employer under *section 10(1)*,
- (b) the maximum number of approved seasonal employers that may stand approved by the Minister, and
- (c) the minimum number of foreign nationals to be employed by an approved seasonal employer under a seasonal employment permit during the period for which the approved seasonal employer is approved under *section 10(5)*,

and may make different provision in respect of different employments or categories of such employments and such employments or such categories may be provided for on the basis of one or more economic sectors into which they fall.

(9) In regulations under *subsection (1)* in relation to any class of employment permit or any matter specified under *subsection (2)*, the Minister may, when providing for any such class or matter, make provision in respect of a recommendation referred to in *section 16*, and may, in respect of such recommendation, make different provision for such classes or such matter in relation to different cases and different classes of cases and different circumstances and different classes of circumstances.

(10) When specifying in regulations under *subsection (1)* the qualifications, referred to in *subsection (2)(f)*, of a foreign national, the Minister may provide, in respect of such qualifications, for one or both of the following:

- (a) a requirement that the foreign national be registered with—
 - (i) a regulatory body, or
 - (ii) any Minister of the Government regulating the entry to or carrying on of any profession, employment or trade in the State;
- (b) a requirement that the qualifications of a foreign national be recognised by—
 - (i) a regulatory body, or
 - (ii) any Minister of the Government regulating the entry to or carrying on of any profession, employment or trade in the State.

- (11) Without prejudice to the generality of *subsection (2)(b)*, when specifying the employments for which an employment permit may be granted, including employments specified by reference to categories of employments and to one or more economic sectors, the Minister may specify such employments by reference to employments that require qualifications, experience or skills, referred to in *section 49(1)(c)*, that are required for the proper functioning of one or more economic sectors and the Minister is satisfied that there is a shortage, referred to in *section 49(1)(d)*, of those skills, experience or qualifications.
- (12) When making regulations under *subsection (1)* in respect of a general employment permit or a seasonal employment permit, the Minister, in addition to providing for any of the matters specified in *subsection (2)* for such an employment permit, may specify in those regulations as a condition for the grant of such an employment permit in relation to specified employments for which such an employment permit may be granted—
- (a) any accommodation, training or expenses that shall be provided to a foreign national to whom such an employment permit is granted, and
 - (b) any measures that shall be taken by the employer of the foreign national to whom such an employment permit is granted—
 - (i) to increase the skills, knowledge, qualifications or experience of employees (other than the foreign national) in respect of the employment concerned, including the employment of new trainees or apprentices in that employment, or
 - (ii) to otherwise reduce the employer's reliance on the employment of foreign nationals in respect of the employment concerned, including by way of the introduction of technical changes to work processes,
- and may make different provision for such classes of employment permit in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.
- (13) Where, under *subsections (1) and (2)(a)*, the Minister makes regulations providing for the maximum number of employment permits that may be granted in respect of a class of employment permit or specified employments or categories of employments, whether the maximum number is provided for on the basis of an economic sector or otherwise, the Minister shall specify a period during which that maximum number of employment permits shall be granted.
- (14) The Minister may, having regard to *section 9* and the matters specified in *section 49*, make regulations providing that no permits shall be granted in respect of any class of employment permit referred to in *section 9(2)* for a period as the Minister shall specify in the regulations.
- (15) The Minister may, having regard to *section 9* and the matters specified in *section 49*, make regulations providing that no permits shall be renewed in respect of any class of employment permit referred to in *section 9(2)* for a period as the Minister shall specify in the regulations.

- (16) Where the Minister has made regulations under this section, he or she shall from time to time carry out a review of the regulations having regard to the matters specified in *section 49* and, without prejudice to the generality of the foregoing, the shortages and surpluses referred to in *section 49(1)(d)* in respect of the matters specified in the regulations pursuant to this section.
- (17) Subject to *subsection (18)*, in regulations under *subsection (1)*, the Minister may, having regard to *sections 9* and *48* and the matters specified in *section 49*, provide, in respect of each class of employment permit referred to in *subsection (1)*, for—
- (a) one or more of the matters specified in *subsection (2)* other than the matters specified in *paragraphs (a), (c) and (d)* of that subsection, and
 - (b) any matter specified in *subsections (3) and (7) to (12)*,
- in relation to the renewal, under *section 36*, of an employment permit and may, for each such class of employment permit in such regulations, make provision for such classes of employment permit in relation to any of the matters specified in *paragraphs (a) and (b)* in relation to such renewal that is different to the provision made by the Minister in relation to the grant of an employment permit under *section 19* and may, in such regulations, make different provision for such classes of employment permit and such matters in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.
- (18) The following modifications apply in respect of the regulations referred to in *subsection (17)*:
- (a) the substitution of references to an application for the renewal of an employment permit for references to an application for the grant of an employment permit;
 - (b) the substitution of references to a condition for the grant of the renewal of an employment permit for references to a condition for the grant of an employment permit;
 - (c) the substitution of references to the grant of the renewal of an employment permit for the grant of an employment permit.
- (19) The Minister may, having regard to *paragraphs (d) and (e) of section 9(2)*, *section 48* and the matters specified in *section 49*, make regulations specifying—
- (a) the minimum period of employment for which a foreign national referred to in *section 9(2)(d)* is employed with the foreign employer before an application for an employment permit may be made in respect of him or her, and
 - (b) the minimum period of employment for which a foreign national referred to in *section 9(2)(e)* is employed by the contractor or subcontractor concerned before an application for an employment permit may be made in respect of him or her.
- (20) Where—
- (a) the Minister is satisfied that, having regard to *section 49(1)(d)*, there is a shortage of the skills referred to in *section 49(1)(d)*, and

- (b) those skills are required for an employment, or a category of employment, specified in regulations under this section as an employment or a category of employment for which a general employment permit or contract service agreement employment permit may be granted,

the Minister may specify in regulations under this section the employments or categories of employments to which *section 23(2)* shall not apply—

- (i) in respect of—

- (I) an employment, and

- (II) a category of employment or an employment falling into a category of employment,

specified in regulations under this section as employments or categories of employment for which a general employment permit may be granted, and

- (ii) in respect of—

- (I) an employment, and

- (II) a category of employment or an employment falling into a category of employment,

specified in regulations under this section as employments or categories of employment for which a contract service agreement employment permit may be granted.

- (21) Where regulations under this section are in force, the relevant powers of the Minister under this Act in relation to employment permits shall, subject to this Act, be exercised subject to, and in accordance with, those regulations.

Remuneration relating to employments

- 48.** (1) When specifying, in regulations made under *section 47(2)(e)*, a minimum amount of remuneration for an employment or a category of employment, the Minister may have regard to the amounts of remuneration paid in respect of different employments and categories of employment.
- (2) Where, pursuant to regulations made under *section 47(2)(g)*, the minimum number of hours of work that are required to be worked in each week for an employment as a condition for the grant of an employment permit in respect of it—
- (a) is less than 39 hours in each week, the minimum annual remuneration specified in regulations under *section 47(2)(e)* in respect of that employment as a condition for the grant of an employment permit for that employment shall not be reduced in accordance with the lesser number of hours to be worked in each week, or
 - (b) is greater than 39 hours in each week, the minimum annual remuneration specified in regulations under *section 47(2)(e)* in respect of that employment as a condition for the grant of an employment permit for that employment shall be increased in proportion to the minimum hourly rate specified for the employment

concerned in accordance with the number of hours, or any portion of an hour, that exceed, or exceeds, 39 hours.

Criteria for making regulations under section 47

49. (1) The matters mentioned in *subsections (1), (14), (15), (16), (17) and (19) of section 47* are—
- (a) the qualifications, experience or skills that, in the opinion of the Minister, are required for economic and social development and competitiveness,
 - (b) the economic sector or sectors that, in the opinion of the Minister, will be involved in the achievement of such economic and social development and competitiveness,
 - (c) the qualifications, experience or skills that, in the opinion of the Minister, are required for the proper functioning of such economic sector or sectors, and
 - (d) in a case where, in the opinion of the Minister, there is likely to be a shortage or surplus in respect of qualifications, experience or skills falling within *paragraph (c)*, an estimate as best the Minister may make (and which estimate the Minister is, by virtue of this section, required to make) of what the extent of that shortage or surplus will be.
- (2) References in *subsection (1)* to qualifications, experience or skills are references to qualifications, experience or skills of employees.

