



Rialtas na hÉireann  
Government of Ireland

# Review of the Occupations Lists for Employment Permits

Quarter 4 2018

Public Consultation Submission Form

Prepared by the Department of Business, Enterprise and Innovation

[gov.ie](http://gov.ie)



## 1. Introduction

### 1.1 Economic Migration Policy

Ireland operates a managed employment permits system which maximises the benefits of economic migration while minimising the risk of disrupting Ireland's labour market. The State's general policy is to promote the sourcing of labour and skills needs from within the workforce of the State and other EEA states. Where specific skills prove difficult to source within the State and EEA, an employment permit may be sought by an employer to hire a non-EEA national.

To implement this policy, Ireland currently operates an employment permits regime that:

- focuses on key sectors and skills shortages, especially in economically strategic enterprises with potential for jobs growth;
- adheres to the principle of community preference and avoids disrupting the labour market or reducing the employment opportunities for the resident population;
- ensures that employment permit holders are making a positive net contribution to the Irish economy;
- minimises the potential for abusing the employment rights of migrants, is clear and consistent and therefore attractive to migrants and employers;
- is administratively effective and efficient, has a clear legislative basis, and is sufficiently flexible to react quickly to changes in the labour market.

### 1.2 The Occupational Lists for Employment Permits Purposes

In order to ensure that the employment permits system is responsive to changes in economic circumstances and labour market conditions, the employment permits system is managed in part through the operation of a list system for in-demand, highly skilled occupations and those for whom a ready source of labour is available (ineligible occupations) is in place. As demand grows or recedes, the orientation of economic migration is adjusted accordingly through changes to these lists of highly skilled and ineligible occupations:

The employment permits regime is designed to facilitate the entry of appropriately skilled non-EEA migrants to fill skills shortages. However, this objective must be balanced by the need to ensure that there are no suitably qualified Irish/EEA nationals available to undertake the work and that the shortage is a genuine one.

- Occupations included on the HSEOL are highly skilled occupations which are experiencing labour or skill shortages in respect of qualifications, experience or skills and which are required for the proper functioning of the Irish economy.
- Occupations not included on either the HSEOL or the ICEL, where an employer cannot find a worker, are considered eligible occupations for an employment permit, subject to criteria, but are not eligible for Critical Skills Employment Permits.
- Occupations included on the ICEL are occupations in respect of which there is evidence that there are more than enough Irish/EEA workers available to fill such vacancies, and therefore an employment permit shall not be granted in Ireland.

### 1.3 Review of the HSEOL and ICEL

In order to maintain the relevance of these lists of occupations to the needs of the economy and to ensure the employment permits system is aligned with current labour market intelligence, a bi-annual review process is applied. The rationale underpinning the inclusion on or omission from the lists of any particular occupation is driven by skills demands in the economy, and is based on, in the first instance, research undertaken by the Expert Group on Future Skills Needs (EGFSN), plus labour market intelligence outlined in the annual *National Skills Bulletin* and the *Vacancy Overview Report* and input by relevant Government Departments, education outputs and sectoral upskilling and training initiatives and any known contextual factors (e.g., planned expansions in sectors, if known).

An occupation may be considered for inclusion on the HSEOL or removal from the ICEL provided that:

- There are no suitable Irish/EEA nationals available to undertake the work;
- Development opportunities for Irish/EEA nationals are not undermined;
- Genuine skills shortage exists and that it is not a recruitment or retention problem;
- The Government education, training, employment and economic development policies are supported;
- The skill shortage exists across the occupation, despite attempts by industry to train and attract Irish/EEA nationals to available jobs.

The current lists, effective from 21<sup>st</sup> May 2018, can be found at <https://dbei.gov.ie/en/What-We-Do/Workplace-and-Skills/Employment-Permits/Employment-Permit-Eligibility/>

Parties considering making submissions to the review process should be aware that a range of criteria in addition to the eligibility of an occupation apply to the grant of employment permits. The criteria vary according to the type of employment permit application which is submitted. An elaboration of the policy underpinnings of the employment permits system is set out at: <https://dbei.gov.ie/en/What-We-Do/Workplace-and-Skills/Employment-Permits/Employment-Permit-Policy/>

## 2. Review of the Highly Skilled Eligible Occupations List (HSEOL) and the Ineligible Categories of Employment List (ICEL), Quarter 4 2018

The Economic Migration Policy Unit of the Department of Business, Enterprise and Innovation now invites submissions from representative bodies, Government Departments, Agencies, and other interested parties to a public consultation on the review of the Highly Skilled Eligible Occupations Lists (HSEOL) and the Ineligible Categories of Employment List (ICEL).

