



Rialtas na hÉireann
Government of Ireland

Review of Economic Migration Policy

Report of the Inter- Departmental Group

Prepared by the Department of Business, Enterprise and Innovation
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FOREWORD BY MINISTER HEATHER HUMPHREYS, T.D.



Ireland's economic migration policy provides the framework within which the State's employment permit system is managed. Employment permits enable us to supplement our domestic skills and labour supply by allowing enterprises to recruit nationals from outside Ireland and the European Economic Area (EEA), where particular skills or expertise cannot be sourced from within the EEA, and where such recruitment may benefit the State's economic or social development.

As a general principle, our labour market policy should aim to ensure that most labour and skills needs are met from within the domestic and EEA workforce, and Government policy continues to focus on policies that educate and upskill the population in response to the ever changing needs of our enterprise base and our society.

Ireland's labour market has changed significantly over the past number of years. From a low of 4.5% in 2005, unemployment hit 15.9% in 2011 and, in line with a continually improving economy and strong jobs growth, is currently at 5.6% (August 2018)¹, and forecast by the Central Bank to fall to 4.8% in 2019². Even during the years of very high unemployment, Ireland still needed to attract highly skilled foreign workers to meet the needs of enterprises, where those skills were in short supply both here and across the EEA. Therefore, in 2012 the employment permits system was adjusted to take account of the challenges that presented at that time, by focusing on those critical skills in short supply while ensuring that those jobs for which there was a labour market surplus, were filled from the domestic or EEA labour markets.

Earlier this year, in response to our transformed economy and labour market, I requested my Department to undertake a fundamental review of the policies underpinning our employment permits

system to ensure that it is aligned with our current and emerging needs. It was becoming apparent that, while critical skills continue to be in demand as Ireland's enterprises compete in the global war for talent, labour shortages at the lower skills end of the market were also emerging and acting as a potential constraint on growth in certain sectors.

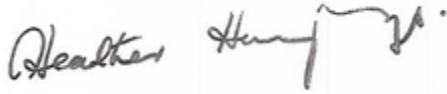
The review was overseen by an Inter-Departmental Group of senior officials chaired by my Department. The work of the Group, set out in this report, was informed by a public consultation, wide stakeholder engagement, extensive desk research and an international benchmarking exercise.

The report confirms that our employment permits system is largely robust, but needs some adjustments to ensure that it continues to be responsive to changing labour market needs. It sets out a series of recommendations to be addressed over the short to medium term and it puts in place a new cross-Departmental framework, led by my Department, that will ensure that our employment permits system will play its part in Ireland's labour market policy by providing an agile, evidence based and coherent response to emerging needs.

¹ CSO - <https://www.cso.ie/en/statistics/labourmarket/monthlyunemployment/>

² Central Bank of Ireland - <https://centralbank.ie/publication/quarterly-bulletins/quarterly-bulletin-q3-2018>

I would like to thank the Inter-Departmental Group for their work and their commitment to overseeing, under my direction, the implementation of the recommendations set out in the report.

A handwritten signature in black ink, reading "Heather Humphreys". The signature is written in a cursive style with a small flourish at the end.

Heather Humphreys, T.D.

Minister for Business, Enterprise & Innovation.



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ABBREVIATIONS

AWS	Atypical Working Scheme
BPI	Business Process Improvement
CfS EP	Contract for Services Employment Permit
CSEP	Critical Skills Employment Permit
CSO	Central Statistics Office
DAFM	Department of Agriculture, Food and the Marine
DBEI	Department of Business, Enterprise and Innovation
DES	Department of Education and Skills
DEASP	Department of Employment Affairs and Social Protection
DH	Department of Health
DHPLG	Department of Housing, Planning and Local Government
DJE	Department of Justice and Equality
DPER	Department of Public Expenditure
DPS EP	Dependant/Partner/Spouse Employment Permit
DTTAS	Department of Transport, Tourism and Sport
EEA	European Economic Area
EGFSN	Expert Group on Future Skills Needs
EMN	European Migration Network
EMPU	Economic Migration Policy Unit
EPMS	Employment Permits Management System
EPOS	Employment Permits Online System
ERN	Employer Registered Number
ERO	Employment Regulation Orders
EURES	European Employment Services
FDI	Foreign Direct Investment
GEP	General Employment Permit
HSEOL	Highly Skilled Eligible Occupations List
ICEL	Ineligible Categories of Employment List
ICT	Information and Communications Technology
IDG	Inter-Departmental Group
IGC	Intergovernmental Consultations on Migration, Asylum and Refugees
INIS	Irish Naturalisation and Immigration Service
Intra-CT EP	Intra-Company Transfer Employment Permit
ISCED	International Standard Classification of Education
JLC	Joint Labour Committee
LMNT	Labour Market Needs Test
LPC	Low Pay Commission
MAR	Minimum Annual Remuneration
NSC	National Skills Council
NMW	National Minimum Wage
OECD	Organisation for Economic Co-Operation and Development

SEO	Sectoral Employment Order
SLMRU	Skills and Labour Market Research Unit
SOC	Standard Occupational Classification
SOLAS	Further Education and Training Authority
TCN	Third-Country National
WRC	Workplace Relations Commission



GLOSSARY

Highly Skilled Eligible Occupations List is a list of 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.

Ineligible Categories of Employment for Employment Permits is a list of occupations in respect of which an employment permit shall not be granted in Ireland.

Economic migration is movement of persons from one state to another for the purpose of employment.

EURES is a cooperation network designed to facilitate the free movement of workers within the EU 28 countries plus Switzerland, Iceland, Liechtenstein and Norway. In practice EURES provides its services through the portal and through a human network of around 1000 EURES advisers that are in daily contact with jobseekers and employers across Europe.

Labour Market Needs Test seeks to ensure that an offer of employment is first made to people already in the EEA before an application is made for an employment permit to employ a non-EEA national.

Labour shortage refers to a situation in which there is a shortage or an insufficient number of individuals willing or available to take up employment opportunities.

Skills shortage refers to a situation in which there is a shortage or an insufficient number of trained/qualified individuals in the domestic market to meet the demand.

Standard Occupational Classification system (SOC 2010) is a system which classifies workers into occupational categories for the purpose of collecting, calculating, or disseminating data. DBEI uses the SOC system to organise the Highly Skilled Eligible Occupations List and the Ineligible Categories of Employment for Employment Permits List.

Third country national is any person who is not a citizen of the European Union within the meaning of Article 20 (1) of Treaty on the Functioning of the European Union (TFEU) and who is not a person enjoying the EU right to free movement. In this report, third-country national (TCN), foreign national and non-EEA national are used interchangeably.

50:50 Rule requires that employers seeking to hire foreign nationals on an employment permit have at least 50% of their workforce from Ireland or the EEA.





INTRODUCTION

Economic, or labour, migration policy is essentially the framework within which the State's employment permit system operates. It is designed to supplement Ireland's skills and labour supply over the short to medium term by allowing enterprises to recruit nationals from outside the European Economic Area (EEA) where such skills or expertise cannot be sourced within the EEA at that time.

The OECD in its 2016 report *Recruiting Immigrant Workers: Europe* sets out the difficulty inherent in evaluating the success of economic migration policy in meeting its principal objective:

“Labour migration policy is to meet labour market needs which cannot be satisfied by the domestic labour supply in a reasonable timeframe without adversely affecting the domestic labour market and development prospects in vulnerable origin countries. Although the objective itself can be easily stated, it is a complex matter to determine the criteria of assessing how successfully policy meets that objective. It involves evaluating how well the labour market needs have been identified and whether migration has had an impact on the domestic labour market. Both evaluations are analytically difficult.”³

The context within which economic migration happens is constantly evolving. Between the mid-90s and 2007, the Irish economy grew strongly, albeit that much of that growth post-2000 was driven by domestic demand. In tandem, there was an increase in employment permits granted; from 6,000 in 1999 to a peak of 47,551 in 2003 (see Figure 1.1, page 11). Allowing for the EU Accessions of 2004 and 2007, which were underpinned in the Employment Permits Acts of 2003 and 2006, the numbers of employment permits granted remained high until 2008.

With the contraction caused by the 2007 recession, the Government decided in 2009 to restrict entry to the Irish labour market via the employment permits system by imposing strict criteria and tests such as extending the Labour Market Needs Test (i.e. advertising) period. The number of employment permits granted fell to a low of 3,854 in 2013. In late 2012, the State's economic migration policy was reviewed. It concluded that, despite the recession and a labour market surplus, Ireland still needed skills which were in short supply globally. To position the State to better compete with other countries for highly skilled migrants to meet the skills requirements of enterprise, the employment permits system was accordingly adjusted within the legal framework of the Employment Permits Act 2006. The Employment Permits (Amendment) Act 2014 clarified the statutory basis for the regime, and provided for more flexibility and targeted instruments in support of the economy's evolving skills' needs.

By 2014, a robust recovery was well underway and employment permit numbers started to rise again, up from 3,843 in 2013 to 5,494 in 2014. The twice-yearly evidenced-based review of the highly skilled and ineligible occupations lists introduced in 2014 has ensured that the regime has become more responsive to changes in economic circumstances and labour market conditions.

Overarching Government Framework for continued Economic Growth

The economic context in which this review is being undertaken is one of consistent growth and this growth is reflected across the economic sectors. The economy is projected to continue expanding over the next two years. Year on year, GDP growth in 2017 was 7.2%⁴ and is

³ OECD/EU *Recruiting Immigrant workers: Europe* (2016), p3

⁴ CSO – <https://www.cso.ie/en/releasesandpublications/ep/p-nie/nie2017/summary/>

forecast to reach 4.7%⁵ growth in 2018, and 4.2% in 2019. (Source CSO, Central Bank). However, the possibility remains that external factors could adversely affect the State's growth prospects - a difficult Brexit⁶; protectionist trade policies; exchange rates adjustments; or possible changes to international taxation regimes.

Project Ireland 2040 is the Government's overarching policy and planning initiative for the social, economic and cultural development of the country. It is informed by the Programme for a Partnership Government 2016, as well as by the National Planning Framework to 2040, the Capital Investment Plan 2018-2027 and the National Development Plan 2018-2027. It provides a framework for other key strategies designed to enhance and drive regional and sectoral performance, build competitiveness in international markets and capture new opportunities - examples include Action Plan for Jobs (APJ) 2018, the eight Regional APJs, Enterprise 2025, Innovation 2020, Food Wise 2025, and the Tourism Action Plan. Key to the delivery of these strategies is human capital, primarily through cultivating an indigenous pool of talent and labour. The employment permits system plays a supporting role in the delivery of these strategies by supplementing the labour and skills base where gaps are identified.

Now, as the economy continues to improve and the State approaches full employment, labour as well as skills shortages are beginning to manifest and there are increasing calls to open up the employment permit regime to lower skilled workers in certain sectors/occupations experiencing recruitment difficulties.

However, economic migration alone is not a sustainable long-term solution to skills and labour shortages and indeed can, in some circumstances, help to perpetuate those shortages in the economy and can, if not properly managed, constrain investment. The development of particular skills in the domestic labour force should be supported by the judicious deployment of economic migration as a supplementary rather than a primary source of those skills, and adjustments must be made with this in mind.

While there is some evidence of a tightening labour market in some sectors, particularly for lower skilled, lower wage workers, the fact remains that there are 209,900 (CSO, August 2018) on the live register, and a potential pool of 16.8 million (EUROSTAT, July 2018) unemployed in the EU 28. Therefore, caution is needed when considering whether to open up the labour market to unskilled non-EEA workers on wage levels at or just above the national minimum wage. A significant concern is that employment permit holders working for relatively low levels of pay may influence the rate and conditions for other workers in the same occupations and sectors, i.e. wages may not increase in line with increasing productivity and/or there may be downward pressure on wage rates. Impacts would need to be closely monitored including any increases in demand for in-work State subsidies.

The Irish economy has changed significantly in the period since the last review of the employment permits regime, and therefore it is timely to undertake a further review of the economic migration policies underpinning the current employment permits system, to ensure they are fully supportive of Ireland's emerging labour market needs, be they skills or labour shortages in certain sectors (Action Plan for Jobs 2018, Action 36).

⁵ Central Bank of Ireland – <https://centralbank.ie/publication/quarterly-bulletins/quarterly-bulletin-q3-2018>

⁶ The Copenhagen report predicts a fall, compared to a no-Brexit scenario, in GDP in the order of 3.3%-7.7% (depending on the form that Brexit ultimately takes) by 2030. See *Ireland and the Impact of Brexit – Strategic Implications for Ireland arising from Changing EU-UK Trading Relations* (Copenhagen Economics, 2018). In addition, it is possible that there will be migration effects, both of diverted EU workers (in 2014, net migration to the UK was 300,000) and of Irish workers who might have migrated to the UK (approximately 60,000 people moved from Ireland to the UK between 2011 and 2013). See Barrett, Bergin et al, *Scoping the possible economic implications of Brexit in Ireland* (ESRI Research Series 48, Nov 2015), pages 52 and 58.

EXECUTIVE SUMMARY

Report Objectives, Scope and Methodology

The overall objective of the Review is to consider the policy rationale for the employment permit system where the economy is improving and the labour market is tightening and to make appropriate recommendations to the Minister. (See at Appendix 2, Terms of Reference).

The following factors were within scope of the review:

- All sectors of the economy.
- All employment permit schemes: while there are nine different types of employment permits to facilitate different employment scenarios, there are just two core permit types: *Critical Skills Employment Permit (CSEP)* and *General Employment Permit (GEP)* (see Chapter 3 for further information).
- Economic and social goals.
- Regulating demand using available tools, e.g., minimum remuneration thresholds, highly skilled and ineligible occupations lists, and quotas.
- International comparisons.
- Proposals for changes that can be made:
 - in the short term and within the existing legal framework;
 - in the medium to longer term and which may require amendments to primary legislation.
- Identification of appropriate performance indicators.

The Economic Migration Policy Unit of the Department of Business, Enterprise and Innovation, (DBEI) which led the review:

- identified and reviewed existing sources of relevant research material and data, e.g., National Skills Council (NSC) and Expert Group on Future Skills Needs (EGFSN), reports of Skills & Labour Market Research Unit (SLMRU) in SOLAS, OECD Ireland 2017 Report, Central Statistics Office (CSO) figures and employment permit data;
- conducted a survey of stakeholders in the public and private sector: 34 submissions were received during the public consultation and four meetings were held with key stakeholders;
- examined policy development in other EU and international jurisdictions by way of surveys conducted through the European Migration Network (EMN)⁷ located in the Economic and Social Research Institute (ESRI) and the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC)⁸ based in Geneva;
- established and supported an Inter-Departmental Group (IDG) which had oversight of the review and which met on six occasions.

Inter-Departmental Group (IDG)

An integral feature of the review was its oversight by an Interdepartmental Group (IDG) chaired by Department of Business, Enterprise & Innovation (DBEI) with membership drawn from senior officials of key Government Departments and a Government agency⁹. The IDG considered the

⁷ EMN, which plays a role in providing up-to-date, objective, reliable and comparable information on migration and asylum topics to policy makers at EU and Member State level and the general public comes under DG Migration and Home Affairs. EMN Ireland is the Irish National Contact Point and is located at the ESRI.

⁸ The IGC is an informal, non-decision making forum for intergovernmental information exchange and policy debate on issues of relevance to the management of international migratory flows. The IGC brings together 16 Participating States, including Ireland, the United Nations High Commissioner for Refugees, the International Organization for Migration and the European Commission.

⁹ D/Public Expenditure & Reform, D/Housing, Planning and Local Government, D/Justice & Equality, D/Employment Affairs & Social Protection, D/Health, D/Agriculture, Food & the Marine, D/Transport, Tourism & Sport, D/Education & Skills, D/Business Enterprise & Innovation (Skills Policy and Education Policy Unit), Skills & Labour Market Research Unit (SLMRU) in SOLAS.

available evidence, provided advice, agreed on an overarching set of guiding principles and made recommendations to put in place a robust and evidence-based framework for the management of the employment permits regime into the future, with the flexibilities required to ensure it remains supportive of the Irish labour market. Very early on in the review process a consensus emerged of the complexities involved in establishing a steady supply of skills and labour from within the domestic and European Economic Area (EEA) economies, the need for an integrated response from several policy areas which intersect on the matter, and the broader economic impacts of making changes to the regime, such as pressures on housing and social welfare payments.

Such was the value of the IDG in enabling the development of an effective policy rationale for the employment permits regime that it is recommended that the IDG remain in existence to oversee the implementation of the recommendations of this review and to monitor the guiding principles and operation of the regime on an ongoing basis.

While the IDG's priority was to review the State's broad economic migration policy, the Minister requested that the emerging labour shortages being experienced in the agri-sector be prioritised. To ensure consistency with any impending and broader changes to the regime, the IDG considered the evidence-based case submitted by the Department of Agriculture, Food and the Marine (DAFM) for the meat processing, horticulture and dairy sub-sectors within the context of the overall review and emerging recommendations.

On 14 May 2018, the Minister announced changes allowing specific occupations in the agri-food sector to source workers from outside the EEA. The changes, which are operating on a pilot basis initially, include 500 permits for the horticulture sector, 250 for the meat industry and 50 for the dairy sector. See Appendix 4 for further information on the pilot scheme introduced for the agri-sector.

Report Key Findings and Recommendations

A Proactive and Dynamic Policy

Economic migration is a constant factor in the economic and social landscape and the context within which it happens is constantly evolving.

Overall, Ireland's employment permits system is robust, with the European Migration Network (EMN) reporting in 2015 that Ireland is a leader EU-wide in linking labour market intelligence to policy. This linkage is based on research conducted by the Expert Group on Future Skills Needs (EGFSN) and the National Skills Council (NSC) and thus DBEI is in a strong position to measure and report with confidence. The State's economic migration policy was last reviewed in 2012. At that time, it called for a more balanced policy rationale for the employment permit system which considered the then labour market surplus while ensuring access to skilled workers where skills shortages were being experienced in the Irish and EEA labour markets. The success of this realignment in the regime is evident in the increase in the take-up of the *Critical Skills Employment Permit* (CSEP) - designed to address key skill shortages - granted to support high levels of growth in certain sectors and in the technology sector in particular.

However, the State's economic migration policy needs to keep pace with rapid labour market changes and be seen to be proactively identifying and addressing shortages as they arise. Standing still is costly as both foreign multi-nationals and indigenous enterprises experience skills and labour constraints. The twice-yearly review process for managing the employment

permits system operates to align the economic migration system in Ireland with current labour market intelligence. The Group recommended a fundamental review of economic migration policy be conducted at least every five years to ensure it remains supportive and aligned with the ever-changing Irish labour market. In addition, the impact of any adjustment to the State's economic migration policy should be measured on an ongoing basis.

Policy Framework

Economic migration policy is primarily aimed at ensuring a labour and skills supply while mitigating against potential adverse effects. A key undertaking for the IDG was to develop a clear economic migration policy framework which would reconcile short term and longer-term policy objectives over the coming years. In building that necessarily dynamic and flexible economic migration policy, the IDG has set out an overarching objective for the State's employment permit system:

THE STATE'S EMPLOYMENT PERMIT SYSTEM SHOULD HELP MEET, IN THE SHORT TO MEDIUM TERM, THE DEMAND FOR SKILLS AND LABOUR IN THE IRISH ECONOMY WITHOUT DISRUPTING THE IRISH LABOUR MARKET.

To provide the context and framework within which decisions can be made and to provide a rationale for actions taken, this high-level objective will be implemented through the following seven guiding principles:

Principle 1: EEA preference

Irish labour market policy should aim to ensure that general labour and skills needs are met from within the workforce of the EEA. This policy continues to reflect the need for a responsive educational system, a focus on lifelong learning, addressing retention issues, and the need to maximise the potential of EEA nationals to fill skills and labour deficits.

Principle 2: Labour market responsiveness

At all stages of an economic cycle the State's economic migration policy should be sufficiently agile to respond to the demands of the labour market.

Principle 3: Skills shortage

Ireland continues to experience skills shortages in certain key areas as evidenced, inter-alia, in research conducted by the Expert Group on Future Skills Needs and the National Skills Council. The employment permits regime is part of the response to addressing those skills deficits which exist and are likely to continue into the medium term, but is not a substitute or pretext for avoiding the challenge of up-skilling our resident workforce. Nevertheless, it is recognised that Ireland has to compete with other countries for economic migrants, particularly at the high end of the skills continuum. Certain skills, such as those required in the high-tech sectors are in demand globally. Therefore, there continues to be a need to supplement Ireland's skills stock through employment permits and to ensure that Ireland's employment permits system is geared towards attracting such skills.

Principle 4: Balanced approach

Economic migrants bring new ideas and different perspectives, helping organisations to innovate, for example through developing and adapting technology, and encouraging

to innovation and labour market

the adoption of more efficient processes and strategies. However, where access to a low-skilled immigrant workforce is not managed, employers may be slower to invest in skills and technology to innovate and improve productivity. It is important that a balance is achieved between the need for industry to innovate and invest in new processes to reduce dependence on low skilled labour, and ensure that labour shortages do not result in lost commercial opportunities or value-added to the economy.

Principle 5: Net contributor

Employment permit holders should be net contributors to the Irish economy and as such should have the financial capacity to support themselves and, where appropriate, their immediate families without recourse to State resources. The minimum annual threshold for an employment permit should also remain as neutral as possible in terms of wage effect.

Principle 6: Employment rights

Migrant workers are often a more vulnerable class of people, particularly in the lower skilled end of the labour market. Language difficulties, cultural differences, and lack of social networks can disadvantage migrants and increase the potential for abuse by unscrupulous employers. Ireland has a very thorough employment rights legal framework. Careful consideration is given to the potential for abuse and many of the criteria in evaluating employment permit applications focus on the bona-fides of the employer and the protection of the permit holder.

Principle 7: Legislative framework and process

The employment permits regime should be administratively effective and efficient, have a clear legislative basis, and be sufficiently flexible to react quickly to changes in the labour market.

Recommendations to Update Policy

In respect of each of the guiding principles, the IDG has made a wide range of recommendations for implementation in the short/medium term and long term, which are summarised below. A number of recommendations will require further evaluation and stakeholder engagement. (See Chapter 5).

Recommendations for Short to Medium Term Implementation

The recommendations below can be implemented within the current legal framework either by administrative means or by amendments to secondary legislation.

LMNT and 50:50 Rule

- ❖ The duration of the EEA-wide Labour Market Needs Test (LMNT, i.e. advertising, see Chapter 3) should be extended from two weeks to four weeks. **[5.2]**
- ❖ DBEI should deliver a communications strategy, in co-operation with the Department of Employment Affairs and Social Protection (DEASP), to raise awareness of the LMNT process that must be conducted in advance of submitting an employment permit application. **[5.4]**
- ❖ While continuing to limit the support of the waiver from the 50:50 Rule (requires employers to have at least 50% of their workforce from Ireland or the EEA) for new or early stage companies working with the IDA or Enterprise Ireland (EI), consideration should be given to including the Local Enterprise Offices (LEOs) in the waiver support process **[5.5]**

- ❖ The difficulties companies with complex structures are experiencing in meeting the 50:50 Rule during the application process should be addressed. **[5.8]**
- ❖ The employment permits processing system (EPMS) should be adapted to facilitate easy capture of the 50:50 Rule and LMNT data. **[5.9]**

Review of Occupations Lists Process

- ❖ Relevant Government Departments should take the lead, with the relevant sectors, for making an evidence-based case for changes to the occupations lists for an employment permit; where a Department does not have clear lead policy responsibility, DBEI, working with the IDG and in consultation with stakeholders, should make the case. **[5.10]**
- ❖ To address shortcomings in data used to identify skills or labour shortages, Skills and Labour Market Research Unit (SLMRU) in SOLAS will engage with Government Departments to identify if further sources of official statistics can be utilised. Requests can also be made to the EGFSN for specific sectoral analyses to be included in their work plan. **[5.12]**
- ❖ To ensure greater transparency in the twice-yearly review of occupations lists process, submissions received during the public consultation, and the outcome of the reviews, should be made available on the DBEI website. **[5.13]**

Critical Skills Employment Permit (CSEP) & Dependant/Partner/Spouse Employment Permit (DPSEP)

- ❖ To help meet the growing demand for high level skills in the economy, DBEI should examine the feasibility of establishing a third remuneration threshold for the *Critical Skills Employment Permit (CSEP)* set at a level between the current lower (€30,000) and upper (€60,000) thresholds, for a foreign national who has relevant experience for an occupation on the highly skilled list, but does not have the required degree, for example in certain ICT occupations. **[5.14]**
- ❖ In order to enhance Ireland's attractiveness as a destination for the holders of critical skills, a proactive marketing of the opportunities for eligible family members to work in the State, including clarification of the Stamp 3 immigration permission, should be undertaken. DBEI will continue to work closely with the Irish Naturalisation and Immigration Service (INIS) in the Department of Justice and Equality, on other initiatives to streamline the process for the spouses and partners of *CSEP* holders/Third Country¹⁰ Researchers. **[5.15, 5.16]**
- ❖ DBEI should also conduct an analysis of *Intra-Company Transfer Employment Permit (Intra-CTEP)* data as part of its evaluation on the merits of extending the link of the *Dependant/Partner/Spouse Employment Permit (DPS EP)* from the *CSEP* to the *Intra-CT* permit type. **[5.17]**

Use of Quotas

- ❖ In general, employments removed from the ineligible occupations list should be subject to a quota which would be provided for in secondary legislation. An appropriate quota should be benchmarked to the number of current vacancies or future demand, specific to the occupation concerned. **[5.18]**
- ❖ The release of further quotas, or the continuation of quotas, should be dependent on progress being reported by the Department with lead policy responsibility for the sector concerned on various commitments given to ensure there is a long term steady supply of labour from within the EEA. **[5.19]**

¹⁰ The Third Country Researchers Directive (Council Directive 2005/71/EC) provides for a fast track procedure (Hosting Agreement) for admitting third-country nationals for a period of between three months to five years, to carry out a research project with an accredited research institution. See <https://dbei.gov.ie/en/What-We-Do/Innovation-Research-Development/Hosting-Agreement-Scheme/>

Remuneration

- ❖ As the first step towards closer alignment with average annual earnings for all employees, the minimum thresholds for the *CSEP* should be increased by 6.7% to €32,000 and €64,000 respectively. The impact of this increase should be measured against established performance indicators within 6-12 months. **[5.21, 5.22]**
- ❖ The feasibility of aligning the upper remuneration threshold for a *CSEP* with appropriate official data should be examined. **[5.23]**
- ❖ The remuneration thresholds of the *GEP* should be reviewed to minimise any ensuing disruption/displacement effect in the domestic labour market. **[5.24]**

Employment Rights

- ❖ 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. **[5.27]**

Legislative and Administrative Process

- ❖ As part of the ongoing Business Process Improvement (BPI), Employment Permits Section will take cognisance of the recommendations of this review, including the development of improved data management. **[5.30]**
- ❖ A review of employment permit fees will be conducted to ensure that they continue to operate under the cost recovery principle. **[5.31]**
- ❖ DBEI and INIS will continue to work closely to ensure the Atypical Working Scheme (AWS) and the employment permits system operate in a complementary and streamlined manner. **[5.32]**

Recommendations for Long Term Implementation

As the employment permits regime is governed by primary legislation, implementing the recommendations below will require amending the Employment Permits Act 2006, (as amended). This will take some time. Given the potential extent of legislative changes, a new bill, rather than a further amending bill, will need to be considered (Principle 7: Legislative framework and process) **[5.29]**. The recommendations are:

- ❖ Modernise the LMNT process and provide for DEASP verification of genuine effort by employers to fill positions from within the EEA. **[5.3]**
- ❖ Modify the 50:50 Rule to extend the waiver to include all sole operators in expansion mode and to commence the waiver for company start-ups from date of registration as an employer with Revenue Commissioners. **[5.6, 5.7]**
- ❖ Review the highly skilled and ineligible occupations lists system to ensure it remains robust in the changing labour market. The review should evaluate the desirability of both a negative ineligible occupations list and a positive eligible occupations list and consider how they would operate at all stages of an economic cycle. In addition, the review should look at the role remuneration plays as a control to prevent labour market disruption. **[5.11]**
- ❖ A Seasonal Employment Permit should be developed to provide for a non-EEA national to work in the State temporarily, for the purposes of employment in a sector of seasonal activity. In devising such a permit, all potential risks should be assessed and mitigations identified. **[5.20]**
- ❖ While the legal definition of remuneration for an employment permit was designed in the Employment Permits (Amendment) Act 2014 to provide clarity and certainty around pay for migrant workers, in particular for those whose contracts of employments are outside the

State, such extensive legal underpinning should be re-evaluated. Further work also needs to be undertaken on how remuneration for an employment permit is determined. **[5.25]**

- ❖ Extending the 50:50 Rule waiver to sole operators should be balanced with providing access to information and protections for such migrant workers who will not have work colleagues and thus may not be exposed to normal employment practices. **[5.26]**

High-Level Conclusions

The current employment permits system was last adjusted during a period of economic contraction when deficits of specific skills were being experienced, but more broadly, the labour supply was sufficient to meet enterprise needs.

Having regard to all the analysis conducted and the methodology utilised, the IDG has concluded as follows:

- The State's economic migration policy needs to keep pace with rapid changes and be seen to be proactively identifying and addressing skills and labour shortages as they arise; thus in addition to removing current inflexibilities, the policy should be reviewed at least every five years to build in flexibilities to ensure it remains aligned with and supportive of the Irish labour market.
- To ensure the employment permits system is robust, evidenced based and cohesive, it is imperative that the framework and guiding principles in this report are adhered to.
- While several recommendations in this report can be implemented in the short term, a number will take time, particularly those that will necessitate amending primary legislation. Others will require further evaluation and stakeholder engagement. To this end, it is vital that an action plan, which will give effect to all recommendations, be prepared and implemented.
- The IDG played a positive role in the development of a policy rationale for the employment permits regime and should remain in existence to oversee implementation of the recommendations of this report and to monitor the guiding principles and operation of the regime on an ongoing basis.
- It is important that the impact of adjusting the State's economic migration policy be measured. Ireland is a leader EU-wide in linking labour market intelligence to policy and is in a strong position to measure and report with confidence.

CHAPTER 1 - ECONOMIC AND POLICY CONTEXTS

Economic migration policy should be fully supportive of Ireland's evolving labour market needs, be they skills or labour shortages. This Chapter outlines the economic and policy contexts within which the employment permits regime has operated since the mid-1990s.

