



Employment Permits Arrangements

Guide to Intra-Company Transfer Permits

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an roinn fiontar, trádála agus fostaíochta
department of enterprise, trade and employment



Guide to Intra-Company Transfer Permits

Introduction

The Employment Permits Acts 2003 and 2006 allow for the introduction of a new Intra-Company Transfer scheme. This scheme is designed to facilitate the transfer of senior management, key personnel or trainees who are foreign nationals from an overseas branch of a multinational corporation to its Irish branch.

What criteria do I have to fulfil to fall into the above category?

Intra Company Transfer Permits will be strictly limited to senior management, key personnel or those undergoing a training programme:

- Earning a minimum annual salary of €40,000, and
- The employee/transferee in question must have been working for a minimum period of 12 months with the overseas company prior to transfer.

What is the duration of the permitted Intra-Company Transfer Permit?

The duration of an Intra Company Transfer Permit would be for a defined period depending on the reason for transfer. Applications may be granted for a maximum period of up to 24 months in the first instance and may be extended upon application to a maximum stay of five years.

If an Intra Company Transfer Permit is granted what does it entitle the foreign employee/transferee to do?

Any employment permit granted would entitle the Host Organisation to employ the foreign national in question for the duration of the permit. The employee/transferee cannot work for any employer other than that named in the permit. At the cessation of the employment or when the permit expires the employee/transferee in question must return to their country of origin.

An Intra-Company Transfer Permit issues - what then?

If an Intra Company Transfer Permit issues in respect of an eligible employee/transferee the employee/transferee should, where necessary, obtain an entry visa from their local Irish Embassy/Consulate. Contact details for the Irish Embassies/consulates abroad can be obtained from the Department of Foreign Affairs website at www.dfa.ie.

On arrival in the State the employee/transferee should register with the National Garda Registration Office (Immigration Registration Office, Garda National Immigration Bureau, Burgh Quay, Dublin 2, for persons intending to reside in the Dublin area, or the Garda Superintendent's office in the relevant Garda District for persons intending to reside elsewhere in the State) to obtain the appropriate permission to remain in the State as an employee. This is important and necessary in order to have the correct immigration status for permission to remain in the State.

Is there a limit on the number of Intra-Company Transferees into the Host organisation?

Normally the number of Intra-Company Transferees should not exceed 5% of the total Irish workforce in a firm, although in exceptional circumstances such as small firms or start-up companies a higher

percentage may be permitted on a strictly temporary basis with an absolute limit of 50% of non-EEA staff.

Will employment permits be granted for applications proposing to pay at rates below Registered Employment Agreement/Employment Registered Order rates?

No.

Can my Spouse and Dependants work?

Yes once they **are legally resident in the State** on the basis of being your Spouse or Dependant and you applied for your Intra-Company before 1 June 2009, they are free to seek employment and apply for a Spousal/Dependant work permit.

However, if you applied for your first Intra-Company Transfer on or after 1 June 2009, your Spouse or Dependant will be required to apply for a Work Permit in their own right according to standard work permit eligibility criteria, including a labour market needs test, restriction to vacancies in eligible job categories and payment of the standard application fee.

Is a labour market needs test (e.g. advertising with FÁS/EURES and newspapers) required for an Intra-Company Transfer Permit?

No.

Guide for employers

What can an employer do to ascertain whether or not they qualify under this facility?

For Company Overseas

The foreign branch of the organisation in question must be bona fide and engaged in substantive business operations in the foreign country in question. The company should fulfil the criteria set out below

- **Link between companies**

The Irish company must have a direct link with the overseas company by common ownership e.g. either one company must own the other, or else both must be part of a group of companies controlled by the same parent company. Documentary evidence of this link may be required.

- **Employee's role**

The employee in question must be crucial to the running of the company and must fall into one of the categories of senior management, key personnel or trainee.

These categories are defined below:-

- **Senior Management**

The employee must primarily have one of the following functions:

- i) manage the organisation, or a department, subdivision, function or component of the organisation;
- ii) supervise or control the work of other supervisory, professional or managerial employees, or manage an essential function within the organisation, or a department or subdivision of the organisation;

- iii) have the authority to hire and fire or recommend these, as well as other, personnel actions (such as promotion and leave authorisation) OR if no other employee is directly supervised, function at a senior level within the organisation hierarchy or with respect to the function managed and;
- iv) exercise discretion over the day-to-day operations of the activity or function for which the employee has the authority.

- **Key personnel**

Key personnel are defined as persons working within an organisation who possess specialist knowledge essential to the establishment's service, research equipment, techniques or management. In assessing such knowledge, account will be taken of whether the person has a high level of qualification or experience relating to the type of work or trade requiring specific technical knowledge, including membership of an accredited profession.

Upon making an application, the company would have to show how the employee fits into this category in terms of the employee's qualifications and experience.

- **Personnel participating in a training programme**

Applications in respect of Intra-Company Transfer Permits for training purposes may be considered for a maximum of 12 months, provided it is adequately demonstrated that a detailed training programme will be undertaken.

For Company in Ireland

An application may only be made by the Host Organisation in Ireland

which must be a bona-fide business organisation (excluding sole traders) that is registered and trading in Ireland, and which is fully compliant with all filing requirements.

i) Registered and fully compliant with all filing requirements

The applicant must be registered with the Companies Registration Office, the Registrar of Friendly Societies, or the Registrar of Business Names, as follows:

- (a) **CRO** - companies registered under the Companies Acts 1963-2001; foreign registered entities having a place of business within the State pursuant to Part XI of the Companies Act 1963; foreign registered entities having a branch within the State pursuant to the E.C. (Branch Disclosures) Regulations 1993; limited partnerships registered under the Limited Partnership Act 1907.
- (b) **Registrar of Friendly Societies** - industrial and provident societies registered under the Industrial and Provident Societies Acts 1893-1978.
- (c) **Registrar of Business Names** - body corporate or partnership trading under a business name registered under the Registration of Business Names Act 1963.

The applicant must also be fully up-to-date with its filing requirements with the relevant Office(s) pursuant to the applicable legislation.

ii) Trading

The applicant must be trading and engaged in substantive business operations in the State. Proof may be requested of an applicant to show

that it is trading. A simple “representative presence” in Ireland will not be sufficient.

What does the Host Organisation need to send to the Department of Enterprise, Trade and Employment for an Employment permit application?

- The Host Organisation should send the employment permit application for an Intra Company Transfer Permit with supporting documentation
- Two passport size photographs of the proposed transfer
- Copy of passport of the proposed transferee

The following must also be attached:

- A processing fee of €500 for period up to 6 months, €1,000 for any period from 6 to 24 months or €1,500 for any further period up to 36 months.

Disclaimer

The information contained in this guide does not constitute legal advice and is provided for information purposes only.