If you feel that there is a skills deficit or surplus relating to occupations in your sector, you are invited, either through your industry representative or directly, to make a submission with your observations. The submission process is an opportunity for stakeholders to provide additional information and potentially different perspectives on the nature and extent of skill shortages. Stakeholder submissions are a vital source of information, helping inform the Department's final assessment of the status of occupations.

The information you provide is important to our assessment process. You are encouraged to be as specific and detailed as possible when providing information. For example you may have other evidence or data, e.g. industry surveys or reports. We are also interested in any other factors that you consider are appropriate to add or remove an occupation from the lists for example, you may have information on recruitment and retention difficulties or changes in relevant training.

Submissions will only be accepted using this form and the closing date for submissions is 5pm, Friday 2<sup>nd</sup> November 2018 which will be strictly applied. Submissions received by close of business on this date will be considered as part of the review process.

Respondents are requested to make their submissions by email to [empu@dbei.gov.ie](mailto:empu@dbei.gov.ie), and to ensure that an appropriate email contact is included for any response.

Respondents are advised that copies of submissions will be forwarded to the relevant lead Government Departments for their sector and their guidance/input sought in respect of those submissions. Economic Migration Policy Unit will also undertake any necessary follow up with submitters and consultation with Government Departments/State Bodies and industry groups. This review process will involve consultation with an Interdepartmental Group (IDG) chaired by the Department of Business, Enterprise & Innovation with membership drawn from senior officials of key Government Departments and offices. At the end of the consultation process the Department will make recommendations to the Minister for Business, Enterprise and Innovation. Changes to the lists approved by the Minister will then be given legal effect by way of a statutory instrument.

### 2.1 Publication of Submissions and Freedom of Information

Please note that the information provided in the submission form will be shared with relevant Government Departments and State organisations. This is to promote an integrated approach to addressing skills shortages in the State. The Department will also publish on its website all submissions received under this consultation. However, if you wish to submit information that you consider commercially sensitive, please identify that information in your submission and give reasons for considering it commercially sensitive. The Department will consult with you regarding such information before making a decision to disclose it. Any personal information, which you volunteer to this Department, will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Acts 1988 and 2003.

The information you provide below is important to the review process. You are encouraged to be as specific and detailed as possible when providing information. Thank you for your participation.

1. Who is this submission made by?

a. Provide name of individual, firm or organisation:

Migrant Rights Centre Ireland

b. Provide contact details, including email for reply:

Edel McGinley [edel@mrci.ie](mailto:edel@mrci.ie) - 018897570

c. Date of submission:

2nd November 2018

2. Overview of your firm/organisation:

Please describe the main activity, sector and characteristics of the organisation making the submission *[not required for Government Department/State Bodies]*

The Migrant Rights Centre Ireland (MRCI) is a national organisation working to promote the rights of migrant workers and their families living in situations of vulnerability throughout Ireland. Since 2001, we have been working with migrant workers in the employment permit system. In 2017 MRCI provided information and support on 2,155 cases to people from 127 different countries. Of this, 33% were undocumented, 1 in 10 worked care and domestic work and 1 in 10 in restaurants. Other sectors included retail, hospitality and fisheries.

MRCI welcomes the review of the Occupations Lists for Employment Permits. MRCI has consistently made submissions to the reviews of Occupations Lists for Employment Permits for over a decade. This review takes place in the context of full employment, a buoyant and growing economy and shortages in labour. This makes it ideal time to significantly overall the occupations lists as there is an increased demand in labour and skills shortages.