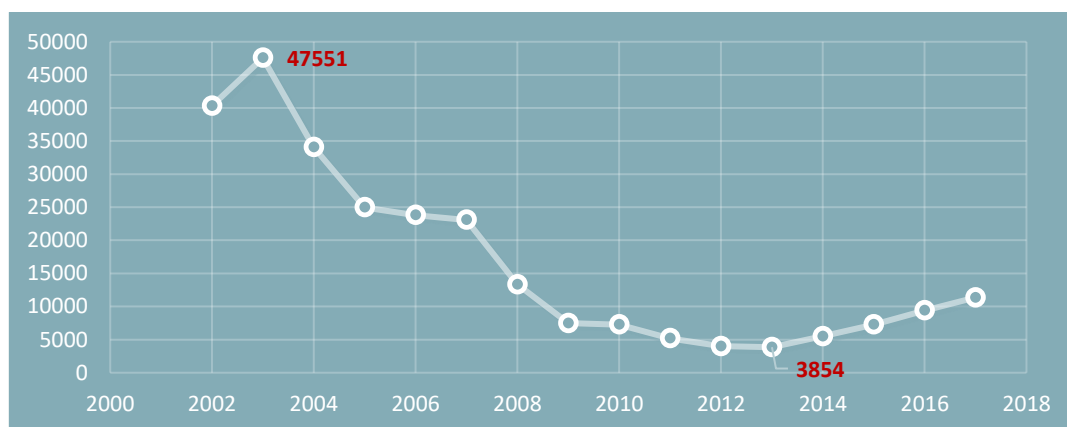
1.1 Economic Context (1990s-2017¹¹)

By design, the employment permits system is pro-cyclical, expanding and contracting in tandem with fluctuations in the economy.

Between the mid-90s and 2007 the Irish economy grew strongly, with GDP per capita growth averaging close to 5% from 1995 to 2007. Over that period, living standards increased by one-third and employment increased by 680,000 people between Q1 1998 and Q4 2007. Irish people who had emigrated in earlier years came home and there was, for the first-time, large-scale inward migration. Workers from the then EU accession countries (EU15-EU28) rose to 8% of the labour force. In 1999, 6,000 work permits were issued, a record at that time¹².

After 2000, much of the growth in the economy was driven by domestic demand, bolstered by the widespread availability of credit, while export growth and productivity growth slowed and inflation and labour costs rose sharply. However, the numbers entering the State on employment permits remained high until 2008. The fall in the figures from the high of 47,551 in 2003 is occasioned by the EU Accessions of 2004¹³ and 2007.

Figure 1.1: Permits Granted 2002 - 2017



Source: EPMS and Economic Migration Policy

With the severe contraction caused by the 2007 recession, GDP fell dramatically and did not recover until 2014. This contraction also manifests in the employment permit figures, with employment permit numbers granted falling to a low of 3,854 in 2013. The fall-off in employment is also evident in the number of EEA nationals in the State over this period, with a sharp rise over

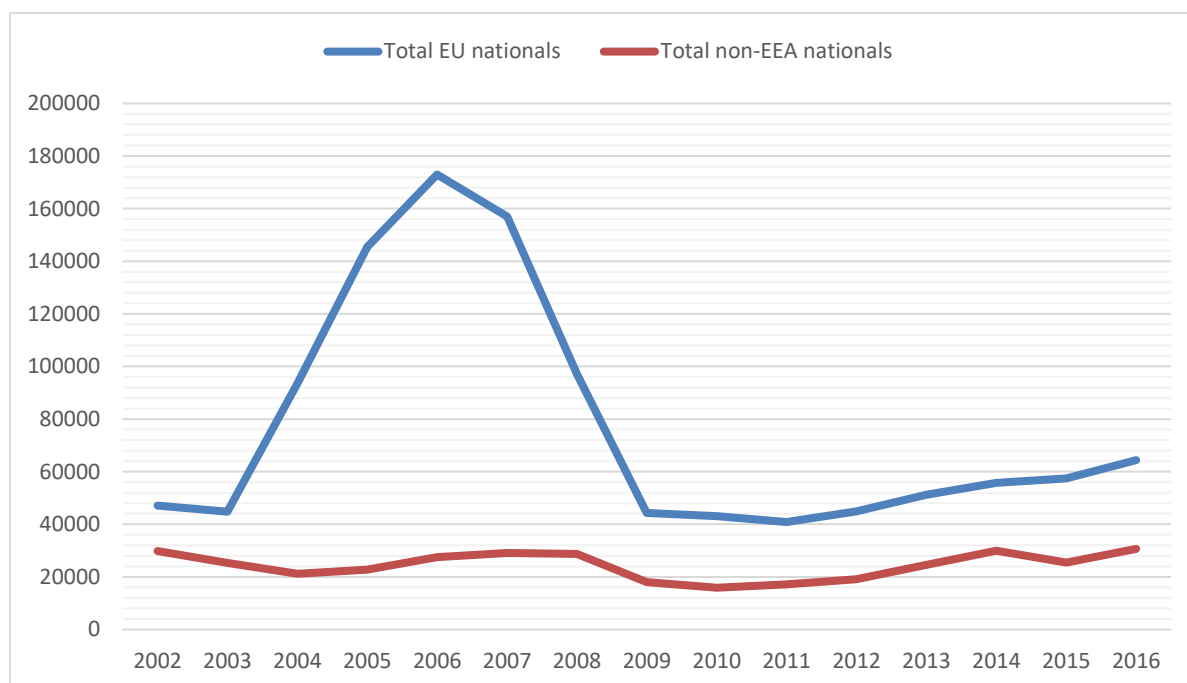
¹¹ Material and data is sourced from CSO statistics, *OECD Economic Surveys: Ireland 2015* (Paris: September 2015), and S Barnes, 'Ireland's economic outlook' in *OECD Observer* (2009)

¹² Seanad Éireann Debate Vol. 172 No. 5, Employment Permits Bill 2003 [Seanad]: Second Stage, 3 April 2003

¹³ In 2002, 35% of the 40,000 permits (13,752) were granted to non-EEA nationals from eight of the ten EU Accession States - Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia, and Slovakia.

the years 2003-2006, and a collapse of those numbers between 2007 and 2009 (Figure 1.2 below).

Figure 1.2: PPSN Allocations to Foreign Nationals, 2002-2016¹⁴



Source: FNA06 PPSN allocations to foreign nationals by broad nationality group (CSO)

By 2014, a robust and broad-based recovery was underway. GDP grew by 5.2%, the fastest in the OECD. Unemployment was falling steadily and the budget deficit was declining. Key structural reforms were rolled out and the Action Plan for Jobs (2011) and Pathways to Work (2012) continued to implement a coherent set of cross-Governmental pro-employment reforms and initiatives. 2014 saw employment permit numbers start to rise again, up from 3,843 in 2013 to 5,494 in 2014.

In recent years, increasing employment in the State has brought with it an increase in the numbers of highly skilled foreign nationals being employed as companies expand and seek to meet their personnel needs in an increasingly competitive labour market. The number of employment permits issued rose to 11,354 in 2017, which was a 21% increase on the 9,383 issued in 2016, (and that 2016 figure represented an increase of 29% above the number of employment permits issued in 2015). See Appendix 7 for further information on the evolution of the employment permits system from prior to 2003.

1.2 Current Economic Conditions¹⁵

1.2.1 Improving Economy

The economic context in which this review is being undertaken is one of consistent growth. The economy is projected to continue expanding over the next two years, with GDP growth in 2017 at

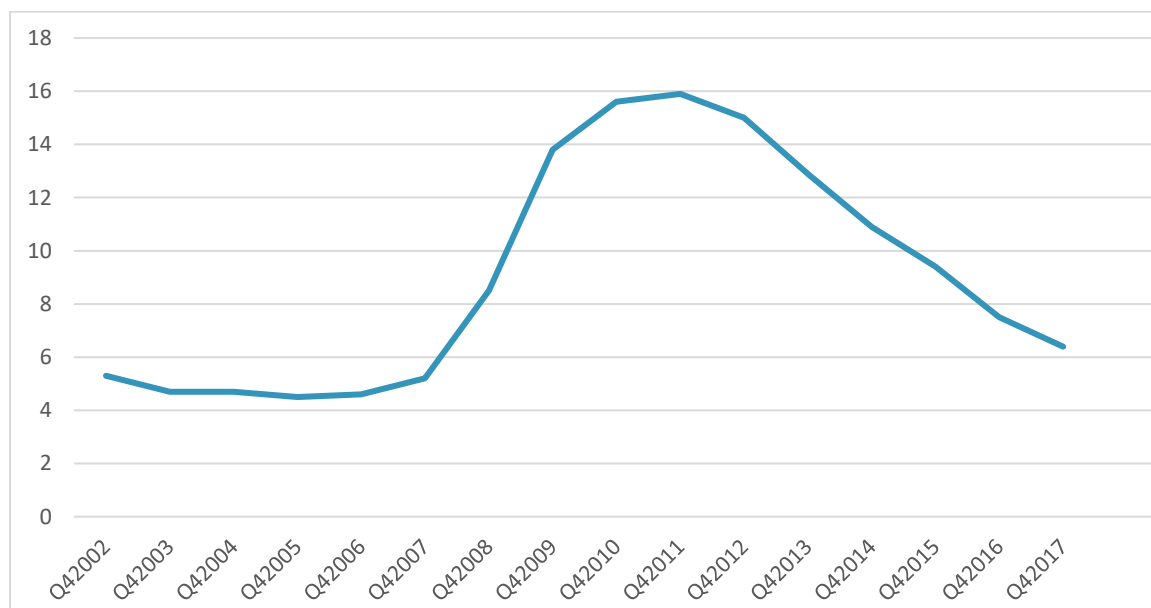
¹⁴ PPSN allocation statistics for 2017 are not yet available.

¹⁵ Data and material is sourced from CSO statistics, the Central Bank of Ireland's Quarterly Bulletin - Q2 April 2018 and OECD Economic Outlook, Volume 2018 Issue 1: Preliminary version (Paris, 2018). It is important to note that the Live Register is not designed to measure unemployment. It includes part-time workers (those who work up to three days a week), seasonal and casual workers entitled to Jobseeker's Benefit or Jobseeker's Allowance. Unemployment is measured by the CSO's Labour Force Survey.

7.2% and forecast to reach 4.7% growth in 2018 and 4.2% in 2019 with a caveat in relation to the potential impact of Brexit, particularly a hard or 'no deal' Brexit. This growth is reflected across the economic sectors.

The labour market is forecast to tighten further, with the unemployment rate, currently 5.6% (August 2018)¹⁶, projected to continue to fall and forecast by the Central Bank to fall to 4.8% in 2019¹⁷. Currently, at 209,900, the number of persons on the Live Register is the lowest number recorded in the CSO's seasonally adjusted series since July 2008. Overall employment growth of 2.4% in 2018 and 2% in 2019 is forecast by the Central Bank.

Figure 1.3: Unemployment rates 2012 - 2017



Source: QLF02 ILO Participation and Unemployment Rates by Sex, Quarter and Statistic (CSO)

Average weekly earnings were €744.76 in Q1 2018 (€38,727.52 per annum), an increase of 2.7% from €725.05 one year earlier, according to preliminary estimates of the CSO's Earnings and Labour Costs Quarterly release. Average weekly earnings increased in all of the 13 sectors in the economy in the year to Q2 2018. The largest percentage increase was 6.5% in the Financial, Insurance & Real Estate Activities sector, in which average weekly earnings rose from €1,050.89 to €1,119.36 (€61,358.44) in the year to Q2 2018. The second largest increase was 6.3% in the Professional, Scientific & Technical sector which rose from €873.54 to €928.76 (€48,295.52) over the year.

In the absence of external pressures, it is likely that increased labour demand will place further upward pressure on wages and inflation, with consumer prices expected to rise in 2019. A gradual pick-up in inflation is expected for this year and 2019, as the impact of past sterling weakness on goods price inflation fades and a pick-up in domestic demand pushes up services inflation. Headline inflation is projected to average 0.8 per cent this year, rising to 0.9 per cent in 2019.

¹⁶ CSO - <https://www.cso.ie/en/statistics/labourmarket/monthlyunemployment/>

¹⁷ Central Bank of Ireland - <https://www.centralbank.ie/docs/default-source/publications/quarterly-bulletins/qb-archive/2018/quarterly-bulletin---q3-2018.pdf?sfvrsn=10>

1.2.2 Current Challenges

With regard to housing, the annual number of new houses built is forecast to increase from approximately 15,000 units in 2016 to 20,000 in 2018 and to accelerate to 32,000 units in 2020, with the volume of new residential output doubling to €12 billion in 2020. The current annual level of house building is well below demand and the ESRI predicts a housing requirement in the region of 25,000 to 35,000 new units per annum to keep pace with demographic factors (e.g., population growth, the fall in average size of households). The Government's *Rebuilding Ireland Plan* sets out a target of at least 25,000 new units to be built every year in the period to 2021 and 47,000 social housing units to be delivered by 2021¹⁸.

The review of economic migration policy is being undertaken against a backdrop of increasing employment, rising wages and strong economic growth. However, the possibility remains that external factors – a difficult Brexit¹⁹, protectionist trade policies, exchange rates adjustments or possible changes to international taxation regimes - could adversely affect the State's growth prospects, and any changes proposed to the employment permits system should incorporate a capacity to adjust rapidly to a changing economic context.

In previous periods of strong growth, EEA nationals have met much of the labour requirement arising from full employment, particularly with the accession of 10 states to the EU in 2004²⁰.

However, while EEA nationals continue to migrate to Ireland, the inflow is tempered, despite growing opportunities here, by economic upturns in the economies of many of the countries of origin of such nationals (e.g. Poland's unemployment rate in the last months of 2017 falling well below 5%).

1.2.3 Other Sources of Non-EEA Labour

While the employment permits system is the principal means by which non-EEA nationals can work in the State, other non-EEA nationals can access the Irish labour market based on their needs rather than their economic utility:

- There may be a small impact from Ireland's opt in to the *EU (recast) Reception Conditions Directive*. This wide-ranging Directive includes labour market access for international protection applicants in certain circumstances. There are currently in the region of 3,000 foreign nationals who are eligible to enter the labour market by this mechanism, with a continuing low-level flow to be expected. Many of these foreign nationals who enter the workforce are likely to do so in lower skilled occupations, because of their circumstances.
- The EU is developing several legal migration pilot projects as part of a package of measures in response to the ongoing mass movement of irregular migrants into Europe. Irish Naturalisation and Immigration Service (INIS) is exploring how such a pilot, which not only will be of advantage to the migrants but will have to be capable of meeting, to some extent, the State's labour needs, might be facilitated in Ireland through the Atypical Working Scheme. INIS will consult with DBEI on the scope of such a pilot project, e.g., duration of stay, sectors for inclusion, the numbers of migrants, and their countries of origin.
- Students attending a course on the list of eligible programs and who are on Stamp 2 immigration permission can take up casual employment of up to 20 hours part-time work per

¹⁸ http://rebuildingireland.ie/Rebuilding%20Ireland_Action%20Plan.pdf

¹⁹ The Copenhagen report predicts a fall, compared to a no-Brexit scenario, in GDP in the order of 3.3%-7.7% (depending on the form that Brexit ultimately takes) by 2030. See *Ireland and the Impact of Brexit – Strategic Implications for Ireland arising from Changing EU-UK Trading Relations* (Copenhagen Economics, 2018). In addition, it is possible that there will be migration effects, both of diverted EU workers (in 2014, net migration to the UK was 300,000) and of Irish workers who might have migrated to the UK (approximately 60,000 people moved from Ireland to the UK between 2011 and 2013). See Barrett, Bergin et al, *Scoping the possible economic implications of Brexit in Ireland* (ESRI Research Series 48, Nov 2015), pages 52 and 58.

²⁰ Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

week in term time or up to 40 hours per week during college vacation periods. Their entitlement to take up employment ceases when their permission to remain expires. INIS have advised that the number of individuals on a Stamp 2 immigration permission by year end 2017 was 32,125.

CHAPTER 2 – PUBLIC CONSULTATION AND INTERNATIONAL BENCHMARKING

This Chapter outlines the role and work of the IDG, the examination of economic migration policy development in other EEA and international States and consultations with interested parties and stakeholders.

2.1 Introduction

Several strategies were deployed in the conduct of this review. Extensive desk research was undertaken. Detailed information regarding employment permits and economic migration policy going back to the 1990s was gathered from files and Oireachtas debates. Existing literature on the issue - such as from the ESRI and the OECD - was reviewed. An examination of policy development in other jurisdictions through an international benchmarking exercise was undertaken to provide context. DBEI engaged with stakeholders, and a public consultation was conducted to gain qualitative information. Additionally, data from the CSO, OECD, Central Bank of Ireland and on employment permits was analysed.

All this work was overseen by an Inter-Departmental Group (IDG) which was chaired by the Department of Business, Enterprise and Innovation (DBEI), with membership drawn from key stakeholder Government Departments and a Government agency. The IDG facilitated a full understanding of the interactions between various State actors on skills and labour shortages.

2.2 Inter-Departmental Group

Economic migration continues to a greater or lesser extent through all stages of the economic cycle. Ensuring a steady supply of skills and labour from the domestic and EEA economies is complex, requiring an integrated response from several policy areas which intersect on the matter, such as education and training, labour activation, and sectoral policies for growth. It is also important that the broader economic impacts of making changes to the regime are considered, such as pressures on housing and social welfare payments.

Thus, an integral feature of the review was its oversight by an IDG, chaired by DBEI, with a membership drawn from senior officials from key Government Departments and a Government agency - D/Public Expenditure & Reform (DPER), D/Housing, Planning and Local Government (DHPLG), D/Justice & Equality (DJE), D/Employment Affairs & Social Protection (DEASP), D/Education & Skills (DES), D/Health (DH), D/Agriculture, Food & the Marine (DAFM), D/Transport, Tourism & Sport (DTTAS), D/Business, Enterprise & Innovation (Skills Policy and Education Policy Unit), Skills & Labour Market Research Unit (SLMRU) in SOLAS.

Agreeing a shared understanding of the employment permits regime was essential to building and shaping an effective policy. Each member of the IDG brought their unique insights to the review; these perspectives enriched the process and provided for the development of an effective and integrated policy rationale for the employment permits regime for, at least, the next five years.

The IDG met six times in the period January - June 2018²¹. There was active consultation and interactive engagement and an open forum for discussion and debate.

While the IDG's priority was a fundamental review of economic migration policy, the Minister asked that the labour shortages being experienced in the agri-sector be prioritised, in particular, the requirement for low skilled, low wage workers in the meat processing, horticulture and dairy sub-sectors. To ensure consistency with any impending and broader changes to the regime, the IDG considered the evidence-based case submitted by DAFM for these sub-sectors within the policy framework of the overall review and the emerging recommendations. See Appendix 4 for further information on the temporary scheme introduced for the agri-sector.

In addition, the IDG considered other sectors, such as health, construction and hospitality, agreeing that the role economic migration can play in ensuring that skills shortages do not impede growth needs to be constantly monitored.

Such was the value of the IDG's role in this review, it is recommended that it continues its work to oversee implementation of the recommendations of this report and to monitor the guiding principles and operation of the regime on an ongoing basis. New terms of reference for the IDG should be prepared to reflect its extended remit and its membership should remain under review to ensure all relevant Government Departments are involved.

2.3 Public Consultation

Stakeholder engagement was an important part of the review process. On 21 March 2018 the public consultation on the proposed guiding principles to frame economic migration policy opened. Approximately 500 stakeholders including Trusted Partners²², industry, employer and employee representatives along with Government Departments and agencies were invited to make submissions to this review. A draft set of guiding principles was provided along with questions to assist the process.

The process concluded on 18 April 2018 and 34 submissions were made from the following groups:

- 12 sector specific representative bodies;
- 9 private sector companies e.g. IT, accountancy, animation, health clinic;
- 1 employer representative body;
- 1 trade union;
- 5 state agencies/bodies/university;
- 4 NGOs;
- 1 charity;
- 1 farmer-owned cooperative.

The submissions advocated new or different policy initiatives in particular areas and are summarised in tabular form at Appendix 5.

²¹ 9 February, 22 March, 13 April, 5 May, 21 May, 14 June.

²² Under the Employment Permits Trusted Partner Initiative, a person may apply for Trusted Partner status. Such a Trusted Partner can avail of a streamlined employment permit application process. The initiative is aimed primarily at high volume users of the employment permits regime.

Key points made in these submissions can be summarised as follows:

- While there was general support for the 50:50 Rule and LMNT process, some changes were suggested, such as to broaden the terms of the 50:50 Rule waivers and to amend the LMNT to reflect modern advertising methods.
- Introduce greater transparency to the twice-yearly review of the occupations lists and in setting remuneration thresholds.
- Introduce a seasonal employment permit.
- Provide partners and spouses of Critical Skills Employment Permit (CSEP) holders and Third Country Researchers²³ a more streamlined access to the labour market. Extend access to the labour market to the partners and spouses of Intra-Company Transfer Employment Permit holders (*Intra-CT EP*).
- Most supported relevant Government Departments taking the lead, with their respective sectors, for developing the evidence-based case for making changes to the occupations lists.
- There was general agreement on the need for employment permit quotas, in particular for lower paid/lower skilled occupations, but varying views on how that should be established.
- There were diverging views on remuneration thresholds for employment permits:
 - views varied, with some believing the current thresholds to be appropriate and others believing that thresholds should be aligned with National Minimum Wage (NMW) or sector/industry norm;
 - allowances should be included in the remuneration package;
 - *Intra-CT EP* remuneration package should be simplified.
- While there was general support for the employment permits processing system, several operational/administrative suggestions for improvement were made.

2.4 Stakeholder Engagement

The Department of Business, Enterprise and Innovation's Economic Migration Policy Unit (EMPU) met with IDA, Enterprise Ireland (EI), Irish Congress of Trade Unions (ICTU) and Ibec to discuss in detail their views of the State's economic migration system.

The following key points were emphasised by the stakeholders:

- Ensure the system meets, in a balanced manner, the growing demand for skills and labour.
- Introduce greater transparency in the review of the occupations lists and remuneration thresholds processes.
- Advance changes to the LMNT process and the 50:50 Rule.
- Introduce a short-term seasonal employment permit.
- Ensure economic migrants are net contributors.
- Safeguard the employment rights of vulnerable migrants.
- Continue to develop the employment permits application system and improve customer service.

EMPU also met with the Low Pay Commission (LPC) Secretariat to discuss the work and progress of the review, with particular reference to the issue of low skilled/low paid migrant workers. It was agreed that the IDG will continue to engage with the LPC secretariat on those recommendations that require further analysis and consultation.

²³ The Third Country Researchers Directive (Council Directive 2005/71/EC) provides for a fast track procedure (Hosting Agreement) for admitting third-country nationals for a period of between three months to five years, to carry out a research project with an accredited research institution. See <https://dbei.gov.ie/en/What-We-Do/Innovation-Research-Development/Hosting-Agreement-Scheme/>

2.5 International Benchmarking

The review included an examination of policy development and practice in other EU and international jurisdictions. This was conducted through the offices of the ESRI²⁴ and Intergovernmental Consultations on Migration, Asylum and Refugees (IGC)²⁵.

In addition, the IDG examined several EU and non-EU seasonal worker schemes and the utilisation of labour market needs tests. (See Appendix 6).

2.5.1 Demand for Low Skilled Workers

Several countries expressed a need for low skilled third country national (TCN) workers and have witnessed a growth in migrant labour as their economies grow: (See Appendix 6, Table 6.1.).

- **Czech Rep**, with the lowest unemployment rate in the EU (2.3%), has a need for low skilled migrants in manufacturing (Ukraine being the most important source);
- **Greece**, which despite an unemployment rate of 23.6%, has need for low skilled labour in agriculture, seasonal workers, fishermen and domestic workers.
- **Croatia**, with an unemployment rate of 12.7%, has increased the quota for TCN workers from around 200 in 2014/15 to c. 6,000 in 2016/2017, and there is a quota of 21,200 for 2018. The largest increase is in the construction sector with the quota for this sector for 2018 increased to 12,170.

Some States reported a seasonal workers stream for work in sectors like tourism and agriculture:

- In **Finland**, seasonal workers (agriculture, hospitality for less than 6 months and natural product pickers in the forests for up to 3 months) are largely excluded from labour market needs assessment.
- In **Norway** low skilled migrant workers are only permitted in two categories – seasonal workers (up to 6 months a year) and Russian workers from the Barents region who can work in North Norway (up to 2 years).
- **Austria** releases seasonal quotas for the employment of asylum seekers in tourism and agriculture and forestry.
- While the **UK** no longer has dedicated seasonal schemes targeting low skilled migrants, it is under pressure to reinstate them. The UK which relies on the EU to meet its low-skilled labour needs, has experienced a decline in net migration largely driven by a reduction in the number of EU nationals moving there.

A number of countries operate temporary schemes:

- **Australia** operates two 'circular' temporary Pacific labour mobility programs for lower skilled workers.
- The **USA** allows temporary workers under two visa schemes: temporary agricultural workers (no maximum limit of visas applies) and temporary non-agricultural workers (subject to a maximum limit of 66,000 visas per annum).

²⁴ European Migrants Network (EMN) comes under DG Migration and Home Affairs and the Ireland contact point is located at the ESRI.

²⁵ The IGC is an informal, non-decision making forum for intergovernmental information exchange and policy debate on issues of relevance to the management of international migratory flows. The IGC brings together 16 Participating States, including Ireland, the United Nations High Commissioner for Refugees, the International Organization for Migration and the European Commission.

2.5.2 Migrant Worker Wage Levels

The following wage levels generally apply to TCN workers: (See Appendix 6, Table 6.2)

- national minimum wage levels (e.g. Slovak Republic, Australia, Poland, Malta, Greece);
- wage levels set at sectoral level in collective bargaining agreements (CBAs) (e.g. Switzerland, Norway, Italy, Finland);
- average national or sectoral salary levels (e.g. Estonia, Latvia, Sweden where there is no CBA).

In the **USA**, under the temporary agricultural worker visa scheme, the minimum wage levels must be at least the highest of the following applicable wage rates: adverse effect wage rate (AEWR)²⁶, the applicable prevailing wage, the agreed-upon collective bargaining rate; or the Federal or State statutory minimum wage. Under the temporary non-agricultural visa scheme, the minimum level must be no less than the highest of the prevailing wage, applicable Federal minimum wage, or State minimum wage. Employers are also required to provide additional supports, e.g., food, cooking facilities, transport and subsistence.

In **Australia**, all overseas workers are entitled to the same minimum wage, conditions and rights as Australian workers. In addition to this, employers have a few additional responsibilities, such as contributing to each seasonal worker's airfare to Australia and helping to organise accommodation.

Responses vary on the access migrant workers have to additional State supports and thus when looking at the various minimum wage levels across EU Member States it is not possible to make a direct comparison. For example:

- **Latvia, Estonia, France, Germany, Poland** either do not provide additional State supports or require that the income be at a level to not have recourse to public subsidies.
- While some responses refer to minimum social wage levels, e.g., **Luxembourg, Sweden**, that also implies access to social services on the same basis as other taxpayers.
- In **Italy**, remuneration must meet the level of the 'social check' for the permit to issue, but workers also have access to the social welfare system as taxpayers.
- In the **UK** the National Living Wage (NLW) applies to all workers - there is an explicit target of 60% of median earnings to be achieved in 2020, subject to sustained economic growth. This is a politically set target and is not explicitly linked to the cost of living.

2.5.3 Seasonal Worker Scheme

Several States have developed a strong preference for temporary over permanent migration, particularly for those in lower-skilled employments. In many cases, this type of non-permanent migration helps to address short-term labour shortages in countries and can benefit migrants who do not necessarily want to settle permanently in a host country. While traditional temporary and circular migration schemes have tended to focus on lower-skilled and seasonal workers, the contemporary profile of non-permanent migrants encompasses higher-skilled workers, tertiary level students and graduates, academics and other experts, as well as 'lifestyle migrants' such as working holiday makers and retirees. At an Intergovernmental Consultations on Migration, Asylum and Refugees (IGC) Immigration Working Group meeting (Geneva, 17-18 April 2018) on Global Temporary and Circular Migration, a number of States emphasised the "triple win" of

²⁶ AEWR is the minimum wage that the U.S. Department of Labor has determined must be offered and paid to U.S. and alien workers by agricultural employers of nonimmigrant H-2A visa agricultural workers.

temporary and circular migration, with benefits to countries of origin, destination country and for the migrants themselves. (See Appendix 6, Table 6.3.)

Many seasonal programmes are capped, especially where supply is potentially so large it could distort the labour market or undermine compliance measures, e.g., the H-2B programme in the **USA** where legislation sets the annual ceiling at 66,000. Annual caps on seasonal works are in practice in **Italy**, **Norway** and **Spain**.

In **Ireland**, the only economically-focused temporary schemes that come within the remit of the employment permit regime are the *Intra-Company Transfer Employment Permit (Intra-CT EP)* and *Contract for Services Employment Permit (CfS EP)*, with a maximum timeframe of five years.

2.5.4 Labour Market Needs Test (See Appendix 6, Table 6.4)

Advertising Processes

Labour market tests are required prior to granting permission for a specific migrant worker in many OECD countries. These tests generally consist of advertising to bring vacancies to the attention of the resident labour pool. The requirement to advertise with the employment support body of the State in question is common, in addition to newspaper and internet advertising. Some States, like **Australia** and the **UK**, allow for a fairly broad range of advertising mechanisms. Fixed periods of advertising, e.g., 28 calendar days in **UK**, two separate Sundays in **USA**, are usually specified and a time limit linked to the visa application date is commonly applied, e.g., labour market research must be undertaken during the 12 months prior to the application date in **Australia**.

State Employment Support Services

Many countries that deploy LMNTs require an interaction between prospective employers and the public employment support service. For example, in **New Zealand**, an extensive interaction with the Work and Income Service is required. This matching service can include upskilling resident job seekers to help them to better fit the position and assistance with the interview process. The Work and Income Service provides a report for inclusion in the visa application for a migrant worker, detailing the effort made by the employer to find a local worker. Other countries also offer some of these types of supports, and it is common for a requirement to advertise using the State's employment support service to be part of the labour market test process.

