



# Labour migration policies

## Case study series

### Ireland

## Acknowledgements

This case study is based largely on information provided by Neil Bruton, Edel McGinley, and Sancha Magat from the [Migrant Rights Centre Ireland](#) (MRCI), to whom we are grateful for their time and expertise. It was written by Lilana Keith, Senior Advocacy Officer, and Carmen Díaz-Bertrana, Junior Advocacy Officer at PICUM. The report was edited by Michele Levoy, Director of PICUM.

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SIGRID RAUSING TRUST



This report has received financial support from the European Union Programme for Employment and Social Innovation "EaSI" (2021-2027). For further information please consult: <http://ec.europa.eu/social/easi>. The information contained in this publication does not necessarily reflect the official position of the European Commission.

This case study is part of a series of summaries by PICUM of specific national labour migration and work permit policies. While each case study focuses on a particular country, they are not comprehensive overviews of all the work permits available in the country. We focus on analysing the particular policies and pathways that are the most relevant across skills and sectors of employment.

This case study examines the following aspects of labour migration policy in Ireland<sup>1</sup> as of November 2022:

- 1. The General Employment Permit**
- 2. The Reactivation Employment Permit**
- 3. Complementary labour market policies**

We also consider, in particular, where policies include some of the essential characteristics of successful labour migration and work permit policies, as set out in PICUM's [Policy recommendations, designing labour migration policies to promote decent work](#).<sup>2</sup>

After describing key aspects related to eligibility, the application process and permit granted under each pathway and the complementary labour market policies, we include a table comparing these aspects to our policy recommendations and related indicators.

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1 For a comprehensive overview of the work permits in Ireland, please see: Department of Enterprise, Trade and Employment, [Types of permit](#).

2 For the full report, please see PICUM, 2021, [Designing labour migration policies to promote decent work](#).

## The General Employment Permit<sup>3</sup>

The main mechanism in place for Non-EEA nationals to take up full-time employment in Ireland is through an Employment Permit. Ireland operates a tiered employment permit system that treats one worker better than another in terms of basic rights. The system either grants enhanced or limited rights to migrant workers, depending on the type of permit a person is granted. In Ireland, the most common employment permits are critical skills employment permits and general employment permits.

A critical skills employment permit holder can gain full access to the labour market after two years, has an immediate right to family reunion, and the right of family members to work. Whereas a general employment permit holder must wait five years to gain full access to the labour market, must wait a minimum of 12 months to apply for family reunion, and their family members do not have the right to work.

A general employment is not restricted to any particular nationality. However, Ireland operates an extensive [ineligible list of occupations for employment permits](#).<sup>4</sup> Only the jobs outside of this list are eligible for a general employment permit. The [Ineligible List of Occupations](#) is updated by an independent and non-statutory body, the Expert Group on Future Skills Needs (EGFSN),<sup>5</sup> which advises the Department of Enterprise, Trade and Employment (DETE) on needs and shortages. However, responsiveness is limited due to the

retrospective nature of data, making it difficult to predict shortages and to identify real time trends. It is not clear in the current approach what available data sets are considered. Workforce planning for essential work is also limited. As a result of these limitations, employers and their associations put forward data and lobby the government to have certain occupations removed from the Ineligible List and the system can thus be characterised as an employer led model.

To be eligible to apply for a general employment permit there are three main requirements: the labour market needs test; 50:50 rule; and a salary threshold.

The labour market needs test is required for all general employment permits except in some limited instances.<sup>6</sup> A labour market needs test is never required for a critical skills employment permit. A general employment permit vacancy needs to be published on the [EURES website](#) for a minimum period of four weeks, as well as in at least one national newspaper for a minimum period of 3 days, and in either a local newspaper or job website for 3 days.<sup>7</sup>

To be eligible to apply for an employment permit for a non-EEA citizen, employers need to demonstrate that at least 50% of their workforce are EEA nationals.<sup>8</sup>

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3 Art. 28-34, Iris Oifigiúil, [Employment Permits Regulations 2017](#), S.I No. 95/2017.

4 Ireland uses lists to differentiate employment categories, that is the [Critical Skills Occupations List](#) and the [Ineligible List of Occupations](#).