Regulations governing procedure in relation to applications for employment permits, etc.

50. (1) The Minister shall make regulations providing for the procedure relating to the making of an application for an employment permit under *section 12* or the renewal of an employment permit under *section 36* and the grant or renewal of an employment permit on foot of such an application and may, when making the regulations, make provision for the purposes specified in *paragraphs (a) to (j) of section 9(2)* for which employment permits may be granted and the different classes of employment permit provided for in regulations under *section 47(1)* in respect of those purposes.
- (2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision for all or any of the following:
- (a) the form in which an application for an employment permit shall be made and the form of an employment permit;
 - (b) the form in which an application for the renewal of an employment permit shall be made and the form of an employment permit as renewed;
 - (c) the production to the Minister, with an application under *section 12*, of information and documents as the Minister may—
 - (i) without prejudice to the requirement under *section 13(a)*, specify, in respect of the employment concerned and the terms, conditions and the duration of it,

- (ii) without prejudice to the requirement under *section 13(c)*, specify, in respect of the qualifications, skills, knowledge and experience, of the foreign national in respect of whom the application is made,
- (iii) in the case of an application for a sports and cultural employment permit and without prejudice to the requirement under *section 13(c)*, specify, in respect of the knowledge or expertise of the foreign national in relation to the sport or cultural activity concerned,
- (iv) without prejudice to the requirement under *section 13(e)*, specify, in respect of the remuneration that is proposed to be paid to the foreign national and deductions to be made from it,
- (v) without prejudice to the requirement under *section 13(f)*, specify, concerning—
 - (I) any permission given to the foreign national in respect of whom the application is made by the Minister for Justice to land in the State or to be in the State, and
 - (II) any application, made before the date on which the application under *section 12* is made, to the Minister for Justice for which the foreign national has sought permission to land in the State or to be in the State,
- (vi) without prejudice to the requirement under *section 13(f)*, specify, concerning the employment in the State of the foreign national in respect of whom the application is made, at the time of the application or at any other time,
- (vii) specify, concerning the identity of the foreign national in respect of whom the application is made and without prejudice to the generality of the foregoing may include the production to the Minister of a copy of the passport of that foreign national and in respect of which the expiry date of that passport is not less than a period as the Minister may specify under *paragraph (j)*,
- (viii) without prejudice to the requirement under *section 13(i)*, specify, in respect of the requirement under *section 12(10)* in relation to—
 - (I) the employment of any person employed in the employment that is the subject of the application in the period referred to in *section 12(10)*, and
 - (II) the dismissal by reason of redundancy within that period of any person employed in the employment that is the subject of the application,and
- (ix) specify, in respect of—
 - (I) without prejudice to *subsection (1)*, the making of an application under *section 12*,
 - (II) without prejudice to the requirement under *section 13*, any matter specified in *paragraphs (a) to (m)* of *section 13*,

- (III) the requirement under *section 22* for the employees referred to in that section to be nationals of the states referred to in that section and the matters specified in *section 22(3)*,
 - (IV) without prejudice to the generality of *subsection (1)*, a purpose specified in *section 9(2)*, and
 - (V) any other requirement under this Act that, in respect of the grant of an employment permit, is required to be satisfied;
- (d) the production to the Minister, with an application under *section 36* to renew an employment permit, of information and documents as the Minister may—
- (i) specify, in respect of the employment that is the subject of such application and the terms and conditions of that employment,
 - (ii) specify, in respect of the qualifications, skills and knowledge, of the foreign national in respect of whom the application is made,
 - (iii) specify, in respect of—
 - (I) the remuneration that is proposed to be paid to the foreign national on and after such renewal and deductions to be made from such remuneration, and
 - (II) the remuneration paid to the foreign national in respect of whom such application is made, for all or part of the period commencing on the date on which the employment permit was granted and ending on the date on which such application was made,
 - (iv) specify, that have been issued by the Revenue Commissioners in relation to the remuneration paid to, and tax paid in respect of such remuneration by, the foreign national in respect of whom such application is made,
 - (v) specify, concerning the permission given by the Minister for Justice to the foreign national in respect of whom such application is made to land in the State or to be in the State during the period for which the employment permit has been in force,
 - (vi) specify, concerning the identity of the foreign national in respect of whom such application is made and without prejudice to the generality of the foregoing may include the production to the Minister of a copy of the passport of that foreign national and in respect of which the expiry date of that passport is not less than a period as the Minister may specify under *paragraph (j)*,
 - (vii) specify, in respect of—
 - (I) without prejudice to the generality of *subsection (1)*, the making of an application to renew an employment permit under *section 36*,
 - (II) without prejudice to the generality of *subsection (1)*, the requirements under *section 22*, referred to in *paragraph (c)(ix)(III)*, in relation to an application for the renewal of an employment permit,

- (III) without prejudice to the generality of *subsection (1)*, a purpose referred to in *section 9(2)*, and
 - (IV) any other requirement under this Act that, in respect of the renewal of an employment permit, is required to be satisfied,
- and
- (viii) in the case of an application for the renewal of a general employment permit or seasonal employment permit, specify concerning—
 - (I) any accommodation, training or expenses required by regulations made in accordance with *section 47(12)* to be provided to the foreign national to whom the employment permit was granted, and
 - (II) any measures required, pursuant to regulations made in accordance with *section 47(12)*, to be taken by the employer of the foreign national to whom the employment permit was granted;
- (e) the production to the Minister, with an application under *section 12* of documents and evidence to verify such documents—
 - (i) demonstrating that the person identified in the application in accordance with *section 12(6)*, or as the case may be the connected person, is registered with the Revenue Commissioners,
 - (ii) where the person identified in the application in accordance with *section 12(6)*, or as the case may be the connected person, is a company within the meaning of the Companies Act 2014, relating to the registration of the company pursuant to that Act,
 - (iii) relating to the registration of the business name, pursuant to the Act of 1963, of the person identified in the application in accordance with *section 12(6)*, or the connected person where that person has a registered business name, and
 - (iv) where the person identified in the application in accordance with *section 12(6)*, or the connected person is—
 - (I) a limited partnership under the Limited Partnerships Act 1907, documents and evidence relating to the registration of the limited partnership under that Act,
 - (II) an industrial and provident society, documents and evidence relating to the registration of the society under the Industrial and Provident Societies Acts 1893 to 2021,
 - (III) a friendly society, documents and evidence relating to the registration of the society under the Friendly Societies Acts 1896 to 2021, and
 - (IV) a trade union, documents and evidence relating to the registration of the trade union under the Trade Union Acts 1871 to 1990;

- (f) the production to the Minister with an application for a renewal of an employment permit under *section 36* of documents and evidence referred to in *paragraph (e)*;
- (g) without prejudice to *paragraph (c)*, in the case of an application for an intra-company transfer employment permit or a contract for service employment permit, the production to the Minister, with an application under *section 12*, of information and documents as the Minister may specify in respect of—
- (i) the remuneration paid to the foreign national concerned,
 - (ii) the currencies and exchange rate to be used in the description of the amount of such remuneration and in any computation and statement of remuneration,
 - (iii) the translations of any information or document relating to such remuneration,
 - (iv) the payment to the foreign national of the additional payment referred to in *section 24(2) and (3)* and *section 25(2) and (3)*, and
 - (v) the arrangements for making the additional payment referred to in *subparagraph (iv)*,
- and, without prejudice to *paragraph (a)*, the Minister may specify the form in which such information is to be provided to the Minister;
- (h) without prejudice to *paragraph (d)*, in the case of an application for the renewal of an intra-company transfer employment permit or a contract for service employment permit, the production to the Minister, with an application under *section 36*, of—
- (i) information and documents as the Minister may specify in respect of—
 - (I) the remuneration that is proposed to be paid to the foreign national on and after such renewal and deductions to be made from such remuneration, and
 - (II) the remuneration paid to the foreign national in respect of whom such application is made, for all or part of the period commencing on the date on which the employment permit was granted and ending on the date on which such application was made,
 - (ii) documents, as the Minister may specify, issued by the Revenue Commissioners in relation to the remuneration paid to, and tax paid in respect of such remuneration by, the foreign national in respect of whom such application is made,
 - (iii) documents, as the Minister may specify, issued by the Revenue Commissioners in relation to the remuneration and tax paid by the connected person, the foreign employer, contractor or subcontractor, as the case may be,
 - (iv) information and documents as the Minister may specify in respect of the currencies and exchange rate to be used in the description of the amount of