Exemptions

Shortage lists are commonly used to exempt certain occupations from labour market tests. A range of different types of indicators can be used to identify an occupation for which there is an insufficient skill or labour supply. Some countries use a ratio of vacancies to unemployment numbers to designate occupations, others use combinations of training data, stakeholder consultation, and/or inputs from the State's employment support bodies.

2.6 Performance Indicators

The OECD in its 2016 report *Recruiting Immigrant Workers: Europe* sets out the difficulty inherent in evaluating the success of economic migration policy in meeting its principal objective:

“Labour migration policy is to meet labour market needs which cannot be satisfied by the domestic labour supply in a reasonable timeframe without adversely affecting the domestic labour market and development prospects in vulnerable origin countries. Although the

*objective itself can be easily stated, it is a complex matter to determine the criteria of assessing how successfully policy meets that objective. It involves evaluating how well the labour market needs have been identified and whether migration has had an impact on the domestic labour market. Both evaluations are analytically difficult.*²⁷

In 2015, the European Migrant Network (EMN) found that most EU Member States continue to admit economic migrants without attempting to link their entry to particular shortage occupations. However, it reported that Ireland is ahead in terms of linking market intelligence to economic migration policy.²⁸

Ireland has developed policy tools aimed at gearing almost all types of economic migration to identified skills shortages and surpluses through its use of the highly skilled and ineligible occupations lists. Thus, the direct information links that exist between DBEI and Skills and Labour Market Research Unit (SLMRU) (SOLAS) will enable the Department's Economic Migration Policy Unit (EMPU) to measure and report with confidence on the impact of any adjustment to the State's economic migration policy.

Making all the necessary adjustments to policy takes some time. Thus, the key performance indicators (KPIs) identified should be suited to such an incremental process and adapted as necessary.

Such indicators should include:

- Policy metrics, i.e., demand for skills reported in the NSC's annual *National Skills Bulletin* and *Vacancy Overview Report*.
- Customer metrics, i.e., stakeholder and public response to the changes.
- Process metrics, i.e., rate of permits and types being granted.

²⁷ OECD/EU *op cit*, p3

²⁸ EMN *Determining labour shortages and the need for labour migration from third countries in the EU* (2015), p15

CHAPTER 3 - CURRENT ECONOMIC MIGRATION POLICY

Economic, or labour migration policy is essentially the framework within which the State's employment permit system operates. It is designed to supplement Ireland's skills and labour supply over the short to medium term by allowing enterprise to recruit nationals from outside the EEA, where such skills or expertise cannot be sourced from within the EEA at that time.

This Chapter focuses on the orientation of the employment permits regime since 2012.

3.1 Current 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.

Unlike many jurisdictions, there is a clear division between economic migration and general immigration policies and thus an applicant for an employment permit undergoes a separate application process with the Irish National Immigration Service (INIS) for immigration permission and visas to work in the State. Section 2(10)(d) Employment Permits Act 2003 (as amended) provides for circumstances where a non-EEA national is not required to have an employment permit. This would occur where the Minister for Justice and Equality grants permission for a non-EEA national to remain in the State and be in employment, and would apply, for example, to non-EEA spouse/partners of EU citizens and programme refugees.

3.2 The Highly Skilled and Ineligible Occupations Lists of Employments

In order to ensure that the employment permits system is responsive to changes in economic circumstances and labour market conditions, 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:

- Highly skilled jobs are professional positions in medicine, ICT, sciences, finance and business. Special “fast-track” rules apply, e.g., family can join the permit holder immediately, permanent residency is available after two years.
- Ineligible jobs are generally lower skilled occupations, e.g., personal services, trades, operatives. There is evidence that there are more than enough Irish/EEA workers available to fill such vacancies.
- Every other job in the labour market, where an employer cannot find a worker, may be eligible for an employment permit. The employer has to conduct a Labour Market Needs Test (i.e. advertise the job in Ireland and across the EEA using the EURES system²⁹). If no-one suitable applies for the job the employer is free to apply for an employment permit.

The lists are reviewed every six months ensuring that the employment permits system is aligned with current labour market intelligence. Comparisons made by the EMN in 2015 between the system here and those in operation in other jurisdictions indicate that:

- The Irish employment permits system now increasingly responds to knowledge about labour market shortages and surpluses.
- Direct information links exist between Skills & Labour Market Research Unit (SLMRU) in SOLAS and DBEI and that co-operation has become more formalised in recent years.
- EU-level analysis shows that Ireland is ahead of most EU Member States in terms of linking market intelligence to labour migration policy.³⁰

Broadly, the review process supplements labour market intelligence outlined in the annual *National Skills Bulletin* and the *Vacancy Overview Report* and with a public submissions process, input by relevant Government Departments. Account is also taken of research undertaken by the EGFSN, education outputs and sectoral upskilling and training initiatives and any known contextual factors (e.g., planned expansions in sectors, if known).

3.3 Protections for the Labour Market

To safeguard the employment opportunities of Irish/EEA nationals, other restrictions on the granting of employment permits are in place; namely the 50:50 Rule and LMNT (Section 10 and 10A of the Employment Permits Act, 2006).

3.3.1 The 50:50 Rule

The 50:50 Rule requires that employers seeking to hire non-EEA nationals on an employment permit have sourced at least 50% of their workforce from Ireland or the EEA. This policy underpins the Government’s employment creation objectives by requiring employers in the State to hire in a balanced manner from the local labour market. Non-EEA employees will therefore have a comparator within the workplace which may help to safeguard their rights. The 50:50 Rule applies in all situations except:

- In the case of a start-up company (i.e., a company registered with the Revenue Commissioners within the two years preceding the application) where an enterprise development agency (IDA/EI) recommends the granting of the employment permit *and* where the Minister is satisfied that to do so would help develop the potential for further employment. Often, start-up companies, including those locating to Ireland from other countries (FDI), will initially be comprised solely of non-EEA nationals from the company’s HQ, sent to Ireland to set-up and establish operations.

²⁹ EURES is the European Commission’s job mobility portal - <https://ec.europa.eu/eures/public/en/homepage>

³⁰ Gusciute, Quinn, Barrett *Determining Labour and Skills Shortages and the Need for Labour Migration in Ireland* (ESRI Research Series Number 49: Dublin, Nov 2015)

- Where employers do not have any employees on the date of application and where the Minister is satisfied that, having regard to the employment in respect of which the application is made, the non-EEA national concerned will be and will remain the sole employee of the employer concerned, for example, a parent who employs a non-EEA carer who has a long history of caring for a child with special care needs.

3.3.2 The Labour Market Needs Test (LMNT)

The Labour Market Needs Test (LMNT) seeks to ensure that an offer of employment is first made to people already in the local and EEA labour markets before an application is made for an employment permit to employ a non-EEA national. This supports Government policy that those currently in the labour market, be they employed or unemployed, are the first cohort of people from whom employers should seek to recruit.

EU Regulations on the freedom of movement of workers provide for priority for workers who are citizens of the EU. Accordingly, the Employment Permits Act 2006 as amended (hereafter the “Act of 2006”) requires that the employer must advertise the vacancy:

- with DEASP/Employment Services/EURES employment network for at least 2 weeks (as per EU Regulations),
- in a national newspaper for at least 3 days, and
- in either a local newspaper or jobs website (separate to DEASP/EURES websites) for 3 days.

Regulations under the Act of 2006 require that the advertisement include the following information:

- a description of the employment,
- the name of the employer,
- the minimum annual remuneration,
- the location/s of employment, and
- the hours of work.

It is recognised that the duration of the advertising period needs to provide for a meaningful LMNT while at the same time allowing sufficient time for job seekers to respond.

It is worth noting that only 4.3% of *General Employment Permits (GEP)* granted in 2012 were subject to an LMNT. The reason for such a low percentage is that until commencement of the Employment Permits (Amendment) Act, 2014 (hereafter the “Amendment Act of 2014”), applications made by non-EEA nationals were not subject to the LMNT. By 2017, this rate had increased to 64% (see Appendix 9 Table 9.4).

Other protections for the labour market provided for in the Act of 2006 include minimum remuneration thresholds and limits to the duration of various permit types. The role of remuneration thresholds as an economic migration policy instrument is addressed in detail in Chapter 4.

Table 3.1 Application of LMNT and 50:50 Rule

Permit type	LMNT*	50:50 Rule	50:50 Waiver for Sole Employee	50:50 Waiver for Start Up Companies
Critical Skills		√		√
Dependant/Partner/Spouse		√	√	
General	√	√	√	√
Intra-Company Transfer		√		√
Contract for Services	√	√		
Reactivation		√	√	
Sports and Cultural		√	√	
Exchange Agreement		√		
Internship		√		

*The LMNT is waived where the employment is on the highly skilled occupations list or the application is supported by an enterprise development agency.

3.4 Employment Rights

The employment permits system ensures that the employment rights of migrants are observed and that migrant employees are treated in line with Irish labour laws:

- the non-EEA national receives the original employment permit and the employer receives a copy;
- employers are prohibited from making deductions from the remuneration of employment permit holders in respect of fees for their employment permits; neither may an employer hold any personal document of the employment permit holder;
- a job offer must come from a bona-fide employer registered with the Revenue Commissioners and, where applicable, the Companies Registration Office/Register of Friendly Societies;
- the employment must achieve a minimum remuneration threshold;
- the 50:50 Rule ensures that at least half of the employees of an enterprise seeking to hire a non-EEA national should be from Ireland/EEA;
- the *Reactivation Employment Permit* scheme is available for those foreign nationals who originally entered the labour market legally on an employment permit but who fell out of the system through no fault on their part;
- holders of a *Critical Skills Employment Permit (CSEP)* or a *General Employment Permit (GEP)* who have been made redundant may apply for the same job with a different employer, even where the job is no longer on the highly skilled occupations list or is now ineligible;
- employment permit holders may change employer within 12 months in circumstances such as redundancy, or where circumstances (unforeseen at time of application) arise in the employment that fundamentally change the employment relationship (e.g., the employer plans to change the location of the business to a site a significant distance from its current

location or significant changes are being made to the nature of the work that they are required to do);

- employment permit holders may change employer after 12 months provided the new employer fulfils all conditions attached to employing a non-EEA national;
- the Workplace Relations Commission (WRC) has powers of enforcement under the Employment Permits Acts. The WRC's investigation and enforcement powers work to discourage abuses of the employment permits system by unscrupulous employers. All employment in Ireland is subject to the provisions of employment law with the protections that entails for employees, and in addition to these provisions, employers are subject to fines of up to €250,000, or a prison term of up to 10 years' duration where they are found to be in breach of the Employment Permits Acts.

3.5 Employment Permit Schemes

While there are two core employment permits, there are nine variations of permit type to facilitate different employment scenarios. The employment permit type specifically designed to address key skill shortages is the Critical Skills Employment Permit (*CSEP*). Other types of employment permit address temporary labour shortages, as well as sporting and cultural occupations and exchanges for educational purposes. Employment permits are also available to facilitate access to the Irish labour market for secondments between affiliate companies and for the employees of foreign companies that have won contracts for service with Irish based companies. It is worth noting that Ireland is an outlier in not having a seasonal employment permit.

The two core permit types are:

- (i) **Critical Skills Employment Permit (CSEP)** targets those who have the skills identified on the highly skilled occupations list as being in critical short supply in order to help drive our economic future. These permit holders can apply for immediate family reunification from the Irish Naturalisation and Immigration Service (INIS) and once their dependants/partners/spouses are resident in the State they are eligible to seek any employment and apply for a *Dependant/Partner/Spouse Employment Permit (DPS EP)*, which is issued free of charge. At the end of a two-year period, *CSEP* holders may apply to INIS for permission to reside and work without the requirement for an employment permit.

The advantages such an employment permit confers on its holder are commensurate with the contribution such personnel can make to the development of the enterprises for which they choose to work, a benefit that ultimately feeds more broadly into our economy through the dissemination of expertise among colleagues and through enterprise growth.

Criteria for the granting of a *CSEP* stipulates that the non-EEA national must be educated to at least degree level for an occupation on the highly skilled list, where the minimum remuneration is currently €30,000. This provides a basic guarantee that the non-EEA national has a sufficient level of competence to undertake a highly skilled job and that competence cannot be easily or swiftly acquired by a resident job seeker. The tasks and duties related to the highly skilled job should be so specialised and complex that the required level of competence to perform those duties is usually associated with completion of education programmes and resulting qualifications at NFQ level 7/ISCED level 6.

A *CSEP* can also be granted in respect of all eligible occupations where the non-EEA national will be on a minimum remuneration of €60,000. In that case, remuneration is a proxy for skills and thus the non-EEA national is not required to have a degree, but must have the necessary experience.

The *Dependant/Partner/Spouse Employment Permit (DPS EP)* is ancillary to the *CSEP*. Eligible dependent unmarried children, recognised partners (where recognised as such by INIS), civil partners and spouses who have been admitted to the State as family members of holders of this employment permit and Third Country Researchers may apply.

Linking the *DPS EP* to the *CSEP* is a deliberate policy decision and the success of this policy can be inferred from statistics which indicate that an increasing proportion of *CSEP* holders are applying for permission to remain in the State at the end of the two-year period to work without an employment permit (see Appendix 9, Table 9.5). The number of *DPS EPs* being granted is also increasing with permits granted in 2017 up by 46% over 2016. It is also worth noting that of the 676 *DPS EPs* granted in 2017:

- 16% were in respect of ICT roles;
- 26% of the holders were paid over €30,000 (the minimum threshold is NMW);
- 49% hold at least a primary degree.

See Appendix 9, Table 9.3.

- (ii) **General Employment Permit (GEP)** provides for skills of a more general nature where it can be demonstrated, following the application of a range of criteria including the LMNT, that the employer was unable to fill the position from the Irish and EEA labour market and the occupation does not feature on the ineligible occupations list. A GEP can be issued for an initial period of two years and can be renewed for up to a further three years. After five years, the applicant may apply to INIS for long term residency.

The current minimum annual remuneration is €30,000, generally, however, there are reduced remuneration levels of €27,000, €27,500 and €22,000. (See page 35).

See Appendix 8 for further information on all employment permit types.

CHAPTER 4 – MINIMUM REMUNERATION THRESHOLDS FOR AN EMPLOYMENT PERMIT

A review of minimum annual remuneration (MAR) was conducted in 2017. However, when labour as well as skills shortages began to manifest in the interim it became clear that a broader review of the employment permits regime was needed. Thus, the findings of the 2017 review have been subsumed into the work of this review. This Chapter gives an overview of current remuneration policy and also summarises and updates the work, findings and recommendations of the 2017 review.

4.1 Introduction

The remuneration threshold for an employment permit is a labour market policy instrument. Setting the level for minimum annual remuneration (MAR) is a delicate balancing act. The goal is that, so far as possible, economic migration serves the skills needs of the economy without disruptively depressing or inflating wage levels in the wider labour market. On the one hand, the remuneration needs to be high enough to attract and retain non-EEA nationals to fill existing skills gaps and to secure a socially accepted standard of living, and on the other, it should not be so high as to impact negatively on Ireland's international competitiveness. The level should reflect the potential for social impact and cost resulting from economic migration and be sufficient to cater for the policy of immediate family re-unification in certain circumstances. It should be pitched at a sufficient level to minimise displacement of EEA workers. MAR thresholds for permits should also be high enough so as to ensure that the permit holder does not require recourse to the State's social welfare system.

The current MAR thresholds were set at the time of commencement of the Act of 2006. Until 2017 no formal review had taken place, though there had been several changes to the operation of the employment permits system, most notably in 2013.

The MAR review was based on:

- Review of research papers and data from various sources e.g. employment permits database, Central Statistics Office, salary surveys and UK Migrant Advisory Committee reports;
- Consultation with SLMRU in SOLAS and DBEI's Education & Skills Policy Unit;
- Comparative studies with other EU and international jurisdictions;
- Stakeholder consultation: a call for submissions to the review was published on the Department's website on 12 January 2017.

4.2 Remuneration for an Employment Permit

4.2.1 Legal Basis

The definition of remuneration is set out in primary legislation (Section 1A, Act of 2006). The threshold amounts applying to each permit type are set out in the Employment Permits Regulations 2017, as amended.

In the case of the *Critical Skills Employment Permit (CSEP)* and *General Employment Permit (GEP)*, the following components are deemed to be remuneration to meet the minimum remuneration thresholds:

- basic salary, and
- health insurance payments.

In the case of *Contract for Services (CfS EP)* and *Intra-Company Transfer (Intra-CT EP) Employment Permits*, the following components are deemed to be remuneration to meet the minimum remuneration thresholds:

- basic salary which must not be less than NMW,
- a payment for board and/or accommodation or the monetary value where it is provided, and
- a payment for health insurance.

Regardless of whether or not payments for health insurance and/or payment for board and accommodation are included in the remuneration package to achieve the minimum remuneration threshold for *CfS EP* and *Intra-CT EP*, the employer is legally obliged to ensure they have made appropriate arrangements to provide accommodation and/or board and health insurance for the permit holder.

The remuneration definition was designed to achieve the following policy objectives:

- Provide adequate safeguards to prevent abuse of the regime. For example, prevent unscrupulous employers relying on theoretical (but unobtainable) bonuses in reaching the minimum remuneration thresholds.
- Ensure that where a permit holder remains on the foreign payroll (*CfS EP* and *Intra-CT EP*) that the salary component achieves the sub-threshold of NMW for the duration of stay in the State and that the permit holder is then adequately provided for in terms of board, accommodation and health insurance, thereby ensuring s/he does not require additional support from the State.
- Provide clarity and certainty for all employers, in particular those in the *Intra-CT* and *CfS* situations³¹, in respect of the remuneration requirements applying to the employment permit regime.
- Provide a more streamlined approach to the processing of applications/renewals for employment permits, in particular the *Intra-CT EP* and *CfS EP*, thereby shortening processing times.
- Avoid interfering with the employer/employee contractual relationship that exists between the foreign employer and *Intra-CT EP* holder.

4.2.2 Economically-focussed Permit Types

The level of remuneration for economically-focussed employment permits - *CSEP*, *GEP*, *Intra-CT EP* and *CfS EP* - should reflect the potential for social impact and cost resulting from economic migration and be sufficient to cater for the policy of family re-unification in certain circumstances.

The *CSEP* is designed to attract highly skilled third country nationals into the Irish labour market with the aim of encouraging them to take up permanent residence in the State. It has many benefits such as immediate family reunification and family members resident in the State are eligible to seek any employment and consequently apply for a *Dependant/Partner/Spouse Employment Permit* which is currently issued free of charge. In addition, after just two years,

³¹ Prior to 2014, it was particularly difficult to ascertain what these permit holders were being paid as they remained on the foreign payroll which resulted in a multiplicity of complex documentation being submitted with an application. In many cases the basic salary of such foreign nationals falls short of the State's NMW.

CSEP holders may apply to INIS for a Stamp 4 permission³² to reside and work without the requirement for an employment permit. Remuneration thresholds are currently €30,000 for occupations on the highly skilled list with degree and €60,000 for an eligible occupation (not limited to highly skilled occupations list) and with an appropriate level of relevant experience without the need for a degree. The €60,000 remuneration threshold, combined with experience, is a proxy for the third level degree.

The *GEP* provides for shorter term employment contracts, subject to a LMNT to establish that there are no suitable local or EEA applicants for the employment, for occupations that are not on the ineligible list of occupations for an employment permit. Such permit holders are eligible to sponsor family reunification after 12 months. Non-EEA nationals who have held valid *GEPs* for 5 years or more consecutively and have been working lawfully during that time may apply to INIS for permission to reside and work without the requirement for an employment permit. The remuneration threshold of €30,000 is generally applied with the following exceptions: €27,500 for meat boners, €27,000 for recent graduates and customer service/sale roles with non-EEA languages and, since June 2018, €22,000 for specific occupations in the agri-sector.

The *CfS EP* and *Intra-CT EP* provide for the temporary transfer to the State of non-EEA employees of a foreign employer and they do not accrue rights for long term residency purposes. These permits have complex remuneration arrangements and the maximum timeframe for these permits is five years.

4.2.3 Other Permit Types

There are a number of other types of employment permit designed for purposes which are not, strictly speaking, economic purposes. The purposes served are educational, cultural, or humanitarian and as such, the presence in the State of such permit holders serves a social rather than an economic function, and to a large degree, this off-sets the economic cost that may be associated with their presence. In addition to these permit types is the *Dependant/Partner/Spouse (DPS EP)*, which is designed to attract highly skilled foreign nationals to work in the State by enabling their immediate family members to take up employment. The lower remuneration of NMW associated with the DPSEP type is set in the context of a dual income household.

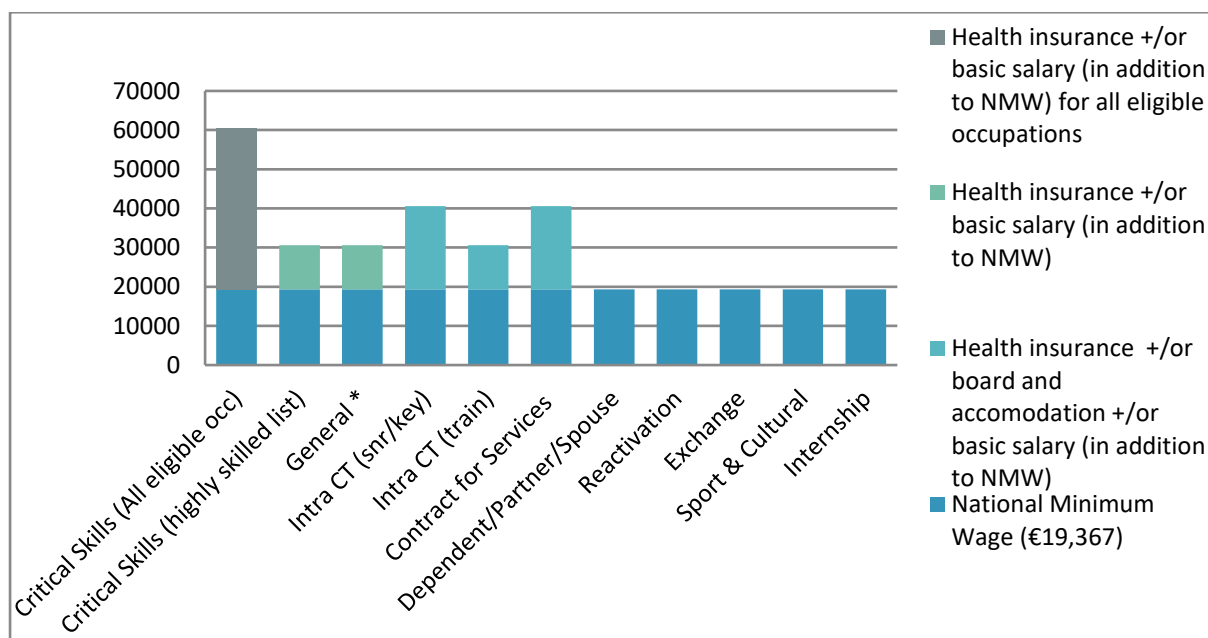
These ancillary types of permits represent a relatively small proportion of total permits granted:

- (i) ***Dependant/Partner/Spouse Employment Permit*** is part of a package of measures designed to attract non-EEA nationals to apply for the *CSEP* or to encourage Third Country Researchers to carry out research in the State under Council Directive 2005/71/EC.
- (ii) ***Reactivation Employment Permit*** provides for those non-EEA nationals who entered the labour market on a valid permit but who have subsequently fallen out of the system for a variety of reasons including redundancies and exploitation. The primary objective is to regularise the situation of such previous permit holders - such persons are unlikely to be in highly paid occupations.
- (iii) ***Sports & Cultural Employment Permit*** provides predominantly for sports professionals. The minimum remuneration threshold is currently set at NMW, but most employments achieve a higher remuneration.
- (iv) ***Internship Employment Permit*** provides for student internship programmes for the purpose of gaining work experience in employments on the highly skilled occupations list. It is a one-year, non-renewable permit.

³² Stamp 4 indicates permission to stay in Ireland for a specified period, subject to conditions. Stamp 4 is reckonable as residence when applying for citizenship by naturalisation. With effect from 1st April 2015, CSEP holders, on expiry of their permits, are required to include a letter from DBEI verifying their continuing employment in their application to INIS for a Stamp 4.

- (v) **Exchange Agreement Employment Permit** facilitates non-EEA nationals who wish to participate in specified exchange programmes. These exchange agreements operate on a reciprocal basis allowing Irish nationals to undertake research/employment in participating countries. Current bilateral agreements provide for one year, non-renewable employment permits.

Figure 4.1 Minimum Remuneration Thresholds and reckonable Components by Permit Type



* The threshold of €30,000 is generally applied with the following exceptions: €27,500 for meat boners, €27,000 for recent graduates and customer service/sale roles with non-EEA languages and, since June 2018, €22,000 for niche workers in the agri-sector.

4.3 Key Findings and Recommendations of the 2017 Review

The 2017 Minimum Annual Remuneration (MAR) Review established that:

- The MAR thresholds for employment permits within scope of the review (*GEP* at €30,000 and *CSEP* at €30,000 and €60,000) were set at the time of passage of the Act of 2006 and are derived from the then average industrial wage of €29,911 for all employees (i.e. full-time and part-time), and multiples thereof.
- This alignment is akin to arrangements in place in other EU and international jurisdictions.
- In the period since 2006, the CSO has expanded the measure they use to calculate earnings beyond earnings in the industrial sectors to calculate average annual earnings across all sectors. The MAR thresholds for employment permits have fallen behind average annual earnings, currently €37,646 (2017), for all employees (i.e. full-time and part-time)³³. This undermines their function as a proxy for skills and increases the risk that the development of particular skills in the resident labour pool may be discouraged if it seems attractive on a cost basis for employers to hire non-EEA nationals at salary levels below the annual average salary.
- Full alignment with average annual earnings will take a number of years to achieve and a measured change to the thresholds should minimise any potential impact on the attraction of skilled migrants to the State.
- The premium value of the *CSEP* over the *GEP* is not reflected in the current MAR thresholds.

³³ In 2016 it was €36,919, in 2017 it was €37,646 and in Q1 2018 it was €38,727.52.

- As the State gets closer to full employment, it may be necessary to remove a number of lower skilled occupations from the ineligible list; such occupations are not likely to achieve the current €30,000 remuneration threshold for a *GEP* and thus the skills/labour gap without any adjustment may be sustained.

Thus, the 2017 Review recommended that the MAR threshold for the *CSEP* should be re-aligned with the State's average annual earning for all employees and should be pitched at just below that level in order to reflect that employment permit remuneration does not include the overtime or irregular earnings included in the CSO data, and to minimise its impact on the labour market.

The primary specific changes recommended in the 2017 Review were:

- The *CSEP* thresholds should be increased from €30,000/€60,000 to €32,000/€64,000, representing an increase of 6.7%.³⁴ This would start the move towards closer alignment with average annual earnings for all employees and to recognise its premium value over and above all other permit types within scope of this review.
- In respect of the *GEP*, where it is established that there is a skills/labour shortage which is detrimental to enterprise growth and where the specific occupation has, broadly, a remuneration level which falls below the €30,000 minimum annual remuneration threshold, the introduction of an additional remuneration threshold may be an effective protection against the economic constriction that this may cause. Any consideration of such a threshold should include an evidence based process involving extensive stakeholder engagement at both relevant Department and industry levels.

When labour, as well as skills needs manifested in the interim, it became clear that a broader review of the employment permits regime was needed and the decision was made to subsume the findings of the MAR review into the work of this policy review. The issue of remuneration for low skilled workers is prominent in this review and Chapter 5, *Principle 5: Net Contributor* addresses the continuum of remuneration from low skilled to high skilled.

This Report endorses the overview finding of the 2017 Review on the re-alignment of the *CSEP* threshold with average annual salary, and the introduction of the 6.7% initial increase for the *CSEP*. In addition, the Report recommends that a review of the *GEP* threshold be undertaken.

³⁴ Of the 5,110 *CSEPs* issued in 2017, 11% (536) were in the remuneration range €30,000-€32,000 and 8% (411) were in the remuneration range €60,000-€64,000. Responders to the public consultation for the MAR review with an interest in and predominant use of the *CSEP* indicated that they could absorb an increase of 5% to the MAR thresholds. Responders generally indicated that a 10% increase would have a negative impact. One responder from the ICT sector said that the point at which the threshold would start to restrict use of the employment permit regime to fill skills shortages would be +20%.

CHAPTER 5 - GUIDING PRINCIPLES TO FRAME THE STATE'S ECONOMIC MIGRATION POLICY

This Chapter sets out a revised mission statement and set of guiding principles for the State's economic migration policy which are designed to provide a context and framework to facilitate an evidence based decision making process for making adjustments to the employment permit system.

5.1 Introduction

The primary goal of economic migration policy is to keep up to date with rapid labour market changes and to contribute to an effective labour and skills supply by proactively identifying and addressing shortages as they arise. However, economic migration alone is not a long-term solution to skills and labour shortages and indeed can, in some circumstances, help to perpetuate those shortages in the economy. It can, also, if not properly managed, constrain investment. Thus, in framing policy, there is a need to strike a balance between ensuring the development of the domestic skills potential and encouraging capital investment and innovation on the one hand, and ensuring that labour shortages do not result in lost commercial opportunities or value added to the economy.

In developing a clear framework for economic migration, the IDG examined the complexities around addressing skills and labour shortages and in ensuring the employment permits regime supports the labour market. The Group also took account of Government strategies to drive both regional and sectoral employment growth. In addition, it reviewed policy development and practice in other jurisdictions, took account of the views of stakeholders and considered the information available from existing datasets and reports.

At the conclusion of its deliberations, the IDG affirmed the core purpose of the employment permits system in the following mission statement:

THE STATE'S EMPLOYMENT PERMITS SYSTEM SHOULD HELP MEET, IN THE SHORT TO MEDIUM TERM, THE DEMAND FOR SKILLS AND LABOUR IN THE IRISH ECONOMY WITHOUT DISRUPTING THE IRISH LABOUR MARKET.

To provide the context and framework within which decisions can be made and to provide a rationale for actions taken, this high-level objective will be implemented through the following seven guiding principles:

Principle 1: EEA preference

Irish labour market policy should aim to ensure that general labour and skills needs are met from within the workforce of the EEA. This policy continues to reflect the need for a responsive educational system, a focus on lifelong learning, addressing retention issues, and the need to maximise the potential of EEA nationals to fill skills and labour deficits.

