



## EU Posted Worker Directive

A new EU Posted Worker Directive came into effect on **30th July 2020**. All EU countries had until that date to transpose this directive in their national law. Here is a brief overview of the Posted Workers Notification in Malta.

### Important points to remember :

1. Equality of Treatment
2. Notification for posted worker
3. Infringement of Posted Employee's rights
4. Institution of proceedings

# 1

## Equality of Treatment

All posted employees are entitled to receive equality of treatment as the comparable employees and have equal access to employment rights and health and safety rights under Maltese law.

The conditions of work which are given to posted employees while working in Malta shall not be less than the minimum conditions of work that are generally applicable by virtue of the law, to a comparable employee employed in the same place of work. Such minimum conditions include :

- Maximum work periods and minimum rest periods as applied to various classes of employees;
- Minimum paid annual holidays as applied to various classes of employees;
- Minimum rates of pay, including overtime rates as applied to various classes of employees;
- Equality of treatment between men and women and other provisions of non discrimination in accordance with the laws of Malta;
- Protective measures with regards to terms and conditions of employment protecting pregnant women or women who have given birth a short while before;

# 2

## Notification for posted worker

While carrying out work in Malta an employee being posted from an EU/EEA country is not required to apply for a working licence in Malta. In the case of a third country national (TCN) employee who is employed by a posting undertaking that is established in an EU/EEA country, there is no need to go through a working licence procedure in Malta if such posted worker already holds a working licence issued in the country where the posting undertaking is established.

For any foreign national who is posted in Malta by an undertaking established outside an EU/EEA country, a working licence is required to be issued by Jobsplus: [jobsplus.gov.mt](http://jobsplus.gov.mt).

In any case of a posting in Malta, the undertaking posting the worker to Malta is obliged to notify the Director of Industrial and Employment Relations (DIER) of its intention to post a worker to Malta. A 'Notification of a Posted Worker to Malta' form, prepared for such purpose. The Notification Form accompanied with a copy of the posted worker's employment contract (with the posting undertaking) and, in the case of a TCN posted employee from an EU/EEA country, also with a copy of his existing working licence, should reach Department of Industrial and Employment Relations prior to the commencement of the posting.

The undertaking making use of the services of the posted worker is obliged to keep a copy of such Notification Form at the place of work for monitoring purposes by the inspectors of the DIER.

# 3

## Infringement of Posted Employee's rights

When a posted employee alleges that he has been treated in a manner which infringes any right conferred on him by the Posting of Workers in Malta regulations, such employee may submit a written request to the employer to provide him with a written statement in which shall be listed the reasons, if any, for any difference in treatment and such statement shall be provided by the employer within ten days from the date of the request.

# 4

## Institution of proceedings

Without prejudice to any other right regarding the institution of proceedings in another state, a posted worker has the right to institute proceedings in the courts of Malta to safeguard any right granted to him by virtue of the Posting of Workers in Malta Regulations.

Where there is a subcontracting chain, the posted worker can hold the contractor of which his employer is a direct subcontractor, civilly liable in addition to or in place of the employer.

Source:  
<https://dier.gov.mt/en/Employment-Conditions/Posting%20of%20Workers%20in%20Malta/Pages/Information.aspx>

**For more information, please contact us**

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