

# TOP 5 FACTORS WHEN EMPLOYING FOREIGN NATIONALS IN IRELAND



Employing foreign nationals may be the solution your organisation needs to bridge a labour gap, but there are important factors you should consider before doing so.

In recent years, the jobs market has truly become a global market and many Irish employers are hiring workers outside of Ireland. If you are considering this path, you will discover that there are currently nine different types of Employment Permit. However, in the majority of cases, you will be seeking to employ a foreign national on a General Employment Permit or a Critical Skills Employment Permit.

## General Employment Permit

All occupations are eligible under the General Employment Permit unless specifically excluded under the list of ineligible employment categories for employment permits.

Before hiring a foreign national on a General Employment Permit, however, you need to be sure that you can provide the right answers to the following questions:

1. Is the role in an eligible category?
2. Does the salary on offer exceed the minimum annual remuneration of €30,000 per annum (There are some exceptions to the minimum salary)?
3. Are you registered with the Revenue Commissioners and with the Companies Registration Office and/or Registry of Friendly Societies?
4. An employment permit will not issue unless, at the time of application, at least 50% of the employees in a firm are EEA nationals (50:50 rule). Is this the case? (There are certain exemptions, such as for start-ups).
5. Have you advertised the vacancy in compliance with the requirement for a Labour Market Needs Test?
6. Does the prospective employee have the relevant skills, qualifications or experience required for the job.

# CRITICAL SKILLS EMPLOYMENT PERMIT

**B**efore hiring a foreign national on a Critical Skills Employment Permit, you need to be sure that you can answer yes to either of the following questions: Does the job offered pay at least €32,000 and is it on the Critical Skills list?

Does the job offered pay a minimum annual remuneration of over €64,000, and is it not included on the Ineligible List of Occupations for Employment Permits?

This list is, of course, a simplification, and in some limited instances, exceptions apply to these points.

For both permits employers have to

check and make copies of specific original documentation for any new employees. Checks must be completed before employment begins, but re-checking is also required for employees with time-limited immigration status.

HR Team director, Breda Cullen, said: "Employing foreign nationals is a complex area. If you are in any doubt as to whether you satisfy the criteria required to hire a foreign national, or wish to employ a foreign national using an alternative route, be sure to [contact](#) Irish employment law professionals at your earliest convenience for comprehensive advice and guidance."

## HOW TO APPLY

As an employer, you can apply for a General Employment Permit to the [Employment Permits Section](#) of the Department of Enterprise, Trade and Employment.

You can apply online with the required documentation, using the [Employment Permits Online System \(EPOS\)](#). Either you or your employee must pay a fee of €1,000.





# MINISTER ANNOUNCES FIRST EVER MINIMUM PAY RATES FOR CHILDCARE SECTOR

The Minister of State for Business, Damien English, has announced new Employment Regulation Orders, which will introduce minimum pay rates for the childcare sector.

The new rates took effect on September 15, 2022.

The Minister says the new rates “will apply to some 27,000 staff and are a welcome acknowledgement of the importance of the work carried out by everyone working in the early learning and childcare sector”.

HR Team co-director, Martina McAuley, said: “Employers will need to update their terms and conditions of employment to reflect this change in legislation. It is important that every employee has terms and conditions in place which accurately reflect the job role they undertake.

New minimum hourly rates of pay for various roles would be as follows:

<p><b>€13.00</b> for Early Years Educators/School-Age Childcare Practitioners</p>	<p><b>€14.00</b> for Early Years Lead Educators/School-Age Childcare Co-ordinators</p>	<p><b>€15.50</b> for Graduate Early Years Lead Educators/School-Age Childcare Co-ordinators</p>
<p><b>€15.70</b> for Deputy Managers</p>	<p><b>€16.50</b> for Managers</p>	<p><b>€17.25</b> for Graduate Managers</p>

This will ensure employers do not fall foul of this new legislation or face complaints from employees who feel their pay does not reflect the job role they are performing.” Approximately three out of four people working in the sector will see their wages rise due to the

Employment Regulation Orders. The wages of 50% of employees in the sector are expected to rise by 10% or more, and the wages of 20% of employees are expected to rise by 20% or more.

