

Retention of Employee Passports Template Policy

Purpose:

To ensure compliance with legal requirements regarding the retention of employee work permission records, including circumstances where an employee may not possess a work visa.

Scope:

This policy applies to all employees required to demonstrate legal entitlement to work under the Employment Permit Acts or any other employment legislation.

Policy Statement:

Employers are required to maintain records to show that employees are legally entitled to work. This requirement is typically satisfied by retaining a copy of the employee's work permit. However, there are specific circumstances where an employer may retain copies of visa details contained in a passport to demonstrate compliance.

Circumstances for Retaining Copies of Passports:

Employers may retain copies of visa details contained in a passport under the following conditions:

- Where the passport is the only means by which an inspector can establish a person's identity and/or entitlement to work legally in Ireland, a copy of the visa details contained in the passport and/or the identity page of the passport may be retained on an employee's personnel file. These parts of the passport are considered an 'employment record' for the purposes of the relevant legislation.
- When a person is exempt from the requirement of having a work permit under section 2(10)(d) of the Employment Permits Act 2003, as amended.

Important Considerations:

- This policy must not be interpreted by employers as providing a basis to seek and retain passports in all cases.
- Retention of passports or visa details is only applicable in the narrow circumstances outlined above.

Retention period: Similar to employment permit records, the copy of the passport should be retained for 5 years or a period equal to the duration of employment.

Guidance from the Data Protection Commissioner:

The Data Protection Commissioner has advised: "There is no legal basis for employers to retain a copy of passports generally. In the specific circumstances where the visa details are contained in the passport, we would not seek to raise an issue with the retention of a copy of those documents by employers. Please be advised that this must not be interpreted by employers as providing a basis to seek and retain passports in all cases, just in the narrow circumstances outlined."

Approved by General Manager: _____ **Date:** _____

Work Entitlement Verification Form

Employer Information:

Company Name: _____

HR Manager: _____

Position: _____

Employee Information:

Full Name: _____

Date of Birth: _____

Nationality: _____

Start Date of Employment: _____

End Date of Employment (if applicable): _____

Legal Entitlement to Work Documentation:

Employment Permit:

- Copy of Work Permit attached: _____
- Work Permit Number: _____
- Expiry Date: _____

Employee is exempt from the requirement of having a work permit under section 2(10)(d) of the Employment Permits Act 2003, as amended, e.g. EEA nationals. Yes: _____ No: _____

Copy of Passport or Equivalent Document attached containing an inscription under S.4(6) of the Immigration Act 2004. Yes: _____ No: _____

Details of Documentation: _____

Employer Declaration

I declare that the information provided in this form is accurate and complete to the best of my knowledge. I understand that retaining copies of passports or visa details is only permissible under very narrow circumstances.

I acknowledge the guidance from the Data Protection Commissioner and commit to ensuring compliance with relevant legislation and data protection principles.

- **Employer Signature:** _____
- **Date:** _____
- **Employer Signature:** _____
- **Date:** _____