Principle 2: Labour market responsiveness

At all stages of an economic cycle the State's economic migration policy should be sufficiently agile to respond to the demands of the labour market.

Principle 3: Skills shortage

Ireland continues to experience skills shortages in certain key areas as evidenced, inter-alia, in research conducted by the Expert Group on Future Skills Needs and the National Skills Council. The employment permit regime is part of the response to addressing those skills deficits which exist and are likely to continue into the medium term, but is not a substitute or pretext for avoiding the challenge of up-skilling our resident workforce. Nevertheless, it is recognised that Ireland has to compete with other countries for economic migrants, particularly at the high end of the skills continuum. Certain skills, such as those required in the high – tech sectors are in demand globally. Therefore, there continues to be a need to supplement Ireland's skills stock through employment permits and to ensure that Ireland's employment permits system is geared towards attracting such skills.

Principle 4: Balanced approach to innovation and labour market

Economic migrants bring new ideas and different perspectives, helping organisations to innovate, for example through developing and adapting technology, and encouraging the adoption of more efficient processes and strategies. However, where access to a low-skilled immigrant workforce is not managed, employers may be slower to invest in skills and technology to innovate and improve productivity. It is important that a balance is achieved between the need for industry to innovate and invest in new processes to reduce dependence on low skilled labour, and ensure that labour shortages do not result in lost commercial opportunities or value-added to the economy.

Principle 5: Net contributor

Employment permit holders should be net contributors to the Irish economy and as such should have the financial capacity to support themselves and, where appropriate, their immediate families without recourse to State resources. The minimum annual threshold for an employment permit should also remain as neutral as possible in terms of wage effect.

Principle 6: Employment rights

Migrant workers are often a more vulnerable class of people particularly in the lower skilled end of the labour market. Language difficulties, cultural differences, and lack of social networks can disadvantage migrants and increase the potential for abuse by unscrupulous employers. Ireland has a very thorough employment rights legal framework. Careful consideration is given to the potential for abuse and many of

**Principle 7:
Legislative
framework and
process**

the criteria in evaluating employment permits applications focus on the bona-fides of the employer and the protection of the permit holder.

The employment permits regime should be administratively effective and efficient, have a clear legislative basis, and be sufficiently flexible to react quickly to changes in the labour market.

Each principle is elaborated on in this Chapter along with key findings and recommendations for implementation.

5.2 Seven Guiding Principles

5.2.1 Principle 1: EEA Preference

Irish labour market policy should aim to ensure that general labour and skills needs are met from within the workforce of the EEA. This policy continues to reflect the need for a responsive educational system, a focus on lifelong learning, addressing retention issues, and the need to maximise the potential of EEA nationals to fill skills and labour deficits.

Current Policy and Operation

To safeguard the employment opportunities of Irish/EEA nationals, restrictions exist on the granting of employment permits unless the employer can show at application stage that more than 50% of the total employees of the company are Irish/EEA nationals. The 50:50 Rule requires that employers seeking to hire non-EEA nationals on an employment permit have at least 50% of their workforce from Ireland or the EEA. This policy underpins the Government's employment creation objectives by requiring employers in the State to hire in a balanced manner from the local labour market.

The Labour Market Needs Test (LMNT) seeks to ensure that an offer of employment is first made to people already in the local and EEA labour markets before an application is made for an employment permit to employ a non-EEA national. This supports Government policy that those currently in the domestic and EEA labour markets, be they employed or unemployed, are given preference as a labour source for employers. (See Chapter 3 for further information.)

Key Issues Identified

From engagement with stakeholders and the public consultation there is widespread support for retention of the LMNT and 50:50 Rule. It is acknowledged that the labour force here has been through some turbulent years and that while the employment permits regime facilitates Ireland's participation in what is essentially a global skills market, preference must be given, wherever possible, to Irish and EEA nationals in the awarding of contracts of employment. However, it has also been advanced that both safeguards be modified.

LMNT

- The two-week period is not deemed to be of such duration as to adequately test the EEA labour market and thus it has been recommended that the LMNT period be extended.
- The LMNT applies to all occupations not on the highly skilled occupations list and requires the employer to advertise the vacancy with DEASP/EURES employment network for at least

2 weeks, in a national newspaper for at least 3 days, and in either a local newspaper or jobs website for 3 days. Regulations under the Act of 2006 require that the advertisement include the following information:

- a description of the employment,
- the name of the employer,
- the minimum annual remuneration,
- the location/s of employment, and
- the hours of work.

A sizeable number of *GEP* application refusals is due to a failure by the employer to conduct the LMNT as prescribed by law. For example, in 2017, 11% of applications were refused which was a significant improvement on 2016 when it was 67%³⁵ (see Appendix 9, Table 9.4). This is indicative of a lack of awareness and understanding of what constitutes a LMNT under the current legislative provisions and can lead to an absence of meaningful engagement by the employer in the process. Hence, the LMNT duration does impact on perceptions around employment permit processing times.

- There is also a clear desire to modernise the LMNT by broadening the range of advertising methods and extending it to include evidence of the employer's engagement with DEASP in attempting to recruit workers from within the EEA and domestic labour market. From the benchmarking exercise it is evident that many countries that deploy LMNTs require an interaction between prospective employers and the public employment support service that is provided for residents of that State.
- *GEP* and *CfSEP* applications are required to be submitted within 90 days of the start of the LMNT process. This ensures there is a direct link between testing the EEA labour market and having failed to identify a suitable EEA national, making an employment permit application to fill that specific vacancy. This period is prescribed in Regulations. The universities have expressed a concern that the 90-day rule does not support early competitive sourcing of labour and have requested that it be extended to 120 days.

50:50 Rule

A number of issues regarding the 50:50 Rule were raised by stakeholders and in submissions made to the public consultation:

- It was submitted that the case made in support of the two-year waiver from the application of the 50:50 Rule should be extended beyond enterprise development agencies to facilitate SME-type enterprises.
- It was highlighted that single operators, in expansion mode, face difficulties in meeting the 50:50 Rule as it requires them to have, at date of application for an employment permit, at least one EEA employee. For those employers who are not in expansion mode, Section 10(2B) of the Act of 2006 provides a 50:50 waiver where on the day the application is made:
 - the employer has no employees;
 - the foreign national concerned will be the sole employee; and
 - the Minister is satisfied that the foreign national concerned will be the sole employee of the employer.
- In the case of a start-up company the commencement of the two-year waiver from the application of the 50:50 Rule from the date a company is registered with the Revenue Commissioners can be problematic as staff recruitment may not have started; it has been submitted that the waiver should instead commence from the date of commencement of its first employee and which could be after registration with Revenue.
- Linking the 50:50 Rule to the employer's Revenue Employer Registered Number (ERN) can create difficulties for companies with complex structures and which have a number of ERNs.

³⁵ The improvement in 2017 was due in part to an information campaign on the application process and increased engagement with employers and their representatives.

- The absence of meaningful data on the LMNT and the 50:50 Rule was also noted. It is difficult to extract LMNT and 50:50 Rule statistics from the Employment Permits Management System (EPMS).

Recommendations

- 5.1 The LMNT and 50:50 Rule should be retained but modified as recommended below.

LMNT

- 5.2 The duration of the EEA-wide Labour Market Needs Test (LMNT) (via European Employment Service - EURES) should be extended from two weeks to four weeks. Such an extension to the LMNT period may necessitate an extension of the 90-day rule.
- 5.3 The LMNT process should be amended to reflect modern advertising methods. Furthermore, it should also be designed to ensure that employers make real efforts to fill positions from within the EEA. DEASP verification of genuine effort by the employer should be an intrinsic factor to the decision to grant an employment permit.
- 5.4 DBEI, in co-operation with DEASP, should develop and deliver a communications strategy to raise awareness of the components of the LMNT process which needs to be undertaken prior to the submission of an employment permit application.

50:50 Rule

- 5.5 Limiting the two-year 50:50 Rule waiver to new and early stage client companies of the IDA and EI ensures that the employment permit application concerned can be independently verified as contributing to the further development of employment in the State. However, consideration should be given to including the Local Enterprise Offices (LEOs)³⁶ in the waiver support process which would ensure that micro-enterprises as well as SMEs are brought into the process.
- 5.6 The 50:50 Rule waiver should apply to all sole operators, including those in expansion mode. This would have the effect of applying the 50:50 Rule waiver to all employers who on the date of the employment permit application do not have any employees and the non-EEA national concerned will be the sole employee. In the event the employer employs a further non-EEA national, the waiver will cease and the 50:50 Rule will apply.
- 5.7 The two-year waiver from the 50:50 Rule for company start-ups should commence from the date an employer notifies the Revenue Commissioners that they have made a payment of emoluments to an employee.³⁷
- 5.8 Linking the 50:50 Rule to a specific Revenue Employer Registered Number (ERN) should be reviewed to address issues raised during engagement with stakeholders on the difficulties this creates for companies with complex structures.

³⁶ The LEO is the First Stop Shop for anyone seeking information and support on starting or growing a business in Ireland. The County Enterprise Board (Dissolution) Act 2014 gave effect to the Government Decision of April 2012 to reform the system for delivery of State supports to micro and small enterprises by dissolving the County and City Enterprise Boards' structure and created an enhanced national enterprise support model to be delivered by Local Authorities on behalf of Enterprise Ireland through LEOs.

³⁷ Regulation 7, Income Tax (Employments) (Consolidated) Regulations, 2001 (S.I. No. 559/2001)

- 5.9 The Employment Permits Management System (EPMS) should be adapted to readily capture data on the application of the LMNT process and the 50:50 Rule and should again feature in the BPI.

5.2.2 Principle 2: Labour Market Responsiveness

At all stages of an economic cycle the State's economic migration policy should be sufficiently agile to respond to the demands of the labour market.

Current Policy and Operation

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 (EU/EEA) 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.

The employment permits system responds to labour and skills shortages demand by broadening and narrowing categories for eligible occupations. During periods of economic prosperity, the eligible occupation categories for non-EEA nationals are broadened, while during periods of economic downturn the categories are narrowed and other restrictions are applied. The Department's twice-yearly review of the highly skilled and ineligible occupations lists is predicated on a formalised and evidence-based process:

- Research undertaken by the EGFSN and SLMRU at SOLAS for the National Skills Council and collated in the annual *National Skills Bulletin* and *Vacancy Overview Report*.
- Various EGFSN sectoral reports.
- Public consultation.
- Engagement with Employer Engagement Services (DEASP), SLMRU in SOLAS, various Government Departments and Skills & Education Policy Unit in DBEI.

Key Issues Identified

- Ireland's employment system operates at a granular occupational level. Unlike many jurisdictions which operate a positive eligible occupations list, Ireland operates a finite negative occupations list i.e. an ineligible list of employments. With a minimum remuneration threshold for a *GEP* of €27,000 - €30,000 (except for the agri-sector) such a threshold may have the same controlling effect as the ineligible occupations list. However, reducing the remuneration threshold for low skilled/low paid migrant workers may drive up inward economic migration³⁸; thus where one lever is relaxed (i.e. remuneration), a second lever (i.e. the ineligible list) remains as a control.
- There is broad support for the proposal that the evidenced-based business case for making changes to the occupations lists for an employment permit be led by the relevant lead Government Department and that it include evidence of efforts by the sector to (a) develop

³⁸ Other permit types such as Sports & Cultural, Dependant/Partner/Spouse, Reactivation, Internship and Exchange have a remuneration threshold of NMW; they account for just over 6% of permits issued in 2017.

industry led models for improving the skills and productivity of the workforce; (b) to maximise opportunities for people on the live register; and (c) to address attraction and retention issues.

- While EU-level analysis shows that Ireland is ahead of most EU Member States in terms of linking market intelligence to labour migration policy³⁹, the absence in certain sectors of robust granular sub-sector data was noted and what alternative sources of data could be sourced should also be explored.
- Suggestions were also made on how the twice-yearly review process might be further improved, to allow for greater stakeholder and Departmental inputs and the outcome of a review should be more transparent.

Recommendations

- 5.10 It is recommended that relevant Government Departments take the lead, with relevant sectors, for making evidence-based cases for changes to the occupations lists for an employment permit. Where no Department has clear lead policy responsibility (such as call centre operations), DBEI, in consultation with IDG and stakeholders, should assess the evidence.
- 5.11 While there are benefits to operating a finite negative occupations list, the possibility of moving to a positive list should be explored; this would involve considering how such a list would operate at all stages of an economic cycle and how it would interact with the various employment permit types.
- 5.12 Where it is perceived that the labour market information available to identify shortages has shortcomings for particular sectors, the Skills and Labour Market Research Unit (SLMRU) in SOLAS will engage with the relevant Government Department to identify if further sources of official statistics can be utilised. The Government Department in question or the IDG can also submit a request to the EGFSN for a sectoral analysis to be included in their work plan.
- 5.13 To ensure greater transparency in the twice-yearly review of occupations lists process, submissions to the public consultation and the outcome of the reviews should be published on the DBEI website.

³⁹ Gusciute, Quinn, Barrett *op cit*

5.2.3 Principle 3: Skills Shortage

Ireland continues to experience skills shortages in certain key areas as evidenced, inter-alia, in research conducted by the Expert Group on Future Skills Needs and the National Skills Council. The employment permit regime is part of the response to addressing those skills deficits which exist and are likely to continue into the medium term, but is not a substitute or pretext for avoiding the challenge of up-skilling our resident workforce. Nevertheless, it is recognised that Ireland has to compete with other countries for economic migrants, particularly at the high end of the skills continuum. Certain skills, such as those required in the high – tech sectors are in demand globally. Therefore, there continues to be a need to supplement Ireland’s skills stock through employment permits and to ensure that Ireland’s employment permits system is geared towards attracting such skills.

The employment permits system is designed to contribute to the positioning of Ireland as a location with a highly skilled and highly remunerated workforce, employed by cutting edge enterprises. Retaining relevance in the fast moving, globalised and technically innovative enterprise environment of the 21st century requires not only the fostering of indigenous talent but the ability to attract the innovators and the experienced from elsewhere to deepen the skills pool here.

The EGFSN forecasts that, driven by market demand, technology shifts, the impact of cloud, and digitisation across all sectors, demand for high level ICT skills will continue to grow strongly in the years to 2022. The forthcoming reiteration of the ICT Skills Action Plan seeks to boost indigenous supply to meet this level of demand but its approach is necessarily medium to longer term, so inward migration, from both within the EEA and through the employment permit system, will therefore continue to play a crucial role in helping address Ireland’s immediate ICT skills deficits.

Key amongst the employment permit schemes is the *CSEP*, which seeks to attract highly skilled non-EEA workers in occupations where there are acknowledged skills shortages, often on a global scale. The *CSEP* does this by waiving several of the requirements otherwise applying to the issue of employment permits, and by providing a route to immediate family unification, fast-track residency and the availability of employment permits to spouses, dependants or partners where this might be required.

The grant of a *CSEP* is contingent on the foreign national being educated to at least degree level for an occupation on the highly skilled list and where the minimum remuneration is currently €30,000. Equivalent professional experience may be accepted in lieu of a degree for those foreign nationals who will earn a minimum of €60,000 in an eligible employment.

Key Issues Identified

Degree Requirement for CSEP Holder

- During this review and in recent reviews of the highly skilled and ineligible occupations lists, the case has been made that the degree requirement for an occupation on the highly skilled list can act as a barrier to attracting certain highly skilled ICT professionals. Candidates may be eligible for the role based on experience or other qualifications rather than qualification through a relevant third level degree.

Dependant/Partner/Spouse Employment Permit

- International studies and research identify a lack of jobs for accompanying partners as a reason why expat talents and their accompanying family members choose to leave/or choose to come to a country. A study in 2014 showed that in 62% of cases where expats leave the country earlier than planned, it is because their spouses could not find work.⁴⁰
- Several stakeholders and submissions to the public consultation opined that to give Ireland the competitive edge to attract in-demand skills, it should be possible for the partner or spouse of a *CSEP* holder to be given immediate access to the labour market without the need for a *DPS EP*.
- On entry to the State, the spouse/partner of a *CSEP* holder/Third Country Researcher receives a Stamp 3 immigration permission from INIS. It was clear from discussions with stakeholders that the wording of this stamp, which states that the non-EEA national is not permitted to work in the State, causes confusion for non-EEA nationals concerned and potential employers. INIS have advised that should such a non-EEA national secure employment and on the basis of a job offer, apply for the grant of an employment permit, they may then apply to INIS to amend that immigration permission from Stamp 3 to Stamp 1 which allows them to take up the employment concerned.
- The importance of actively promoting awareness of the *DPS EP* to *CSEP* holders was also raised.

Linking DPSEP to Intra-CT EP

- It was submitted that the *DPS EP* be made available to the dependants, partners and spouses of *Intra-CT EP* holders.

Recommendations

- 5.14 The *CSEP* is working well and should remain as a key focus of the employment permits regime. A degree is an indicator of high level skills; remuneration is a proxy for such skills. To help meet the growing demand for high level skills, DBEI should examine the feasibility of setting a third remuneration threshold at a level above the current lower threshold of €30,000 for a non-EEA national who has relevant experience for an occupation on the highly skilled list but does not have the required degree, for example in certain ICT occupations.
- 5.15 Proactive marketing of the opportunities for eligible family members to work in the State should be undertaken, for example in correspondence with the *CSEP* holder, updating the employment permits FAQ document, and through the enterprise development agencies.
- 5.16 DBEI and INIS should make it clear in communications that a Stamp 3 immigration permission does not preclude an eligible family member from accessing the labour market and applying for an employment permit. DBEI is also working closely with INIS on other initiatives to streamline the process for the spouses and partners of *CSEP* holders/Third Country Researchers.
- 5.17 The *DPS EP* has been designed specifically to enhance the attractiveness of Ireland for globally in-demand skills and retain that talent on a permanent basis. Thus, granting family members access to the labour market should remain, for the time being, linked only to the *CSEP*/Third Country Researchers. As the *Intra-CT EP* is designed to facilitate the temporary transfer of senior management, key personnel or trainees from an overseas

⁴⁰ Tools and Strategies for Innovative Talent Attraction and Retention – a Handbook on Talent Attraction Management for Cities and Regions (Sweden, Jan 2014)

branch of a multinational corporation to its Irish branch, an analysis of *Intra-CT EP* data should be undertaken as part of any further consideration to extend the link to this permit type.

5.2.4 Principle 4: Balanced Approach to Innovation and Labour Market

Economic migrants bring new ideas and different perspectives, helping organisations to innovate, for example through developing and adapting technology, and encouraging the adoption of more efficient processes and strategies. However, where access to a low-skilled immigrant workforce is not managed, employers may be slower to invest in skills and technology to innovate and improve productivity. It is important that a balance is achieved between the need for industry to innovate and invest in new processes to reduce dependence on low skilled labour, and ensuring that labour shortages do not result in lost commercial opportunities or value added to the economy.

Key Issues Identified

Automation

- DBEI was advised by stakeholders that sectors will automate as much as possible since automation, as an efficiency driver, is a lower cost in the long run; that while significant automation has been undertaken in many of the lower skilled sectors already, in many cases there will always remain a labour component to lower skilled tasks.

Quotas

- There was broad support for introducing a quota of permits for lower skilled workers and that it be used alongside initiatives to develop a domestic supply of labour. The importance of basing it on accurate up to date data that identifies scale of demand was also emphasised by stakeholders.
- Several policy areas intersect on the matter of addressing skills and labour shortages and in recent years DBEI has been leveraging the employment permits system to promote an integrated response to addressing the multifaceted nature of such shortages and to ensure a domestic pipeline for future vacancies is established. DBEI has achieved this by applying quotas, along with other certain conditions, such as introduction of upskilling to develop future skills needs, where low skilled employments have been removed from the ineligible list. Recent examples are the removal from the list of certain categories of chef in 2018, HGV drivers in 2017, and meat boners in 2015.
- From the benchmarking exercise it is evident that many countries cap their migrant worker schemes to protect their domestic labour markets, for example New Zealand, Canada, Spain.

Seasonal Work

- In defining a seasonal migration policy, “*Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy*”⁴¹ sets out different glossaries and international documents which offer specific definitions of this type of migrant; however, all of them coincide in highlighting the temporary nature of the work done by this kind of migrant and in emphasising the seasonal nature of the activity as a defining aspect of this category of migrant.
- Ireland is an outlier among developed countries in not having a seasonal employment permit.

⁴¹ *Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy*, Working Paper Series: Temporary versus Permanent Migration (Temper EU Project 2014) pages 3-4.

- From stakeholder engagement and the benchmarking exercise, there is a clear role for time limited work permissions for seasonal contracts for typically 6-9 months.

Recommendations

- 5.18 To ensure judicious use of the employment permit regime in respect of lower skilled workers, employments removed from the ineligible occupations list should be subject to a quota. An appropriate quota should be benchmarked to the number of current vacancies or future demand specific to the occupation concerned.
- 5.19 The release of further quotas, or the continuation of quotas, should be dependent on progress being reported by the Government Department with policy responsibility for the sector concerned on commitments given by the sector to for example:
- systematic and structured engagement with DEASP regarding a potential source of labour from the live register and EEA-wide;
 - training/upskilling;
 - career development structures;
 - commitment to examine the potential of innovation in the sector to ameliorate reliance on a model of low skill, low wage employment.
- 5.20 There is a clear demand for a seasonal employment permit for low skilled workers. In devising its purpose and terms and conditions, an in-depth examination of seasonal permits in other jurisdictions should be undertaken and should address the following key matters:
- The seasonal employment permit is likely to apply to a non-EEA national who retains a legal domicile in a third country but resides temporarily for the purposes of employment in a sector with seasonal employment requirements. An examination of the various definitions of seasonal worker available internationally should be undertaken.
 - The duration of such a permit should underline its seasonal nature.
 - Given the short-term nature of this permit type, the permit holder will not have immediate access to State benefits. However, the minimum remuneration threshold should attract such non-EEA nationals to come, work and return. The potential provision of additional benefits and supports by the employer, such as flights and accommodation, should be factored into deliberations.
 - Limiting this permit type to certain sectors and occupations should be examined to avoid downward pressure on wages for those employments that would otherwise come within the *GEP* and which has a higher remuneration threshold.
 - Regard should also be given to the potential risks attaching to such a permit type, the key one being overstaying, and potential mitigations should be identified. For example, fees may be waived where further employment permits for future seasons are made in respect of the foreign national concerned.

5.2.5 Principle 5: Net Contributor

Employment permit holders should be net contributors to the Irish economy and as such should have the financial capacity to support themselves and, where appropriate, their immediate families without recourse to State resources. The minimum annual threshold for an employment permit should also remain as neutral as possible in terms of wage effect.

Current Policy and Operation

Chapter 4 explains in detail the genesis of the definition of remuneration which is set out in primary legislation and the threshold amounts for the various permit types which are set out in Regulations.

Key Issues Identified

High Skilled Remuneration

The 2017 review of remuneration thresholds for employment permits is addressed in Chapter 4. It notes that implementation of the review's recommendation to increase the CSEP thresholds by 6.7%, was deferred when it became clear that a broader review of the employment permits regime was needed.

Low Skilled Remuneration

During this review additional key issues arose:

- On lower skilled occupations the EEA benchmarking revealed that while Ireland may have the second highest NMW level (6th highest when purchasing power is taken into account), the levels of access migrant workers have to additional state supports makes it difficult to make direct comparisons when looking at the various minimum wage levels across EU Member States.
- A key concern for the State is that migrant workers should have the financial capacity to support themselves. Having considered the range of potential State benefits available to those on low wages, low skilled workers should have access to a minimum salary which would ensure that such a permit holder would not automatically need recourse to State benefits. (See Appendix 10 regarding remuneration and benefits).
- Another concern is that employment permit holders working for relatively low levels of pay may influence the rate and conditions for other workers in the same occupations and sectors i.e. wages may not increase in line with expectations and/or it may give rise to downward pressure on wage rates. Any impacts would need to be closely monitored, including increases in demand for in-work State subsidies.
- It was submitted by one stakeholder that there should be greater transparency in establishing the Minimum Annual Remuneration (MAR), potentially in consultation with a body such as the Labour Court. It should be noted that this function does not come within the remit of the Labour Court. It does, however, play a key role in collective bargaining at sectoral level on minimum terms and conditions of employment, including pay, which are facilitated by Sectoral Employment Orders (SEOs)⁴² or Joint Labour Committees (JLC) - Employment

⁴² The Industrial Relations (Amendment) Act 2015 provides for a mechanism whereby, at the request, separately or jointly from organisations substantially representative of employers and/or of workers, the Labour Court can initiate a review of the pay and pension and sick pay entitlements of a class, type or group of workers in a particular sector and make a recommendation to the Minister on the matter. Where the Minister agrees to make such an order it will be binding across the sector to which it relates, and will be enforceable via the WRC.

Regulation Orders (EROs)⁴³. The Employment Permit Regulations 2017, as amended recognises such orders.

- The payroll arrangements put in place for holders of an *Intra-CT EP* are complex, making it difficult for foreign employers to adhere to the legislative remuneration requirements.

Recommendations

- 5.21 The recommendation approved in 2017 to increase the *CSEP* thresholds by 6.7% to €32,000 and €64,000 respectively should be implemented as soon as possible while incorporating a lead in time as the first step towards closer alignment with average annual earnings for all employees⁴⁴.
- 5.22 The impact of these changes to the *CSEP* remuneration thresholds should be measured within 6-12 months to assess whether the changes have had a disruptive impact on the labour market.
- 5.23 The feasibility of aligning the upper remuneration threshold (currently €60,000) for a *CSEP* with appropriate official data should be examined.
- 5.24 The remuneration thresholds for the *GEP* should be reviewed to minimise any ensuing disruption/displacement effect in the domestic labour market.
- 5.25 While the legal definition of remuneration for an employment permit was designed in 2014 to provide clarity and certainty around pay for migrant workers, in particular for those whose contracts of employments are outside the State, such extensive legal underpinning should be re-evaluated, as it has led to confusion. Further work should also be undertaken on how remuneration is determined in the future.

5.2.6 Principle 6: Employment Rights

Migrant workers are often a more vulnerable class of people particularly in the lower skilled end of the labour market. Language difficulties, cultural differences, and lack of social networks can disadvantage migrants and increase the potential for abuse by unscrupulous employers. Ireland has a very thorough employment rights legal framework. Careful consideration is given to the potential for abuse and many of the criteria in evaluating employment permits applications focus on the bona-fides of the employer and the protection of the permit holder.

Current Policy and Operation

The employment permits system ensures that the employment rights of migrants are observed, with criteria aimed at ensuring that migrant employees are treated in line with Irish labour laws and operates with a wide range of safeguards for non-EEA workers. See Chapter 3 for further information.

⁴³ A JLC is composed of equal numbers of representatives of employers and workers in a sector which meet regularly to discuss and agree proposals for terms and conditions to apply to specified grades or categories of workers in the sector concerned. JLC chairs and deputy chairs are Industrial Relations Officers from the WRC, appointed by the Minister. Any agreement on proposals for terms and conditions must firstly be accepted by the Labour Court and then the Minister before an ERO giving effect to the proposals will be made. EROs apply to all employers and employees in the sector to which they relate.

⁴⁴ In 2017 it was €38,070; In Q1 2018 it was €38,594.

Key Issues Identified

- Ireland has robust employment rights framework and machinery that applies to all workers in legal contracts of employment within the State, including non-EEA workers. Submissions made to the public consultation were fully supportive of the arrangements in place to protect migrant workers.
- A continuing feature of the employment permits regime which should be preserved is the balance given to ensuring that employment rights are observed. Any changes to the 50:50 Rule for small operators (see Principle 1) could increase the risk of exploitation of vulnerable migrant workers.

Recommendations

- 5.26 On the 50:50 Rule waiver for sole operators (see Recommendation 5.7), it is imperative that such vulnerable migrant workers, who will not have work colleagues and thus may not be familiar with normal employment practices in Ireland, have greater access to information and protections:
- The WRC should include this cohort of sole employers in their risk-based inspections;
 - Such migrant workers should have greater ease of access to information on their employment rights. The online application process could be effectively used to give the non-EEA national access to the WRC website and to information which is available in 11 languages. The employment rights summary information provided with the permit itself should be assessed for plain English and a WRC telephone number included.
- 5.27 Employment Permits Unit, 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.

5.2.7 Principle 7: Legislative Framework and Process

The employment permits regime should be administratively effective and efficient, have a clear legislative basis, and be sufficiently flexible to react quickly to changes in the labour market.

Current Policy and Operations

Legislation

The Act of 2006 deals with an area of regulation where the needs of the economy interact with the needs of particular individuals. Consequently, it has extensive underpinning both at the level of primary legislation and in Regulations. While this provides for a great deal of clarity and certainty on the part of applicants, it decreases the flexibility of the system to react to a changing labour market environment.

Processing

The employment permit system is continuously evolving to better support the needs of employers and the non-EEA nationals who choose to work here, with a well-established Trusted Partner registration scheme to support companies who are frequent applicants for employment permits.

In support of the Department's objective to improve service to businesses, the Employment Permits Online System (EPOS), which was launched in September 2016, was firmly established during 2017 as a preferred method of submitting applications for employment permits. It

provides an intuitive, user friendly facility to submit online permit applications, supporting documents and a secure online fee payment service. The system has supported faster turnaround of applications, reduced errors and rejected applications. Currently, over 95% of employment permit applications received are being submitted online.

Further service enhancements are planned to allow requests for reviews of refusal decisions and requests for Stamp 4 support letters to be submitted online.

Fees

A review of employment permit fees in 2015 established that the fee levels conform to the cost recovery principle, which provides that the full cost of activities and services are recovered in the medium term. Thus, the fee levels and the refund rate of 90% for refused or withdrawn applications were not changed. However, the review did highlight the need for a further comprehensive evaluation to be conducted which should consider a broad variety of factors e.g. impact of online filing and the Trusted Partner Initiative, appropriateness of fees structure for granted versus refused/withdrawn applications, and the increasing rate of applications not attracting a fee.

Streamlined System for Atypical/Short term Employment

The Irish Naturalisation and Immigration Service (INIS) in agreement with the DBEI, administers the Atypical Working Scheme (AWS). The purpose of the Scheme is to provide a streamlined mechanism to deal with atypical, short term employment or certain other employment situations which are not governed by the Employment Permits Acts 2003 – 2014 or by current administrative procedures under the Acts. Officials from both Departments have worked collaboratively and constructively to ensure that processes are as streamlined and cohesive as possible.