5 The Expert Group on Future Skills Needs (EGFSN) includes members from the business community, education and training providers, learner-support groups, trade unions, and a small number of Government Departments and agencies. Expert Group on Future Skills Needs, [Members](#).

6 There are some occasions where there is no need to conduct a labour market test, when the annual remuneration of €64,000 or more, where a recommendation from [Enterprise Ireland](#) or [IDA Ireland](#) has been made, and when the job is to provide care for a person with personal and medical needs, who already has a pre-existing relationship and level of dependence on the individual carer.

7 Art. 31, Iris Oifigiúil, [Employment Permits Regulations 2017](#), S.I No. 95/2017.

8 This does not apply when the non-EEA worker would be the only employee of the enterprise.



There is a minimum annual remuneration<sup>9</sup> of €30,000 required. This can result in the exclusion of certain job categories with lower wages. However, employers have also successfully lobbied for a reduction in the minimum salary thresholds. In such cases, a quota – a maximum number of employment permits that may be issued – is generally introduced for that particular occupation.<sup>10</sup> Some exceptions to the minimum level of remuneration have been secured for some jobs, such as healthcare assistants (€27,000), de-boners in meat (€27,500), and general operatives in the meat sector (€23,000).<sup>11</sup>

General Employment Permit holders can only apply for family reunification after one year and must meet strict criteria – in particular regarding minimum income, which blocks family reunification for many workers. Family members of workers under this permit cannot work and need to apply for an Employment Permit in their own right.<sup>12</sup>

## Application process

Applications for a General Employment Permit can be submitted by either the worker or the employer to the Department of Enterprise, Trade and Employment. The application needs to be submitted at least 12 weeks before the contract starts, and it can be done [online or manually \(upon request to the Department\)](#). The government has published a [guide](#) and a [checklist](#) which explain how to complete the application and which documents are required, though it is only available in English.

The processing time of applications varies, and people can see the status of their application on the Department of Enterprise, Trade and Employment [website](#). As of November 2022, the processing time is less than a month. When applying for the first time for a permit, the fee is €500 for a permit up to 6 months duration, and €1,000 for a permit up to 24 months duration. Usually, first time permits are issued for the maximum initial period of two years.<sup>13</sup> If the application is rejected, the applicant will be refunded 90% of what was paid.

9 Art. 29, Iris Oifigiúil, [Employment Permits Regulations 2017](#), S.I No. 95/2017.

10 Changes of the Ineligible list and information on quotas are published in Department of Enterprise, Trade and Employment, [Department News](#).

11 The full list of occupations for which remuneration can be lower can be found in: Department of Enterprise, Trade and Employment, [General Employment Permit](#).

12 As mentioned, the General Employment Permit is the work permit most commonly issued in Ireland, followed by the Critical Skills Permit. Significant differences exist between the set of rights that each of these permits grants. Regarding family unity, the Critical Skills Permit offers the possibility of family reunification immediately, and family members can access the labour market through the [Dependant, Partner or Spouse Employment Permit](#). Department of Enterprise, Trade and Employment, [Critical Skills Employment Permits](#).

13 Normally, 6-month permits are not issued due to the high fees and the length of the bureaucratic procedure. However, this can be useful for workers who have had their long-residency application delayed or need a few more months in order to meet the requirement to qualify for it.

A worker must apply for an entry visa - in their closest Irish Embassy or Consulate, or online - once they have had confirmation on their work permit. When entering the country, applicants will need to show their entry visa as well as have the original work permit, and they will be given a temporary stamp at the airport.

In Ireland, people from non-EEA countries need permission from the Department of Justice to reside in the country. These permissions are illustrated by a stamp number depending on their situation, e.g. the kind of employment permit the worker has and the time they have been in the country. Holders of the General Employment Permit need to secure a

Stamp 1 which gives permission to work. They must register with the Immigration Service Delivery (ISD) or the Garda National Immigration Bureau (GNIB).<sup>14</sup> In order to have a record of these permissions, workers are given an Irish Residence Permit (IRP) card which indicates the kind of stamp they have.<sup>15</sup> Stamp 1 is considered reckonable residency and failure to secure this will affect workers' access to social protection, long-term residency, and citizenship.<sup>16</sup>

If an employment permit is refused, the applicant can ask for their application to be [reviewed](#) and a final conclusion should be made within 28 days.

