



Rialtas na hÉireann
Government of Ireland

Review of the Occupations Lists for Employment Permits

May 2019

Public Consultation Submission Form

Prepared by the Department of Business, Enterprise and Innovation

gov.ie

1. Review of the Critical Skills Occupations List and the Ineligible Occupations List, May 2019

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 to review the eligibility of occupations appearing on the Critical Skills List and the Ineligible Occupations List for employment permits.

Submissions will only be accepted on the attached form and must be submitted by email to empu@dbei.gov.ie by **5pm, 12th July 2019**.

You are invited to make a submission with your observations if you feel that there is a skills deficit or surplus of individuals holding such skills, or, a shortage of labour or surplus of individuals available to fill those labour needs, in relation to occupations in your sector and the impact of which is adversely affecting your industry. We are interested in any factors that you consider are appropriate in order to have an occupation considered for adjustment on the lists, for example, information on skills or labour shortages incurred and for how long, recruitment efforts undertaken, retention difficulties, relevant training incentives, impact on business, expansion plans etc., or other evidence or data such as industry surveys or reports and views within your sector.

The submission process is an opportunity for stakeholders to provide information and experiences and potentially different perspectives on the nature and extent of skill and/or labour shortages. Stakeholder submissions are a vital source of information and views, helping inform the Department's final assessment of the status of occupations.

1.1 Observations of other Government Departments

Respondents are advised that copies of submissions will be forwarded to the relevant lead Government Departments for their sector and their observations and input sought in respect of those submissions. This is to promote an integrated approach to addressing skills and labour shortages in the State. 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.

1.2 Publication of Submissions and Freedom of Information

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. However, please note the following:

- The information provided in the submission form will be shared with relevant Government Departments and State organisations during the review process.
- The Department will publish all submissions received under this consultation on its website, and

- as information received by the Department is subject to the Freedom of Information Act, such information may be considered for possible release under the FOI Act. The Department will consult with you regarding such information before making a decision should it be required to disclose it.
- 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.

2. Economic Migration Policy

Ireland operates a managed employment permits system maximising the benefits of economic migration and minimising the risk of disrupting Ireland's labour market. The system is intended to act as a conduit for key skills which are required to develop enterprise in the State for the benefit of our economy, while simultaneously protecting the balance of the labour market.

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.

Only where specific skills prove difficult to source within the State and wider EEA, may an employment permit 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.

2.1 The Occupational Lists for Employment Permits

The system is, by design, vacancy led and driven by the changing needs of the labour market, expanding and contracting in tandem with its inherent fluctuations. In order to ensure that the employment permits schemes are responsive to changes in economic circumstances and labour market conditions, the system is managed through the operation of the Critical Skills Occupations List and the Ineligible Occupations List for the purpose of granting an employment permit.

- Occupations included on the **Critical Skills List** 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 on either List 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 **Ineligible Occupations List** 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.

For your information, the current Lists, effective from 22nd April, can be found on the following website page link: <https://dbe.gov.ie/en/What-We-Do/Workplace-and-Skills/Employment-Permits/Employment-Permit-Eligibility/>

2.1.1 The Standard Occupational Classification system (SOC 2010)

The Lists are organised using the Standard Occupational Classification system (SOC 2010), a system devised to classify roles into occupational categories. SOC2010 is structured in nine major groups and 25 sub-major groups followed by minor groups and unit groups. Within the structure of the classification, occupations fall broadly into four skill levels.

The Lists operate at Levels 3 and 4 of SOC-2010. When processing employment permits, the Department evaluates the occupation based on its own criteria and salary, title, qualifications and specifications etc., are indicative of those criteria used by the Department in determining the relevant SOC code to be applied.

Submitters are advised to review the SOC2010 listing and identify the most appropriate SOC code for the occupation referred to in order to provide clarity to the specific role. Link to the SOC system is also available on the following webpage under ‘Classification of employments’ <https://dbe.gov.ie/en/What-We-Do/Workplace-and-Skills/Employment-Permits/Employment-Permit-Eligibility/>.