Key Issues Identified

- Submissions made to the public consultation phase welcomed employment permit process innovations. They made several recommendations for service improvements, for example, modifications to the online system; extending the online filing to other documents such as the Statement of Loss; provide for electronic permits; reflect developments in the Revenue Commissioners to move to online returns.
- Several submissions also made recommendations which would require legislative changes and which are addressed elsewhere in this report, for example modernise the LMNT and extend the 50:50 Rule waivers.
- The Amendment Act of 2014 was drafted in the wake of the Supreme Court ruling in the *McGowan v Labour Court* judgement concerning the need for clear policies, principles and powers to be set out in primary legislation, and this ruling strongly influenced its drafting⁴⁵. While the Amendment Act of 2014 provides flexibility, principally through the Regulations, it also codifies many of the operational aspects of the employment permits regime, for example the LMNT process and the remuneration definition.
- Because costs are not static, it is important that fees and refund rates are reviewed regularly to ensure that they remain appropriate and that the assumptions on which they are based remain valid and relevant.
- The AWS should complement the employment permits system and thus the implementation of the report's recommendations should ensure that this alignment continues.

⁴⁵ Dáil Debate: Employment Permits (Amendment) Bill 2014: Report Stage, 3 July 2014

Recommendations

- 5.28 Several recommendations in this report will require amendments to primary and secondary legislation and are addressed in more detail elsewhere. In summary:
- Changes to the 50:50 Rule for company start-ups and sole operators (primary);
 - Changes to the LMNT process (primary);
 - Extension of the LMNT EURES duration (secondary);
 - Introduction of a Seasonal Employment Permit (primary);
 - Changes to remuneration thresholds for the *CSEP* (secondary);
 - Changes to what constitutes remuneration for an employment permit (primary).
- 5.29 Consideration should be given to the type of legislation best suited to address the recommendations of this review i.e. a new employment permit bill or a further amending bill.
- 5.30 As part of the ongoing Business Planning Improvement (BPI), Employment Permits Section will take cognisance of the recommendations of this review, including the development of the improved data management.
- 5.31 A review of employment permit fees will be conducted to ensure that they continue to operate under the cost recovery principle.
- 5.32 DBEI and INIS will continue to work closely to ensure that the Atypical Working Scheme (AWS) and the employment permits system operate in a complementary and streamlined manner.

5.3 Conclusion

A commitment was set out in Action Plan for Jobs 2018 to undertake a review of economic migration policy, to revisit the alignment between the employment permits system and skills needs in the Irish economy and to make any necessary policy and operational adjustments to maintain an efficient and coherent mechanism for economic migration where it is required.

The current employment permits system was last adjusted during a period of economic contraction, when deficits of specific skills were being experienced but more broadly the labour supply was sufficient to meet enterprise needs.

Now, Government strategy to drive both regional and sectoral employment through Project Ireland 2040 and other strategies adds to the specific high skills emphasis of the economic migration model currently deployed, and adjustments to facilitate such growth must be made. Emerging labour shortages in some lower skilled occupations, as well as changing employment practices and enterprise structures, call for a fresh look at the configuration of the employment permits system.

Having regard to all the analysis conducted and the methodology utilised, the IDG has concluded as follows:

- The State's economic migration policy needs to keep pace with rapid changes and be seen to be proactively identifying and addressing skills and labour shortages as they arise; thus, the policy should be reviewed at least every five years to ensure it remains aligned with and supportive of the Irish labour market.
- To ensure the employment permit system is robust, evidenced based and cohesive, it is imperative that the framework and guiding principles in this report be adhered to.

- While several recommendations in this report can be implemented in the short term, a number will take time, particularly those that will necessitate amending primary legislation. Others will require further evaluation and stakeholder engagement. To this end, it is vital that an action plan, which will give effect to all recommendations, be prepared and implemented.
- The IDG played a positive role in the development of a policy rationale for the employments permits regime and should remain in existence to oversee the implementation of the recommendations of this review and to monitor the guiding principles and operation of the regime on an ongoing basis.
- It is important that the impact of adjusting the State's economic migration policy be measured. While this is inherently difficult, Ireland is a leader EU-wide in linking labour market intelligence to policy and thus should be in a strong position to measure and report with confidence.

APPENDIX 1 - INTERDEPARTMENTAL GROUP

Members of the IDG

Clare Dunne, Department of Business, Enterprise and Innovation (Chair)
Fiona O’Dea, Department of Business, Enterprise and Innovation (Secretary)
Fiona Ward, Department of Business, Enterprise and Innovation
Kevin Daly, Department of Business, Enterprise and Innovation
Rob Walsh, Department of Business, Enterprise and Innovation

Sinead McPhillips, Department of Agriculture, Food and the Marine
Karl Walsh, Department of Agriculture, Food and the Marine

Emma Kinsella, Department of Education and Skills
Paul Keating, Department of Education and Skills

Terry Corcoran, Department of Employment Affairs and Social Protection
Paul Carroll, Department of Employment Affairs and Social Protection

Sorcha Murray, Department of Health

Barry Quinlan, Department of Housing, Planning and Local Government

Michael Walsh, Department of Justice and Equality
Barry Crossan, Department of Justice and Equality

Robert Scott, Department of Public Expenditure and Reform

Betty Griffin, Department of Transport, Tourism and Sport
John Kelly, Department of Transport, Tourism and Sport
Brendan Keehan, Department of Transport, Tourism and Sport
Martin Diskin, Department of Transport, Tourism and Sport

Dr. Selen Guerin, SOLAS
Joan McNaboe, SOLAS

Secretariat

Peter Healy, Department of Business, Enterprise and Innovation
Miriam Tracey, Department of Business, Enterprise and Innovation
Róisín Collins, Department of Business, Enterprise and Innovation

APPENDIX 2 - TERMS OF REFERENCE

Review of Employment Permit Regime Rationale

Introduction

The focus of the employment permits regime in recent years has been to ensure that the skills requirements of enterprise in the State can be met through economic migration where necessary. However, as the State approaches full employment, labour as well as skills needs are beginning to manifest.

As the economy improves, the Department is being pressed to open up the employment permit regime to lower skilled workers in certain sectors/occupations such as agriculture, the care sector and hospitality namely in respect of chefs.

However, economic migration alone is not a sustainable long-term solution to skills and labour shortages and indeed can, in some circumstances, help to perpetuate skills and labour shortages in the economy. The development of particular skills in the resident labour force can depend upon a judicious deployment of economic migration as a supplementary rather than a primary source of those skills, and adjustments must be made with this in mind.

While there is some anecdotal evidence of a tightening labour market in some sectors, the fact remains that there are 244,000 on the live register, and with a potential pool of 18.5 million unemployed in the EU 28, DBEI needs to be prudent in considering whether to open up the labour market to unskilled non-EEA workers on wage levels at or just above the national minimum wage.

In this context, it is timely to undertake a fundamental review of the economic migration policies underpinning the current employment permits system, to ensure it is fully supportive of Ireland's emerging labour market needs, be they skills or labour shortages in certain sectors and as such is included in Action Plan for Jobs 2018 (Action 36).

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.

Objectives and Scope

The overall objective of the review is to consider the policy rationale for the employment permit system where the economy is improving and the labour market is tightening and to make appropriate recommendations to the Minister.

In Scope

- All sectors of the economy.
- All employment permit schemes.
- Economic and social goals.
- Regulating demand using available labour market tools, e.g., minimum remuneration thresholds, highly skilled and ineligible occupations lists, and quotas.
- International comparisons.
- Proposal of changes that can be made:
 - in the short term and within the existing legal framework;
 - in the medium to longer term and which may require amendments to primary legislation.
- Identification of appropriate performance indicators.

Out of Scope

- Review of alternative channels of delivery via Department of Justice & Equality ie immigration permissions, such as the Atypical Working Scheme, and visas.
- The resource implications of any proposed changes to the employment permits regime will be considered in the context of a separate Business Process Improvement (BPI) review of the operational area. The BPI review will commence in Q1 2018 and will run in parallel with the policy review.

Methodology

Economic Migration Policy Unit will:

- Identify and review existing sources of relevant data e.g. National Skills Council research reports, Skills & Labour Market Research Unit (SOLAS), OECD Ireland 2017 report, CSO figures, employment permit data;
- Examine feasibility of conducting additional research, as necessary;
- Conduct a survey of stakeholders in the public and private sector;
- Examine policy development in other EU and international jurisdictions through the offices of the European Migration Network (EMN) which is located in the ESRI and Intergovernmental Consultations on Migration, Asylum and Refugees (IGC);
- Establish and support an Inter-Departmental Group which will inform the review.

Inter-Departmental Group

Purpose

The IDG will consider the available evidence, provide advice, and make recommendations by consensus and within the scope of the review. In particular, it will examine:

- Minimum remuneration thresholds for the General Employment Permit;
- Sectors that are experiencing emerging labour shortages;
- Existing process for review of the highly skilled and ineligible occupations lists;
- Key risks and mitigations.

IDG Membership

Senior officials from following Departments/agencies will be invited to sit on the IDG:

- D/Public Expenditure & Reform
- D/Housing, Planning and Local Government
- D/Justice & Equality
- D/Employment Affairs & Social Protection
- D/Health
- D/Agriculture, Food & the Marine
- D/Transport, Tourism & Sport
- D/Education & Skills
- D/Business Enterprise & Innovation (Skills Policy and Education Policy Unit)
- Skills & Labour Market Research Unit (SLMRU) in SOLAS

Other Departments with policy responsibility for sectors that come within the remit of the review may be invited to attend.

The IDG will be chaired by Assistant Secretary, Workplace Regulation & Economic Migration Division.

Expected Duration

The review is expected to commence in February 2018 with a draft report and recommendations to the Management Board before submission to the Minister in June 2018.

Economic Migration Policy Unit

19 January 2018

APPENDIX 3 - REVIEW METHODOLOGY

Several strategies were deployed in the conduct of this review. All this work was overseen by an Inter-Departmental Group (IDG) which was convened with representatives from key State bodies. The IDG facilitated a full understanding of the interactions between various State actors on skills and labour shortages.

At the outset, the IDG agreed on an overarching set of guiding principles that provide a robust framework for the employment permits regime with the flexibilities required to ensure it remains supportive of the Irish labour market

Extensive desk research was undertaken. Detailed information regarding employment permits and economic migration policy going back to the 1990s was gathered from files and Oireachtas debates. Existing literature on the issue, such as from the ESRI and the OECD, was reviewed. Additionally, data from the CSO, OECD, Central Bank of Ireland and on employment permits was analysed.

To gain qualitative information, DBEI engaged with stakeholders and a public consultation was undertaken. The public consultation on the proposed guiding principles to frame economic migration policy opened on 21st March and concluded on 18th April 2018, 34 submissions were made. Meetings were held with IDA, EI, ICTU and IBEC to discuss in detail their views of the State's economic migration policy and their input into the review process.

An examination of policy development in other jurisdictions was carried out through an international benchmarking exercise, through the offices of the ESRI (European Migration Network) and Intergovernmental Consultations on Migration, Asylum and Refugees (IGC).

A review of the both EU and non-EU use of seasonal worker schemes and the operation of labour market needs tests was also undertaken.

APPENDIX 4 - PILOT SCHEME FOR AGRI-SECTOR

Given the particular challenges facing parts of the agri-food sector and given the importance of this indigenous sector and its reach into rural Ireland, the Minister requested the IDG, in advance of completing the full review, prioritise the emerging labour shortages in the sector in its deliberations. This appendix sets out the rationale for the decisions made.

Introduction

Following significant and ongoing engagement with the agri-food sector, and with the Minister for Agriculture, Food and the Marine, as well as with DAFM officials, the Minister asked that the IDG prioritise, in advance of completing the full review, the emerging labour shortages being experienced in the agri-sector, particularly for low skilled workers in the meat processing, horticulture and dairy sub-sectors.

It is worth pointing out that the agriculture sector is not unique in seeking to have certain occupations removed from the ineligible list for employment permits purposes. Recent examples from other sectors are the removal of HGV drivers from the ineligible occupations list (in 2017) and the introduction of a quota and other conditions⁴⁶; the removal of chefs (apart from commis chefs) in 2018 again with the introduction of a quota and other conditions. Also, in 2015, the agriculture sector successfully made a case for the removal of skilled meat boners from the ineligible occupations list, again with the introduction of a quota and other conditions.

However, what was unique in terms of this request was the fact that these are low wage and low skill occupations.

DAFM Evidence-Based case

DAFM put forward an evidence-based business case justifying proposed changes to the employment permits system, in which they requested as an interim measure a quota of 1,000 general employment permits for horticulture workers and 500 for meat process operatives, pending the publication of the final review report. With regard to the dairy sub sector a range of efforts and initiatives are being pursued to help address the issues that exist including the establishment of a 'People in the Dairy Sector Stakeholder Group' to focus on the short and long term human capital needs. Having regard to the continuing labour shortages, which have been compounded by the challenging winter and spring weather that many dairy farmers have been experiencing, DAFM requested that dairy farm assistants be included in the pilot quota of employment permits for the horticulture and meat processing sectors.

Key points made by DAFM in their business case included:

- Labour shortage across three sub-sectors, meat processing, dairy and horticulture sectors – 1,049 general operative vacancies in meat plants, 2,066 vacancies on horticultural farms, and 6,000 new entrants (or around 300 full time equivalents per year) required for the dairy sector over the next decade.
- Demonstrable efforts by the sector to recruit from both the Live Register, and from within the EEA, and the limited results that these efforts have produced.

⁴⁶ "Other conditions" would include minimum salary levels and the provision of appropriate training to build a domestic pipeline for future vacancies.

- The high volume-low margin approach adopted in the sector in Ireland is similar to that adopted elsewhere, and in the context of international competitiveness, request that the remuneration for such permits be set at NMW.
- Food Wise 2025 has identified ambitious and challenging growth projections for the sector. However, the sector faces challenges and there are skills gaps which must be filled across the sector and up and down the supply and value chains to enable the potential of the sector to be realised.
- The recent announcement of the opening of the Chinese market to Irish beef presents an excellent opportunity for the Irish beef sector, from farmers through to processors, in line with the market development theme of the Food Wise strategy.

Deliberative Process

The IDG and DBEI Management Board considered the DAFM evidence-based case and the points raised and generally accepted that there was substance to the issues raised. Several key issues were considered as part of the deliberative process and the guiding principles, while still in draft form were sufficiently well advanced to provide a context and framework within which decisions for the agri-sector could be made and to provide a rationale for action taken:

- A recognition that the agri-food sector is of strategic importance to the Irish economy;
- The need to achieve a balance between the need for industry to innovate, and ensuring that labour shortages do not result in lost commercial opportunities or value added to the economy;
- Addressing attractiveness and retention issues in the sectors to ensure a labour supply from within the EEA;
- Other potential labour sources coming on stream with approx. 2,500 international protection applicants having access to the labour market when the State opts into the recast Reception Directive;
- The need to engage in a pro-actively and systematically with the Public Employment Services, including EURES through the DEASP;
- The principle of net contributor applies to ensure that migrant workers have the financial capacity to support themselves without recourse to State resources;
- The need to ensure that the employment rights of migrant workers are protected;
- There needs to more granular research undertaken on the agricultural sector to more fully understand the skills/labour needs at a sub-sector level.

Outline of temporary pilot scheme for horticulture workers, dairy workers and meat processor operatives

In response to the case advanced by DAFM for employment permits to address the current labour shortages these three sub-sectors are currently experiencing, and having explored all the factors arising on an inter-Departmental basis, the following were approved by the Minister:

- the temporary removal of horticulture worker, dairy worker and meat processor operative from the ineligible occupations list for employment permits;
- an initial cap of 500 *General Employment Permits* for horticulture workers, 250 for meat processor operatives and 50 for dairy farm assistants;
- a commitment by employers that the permit holder has access to suitable accommodation, and training, including language training;
- a minimum remuneration threshold of €22,000 for a *General Employment Permit* for this cohort of migrant workers.

Additional permit quotas may be granted in response to progress reported by DAFM on commitments given by the sector to:

- systematic and structured engagement with DEASP regarding a potential source of labour from the live register and EEA-wide;
- training/upskilling;
- career development structures;
- commitment to examine the potential of innovation in the sector to ameliorate reliance on a model of low skill, low wage employment.

Such a scheme for the agri-sector was facilitated within the existing primary legislative framework by way of an amendment to the Employment Permit Regulations 2017, which commenced on 21 May 2018.

APPENDIX 5 - PUBLIC CONSULTATION

List of Submissions Received

1	TerroAlto Ltd.
2	Farm Relief Services Network
3	Chiropractic Association of Ireland
4	Home and Community Care Ireland
5	Permits Foundation
6	Irish Hotels Federation
7	Irish Racehorse Trainers Association
8	Alliance of Age Sector NGOs
9	Horticulture Industry Forum
10	Sage Support and Advocacy Service
11	MII

12	DTTAS
13	Tara Winthrop Services
14	PWC
15	CIF
16	HSE
17	TCD
18	Nursing Homes Ireland
19	IBEC
20	Globe Technical Services
21	Property Industry Ireland
22	EY
23	MRCI

24	Deloitte
25	Coillte
26	ICTU
27	IRHA
28	Brown Bag Films
29	American Chamber of Ireland
30	Private submission (requested submission not be published as it contains commercially sensitive information)
31	Failte Ireland
32	Care Alliance Ireland
33	IFA
34	Solarwinds

Table 5.1: Submissions to the public consultation

PRINCIPLE 1 – EEA PREFERENCE

What are your views on the role, relevance and value of the 50:50 rule and LMNT and which are provided for in primary legislation?

REF No	50:50 Rule	LMNT	Additional comments
1	Strongly support current rule	Strongly support current rule	Concerns regarding foreign language student permissions to work and negative effect on employment opportunities in hospitality sector
2	Small operation employers are unable to meet the 50:50 rule; proposal to meet criteria by applying the criteria to cooperative body/agency instead.	LMNT process skewered by applications made from those not eligible or satisfying unemployment benefit requirements.	
3	Causes severe difficulty when domestic market does not provide required applicants sue to unique nature of profession such as Chiropractic.	Prospective qualified employees in this sector will seek employment on the CAI website.	
6	Agree and in general agreement with 50/50 rule but consideration given to flexibility depending on employer situation to facilitate a reasonable case for exemption		
9	Approves continued use of 50:50 rule.	Advert should be with DEASP/Eures for two weeks plus EITHER local newspaper or jobs website for three days. National newspaper advert should be dropped.	Current LMNT for this sector should be reviewed as per data from Solas does not match labour shortages found in the sector
11		Review need for national print advert- has moved to online options	
13	Exception to 50/50 rule for care sector and reviewed after 24 months.	No issue except that newspaper advert is outdated – online adverts is used.	Issues in sourcing HCAs, 4266 HCAs required in the sector minimum.
14	Retain 50/50 however it should be removed for CforS: relevant person (company in Ire) has to sign declaration for 50/50 plus employment rights of permit holder who is not their employee.	National newspaper outdated and be removed – advertise on business or employment websites more appropriate, improved monitoring of applications.	Act for highly skilled sector, acknowledge present economic need for access to lower skilled however this should be on a critical market needs basis for a specific time frame, ongoing engagement crucial.
15	No issues with this valid approach.	No issues with this valid approach.	
17	Acknowledges value of rule.	3 rd level institutions have issue with 90 day rule – does not support early competitive sourcing of labour, time to submit applications, assess by Board, time to prepare and make travel arrangements, notice of cessation of employment, visa etc. before EP application may be submitted. – extend period for GEP adverts i.e. 120 day timeframe.	
19	Sensible and should be retained.	Review need for national print advert – moving to online.	Examine structural barriers to employment faced by workers in certain sectors due to current social protection regs regarding

REF No	50:50 Rule	LMNT	Additional comments
			hours/days of work and retention of ancillary benefits.
20	50/50 is a fair means of protecting labour market.	Use internet rather than [local] newspaper, newspaper obsolete as employer may also be undertaking headhunting practices.	
22	50/50 is sound safeguard. However, it should be waived for sectors experiencing skills shortages whilst the HSEOL is opened up for occupations within those sectors. Restriction of startup waiver is unfair to those companies not EI/IDA clients. Thus, waiver for first 2 years from date established on basis of a business case confirming strategy for Irish company and shows plans to hire Irish/EEA.	Minimal experience however delays with confirming EURES ad number/confirmation ad is on both sites.	However, difficulties in finding resources from within EU as the accounting qualifications of individuals from these states are not always recognised by Irish accounting bodies. Industry stakeholder groups by sector to discuss skills shortages/seek solutions.
23	Offers no added value to preference for EEA workers and creates barrier for employers seeking to fill shortages through the EP system. No data on the effectiveness of 50:50 or LMNT.	No data on the effectiveness of 50:50 or LMNT.	
26	Both 50/50 and LMNT critical to protecting the functioning of the labour market. Any alteration to these rules needs to be mindful of link between labour market standards and political stability.	Both 50/50 and LMNT critical to protecting the functioning of the labour market. Any alteration to these rules needs to be mindful of link between labour market standards and political stability.	
27	Not a problem at present or foreseen for the future.	Where there is an accepted shortage, the requirement for LMNT is costly and obstructive and is met long before any advert is made. If not removed at all for such scenarios then the need to advertise in a national newspaper is unnecessary and excessive – should be online.	
28		Can prove too restrictive and inappropriate as candidates predominantly search industry websites.	
31	Supports the value of the 50/50	Supports the value of the LMNT	
33	Apply a waiver for farmer employers – most enterprises are sole traders/early stages of growth only one/two employees	LMNT be reviewed in light of almost full employment and improving EEA economies	
34	In favour.	In favour.	

PRINCIPLE 2 – LABOUR MARKET RESPONSIVENESS

2.1 *An improving domestic and EEA labour market has an impact on job seekers choices. what are your views on making the employment permit regime less restrictive where the labour market is tightening or at full employment?*

2.2 *While EU-level analysis shows that Ireland is ahead of most EU member states in terms of linking market intelligence to labour migration policy, can the review of lists process described above be improved upon? How?*

2.3 *Should a business case for removing an employment from the ineligible list require that evidence must be provided by the relevant lead Department of efforts by the sector to (a) develop industry led models for improving the skills and productivity of the workforce; (b) to maximise opportunities for unemployed people; and (c) to address attraction and retention issues?*

Ref No.	2.1: Views on easing restrictions	2.2: Potential improvements to review of lists process	2.3: Removing occupations from ineligible list – elements for business case	Additional comments
1	Don't agree with making it less restrictive		Strongly in favour. Building skillsets domestically is as important as obtaining external candidates.	ICT experience/work history should be considered equivalent to degree/Masters for purposes of CSEP
2	No issue with lessening or increasing restrictions as long as there is cognisance of specific needs of specific sectors.	Increase public consultation through structured communication particularly on an interdepartmental way; invite key industry stakeholders to contribute.	Yes to all and is current practice in the dairy sector	Bear in mind individual needs of specific sectors – some are systemic rather than economic cycles
3	Absence of Chiropractic profession on HSEOL is problematic.	Policies appropriate for other sectors are causing difficulty for Chiropractic profession.	Depending on nature of profession or sector.	Unique nature of profession and training, lack of training facilities causes difficulties in sourcing labour.
4	Advocate for migration policy to allow migrant workers in home care to access labour force that will provide them with regulated employment and employment rights.	-	-	
6	Necessary to become less restrictive – hotel sector is labour intensive and struggles to compete with more profitable and less labour intensive sectors eg IT and construction.	LMNT alone should be sufficient to demonstrate need; placing of ad should be sufficient to deliver on employment permit. Minimum remuneration threshold should not be applied as employee is covered under same employment legislation as Irish employee.	It is appropriate to request relevant lead body to develop models to improve skills/productivity supported by reports from Gov Depts.	
8	Create sector specific permit for care sector – fast changing and reactionary, enhances worker mobility, especially in situations where conditions are poor.	More transparent and open process.		Work with DJE to develop transitional measures to allow undocumented sector workers access to EPs, modelled on the Reactivation Permit, allow families [employers] to formalise their worker employment, and enable access to tax relief for employing home carers

Ref No.	2.1: Views on easing restrictions	2.2: Potential improvements to review of lists process	2.3: Removing occupations from ineligible list – elements for business case	Additional comments
				Remove private home care, domestic, nursing home care etc from ICEL.
9	Become less restrictive; remove horticulture sector from ICEL; introduce seasonal EPs as per other EU countries.	Alternative methods of collecting data on labour shortages in the sector by SOLAS; Teagasc instigate regular labour market surveys/data capture; greater weighting to public consultation plus DAFM input in ICEL review	Yes lead Dept should administer such a system of delivering data; supported by agency/stakeholders; link capture of data with monitoring of industry improvements through existing programmes in some agencies;	A seasonal EP scheme would have Irish employers commit to appropriate safeguards at agreed rates, etc. Sector has tried to address retention issues; if EPs are restricted to particular sectors, retention/ mobility should be mitigated.
10	Allow for undocumented migrants currently providing support and care to older people to meet shortages.			Provision and planning to be prioritised – comprehensive understanding of shortages, engage a range of stakeholders including sector specific organisations
11	Become more adaptable and responsive in addressing critical labour shortages in specific sectors	Regular engagement with industry, recognising sector specific challenges, one size fits all policy will not work	In agreement with approach; recent business case submission for meat boner as an example.	Sector can ill afford to be further disadvantaged by labour shortages. Responsiveness of Gov to critical labour shortages should be enhanced.
12			Reference should be to 'relevant Department' rather than 'lead Department'.	There is not always one lead Dept in some sectors eg hospitality is a broad sector. There could be issues regarding supporting evidence/data possibly not available to a Gov Dept. Also DTTAS has no regulatory role for employment in the tourism sector.
13	To relax rules to allow permits for skilled health care assistants (HCA)	By engaging with the sector, i.e private employers in the sector rather than just public bodies		Nursing candidates awaiting registration enter work temporarily as HCAs.
15	Ability to input to review of HSEOL and ICEL is welcomed.	Sector representation on the front line of decision making – formal representation.	Agreed however arrangements for short term issues required as points a, b, c are longer term methods.	Construction sector is not represented on EGFSN/NSC and thus is not part of the decision making process
16	Should be targeted and reflect balance of labour market to be achieved.	Labour market intelligence based on sector's construction of future supply and demand scenarios for 5-10 year horizon.		
17	Only in exceptional circumstances temporarily, with salary thresholds, limits on EPs to employers etc. and provided 50:50 rule is met at all times.		Yes, based on facts.	

Ref No.	2.1: Views on easing restrictions	2.2: Potential improvements to review of lists process	2.3: Removing occupations from ineligible list – elements for business case	Additional comments
18	Become more constructive and flexible in granting employment permits.	Engage with specific sectors eg private and voluntary nursing home sector separately from the hospital sector and acknowledging difference in resourcing.	Despite efforts in the care sector to train, source labour with DEASP, shortages are still acute.	Difficulties in recruiting healthcare assistants. Candidates for NMBI work as HCAs while awaiting registration. Suitably qualified health care professionals become eligible for EPs, remove HCA from ICEL for a period of two years followed by review.
19	HSEOL is reviewed timely, engages with labour market intelligence and sectoral groups well.	Happy with methods of review re engagement and research undertaken, i.e. SOLAS, EGFSN etc.		
20	Reduce restrictions.	Yes, discuss with businesses skillset needed on biannual/yearly basis, elaborate/update list of eligible for GEP, CSEP, HSEOL and LMNT processes based on that.		Supporting roles such as Data analyst role with non-EEA language, knowledge of non-EEA markets at €27-30K to be added to HSEOL.
21	Construction sector facing serious skills shortages			
22	Relaxation of taxation sector roles and consulting roles on HSEOL based on skills shortages, difficulties with EP regulations recognising tax qualifications.	Input from industry groups discussing issues faced.	Open dialogue and discussions and happy to contribute to industry lead models.	ITI does not recognise foreign tax qualifications. Current HSEOL prohibits permits for those with extensive international tax experience from working in Ireland [proposed amendment to tax consultancy role on HSEOL].
23	Have clear regular channels for migration of workers for all skill levels to address critical issues of undocumented workers. Be less rigid and restrictive, be open and responsive with parallel process to address the needs of undocumented workers already in the State.	Not clear what available data sets are used during the review, how submissions are assessed, what informs the Department decisions. Eg ESRI report of Projections of Demand for Healthcare in Ireland not considered. Unclear how evidence from interested parties including worker rights/employer representatives are considered.		Lack of response to changing labour market has led to serious anomalies within labour market with undocumented migrants and international students.
24	Automatic work permission (stamp 1) to dependants of CSEP plus other work permissions i.e. EP or Stamp 4 permission. Plus option to work as freelance/self-employed. Also roles are changing and are no longer the stereotypical roles of the past, i.e. high skilled role required may not seem to fall	Difficult to provide data however forecasts of roles in the future business can be provided.		Ireland is missing out on a section of highly skilled workforce as access to DPS EP is subject to an offer of employment. Other countries have automatic work permission to dependants. eg UK they have full rights to work; in Australia they are included in

Ref No.	2.1: Views on easing restrictions	2.2: Potential improvements to review of lists process	2.3: Removing occupations from ineligible list – elements for business case	Additional comments
	within strict boundaries of HSEOL. Requirement for degree for HSEOL >€60k impacts ability to hire. Candidates may be qualified due to experience etc but not traditionally qualified but seek CSEP for family reunification purposes.			one approved application with visa holder and granted full work rights.
25				Proposal to add roles in the forestry sector to HSEOL due to labour shortages and lack of third level courses: Specialist Forestry professional & Contractor Infrastructure and Harvesting Machine Operators
26	Acknowledge reduced unemployment rate however Ireland's employment rate remains below the EU average. Prog for Gov commits to supporting the long term unemployed in return to work. First response is to look beyond live register and to potential labour supply – when adding discouraged workers, unemployment stands at 13.3%. Plus, those unemployed in the EEA/impact of Brexit/asylum seekers.	More pressing need to determine number of persons in the State on language school visas/number of hours employed.	It is the responsibility of the industries seeking amendments to make the business case. Unacceptable that line depts provide this service for private industry. With evidence of wage trends in the sector above min wage; lower than average WRC adverse findings; innovative practices; in order to become reliant on migrant labour at NMW/downgrading pay and conditions.	Introduction of a sectoral EP could lead to downward pressure on wages and conditions. Concession to sectoral employer groups should be accompanied by tangible commitments to engage in upskilling initiatives.
27	An efficient and effective system for bringing in experienced drivers so as to remain viable.	More dialogue with trade organisation and representative bodies.	Direct dialogue with representative bodies, level of evidence required can be a matter for DBEI.	
28	In favour of less restrictive regime in times of tightening labour market/full employment.	IDA involvement in creation of lists	Business cases based on supporting evidence plus on the basis of immediate and future needs.	
29		Current collaborative approach of the review process is welcomed. Recognition within the HSEOL process for non-typical roles. CSEP is currently catered to more traditional roles.		
31	Be less restrictive where labour market is approaching full employment. Skills needs may be primarily urban driven and should be evidenced based.			
32	Ease restrictions on permissions for migrant home care workers for the sake of their clients – current EP scheme is employer led			Migrant workers in the sector are subject to difficult conditions, essential to the

Ref No.	2.1: Views on easing restrictions	2.2: Potential improvements to review of lists process	2.3: Removing occupations from ineligible list – elements for business case	Additional comments
	cutting out family employers for home carers independent of organisations.			economy and clients, providing support to family employers.
33	Less restrictive and more responsive for agri sector – as in other EU countries such as Spain, Netherlands etc allows non-EEA workers in to supply the necessary labour	Include an agri sector representative on EGFSN. Vacancies are advertised outside of country so vacancies may not register with SLRMU. Teagasc, Bord Bia and DAFM and industry stakeholders to be consulted in the absence of other available data.	Support to a business case evidence based approach similar to DBEI's current participation and interaction with DAFM	EGFSN/SOLAS do not have the necessary market intelligence for primary agri sector as per their report.
34	In support of less restrictive regime that ensures a steady flow of workers, avoiding shortages adversely impact Irish labour costs.	Maximised by consultation with industry end users regularly, perhaps monthly.	All three are good however we would welcome an either/or option as a requirement for evidence, not all three.	