## Permit Granted

A new General Employment Permit can be issued for 6 months, 1 year or 2 years. It can be renewed for up to 3 years.

In order to change employer, the worker needs to apply for a whole new Employment Permit. Workers cannot apply for a new permit with a new employer for the first 12 months,<sup>17</sup> except in exceptional circumstances. While the legislation allows the person to apply for a new permit after 12 months, in practice it is extremely difficult. This is due to the cost and process of applying for a new permit, a new fee of €1,000, a labour market needs test, compliance with the 50/50 rule and waiting times. This is coupled with the fear of losing your immigration status, isolation, and language

limitations. This means that workers are effectively tied to the same employer for five years. This is illustrated by the response to a parliamentary question in relation to the agricultural sector, which showed that only one General Employment Permit holder had changed employer in 2021.<sup>18</sup>

If the person is still employed by the same employer, their General Employment Permit can be renewed, by applying [online](#) within 16 weeks before the end of the permit's validity. Renewal fees are € 750 for a 6-month permit and € 1,500 for a permit up to 36 months. Usually, renewals are issued for the maximum period of three years. Renewal fees will also be refunded if the application is refused (90%).

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14 ISD registers permissions in Dublin city and county, while the GNIB is responsible for the rest of the country. Irish Immigration Service, [Immigration permission/stamps](#).

15 Irish Immigration Service, [Immigration permission/stamps](#).

16 Department of Enterprise, Trade and Employment, [General Employment Permit](#).

17 12(1)(e) of the [Employment Permits Act 2006](#) as amended.

18 Information provided by MRCI, 26 October 2022.

In Ireland, people actively looking for work have access to either Jobseekers Benefit (JB)<sup>19</sup> or Job-seekers allowance (JA)<sup>20</sup> if their immigration permission is still valid and they meet certain conditions. To qualify for either of the two, applicants need to be unemployed (for at least 4 days a week, part-time workers are therefore eligible) and looking for work.

Non-EEA workers who hold a General Employment Permit and have a Stamp 1 and have 39-week contributions in the previous year and 13 weeks in the current tax year can access Jobseekers benefit. All other allowances are means tested. They need to pass a means test<sup>21</sup> which proves their income is below a certain level and be habitual residents.<sup>22</sup>

When people under this permit are made redundant, their employers need to complete a [redundancy form](#) and submit it to the DETE within four weeks.<sup>23</sup> Workers will then have six months to search for alternative work. If they are not able to find a new job within this time, workers can send a letter to the Department of Justice and ask for an immigration permission extension, which is decided on a case-by-case basis.

When workers lose their job through no fault of their own, or when their employer fails to notify the Department when a worker is made redundant, and their Stamp 1 is no longer valid, they need to apply for a Reactivation Employment Permit (explained below).

Workers who have 60 months or 5-years reckonable residency with a general employment permit can apply for Stamp 4<sup>24</sup> to the Department of Justice and Equality. Stamp 4 grants full access to the labour market, including the possibility to own and conduct a business. Both Stamp 1 and Stamp 4 permissions count towards 60 months of reckonable residency to apply for long term residency or Irish citizenship through naturalisation.<sup>25</sup>

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19 Citizen Information Board, [Jobseeker's Benefit](#).

20 Citizen Information Board, [Rules for getting a jobseeker's payment](#).

21 For more information on the means test see Citizen Information Board, [Means test for Jobseeker's Allowance](#).

22 Non-EEA citizens who have a permit to reside in Ireland can be considered habitual residents if they can prove certain conditions. For more information on this, see Citizens Information Board, [The habitual residence condition](#).

23 Department of Enterprise, [Trade and Employment, Employment permit holders who are made redundant](#)

24 In contrast, Critical Skills Employment Permit holders can apply for a Stamp 4 after two years. Department of Enterprise, Trade and Employment, [Critical Skills Employment Permits](#).