such remuneration and in any computation and statement of remuneration, and

- (v) information and documents as the Minister may specify in respect of the translations of any information or document relating to such remuneration, and without prejudice to *paragraph (b)*, the form in which such information is to be provided to the Minister;
- (i) the form of the notification referred to in *sections 44* and *45* and the information and documents the Minister may require to be satisfied—
 - (i) that, for the purposes of *sections 44* and *45*, the dismissal by an employer of a foreign national referred to in *section 44* or *45* is a dismissal by reason of redundancy, and
 - (ii) the date on which the redundancy takes effect;
 - (j) the specification of the minimum period for which a passport referred to in *paragraphs (c)* and *(d)* shall be in force on the date of an application for the grant, or renewal, of an employment permit;
 - (k) the period within which any information or documents, including additional information or documents requested by the Minister relating to the grant or renewal of an employment permit, shall be furnished to the Minister;
 - (l) the production to the Minister, within a specified period, of such evidence as he or she may reasonably require in order to verify any information or documents previously furnished to the Minister in respect of an application for the grant or renewal of an employment permit.
- (3) Without prejudice to the generality of *subsections (1)* and *(2)*, regulations under this section may provide for the production, with an application for the grant or renewal of an employment permit, to the Minister of—
 - (a) in the case of an application for the grant or renewal of a contract for service employment permit, information and documents in respect of the contract service agreement concerned,
 - (b) in the case of an application for the grant or renewal of an intra-company transfer employment permit or a contract for service employment permit, information and documents relating to—
 - (i) the business carried on by a connected person and a foreign employer and the connection between the connected person and the foreign employer, and
 - (ii) the arrangements made by a connected person, foreign employer, contractor or subcontractor for accommodation, board and health insurance referred to in *section 3(1)(b)(iii)* provided for the foreign nationals,and
- (c) such evidence as the Minister may reasonably require in order to verify such information or documents.

- (4) Without prejudice to the generality of *subsections (1) and (2)*, regulations under this section may provide for the production to the Minister, with an application under *section 12*, of information, documents and evidence to verify such information and documents as the Minister may require to be satisfied—
- (a) that the exchange agreement applies to the foreign national in respect of an application for the grant of an exchange agreement employment permit, and
 - (b) that, in respect of an application for the grant of an internship employment permit—
 - (i) the third level institution outside the State confirms—
 - (I) that the foreign national is enrolled as a full-time student at that institution and the name and description of the course of study in which the foreign national is enrolled,
 - (II) the qualifications or skills with which the course of study is wholly or substantially concerned,
 - (III) that the employment in respect of which the application is made is wholly or substantially concerned with the course of study on which the foreign national is enrolled,
 - (IV) the requirement referred to in *section 9(2)(i)(iii)*, and
 - (V) that the foreign national is required to return to that institution at the end of the period referred to in *section 9(2)(i)(iii)* in order to complete that course of study,
 - and
 - (ii) the person who has made the offer of employment concerned confirms that—
 - (I) the employment is for a period not exceeding the period referred to in *section 9(2)(i)(iii)*, and
 - (II) the employment is wholly or substantially concerned with the skills or qualifications referred to in *section 9(2)(i)*.
- (5) Without prejudice to the generality of *subsections (1) and (2)*, regulations under this section may provide for the production, with an application for the grant or renewal or a seasonal employment permit, to the Minister of—
- (a) information and documents relating to the arrangements made by the approved seasonal employer for accommodation and health insurance referred to in *section 3(1)(c)(iii)* and transport, where applicable, provided for foreign nationals, and
 - (b) such evidence as the Minister may reasonably require in order to verify such information or documents.
- (6) The Minister shall make regulations providing for the procedure relating to the making of an application for approval as an approved seasonal employer under *section 10* and may, when making the regulations, make different provision for

different employments or categories of employment and in relation to different cases and different classes of cases and different circumstances or different classes of circumstances.

- (7) Without prejudice to the generality of *subsections (1), (2) and (6)*, regulations under this section may make provision for all or any of the following:
- (a) the form in which an application for approval as an approved seasonal employer shall be made and the form of an approved seasonal employer certificate;
 - (b) the production to the Minister, with an application for approval as an approved seasonal employer, of information and documents as the Minister may specify in respect of—
 - (i) the proposed employment to which the application relates and the terms and conditions, including the hours of work in each week, and the duration of the proposed employment concerned,
 - (ii) the business carried on by the applicant to which the seasonally recurrent employment concerned relates,
 - (iii) the place at which the business referred to in *subparagraph (ii)* is to be carried out,
 - (iv) the remuneration that is proposed to be paid by the person to the foreign nationals proposed to be employed under a seasonal employment permit and any deductions to be made from that remuneration,
 - (v) the making of an application for approval as an approved seasonal employer, and
 - (vi) any other requirement under this Act that, in respect of the approval as an approved seasonal employer and, where applicable, the grant or renewal of a seasonal employment permit, is required to be satisfied;
 - (c) the production to the Minister, with an application for approval as an approved seasonal employer, of documents and evidence to verify such documents—
 - (i) demonstrating that the applicant is registered with the Revenue Commissioners,
 - (ii) where the applicant is a company within the meaning of the Companies Act 2014, relating to the registration of the company pursuant to that Act,
 - (iii) relating to the registration of the business name, pursuant to the Act of 1963, of the applicant where the applicant has a registered business name, and
 - (iv) where the applicant is—
 - (I) a limited partnership under the Limited Partnerships Act 1907, documents and evidence relating to the registration of the limited partnership under that Act,

- (II) an industrial and provident society, documents and evidence relating to the registration of the society under the Industrial and Provident Societies Acts 1893 to 2021,
 - (III) a friendly society, documents and evidence relating to the registration of the society under the Friendly Societies Acts 1896 to 2021, and
 - (IV) a trade union, documents and evidence relating to the registration of the trade union under the Trade Union Acts 1871 to 1990;
- (d) the period within which any information or documents, including additional information or documents requested by the Minister relating to approval as an approved seasonal employer, shall be furnished to the Minister;
 - (e) the production to the Minister, within a specified period, of such evidence as he or she may reasonably require in order to verify any information or documents previously furnished to the Minister in respect of an application for approval as an approved seasonal employer.
- (8) Without prejudice to the generality of *subsections (1), (2) and (6)*, regulations under this section may provide for the production, with an application for approval as an approved seasonal employer, to the Minister of—
- (a) information and documents relating to the arrangements made, or proposed to be made, by the applicant for—
 - (i) accommodation and health insurance referred to in *section 3(1)(c)(iii)*,
 - (ii) any accommodation, training or expenses required by regulations made in accordance with *section 47(12)(a)*, where applicable, and
 - (iii) transport, where applicable,to be provided for foreign nationals proposed to be employed by the applicant under a seasonal employment permit,
 - (b) information and documents concerning any measures required, pursuant to regulations made in accordance with *section 47(12)(b)*, to be taken by the applicant, where applicable, and
 - (c) such evidence as the Minister may reasonably require in order to verify such information or documents.
- (9) The Minister may, in respect of an application under *section 27* or *29*, make regulations under this section specifying—
- (a) the information and documents to be provided to the Minister that relate to the making of an application to change the employer specified in an employment permit under *section 27* or *29*,
 - (b) the form in which an application under *section 27* or *29* is to be made,
 - (c) the production to the Minister, with an application under *section 27*, of documents and evidence referred to in *section 50(2)(e)*, and