PRINCIPLE 3 – SKILLS SHORTAGES

This principle is primarily focused on the Critical Skills Employment Permit which is designed to attract highly skilled and experienced personnel who can seamlessly fill short term skills gaps in the domestic labour market. Do you have any observations on this principle, permit type and remuneration threshold?

Ref No.	Observations on CSEP
1	Support current CSEP in principle however recognition of skills/experience should be recognised as alternate to degree qualification
2	Currently no recognition of annual seasonal skills shortages.
3	CSEP required by the chiropractic sector.
6	Principle is not appropriate as it will impact wage costs and disgruntle existing staff – Dept cannot set salary scale with no resemblance to industry norm
8	Remove care work jobs – such as private home care, domestic work, nursing home care, specialist care assistants from ICEL.
11	Additional comments: EPs specific to sectors must take account of the existing pay levels/structures within the sector and remuneration set at that level [<i>ref to 27€ remuneration level which was difficult for some employers to meet – greater flexibility in calculation of certain reckonable factors in the determination of gross pay</i>].
13	To raise threshold would result in greater shortage of nurses – by barring new entrants to the workforce [alluding to INMO nurses] – private sector will not be able to hire newly graduated nurses as salary will not benchmark against INMO
15	Recognise value of CSEP but no direct experience. €30K is behind average annual earnings but it is a minimum salary and allows for discretion. SEOs sets entitlement for non-EEA to same salary as national employee.
17	Current salary thresholds for 3 rd level sector i.e. €37K should be considered when reviewing this remuneration.
19	Problems migrating from CSEP to Stamp 4 – better collaboration between DBEI/DJE.
20	Remuneration is appropriate.
22	Current €30K is appropriate for graduate population for highly skilled roles – therefore CSEP for graduates where salary threshold is maintained should be considered. An increase to €30K could affect ability to offer permanent contracts to trainees. Minimal increase to €60K could be considered but through industry discussion.
23	Defining a hierarchy of skills in relation to qualification and remuneration is ineffective in identifying and filling critical shortages that may be in lower paid sectors. Overqualification of migrants is a serious problem in Ireland – there is no formal mechanism for recognition of qualifications of foreign workers which traps migrants in low paid work.
24	More flexible in assessing CSEPs would be beneficial eg the role is not aligned with the SOC on the HSEOL but is a technically skilled role or the foreign national does not have the relevant qualifications but has the skillset and experience.
26	Should also demonstrate commitment to training and upskilling initiatives by employer. Remuneration should be set at ‘the prevailing rate of pay and conditions for the occupation or double average industrial earnings per annum whichever is the higher’.
28	Salary threshold and contract duration should be reduced – roles in shortage now but not on HSEOL would need to be offered €0K to be eligible but this is too high. Minimum contract duration of two years is too restrictive – contract nature of the sector means it is not always possible to secure such a contract; hire per project and often, cannot guarantee two years should a project expire beforehand.
33	Agri is a low- income sector with average income at €24K per enterprise. Encourage DBEI to retain a realistic remuneration threshold even at CSEP.
34	Index linked increase to the average industrial wage.

PRINCIPLE 4 – SECTOR PREFERENCES

4.1 *Should the employment permits system give preference to sectors, occupations or occupations within sectors?*

4.2 *Should submissions for removal of occupations from the ineligible list include up to date CSO data on GDP and employment growth for relevant sectors?*

4.3 *Can you recommend any other verifiable data/evidence?*

4.4 *Work is being led by DBEI to ensure sectors for future growth potential can be identified and anticipated. How do we factor some level of future proofing to ensure the regime can remain relevant in the fast moving, globalised and technically innovative enterprise environment?*

Ref No.	Q4.1: Sectors or occupations or occupations within sectors	Q4.2: Use of CSO data and projections	Q4.3: Other recommended data	Q4.4: Future-proofing	Additional comments
1	Preference to occupations – these can cut across many sectors	Possibly but aware of relevance to value of work experience	Wage inflation for specific roles but only if capability to react in short cycles	Current numbers however not indicative of future needs; knowledge of trends and emerging opportunities	
2	Yes – in consultation with industry stakeholders	Macro information is useful. However, the dairy sector also supports employment in other sectors with year round/seasonality employment	Updated Teagasc research, CSO, Revenue, ESRI, DEASP, independent surveys eg Dairygold	Consultation with industry experts on future sector patterns and scenario planning.	
3	If profession fits a critical skill preference should be given to it.	Not always relevant to the sector.	Consultation with Chiropractic Association of Ireland (CAI)	Open communication	
4		Uptodate data available from industry experts. EGFSN is out of date.			
6	Permits should be granted on foot of LMNT regardless of sector. Setting EP policy on sectoral basis is not appropriate.	CSO – yes but may be out of date or not reflect present state/local economic realities			
8	There are many jobs and sectors which are essential to the economy and society and whose impact goes beyond economic growth and GDP measures.				
9	Preference to sectors such as horticulture; this sector has higher labour needs	Relevant accurate objective data specific to the horticulture sector compiled/supplied by DAFM	Teagasc instigate regular labour market survey to capture required data		
11	Recognition of sectors of national importance eg meat processing.	Where CSO data is up to date and available,	Gov Depts/agencies EI/Bord Bia are regularly engaged with sectors and should be in a position to validate shortages	Regular engagement with Gov Dept/agencies, employers, sector reps,	Acknowledgement of challenges in the sector (wage/profit margins) when reviewing lists.

Ref No.	Q4.1: Sectors or occupations or occupations within sectors	Q4.2: Use of CSO data and projections	Q4.3: Other recommended data	Q4.4: Future-proofing	Additional comments
					Through Food Wise 2025 strategies and FoodWise High Level Implementation committee to address challenges facing the sector.
12		CSO data does not capture tourism as a sector, closest CSO data is 'food and accommodation' which is not a total of the sector.	Sectors rely on estimates of overall tourism employment from Failte Ireland.		Relies on data calculated by applying a multiplier to CSO accommodation/food figure but is the only tourism employment figure available.
13	A properly staff healthcare sector backs up the economy	Yes CSO	Health Service Capacity Review; ESRI Projection of Demand for Health; Hippocrates Modal, National Strategic Framework for Health Workforce Planning Sector monthly surveys, and consultation with the sector. DES statistics on college progression.	By reviewing data on the sector issues ie. ESRI projections of Demand for Healthcare in Ireland, etc., anticipating need by projected infrastructure	
15	Flexibility should be built in. Plan to facilitate responsive EP system in the event certain sectors, occupations or occupations within sector come under pressure – research required re transferability potential of skills between sectors.	Yes	Economic reports	System of periodical review / working with consultation with CSO and employer groups.	High proportion of electricians also work in the manufacturing and ICT sectors.
17	3 rd level is an important sector	Yes			
18	Yes, as care sector is important.	Yes	Consultation with private and voluntary sector on an ongoing basis to monitor and assess the situation	Continued monitoring of ESRI reports on healthcare and expansion/new builds should ensure growth is monitored	Impact on services and impact of inaction of request for HCA to be removed from ICEL listed.
19				Some sectors cannot be automated or innovative. Utilise Lower Skilled Occupations Visa [Canada] or Essential Skills Work Visa [New Zealand] as a method.	Increase duration of Stamp 1G permission [DJE], promote Ireland internationally as destination for ICT professionals i.e. techlifeIreland portal.
20	Preference to sectors. i.e. this sector may not need EP for engineer but other support roles may need EPs and difficulties encountered in pursuing them.	Yes, CSO data cross checked against industry needs (not just GDP). However other more real time data, revenue data i.e. info on industry that employee has hired, salary etc., to be taken into	Data from top companies re hiring/growth forecast, projected skills required to project need for EP. ESRI data to help forecast labour needs.	Annual meetings with EI, agencies with Irish companies to expose skillset needed. EI act as link between Irish enterprises and companies based in Ireland	Delays in projects if having to pursue GEP/LMNT.

Ref No.	Q4.1: Sectors or occupations or occupations within sectors	Q4.2: Use of CSO data and projections	Q4.3: Other recommended data	Q4.4: Future-proofing	Additional comments
		account when deciding on sector that employs percentage of labour. Regular sector meetings to update HSEOL.		and DBEI. EI collect data and liaise with DBEI.	
22	Preference to occupations only to ensure all sectors are given opportunity to use EPs.	CSO and employer submissions.	Consulting with industry groups. Quarterly meetings with representatives, utilising knowledge of Irish enterprise agencies.	Examine what contribution will be generated by particular industry and sectors to the State based on threshold/top performers, to ensure access to talent required. DBEI awareness of new ways of working, ie. Short notice labour, limited commitment, Gig economy.	Clarification re SOC codes – UK classification is by duties etc rather than just job title, i.e. mix of SOC code and job description to reduce uncertainty.
23	Preference to sectors and occupations that are essential and valuable.	GDP should not be only indicator of success. There is a need to introduce transitional measures for undocumented workers and a sectoral EP.	EGFSN work is useful but limited due to focus on skills needs over labour demand. EP system has become over reliant on EGFSN to identify shortages for removal from ICEL.		Evidenced based data not always the best source, some sectors too small to be represented. Data can be retrospective rather than predictive. Give EGFSN extra resources, expand its remit, more balanced focus plus other recommendations.
26	ICTU would not support system of sectoral EPs in the absence of JLC/SEO in the sector.	Labour shortages claims should be submitted to the Labour Court to seek observations from relevant actors in the sector to make a finding. Include information on distribution of earnings/numbers on language school visas/terms and conditions should be central to consideration in assessing for change to ICEL.	Sectoral breakdown of adverse WRC findings. Turnover in an industry.	Work of SOLAS is commendable. Provide today's students with broad set of transferable skills / making available upskills and reskilling opportunities for all workers.	Sectoral EPs worthy of further examination: would allow for mobility within sectors/give advantage to good employers. However, risk of downward pressure on labour standards in the absence of mechanism such as EROs/JLCs.
27	Yes, road haulage sector, specific to drivers.			Consultation with trade reps along with other interest groups working alongside this sector i.e. exporters.	
28	Preference to fast growing industries or those targeted by IDA etc.	Relevant Gov Department should source this information.	Data from the industry referring to internal time to hire info.	If a sector has been identified for future growth potential, this should be reviewed every 12-18 months.	

Ref No.	Q4.1: Sectors or occupations or occupations within sectors	Q4.2: Use of CSO data and projections	Q4.3: Other recommended data	Q4.4: Future-proofing	Additional comments
33	Sector prioritisation to agric, horticulture, dairy, pig and poultry.		All relevant uptodate information available from all sectoral agencies; Teagasc, Bord Bia, DAFM and Dairy Industry Ireland, MII and others.	Ensuring agencies and stakeholders from the sector are consulted and included in decision making process.	
34	With the option to review sectors and categories.	Yes but not the only data.	-	Regular and ongoing collaboration between DBEI/industry, annual reviews of sector requirements, annual DBEI organised meetings, opportunities to discuss issues with stakeholders.	

PRINCIPLE 5 – BALANCED APPROACH TO INNOVATION AND LABOUR MARKET

5.1 *How can we ensure judicious use of the employment permit regime in respect of low skilled workers? For example, where employments are removed from the ineligible list should they be subject to a maximum quota? If yes, what factors should be taken into account in determining an appropriate quota on an evidential basis?*

5.2 *While a short-term gap may need to be met, what about the longer-term impact in cyclical sectors? Should time limits be applied in respect of permits granted to low skilled workers?*

Ref No.	Q5.1: Use of quotas	Q5.2: Time limits to control for longer term impacts	Additional comments
1	Cognisance to be given to Impact of student visas and housing crises.	Dependency of businesses on student visas as a source of labour rather than training/retaining Irish/EEA	
2	Yes, backed up by current vacancy adverts, independent industry research, consultation with industry reps/stakeholders	Special consideration given to seasonal specialist vacancies such as in dairy sector.	
3	One set ruling on permit quotas is problematic.	Time periods may not always make sense where an employer can demonstrate a genuine need.	
4	Provide partial relaxation of ineligibility for GEPs to skilled workers for the sector.		
6	Quota determined by overall vacancies in the sector.	No – at renewal there should be no impediment to the application in terms of time limit.	
9	Support to maximum quota from roles removed from ICEL based on objective accurate up to date data that identified scale of demand i.e proposed Teagasc report	EPs for 10-20 months, employers commit to managed scheme with safeguards, agreed rates, accommodation etc.,	Efforts to improve automation but slowed due to competition/margins and pace of automation. Support a new EP for low skilled labour; seasonal EP as in Netherlands/Poland Formal conditions on employers as in other jurisdictions to minimise exploitation, eg. Netherlands/Australian/Finland schemes
11	Quota is one method; quota baseline should be sufficient to meet medium term needs; quota regularly reviewed and revised upward as necessary based on evidence from sector	No time limits, however EP option should be reviewed regularly as in via review of lists process	Reference to stifling of innovation and automation is concerning – this is not valid in some sectors and may not be a solution.
13	ESRI reports and forecasts in demand should be used as evidence and engagement with nursing home rep bodies.	Option for pre-registered nurses to be allowed work as HCAs on a temporary basis	Focus on funding apprenticeships in the sector. Allow family members to work unencumbered.
15	Maximum quotas should be set in line with level and duration of labour required.	Yes, set limits based on assessment of level and duration of labour required. Consultation with employer bodies.	
17	Yes, when removed from ICEL, quota should be introduced,	Removal from ICEL on an exceptional and temporary basis and subject to 50:50 rule.	
18		PreRegistered nurse should be given permission to work as HCA. Plus, suitably qualified non EEA health care professional should get employment permit.	Current request would be best met by free non quota model but opportunity to place a maximum quota with sector accurate evidence.

Ref No.	Q5.1: Use of quotas	Q5.2: Time limits to control for longer term impacts	Additional comments
20	Discuss quota needs with industry biannually/yearly and update/elaborate of what qualifies for GEP, CSEP, HSEOL and LMNT processes. Quota of EPs for critical skills that do not fall on the current HSEOL ie. 200 on a company by company basis.		
22	Quota system working alongside relevant further training and education institutions, i.e. Solas, estimating the shortfall in these sectors could be used to influence quota size.	Time limits appropriate to close down certain sectors as they improve.	
23	Does not support quotas. Data on what is the total requirement in a sector is not evident. Need to be validated in their efficiency. Incomplete stop gap and not used in other countries.		Seasonal or temporary permits are also difficult to monitor. Favours employers needs over worker rights. Option to change to longer term permits is important. Use of sectoral EPs for labour intensive sectors accompanied by other favourable rights and family reunification.
26		Creation of a system of short term permits is highly likely to increase the number of irregular over stayers plus experience of non-EEA crew in the Irish fishing under AWS does not inspire capacity for alternation of EP system.	Use of the Labour Court/Low Pay Commission views/properly resourced labour inspections – funded by employer levies.
27		No issue with quota system however must be reviewed effectively and closely monitored to ensure it meets the needs of the sector. Where quota is not fully utilised it should be considered there may be a problem obtaining the permit or limited use of permit. [may be misinterpreted that the HGV quota was time bound and has expired under-utilised].	Current remuneration of €30K for a GEP is too high – should be set at €27.5k as per meat boners. HGV subject to a quota so no issues with driving down wages.
28	A quota could be useful way of managing low skilled workers; would need to be based on industry data, e.g what roles were recruited in the last 12 months, how many on EPs, what factors of increase in recruitment is forecast for next 12 months.	Time limits should apply on all permit types, not just low skilled.	
33	Seasonal/short term requirement is needed therefore maximum quota is unlikely to be necessary. However, if applied, it must be set at a sufficient level to address needs.	Depending on the sub sector some permits may operate on a seasonal 6 to 10 month basis while longer periods may also be necessary.	

PRINCIPLE 6 – NET CONTRIBUTOR

6.1 *What are your views on the remuneration as provided for in law?*

6.2 *Do you have any views on these permit types, in particular the timeframe for which these permits can issue and the remuneration thresholds?*

6.3 *What should the minimum threshold for low skilled workers in occupations removed from the ineligible list be set at?*

6.4 *How do we mitigate against unnecessary shocks to the labour market or deflationary pressure on wages?*

6.5 *Low wage jobs may yield income below threshold for social transfers eg medical card, rent supplement, FIS (from 2018, working family payment), and local authority housing. should the remuneration threshold be set at a level which ensures the migrant can meet their (and family) basic social care needs without recourse to the state's resources?*

6.6 *How can we ensure that a lower threshold would be deployed only in circumstances where there is evidence of a labour shortage? should the negotiation of the grant of employment permits at a lower remuneration threshold be led by representatives of the state that have expertise in the specific sector?*

Ref No.	Q6.1: Remuneration	Q6.2: Permit types – duration and remuneration	Q6.3: Minimum threshold for low skilled workers	Q6.4: Mitigation against labour market and wage effects	Q6.5: Threshold to limit recourse to State's social supports	Q6.6: Matching lower remuneration threshold to labour shortage – led by State reps with sectoral expertise?
1	CSEP levels of €30K too low, €60K too high		€35K		Yes	Yes
2	Should be Index linked, industry specific	Internship/Exchange EPs should be renewable for at least one further year/season. Remuneration threshold should be in line with industry norms, regularly updated and supported by evidential data and pro-rata for seasonal roles		Match quotas to proven demand	Seasonal permits end-dated and renewable annually will mitigate against accumulation of entitlement and have no family reunification.	Yes with contributions from independent industry reps
3	Not appropriate to the sector but appears appropriate	No	No particular views	No particular views	No	No particular views
6	Remuneration based on industry norms.	6 months to two years with option to renew.	Industry norm for Irish/EU workers	Current legislation is adequate re minimum wage/conditions/terms and conditions .	No, workers pay same tax as Irish/EU and therefore should have recourse to State benefits.	Yes
8	Work with DJE to develop transitional measures to allow experienced and skilled undocumented care workers in the State to apply for EPs. Can be modelled on the Reactivations EP. Would allow families currently employing an undocumented home carer to formalise their employment. This would enable families to avail of tax relief available for employing home carers and also generate revenue.					
9	NMW	10-20 months				

Ref No.	Q6.1: Remuneration	Q6.2: Permit types – duration and remuneration	Q6.3: Minimum threshold for low skilled workers	Q6.4: Mitigation against labour market and wage effects	Q6.5: Threshold to limit recourse to State’s social supports	Q6.6: Matching lower remuneration threshold to labour shortage – led by State reps with sectoral expertise?
10	Salary for this sector role should be set to reflect skills of person, responsibilities of the role, some benefits can be included such as accommodation included in the remuneration package					Sector based permit would enable mobility for workers and flexibility
11	Where a specific sector demonstrates labour shortages and competitiveness challenges, they be taken into account and no salary threshold other than NMW is applied to such EPs. What makes up “salary” for an EP should be flexible.	Reference here made to processing delays/customer service/contact point in EP	NMW	Regular reviews and engagement, understanding of trends within sectors	One size fits all threshold does not fit - Meat processing plants are located in rural towns and villages that do not benefit from FDI.	Sector by sector approach; applying arealistic salary threshold will further undermine ability of sector to compete
13	Minimum annual threshold is a barrier to sourcing staff in the sector as it is above average pay for HCA in private nursing homes.	Time periods should factor in time to develop alternatives such as apprenticeships	Set at average graduate salary in Ireland with allowances for shift premiums etc	Regularly monitor the market	Flexibility in reaching the minimum salary threshold	Private sector has no manoeuvrability on salary level paid to employees as funding is determined by public sector (NTPF) and cannot compete of starting salary in public sector is benchmarked against nurse levels. Private sector in competition with public, private sector should be involved in negotiations.
15	Employer should not be obliged to provide accommodation, board/health insurance – admin burden.	No issues with timeframes.	Sector SEO provides minimum remuneration rates. Threshold should be reduced equivalent to entry level general operatives at €28K.	Capital investment plans will help mitigate against shocks to the construction sector.	No, wage rates should be based on the norm as set by SEO which are significantly higher than NMW.	Those negotiating permits for lower paid should have the expertise in the sector plus engagement with relevant employer bodies.
16				Labour market intelligence based on sector’s construction of future supply and demand scenarios for 5 to 10 year horizon.		

Ref No.	Q6.1: Remuneration	Q6.2: Permit types – duration and remuneration	Q6.3: Minimum threshold for low skilled workers	Q6.4: Mitigation against labour market and wage effects	Q6.5: Threshold to limit recourse to State's social supports	Q6.6: Matching lower remuneration threshold to labour shortage – led by State reps with sectoral expertise?
18	Remuneration of €30K for highly skilled with degree is not appropriate for HCA. HCA similar to graduate salary.		Set at average graduate salary inclusive of public hols/Sunday premium payment.	Salary to include premium pay/leave days to meet salary. Regular monitoring.	Flexibility in meeting salary as defined above.	Yes by sector reps plus National Strategic Framework for Health Workforce Planning Group.
20				By quota.	Yes	
22	Remuneration is fair.	Intra-CT EP: more efficient to pay some/all salary by Irish business. Burden of paying salary outside Ireland makes Ireland less competitive. Concerns that presentation of Intra-CT/CforS salary which is broken down is posing queries by immigration officers and consulates.				Re Intra-CT EPs, application form should allow for other allowances to be accounted for that are paid by employer in addition to base salary, housing, health insurance.
23	Minimum thresholds often become the ceiling rather than the floor. Graduate threshold is €27K, move GEP from €30K to €27K for lower skilled shortages. Explore use of different salary thresholds to prevent irregularity.				Until things are fairer, they should have access to WFP.	No two-tiered approach to EPs or family reunification rights, i.e. CSEP over GEP.
24	Candidates coming in at graduate level with investment in their future and training: take this into account in considering minimum levels of remuneration.					
26	Undesirable for mandatory wage thresholds to be set by way of administrative measure. Should be overseen by the Labour Court with established competence in the area. Link to average annual earnings should be restored and maintained. Benchmark of average annual earnings should be formalised in	Pressing need to address detachment from average industrial earnings which has developed in remunerations thresholds.	No lower than sectoral level. Open to parties to agree levels through JLC/SEO where in place. Otherwise wage levels should be set by Labour Court. Existing JLC framework be maintained.	Opening up EPs at minimum wage risks a shock to the labour market. Conduct a risk assessment of deflationary effect on wages by independent agency eg WRC/LPC. Adopt the Employer Sanctions Directive [to	Non-EEAs are required to pay social insurance and therefore eligible to claim social benefits. Levels be set at which allows migrants a socially acceptable minimum standard of living and a living wage.	Devolution of responsibility from DBEI for regulation of labour market/managing EP regime would give rise to approach being compromised and systematic overview of the labour market being lost.

Ref No.	Q6.1: Remuneration	Q6.2: Permit types – duration and remuneration	Q6.3: Minimum threshold for low skilled workers	Q6.4: Mitigation against labour market and wage effects	Q6.5: Threshold to limit recourse to State's social supports	Q6.6: Matching lower remuneration threshold to labour shortage – led by State reps with sectoral expertise?
	legislation and linked with CSO data.		High cost of living/housing need to be factored into min threshold.	address poor working conditions/pay in low paid sectors].		
27	Remuneration of €30K for GEP is too high. Should be set at €27k to make the permit more effective.				Social welfare regime should not dictate wage levels. Some employers are located in rural areas where cost of housing is lower. Ireland has the 2nd highest NMW.	Perhaps, each sector has special requirements which must be considered.
28	Current threshold for CSEP of €60K is too high.	DPS EP is too restrictive as it is dependent on a job offer. Employers are not always open to offering employment to such a permit holder. Would be beneficial if they could apply for the permit before the job offer.		As an employer we already have such a responsibility of such circumstances.		Unlikely that State reps will have expertise in all sectors; partnership with sector leaders is essential.
33	Average agric income is €25K therefore difficulties in reaching GEP thresholds.	GEP would be suitable for the sector provided it could cater for short term seasonal and year-round workers. Also, Exchange EPs could be considered for this sector.	Set at NMW, some already paying at this level. If higher, it would leave to wage inflation etc. Good experienced workers will receive salary above this level.	Managed through quotas, reviewed annually, taking economic and other factors into consideration.	Should be adequate to meet their needs without recourse but sector issues should be also taken into account.	DAFM and Teagasc have expertise in the sector and should lead this negotiation.
34	€30K should be index linked to ensure relevance and not become unrealistically too low.		Same as CSEP.	Index link wages to market or CSO data.	Yes, bearing in mind housing issues.	Collaborative partnership between Gov and industry best ensures appropriate thresholds.

PRINCIPLE 7 – EMPLOYMENT RIGHTS

Do you have any views on the arrangements in place to protect the employment rights of employment permit holders?

Ref No.	Q7: Employment rights
1	In support of employment rights for all employees
3	Appear to be adequate
6	EP holders have same protections as Irish/EU employees
8	Seeking more transparent and open process to the review of the lists and introduce a sector based EP for the care sector.
9	Support to current employment rights plus employers commit to conditions with appropriate safeguards i.e. agreed rates/accommodation.
10	Enable mobility between employments and sectors.
11	Acknowledge importance of upholding employment rights obligations.
13	Acknowledge employment rights, provide literature,
15	No issues
16	The public health sector is in compliance.
18	As part of induction, migrant workers are informed of their rights and addresses for organisations that can assist when difficulties arise.
22	Dependants of Intra-CTs/GEPs be allowed access to DPS EP. Permission to change employer within 12 months due to extenuating circumstances.
23	Option to move employers mitigates exploitation. Current system does not allow for sector based EPs. Sweden/Canada systems allow for occupational mobility/transitional measures. Irish labour laws provided with EP. Plus info on WRC, trade unions, MRCI.
26	Collective Bargaining is best protection of rights. WRC should be adequately resourced. Permit holders to receive WRC material on workers rights in their own language. Levy on processing charge to cover WRC translation costs. Levy applied to high risk sectors to resource WRC to safeguard against abuse.
27	Fully supportive of measures in place.
28	Our policy is to ensure all employees are treated fairly and consistently regardless of permit status.
33	Fully support employment rights of permit holders.
34	They are fair

PRINCIPLE 8 - LEGISLATIVE FRAMEWORK AND PROCESS

8.1 *What is your view and would you recommend amendments to the 2006 Act as amended to provide for more flexibility in the medium-longer term?*

8.2 *Do you have any views on the EPOS and any recommendations to improve?*

Ref No.	Q8.1: Amendments	Q8.2: Improvements to EPOS	Additional comments
1	Bring LMNT more uptodate	Excellent and efficient system	
2	Provide industry specific repeatable seasonal permits	No experience in using EPOS	Consider repeatable exchange permits for minimum of two successive years to maximise learning and foster long term ties with universities/individuals, reciprocal benefits, given to countries with transferable skills, language and complimentary peak seasons
3	Exclusion of chiropractic profession from HSEOL is causing huge difficulties – be open to appropriate and relevant input from sectors	No particular views.	
5	Allow dependants of CSEP holders direct access to employment through immigration system rather than via a separate work permit application; allow family members of Intra-CTs onto the DPS EP for employment with any employer or self-employment.		Act as per EU ICT Directive to allow access to employment for dependants of Intra-CTs.
6	Remuneration threshold should not apply; LMNT should only be advertised on EURES for two weeks; national paper adverts is waste of resources		Clarify if self-employment is allowed on a dependant's pass.
7	Remove experienced and skilled workers in horseracing from the ICEL.		
9	Remove advert in national paper – no longer relevant		
11	Sector by sector approach in handling EPs; legislation be amended to facilitate greater flexibility in administration of the EP scheme	Trusted Partner Initiative (TPI) has helped but still some processing delays/difficulties in making contact with EP, inconsistencies in information received.	Meat processing sector needs dedicated point of contact; system does not advise on an ongoing basis on quota used.
13	Legislation should leave room for improvement of systems and processes.	TPI is a good service and ensures employment rights are protected. Reminders for renewals when due.	
14	Extend the remit of eligibility for DPSEP to all permit types: allows lower skilled enter workforce where needed but supports attracting key talent; current restriction to CSEP starves the economy of potential pool of skills. Seeking changes to current inclusion of niche taxation experts with focus on non-EEA market – it restricts employers seeking tax professionals in roles that are not specifically limited to tax consultancy duties; confusion on CSEP/GEP rules.	Good system but improvements require re email notification receipt on payment / delays – review method by which emails issue. Examine repeated rejection of digital photo. Wet signature update rather than print and scan. View filed applications to reduce correspondence. Welcome plans to move Stamp 4 letter & reviews to online. Extend this to Statement of Loss (SOL). Concerns re 4 weeks for SOL plus delay in reprinting. Reissue of permit with original start date is unfair – option for future	Written clarity and guidance as to criteria for GEP for tax consultancy role.