### 3. What occupation does this submission refer to?

#### a. Occupation title

6145. Care workers and home carers and 6146. Senior Care Workers 6231 Housekeepers and related occupations; 9233 Cleaners and domestics; All Work in the private home + All Domestic operatives

#### b. What status do you propose for this occupation?

For inclusion on HSEOL	<input type="checkbox"/>
For removal from HSEOL	<input type="checkbox"/>
For inclusion on ICEL	<input type="checkbox"/>
For removal from ICEL	<input checked="" type="checkbox"/>

\*Tick one option as appropriate

### 4. Overview of your Sector

**If a representative body, please provide an overview of your sector, including importance to the economy; recent and projected growth of the sector; national or sectoral strategies/actions; employment numbers/types of occupations in the sector:**

Latest CSO analysis (July 2017) shows that people aged 65 and over grew by almost one-fifth, 19.1%, making it the fastest-growing sector. Age dependency increased from 49.3% in 2011 to 52.7% in 2016<sup>1</sup>. The over-85 population, which places the largest pressure on services, is growing by some 4% annually<sup>2</sup>. Over half a million in this older age group live at home, approximately 28% live alone<sup>3</sup>.

ESRI projections show demand for health and social care to increase across all sectors, with the greatest increases in services for older people<sup>4</sup>. It projects demand for home help hours is to increase by between 38 to 54 per cent by 2030 from a base demand of 14.3 million in 2015. It further projects an increased demand of 66 per cent in home care packages. This will require an estimated additional 20,000 home care workers to meet demands<sup>5</sup>. According to the ESRI, this demand will drive additional expenditure in capital investment and expanded staffing and will have major implications for capacity planning, workforce planning and training.

In addition to staff for home care providers, there is growing demand for carers directly employed in the private home by families themselves. In MRCI's experience, families are hiring home carers directly which has resulted in a growth of informal employment of irregular migrant care workers across Ireland.

<sup>1</sup> <https://www.cso.ie/en/csolatestnews/pressreleases/2017pressreleases/presstatementcensus2016resultsprofile3-anageprofileofireland/>

<sup>2</sup> Migrant Workers in the Home Care Sector <https://www.mrci.ie/wp-content/uploads/2015/09/Migrant-Workers-in-the-Home-Care-Sector-Preparing-for-the-Elder-Boom-in-Ireland.pdf>

<sup>3</sup> <https://www.cso.ie/en/releasesandpublications/ep/p-cp3oy/cp3/>

<sup>4</sup> ESRI PROJECTIONS OF DEMAND FOR HEALTHCARE IN IRELAND, 2015-2030 <https://www.esri.ie/pubs/RS67.pdf>

<sup>5</sup> Home and Community Care estimates <http://hcci.ie/home-and-community-care-ireland-calls-for-regulation-in-the-home-care-industry/>

Research carried out by MRCI in 2016 with over 1,000 undocumented migrants, found that the overwhelming majority (89%) are in employment, typically (though not always) in sectors where low-paid work is prevalent. The top five sectors of employment are Restaurant & Catering (32%), Domestic Work (29%), and Cleaning and Maintenance (13%). Other sectors include retail, hotel, medical, healthcare and agriculture.

A high proportion of these (66%) have been in their current job for over 2 years and of this 31% have been in the same job for over 5 years. 69% indicated that they are working over 30 hours, with more than half earning over €300 a week. This clearly demonstrates serious anomalies with the identification of labour and skills shortages.

Currently, an undocumented person employed in Ireland, with qualifications and multiple years' experience working, for example as a carer, cannot currently apply for a work permit. Current economic migration policy does not consider this significant pool of resident worker and means a wealth of skills in the state are not being fully utilised.

#### 5. Overview of the challenges faced by your firm/organisation/sector:

**Please provide an overview of the challenges faced: labour shortages; consequences for your organisation/the sector if labour demands are not achieved:**

The exclusion of care occupations including homecare from the occupations list means that there is no correlation between demand for homecare and the critical lack of supply of workers. The shortage of available homecare workers to work in the private home has given rise to practices of families employing migrants, including undocumented migrants, as undeclared carers for ageing relatives.

MRCI data shows a high concentration of undocumented migrants employed in this sector<sup>6</sup>. This is an inevitable consequence of the absence of employment permits for the sector. This is not a long term solution to care, as workers are unprotected and vulnerable to exploitation, while families who rely on undocumented carers cannot avail of the tax relief measures available to employ a caregiver.

While it is not expected that labour migration policy will respond to the full needs of the care and homecare sectors, a cross departmental approach to alleviate the current crisis and address a future crisis is imperative. Therefore, the removal of certain occupations from the ICEL is a necessary piece a complex jigsaw.