- (d) the procedure for the making of an application under *section 27* or *29* and for the approval of the change of employer on foot of such an application.
- (10) The Minister may, in respect of the notification referred to in *section 26*, make regulations under this section specifying—
- (a) the information and documents to be provided to the Minister that relate to the transfer, and the change of name, that arises pursuant to such transfer, of—
 - (i) the employer or connected person specified in an employment permit referred to in that section, or
 - (ii) the relevant person,
 - (b) the form in which the notification under *section 26* is to be made, and
 - (c) the procedure for the making of that notification.
- (11) The Minister may, in respect of the notification referred to in *section 31(2)*, make regulations under this section specifying—
- (a) the information and documents to be provided to the Minister that relate to the matters referred to in *section 31(3)*,
 - (b) the form in which the notification under *section 31(2)* is to be made, and
 - (c) the procedure for the making of that notification.
- (12) Without prejudice to *subsections (1), (2) and (6)*, in regulations under this section, the Minister may provide for the production to the Minister, with an application for the grant or renewal of an employment permit, an application for approval as an approved seasonal employer or an application under *section 27* or *29*, of information, documents and evidence to verify such information and documents concerning—
- (a) compliance by a person who makes an offer of employment or a person applying for approval as an approved seasonal employer with an enactment, as the Minister may specify in the regulations, with which compliance is required by such person in order to carry on his or her business,
 - (b) compliance by a contractor, subcontractor, relevant person or connected person with an enactment, as the Minister may specify in the regulations, with which compliance is required by such contractor, subcontractor, relevant person or connected person in order to carry on his or her business,
 - (c) compliance by a person who makes an offer of employment or a person applying for approval as an approved seasonal employer with a requirement, as the Minister may specify in the regulations, with which compliance is required by such person in order to carry on his or her business,
 - (d) compliance by a contractor, subcontractor, relevant person or connected person with a requirement as the Minister may specify in regulations, with which compliance is required by such contractor, subcontractor, relevant person or connected person in order to carry on his or her business, and

(e) without prejudice to *paragraphs (a) and (b)*, compliance by a person who makes an offer of employment, a person applying for approval as an approved seasonal employer, a contractor, subcontractor or connected person with the Act of 1997 that is in addition to the documents and evidence that may be specified in regulations under *subsections (2)(e)(i) and (2)(f)*,

and the Minister may make different provision for different cases and different classes of cases and different circumstances and different classes of circumstances.

- (13) In regulations under this section, the Minister may provide for the procedure for the payment of any fee that is to accompany an application for the grant or renewal of an employment permit or an application under *section 27*.
- (14) The Minister may make regulations providing for the procedures in relation to the submission of a decision for review under *section 11(5)*, *section 28(5)* (including as applied by *section 30(4)*), *section 35* or *section 41* and the carrying out of such a review and, without prejudice to the generality of the foregoing, such regulations may make provision for all or any of the following:
- (a) the form in which such a submission is to be made;
 - (b) the furnishing of specified information to the person carrying out the review for the purposes of the review;
 - (c) the furnishing of such additional information as that person thinks appropriate for the purposes of the review;
 - (d) the period within which any such information, including any additional such information requested by that person, shall be furnished;
 - (e) the production to that person, within a specified period, of such evidence as he or she may reasonably require in order to verify any information or particulars previously furnished to him or her for the purposes of the review.
- (15) Without prejudice to the generality of *subsections (1) and (2)*, regulations under this section may provide for the production to the Minister, in respect of the grant or renewal of a dependant employment permit of information, documents and evidence to verify such information, with—
- (a) an application under *section 12* for the grant of an employment permit, or
 - (b) an application under *section 36* for the renewal of an employment permit,
- that the Minister may reasonably require in order to satisfy himself or herself that the foreign national in respect of whom the application is made is a dependant of a primary permit holder and satisfies the requirements of *section 14(2)* or is a dependant of a research project researcher and satisfies the requirements of *section 14(3)* and in so providing may include information, documents and evidence referred to in *paragraphs (a) to (g) of subsection (16)*.
- (16) The information, documents and evidence referred to in *subsection (15)* that may be included in regulations under this section are information, documents and evidence verifying such information and documents in respect of—

- (a) the nature of the dependence of a foreign national, in respect of whom an application for a dependant employment permit is made, on the primary permit holder or, as the case may be, the research project researcher concerned, which may include copies of birth certificates or other documents providing evidence of the nature of such dependence,
 - (b) the identity of the primary permit holder and the grant to him or her of a critical skills employment permit,
 - (c) the identity of the research project researcher,
 - (d) the permission—
 - (i) given to a primary permit holder referred to in *section 14(2)(a)* to be in the State and be in employment in the State,
 - (ii) referred to in *section 8(1)(f)* given to a primary permit holder referred to in *section 14(2)(b)*, and
 - (iii) given to the foreign national in respect of whom the application for a dependant employment permit is made, to land in the State and reside in the State,
 - (e) in the case of a research project researcher referred to in *section 14(3)(b)*, the permission referred to in *section 8(1)(f)* given to him or her and the permission given to the foreign national in respect of whom the application for a dependant employment permit is made, to land in the State and reside in the State,
 - (f) the verification, by the employer of the primary permit holder, that the primary permit holder is in employment with the employer, and
 - (g) the verification—
 - (i) that the research project researcher is carrying out research in the State pursuant to Directive 2005/71/EC by the person in the State with whom that research is being carried out, and
 - (ii) by the employer of a research project researcher referred to in *section 14(3)(b)*, of the employment of the research project researcher.
- (17) Regulations under this section may make provision for—
- (a) the making of an application under *section 10, 11, 12, 27, 29* or *36*,
 - (b) the issue of an employment permit under *section 21, 27(15), 29(14)* or *31(4)(c)*,
 - (c) the issue of an approved seasonal employer certificate under *section 10(6)*, or
 - (d) the giving of any notice in writing required to be given under this Act,
- by electronic means and through such electronic systems as the Minister may make available for any such purpose.

PART 4

ENFORCEMENT, OFFENCES AND PENALTIES

Authorised officers

51. (1) The Minister may appoint in writing such and so many of his or her officers to be authorised officers for the purposes of all or any of the provisions of this Act and such appointment may be specified to be for a fixed period.
- (2) A person who, immediately before the commencement of this section, was an authorised officer appointed under the Act of 2006 shall be deemed to be an authorised officer appointed under this Act, and this section shall apply accordingly in respect of that person.
- (3) Every authorised officer appointed under this section shall be furnished with a warrant of appointment and shall, when exercising any power conferred on him or her by this section, if requested by a person affected, produce the warrant of appointment or a copy of it to that person.
- (4) An appointment under this section as an authorised officer shall cease—
- (a) if the Minister revokes the appointment,
 - (b) if the appointment is for a fixed period, on the expiry of that period, or
 - (c) if the person appointed ceases to be an officer of the Minister.
- (5) For the purposes of this Act, an authorised officer may, subject to *subsection (6)*—
- (a) at all reasonable times enter any premises, place, vehicle, vessel or aircraft on, at or in which there are grounds to believe that any trade or business or any activity in connection with a trade or business is being, or has been, carried on, or that records relating to such trade, business or activity are kept, and search and inspect the premises, place, vehicle, vessel or aircraft and any records that are on, at or in such premises, place, vehicle, vessel or aircraft,
 - (b) secure for later inspection any, or any part of any, premises or place or any vehicle, vessel or aircraft on, at or in which such records are kept or there are reasonable grounds for believing that such records are kept,
 - (c) require any person who carries on such trade, business or activity or any person employed in respect of such trade, business or activity to produce to him or her such records and where such records are kept in a non-legible form to reproduce them in a legible form or to give to him or her any information as the authorised officer may reasonably require in relation to any entries in such records,
 - (d) inspect and take copies of or extracts from any such records, files, papers or electronic information system on, at or in the premises, place, vehicle, vessel or aircraft including, in the case of information in a non-legible form, copies of or extracts from such information in a permanent legible form,