Ref No.	Q8.1: Amendments	Q8.2: Improvements to EPOS	Additional comments
		<p>date. Remove requirement to send in passport photo with SOL.</p> <p>TP to maintain two-week turnaround, include wet signature for TP. Clarity on eligibility for TP status. Include non-EEA contactors.</p> <p>Permits issuing with indicative date that is now in the past due to processing delays.</p>	
15	Introduce flexible review mechanisms to address tightening	No additional comments.	
17	Amendment to of LMNT 90-day rule to 120 days.	List of documents required for each permit to be made visible prior to completion of online application.	
18		Nominated contact person. Email system to remedy any issues. Simple errors result in permit refused, loss of money and delays.	Permit holder and employer notified of permit expiry.
19		Processing delays for non-TP. No single contact point. Inconsistencies in information received – educate on guidelines/process.	
20	<p>Issue EPs to non-EEA role that is in the EEA area, [i.e. not specific to non-EEA experience requirements etc]</p> <p>GEP dependants able to join holder after six months instead of 12 months.</p>		
22	As referred to already including consideration for temporary employment policy which is reactive and supportive of labour market.	<p>Update legislation regarding P60s becoming obsolete and can therefore not be provided for in renewals.</p> <p>When entering TP ref no., employer details will populate.</p> <p>Online portal to lodge correspondence for EPs.</p> <p>Clarification of situations of change that require update to DBEI along with submission of details by portal.</p> <p>Online receipt email should show date of receipt as day lodged.</p> <p>Work time lost awaiting revised permit based on errors by DBEI. Also encroaches on visa applications. Track progress of amended permits.</p> <p>Delays in seeking SOL form in addition to four week period – lost work time/affect S4 request.</p> <p>No contract of employment in some instances.</p> <p>Issue electronic permits.</p>	
23	Use the Reactivation EP to facilitate undocumented to become regularised.		Introduce sectoral permits and transitional measures.

Ref No.	Q8.1: Amendments	Q8.2: Improvements to EPOS	Additional comments
	<p>Maximise experience graduates in employment here, reduce over reliance on graduates to meet shortages in labour.</p> <p>Enable those already in the State to access EP system by permits by means of a 'different' salary threshold to increase access to labour market [no figure given].</p> <p>Make GEP a sectoral permit, less rigid, grant worker mobility, renewable, as opposed to job/employer specific.</p> <p>Amendment to allow undocumented to submit cases under the remit of WRC rather than the EP Act.</p> <p>Measures in place to respond to undocumented workers already in the State.</p>		Address difficulties in regularising those working as carers.[undocumented], via transitional measures or schemes to regularise these workers. Work with DJE to regularise undocumented.
24	Allow for grace periods i.e. between employments, the Reactivation EP allows for those who have fallen out of system however no suitable options for those who have been terminated.	<p>Delays in transitioning from CSEP to Stamp 4.</p> <p>SOL form: make available online.</p> <p>Create efficient system of informing EP Section of job title changes/increase in salary.</p>	<p>Flexible approach to 12 month rule.</p> <p>Options and flexibility of permissions to cover employment outside of work permission types, i.e. bilocating in the State and another State, i.e situations that may arise outside of AWS.</p> <p>Single permission to work/ residence/ entry as opposed to seeking permissions from different Gov Depts. – greater levels of communication between Depts.</p>
26	<p>Flexibility is balanced with protection against shocks to the labour market: transposition of Employer Sanctions Directive.</p> <p>Changes to remuneration be set by Labour Court. Link to average industrial earning made explicit.</p> <p>Amendment to lists go before the Labour Court.</p>	Welcomed but should be risk assessed. Consideration of GDPR.	
27		More resources into technical support. Delays in getting updates, outstanding issues on applications.	
28	More flexible; i.e. placement of adverts in newspapers is outdated and time consuming.	Online system is an improvement however the UK system is much easier to use and would welcome a move to a similar system.	
29	Adopt international practice whereby dependant is either authorised to work on main permit or is provided an open permit to allow employment or self-employment rather than reliant on a job offer.	<p>Has provided shortened processing times.</p> <p>TPI is also welcomed as positive.</p> <p>Enhance customer service experience.</p> <p>Demonstrate consistency in policy and application to promote confidence and certainty in system.</p>	<p>Consider a unified system of work, residence and entry permission under one petition.</p> <p>Continued resourcing of the permit system to make Ire's regime the international benchmark in terms of alignment with forecasted skills needs</p>
33	<p>Difficulties with achieving current remuneration levels. Apply flexibility for the agri sector.</p> <p>Newspaper advert should not be compulsory.</p>		

APPENDIX 6 - EEA/INTERNATIONAL BENCHMARKING

Table 6.1 Demand for low skilled migration

State	Unemployment rate	Sectors with high labour demand currently experiencing growth	Economic migration levels (volume, growth)	Access controls for low skilled economic migration	Precluded categories of migrant workers (and reasons for exclusion)
Austria	Rate falling from 6% in 2016 to 5.5% in 2017	Information and communications; other economic services; Scientific Services; Upbringing & Education and Lodging & Gastronomy	Growing numbers of foreign nationals in employment (68% increase in 2017) - Other economic services, Transport & Warehousing, and Upbringing & Education are the sectors with highest proportions of foreign nationals.	Seasonal quotas for seasonal employment and harvesters determined by Regulation, set regularly for 'Tourism' and 'Agriculture & Forestry'. Seasonal workers have neither right of permanent residence nor permanent access to the labour market.	No
Croatia	Rate falling by 2.7% in the year to January 2018, to 12.7%	All sectors growing, with tourism & catering, construction and transport experiencing strongest labour growth	Employers more interested in TCN due to inability to compete for EU workers due to salaries and T&C offered. Number of new permits up from 2,000 in 2016, to 6,000 in 2017; for 2018 the quota is up to 21,200.	An overall quota and quota by profession is applied.	No
Czech Republic	2.3% (December 2017)	Automotive manufacturing, Construction	15,000 labour migrants (long term) in 2017. Much of the labour requirement in Czech Republic is low skilled labour for industrial production. Ukraine is the principal country of origin – but efforts to be directed at Mongolia and Philippines.	Labour market tests, employer selection, and quotas are used to control economic migration.	No
Estonia	5.8% (2017)	Construction, information and communication, and professional scientific and technical activities.	26% increase in temporary residence permits in 2017 (2,273).	No differentiation between high and low skilled workers, must earn at least annual average gross monthly salary	No
Finland	8.8% (Jan 2018)	Tourism, health technology, ICT, green technology	C. 15% increase in residence permits for work in 2017	While labour market needs assessment generally applies, seasonal workers are largely excluded from it ie TCNs in tourism or agricultural sectors <6 months and natural product pickers in forests <3 months.	No, other than public order or security.
Germany	3.6% (Jan 2018) - the 3 rd lowest in EU	Manufacturing, construction; wholesale/retail trade, transportation & storage, admin & support services. In Q4 2017 there	Up 13% year on year in Dec 2017 – fall in immigration from new EU Accession States and "GIPS" (Greece, Italy, Portugal and Spain); increase	Professional qualifications and labour market requirements. However, more restrictive conditions apply in respect of unqualified employment.	Restrictive conditions apply in respect of unqualified employment.

State	Unemployment rate	Sectors with high labour demand currently experiencing growth	Economic migration levels (volume, growth)	Access controls for low skilled economic migration	Precluded categories of migrant workers (and reasons for exclusion)
		was a 12% increase in the number of vacant posts over Q4 2016.	from Balkans, third countries in eastern Europe, and asylum seekers.		
Greece	23.6%	Tourism is undergoing a major strategic improvement.	Number of initial residence permits in 2016: 1,585.	Quotas by region and occupation and nature of work (ie dependant employment, seasonal work and fish work).	No
Hungary	3.8% (4 th lowest in EU) – ½ unskilled, and 1/3 low skilled	Admin services, health, IT and manufacturing	40% of work permits in 2017 were concentrated in retail trade & vehicle repairs, catering & information, and communication services. However, quantities not significant at 4,000 permits.	Labour market needs test. After work permit expires, TCNs must leave.	No.
Ireland	6.1% (Jan 2018)	Information & communications, industry, professional services, construction, agriculture, arts & entertainment	2017 – 11,361 permits granted, up from a low of 3,854 in 2013.	Most lower skilled occupations are currently on ineligible list. Labour market needs test Quotas 50:50 rule	Domestic employment – general skills should be available within EEA and employment rights difficult to monitor.
Italy	10.8% (Dec 2017)	Weak economic growth in 2017 (+0.9% of GDP). Labour demand on the rise in industry and services.	2016 – 30,850 permits (13,000 seasonal and 17,850 non-seasonal) 2017 – 30,850 permits (17,000 seasonal and 13,850 non-seasonal) 2018 – 30,850 permits (18,000 seasonal and 12,850 non-seasonal)	Quotas specific to nationality and category of worker	Limits can be set on the number of workers from those States not adequately co-operating in the fight against illegal immigration or readmission.
Latvia	6.8% (2017)	Construction, arts & entertainment & recreation, manufacturing, transport & storage.	Increase in permits from 3,982 in 2011 to 6,007 in 2016. In 2016 most permits granted to land & pipeline transportation, software programming & consulting, transport, repair & installation of machinery/equipment, catering services.	Labour market needs test TCN must be paid average gross salary which makes it economically ineffective to hire low skilled workers.	No
Lithuania	9.1%	Sectors experiencing high labour demand are industry, services and construction.	40,000 foreign workers (mostly Ukraine and Belarus) accessed labour market in 2017 – services, construction, industry.	Does not use concept of low skilled occupations. Has a separate category of employment requiring high level qualification.	N/A
Luxembourg	5.8% (Dec 2017)	Economy is focused on tertiary sector (financial services and	TCNs represent 3.7% of workforce.	Labour market needs test	No

State	Unemployment rate	Sectors with high labour demand currently experiencing growth	Economic migration levels (volume, growth)	Access controls for low skilled economic migration	Precluded categories of migrant workers (and reasons for exclusion)
		services in general) with high added value – not focused on low added value activities.			
Malta	3.2% (Q4 2017)	Admin and support services, professional, scientific & technical activities, arts entertainment & recreation	Number of TCNs employed between Dec 2013 and Sept 2017 increased by 50.4% (from 6,208 to 12,313). Amongst the top occupations filled by TCNs are cleaners, care workers, waiters, domestic labourers, construction, chefs, health care assistants.	Labour market needs test	No
Norway	4.1 (Dec 2017)	Fishing & aquaculture, admin & support services, real estate, accommodation and food, construction, professional, scientific & technical, arts & entertainment	2017 - 8, 046 permits granted to TCNs of which 2,800 for skilled and 2,600 for seasonal work	Annual quota for skilled and seasonal TCNs. Labour market needs test	If it is probable that applicant will not return to country of origin at end of stay – difficult for applicants from countries will high emigration volumes to get permits.
Netherlands	4.4% (Nov 2017)	Biggest growth sectors - Temping, travel, construction, hotel & restaurant, manufacturing, trade	7,700 work permits 2016	No policy on attracting low skilled labour migrants – do not have access to labour market	N/A
Poland	6.9% (Jan 2018)	Industrial processing, construction, trade, auto-mechanics, transport & storing	242,755 permissions granted in 2017	Occupation on regulated professional list Labour market needs test	No
Slovak Republic	5.88% (Jan 2018)	Shortage most visible in engineering sector - tool maker, CNC machine programmer, technicians & mechanics, machine & equipment operators	49, 519 (including EEA citizens) Jan 2018 up from 36,231 in Jan 2017 – highest increase in TCN workers	Specific seasonal employment industries identified Labour market needs test for certain categories	No
Sweden	6.3% (Feb 2018)	Construction, mining & production, transport & storage	32,294 first time residence permits granted to TCNs in 2017; up from 24,710 in 2016;	Labour market needs test. Stricter controls measure in certain sectors introduced in 2012 to prevent exploitation.	No
UK	4.2%	Distribution, transport, accommodation and food sectors	In the year ending September 2017, net long-term migration was estimated at 244,000, down 29,000 on the year; this decline was driven by a 58,000 decline in the number of EU nationals	No schemes targeting low skilled migrants – incidental uptake only (Youth Mobility Scheme, students, dependants of skilled migrants)	No (though when the Sectors Based Scheme was in operation, a temporary permission for certain workers in the food processing and hospitality sectors, hospitality

State	Unemployment rate	Sectors with high labour demand currently experiencing growth	Economic migration levels (volume, growth)	Access controls for low skilled economic migration	Precluded categories of migrant workers (and reasons for exclusion)
					workers were ultimately excluded due to abuse of the scheme)
Australia	5.5% (March 2018)			Economic migration programs are largely focussed on skilled migration. Operates two 'circular' temporary Pacific labour mobility programs for lower skilled workers	
Switzerland	2.9% (March 2018)			No immigration of low-skilled workers other than from EEA member states	
USA	4.1% (Feb 2018)	The fastest growing occupations include home help & personal care aides, bicycle repairers, massage therapists, rotary drill operators, oil & gas, nonfarm animal caretakers	Employment-based immigrant (permanent) visas are limited to approximately 140,000 per year and further limited by classification and country of birth. Certain, but not all, non-immigrant (temporary) work visas are subject to numerical limit by statute as well.	The H-2A (temporary agricultural) and H-2B (temporary non-agricultural) require prospective employers to show a demonstrated need for the migrant worker. The H-2B is also subject to an annual numerical limitation of 66,000 visas per year.	Certain low-skilled migrants – primarily individuals who have arrived in the U.S. illegally – are barred from legally participating in the U.S. labour market unless they receive an Employment Authorization Document through a legal program outside the employment-based visa process.

Table 6.2 - Pay for low skilled migrant workers

Country	State national minimum wage?	Separate min wage threshold for low skilled migrant workers (including level)?	If low skilled migrant pay is different from State minimum, how is the difference established?	Is the level set to meet social care needs?	Do low skilled migrant workers have access to additional state supports?
Austria	No NMW. Wage thresholds set by collective bargaining agreements (CBAs).	No	N/A	Annual wage agreements (the CBAs) take cost of living considerations into account	Some sectors have low wage levels agreed at minimum €1,500 gross/month
Croatia	Yes. Minimum wage (monthly) is €460. Wage can be lower (no less than 95% of min wage) if part of a CBA ⁴⁷	No	N/A	N/A	Some low skilled workers are offered accommodation and/or meals for free or small fee
Czech Rep	Yes - €470 (monthly) applies to all workers	No	N/A	N/A	Low skilled earning NMW typically lives in dormitory. No family reunification unless wage improves or spouse is also labour migrant. Subsequent family units are entitled to state social support i.e. child allowance/housing.
Estonia	NMW of €2.97 p/h / min monthly salary €500	No - equal to NMW for seasonal workers only – higher rate of average gross monthly salary for other migrant workers	N/A	Employer obliged to pay amount equal to annual average gross monthly salary to cover all basic social care needs. However, with exceptions eg. teachers ⁴⁸ , seasonal workers	No additional state supports however workers have access to State social services
Finland	Set by CBAs	No	N/A	Yes, intention is that minimum wage level is sufficient to cover needs.	If TCN with residence seeks family reunification, their salary must be sufficient to support them.
France	NMW and CBAs - €9.88 p/h - €1,383 monthly	No	N/A	NMW is calculated as such that specific additional state supports are not provided.	
Germany	NMW - €8.84 p/h And CBAs which are often higher than NMW	No	N/A	Ensure pay and conditions are equal to equivalent German workers.	Residence conditional on ability to support themselves, including health insurance, without recourse to public funds

⁴⁷ Source: "Minimum wage requirements within Europe in the context of posting of workers" KPMG Romania 2017

⁴⁸ Teachers have low rates of pay in Estonia

Country	State national minimum wage?	Separate min wage threshold for low skilled migrant workers (including level)?	If low skilled migrant pay is different from State minimum, how is the difference established?	Is the level set to meet social care needs?	Do low skilled migrant workers have access to additional state supports?
Greece	NMW of €22.83-€26.18 per day depending on age; €510.95-€586.08 p/m	No	N/A	Legal residing migrants enjoy same basic social care rights as nationals / education, health, access to housing is restricted for unemployed persons	All migrants regardless of residency have right to education/healthcare/social care structures operated by local authorities
Hungary	NMW or Guaranteed wage minimum which applies to jobs with certain quals/education	No	N/A		
Ireland	NMW €9.55ph/€19,376 per year	Yes. Employment permit minimum thresholds of €27-30K	Current permit thresholds based on 2006 annual average earnings	Set to be self-sufficient and without recourse to State benefits	Access to social welfare and health system same as any tax payer and dependent on residency
Italy	Set by CBA or by employer depending on sector	No	N/A	For residency, TCN guarantees an income equal to the amount of social check. Therefore, basic social care needs are covered by income	Access to social welfare system same as any tax payer
Latvia	NMW	Yes. All migrant workers paid average salary of €927 per month. Seasonal agricultural workers must not be paid lower than average salary for agricultural workers (which is a little lower than average salary)	Migrant workers must achieve average monthly salary, or average monthly salary for agricultural workers, rather than NMW	Sufficient to meet basic social needs	Foreign workers are not provided with access to additional state supports. Due to labour shortages discussion is ongoing to consider lowering the salary criteria for migrant workers
Lithuania	NMW €400 per month/€2.45 per hour	No. Employer must prove salary will not be less than national employee; no specific provision for lower skilled workers	N/A		
Luxembourg	Social minimum wage is applied to all workers: Min social salary for low skilled €1,998 per month. Minimum qualified: €2398 per month / highly qualified €73,998	No.	N/A	Residency depending on contract of employment with remuneration at least social minimum wage	

Country	State national minimum wage?	Separate min wage threshold for low skilled migrant workers (including level)?	If low skilled migrant pay is different from State minimum, how is the difference established?	Is the level set to meet social care needs?	Do low skilled migrant workers have access to additional state supports?
	annually or minimum of average gross annual salary of €59.198/40				
Malta	NMW €165.73-€172.15 depending on age	No	N/A		
Norway	No. By sectoral collective agreement for some occupations ie construction, restaurant, agriculture, set at €10-€19 per hour.	No	N/A	Set to cover health and safety, sick leave etc. Should be sufficient to meet social welfare and health costs. Full time employees should not need state support.	Residency depending on CBA.
Netherlands	NMW €1,578 per month, €364.15 per week/€72 per day; conforming with CBA	No	N/A		
Poland	NMW PLN2100/€13.70per hour. TCN salary should not be less than salary of other employees.	No	N/A	TCN salary cannot be lower than salary entitled to social aid (634PLN)	
Slovak Republic	NMW €480	No	N/A	State services dependent on payments into state social insurance system for a specified time period	
Sweden	CBA/customary for the sector	No but a migrant worker must earn at least SEK 13,000 per month (€1,249.89)	N/A	Minimum income of SEK 13,000 considered to provide for basic needs based on national norm. However, this level is not required to support family.	If resident for year or more, access to additional supports is provided.
UK	National Living Wage (NLW) £7.83 per hour for workers aged over 25, with 4 lower rates for younger workers in distinct age brackets	No	N/A	NLW is not linked to cost of living	
Switzerland	No – sectoral CBAs are used	No	N/A	CBA wage thresholds set to meet cost of living requirements	

Country	State national minimum wage?	Separate min wage threshold for low skilled migrant workers (including level)?	If low skilled migrant pay is different from State minimum, how is the difference established?	Is the level set to meet social care needs?	Do low skilled migrant workers have access to additional state supports?
USA	There are State and Federal minimum wage rates, and CBAs in some sectors. The Federal rate is \$7.25 per hour.	Yes – the highest of the adverse effect wage rate (AEWR), the applicable prevailing wage, the agreed-upon collective bargaining rate, or the Federal or State statutory minimum wage	The highest of relevant wage rates is applied to limit displacement of US workers	The provision of various benefits to ensure that the migrant workers basic needs are met is mandatory for their employers	
Australia	NMW	No	N/A		

Table 6.3: Seasonal Worker Schemes

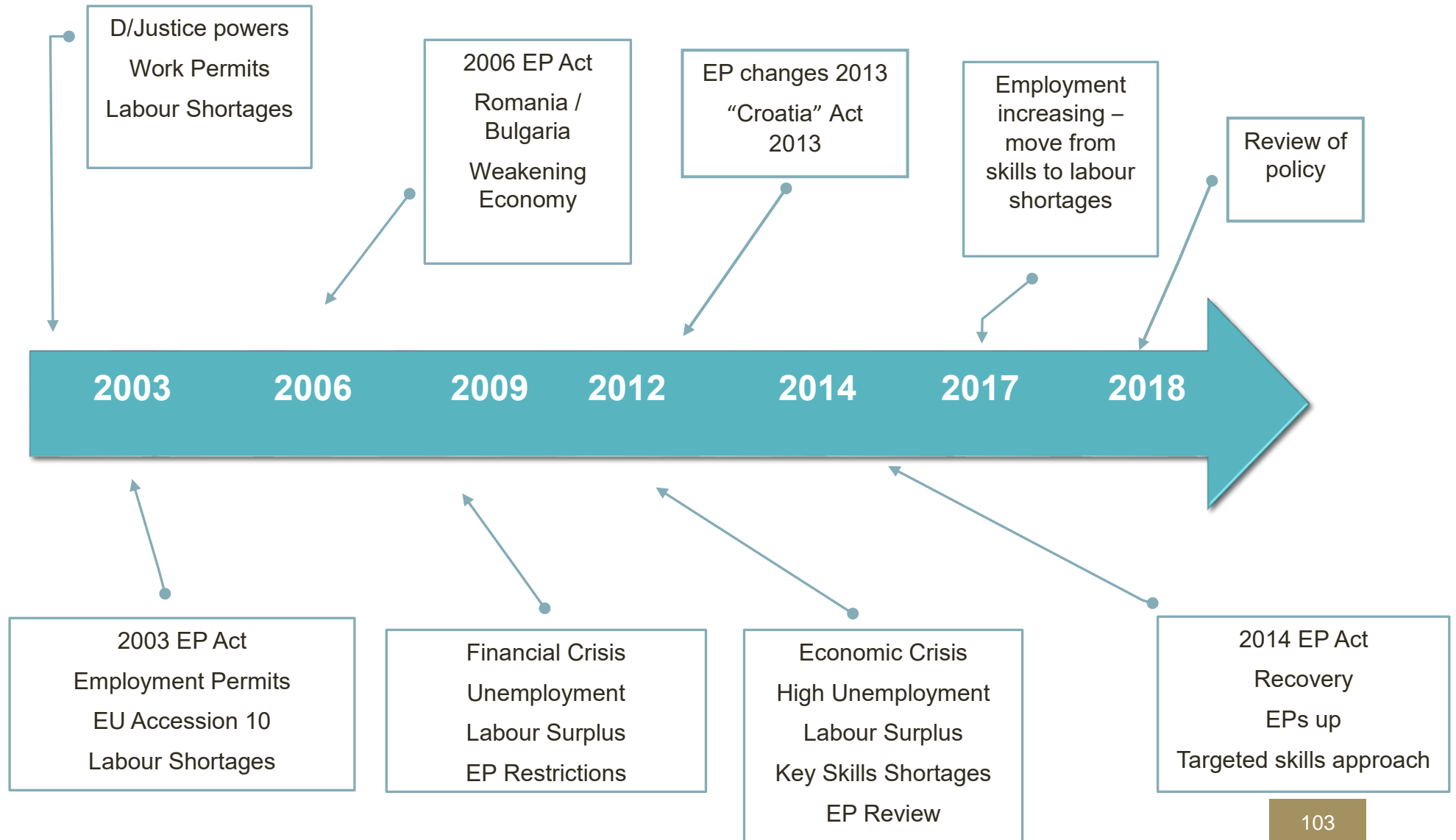
Country	Defined Seasonal Workers Scheme	Duration of Permission	Renewable or transferable permission?	Controls	Bilateral agreements?	Main non-EEA nationalities employed
Australia	Y	Up to 6 or 9 months (depending on country of origin) (Multi-year, multi-entry visa to be introduced in July 2018)	New application may be made after 5 months out of Australia	LMNT; arrangement of flights, transport, accommodation; arrangement of training (funded by Govt); Authorised employers only, reporting obligations;		Designated Pacific countries
Italy	Y	6 months	Renewable to 9 months; may re-apply; permission for 3 years available where workers has worked two seasons	Quota (35,000 in 2012)	Y	Bangladeshi, Moroccan
Sweden	N but specific rules apply for berry pickers	3 months		LMNT; the minimum salary is 13,000SEK (€1,251), proof of capacity to pay salary, proof of previous salary payments where relevant, life and health insurance, plan for accommodation, transport, and food for the worker		Thai
France	Y	3 years (6 out of every 12 months)	Renewable	LMNT; accommodation; must achieve minimum wage and equivalence with rate for similar EEA worker; no family re-unification		
Spain	Y	9 out of 12 months		Quota; Preselection of workers by appropriate authority in country of origin; minimum wage; proof of return to country of origin	Y	
Canada	Y	No more than 4 years of accumulated permission		Quota, LMNT; partially recoupable travel costs; pre-selection by appropriate authority in country of origin; provision of accommodation; registration for health and safety insurance; minimum remuneration	Y (Mexico; some Caribbean countries)	
USA	Y	1 year	Renewable to 3 years; new application may be made after 3 months out of USA	LMNT; wage thresholds; workers from specified countries		Mexican

Country	Defined Seasonal Workers Scheme	Duration of Permission	Renewable or transferable permission?	Controls	Bilateral agreements?	Main non-EEA nationalities employed
New Zealand	Y	7 out of any 11 months, or 9 months out of any 11 if from Tuvalu and Kiribati		Quota (11,100 in 2017); health insurance provision; no family reunification.		Designated Pacific countries
UK	N (discontinued)	6/12 months		Quota (SAWS-21,250 in 2012); accommodation; minimum wage		Bulgarian, Romanian

Table 6.4: Labour Market Needs Test

Country	LMNT	Shortage List/exemption	Advertising requirement	Advertising format	Mandatory interaction with state employment body
USA	Y	Specific temporary visa schemes apply to particular kinds of work eg H2B for hospitality type occupations, H1B for agricultural workers, rather than exemptions	Y within 180 days of application	Ad with State Workforce Agency and ad in major newspaper on 2 separate Sundays and 3 other ads and post a notice of the job at the worksite location	Y – Dept of Labor for prevailing wage determination, and State Workforce Agency
Canada	Y -TFWP	Y (limited)	Y within the 3 month period before application	Jobbank and two other recruitment options, one of which must be national, for 4 consecutive weeks	Y – use of Jobmatch service provided by Govt of Canada's Jobbank
UK	Y (Tier 2)	Y	Y	At least 2 ads for 28 calendar days, to run in the 6 months preceding the Tier 2 application	Y – ads with Jobcentre's Jobmatch service
New Zealand	Y	Y	Y	Mandatory advertising with Work and Income (Ministry of Social Development)	Y – Ministry of Social Development must provide Skills Match Report
Australia	Y (TSS visa)	N	Y within 12 months preceding application (6 months after 18 June 2018)	On a national recruitment website for 21 days, or in print or on radio or on an accredited business's website	N

APPENDIX 7 - EVOLUTION OF EMPLOYMENT PERMITS REGIME



Prior to 2003

Prior to the Employment Permits Act 2003, the employment permit system was run on foot of an order under Article 4 of the Aliens Order 1946.

There were two main methods of acquiring specific permission to work in Ireland:

- **Working Visa/Work Authorisation (WVWA) scheme**, introduced in June 2000, facilitated the recruitment of suitably qualified people from non-EEA countries for designated sectors of the employment market where skill shortages were particularly acute (ICT, construction professionals and medical professionals). Applications were processed at Irish Embassies and Consulates abroad. On arrival in the State they were given a Stamp 4 which allowed them to work without the requirement for an employment permit.
- **Work Permit** issued by the then Department of Enterprise, Trade & Employment was unrestricted in terms of the categories or skills of workers.

The minimum pay level for such permissions was the National Minimum Wage.

Between 1994 and 1999 the economy grew at an annual average of 8.5% as against an EU average of 2.3%. 2001 saw a sharp slowdown in growth to about 4.4% reflecting international circumstances. In light of setbacks in the economy and the rising level of domestic unemployment there was a concern that the demand for work permits was continuing to increase. In 1999, 6,000 work permits were issued in respect of workers from outside the EEA, a record at that time.⁴⁹ By 2002, this figure exceeded 40,000.

2003

The Employment Permits Act 2003 provided for the ten new EU Member States who from the date of accession on 1 May 2004 were no longer required to hold employment permits and were a very significant source of potential labour available to Irish employers outside the employment permit system. (In 2002, 35% of the 40,000 permits (13,752) were granted to non-EEA nationals from 8 of the EU Accession States - Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia, and Slovakia.⁵⁰)

The Act set out in dedicated primary legislation the requirement that foreign nationals should have employment permits, together with penalties for non-compliance by employers and employees. However, despite the sound statutory footing provided, much of the operation of the system remained administrative in nature.

Where the demand for work permits had continued to rise with 40,000 permits granted in 2002 despite a downturn in the economy which has seen the unemployment rate nudge marginally higher than in previous years, the ineligible list was introduced as an administrative control in 2003, along with a 4-week Labour Market Needs Test.

2006

The Employment Permits Act 2006 provided for further regulation in relation to the granting of employment permits, for example a statutory basis for the use of the highly skilled and ineligible lists. The four types of employment permit which could be applied for in Ireland were:

- Green Card

⁴⁹ Seanad Éireann Debate Vol. 172 No. 5, Employment Permits Bill 2003 [Seanad]: Second Stage, 3 April 2003

⁵⁰ Ibid

- Work Permit
- Intra-Company Transfer Permit
- Spousal and Dependant Permits

Despite the legislative framework, the regime continued to remain largely administrative enabling schemes such as the Macra Na Feirme Seasonal Workers Scheme⁵¹ to be established.

During the course of the economic boom the employment permit system was extensively used by employers to compensate for labour shortages at all skills levels across the economy. However, the administrative approach adopted led to a number of difficult legal challenges around the legislation and its implementation when the rationale for the employment permits regime changed as the economy deteriorated and unemployment levels rose.