<sup>6</sup> Ireland is Home <https://www.mrci.ie/resources/publications/ireland-is-home-survey-policy-paper-on-the-lives-of-undocumented-migrants-in-ireland/>



6. Reasons for proposed change of status:

The categories of care workers and home carers, Senior Care Workers Housekeepers and related occupations; Cleaners and domestics and All Work in the private home + All Domestic operatives should be removed from the ICEL for the following reasons:

1. To enable homecare providers to recruit new non-EEA staff to alleviate the current crisis
2. To allow families to access employment permits to employ carers directly in the home
3. To facilitate access to a trained and qualified non EEA care workers as resident and EU recruitment options have not been sufficient to meet sectoral demands
4. To facilitate access for undocumented migrants providing homecare to an employment permit through a process similar to the Reactivation Scheme.
5. To ensure quality homecare provision through adequate work force planning and labour migration policy

7. Training and industry initiatives

**a. The Department must be satisfied that the industry is committed to fully utilising the domestic/ EEA labour market before industry considers employing non-EEA nationals. Your submission should include information on any demonstrated industry commitment to training and industry initiatives to enhance domestic/EEA recruitment that you are aware of, specifically: To your knowledge, what steps are being taken by industry and employers in the short term and long term to address this shortage?**

EU nationals have full access to the labour market and can technically work in any job or sector they are skilled or qualified for. Yet in a number of sectors in Ireland there are significant challenges in recruiting resident workers and EEA nationals with relevant skills and employers are looking to the Employment Permit System to address shortages.

While the 50:50 rule and LMNT was introduced to give preference to resident and EU nationals, there is little evidence to suggest this is working. There is also little evidence to suggest that people on the live register have the desire to enter and be employed in caring roles. It does not necessarily follow that all those on the live register will want to return to work in the care sector or will want to work in this industry full time.

**b. Are you aware of initiatives by the sector to upskill the resident population or plans by industry representatives to engage with education and training providers in ensuring that the sector's skills needs are met?**

There are several partnerships between training centres and the Education and Training Boards that provide free access to training initiatives in home care.

**c. Are you aware of the education and training initiatives and programmes that currently exist? If yes, why is the graduate output not sufficient to meet your sector's needs eg quality of graduates? quantity? geographic mobility?**

Government funds are available for training of homecare workers through (1) the DEASP (2) training available to CE workers and (3) schemes operated through ETBs.

**d. Does your industry have an agreed skills plan? ie a plan for upskilling the current workforce and or potential workforce? If yes, describe the expected outcomes of the plan. If no, what plans are in place to develop one and within what timeframe?**

**e. Are you aware of measures taken by the sector to avail of the Department of Social Protection's Employer Engagement Team to source qualified job seekers? If yes, please explain. Also please explain efforts made to recruit qualified EEA job seekers using for example Eures, Jobs Fairs, industry associations abroad, Jobs Ireland, etc.**

## 8. Labour market conditions

The Department must be satisfied that industry is committed to meeting its labour needs from the resident and EEA labour market, and that recourse to the recruitment of foreign nationals is only undertaken where a genuine skills shortage exists, rather than other factors relating to the conditions of the employment which should be addressed through means other than economic migration. Please provide any general information that you feel is pertinent in relation to your industry, e.g. wage ranges for occupations where shortages occur, whether the perceived shortage is general to the occupation or only occurs at specific levels of experience, or for very specific expertise.

There has been a chronic lack of investment in health, care and social care services in Ireland for decades. Currently, the homecare sector operates a two-tier system of care delivery. Homecare workers employed by the public service and (i.e. HSE) have much better terms and conditions than non-HSE Homecare workers.

HSE-employed staff have annualised hour contracts, which affords a worker a guaranteed number of hours per week with limited unsocial hours. In contrast, care workers employed by non-HSE agencies have If-and-When contracts, work unsociable hours and are often not reimbursed for travel costs. Average wages range from €11-14 per hour.

Labour shortages are experienced by public, private and not for profit home care providers and it is more challenging to find staff in rural areas. There is a continued demand for live in/out care in the private home and for carers with specialised training and qualifications in dementia, Alzheimer's and Parkinson's and in palliative care.

MRCI is in favour of opening up the occupations identified, and in tandem are concerned with protecting workers rights and tackling exploitation, particularly in vulnerable and isolated sectors of the labour market. We make reference to the recent Review of Economic Migration Policy Report of the Inter Departmental Group, which states that "*Employment Permits Unit, Workplace Relations Commission (WRC), DEASP and INIS should develop and deliver a coherent and unified information campaign to employers, particularly when low skilled employments are removed from the ineligible occupations list*".