- (e) remove and retain such records for such periods as may be reasonable for future examination, subject to a warrant being issued for that purpose by the District Court,
 - (f) require any such person to give to the authorised officer any information which the authorised officer may reasonably require in respect of such trade, business or activity or in respect of the persons carrying on such trade, business or activity or employed in connection with such trade, business or activity,
 - (g) require any such person to give to the authorised officer any other information which the authorised officer may reasonably require in respect of such trade, business or activity,
 - (h) require any person by or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the operation of the data equipment or any associated apparatus or material, to afford the authorised officer all reasonable assistance in relation to it and assist in the retrieval of information connected with the operation of such data equipment, apparatus or material,
 - (i) summon, at any reasonable time, any other person employed in connection with such trade, business or activity to give to the authorised officer any information which the authorised officer may reasonably require in relation to such trade, business or activity and to produce to the authorised officer any records which are in the control of that other person,
 - (j) have photographs taken of anything on, at or in the premises, place, vehicle, vessel or aircraft and remove the photographs from the place, and
 - (k) inspect any vehicle, vessel or aircraft relating to such trade, business or activity.
- (6) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under *subsection (9)* authorising such entry.
- (7) Where an authorised officer, in the exercise of his or her powers under this section, is prevented from entering any premises, place, vehicle, vessel or aircraft, an application may be made for a warrant under *subsection (9)* authorising such entry.
- (8) An authorised officer appointed under this section, when exercising any powers conferred on an authorised officer by this Act, may be accompanied by such other authorised officers or members of the Garda Síochána or both as he or she considers necessary.
- (9) Without prejudice to the powers conferred on an authorised officer by or under any provision of this section, if a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this section held on or at any, or any part of any, premises or place or in any vehicle, vessel or aircraft, the judge may issue a warrant authorising an authorised officer, accompanied by such other authorised officers and members of the Garda Síochána as provided for in *subsection (8)* at any time or times within one month from the date of issue of the

warrant, on production if so requested of the warrant, to enter the premises, place, vehicle, vessel or aircraft if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under this section.

- (10) A person shall comply with any request or requirement of an authorised officer under this Act.
- (11) A person who—
- (a) obstructs or impedes an authorised officer in the exercise of a power under this section,
 - (b) without reasonable excuse, does not comply with a requirement under this section, or
 - (c) in purported compliance with such a requirement, gives information that is false or misleading in a material respect,
- shall be guilty of an offence.

Warrant relating to offences under *section 7(6)*

- 52.** (1) Without prejudice to the powers conferred on an authorised officer by or under *section 51* where, on the sworn information of a member of the Garda Síochána not below the rank of sergeant, a judge of the District Court is satisfied that there are reasonable grounds for suspecting that evidence of or relating to an offence under *section 7(6)* is to be found at a place specified in the information, the judge may issue a warrant for the search of that place and any persons found at that place.
- (2) A warrant issued under this section shall authorise a named member of the Garda Síochána alone or accompanied by such other members of the Garda Síochána and such other persons as may be necessary—
- (a) to enter, within 7 days from the date of the warrant, and if necessary by the use of reasonable force, the place named in the warrant,
 - (b) to search it and any persons found there, and
 - (c) to seize anything found there, or anything found in the possession of a person present there at the time of the search, which that member reasonably believes to be evidence of or relating to an offence under *section 7(6)*.
- (3) A member of the Garda Síochána acting in accordance with a warrant issued under this section may require any person found at the place where the search is carried out to give the member his or her name and address.
- (4) Any person who—
- (a) obstructs or attempts to obstruct any member of the Garda Síochána acting in accordance with a warrant issued under *subsection (1)*,
 - (b) fails or refuses to comply with a requirement under this section, or
 - (c) gives a name or address which is false or misleading,

shall be guilty of an offence.

- (5) A member of the Garda Síochána may arrest without warrant any person whom the member reasonably suspects of having committed an offence under *subsection (4)*.

Prohibition on forgery, fraudulent alteration or fraudulent use of employment permit

53. (1) A person shall not—

- (a) forge a document purporting to be an employment permit,
- (b) alter an employment permit with intent to deceive,
- (c) use an employment permit with intent to deceive,
- (d) permit the alteration of an employment permit with intent to deceive,
- (e) permit the use of an employment permit with intent to deceive, or
- (f) use, with intent to deceive, a forged document purporting to be an employment permit.

- (2) A person who contravenes *subsection (1)* shall be guilty of an offence.

Prohibition on certain use of employment permit

54. (1) Subject to *sections 27* and *29*, where an employment permit has been granted in respect of a foreign national, the employer or the connected person, as the case may be, shall not—

- (a) transfer the employment permit to another person,
- (b) use the employment permit to employ a foreign national other than the foreign national to whom it has been granted, or
- (c) use the employment permit in respect of an employment other than the employment in respect of which it has been granted.

(2) Subject to *sections 27* and *29*, the holder of an employment permit shall not—

- (a) transfer the employment permit to another foreign national,
- (b) allow another foreign national to use the employment permit to enter into the service of an employer in the State or be in employment in the State, or
- (c) use the employment permit to enter into a contract of employment in respect of an employment other than the employment in respect of which the employment permit has been granted.

(3) A person who contravenes *subsection (1)* or *(2)* shall be guilty of an offence.

Prohibition on deduction from remuneration and retention of personal documents

55. (1) An employer shall not make any deductions from the remuneration of, or seek to recover from, the holder of the employment permit concerned any charge, fee or expense arising out of or concerning one or more of the following:

- (a) the application for the employment permit or a renewal of the permit or any matter relating to or concerning such an application or the grant or renewal of the permit;
 - (b) the recruitment of the holder for the employment in respect of which the application was made;
 - (c) any amount previously paid to the holder in respect of travelling expenses incurred by the holder in connection with taking up the employment in the State.
- (2) Neither a person referred to in *subsection (1)* nor a person acting on his or her behalf shall keep any personal document belonging to a holder referred to in that subsection.
- (3) A connected person shall not seek to recover from the holder of the employment permit any charge, fee or expense arising out of the application for the employment permit or the renewal of the permit or any matter relating to or concerning such an application or the grant or renewal of the permit.
- (4) A person who contravenes *subsection (1), (2) or (3)* shall be guilty of an offence.
- (5) In this section, “personal document” includes a passport, a driving licence, an identity card, a document relating to any account held with a financial institution, a document relating to the skills, qualifications or experience of the foreign national and travel documents.

Provision of false or misleading information

56. A person who furnishes to the Minister, on an application under *section 12 or 36*, information that is false or misleading in a material respect, knowing that it is so false or misleading or being reckless as to whether it is so false or misleading, shall be guilty of an offence.

Penalties and proceedings

57. (1) A person guilty of an offence under *section 7(6)* is liable—
- (a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months or both, or
 - (b) where the offence is an offence consisting of a contravention of *section 7(3) or (5)*, or a failure to take the steps specified in *section 7(4)*, on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 10 years or both.
- (2) A person guilty of an offence under *section 43(4), 53(2), 54(3), 55(4), or 56* is liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
 - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

- (3) A person guilty of an offence under *section 51(11)* or *63(8)* is liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.
- (4) A person guilty of an offence under *section 52(4)* is liable on summary conviction to a class B fine or imprisonment for a term not exceeding 12 months or both.
- (5) Notwithstanding *section 10(4)* of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be brought within 24 months from the date of the offence.
- (6) Summary proceedings for an offence under this Act may be brought and prosecuted by the Minister.

Offences by body corporate

- 58.** (1) Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any wilful neglect on the part of a person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
- (2) Where the affairs of a body corporate are managed by its members, *subsection (1)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Civil proceedings

- 59.** (1) This section applies to a foreign national who, in contravention of *section 7(1)*—
- (a) entered the service of an employer in the State, or
 - (b) was in employment in the State,
- without an employment permit and who is no longer in such service or employment.
- (2) Where an employer referred to in *section 7(1)(a)* or, in the case of employment referred to in *section 7(1)(b)*, a person referred to in *section 7(2)(a)* or *(c)*—
- (a) has not paid a foreign national to whom this section applies an amount of money in respect of work done or services rendered during the period for which the foreign national was in the employment without an employment permit, or
 - (b) has paid an amount of money that was, having regard to the work done or services rendered during such period, an insufficient amount of money,
- the foreign national or, in accordance with *subsection (5)*, the Minister, may institute civil proceedings in any court of competent jurisdiction for an amount of money to recompense the foreign national for such work done or services rendered.

