



**Mr Michael Clarke**  
Assistant Principal Officer  
Internal Market Unit  
Department of Enterprise, Trade and Employment  
Kildare Street  
Dublin 2

**30<sup>th</sup> September 2009**

**RE: Submission to the Department of Enterprise Trade & Employment on the  
Transposition of the Services Directive**

Dear Mr Clarke

I refer to the recent invitation from your Department seeking submissions in relation to the transposition of the Services Directive into Irish Law. In this regard, please find set out below some of the observations from the Society of Chartered Surveyors.

**Overview of the Society of Chartered Surveyors**

Dating back to 1895, the Society of Chartered Surveyors (SCS) is the largest **professional body** in Ireland representing Chartered Surveyors in both the construction and property industries. The Society has strong links with the RICS which represents over 120,000 members across 120 countries worldwide and is one of the most internationally respected and high profile global

standards and membership organisations for professionals involved in land, valuation, property, construction and environmental issues.

With over 2,000 qualified chartered surveyors and a further 1,000 probationers who are undergoing their assessment of professional competence in order to achieve the gold standard of chartered status, members of the Society are typically professionals employed in the land, property and construction markets through private practice, in central, regional and local government, in public agencies, in academic institutions, in business organisations and in non-governmental organisations.

In recent years, the role of the Society of Chartered Surveyors (SCS) has developed and it has been designated in legislation as the **competent authority** for the registration of title for both Quantity Surveyors and Building Surveyors under the Building Control Act, 2007.

As the competent authority, the Society has a role in the registration of title for both **Quantity Surveyors and Building Surveyors** as set out under the Building Control Act, 2007. Those who wish to use either the title of Quantity Surveyor or Building Surveyor must register with the competent authority which is known as the 'SCS Registration Body'.

The Society has been cooperating on an ongoing basis with the Department of Enterprise, Trade & Employment in participating in the IMI project.

By way of general comment, the Society is of the view that the transposition of the Services Directive into Irish Law will enhance and assist the SCS in its duties as provided under the Building Control Act, 2007 when established.

**Points of Single Contact, Section 7 (4)**

Regulation 7.4 provides that the Minister for Enterprise, Trade and Employment can determine the fees charged by a National Point of Single Contact (NPSC). It is not clear if this refers to the Department of Enterprise, Trade & Employment acting as the NPSC or whether this refers to the competent authority, i.e. in this instance the Society of Chartered Surveyors. If it refers to the latter, section 62 (2) of the Building Control Act, 2007 states that the Minister for the Environment, Heritage and Local government is responsible for the approval of fees charged by the SCS Registration Body. There appears to be a potential conflict in this regard.

#### **Authorization Procedures, Section 14 (3)**

Section 30(12) of the Building Control Act, 2007 sets down a three month period in determining an application in respect of applicants (following receipt of completed documentation) who are nationals from other states. No such time limit is set out for applicants from within the State. However, the Society believes that a "reasonable period" should be considered as three months with a possible one month extension as provided for under section 30 (13) of the Building Control Act, 2007.

#### **Professional liability insurance and guarantees, Section 24**

All members of the Society of Chartered Surveyors are required to have PI cover in place. This is a requirement of membership of the SCS as a Chartered Surveyor and the SCS Registration Body as set out in the Code of Professional Conduct (which has been approved by the Competition Authority of Ireland).

#### **Settlement of Disputes, Section 28 (2)**

Regulation 28 (2) obliges providers to respond to complaints quickly. The Department has sought the views of stakeholders on what the maximum period should be. In the experience of the Society of Chartered Surveyors, the

length of time it takes in order to have a complaint satisfactorily addressed can vary significantly. The variables that impinge on the length of time include the level of cooperation given by both parties to the complaint, the availability of Professional Conduct Committee's to investigate complaints, the accessibility of information required to investigate a complaint, resources etc. However, in the experience of the Society, a calendar year is normally a sufficient period within which a complaint can be satisfactorily addressed.

It should be noted that the SCS Registration Body, albeit provided for in legislation has not yet been established as the Minister for the Environment has yet to appoint the various Boards. As such, the complaints process within the SCS Registration Body is not operational at this time.

**Mutual Assistance – general obligations on the State, Section 29 (6)**

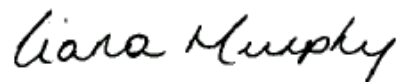
The Department has sought the views of stakeholders on what the 'shortest possible period of time' should be. On the basis that the provision of information is to be supplied in electronic format, the Society believes that one month is sufficient in this regard.

**Mutual Assistance – general obligation on the State in respect of providers established in the State, Section 30 (3)**

The Department has sought the views of stakeholders on what the 'shortest possible period of time' should be to inform all other Member States and the Commission about a service provider doing something that could damage the health or safety of persons or the environment. The Society is of the view that such information should be provided having reached a conclusion following a thorough investigation and allowing for due process and natural justice procedures to be fully exhausted. The Society believes that it is sufficient to provide this information within 3 months.

The Society is happy to assist the Department and provide further comment as appropriate. If there are any queries or clarifications required in relation to this submission, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink that reads "Ciara Murphy". The signature is written in a cursive, flowing style.

**Ciara Murphy**

**DIRECTOR GENERAL**