Health and Social Care Professionals (Amendment) Bill 2012: Second Stage

Tuesday, 2 October 2012

Minister for Health (Deputy James Reilly): I move: “That the Bill be now read a Second Time.”

I am pleased to have the opportunity to address this House on the Second Stage of the Health and Social Care Professionals (Amendment) Bill 2012. This is a relatively short technical Bill, with 20 sections in total. The Bill proposes to amend the Health and Social Care Professionals Act 2005 to provide for the enhanced and effective functioning of the Health and Social Care Professionals Council and the registration boards established under the Act. It will also amend the Act to better provide for the assessment and recognition in Ireland of qualifications obtained outside the State and to ensure compliance with the relevant EU instrument.

The 2005 Act provides for the establishment of a system of statutory regulation for designated health and social care professions. The regulatory system comprises a registration board for each of 12 designated professions, a Health and Social Care Professionals Council with overall responsibility for the regulatory system, and a committee structure to deal with disciplinary matters. These bodies are collectively known informally as CORU. CORU is responsible for protecting the public by regulating health and social care professionals in Ireland. It promotes high standards of professional conduct and professional education, training and competence among the registrants.

The Health and Social Care Professionals Council was established in 2007. Its functions include the governance and co-ordination of registration boards and the provision of administrative support and secretarial assistance to registration boards and their committees. Although the annual cost of running the council is currently being funded by the Exchequer in the main, the intention is that the regulatory system will, in time, be fully self-funding through the annual fees payable by registrants as is the case with all other health professional regulators.

The following 12 health and social care professions are designated under the Act: clinical biochemists; dietitians; medical scientists; occupational therapists; orthoptists; physiotherapists; podiatrists; psychologists; radiographers; social care workers; social workers; and speech and language therapists. In addition, the decision of the previous Government to rationalise the Opticians Board into the Health and Social Care Professionals Council will see another two professions, optometrists and dispensing opticians, being regulated under the Act in 2013.

Under the Act, I, as Minister for Health, may designate other health and social care professions if I consider it is in the public interest to do so and if the specified criteria have been met. I am conscious that some professions, currently not designated, made a case to be regulated under the Act. However, my immediate priority is to proceed with the establishment of the registration board for the professions designated under the 2005 Act. Then and only then can consideration be given to the registration of other professions. That is not to say that work cannot be ongoing in that regard. To date two registration boards, the Social Workers Registration Board and the Radiographers Registration Board have been established. The Social Workers Registration Board has established its register, has held elections, and has made the necessary by-laws on education and training qualifications.

The board has also adopted a code of professional conduct and ethics, which was subject to public consultation. When the statutory transition period ends two years after the
establishment register next May, the professional social worker will be fully regulated under the Act. The Radiographers Registration Board will soon be in a position to open its register and commence its two-year transition period. This will also facilitate the commencement of the fitness to practice provisions of the Act. The Act provides for grandparenting - a transitionary period of two years during which existing practitioners must register on the basis of current specified qualifications. After this only registrants of a registration board, who will be subject to the Act's regulatory regime will be entitled to use the relevant designated title.

While progress in establishing all 12 registration boards has been slower than expected, this is due in the main to unforeseen legal technical and resourcing issues. However, the learning obtained in establishing these two registration boards has been immense and is informing the work under way on the establishment of a further four registration boards before year end. These are occupational therapists; speech and language therapists; dieticians; and physiotherapists. The remaining boards in respect of those professions designated will be established by 2012.

In line with the Government's decision on transparency in board appointments, my Department sought and received expressions of interest from professionals and laypeople for appointment to these boards over the summer months by public advertisement via the public appointments system. My intention is that these boards will be established in coming weeks with the exception of the physiotherapists registration board which would be closer to year end.

The Bill has three main purposes. The first is to amend the Act to allow the Minister for Health to continue to appoint professional members to the council until each of the registration boards has been established in respect of the 12 professions designated under the Act, has held elections and is in a position to nominate one of its elected members. The second is to incorporate the provisions of Directive 2005/36/EC on the recognition of professional qualifications into the principal Act and to provide for the assessment and recognition of other non-Irish qualifications which are outside the scope of the directive. Third, in order to enhance the effective operation of the council and registration boards, other amendments are proposed. These relate to items such as fees payable to members of the council, registration criteria and the updating of fines for offences under the Act.