- (3) Where, in proceedings under *subsection (5)*, a court before which the proceedings are brought is satisfied that the foreign national took all steps as were reasonably open to him or her to comply with *section 7(1)*, the court may make an order that in recompense for such work done or services rendered an amount of money shall be paid to the foreign national by the employer who employed the foreign national, or, as the case may be, the person referred to in *section 7(2)(a)* or *(c)*.
- (4) The amount of money to be paid, pursuant to an order under *subsection (3)*, to a foreign national in recompense for work done or services rendered shall be—
- (a) in a case where no amount of money was paid in respect of work done or services rendered during the period for which the foreign national was in the employment without an employment permit, an amount equal to the greater of—
- (i) an amount calculated by reference to the national minimum hourly rate of pay, or
- (ii) an amount equal to an amount of pay for the work done or services rendered which is fixed under or pursuant to any enactment,
- or
- (b) in a case where an amount of money was paid in respect of work done or services rendered during the period for which the foreign national was in the employment without an employment permit, an amount equal to the difference between—
- (i) the amount paid, and
- (ii) an amount equal to the greater of—
- (I) an amount calculated by reference to the national minimum hourly rate of pay, or
- (II) an amount equal to an amount of pay for the work done or services rendered which is fixed under or pursuant to any enactment.
- (5) The Minister may, at his or her discretion, institute civil proceedings under *subsection (2)* in the name, and on behalf, of the foreign national with the consent of that foreign national.
- (6) Subject to *subsection (8)*, proceedings under this section shall not be brought—
- (a) after the expiration of 2 years from the day on which the foreign national ceased his or her employment or service with the employer or a person referred to in *section 7(2)(a)* or *(c)*, or
- (b) in respect of any work or services, done or rendered more than 6 years prior to the day on which the foreign national ceased his or her employment or service with the employer or a person referred to in *section 7(2)(a)* or *(c)*.
- (7) *Subsection (6)(b)* shall apply to proceedings under this section whether the work was done or the services were rendered before or on or after the coming into operation of this section.

- (8) Without prejudice to *subsection (6)*, proceedings under this section shall not be brought where—
- (a) the foreign national, in respect of any right of action he or she may have and whether such right of action arises pursuant to any enactment or otherwise, has—
 - (i) instituted proceedings in relation to the same, or substantially the same, work done or services rendered as referred to in this section, or
 - (ii) otherwise commenced an action or other claim in relation to the same, or substantially the same, work done or services rendered as referred to in this section,
- and
- (b) those proceedings have, or that action or claim has, not been finally determined or have, or has, not been discontinued before being finally determined.
- (9) In proceedings instituted by the Minister under this section, the court shall not award costs in favour of the foreign national but may award costs in favour of the Minister.
- (10) The amount of money paid to a foreign national pursuant to an order under *subsection (3)* shall not be treated as reckonable emoluments within the meaning of the Social Welfare Consolidation Act 2005 for the purposes of that Act.
- (11) In proceedings instituted by the Minister pursuant to *subsection (5)*, the foreign national shall not be liable for costs but the court before which the proceedings are brought may order that any costs that might otherwise have been awarded against the foreign national shall be paid by the Minister.
- (12) *Subsection (5)* shall not be in derogation of any right of a foreign national to institute proceedings under this section on his or her own behalf.
- (13) The District Court has jurisdiction to hear and determine proceedings under this section where the amount claimed in the proceedings does not exceed €15,000.
- (14) The jurisdiction of the District Court under this section shall be exercised by the judge of the District Court for the time being assigned to the District Court district in which the person against whom the proceedings are brought resides or carries on business.
- (15) The Circuit Court has jurisdiction to hear and determine proceedings under this section where the amount claimed in the proceedings does not exceed €75,000.
- (16) The jurisdiction of the Circuit Court shall be exercised by the judge of the Circuit Court for the time being assigned to the circuit in which the person against whom the proceedings are brought resides or carries on business.

Prohibition on penalisation

- 60.** (1) In this section, “penalisation” means any act or omission by an employer or a person acting on behalf of an employer that affects an employee to his or her detriment with respect to any term or condition of his or her employment.

- (2) Without prejudice to the generality of *subsection (1)*, “penalisation” in this section includes—
- (a) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2015), or the threat of suspension, lay-off or dismissal,
 - (b) demotion or loss of opportunity for promotion,
 - (c) transfer of duties, change of location of place of work, reduction in wages or change in working hours,
 - (d) imposition or the administering of any discipline, reprimand or other penalty (including a financial penalty), and
 - (e) coercion or intimidation.
- (3) An employer shall not penalise or threaten penalisation against an employee for—
- (a) making a complaint to a member of the Garda Síochána or the Minister that a provision of this Act is not being complied with,
 - (b) giving evidence in any proceedings under this Act, or
 - (c) giving notice of his or her intention to do any of the things referred to in *paragraphs (a) or (b)*.
- (4) *Subsection (3)* shall not apply where the complaint is a protected disclosure within the meaning of the Protected Disclosures Act 2014.
- (5) *Schedule 2* has effect in relation to an alleged contravention of *subsection (3)* and matters consequential thereon and includes amendments of other enactments.
- (6) If a penalisation of an employee, in contravention of *subsection (3)*, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2015, relief may not be granted to the employee in respect of that penalisation both under *Schedule 2* and under those Acts.

Presumption of employment in certain proceedings

61. In proceedings for an offence under *section 7(6)*, where evidence is given by—

- (a) a member of the Garda Síochána,
- (b) an immigration officer (within the meaning of the Immigration Act 2004), or
- (c) an authorised officer under *section 51*,

that he or she observed a person doing an act in a particular place, being an act the doing of which, in the circumstances concerned, is consistent with that person’s having been employed to do that act in that place, then it shall be presumed, unless the contrary is shown, that that person was employed to do that act in that place.

Presumptions in proceedings under Act

- 62.** (1) The presumptions specified in this section shall apply in any proceedings under this Act.
- (2) Where a document purports to have been created by a person it shall be presumed, unless the contrary is shown, that the document was created by that person and that any statement or record contained in it, unless the document expressly attributes its making to some other person, was made by that person.
- (3) Where a document purports to have been created by a person and addressed and sent to a second person, it shall be presumed, unless the contrary is shown, that the document or record was created and sent by the first person and received by the second person, and that any statement or record contained in it—
- (a) unless the document or record expressly attributes its making to some other person, was made by the first person, and
- (b) came to the notice of the second person.
- (4) Without prejudice to the generality of *subsection (3)*, where evidence is given that a notice or document has been served on or issued or given to a person in accordance with *section 65*, it shall be presumed, unless the contrary is shown, that the notice or document was received by that person and that any statement or record contained in it came to the notice of the person.
- (5) Where a document or record is retrieved from an electronic storage and retrieval system, it shall be presumed, unless the contrary is shown, that the author of the document is the person who ordinarily uses that electronic storage and retrieval system in the course of his or her business.
- (6) Where an authorised officer who, in the exercise of his or her powers, has removed one or more documents or records from any premises or place, gives evidence in any proceedings that, to the best of his or her knowledge and belief, the material is the property of any person, then the material shall be presumed, unless the contrary is shown, to be the property of that person.
- (7) Where, in accordance with *subsection (6)*, material is presumed in proceedings to be the property of a person and the authorised officer concerned gives evidence that, to the best of his or her knowledge and belief, the material is material which relates to any trade, profession, or, as the case may be, other activity, carried on by that person, the material shall be presumed, unless the contrary is proved, to be material which relates to that trade, profession, or, as the case may be, other activity, carried on by that person.

Retention of records

- 63.** (1) The employer shall keep, in relation to the foreign national to whom an employment permit has been granted, a record of the employment concerned, the duration of the employment and particulars of the permit and that record shall be kept for the period specified in *subsection (4)*.

