

GUIDELINES RELATING TO THE EMPLOYMENT OF PRIVATE DOMESTIC EMPLOYEES BY ACCREDITED MEMBERS OF THE MISSION

- 1 Eligible mission officials (diplomats and career consular officers) may employ a “private servant” as defined in Article 1(h) of the Vienna Convention on Diplomatic Relations, namely, “a person who is in the domestic service of a member of the mission and who is not an employee of the sending State”. (Domestic staff employed by the mission are “members of the service staff” in accordance with Article 1(g) of the Convention). These guidelines also apply to the employment of “private staff” as defined in Article 1(i) of the Vienna Convention on Consular Relations.
- 2 Irish nationals, nationals of other EEA countries and Switzerland or permanent residents of Ireland, i.e. persons who have been granted citizenship, long term residence or leave to remain without condition as to time, may be freely employed as private domestic employees, subject to compliance with relevant Irish employment law. Information on employment rights is available on the website of Workplace Relations (www.workplacerelations.ie) including a downloadable publication entitled “Guide to Employment Rights” which is available in 15 languages.
- 3 Private domestic employees recruited otherwise than in accordance with paragraph 2 are subject to the protections and conditions set down below:
- 4 Members of missions wishing to employ private domestic employees are expected to demonstrate respect for Irish laws and good employment practice. An agreed undertaking of the terms and conditions of employment, in line with Irish employment law, signed by both the employer and the employee is required prior to arrival in Ireland. Regarding the minimum requirements for such terms and conditions of employment, see the attached template (Annex 1) and visit the Workplace Relations website for up to date information on Irish employment regulations.
- 5 It is a requirement of Irish law that all employers keep detailed records of the starting and finishing times, hours worked each day and each week and leave granted to employees. These records, records of payments and the terms and conditions of employment (as provided for under the Terms of Employment (Information) Act 1994) or contract of employment should be available for review by Workplace Relations, at the request of the Department of Foreign Affairs and Trade. The employee must have a bank account in order that proof of payment may be produced if necessary (records should be held for three years). Employees are entitled to receive a pay slip with every payment of wages, which show gross wage (wage before deductions) and the nature and amount of each deduction.
- 6 Employers are required to provide for comprehensive health and accident insurance in respect of their private domestic employee and to have such insurance in place for the duration of the employment.
- 7 Employers should ensure that appropriate social security provisions are made for their employee. In general, only private domestic employees who are EEA/Swiss nationals or Irish residents (as described at paragraph 2 above) are eligible to benefit from the Irish social protection system. All other private domestic employees should be covered by the social security provisions of the sending state or a third state, or in the alternative be covered at a minimum by private health and accident insurance. It is advised that PRSI should not be paid by or in respect of an employee not eligible to benefit from the Irish social protection system.

- 8 Prospective employees must be over 21 years of age and must not be related to the employer or his/her spouse. Family members, comprising the spouse of the private domestic employee; unmarried children under the age of 21 who live with their parents and unmarried children between the ages of 21 and 25 who are living with their parents and are in full-time education in an Irish educational institution shall be entitled to join the employee in Ireland under the Vienna Conventions.

Application procedure:

- 9 In order to employ private domestic employees who are not either EEA/Swiss nationals or permanent residents of Ireland, prior authorisation is required. Initial communication in all cases should be to the Department of Foreign Affairs and Trade via the local Irish Embassy (or Honorary Consulate) in the country where the applicant is residing.
- 10 The application for a private domestic employee to come to Ireland should in all cases be made under cover of a Third Party Note (TPN) from the relevant Foreign Ministry (a notification form under Article 10 of the Vienna Convention should only be provided once an application has been approved and the private domestic employee has arrived in Ireland). The TPN should contain the following information:
- (a) full details of the employee, including name, address and date of birth.
 - (b) confirmation that health and accident insurance for the employee has been arranged;
 - (c) confirmation that the employee's passport and visa will be in the sole possession of the employee;
 - (d) confirmation that the employer will be responsible for making provision for sufficient funds to enable the employee to return to their country of permanent residence after completing their duties and/or after their employment has expired;
 - (e) confirmation that the agreed undertaking has been made available to the employee in a language s/he understands.

A signed copy of the agreed undertaking of terms and conditions of employment (see Annex 1) should be attached to the TPN as should a photocopy of the applicant's passport information page and any other pages with stamps and/or visas.

- 11 Once the application has been submitted, the applicant should present to the nearest Irish Embassy by appointment for a brief interview, at which they will be informed of their rights. If an application is deemed to be in order, a TPN confirming the approval of the application for the domestic employee to come to Ireland shall be issued by the relevant Irish Embassy.

12 Visa/entry requirements

- (a) Where the applicant is from a visa required country, an online visa application should be made as soon as confirmation of approval has been received from the relevant Irish Embassy, in accordance with paragraph 11, at www.inis.gov.visas.ie. A successful applicant will be issued with the relevant visa.
- (b) Where the applicant is from a non visa-required country, initial contact with Irish immigration will be on arrival at the airport/port of entry. The applicant will need to be in possession of a copy of the TPN and supporting documents referred to in paragraph 10, and the TPN confirming approval referred to in paragraph 11, to present to the Immigration Officer if requested.

13 Duration of stay and relevant immigration procedures

- (a) After the private domestic employee has arrived in Ireland, the relevant sending state Embassy must submit the standard notification pursuant to Article 10 of the Vienna Convention to the

Department of Foreign Affairs and Trade. Once the notification has been submitted, the applicant should make an appointment with Protocol Division for an interview. The employee should bring with them their passport, documentary evidence of health and accident insurance as well as proof that they have opened a personal bank account and other documents as specified by Protocol Division. The employee will then be issued with an ID card which must be collected in person at the Department of Foreign Affairs and Trade, Protocol.

(b) At the end of the first year a formal request for renewal of ID (Article 10 form), under cover of a TPN, should be submitted by the Embassy. The following documents should be submitted also:

- DFAT i.d card
- Passport and two photographs (the photographs for the ID card and for the visa, if required, should be no more than six months old)
- Application for Re-entry Visa form (if the private domestic employee holds a passport issued by a visa-required country)

The private domestic employee must present again for interview, following contact with the Department of Foreign Affairs and Trade. At this appointment, the employee should bring with them documentary evidence of health and accident insurance. The employee may also be asked to provide bank statements and payslips as evidence of wages paid. Following this interview, the private domestic employee will be invited to collect their i.d. card in person at the Department by prior appointment.

(c) Private domestic employees are expected to leave Ireland on the termination of the posting of their principal. Employment for an incoming principal may only be considered with justifications and there is no guarantee of approval. A request for prior authorisation must be submitted through the Department of Foreign Affairs and Trade. It should be noted that a new Undertaking (see Annex 1) signed by both parties, as well as confirmation that all terms and conditions referred to at paragraph 10 will be complied with, will also be required where such a request is to be considered.

(d) Time spent in Ireland as a private domestic employee of a mission official is not reckonable for citizenship/long term residence and is therefore not eligible for an application in that regard, nor does it accrue rights for any benefits or allowances on cessation of an assignment of however long the duration except as otherwise determined by relevant Government Departments/State Agencies.

(e) A person who has already left Ireland and returned home at the end of their assignment as a private domestic employee may apply for any of the usual immigration permissions (employment permit, study, etc) through normal immigration channels.

14 While in Ireland, domestic employees are advised of the following numbers in case of questions on conditions of employment – Workplace Relations (www.workplacelrelations.ie) Telephone (059) 917 8990 Lo-Call 1890 80 80 90.

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