I will now briefly explain the technical difficulty that has arisen with the appointment of professional members to the council. The Act provides that the council consists of a chairperson and 24 ordinary members, with each of the 12 registration boards nominating one of their elected members for appointment. As is usual in such cases, because no registration boards will have been established, the Act empowers the Minister for Health to directly appoint these 12 professional representative members. The phased establishment of the 12 registration boards and the resulting lapse of time have, however, meant that in the absence of registration boards which can then nominate council members, professional representative members cannot be appointed to the council to fill the vacancies arising from the completion of the terms of office of the original members. Currently, 12 professional members are attending council meetings in an observer capacity with my consent so that the perspective of the professionals can be maintained. This is an interim measure. Those attending do not have voting powers and cannot fulfil the requirements of a quorum. The Bill, therefore, proposes an amendment to the Act to allow the Minister for Health to continue to appoint professional members to the council until such time as the registration boards have been established, have held elections and are in a position to nominate elected members for appointment to the council.
The Bill also takes account of the provisions of Directive 2005/36/EC on the recognition of professional qualifications, which was enacted following enactment of the Health and Social Care Professionals Act 2005. This directive is an internal market measure aimed at facilitating the free movement of persons within the European Economic Area, EEA, space. While health professionals are the largest single professional category availing of its provisions, the directive applies to any regulated profession. The Department of Education and Skills, in light of its role in qualifications, has overall responsibility for the directive in Ireland.

Deputies may be aware that discussions are currently taking place at EU level to modernise the directive. These are expected to conclude during the Irish Presidency of the EU. It is necessary, in the meantime, to give effect to certain aspects of the current directive in this Bill. The directive makes it easier for qualified professionals, including certain health and social care professionals, to practise their professions in European countries other than their own, while providing appropriate safeguards to ensure public health and safety and consumer protection. This means that applicants’ qualifications and post-qualification work experience are assessed to ensure that they meet the qualification entry requirements to that profession in Ireland.

As qualification recognition is the first step in a statutory registration process, it was always the policy intention that the registration boards would assume responsibility for the qualification recognition function under the directive. The Bill, therefore, provides that each registration board will be designated as a competent authority under Directive 2005/36/EC for its designated profession. Currently, the Minister for Health is the competent authority for most of the health professions designated under the Act and qualification recognition currently is for the purpose of eligibility for recruitment to the publicly-funded health sector. The introduction of statutory registration will mean that all persons with non-Irish professional qualifications who seek to exercise their profession in Ireland must have their non-Irish qualification recognised under the directive. The amendments contained in the Bill will also provide a legal basis for the assessment and recognition of qualifications obtained outside the State, which are outside the scope of the directive, namely, the non-EEA qualifications of EEA nationals and the qualifications of non-EEA nationals. The Bill provides that the processes for the assessment of these qualifications are the same as provided for under Directive 2005/36/EC, including the provision of explicit appeal mechanisms.

The main provisions of the Bill can be summarised as follows. Section 1 sets out that the Health and Social Care Professionals Act 2005 is the principal Act. Section 2 inserts a number of definitions into the principal Act. Section 3 provides that the Minister for Health will continue to appoint representatives of the designated professions to the council until such time as all registration boards are established and are in a position to nominate elected members. Section 4 provides a legal basis, when the council is self-funding, for payments to members of the council and its disciplinary-fitness to practise committees, subject to the approval of the Minister for Health and with the consent of the Minister for Public Expenditure and Reform. Section 6 permits each registration board to prescribe certain practise and training requirements for professionals who have not practised for a designated period of time.

Sections 11 and 13 increase the maximum fines for offences committed under the principal Act. Sections 15 and 16 provide for some changes in relation to "grand parenting" and in respect of the use of professional titles during the transitional period in which practising professionals may apply for registration. Sections 17 and 18 give the Minister the power to appoint members of the council and registration boards for a period of up to four years rather than the current fixed term of four years.
Amendments are also proposed to the principal Act in sections 5 to 12, inclusive, and 14 and 15 to provide for the assessment and recognition in Ireland of qualifications obtained outside the State. Section 5 inserts a new section 27A to provide that, when their registers have been established, registration boards will be designated as competent authorities under Directive 2005/36/EC, empowered to act as competent authorities for their designated professions under Directive 2005/36/EC and empowered to assess qualifications obtained outside the State, which are outside the scope of this directive. This section also provides for necessary transition arrangements in relation to applications under the directive.

Section 6 amends section 31 to provide that a registration board may make by-laws relating to procedures for the assessment of professional qualifications, training, experience, aptitude tests or adaptation periods of applicants for registration whose professional qualifications have been obtained outside the State and are outside the scope of the directive. Section 7 amends section 38 to update and simplify the approved qualifications criteria in section 38(2) so that there are three categories: Irish qualifications; qualifications approved under Directive 2005/36/EC and other qualifications; and to insert new definitions and remove others no longer necessary.

Sections 8, 9 and 10 relate to procedures and appeals for non-Irish qualifications. Section 12 relates to the use of title in the provision of services on a temporary and occasional basis. Sections 14 and 15 amend the registration process for existing practitioners to comply with the processes of Directive 2005/36/EC, which provide for the assessment of formal professional training and post-qualification professional experience. Section 19 provides a minor clarifying amendment to the list of optional qualifications required by an existing practitioner-radiographer in order to register during the transitional period.

This Bill will enable the health and social care professionals council to continue to fulfil, in a more effective way, its objective, namely, to protect the public by promoting high standards of professional conduct and professional education, training and competence among registrants of the designated professions. I commend the Bill to the House.

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