



---

*Number 7 of 2003*

---

**EMPLOYMENT PERMITS ACT 2003**

---

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
  2. Employment of non-nationals.
  3. Non-application of *section 2* to nationals of certain states.
  4. Short title.
-

[No. 7.]            *Employment Permits Act 2003.*            [2003.]

ACTS REFERRED TO

European Communities Acts 1972 to 2002

Refugee Act 1996

1996, No. 17

Terms of Employment (Information) Act 1994

1994, No. 5



---

*Number 7 of 2003*

---

**EMPLOYMENT PERMITS ACT 2003**

---

AN ACT TO PROVIDE FOR THE GRANT OF EMPLOYMENT PERMITS IN RESPECT OF NON-NATIONALS, TO PROHIBIT THE EMPLOYMENT OF NON-NATIONALS WHO DO NOT HAVE SUCH PERMITS, TO PROVIDE FOR THE GRANT OF SUCH PERMITS IN RESPECT OF NATIONALS OF CERTAIN STATES UNDER CERTAIN CIRCUMSTANCES AND TO PROVIDE FOR RELATED MATTERS. [10th April, 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, unless the context otherwise requires— Interpretation.

“Act of 1994” means the Terms of Employment (Information) Act 1994;

“contract of employment” has the meaning assigned to it by the Act of 1994;

“employer” has the meaning assigned to it by the Act of 1994;

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

“non-national” means a person who is not a citizen of the State.

(2) In this Act—

- (a) a reference to any enactment shall, unless the contrary otherwise requires, be construed as a reference to that enactment as amended or extended by or under any subsequent enactment including this Act,
- (b) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended, and
- (c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

[No. 7.]            *Employment Permits Act 2003.*            [2003.]

2.—(1) A non-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 granted by the Minister (an “employment permit”).

(2) A person shall not employ a non-national in the State except in accordance with an employment permit.

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

- (a) on summary conviction, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both, or
- (b) if the offence is an offence consisting of a contravention of *subsection (2)*, on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 10 years or both.

(4) It shall be a defence for a person charged with an offence under *subsection (3)* consisting of a contravention of *subsection (2)* to show that he or she took all such steps as were reasonably open to him or her to ensure compliance with *subsection (2)*.

(5) 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 *subsection (3)* 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.

(6) 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 *subsection (3)*.

(7) 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.

(8) Any person who—

- (a) obstructs or attempts to obstruct any member of the Garda Síochána acting in accordance with a warrant issued under *subsection (5)*,

[2003.] *Employment Permits Act 2003.* [No. 7.]

(b) fails or refuses to comply with a requirement under this S.2 section, or

(c) gives a name or address which is false or misleading,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both.

(9) A member of the Garda Síochána may arrest without warrant any person whom the member reasonably suspects of having committed an offence under *subsection (8)*.

(10) This section does not apply to a non-national—

(a) in respect of whom a declaration under section 17 of the Refugee Act 1996 is in force,

(b) who is entitled to enter the State pursuant to section 18 or 24 of that Act,

(c) who is entitled to enter the State and to be in employment in the State pursuant to the treaties governing the European Communities (within the meaning of the European Communities Acts 1972 to 2002), or

(d) who is permitted to remain in the State by the Minister for Justice, Equality and Law Reform 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 referred to in *subsection (1)*.

(11) The Minister, when determining which applications for employment permits should be granted, shall give preference to applications in respect of nationals of a state in relation to which an order under *section 3* is in force.

(12) Article 4 of the Aliens Order 1946 (S.R. & O., No. 395 of 1946) is revoked.

(13) 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 neglect on the part of the 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 shall be guilty of an offence and be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(14) Where the affairs of a body corporate are managed by its members, *subsection (13)* shall apply 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.

(15) In this section “place” includes any dwelling or any building or part of a building.

[No. 7.]            *Employment Permits Act 2003.*            [2003.]

Non-application of section 2 to nationals of certain states.

3.—(1) In addition to the persons to whom, by virtue of *subsection (10) of section 2*, that section does not apply, that section shall not, subject to *subsection (3)*, apply to a national of a state to which this section applies if—

(a) that state becomes a member of the European Union after the passing of this Act, and

(b) Articles 1 to 6 of Council Regulation (EEC) No. 1612/68 of 15th October 1968 on freedom of movement for workers within the Community<sup>1</sup> do not apply to that state in accordance with the Treaty of Accession.

(2) This section applies to the following states, namely, the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Poland, the Republic of Slovenia and the Slovak Republic.

(3) If, in the opinion of the Minister, the labour market is experiencing or is likely to experience a disturbance, then, notwithstanding *subsection (1)*, the Minister may, during the transitional period, make an order providing that *section 2* shall apply to a national of a state to which this section applies during a specified period or periods within the transitional period and if he or she does so, that section shall apply in accordance with the order.

(4) An order under this section shall not apply to a national of a state specified in the order if that person has been in employment in the State for a period of not less than 6 weeks immediately before the commencement of the order and has been in receipt of remuneration for such employment.

(5) The Minister may by order amend or revoke an order under this section.

(6) In this section, unless the context otherwise requires—

“disturbance” shall be construed in accordance with the Treaty of Accession;

“labour market” shall be construed in accordance with the Treaty of Accession;

“transitional period”, in relation to a state to which this section applies, shall be construed in accordance with the Treaty of Accession;

“Treaty of Accession” means any treaty between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the

<sup>1</sup> O.J. No. L257, 19.10.68, p.2

[2003.]      *Employment Permits Act 2003.*      [No. 7.]

Republic of Latvia, the Republic of Lithuania, the Republic of Hun- S.3  
gary, the Republic of Malta, the Republic of Poland, the Republic  
of Slovenia and the Slovak Republic to the European Union.

4.—This Act may be cited as the Employment Permits Act 2003.      Short title.