25 Department of Justice, [Immigration permissions/stamps](#).

## Analysis of the General Employment Permit in Ireland compared to PICUM's key recommendations and indicators<sup>26</sup>

Policy recommendations	Indicators	The General Employment Permit
<b>1. Streamlined and efficient procedures</b>		
<b>Good administration:</b> Procedures to obtain and renew visas and permits should be streamlined with reasonable administrative requirements.	<b>1.1</b> Number of steps in application procedure	This falls short. The application fees for the initial permit as well as the renewals are very high, representing a significant barrier for applicants.
Information about application procedures, requirements, and applicable rules should be provided publicly for potential employers and workers in clear and accessible language.	<b>1.2</b> Accessibility of information about procedures and applicable rules	This falls short. Quite a lot of information about application procedures, documents, etc. is available online, but the system is very complicated, some information is out of date, and all the information is only available in English. Further, some workers may not be able to secure a Stamp 1 due to difficulty in securing online registration, lack of information to register with ISD, which impacts access to unemployment benefits, long-term residency, and citizenship.
<b>Based on an offer of employment:</b> An offer of employment, with conditions in line with applicable labour law or collective bargaining agreements, should be sufficient across all jobs and sectors	<b>1.3</b> Eligibility/non-eligibility requirements to access a permit with a job offer	This falls short. Many jobs are considered ineligible for an employment permit. Further, some are subject to a quota on the number of permits. Employers need to demonstrate that at least 50% of their workforce are EEA nationals and carry out a labour market needs test which represents an additional administrative burden.
If some level of preferential access is to be provided to resident workers, the mechanism should ensure resident workers are able to apply for the job, but not prevent employers from selecting their preferred candidate through recruitment procedures.		

26 For the complete list of policy recommendations and suggested indicators, please see PICUM 2021, [Designing labour migration policies to promote decent work. Policy recommendations](#).



Policy recommendations	Indicators	The General Employment Permit
<b>Stability for workers and employers:</b> Permits should be of a reasonable duration, of at least two years.	<b>1.4</b> Length of permit	This is largely met as in practice most permits are issued for two years.
Permits should be renewable, without requiring workers to leave the country	<b>1.5</b> In-country renewals	This is largely met as permits can be extended for up to 3 years. It is possible to apply for a new permit (with a stamp 1) or a renewal from within the country. However, in general fees are high and a barrier.
<b>In-country applications:</b> People should be able to apply for the various residence and work permits provided for by national law from within the country, regardless of their status, including when undocumented.	<b>1.6</b> In-country applications including when undocumented	This is not met. You cannot apply for an employment permit while in the country if you are undocumented, except for when a person qualifies for the reactivation permit (held a previous employment permit). You can apply for a renewal in the country.
<b>2. Autonomy for workers</b>		
<b>Worker-owned procedures:</b> Workers should be able to apply for permits themselves.	<b>2.1</b> Ownership of application process/ worker or employer-made application	This is met to some extent, as either the worker or employer can submit the application. If it is a worker submitting, in practice it can be difficult to get supporting documents from an employer and may lead to a person losing their immigration status and permit.
<b>Labour market mobility:</b> Permits should not be tied to one employer. People should be able to change employer, including the type of job and sector, and work for more than one employer, on the same permit, without permission from the employer or labour intermediary.	<b>2.2</b> Procedure to change employer <b>2.3</b> Procedure to change type of job <b>2.4</b> Procedure to change sector	This is not met as a whole new employment permit application process is required. Furthermore, in practice it is extremely difficult due to the cost and process of applying for a new permit. A new fee of €1,000, a labour market needs test, compliance with the 50/50 rule and waiting times are barriers. This is coupled with the fear of losing your immigration status, isolation, and language limitations.
	<b>2.6</b> Time period before change of employer	This is not met. In addition to needing to apply for a new employment permit, workers generally need to work for the same employer for 12 months, except in certain circumstances, before being able to make a new application.