2009

In 2009, the Government decided that entry to Ireland's labour market via the employment permits regime be minimised to ensure that every opportunity was provided to the unemployed. As a result, further criteria and tests were applied to the employment permit system, including extending the Labour Market Needs Test to eight weeks and applying it to renewals. Administrative policy changes also narrowed the applicability of the schemes in terms of eligible job categories and sectors. As a result, a lower proportion of applications were successful. Also, lower numbers of applications arose because of a lower demand for employment permits reflecting fallen levels of vacancies in the economy.

2012 - 2014

Arguably, the changes made to the employment permit criteria in 2009 and the concerns regarding the possible displacement of those unemployed resulted in contradictory objectives for the Department in that the regime was being asked to both minimise new entrants to the labour market while increasing certain categories of new entrants (in respect of ICT especially).

A key factor for economic growth in the Government's Action Plan for Jobs and other policy instruments was the continued growth of high-value export-based sectors. It was recognised that if those sectors did not have access to a skilled labour pool then they would be prohibited from growing.

In 2012 a review of economic migration policy was conducted and concluded that a new and more nuanced rationale was needed for an employment permit regime in an economy with an over-supply of labour on one hand while witnessing an under-supply of certain skills in key sectors.

New legislation was needed to clarify the statutory basis, and provide for more flexibility and targeted instruments in support of the economy's evolving skills needs. However, in the interim it was considered prudent to adjust the employment permits system to concentrate on improving

⁵¹ The Macra na Feirme Seasonal Workers Scheme operated in 2008/09, and was designed to facilitate a scheme operated by Macra na Feirme on behalf of the horticulture sector. The scheme provided for recruitment of students from horticultural colleges in the EU and Ukraine for placement with Irish employers for seasonal work from March to October. Students were rotated between employers and got varied work experience. As Macra na Feirme was acting as a *de facto* agent, the Department could not issue permits in respect of the non-EEA students it sought to recruit on behalf of employers in the horticultural sector. However, to facilitate Macra and businesses, the Department agreed in February 2008 with D/Justice arrangements for placement of the Ukrainian students with Irish employers during 2008, and which appears to have been extended into 2009.

customer service, focus on skills shortages, and reduce the administrative burden on applicants, including a reduction in the Labour Market Needs Test period from 8 weeks to 2 weeks.

The European Union (Accession of the Republic of Croatia) (Access to the Labour Market) Act 2013 amended the Act of 2003 to give legal effect to the Government's decision to allow Croatian nationals full access to the Irish labour market on the accession of Croatia to the EU from 1 July 2013.

Further amending legislation, the Employment Permits (Amendment) Act 2014, amended the Acts of 2003 and 2006 to:

- update provisions for the employment permits schemes in line with policy and economic developments since 2007;
- provide the flexibility to deal with changing labour market, work patterns and economic development needs which often require rapid response; and
- provide for a robust employment permits regime with greater clarity.

The purposes for which employment permits may be granted are now clearly set out in statute and underpinned by Regulations which determine matters such as eligibility, remuneration levels, documentary and registration requirements, and fees. If an application does not meet the specific and detailed criteria designated in the legislation and Regulations, it is not possible to grant an employment permit.

APPENDIX 8 - EMPLOYMENT PERMIT TYPES

The nine categories of employment permits provide for a range of types of migrant workers to enter employment legally in the State:

Critical Skills Employment Permit (CSEP) targets those who have the skills identified as being in critical short supply, in order to help drive our economic future. Permit holders can apply for immediate family reunification from INIS and once their dependants/partners/spouses are resident in the State they are eligible to seek any employment and apply to DJEI for a *Dependant/Partner/Spouse Employment Permit* which is currently issued free of charge. Permit holders may apply to the INIS for permission to reside and work without the requirement for an employment permit upon completion of the *CSEP's* duration of two years.

The current minimum annual remuneration is:

- €30,000 where the occupation is on the highly skilled list and the foreign national has a degree, and
- €60,000 where the occupation is not on the ineligible list and the foreign national has the necessary experience (not required to have a degree).

General Employment Permit (GEP) provides for skills of a more general nature where it can be demonstrated, following the application of a range of criteria including the Labour Market Needs Test (LMNT), that the employer was unable to fill the position from the Irish and EEA labour market and the occupation does not feature on the ineligible list. A *GEP* can be issued for an initial period of two years and can then be renewed for up to a further three years. After five years, the applicant may apply to INIS for long term residency.

The current minimum annual remuneration is €30,000, generally. However, there are reduced remuneration levels of €27,500, €27,000 and €22,000 for certain categories.

Dependant/Partner/Spouse Employment Permit (DPS EP) is ancillary to the *CSEP*, and has been designed specifically to enhance the attractiveness of Ireland to the *CSEP* holder or Third Country Researcher (Council Directive 2005/71/EC) and his or her family. Eligible dependant unmarried children, recognised partners (where recognised as such by INIS), civil partners, and spouses, who have been admitted to the State as family members of holders of these categories of employment permits and Researchers may apply.

The current minimum hourly rate is NMW/ERO/SEO.

Intra-Company Transfer Employment Permit (Intra-CT EP) facilitates the movement of personnel between international affiliates. Such staff movements enable multinational companies to rationalise their skills-base, transferring talent across sites as necessary. This permit type can be invaluable in the initial establishment of a foreign direct investment company. The permit holders remain in the employment of the foreign employer.

In terms of the criteria relating to the foreign national, *Intra-CT EPs* are strictly limited to the following eligible positions:

- Senior management earning a minimum annual remuneration of €40,000;
- Key personnel earning a minimum annual remuneration of €40,000; or

- Personnel undergoing a training programme earning a minimum annual remuneration of €30,000.

The duration of an *Intra-CT EP* is linked to the period of transfer. Permits may be granted for a maximum period of up to 24 months in the first instance and may be extended upon application to a maximum stay of five years. In the case of a trainee, the maximum period is 12 months and the permit is not renewable.

Contract for Services Employment Permit is used to facilitate the fulfilling of contracts won by foreign companies to service Irish companies. The permit holder remains in the employment of their foreign employer (i.e. contractor).

The current minimum annual remuneration is €40,000.

Permits can only be considered for the term of the contact. Applications may be granted for a maximum period of up to 24 months in the first instance and may be extended upon application to a maximum stay of five years.

Reactivation Employment Permit allows former permit holders who have, for reasons not of their own making, fallen out of the employment permits system to re-enter legal employment in Ireland. This permit type accommodates a humanitarian response where permit holders have met with difficult or abusive circumstances, and also facilitates former permit holders whose access to the labour market would otherwise be foreclosed by changes in legislation. The permit type is intended to prevent recourse by such persons to the 'black economy'.

The current minimum annual remuneration is NMW/SEO/ERO.

Permits may be granted for a maximum period of up to 24 months in the first instance and may be extended upon application by a further three years after which it is envisaged that a holder would apply for long-term residency from INIS.

Sport & Cultural Employment Permit (S&C EP) enables sports and cultural undertakings to employ foreign nationals with specialised skills in those spheres.

The current minimum annual remuneration is NMW/SEO/ERO.

Permits may be issued for differing periods depending on whether the contract of employment is full-time up to a maximum of two years, or seasonal. Permits may be granted for a maximum period of up to 24 months in the first instance and may be extended upon application by a further three years after which it is envisaged that a holder would apply for long-term residency from INIS. *S&C EPs* for seasonal work may be renewed where the contract of employment is extended and there is no break in service.

Internship Employment Permit allows students of foreign institutions to undertake temporary employments here, where the employment is on the highly skilled list and the internship is an essential part of their degree programme. *Internship Employment Permits* can only issue for a maximum period of 12 months and are non-renewable.

The current minimum annual remuneration is NMW/SEO/ERO.

Exchange Agreement Employment Permit (EAEP) facilitates non-EEA nationals who wish to participate in specified exchange programmes, such as the Fulbright programme. These exchange agreements operate on a reciprocal basis allowing Irish nationals to undertake research/employment in participating countries. *EAEPs* may be issued for differing periods up to a maximum of two years, depending on the type of exchange agreement.

The current minimum annual remuneration is NMW/SEO/ERO.

APPENDIX 9 - EMPLOYMENT PERMIT STATISTICS

Table 9.1: Number of employment permits issued

Year	Applications Accepted	Total Issued	Increase over previous year
2017	13,333	11,354	21%
2016	11,317	9,383	29%
2015	9,021	7,265	32%

Figure 9.1: New permits granted in 2016 and 2017 by sector

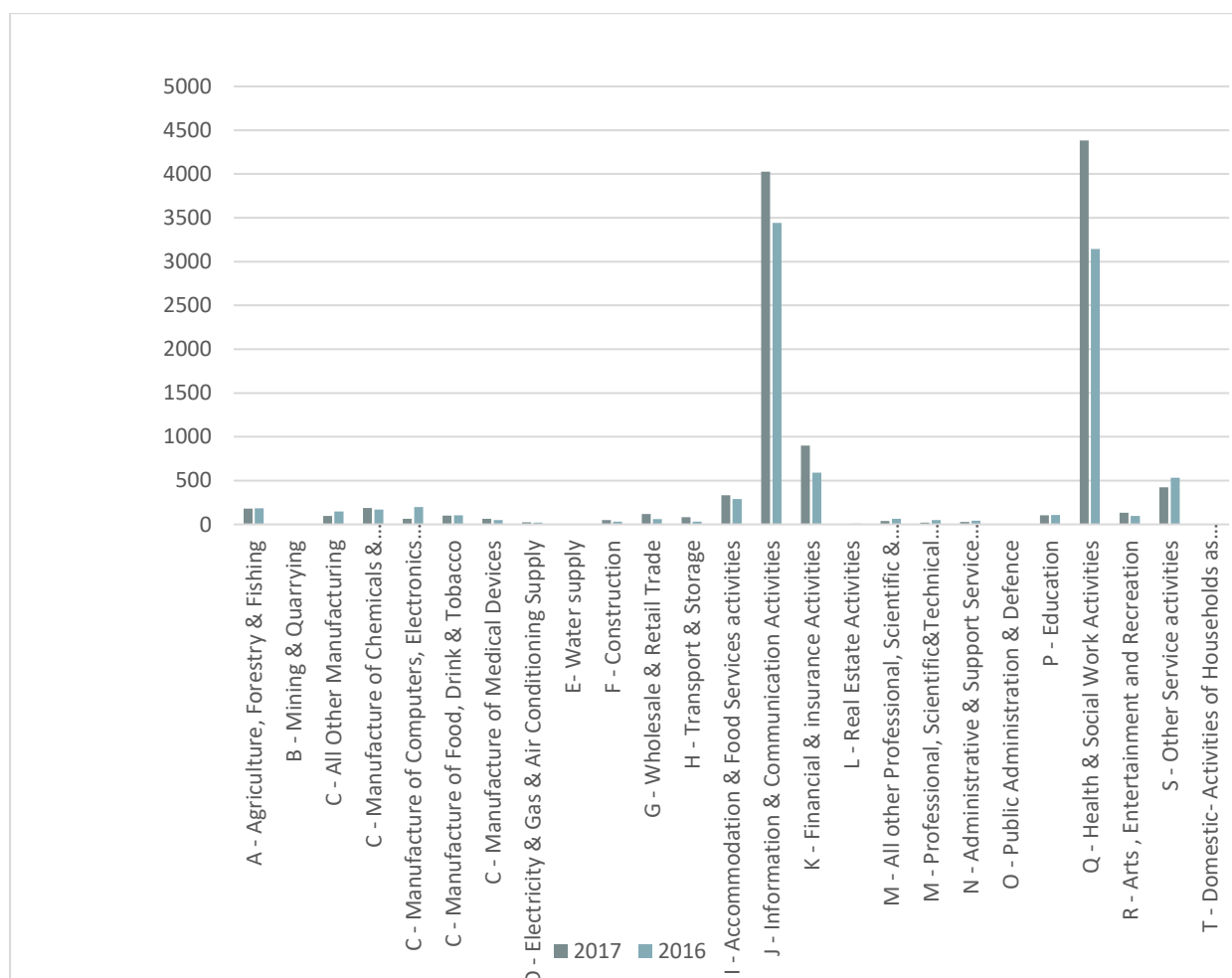


Table 9.2: Total live permits issued by permit type broken down by 'First Time', 'New Job', and Renewals

Employment Permit Type	2016				2017			
	1st time permit	New permits (1 st time permits + job changes)	Renewals	Total	1st time permits	New permits (1 st time permits + job changes)	Renewals	Total
Critical Skills	2856	3598	0	3598	4535	5108	0	5108
D/P/S	239	314	149	463	401	470	206	676
General	1636	2737	1297	4034	1897	2901	1452	4353
Intra-CT	563	815	188	1003	564	639	242	881
Intra-CT (Training)	16	17	0	17	28	33	0	33
Contract for Services	621	92	40	132	89	106	37	143
Reactivation	3	30	1	31	8	34	12	46
Sport and Cultural	46	49	10	59	54	57	10	67
Internship	26	29	0	29	28	28	0	28
Exchange Agreement	17	17	0	17	19	19	0	19
	Total permits granted for year			9383	Total permits granted for year			11354
	Total live permits			19,902	Total live permits			23,078

Table 9.3: Dependant/Partner/Spouse EPs granted in 2016 and 2017

Year		
2017	Total	676
	ICT Roles	107
	Remuneration over €30k	241
	Hold at least Primary Degree	328
2016	Total	463
	ICT Roles	101
	Remuneration over €30k	187
	Hold at least Primary Degree	304

Table 9.4: General Employment Permit applications subject to LMNT

Year	Total GEP Applications Received	Total Subject to LMNT		Total Subject to LMNT and Failed		Total Applications with LMNT Waiver Applied	
2016	4831	2765	57%	1857	67%	1341	28%
2017	5219	3359	64%	383	11%	1414	27%

The table below gives an indication of how many *CSEP* holders requested a letter of support from DBEI for their Stamp 4 application. A *CSEP* holder must be in continuous employment for 21 months before he/she can apply for the letter of support.

Of the 2,457 *CSEPs* granted during 2015, a total of 1,705 Stamp 4 requests were processed during 2017.

Table 9.5: Critical Skills Employment Permits leading to Stamp 4 requests

Year	CSEPs granted	Stamp 4 requests (2 years after CSEP granted)	% of CSEP that lead to a Stamp 4 request
2013	1,468	611*	42%
2014	1,794	1077	60%
2015	2,457	1705	69%
2016	3,595	n/a	n/a
2017	5,109	n/a	n/a
2018	2,370 (at 13 June 2018)	n/a	n/a

*DBEI only started issuing Stamp 4 letters of support in April 2015.

APPENDIX 10 - REMUNERATION AND BENEFITS

The following is a collation of information in respect of remuneration.

Current rate of NMW

Since 1 January 2018, under [the National Minimum Wage Order 2017](#), the NMW for an experienced adult employee is **€9.55** per hour.

Under the Employment Permits Act, 2006, as amended, the “*standard working week remuneration*” means the weekly remuneration a permit holder would receive if he or she were to work 39 hours at the NMW rate of pay. A permit holder cannot be paid less than the “*standard working week remuneration*”. On the basis of a 39-hour week, the annual NMW is **€19,367**.

Purchasing Power Standard

Comparisons across countries on minimum wage levels are potentially problematic due to exchange rate movements and differences in the cost of living across countries. To overcome these differences, minimum wages are often converted to common purchasing power standards.

While the argument is made that Ireland has a relatively high minimum wage rate, if the minimum wage is expressed in purchasing power standards (PPS), Ireland’s second highest minimum wage level drops to sixth highest in comparison to other EU countries within its group (Jan 2018). Ireland’s purchasing power is just behind that of the UK, while being ahead of that of France, Netherlands, Germany, Belgium and Luxembourg.⁵²

Rate of Employees on NMW

CSO 2016 reports that an average of 10.1% of employees for whom earnings data was reported, earned NMW or less between Q2 and Q4 2016⁵³. Latest figures from the CSO, not yet finalised, indicate the percentage has gone down to 8.8% for 2017.

Descriptive Analysis of Persons on NMW

The ESRI’s 2017 study of minimum wage in Ireland⁵⁴ found that in 2014:

- Under 5% of workers were in receipt of NMW.
- Women were over twice as likely to be earning NMW as men – 6.9% compared to 2.7%.
- At 9% the incidence of NMW pay among non-Irish nationals was twice that of Irish employees.
- NMW incidence is almost three times higher among part-time workers compared to full time equivalents⁵⁵;

⁵² Source: http://ec.europa.eu/eurostat/statistics-explained/index.php/Minimum_wage_statistics

⁵³ Source: <http://www.cso.ie/en/releasesandpublications/er/q-nmw/QNHS-NationalMinimumWageSeriesQ42016/>. The NMW question is asked as part of the QNHS (now the Labour Force Survey).

⁵⁴ Maître B, McGuinness S, Redmond P, A Study of Minimum Wage Employment in Ireland: The Role of Worker, Household and Job Characteristics (ESRI, Nov 2017)

⁵⁵ Important to note that, with the exception of the *Dependant/Partner/Spouse EP*, permits are granted for full time employment.

- Employees in receipt of NMW are more at risk of poverty than non-NMW workers – 28% of employees on the NMW in 2014 were from deprived households, compared to 19.5% of workers earning above NMW;
- NMW employees are much more likely than average to be secondary earners.

Table 10.1: QNHS - National Minimum Wage Estimates Quarter 2 - Quarter 4 2016

Indicator	Q2 2016	Q3 2016	Q4 2016	Average Q2 to Q4 2016
Employees reporting earning National Minimum Wage or less ('000)	173.2	157.6	134.5	155.1
Employees reporting earning more than National Minimum Wage ('000)	1,341.0	1,376.0	1,423.5	1,380.2
Not stated ('000)	154.8	164.8	156.1	158.6
Total ('000)	1,669.0	1,698.3	1,714.1	1,693.8
Proportion of employees reporting earning National Minimum Wage or less (%) ¹	11.4	10.3	8.6	10.1

¹ Note: Denominator excludes employees whose National Minimum Wage status was *Not stated*

Minimum Wage Systems across EU

Minimum wage systems vary considerably across the EU. Some are defined for the entire labour force ie national statutory minimum wage which applies with no exception (20 out of 31 countries within EEA and Switzerland). Others apply only to part of the labour force eg collective bargaining agreements (CBAs). Sweden is the only EU member state that does not have a legal minimum requirement.

What is included in the minimum wage differs greatly. For example, in Croatia per diems and cost of living allowances cannot be considered as part of NMW; in Iceland cost of living allowance and bonuses are considered part of NMW. Ireland considers for example, per-diem, cost of living allowances and bonuses as part of NMW.⁵⁶

Ireland has the second lowest employer's tax rate for minimum wage. It is lowest in the UK (17.15%) and highest in France (87.59%).⁵⁷

Access to Health Services⁵⁸

A person living in Ireland for at least one year is considered by the HSE to be "ordinarily resident" and is entitled to either full eligibility (with medical cards) or limited eligibility (without medical cards) for health services. People who have not been resident in Ireland for at least one year must satisfy the HSE that it is their intention to remain in Ireland for a minimum of one year to be eligible for health services.

⁵⁶ It is important to note that while NMW includes all amounts of payments and any benefit in kind specified in Schedule 1 of the NMW Act 2000, for an employment permit, the fixed/basic salary for a permit holder shall not be less than the NMW rate of pay. In other words, such elements of a remuneration package as public holiday pay, shift premium or bonuses cannot be included in the remuneration package in order to achieve the minimum remuneration threshold for an employment permit.

⁵⁷ Source: "Minimum wage requirements within Europe in the context of posting of workers" KPMG-Romania, 2017

⁵⁸ Source: DoH and HSE

The HSE assesses applications for medical cards on a qualifying financial threshold. This is the amount of money that can be earned a week and still qualify for a card. It is specific to the individual's own financial circumstances.

Basic Rate

The basic rate is a fixed amount. It is determined by age, marital status, living situation and if there are any children. It is lower for a medical card than it is for a GP visit card.

- Single person living alone aged up to 65: €184 for medical card and €276 for GP visit card
- Single person living alone aged 66 and over: €201.50 for medical card and €302 for GP visit card
- Single person living with family aged up to 65: €164 for medical card and €246 for GP visit card
- Single person living with family aged 66 and over: €173.50 for medical card and €260 for GP visit card
- Married, co-habiting couple/single parent family aged up to 65 with dependants: €266.50 for medical card and €400 for GP visit card
- Married, co-habiting couple/single parent family aged over 66 with dependants: €298 for medical card and €447 for GP visit card

Additional Rates for Dependants

- First two children under 16 financially dependent on applicant: €38 for medical card and €57 for GP visit card.
- 3rd and subsequent children under 16 financially dependent on applicant: €41 for medical card and €61.50 for GP visit card.
- First two children over 16 financially dependent on applicant: €39 for medical card and €58.50 for GP visit card.
- 3rd and subsequent children over 16 financially dependent on applicant: €42.50 for medical card and €64 for GP visit card.
- A dependant over 16 who is in full time 3rd level education, not grant aided: €78 for medical card and €117 for GP visit card.

Example 1 - Medical Card

John lives in rented accommodation. He pays €800 per month in rent. He drives to work 5 days per week.

Basic rate allowance	€184 Fixed amount applied to single person living alone aged below 65
Dependants	n/a
Weekly rent payment	€184.62
Travel to work allowance	€27 Calculated on distance travelled to work at 18c per kilometre
Qualifying Financial threshold	€395.62

If John has weekly net earnings of €395.62 (€20,572 pa) or below, he will qualify for a medical card.

Example 2 - Family GP Visit Card

Basic rate allowance	€400 Fixed amount applied to married couple/single parent families aged below 65 with dependant children
Dependants	€57 per child
Weekly rent payment	€276.92
Travel to work allowance	€14.40 for Mary, €28 for Patrick Calculated based on petrol usage for Mary and weekly Leap Card fare for Patrick
Childcare Costs	€300
Qualifying Financial threshold	€1133.32

If the couple has combined weekly net earnings of more than €961.82 (€50,015) but less than €1133.32 (58,933) the family will qualify for a GP visit card.

Annual Cost of Medical Card and GP Visit Card Eligibility

The following table details an indicative cost of providing medical card and GP visit card eligibility to individuals within the various age cohorts.

The annualised individual eligibility cost detailed in the table is based on the actual spend for the 12-month period to December 2017. The underlying drug cost has taken into account the savings resulting from the Drug Framework Agreement.

Table 10.2: Annual cost of medical card and GP visit card eligibility

Age Cohort	Medical Card				GP Visit Card			
	Pharmacy	GP	Other	Total Cost	Pharmacy	GP	Other	Total Cost
0 - 4 Yrs	€128	€234	€15	€377	€0	€226	€15	€242
5 - 15 Yrs	€118	€99	€8	€224	€0	€154	€11	€165
16 - 44 Yrs	€419	€147	€58	€623	€2	€138	€10	€150
45 - 64 Yrs	€918	€216	€95	€1,229	€4	€202	€15	€221
65 - 69 Yrs	€1,276	€237	€108	€1,621	€6	€226	€16	€248
Aged 70 and over	€1,542	€483	€119	€2,144	€4	€461	€34	€498

It should be noted that the card utilisation rate of individuals with eligibility added / removed in 2018 may not be at the average eligible individual cost rate as detailed in the above table.

Access to Social Housing

A non-EEA national on an employment permit could be considered for assessment for social housing supports after two years.

There are currently three maximum net income limits (after tax, USC etc) for eligibility for social housing supports in each housing authority, with income being defined and assessed according to a standard Household Means Policy. Maximum income limits per individual (main applicant) are set at €35,000, €30,000 and €25,000 (the limits are higher for households with multiple adults and with children). The €35,000 limit would correspond to a gross salary of more than €48,000

(by way of comparison the average annual earnings figures is approximately €36,000 at present)⁵⁹.

Access to In Work Benefits⁶⁰

Family Income Supplement (from 2018, the Working Family Payment)

WFP is calculated on the basis of 60% of the difference between the income limit for the family size and the assessable income of the person(s) raising the child(ren). The primary element in assessable income is gross pay minus tax, employee PRSI, Universal Social Charge and superannuation (including the Public Service Pension Levy and contributions to Personal Retirement Savings Accounts.) Other income (e.g. from renting out property) is also assessed, but the income test does not assess capital.

The WFP income limits in 2018 are as follows:

Family size	Weekly family income limit
One child	€521
Two children	€622
Three children	€723
Four children	€834
Five children	€960
Six children	€1,076
Seven children	€1,212
Eight children	€1,308

Working while on JA

Someone claiming Jobseeker's Allowance (JA) can work for up to three days a week and continue to receive payment for the days they are unemployed, provided they continue to satisfy the means test and the normal qualifying conditions for Jobseeker's Allowance.

Assessment of Earnings

Earnings from employment are assessed by taking gross weekly earnings and deducting payments for:

- PRSI (Pay Related Social Insurance)
- Pensions (including the pension levy)
- Trade Union subscriptions

A daily disregard of €20.00 a day is applied for each day worked up to a maximum of 3 days (€60.00). This daily disregard is combined for the number of days worked and deducted before income is assessed.

⁵⁹ The limits are currently being reviewed.

⁶⁰ Source: DEASP

After subtracting the allowable deductions and applicable daily disregards the value of the remaining balance is assessed at 60% and taken as the weekly means from insurable employment.

Example: Part-time work and Jobseeker's Allowance (2017 rates)

Take a single person on Jobseeker's Allowance, normally entitled to a payment of €193.00 a week. When s/he finds two days full-time (8 hours per day) work, the assessable earnings, after the allowable deductions, is €200. Her new rate of Jobseeker's Allowance (JA) is calculated as follows:

Earnings for two days (€100 per day x 2 days)	€200.00
Earnings disregard for two days (€20 per day x 2 days)	€40.00
Assessable income from employment (earnings €200 – disregard €40)	€160.00
Income assessed at 60% (€160 @ 60%) = Weekly means	€96.00
New rate of Jobseeker's Allowance (€193 - €96 means)	€97.00

Numbers of non-Irish Nationals Involved

WFP can arise from the commencement of employment, and may be paid even if the dependant children are resident abroad. Casual or part-time claiming of Jobseekers' payments is likely only after some period of full-time employment, and to be initially limited to Jobseekers' benefit. The likelihood of claiming will increase with the duration of stay in the country and of employment in a sector/occupation prone to casual, part-time and other forms of non-standard employment contracts.

In February 2018, there were 57,300 recipients of WFP, of whom 30% were not Irish nationals. There were 50,300 people claiming jobseekers' payments while working in either casual or part-time jobs; of these, 22% were not Irish.

Where employees on work permits are working for relatively low rates of pay, this will tend to set the rate and conditions for other workers in the same occupations and sectors. The impact on in-work benefits will not, therefore be limited to take-up of the relevant benefits by those on work permits, but will spill over to take-up by other categories of workers.

Other Non-Statutory Research

The Living Wage Technical Group has established a methodology for calculating the living wage in Ireland. The members of the group are the Vincentian Partnership for Social Justice (VPSJ), the Nevin Economic Research Institute (NERI), Social Justice Ireland, SIPTU, TASC and Unite.

Its research indicates that, at present, a living wage for a single person (without children) would be €11.70 per hour, assuming a 39-hour week (€23,728 pa)⁶¹.

Low Skilled Worker Schemes in other Jurisdictions

New Zealand

In 2007, New Zealand introduced the Recognized Seasonal Employers (RSE) Scheme to fill seasonal labour shortages in the horticulture and viticulture industries. Under this scheme,

⁶¹ Source: www.thelivingwage.ie

employers can apply for RSE status and then apply to fill vacant seasonal positions for which there are no New Zealand applicants. At present, seven Pacific countries hold Inter-Agency Understandings with New Zealand: Kiribati, Samoa, the Solomon Islands, Tonga, Papua New Guinea, Tuvalu, and Vanuatu. Migrants from the Pacific may be issued visas to remain in New Zealand for up to seven months (nine months for migrants from Kiribati and Tuvalu) and may be selected and approved to return in following seasons.

The migrant worker must be paid no less than the New Zealand minimum wage rate (currently \$16.50/€9.78 hour). Among other things, employers are required to pay for half of their employee's international air fare, and ensure that workers have access to suitable accommodation, medical insurance, translation, access to religious and cultural activities, food and health services. Any worker deductions must be agreed and pre-approved to ensure they are reasonable. Workers admitted under this programme cannot transfer to another type of visa and are required to return at the end of their visa/contract. The RSE category has up to 9,000 places available nationally per year.

UK

The Seasonal Agricultural Workers Scheme (SAWS) operated from 1948 until the end of 2013, bringing in migrant farm workers for a period of up to six months. After six months workers could remain in the UK but, with few exceptions, they were not permitted to work as an employee.

SAWS was modified over the years. In 1990 the scheme became a quota-based system, beginning with an annual quota of 5,500 workers. Before the closure of the scheme in 2013, SAWS had reached a quota of 21,250, a four-fold increase from the original 1990 quota. Forty per cent of the quota for SAWS was reserved for Bulgarians and Romanians in 2007. From January 2008 until its closure at the end of 2013, the scheme was reserved exclusively for nationals of Romania and Bulgaria.

SAWS workers were tied to the farms on which they worked. They could switch between farms but only with the permission of the operator. The SAWS workers were generally accommodated on the farms by the farmer who employed them, although the workers could choose to find their own accommodation if they wished.

The Sectors Based Scheme (SBS) was first introduced in May 2003 and initially covered the hospitality sector as well as the food processing sector (fish, meat and mushroom processing). In July 2005, the SBS coverage of the hospitality sector was terminated. This was the result of indications that the labour requirements of the sector could be met without the scheme, in addition to evidence that the scheme was being used as a means of facilitating illegal entry. From the beginning of 2007 the scheme was restricted to Bulgarian and Romanian nationals.

SBS permits were issued for a maximum of 12 months after which the migrant worker could remain in the UK if they were able to support themselves and any dependants.

It was a condition of the permit that the gross pay and conditions of employment equal or exceed those normally given to a resident worker doing similar work. Research by the UK's Migrant Advisory Committee found that median hourly earnings in 2011 were at least 13 per cent higher than the National Minimum Wage⁶².

⁶² Migrant Advisory Committee, Migrant Seasonal Workers - The impact on the horticulture and food processing sectors of closing the Seasonal Agricultural Workers Scheme and the Sectors Based Scheme (London, May 2013)

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An Roinn Gnó, Fiontar agus Nuálaíochta

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