

Public Consultation on the General Scheme of an Employment Permits (Consolidation and Amendment) Bill

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Nasc submissions to the Public Consultation on the General Scheme of an Employment Permits (Consolidation and Amendment) Bill

Introduction

Nasc, the Migrant and Refugee Rights Centre is a non-governmental organisation based in Cork. Nasc, the Irish word for 'link', empowers migrants to realise and fulfil their rights. Nasc works with migrants and refugees to advocate and lead for change within Ireland's immigration and protection systems, to ensure fairness, access to justice and the protection of human rights. Our goal is to realise the rights of all migrants and refugees within Irish society.

Nasc has almost two decades of experience supporting refugees, asylum seekers and ethnic minority communities in Ireland. Through our free legal service, Nasc provides information, advice and support to over 1,300 people annually. Our policy and campaigning work are directly informed by our day-to-day experiences working with migrants, refugees, asylum seekers and ethnic minorities living in Ireland.

Overarching Comments

Nasc welcomes the opportunity to make submissions to the public consultation on the General Scheme of an Employment Permits Bill (Consolidation and Amendment) Bill. The draft legislation specifically exempts **UK nationals** from the requirement for non-EEA nationals to hold employment permits in order to access employment in the State. It is to be welcomed that the statutory exemption is clearly outlined in Head 3 of the draft Bill.

Nasc also welcome Head 11 of the draft Bill which now requires employers to provide detailed **information on accommodation and training** offered to employment permit holders.

It is disappointing that the draft Bill is primarily concerned with the needs of industry and employers rather than taking a ‘rights-based’ approach to the needs of employment permit holders. Nasc believes that it is a missed opportunity that the draft Bill fails to address the imbalance of power between employment permit holders and employers by continuing to tie employment permit holders to their employers. This dynamic increases the potential for abuse and exploitation in the employee-employer relationship. Nasc has experience of supporting migrant workers, from industries as diverse as the IT sector to fishing, who believe that they are ‘trapped’ in their employment and feel unable to make complaints or assert their rights, for fear that they will lose their employment and become undocumented. Nasc endorses the position of the Migrant Rights Centre Ireland (MRCI) in calling for **sectoral employment permits** ie where an employment permit holder has permission to work with any employer in a particular sector.

It is also of concern to Nasc, that the draft Bill devolves an increased amount of decision-making power to the **discretion** of the Minister. The Bill also relies on an increased use of regulations.

Specific Recommendations

Head 4 – Seasonal Employment Permits

The introduction of seasonal employment permits has long been lobbied for by Irish industry. However, the rights of seasonal workers must be a paramount concern. Seasonal workers are often employed in lower-paid, labour-intensive jobs located in rural or remote

areas. In our experience, workers in these sectors are more vulnerable to exploitation and less able to secure information or access to legal representation.

It is notable that there is no express provision for extensions of seasonal employment permits or protections in the event of redundancy. At a minimum there should be a clear pathway to transitioning from a seasonal employment permit to a longer-term employment.

Head 4 – Spouses

The draft Bill fails to make provision for equal access to employment for spouses of employment permit holders. This reinforces the tiered permit system and creates significant disparity between categories of permit holders and their families. Nasc has concerns about the financial impact that the exclusion from employment of one spouse has on family life. Spouses of critical employment permit holders now benefit from the right to work and under Stamp 1G conditions. However, there is no pathway within the Bill for spouses of general employment permit holders to obtain permission to work. It is possible for spouses to be resident in the State without permission to work until such time as they naturalise as Irish citizens. Nasc works with, in particular, women who have spent over five years in forced unemployment and now have huge difficulties in accessing employment. In Nasc's experience women are disproportionately affected by this long-term exclusion from employment.

We recommend the **extension of access to the labour market on Stamp 1G basis to all spouses** of permit holders.

Head 34 – Surrender of Employment Permit

Nasc is concerned by the penalties contained in the Draft Bill for employment permit holders who do not surrender their employment permits following loss of their job or if they fail to notify the DBEI of any change to their circumstances. We believe that the possibility of criminal sanctions is overly punitive and should be removed.

In Nasc's experience it is not uncommon for employment permit holders to be unaware of their obligation to notify the DBEI of changes to their circumstances. Employment permit holders often receive incorrect information from employers regarding their rights and obligations in the event of redundancy. While this happens in good faith in some circumstances, exploitative employers may use the threat of criminal sanctions against a worker. In circumstances where the worker does not speak English fluently, they often become reliant on the employer as their main source of information.

We recommend the removal of the provision which allows for criminal sanctions to be levied against employment permit holders for their failure to notify the DBEI of changes to their circumstances or for their failure to surrender their employment permit on the termination of their employment.