

13. Ireland

Michael Doherty, Anthony Kerr and Clíodhna Murphy

Short-term third-country-national migrants in Ireland generally become ‘insurable’ under social welfare legislation under the same conditions as Irish or EU citizens. A third-country national legally residing and working in Ireland may generally claim benefits so long as individual scheme conditionality is satisfied. The same principle applies to social assistance payments, although applicants must satisfy a means test and habitual residence conditionality (which may result in the exclusion of short-term migrants). Posted workers are subject to a special regime and are maintained in the social security systems of their sending state over the duration of the posting.

Box 1 Summary of the table

Third-country nationals can enter Ireland for purposes of employment if they hold an employment permit and, while working in Ireland, they are required to remit social security in Ireland through normal channels. Short-term third-country-national migrants under the Atypical Work Scheme become ‘insurable’ under social welfare legislation under the same conditions as any other employee in receipt of wages. A third-country national legally residing and working in Ireland may generally claim benefits in Ireland, so long as individual scheme conditionality is satisfied. The same can be said with regard to social assistance payments, but applicants must satisfy a means test and habitual residence conditionality.

Posted workers are maintained in the social security systems of their sending state over the duration of the posting; the question of their receipt of benefits depends on them satisfying the conditionality that applies in the sending country. With regard to third-country nationals posted to Ireland from a country with which Ireland holds a Bilateral Agreement, these are intended to cover pension/long-term benefits only. They do not cover ‘short-term’ benefits.

Table 1.13 Overview of the relationship between form of migration and entitlement to a particular social security service

Third-country-national categories	Social security categories					
	Health insurance	Pension contributions	Unemployment insurance	Basic security (social assistance)	Insurance against accidents at work	Child benefits
Posted workers	No	In sending country if bilateral agreement	No	No	No	No
Intra-company transfer permit-holders	No	Yes	No	Yes	No	Yes
Contracts for services permit-holders	No	Yes	No	Yes	No	Yes
Self-employed	No	Yes	No	Yes	No	Yes

Source: Authors’ analysis, 2022.

Box 2 Sector-specific variations of social security rules

The Atypical Work Scheme for fishermen, introduced in 2015, stipulates that the contract of employment must meet certain requirements, including that it provides for adequate health-care coverage for all such employees. As regards the Intra-Company Transfer Permit and the Contract for Services Permit, the permit may be refused if appropriate arrangements in relation to satisfactory health insurance are not in place.

Box 3 Changes during the Covid-19 pandemic

The Pandemic Unemployment Payment and Covid-19 enhanced illness benefit apply to students, including international students, part-time workers, and non-EU workers who lost employment because of the pandemic, if the worker has paid a minimum amount of social security contributions or has been on an employer's payroll. International protection applicants (asylum seekers) with permission to work were given access to the Pandemic Unemployment Payment and Covid-19 enhanced illness benefit in August 2020.

Description of the Irish system

1. Overview of social security rights of short-term third-country-national migrant workers

Third-country nationals can enter Ireland for purposes of employment if they hold an employment permit and, while working in Ireland, they are required to remit social security in Ireland through normal channels. Those entering Ireland under the Atypical Work Scheme would become ‘insurable’ under social welfare legislation under the same conditions as any other employee in receipt of wages. Third-country nationals can also enter Ireland for purposes of employment as a posted worker from either a country with which Ireland holds a Bilateral Agreement for social insurance purposes, or as a posted worker from another EU/EEA Member State, provided the third-country national holds an employment permit in the ‘sending’ EU/EEA Member State. Such posted third-country nationals do not remit social security in Ireland; rather they remain attached to the social security regimes of their sending Member States.

2. Differences in social security rights of different categories of short-term TCN migrant workers

(i) Third-country-national seasonal workers

Ireland has not opted in to the Seasonal Work Directive (Directive 2014/36/EU). Seasonal work is not yet specifically provided for within the Irish labour migration framework.

(ii) Third-country-national posted workers

Posted workers, either third-country nationals or EU/EEA nationals, are maintained in the social security systems of their sending state over the duration of the posting. The question of their receipt of benefits depends on them satisfying the conditionality that applies in the sending country. With regard to third-country nationals posted to Ireland from a country with which Ireland holds a Bilateral Agreement, these are intended to cover pension/long-term benefits only. They do not cover ‘short-term’ benefits.

(iii) Third-country-national temporary agency workers

Existing labour migration routes are not generally open to temporary agency workers.

3. Conditions for obtaining different social security rights

A third-country national legally residing and working in Ireland may claim benefits in Ireland so long as individual scheme conditionality is satisfied. With regard to social assistance payments, a means test and habitual residence condition apply.

4. Portability of benefits between host country and country of origin

Ireland has Bilateral Agreements for social security purposes with a number of third countries (Australia, Canada [and Quebec], Japan, New Zealand, South Korea, the United Kingdom and the United States). Posting provisions apply to all employees coming from these countries, and to self-employed persons coming from Canada (and Quebec), and the USA. These agreements set out the maximum periods for the posting (five years for Japan, Korea and the USA; four years for Australia; three years for the United Kingdom; and two years for Canada/Quebec, and New Zealand). In all cases, the duration can be extended by agreement between the states party to the agreements. Bilateral Agreements are intended to cover pension/long-term benefits only. They do not cover 'short-term' benefits.

Article 97 of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 allows the Minister to exempt persons temporarily employed in the state from paying social security contributions (for a period not exceeding fifty-two contribution weeks).

An A1 form (issued by the sending country) is usually prima facie evidence that the worker is covered by the sending country's social security system (and for Bilateral Agreements, there is an equivalent 'Certificate of Coverage' issued by the sending country). In Ireland, A1 forms are not formally notified to any authority prior to posting, but must be available for inspection by social security inspectors.

The Convention on Social Security agreed between Ireland and the United Kingdom (S.I. No. 746 of 2020) provides there will be no loss of social security coordination provisions under the EU/UK Trade and Cooperation Agreement of December 2020. Under UK / Ireland arrangements, both short-term and long-term benefits are covered.

5. Social security rights of short-term third-country-national migrant workers during the Covid-19 pandemic

The Pandemic Unemployment Payment and Covid-19 enhanced illness benefit applies to students, including international students, part-time workers and non-EU workers who lost employment because of the pandemic, if the worker has paid a minimum amount of social security contributions or has been on an employer's payroll. International protection applicants (who are usually ineligible for mainstream social security) were also given access to the Pandemic Unemployment Payment and Covid-19 enhanced illness benefit in August 2020.

Under Supplementary Welfare Allowance provisions, emergency payments can be made to an individual on a ‘one-off’ basis, if that individual is facing an unanticipated expense that they could not be expected to fund from their own resources. This might arise, for example, where a posted third-country national fell into financial distress because of the Covid-19 restrictions on work or travel and their ineligibility for either the Pandemic Unemployment Payment or the Covid-19 Enhanced Illness Benefit. As mentioned above, posted third-country nationals do not remit social security in Ireland; rather they remain attached to the social security regimes of their sending Member States.

6. Overview of enforcement and monitoring

In Ireland, employment and social insurance compliance are not integrated, in that the former is the responsibility of the Workplace Relations Commission (WRC), whereas the latter is the responsibility of the Department of Social Protection (DSP). WRC Inspectors work with the Revenue Commissioners and the DSP in relation to the reporting of potential tax and social security issues encountered during inspections.