2.2 The Review Process

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, the lists are subject to twice-yearly evidence based review which involves consideration of the research and labour market intelligence undertaken by the Skills and Labour Market Research Unit (Solas), the Expert Group of Future Skills Needs, the National Skills Council, education outputs, sectoral upskilling and training initiatives and any known contextual factors (e.g., planned expansions in sectors, if known). The observations and input of relevant Government Departments are also incorporated in addition to the public consultation process. Submissions to the review process are also considered by the Economic Migration Policy Interdepartmental Group chaired by the Department of Business, Enterprise and Innovation with membership drawn from senior officials of key Government Departments and Solas.

The Report on the Review of Economic Migration Policy, which Minister Humphreys published last September, included the recommendation that in order to make changes to the occupations lists, there would need to be a clear demonstration that recruitment difficulties are solely due to shortages across the EEA and not to other factors such as salary and/or employment conditions.

An occupation may be considered for inclusion on the Critical Skills List or removal from the Ineligible List 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's 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.

2.3 Applications for Employment Permits

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/>

A. Submitter Details

1. Name of firm/organisation and contact details:

Migrant Rights Centre Ireland
 Aoife Smith
 Email: aoife@mrci.ie

2. 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 2018 MRCI provided information and support on 1949 cases to people from 111 different countries. Of this, 34% were undocumented, 1 in 12 worked care and domestic work and 1 in 12 in restaurants. Other sectors included retail, hospitality, services and fisheries.

3. 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

ESRI projections show demand for health and social care to increase across all sectors, with the greatest increases in services for older people¹. 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 demands². 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.

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.

¹ ESRI PROJECTIONS OF DEMAND FOR HEALTHCARE IN IRELAND, 2015-2030 <https://www.esri.ie/pubs/RS67.pdf>

² Home and Community Care estimates <http://hcci.ie/home-and-community-care-ireland-calls-for-regulation-in-the-home-care-industry/>

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.

MRCI advocate for a sensible pragmatic approach to address labour market shortages by supporting workers to transition from irregular employment in to formal employment, thus tackling the growing informal market, creating revenue, and upholding workers employment rights. This could be done through making a provision for in-country applications for employment permits, by relaxing employment permits rules to allow undocumented workers apply for an employment permit in an eligible occupation. Any undocumented worker who has a proven job offer in an eligible occupation and who meets a set of predefined criteria can apply.

We believe this is a humane approach that would allow undocumented migrants who are living and working in Ireland long term come forward in a safe way and apply for an employment permit. We also believe this makes sound economic sense due to the prevalence of undocumented workers in areas of labour market shortage such as care, agriculture, restaurants and construction. It is sensible in terms of current housing issues also as workers are already in situ, and accustomed to Ireland.

4. If you are not a representative body, please provide the name and contact details of your representative body for your sector, if there is one.

B. The Occupation

5. Please state the Occupation title

Care Worker, Senior Carer, Domestic Workers including Childminders and Elder care givers,

6. The Standard Occupational Classification Code most appropriate to this role ([link](#)) (see 2.2.1 above)

6145	Care workers and home carers
6146	Senior care workers
	All Domestic Workers (carers and childminders)

7. What status do you propose for this occupation?

For inclusion on the Critical Skills List_____

For removal from the Critical Skills List_____

For inclusion on the Ineligible Occupations List_____

For removal from the Ineligible Occupations List_____YES_____

8. Please provide details of the occupation to include the following:

a. Brief overview of the role / job profile

Health care assistants and care workers caring for the old, sick or frail. They provide caring, personal and household services.

b. Current average remuneration this role attracts (basic salary not including bonuses, allowances etc.)

Between 11 Euro and 15 Euro per hour

c. Qualifications and/or level of experience required to fulfil the role

Varies depending on employer.

HSE approved providers basic requirement is 2 modules of QQI level 5 in Care Skills

d. The number of employees in your organisation currently working in this role

MRCI's My Fair Home is a network of over 500 migrant carers.

e. What progression opportunities does the role allow

NA

C.Reasons for adjustment:

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.

9. Please provide an overview of the challenges faced by your business/sector, i.e., extent of labour and/or skills shortages; the impact and consequences for your business/sector if labour demands are not achieved

The exclusion of care occupations including homecare and domestic work 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 sector³. 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, it also increases activity in the informal market.

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.

10. 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.

³ Ireland is Home <https://www.mrci.ie/resources/publications/ireland-is-home-survey-policy-paper-on-the-lives-of-undocumented-migrants-in-ireland/>

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 €11-15 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.