# WHAT IS 'QUIET QUITTING' AND HOW TO MANAGE IT

'Quiet quitting' is a new trending term doing the global rounds on social media and is leading to reduced productivity in the workplace.

Workers are said to be 'quiet quitting' when they disconnect from work. Essentially, this means they show up – but do the bare minimum required. If you notice your worker's productivity dipping, they are leaving work early, or they are no longer contributing as much to projects, they might be quiet quitting.

## What Can I Do If My Employee Is Quiet Quitting?

If your worker still meets their contractual obligations, it can be difficult to take formal action.

However, this attitude can create a toxic workplace. Happy workers are more successful workers. Support your staff where possible, and if they still underperform, get to the bottom of it and find ways to improve it together. To keep staff productivity high and prevent your workers from joining in the trend, HR Team recommends the following steps to counteract quiet quitting.

### 1. Provide regular feedback

According to a study, 85% of employees take more initiative if they get regular feedback. Lack of feedback is a big factor in decreased staff morale leading to them leaving their jobs.

Give your worker the advice and tools they need to succeed, and you'll help keep them engaged and loyal. If an employee is unaware of how they are performing, they're likely to disconnect and start looking for opportunities elsewhere. If performance is not at the required standard, let the employee know this in a private and constructive way.

Positive feedback is also a great motivational tool. When an employee



performs particularly well let the employee know this.

### 2. Invest in the employee experience

If you want to keep staff invested, you must provide a great staff experience. When you do this, your workers will be more likely to stay loyal.

You can create a good employee experience by following best practices, such as:

- Looking at what motivates your employees. Time off and work-life balance have become important factors for employees when choosing an employer. This could involve setting up a flexible working policy which can help staff better manage their work and personal lives – leading to higher employee satisfaction and productivity.
- Engaging with employees – staff want to be recognised for their performance and they want feedback from senior management on how well individual and company performance is doing.
- Following correct procedures in cases of bullying or harassment, and taking the right steps to tackle issues may lead to speedier resolutions.

Having an 'open-door' policy and keeping staff in the loop helps them feel valued.

### 3. Help employees manage their workloads

Staff may begin to disengage because they feel overwhelmed by their workload.

Employees who are constantly under pressure to meet unrealistic deadlines or have an outstanding number of tasks to complete might experience burnout. Staff burnout leads to lower productivity, mistakes, and health risks – it's important to avoid this at all costs.

Make sure you arrange regular one-to-ones with your staff. And if you start to notice anyone is disengaging or dipping in productivity, talk to them about this to discover what the problem may be.

### 4. Make staff wellbeing a priority

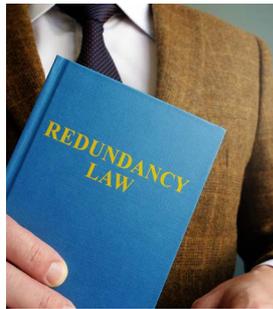
If your staff are struggling with their mental and/or physical health, they might not feel able to perform as well at work. And if they feel under pressure, this might eventually lead to burnout or resignation.

It's important to encourage your workers to ask for help if they need it and outline the support systems you have in place. We recommend having a mental health policy in place which outlines what the organisation is doing and will do to assist employees who are suffering from mental health concerns.

# COMMON REDUNDANCY RISKS TO AVOID

With consumer confidence down in recent economic data, many business owners are preparing for the worst.

The pandemic reduced revenues across various industries, and many business owners are struggling with increased energy costs. If your business has been affected, you are probably considering how to reduce your outgoings. Labour costs often make up a large portion of overall business costs. Reducing the cost of labour may be the best option for your business. And, despite your best efforts to avoid losing staff, you might need to make redundancies.