Policy recommendations	Indicators	The General Employment Permit
<b>Independence from employers:</b> Permits should remain valid to provide a reasonable period of time of unemployment to search for alternative work, for workers that lose or leave their job.	<b>2.7</b> Time periods for unemployment/ job search during validity of permit and after the permit has expired	This is not met. Only people who have been made redundant have 6 months to find a new job. In some circumstances workers can ask for an extension to the Department of Justice. Generally, there is no provision for immigration extensions which recognise unemployment for other reasons, or to continue to work on the existing permit in a different job. Once a worker leaves the job named on the permit, the permit ceases to be valid.
Financial and practical support should be accessible during this time, at least on the same terms as nationals. Particular attention should be paid to situations where workers' housing was also provided by their employer.	<b>2.8</b> Available financial and practical support while unemployed	This is somewhat met. Workers have access to unemployment benefits once they meet the condition for jobseekers' benefit, all other allowances are means tested. In reality, many people do not access social welfare as there is a perception that this will have a long-term impact on their citizenship application.
<b>3. Equality and family unity</b>		
<b>Non-discrimination:</b> Access to employment and associated permits should be non-discriminatory across all protected grounds under human rights law. <sup>27</sup>	<b>3.1</b> Restrictions in access to permits on prohibited grounds	This is met in that it is not restricted to any nationality. However, the permit system continues to favour high skilled people over essential workers and has a two-tiered system of rights.
<b>Family unity:</b> Migrant workers should be able to enjoy their family life as any other person. Restrictions on migrant workers with low income from bringing their families should be lifted.	<b>3.5</b> Possibilities to and restrictions on access to permits for family members	This falls short. Workers can only apply for family reunification after 1 year and need to meet strict criteria. To access the labour market, family members would need to apply for a separate work permit.
Spouses/ partners should also be provided access to the labour market.	<b>3.6</b> Access to the labour market for family members	

<sup>27</sup> For more information, see Fundamental Rights Agency and Council of Europe, 2018, [Handbook on European non-discrimination law, 2018 edition](#).

Policy recommendations	Indicators	The General Employment Permit
<b>5. Social Inclusion</b>		
<b>Pathways to settlement:</b> There should also be pathways to settlement after a number of years. All periods of residence should count towards long-term residence status.	<b>5.1</b> Residence counts towards long-term residence or settled status	This is somewhat met. The general employment permit counts towards a Stamp 4 permission, like a 'settled status' and towards long term residency and citizenship through naturalisation. General employment permit holders however, should receive a stamp 4 after two years similar to critical skills permits holders to uphold equality and give parity of rights.

# The Reactivation Employment Permit<sup>28</sup>

In Ireland, non-EU citizens who held a work permit but became undocumented through “no fault of their own” and have remained in the country can apply for a Reactivation Employment Permit.<sup>29</sup> “No fault of their own” can refer to cases such as labour exploitation and abuse, closure of the workplace without previous notice, being made redundant, or failure of the previous employer to submit the redundancy notification on time.

This scheme is not restricted to any nationality. Undocumented workers who fit the criteria above can apply for this permit based on a formal offer of employment in any job, except for domestic work.<sup>30</sup> If the job requires it, applicants also need to present

the “relevant qualifications, skills or experience required for the employment”.

It is not necessary to conduct a labour market needs test. The 50:50 rule applies whereby employers can only offer a job to a non-EEA worker when at least half of the employees<sup>31</sup> in a workplace are EEA nationals.

Workers under this permit must earn at least minimum wage<sup>32</sup> which from 1st January 2023 is €11.30 per hour<sup>33</sup> and work for at least 20 hours a week.<sup>34</sup>

## Application Process

First, undocumented workers need [to apply for a Stamp 1 immigration permission and a letter from](#) the Department of Justice and Equality recognising their eligibility for a Reactivation Employment Permit. This temporary residence permit gives undocumented workers a four-month temporary stamp 1 <sup>35</sup> (in practice this is now 6 months) to be eligible to apply for the work permit to the Department of Enterprise, Trade and Employment.

The application for the Reactivation Employment Permit needs to be submitted at least 12 weeks before the contract starts and can be done [online](#). There is an available [guide](#) which explains how to complete the applications and which documents are required, though it is only available in English.

The processing times for applications can vary, and people can see the status of their application on the Department's [website](#). As of November 2022,

28 Art. 50-54, Iris Oifigiúil, [Employment Permits Regulations 2017](#), S.I No. 95/2017.

29 In some cases, people who have a current Dependant/Partner/Spouse Employment Permit whose circumstances have changed (e.g. separation) can also apply for a Reactivation Employment Permit.

30 All occupations are permitted, including [certain carers](#) in the home, and excluding all other occupations in a domestic setting.