In addition, HSE waiting lists for home care supports are in excess of 6250⁴ people with average waiting list of up to 3 months. Recruitment is the number one issue for home care providers nationwide. We also see continued demand for carers in the private home sector, in the absence of employment permits this demand is met by the informal market.

11. Do you have any plans for expansion or development envisaged?

NA

12. Wider economic factors may have an influence on such occupational shortages. For example, are the labour/skills shortage or surplus impacting productivity, innovation or competitiveness? 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 2019⁵. In September 2018 unemployment stood at 5.4 % close to what is generally regarded a 'full employment'⁶. These factors will exacerbate labour shortages experienced in care and across the homecare sector.

⁴ [http://www.carealliance.ie/userfiles/file/Briefing%20Paper%202%20Web\(1\).pdf](http://www.carealliance.ie/userfiles/file/Briefing%20Paper%202%20Web(1).pdf)

⁵ <https://www.esri.ie/news/economic-growth-revised-upward-in-2018-and-2019/>

⁶ <https://www.cso.ie/en/releasesandpublications/er/mue/monthlyunemploymentseptember2018/>

Projections from Eurostat indicate that the workforce across the EU will shrink by 50 million over the next 50 years⁷. 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 2000⁸.

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 destination⁹. 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.

⁷ 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

⁸ https://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment_statistics

⁹ Geographical and labour market mobility Summary Pub (June 2010)

http://ec.europa.eu/commfrontoffice/publicopinion/archives/ebs/ebs_337_sum_en.pdf

D. Training, innovation and industry initiatives

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.

13. Please provide information on any demonstrated industry commitment to training and industry initiatives to enhance domestic/EEA recruitment that you are aware of, specifically:

a. What steps are being taken by industry and employers in the short term and long term to address this shortage?

b. Describe global labour-saving innovations in your industry and how your company or sector is planning to adopt these

c. 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?

d. Are there education and training initiatives and programmes? If yes, why is the graduate output not sufficient to meet your sector's needs, e.g. quality of graduates? quantity? geographic mobility?

**e. Does your business have an agreed skills plan? For example 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.Irish/EEA labour market resources

The State is committed to supporting Irish and EEA job seekers and the economic migration system is managed to contribute to this support. The Department of Employment Affairs and Social Protection can provide a range of supports to employers seeking to fill vacancies, and applicants for employment permits to fill general labour needs should avail of this support in the first instance. Changes to the eligibility of particular occupations in the context of the employment permits system will only be made where there is clear evidence of extensive engagement of sectoral actors in the Irish and European labour markets and where it is clear that the response to this engagement has proved inadequate to meet the relevant labour or skills requirement.

14. Please provide information on the efforts made by your business/sector to recruit qualified Irish/EEA job seekers, i.e. campaign reach, duration, outcomes etc.

15. Please provide information on the actions taken by your business/sector to avail of the Department of Social Protection's Employer Engagement Team services to source qualified job seekers

16. Also please explain efforts made to recruit qualified EEA job seekers using for example Eures, Jobs Fairs, industry associations abroad, Jobs Ireland, etc.

17. Have you used other methods other than Jobs Ireland, Jobs Fairs, e.g., industry associations abroad, etc.

F. Consultation

18. If not a representative body, have you consulted with any industry representative body on this issue?

MRCI has met with Home Care and Community Ireland (HCCI) to discuss labour shortages (private umbrella groups of 80 home care providers),

MRCI has discussed the issue with representatives of the National Not For Profit Network (umbrella group of 30 plus not for profit home care providers)

If yes, please provide some information on the aims and progress of the consultation?

Aim is to provide data and evidence on shortages in their enterprise.

19. Has your business/sector had any engagement with the lead policy Government Department for your sector on this issue?

MRCI has sent a letter to Minister Jim Daly outlining the issues and sought a meeting with the minister which was unsuccessful.

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.

If yes, please provide some details of the aim, progress, context of engagement and/or current status of such engagement and contact details for the Department official if possible

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.

Thank you for your participation.

Please ensure any commercially sensitive information included in this submission has been indicated.

Economic Migration Policy Unit

An Rionn Gnó, Fiontar agus Nuálaíochta

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