



**AN BILLE UM GHAIMITHE SLÁINTE AGUS CÚRAIM
SHÓISIALAIGH (LEASÚ), 2012
HEALTH AND SOCIAL CARE PROFESSIONALS
(AMENDMENT) BILL 2012**

EXPLANATORY MEMORANDUM

Background

A number of amendments are required to the Health and Social Care Professionals Act 2005 to ensure the effective functioning of the Health and Social Care Professionals Council and the registration boards established under the Act. These amendments mainly concern membership, fees, fines and registration criteria. Amendments are also required to take account of the provisions of Directive 2005/36/EC of the European Parliament and the Council of 7 September 2005 on the recognition of professional qualifications and also to provide for the assessment and recognition of qualifications obtained outside the State which are outside the scope of the Directive.

The 2005 Act provides for the establishment of a system of statutory registration for the following twelve designated health and social care professions: clinical biochemist, dietitian, medical scientist, occupational therapist, orthoptist, physiotherapist, podiatrist, psychologist, radiographer, social care worker, social worker and speech and language therapist. Only registrants will be permitted to use these titles when all the registers have completed their two-year transitional periods.

The structure of the system of statutory registration comprises a registration board for each of the twelve designated professions, a Health and Social Care Professionals Council with overall responsibility for the regulatory system and a committee structure to deal with disciplinary matters.

The Health and Social Care Professionals Council was established in March 2007. In August 2010, the Minister established the first of twelve registration boards, the Social Workers Registration Board, and, following the making by the registration board of the necessary bye-laws, the board established its register in May 2011. When the two year transitional period ends in May 2013 the social worker profession will be fully regulated under the Act.

The Radiographers Registration Board was established in December 2011 and it is envisaged that it will establish its register in the fourth quarter of this year. A further four Registration Boards are due to be established by the Minister during 2012.

Purpose of Bill

The main purpose of the Bill is to amend the Health and Social

Care Professionals Act 2005 to allow the Minister to continue to appoint professional members to the Council until such time as the twelve registration boards are established under the Act and are in a position to nominate elected members. Due to unforeseen delays in establishing the twelve registration boards and their registers under the 2005 Act the Minister for Health has been unable to appoint professional members to the Health and Social Care Professionals Council on the completion of the terms of office of the twelve such members appointed when the Council was first constituted.

In addition, amendments to the Act will take account of the provisions of Directive 2005/36/EC on the recognition of professional qualifications. The Bill will also provide for the assessment and recognition of qualifications obtained outside the State which are outside the scope of the Directive.

Provisions of Bill

The Bill will be entitled “*An Act to amend the Health and Social Care Professionals Act 2005 in relation to membership of the Health and Social Care Professionals Council, in relation to the recognition of professional qualifications obtained outside the State, including the implementation of certain provisions of Directive 2005/36/EC of the European Parliament and the Council of 7 September 2005 on the recognition of professional qualifications and to provide for related matters.*”

Section 1 states that the “Principal Act” means the Health and Social Care Professionals Act 2005.

Section 2 inserts definitions of “Directive 2005/36/EC”, “professional qualification” and “qualification” into the Interpretation Section of the Principal Act.

Section 3 amends section 9 of the Act to allow the Minister for Health to continue to appoint professional members to vacancies arising on the Council until such time as all registration boards are established under the Act and are in a position to nominate elected members for appointment to the Council.

Section 4 amends section 10 of the Act to provide for payments to members of the Council and its disciplinary committees for performing their functions as may be determined by the Council with the approval of the Minister for Health given with the consent of the Minister for Public Expenditure and Reform.

Section 5 inserts a new section 27A to provide that, when their registers have been established, registration boards will be (i) designated as competent authorities under Directive 2005/36/EC; (ii) empowered to act as competent authorities for their designated professions under Directive 2005/36/EC; and (iii) empowered to assess qualifications obtained outside the State which are outside the scope of the Directive. This section also provides for necessary transition arrangements in relation to applications under the Directive.

Section 6 amends section 31 to provide that a Registration Board may make bye-laws relating to (i) procedures for the assessment of professional qualifications, training, experience, aptitude tests or adaptation periods of applicants for registration whose professional qualifications have been obtained outside the State and are outside the scope of the Directive; (ii) practice/training requirements for professionals who wish to resume the practice of their profession

having not practised for a specific period of time; and (iii) the practice periods that may be required of existing practitioners wishing to register during their register's two-year transition period.

Section 7 amends section 38 to (i) provide that persons returning to practice must satisfy criteria and fulfil conditions specified by bye-law before they are granted registration; (ii) update/simplify the approved qualifications criteria in section 38(2) so that there are three categories: Irish qualifications; qualifications approved under Directive 2005/36/EC and other qualifications; and (iii) insert new definitions and remove others no longer necessary.

Section 8 amends section 42 to provide that the requirement of a registration board to notify applicants of the time they are allowed to apply to the Council to cancel a decision or to appeal to the High Court also applies to notifications of decisions relating to the recognition of qualifications obtained outside the State.

Section 9 inserts new sections 42A and 42B relating to the performance of functions of a registration board in respect of the assessment and recognition of qualifications obtained outside the State. Section 42A provides for the time-frames in which a registration board must (i) acknowledge applications for such recognition and (ii) notify applicants of decisions. Section 42B provides for the right of appeal to the Council in relation to the performance of the qualifications recognition function.

Section 10 amends section 44 to provide for appeals to the High Court from decisions of the Council on applications (appeals) relating to decisions of a registration board on qualification recognition.

Section 11 amends section 59 to increase the maximum fine for offences relating to attendance before a committee of inquiry.

Section 12 amends section 79 to permit temporary service providers (professionals who are established in another EEA state who provide services in the State on a temporary and occasional basis), whose qualifications have been assessed by a Registration Board, to use Irish professional titles; this is a provision of Directive 2005/36/EC.

Section 13 amends section 80 to increase the maximum fine for offences relating to the use of professional titles or the making of a false declaration or misrepresentation for the purpose of obtaining registration under the Act.

Section 14 amends definitions in section 90 to take account of the processes of Directive 2005/36/EC which provide for the assessment of formal professional training and also post-qualification professional experience.

Section 15 amends section 91 to (i) provide for practice periods required of existing practitioners in order to be registered during the transitional period to be not less than two years or such other period as may be specified by bye-law by the relevant registration board; and (ii) amend the registration process for existing practitioners to comply with the processes of Directive 2005/36/EC which provide for the assessment of formal professional training and post-qualification professional experience.

Section 16 inserts a new section 91A to permit an existing practitioner to use the relevant title until the end of the transitional

period and, where an application for registration is made during the transitional period, while the application or related appeal is being determined.

Section 17 amends Schedule 1 of the Act to permit the Minister to appoint a member of the Council for a period of up to four years rather than the current fixed term of four years.

Section 18 amends Schedule 2 of the Act to permit the Minister to appoint a member of a registration board for a period of up to four years rather than the current fixed term of four years.

Section 19 amends Schedule 3 of the Act to clarify that a Diploma of the College of Radiographers, London is one of three optional qualifications required by an existing practitioner radiographer in order to register during the transitional period.

Section 20 provides for the short title and commencement of the Act.

*An Roinn Sláinte,
Lúnasa, 2012.*