31 This does not apply when the non-EEA worker would be the only employee of the enterprise.

32 Art. 51, Iris Oifigiúil, [Employment Permits Regulations 2017](#), S.I No. 95/2017.

33 Minimum wage for people over 20. Government of Ireland, [National Minimum Wage will increase 1 January 2022](#).

34 Art. 52, Iris Oifigiúil, [Employment Permits Regulations 2017](#), S.I No. 95/2017.

35 Citizens Information, [Reactivation Employment Permit](#).

the processing time is around a month. Therefore, although an employment offer is not required to receive the initial four-month Stamp 1, in practice, undocumented workers already need to have a job offer before applying, in order to complete the work permit application process in time.

Applications for Reactivation Employment Permits can be submitted by either the worker or the employer. It is usually submitted by the employer which can be problematic as not all employers

are aware of the eligibility criteria to apply for this permit. When applying for the first time for a permit up to 6 months, the fee is €500, and €1,000 when the duration is up to 24 months. When an employment permit is refused, the applicant can ask for their application to be [reviewed](#) and a final conclusion should be made within 28 days. The applicant will also be refunded 90% of what was paid.

## Permit Granted

The initial duration of the permit can be up to 24 months and can be renewed for other 3 years. As with the General Employment Permit, the Reactivation Employment Permit is linked to a specific employment relationship. In order to change employer, the worker needs to apply for a new employment permit. Workers cannot apply for a new employment permit with a new employer for the first 12 months,<sup>36</sup> unless they are made redundant, or some unexpected circumstances take place changing the nature of the contract.

If the person is still in the same employment relationship, the Reactivation Employment Permit can be renewed by applying [online](#) within 16 weeks before the end of the permit's validity. Renewal fees are €750 for a 6-month permit and €1,500 for a permit up to 36 months.

Qualifying for jobseekers' allowance and benefits are under the same conditions as described in

the section above for general employment permit holders. People who have become undocumented and intend to apply for the Reactivation Employment Permit, can only apply for the [Additional Needs Payment](#), which can cover essential expenses a person needs to live.

A reactivation employment permit counts towards reckonable residency of 5 years as with general employment permit holders. A combination of a reactivation permit and a general employment permit can count towards 5 years reckonable residency to qualify for long term residency, Stamp 4, and citizenship.

Reactivation Employment Permit holders are eligible to apply for family reunification under the same basis as that of general employment permit holders, out outlined above.

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36 12(1)(e) of the [Employment Permits Act 2006](#) as amended.



## Analysis of the Reactivation Employment Permit in Ireland compared to PICUM's key recommendations and indicators<sup>37</sup>

Policy recommendations	Indicators	The Reactivation Employment Permit
<b>1. Streamlined and efficient procedures</b>		
<b>Good administration:</b> Procedures to obtain and renew visas and permits should be streamlined with reasonable administrative requirements.	<b>1.1</b> Number of steps in application procedure	This is somewhat met. The application fees for the reactivation permit as well as the renewals are very high, representing a significant barrier for applicants. Further, two government departments oversee the reactivation permit, the application procedure could be simplified with one state agency dealing with the process.
Information about application procedures, requirements, and applicable rules should be provided publicly for potential employers and workers in clear and accessible language.	<b>1.2</b> Accessibility of information about procedures and applicable rules	This falls short. Quite a lot of information about application procedures, documents, etc. is available online, but the system is complicated, some information is out of date, and all the information is only available in English. Employers are often not aware of the eligibility criteria to apply for this permit.
<b>Based on an offer of employment:</b> An offer of employment, with conditions in line with applicable labour law or collective bargaining agreements, should be sufficient across all jobs and sectors	<b>1.3</b> Eligibility/non-eligibility requirements to access a permit with a job offer	This is met as workers have full access to the labour market, with one caveat that employers demonstrate that at least 50% of their workforce are Irish or EEA nationals.
If some level of preferential access is to be provided to resident workers, the mechanism should ensure resident workers are able to apply for the job, but not prevent employers from selecting their preferred candidate through recruitment procedures.		

<sup>37</sup> For the complete list of policy recommendations and suggested indicators, please see PICUM 2021, [Designing labour migration policies to promote decent work. Policy recommendations](#).