- (2) The employer shall—
- (a) keep and have available for inspection by an authorised officer exercising his or her powers under this Act such books and records, including accounts, as may be prescribed concerning the employment of the foreign national to whom the employment permit concerned has been granted at the premises or place of business of that person in or at which the employment is carried out in the State, and
 - (b) furnish, when requested by the Minister to do so, information to the Minister concerning the books and records referred to in *paragraph (a)*.
- (3) The records that may be prescribed for the purposes of *subsection (2)(a)* include—
- (a) records concerning the remuneration paid during a specified period to the relevant foreign national,
 - (b) records concerning the trade or business to which the employment referred to in that subsection relates, and
 - (c) if one or more foreign nationals are employed by the employer concerned pursuant to an employment permit, records of the number for the time being, if any, of those foreign nationals who are—
 - (i) nationals of a Member State of the EEA,
 - (ii) nationals of the Swiss Confederation,
 - (iii) citizens of the United Kingdom of Great Britain and Northern Ireland, or
 - (iv) nationals of a state other than a Member State of the European Union or a Member State of the EEA.
- (4) The period referred to in *subsection (1)* is—
- (a) subject to *paragraph (b)*, 5 years, or
 - (b) if the relevant foreign national remains in the employment of the employer for a period exceeding 5 years from the date of the grant of the permit, a period equal to the duration of the period for which the foreign national remains in such employment.
- (5) A connected person shall keep, in relation to the foreign national to whom an intra-company transfer employment permit has been granted, a record of the employment concerned, a record of the duties carried out by the foreign national or the training programme concerned, the duration of the employment and particulars of the permit and that record shall be kept for the period specified in *subsection (4)*.
- (6) Where the connected person makes, pursuant to *section 24(1)(b)* the payment for board and accommodation, or either of them, or health insurance, the connected person shall—
- (a) keep and have available for inspection by an authorised officer exercising his or her powers under this Act the records, specified in *subsection (7)* in respect of the foreign national to whom the employment permit referred to in *subsection (5)* has

- been granted at the premises or place of business of that connected person in or at which the duties or training programme is carried out in the State, and
- (b) furnish, when requested by the Minister to do so, information to the Minister concerning the records referred to in *paragraph (a)*.
- (7) The records referred to in *subsection (6)* are—
- (a) records relating to the payment for—
- (i) board and accommodation, or either of them, and
 - (ii) health insurance,
- and
- (b) if one or more foreign nationals are, pursuant to an intra-company transfer employment permit, carrying out duties for, or participating in a training programme provided by, the connected person, records of the number for the time being, if any, of those foreign nationals who are—
- (i) nationals of a Member State of the EEA,
 - (ii) nationals of the Swiss Confederation,
 - (iii) citizens of the United Kingdom of Great Britain and Northern Ireland, or
 - (iv) a state other than a Member State of the European Union or a Member State of the EEA.
- (8) A person who fails to comply with *subsection (1), (2), (5) or (6)* shall be guilty of an offence.

PART 5

MISCELLANEOUS

Register of employment permits

- 64.** (1) The register of employment permits established and maintained under section 28 of the Act of 2006 shall, notwithstanding the repeal of that section by *section 6*, on or after the date of such repeal—
- (a) continue in being, and
 - (b) form part of the register maintained by the Minister in accordance with this section.
- (2) An entry shall be made in the register of employment permits (in this Act referred to as the “register”) in respect of each employment permit granted by the Minister and each entry in the register shall contain the following particulars:
- (a) the name of—

- (i) the foreign national in respect of whom the employment permit has been granted, and
- (ii) the employer or—
 - (I) in the case of an intra-company transfer employment permit, the connected person and the foreign employer, or
 - (II) in the case of a contract for service employment permit, the contractor, the relevant person, and if applicable, the subcontractor;
- (b) the employment or economic sector in respect of which each employment permit has been granted;
- (c) the address of—
 - (i) the foreign national, as specified in the application for the employment permit, in respect of whom the employment permit has been granted,
 - (ii) the employer or—
 - (I) in the case of an intra-company transfer employment permit, the connected person and the foreign employer, or
 - (II) in the case of a contract for service employment permit, the contractor, the relevant person and, if applicable, the subcontractor,and
 - (iii) the place at which the employment is to be carried out and where such employment is to be carried out at more than one place, the address of each such place;
- (d) the e-mail address and any other relevant contact details of the persons referred to in *paragraph (c)(i) and (ii)*;
- (e) the duration of each employment permit and its commencement and expiry dates;
- (f) in the case of a change of employer under *section 27 or 29*, the fact of the change to the employer, the name of the new employer (within the meaning of *section 27 or 29*, as the case may be) and the date of the approval by the Minister of the change;
- (g) in the case of a renewal of an employment permit under *section 36*, the fact of its renewal, the period for which it has been renewed and the commencement and expiry dates of that period;
- (h) in the case of a revocation of an employment permit under *section 40*, the fact of its being revoked, the date and reason for its revocation and, if a review under *section 41* occurs, the fact of the decision being reviewed and the outcome of the review;
- (i) if the employment permit is cancelled, the date and reason for such cancellation, and the date on which the permit ceased to be in force.

Service of notices

- 65.** (1) A notice or document that is required to be served, issued or given under this Act shall be addressed to the person concerned by name and may be served on or issued or given to the person in one of the following ways:
- (a) by delivering it to the person;
 - (b) by leaving it at the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address;
 - (c) by sending it by post to the address at which that person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
 - (d) by such electronic means or through such electronic systems as may be provided for in regulations made under *section 50(17)* in relation to the notice or document concerned.
- (2) For the purposes of this section and *section 66*, a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act shall be deemed to be ordinarily resident at its registered office and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Notification of change of address

- 66.** For the purposes of *sections 64* and *65*, a person who is—
- (a) the holder of an employment permit,
 - (b) the employer specified in an employment permit,
 - (c) in the case of an intra-company transfer employment permit, the connected person or the foreign employer, or
 - (d) in the case of a contract for service employment permit, the contractor, the relevant person or, if applicable, the subcontractor,
- shall, during the period for which the employment permit is in force, notify the Minister in writing of any change in—
- (i) the address at which that person ordinarily resides or, in a case where an address for service has been furnished, at that address, or
 - (ii) the e-mail address at which that person may be contacted.

Delegation of functions

- 67.** (1) The Minister may, with the consent of the Minister of the Government concerned, delegate the performance of functions under any or all of *sections 10, 11, 13, 18, 19, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 40* and *41* in a specified class of cases to an officer, of a specified class, of another Minister of the Government.
- (2) Functions so delegated shall be performable by such an officer accordingly.

- (3) If such a delegation is made of functions under *section 35* or *41*, the reference in that section to an officer of the Minister appointed by the Minister for the purpose of carrying out the review shall, in relation to any performance of the function the subject of the delegation, be construed as a reference to the officer of the Minister of the Government concerned appointed by the Minister for Enterprise, Trade and Employment for the purpose of carrying out the review.
- (4) *Subsection (1)* shall not be construed as affecting the application to this Act of the general law concerning the imputing of acts of an officer of a Minister of the Government to the Minister of the Government.
- (5) In this section, “specified” means specified in the delegation concerned.

Data exchange

68. (1) Information held by the Minister for the purposes of this Act may be supplied by the Minister to each of the following, namely—

- (a) the Minister for Social Protection,
- (b) the Minister for Justice,
- (c) the Minister for Foreign Affairs,
- (d) the Revenue Commissioners, or
- (e) the Garda Síochána,

if such supply is reasonably necessary for the purpose of the performance by the Minister of the Government referred to in *paragraph (a), (b) or (c)* or, as the case may be, the Revenue Commissioners or the Garda Síochána of functions under any enactment.

(2) Information held by—

- (a) the Minister for Social Protection,
- (b) the Minister for Justice,
- (c) the Minister for Foreign Affairs,
- (d) the Revenue Commissioners, or
- (e) the Garda Síochána,

may, notwithstanding any other enactment, be supplied by that Minister of the Government or, as the case may be, the Revenue Commissioners or the Garda Síochána to the Minister if such supply is reasonably necessary for the purpose of the performance by the Minister of functions under this Act.

PART 6

TRANSITIONAL PROVISIONS

Definition (*Part 6*)

69. In this Part, “commencement date” means the date on which *section 6* comes into operation.

Continuation in force of employment permits granted under Act of 2006

70. (1) An employment permit granted under the Act of 2006 that is in force immediately before the commencement date, shall, subject to *subsection (2)*, continue in force for the period for which it was granted or last renewed under that Act.
- (2) An employment permit continued in force by *subsection (1)* shall, for the purposes of this Act, be regarded as an employment permit granted under this Act and may, subject to *section 72*, be revoked or renewed under this Act accordingly.
- (3) In the case of an employment permit continued in force under *subsection (1)*, references in this Act to the employer of a foreign national to whom such employment permit was granted shall, until such permit expires or is revoked or renewed, be to the employer within the meaning of the Act of 2006.