We welcome this approach and believe it is very relevant in relation to concerns with the removal of the above occupations in care and homecare. We believe that early regular inspections should be carried out in workplaces and be accompanied by the above stated campaigns to deal with any emerging employment related issues and to address issues and concerns of the past.

## 9. Wider economic factors

Wider economic factors may have an influence on occupational shortages. For example are there reasons associated with productivity, innovation or competitiveness that you think the Department should take into consideration? Please provide evidence.

The Economic and Social Research Institute (ESRI) has forecast GDP growth of 8.9 per cent for 2018, followed by growth of 4.5 per cent for 2019<sup>7</sup>. In September 2018 unemployment stood at 5.4 % close to what is generally regarded a 'full employment'<sup>8</sup>. These factors will exacerbate labour shortages experienced in care and across the homecare sector.

Projections from Eurostat indicate that the workforce across the EU will shrink by 50 million over the next 50 years<sup>9</sup>. A decline in the number of workers that are potentially available will have a knock-on effect on tax receipts, social welfare and pensions. Without responsive and far-reaching labour migration policies, it will be increasingly difficult to address labour shortages and demographic change. This challenge will be felt across all sectors but particularly in the provision of care for our aging populations.

EU preference for workers presumes to link EU unemployment and migration. Eurostat estimates that in the EU28 unemployment is at 6.7% (September 2018), the lowest since the start of the EU monthly unemployment series in January 2000<sup>10</sup>.

The Eurobarometer covering labour mobility in the European Union shows that 17% of the EU population indicated a willingness to work in a different country in the future, but the majority 60% indicated a non-European country as their intended destination<sup>11</sup>. It is therefore short-sighted to assert that unemployed EEA nationals will necessarily want to come and work in Ireland or another EU country. We cannot assume that all labour market needs will be met by EEA workers.

Furthermore, the latest available data (2016) shows that proportion of women (traditionally family carers) in the paid work was 59.5% and is beginning to reach its pre-crisis level. This coupled with a reduction in family size means that less family carers will be available into the future. In addition, government initiatives to attract workers from the live register have not been sufficient to meet sectoral shortages. Labour migration policy and this review must address these concerns and crisis level of labour shortages in care.

## 10. Consultation

Have you consulted with, or are you aware if there has been any consultation with, your industry representative body on this issue?

Yes – see below. For the past 17 years, MRCI has worked directly with domestic workers

<sup>7</sup> <https://www.esri.ie/news/economic-growth-revised-upward-in-2018-and-2019/>

<sup>8</sup> <https://www.cso.ie/en/releasesandpublications/er/mue/monthlyunemploymentseptember2018/>

<sup>9</sup> ECB Economic Bulletin, Issue 2 / 2018 – Articles; The economic impact of population ageing and pension reforms Carolin Nerlich and Joachim Schroth (ECB 2018)

[http://www.ecb.europa.eu/pub/pdf/other/ebart201802\\_02.en.pdf?f3b30b505d07b44d89eaec15561e678d](http://www.ecb.europa.eu/pub/pdf/other/ebart201802_02.en.pdf?f3b30b505d07b44d89eaec15561e678d)

<sup>10</sup> [https://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment_statistics)

<sup>11</sup> Geographical and labour market mobility Summary Pub (June 2010)

[http://ec.europa.eu/commfrontoffice/publicopinion/archives/ebs/ebs\\_337\\_sum\\_en.pdf](http://ec.europa.eu/commfrontoffice/publicopinion/archives/ebs/ebs_337_sum_en.pdf)

and care workers on a daily basis. In 2017, 1 in 10 people who accessed our services worked in care. MRCI's Domestic Workers Action Group and My Fair Home workers group meet regularly to work on issues in this sector. There concerns and experiences are represented in this submission.

#### 11. Engagement with lead Government Department.

Have you engaged with the lead Government Department for your sector, on this issue?

The Migrant Rights Centre Ireland as part of Irelands' Home Care Coalition and has made representations to Minister Daly on the broader issue of homecare. The issue of labour shortages were included.

At present the Home Care Coalition is engaged in a process with the Department of Health's Older Persons Unit with responsibility for developing the Statutory Home Care Scheme, proposed for 2021. Workforce planning and alignment with labour migration policy is a key area in this work.

*Economic Migration Policy Unit*

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