Policy recommendations	Indicators	The Reactivation Employment Permit
<b>Stability for workers and employers:</b> Permits should be of a reasonable duration, of at least two years.	1.4 Length of permit	This is largely met as in practice most permits are issued for two years.
Permits should be renewable, without requiring workers to leave the country	1.5 In-country renewals	This is largely met as permits can be extended for up to 3 years. It is possible to apply for a new permit (with a stamp 1) or a renewal from within the country. However, in general fees are high and a barrier.
<b>In-country applications:</b> People should be able to apply for the various residence and work permits provided for by national law from within the country, regardless of their status, including when undocumented.	1.6 In-country applications including when undocumented	This is met as undocumented people who held a work permit and lost it through no fault of their own can apply for this permit. However undocumented people who did not previously hold a permit cannot apply.
<b>2. Autonomy for workers</b>		
<b>Worker-owned procedures:</b> Workers should be able to apply for permits themselves.	2.1 Ownership of application process/ worker or employer-made application	This is met to some extent, as either the worker or employer can submit the application. If it is a worker submitting, in practice it can be difficult to get supporting documents from an employer and may lead to a person losing their immigration status and permit.
<b>Labour market mobility:</b> Permits should not be tied to one employer. People should be able to change employer, including the type of job and sector, and work for more than one employer, on the same permit, without permission from the employer or labour intermediary.	2.2 Procedure to change employer	This is not met as a whole new employment permit application process is required. Furthermore, in practice it is extremely difficult due to the cost and process of applying for a new permit. A new fee of €1,000, a labour market needs test, compliance with the 50/50 rule and waiting times are barriers. This is coupled with the fear of losing your immigration status, isolation, and language limitations.
	2.6 Time period to change employer	This is not met. In addition to needing to apply for a new employment permit, workers generally need to work for the same employer for 12 months, except in certain circumstances, before being able to make a new application.

Policy recommendations	Indicators	The Reactivation Employment Permit
<b>Independence from employers:</b> Permits should remain valid to provide a reasonable period of time of unemployment to search for alternative work, for workers that lose or leave their job.	<b>2.7</b> Time periods for unemployment/ job search during validity of permit and after the permit has expired	This is not met. Only people who have been made redundant have 6 months to find a new job. In some circumstances workers can ask for an extension to the Department of Justice. Generally, there is no provision for immigration extensions which recognise unemployment for other reasons, or to continue to work on the existing permit in a different job. Once a worker leaves the job named on the permit, the permit ceases to be valid.
Financial and practical support should be accessible during this time, at least on the same terms as nationals. Particular attention should be paid to situations where workers' housing was also provided by their employer.	<b>2.8</b> Available financial and practical support while unemployed	This is somewhat met. Workers have access to unemployment benefits once they meet the conditions for jobseekers' benefit, all other allowances are means tested. In practice many people do not access social welfare as there is a perception that this will have a long-term impact on their citizenship application.
<b>Residence solutions in cases of exploitation:<sup>38</sup></b> Transitional permits should be made available for situations where workers experience labour violations or other abuses. <sup>39</sup>	<b>2.11</b> Availability of transitional permits	This is met as the reactivation permit was established to respond to these exact situations. However, people on valid general employment permits need to apply for a new permit if they experience exploitation and need to meet all the criteria set out.

38 Regarding victims of criminal labour exploitation including trafficking in human beings, see PICUM, 2020, [PICUM Key Messages and Recommendations on Human Trafficking](#); PICUM, 2020, [Insecure Justice? Residence permits for victims of crime in Europe](#).

39 Another example would be the [Open work permit for vulnerable workers](#) in Canada.

Policy recommendations	Indicators	The Reactivation Employment Permit
3. Equality and family unity		
<b>Non-discrimination:</b> Access to employment and associated permits should be non-discriminatory across all protected grounds under human rights law. <sup>40</sup>	<b>3.1</b> Restrictions in access to permits on prohibited grounds	This is met in that it is not restricted to any nationality. However, the permit system continues to favour high skilled people over essential workers and has a two-tiered system of rights.
<b>Family unity:</b> Migrant workers should be able to enjoy their family life as any other person. Restrictions on migrant workers with low income from bringing their families should be lifted.	<b>3.5</b> Possibilities to and restrictions on access to permits for family members	This falls short. Workers can only apply for family reunification after 1 year and need to meet strict criteria. To access the labour market, family members would need to apply for a separate work permit.
Spouses/ partners should also be provided access to the labour market.	<b>3.6</b> Access to the labour market for family members	
5. Social Inclusion		
<b>Pathways to settlement:</b> There should also be pathways to settlement after a number of years. All periods of residence should count towards long-term residence status.	<b>5.1</b> Residence counts towards long-term residence or settled status	This is somewhat met. The reactivation employment permit counts towards a Stamp 4 permission, like a ‘settled status’ and towards long term residency and citizenship through naturalisation. Reactivation employment permit holders however, should receive a stamp 4 after two years similar to critical skills permits holders to uphold equality and give parity of rights.