Applications for grant or renewal of employment permits under Act of 2006

71. (1) Where an application has been made under the Act of 2006 for the grant or renewal of an employment permit under that Act, but a decision in respect of the application has not been made by the Minister before the commencement date, the application shall be treated as if it were an application for the grant or renewal of an employment permit under this Act and shall, subject to *section 72*, be dealt with accordingly.
- (2) Where an application referred to in *subsection (1)* relates to an employment permit in respect of the purpose referred to in *section 3A(2)(b)* of the Act of 2006, the application shall, notwithstanding the coming into operation of *section 6*, be determined under the Act of 2006 as if the enactments referred to in *section 6* had not been repealed or revoked.

Renewal of employment permits granted under Act of 2006

72. Where an employment permit granted under the Act of 2006 is renewed under *section 36*, it shall be renewed in respect of a purpose referred to in *section 9(2)* that corresponds to the purpose for which that employment permit was granted under the Act of 2006.

Review of refusal under section 12 of Act of 2006

73. (1) This section applies to a decision of the Minister under *section 12* of the Act of 2006, that is made before the commencement date, to refuse to grant, or to refuse to grant a renewal of, an employment permit.

- (2) Where a decision to which this section applies has been submitted for review under section 13 of the Act of 2006 but that review is not completed before the commencement date, the review shall, subject to *subsection (4)* continue as if it were a review under *section 35*.
- (3) Where a decision to which this section applies has not been submitted for review under section 13 of the Act of 2006 but, on the commencement date, the period referred to in section 13(2) of the Act of 2006 from the date of the decision has not expired, the decision may, subject to *subsection (4)*, be submitted, within that period, for review under *section 35*.
- (4) Where a review referred to in *subsection (2)* or *(3)* relates to an employment permit in respect of the purpose referred to in section 3A(2)(b) of the Act of 2006, the review shall, notwithstanding the coming into operation of *section 6*, continue under section 13 of the Act of 2006 as if the enactments referred to in *section 6* had not been repealed or revoked.
- (5) Where, pursuant to a review referred to in *subsection (4)* an employment permit is granted in respect of the purpose referred to in section 3A(2)(b) of the Act of 2006, the employment permit—
 - (a) shall for the purposes of this Act, be regarded as an employment permit granted under this Act, and
 - (b) may, subject to *section 72*, be revoked or renewed under this Act accordingly.

Review of revocation under section 16 of Act of 2006

74. (1) This section applies to a decision of the Minister under section 16 of the Act of 2006 that is made before the commencement date to revoke an employment permit.
- (2) Where a decision to which this section applies has been submitted for review under section 17 of the Act of 2006 but that review is not completed before the commencement date, the review shall, subject to *subsection (4)*, continue as if it were a review under *section 41*.
 - (3) Where a decision to which this section applies has not been submitted for review under section 17 of the Act of 2006 but, on the commencement date, the period referred to in section 17(2) of the Act of 2006 from the date of the decision has not expired, the decision may be submitted, within that period, for review under *section 41*.
 - (4) Where a review referred to in *subsection (2)* or *(3)* relates to an employment permit in respect of the purpose referred to in section 3A(2)(b) of the Act of 2006, the review shall, notwithstanding the coming into operation of *section 6*, continue under section 17 of the Act of 2006 as if the enactments referred to in *section 6* had not been repealed or revoked.
 - (5) Where, pursuant to a review referred to in *subsection (4)*, the Minister cancels the decision the subject of the review, the employment permit the subject of the decision—

- (a) shall continue in force for the period for which it was granted or last renewed under the Act of 2006, having regard to section 17(5) of that Act,
- (b) shall for the purposes of this Act, be regarded as an employment permit granted under this Act, and
- (c) may, subject to *section 72*, be revoked or renewed under this Act accordingly.

Additional transitional provisions

- 75.** (1) Without prejudice to *sections 71, 73 or 74*, any act or thing commenced under a provision of the enactments referred to in *section 6* before the commencement date, and not completed before that date, may be continued and completed under the corresponding provision of this Act.
- (2) Where a period of time specified in a provision of the enactments referred to in *section 6* had not expired on the commencement date, this Act shall have effect as if the corresponding provision in this Act had been in force when the period began to run.
- (3) Any notice in writing given by the Minister under the enactments referred to in *section 6* that was effective immediately before the commencement date, shall continue to have effect on and after that date as if it had been made under this Act.
- (4) All documents, authorisations, appointments, approvals and directions made or issued under the enactments referred to in *section 6* and in force immediately before the commencement date shall continue in force as if made or issued under this Act.

PART 7

CONSEQUENTIAL AMENDMENTS

Amendment of section 17(2) of Employment Equality Act 1998

- 76.** Section 17(2) of the Employment Equality Act 1998 is amended by the substitution of “*Employment Permits Act 2024*” for “Employment Permits Act 2003”.

Amendment of Immigration Act 2004

- 77.** The Immigration Act 2004 is amended—
- (a) by the substitution, in section 4(3)(b), of “*Employment Permits Act 2024*” for “Employment Permits Act 2003”, and
 - (b) by the substitution, in section 13(2), of “an offence under *section 7(6)* of the *Employment Permits Act 2024* consisting of a contravention of *section 7(1)* of that Act” for “section 2(1) of the Employment Permits Act 2003”.

Amendment of Workplace Relations Act 2015

78. The Workplace Relations Act 2015 is amended—

- (a) by the substitution, in paragraph 5 of Part 2 of Schedule 1, of “*Section 60(3) of the Employment Permits Act 2024*” for “Section 26(3) of the Employment Permits Act 2006”,
- (b) by the substitution, in paragraph 16 of Part 1 of Schedule 5, of “*Section 60(3) of the Employment Permits Act 2024*” for “Section 26(3) of the Employment Permits Act 2006”, and
- (c) in Schedule 6—
 - (i) by the substitution, in paragraph 23 of Part 1, of “*Paragraph 1 of Schedule 2 to the Employment Permits Act 2024*” for “Paragraph 1 of Schedule 2 to the Employment Permits Act 2006”, and
 - (ii) by the substitution, in paragraph 23 of Part 2, of “*Paragraph 2 of Schedule 2 to the Employment Permits Act 2024*” for “Paragraph 2 of Schedule 2 to the Employment Permits Act 2006”.

SCHEDULE 1

Sections 33(1)(c) and 40(1)(b)

ENACTMENTS OFFENCES UNDER WHICH FALL WITHIN *SECTIONS 33(1)(c) AND 40(1)(b)*

Employment Permits Act 2003

Employment Permits Act 2006

Immigration Act 2004

Employment Agency Act 1971

Carer's Leave Act 2001

Minimum Notice and Terms of Employment Act 1973

National Minimum Wage Act 2000

Organisation of Working Time Act 1997

Payment of Wages Act 1991

Protection of Employees (Fixed-Term Work) Act 2003

Protection of Employees (Part-Time Work) Act 2001

Protection of Employment Act 1977

Protection of Young Persons (Employment) Act 1996

Safety, Health and Welfare at Work Act 2005

Unfair Dismissals Act 1977

Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act
2007

Terms of Employment (Information) Act 1994

SCHEDULE 2

Section 60(5)

REDRESS FOR CONTRAVENTION OF SECTION 60(3)

1. A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of *section 60(3)* shall do one or more of the following, namely—
 - (a) declare that the complaint was or, as the case may be, was not well founded,
 - (b) require the employer to take a specified course of action, or
 - (c) require the employer to pay to the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all of the circumstances.
2. A decision of the Labour Court under section 44 of the Workplace Relations Act 2015 on appeal from a decision of an adjudication officer referred to in *paragraph 1* shall affirm, vary or set aside the decision of the adjudication officer.

Provisions relating to winding up and bankruptcy

3. (1) There shall be included among the debts which, under section 621 of the Companies Act 2014 are, in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, all compensation payable by virtue of a decision under *paragraph 1* or *2* by the company to an employee, and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this subparagraph shall not be required except in cases where it may otherwise be provided by rules made under that Act.
- (2) There shall be included among the debts which, under section 81 of the Bankruptcy Act 1988 are, in the distribution of the property of a bankrupt or arranging debtor, to be paid in priority to all other debts, all compensation payable by virtue of a decision under *paragraph 1* or *2* by the bankrupt or arranging debtor, as the case may be, to an employee, and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this subparagraph shall not be required except in cases where it may otherwise be provided under that Act.