## Why Is Redundancy Risky?

Even though making redundancies might be the only way to protect your business during a downturn, it's also one of the most technical areas of employment law.

If you do not complete a redundancy process in line with the law, your business will be exposed to the risk of potential claims under:

- Redundancy legislation
- Unfair dismissals legislation
- Employment equality legislation

## Steps To Safeguard Your Organisation During Redundancy

### Objective selection process

One of the key elements of a redundancy procedure is running fair and objective selection processes. As part of this exercise, you should retain documents that record why certain employees were selected over others. Having the records to demonstrate the objective criteria used for employee selection in a redundancy situation will minimise your risk of a discrimination claim linked to your procedures.

### Employee consultations

In addition to the objective selection process, you must also ensure that you put a consultation procedure in place to allow employees who are at risk of redundancy to participate in the process. Employee consultations should allow the employee to suggest possible alternatives to redundancies.

### Unfair dismissal risks

Redundancy is a fair reason to terminate employment. The risk of redundancy-related unfair dismissal claims tends to arise in two ways.

Firstly, it needs to be clear that a genuine redundancy situation exists. In economic downturns, for example, many redundancies will be justified by a lack of work, and fewer employees are needed to complete the work. Secondly, you must demonstrate that you followed fair procedures before making the role redundant.

If either, or both of these elements cannot be confirmed, you might be at risk of an unfair dismissal claim.



## Business risks of a flawed redundancy process

If you fail to comply with the redundancy legislation, you leave your business exposed to significant financial downsides. If an employee succeeds with an unfair dismissal claim, they may receive up to two years' salary in compensation. You should also consider the reputational consequences of a badly managed redundancy process. Any subsequent

claims by employees and negative experiences can negatively impact your reputation as a business. One final issue that is sometimes overlooked is the risk of alienating employees who avoid redundancy. It's vital to do as much as you can to foster a positive working environment for the employees who remain on with your

business.

A time of change and uncertainty can be difficult for many employees. Regular and ongoing communications with staff are vital once the redundancy process has concluded.

For expert advice and assistance with redundancy in your organisation, please [contact us](#) today.

# BREDA'S EMPLOYMENT LAW TIPS



## LAY-OFFS AND SHORT-TIME WORKING

If an employer does not have enough work for their employees, they may need to consider:

- lay-offs (sending employees home temporarily)
- short-time working (reducing employees' working hours)

These options may help avoid redundancies. But this should be a last resort (short of redundancy) for employers.

Employers should consider other options first, for example, agreeing with employees to:

- Take holiday time.
- Work from home.
- Work more flexibly.
- Take unpaid leave.

When can an employee be laid off or placed on short-time working

By law, employers can lay off employees or put them on short-time working, in any of the following cases:

- It's included in the employee's employment contract.
- It's a national agreement for the industry.
- It's an agreement between your workplace and a trade union.
- It's agreed by the employer and employee to change the terms in the employment contract.



## UPCOMING HR TEAM WEBINARS IN 2022

### September 27 Effective Recruitment and Selection



#### What will you learn from the webinar?

- The process overview for employing foreign nationals
- The importance of a structured recruitment process and the use of relevant selection methods.
- How to screen candidates' CVs or application forms using agreed selection criteria for a job role.
- How to prepare for a first-stage selection interview.
- How to design effective questions to accurately assess a candidate's suitability for a role.

[Register Now](#)

### Tuesday, October 25 How to Manage Social Media in the Workplace

[Register Now](#)

### Tuesday, November 29 Using the Probationary Period Effectively and Compliantly

[Register Now](#)

### Tuesday, December 13 Measuring Employee Performance

[Register Now](#)

## Do you have an employment law question?

Team HR can help business start-ups, SMEs and large multinational organisations. Call to speak to us today on any aspect of employment law or strategic human resource services.

Tel from ROI: 01 695 0749, or from NI: 028 71 271 882.

Alternatively, contact us via email:  
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