40 For more information, see Fundamental Rights Agency and Council of Europe, 2018, [Handbook on European non-discrimination law, 2018 edition](#).

## Complementary labour market policies

The Reactivation Permit is a permanent mechanism which allows undocumented people who previously held an employment permit and lost it through no fault of their own to regularise their immigration status. This has been cited by the EU Fundamental Rights Agency as promising practice in responding to severe exploitation<sup>41</sup>, and enabling people to regain a legal status.

There are several challenges in Ireland with the enforcement of labour rights. The employment permit system acts as a deterrent to people to stand up and claim their rights as they are dependent on their employer for renewal and fearful that they might lose their work or immigration status if they raise issues of concern or take a case against their employer.

It is possible for workers to file a complaint against their employers to the Workplace Relations Commission ([WRC](#)) and have these case adjudicated. While this is a quasi-legal system, which does not require legal representation, barriers exist in terms of language and IT skills and providing written submissions and representation. Depending on the case, some employers will retain legal representation, which means the employee will either need legal support or have to face this process without one, which may impact on the outcome. This also has a chilling effect on an employee and NGO representation and supports in this area are limited.

In addition, the Irish law stipulates that undocumented workers have the right to seek redress through civil proceedings if they “took steps as were reasonably open” to them to comply with immigration rules. Further, some decisions in the High Court and Labour Court have stated that the Workplace Relations Commission (WRC) Adjudication Service and the Labour Court (as an industrial relations tribunal and not a court of law) do not have jurisdiction if a worker is undocumented, due to illegality of contract. While this still needs to be challenged, in the meantime it leaves undocumented workers with access only to the civil courts to retrieve their wages.<sup>42</sup> This requires having legal representation and for many the cost is prohibitive, or the amount owed is less than the legal cost would be. To Migrants’ Rights Center Ireland (MRCI)’s knowledge no cases have been taken under the legal provision to date.

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41 EU Fundamental Rights Agency; Protecting migrant workers from exploitation in the EU: workers’ perspectives; 2019 p.69; [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-severe-labour-exploitation-workers-perspectives\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-severe-labour-exploitation-workers-perspectives_en.pdf)

42 PICUM, 2020, [A Worker is a Worker: How to Ensure that Undocumented Migrant Workers Can Access Justice](#), p. 21-28.



## Complementary labour market policies compared to PICUM's key recommendations and indicators<sup>43</sup>

Policy recommendations	Indicator	Complementary labour market policies
<b>4. Complementary labour market policies to enforce labour rights for all</b>		
<b>Justice for all:</b> Labour standards monitoring, complaints and redress mechanisms should be well resourced, independent and confidential. Measures should be developed to protect workers from employer retaliation and immigration enforcement as a result of exercising their rights - and effectively provide access to justice for migrant workers.	<b>4.4</b> Measures to protect workers from employer retaliation and immigration enforcement following engagement	This falls short. Workers are unable to change employer and are dependent on their employers for their residence status, so face significant risks if they file a complaint. Further, in practice, undocumented workers can only seek redress for unpaid or underpaid wages. For more information see: PICUM, 2020, <a href="#">A Worker is a Worker: How to Ensure that Undocumented Migrant Workers Can Access Justice</a> .

<sup>43</sup> For the complete list of policy recommendations and suggested indicators, please see PICUM 2021, [Designing labour migration policies to promote decent work. Policy recommendations](#).







PLATFORM FOR INTERNATIONAL COOPERATION ON  
UNDOCUMENTED MIGRANTS

Rue du Congrès / Congresstraat 37-41

1000 Brussels

Belgium

Tel: +32 2 883 68 12

[info@picum.org](mailto:info@picum.org)

[www.picum.org](http://www.picum.org)