

# **DISPUTE BETWEEN THE TEEU AND EMPLOYERS IN THE ELECTRICAL CONTRACTING INDUSTRY**

Enquiry under Section 38(2) of the Industrial Relations Act 1990

## **REPORT AND RECOMMENDATIONS**

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# CONTENTS

- 1. Introduction**
- 2. How we conducted the enquiry**
- 3. Systems of determining pay and conditions of employment**
- 4. Adequacy of negotiating arrangements in the electrical contracting sector**
- 5. Need to reform National Joint Industrial Council**
- 6. Need to review Registered Employment Agreement**
- 7. Need to change system of promoting adherence to employment standards**
- 8. Conclusion and Summary of Recommendations**
- 9. Implementation of the Recommendations**

Appendices:

- A Acknowledgements**
  - B Employment Registered Agreements**
  - C Details of the current dispute between TEEU and Employers in the sector.**
  - D Terms of the current Registered Employment Agreement**
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## INTRODUCTION

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In August 2009, we were commissioned by the Tánaiste and Minister for Enterprise, Trade and Employment to enquire into and report on matters in dispute (excluding pay) between the TEEU and Employers in the Electrical Contracting Industry.

The enquiry was undertaken under Section 38(2) of the Industrial Relations Act 1990 which provides that: *“Where the Minister is of the opinion that a trade dispute is of special importance, he may request the Commission or Court or another person or body to conduct an enquiry into the dispute and to furnish report to him on the findings”*

In particular we were asked to enquire into and report on:

1. The adequacy of current negotiating and collective bargaining arrangements within the sector and their effectiveness in providing representative decision making structures in industrial relations matters for employers, workers and their trade unions;
2. The need, if any, for adaptation and change in collective agreements to meet the current and emerging needs of the sector and the wider economy and the most effective means of implementing any necessary change identified;
3. Current systems of promoting adherence to employment standards within the sector;
4. To make recommendations as are considered appropriate.

We were also requested to have appropriate regard to previous Labour Court/Labour Relations Commission recommendations of relevance to the subject matter of the enquiry.

Arising from our findings, we have concluded that, to restore the orderly of conduct of relationships between all the parties in the sector, a comprehensive integrated solution to all of the issues in dispute would be desirable.

To achieve this, we have set out recommendations on:

- The need for improvements in the decision making structures for industrial relation matters in the sector;
- The need to adapt the collective agreement to the changing needs of the sector and the wider economy in the current environment;
- The need to change the current system for achieving compliance with employment standards within the sector.

To ensure that there is a full understanding of the recommendations, we have set out in this report: the context of the enquiry, the approach we adopted to the enquiry, the concerns of the parties, the impact of the current environment on the sector and the implications of this for negotiating arrangements and adherence to employment standards.

## **2. HOW WE CONDUCTED THE ENQUIRY**

In her statement establishing the enquiry, the Tánaiste and Minister for Enterprise, Trade and Employment called on “**all** stakeholders in the electrical sector to cooperate fully with the enquiry, the ultimate objective of which is to identify a way to restore the orderly conduct of relationships between all parties into the future”

In that context, we met with:-

- The Electrical Contractors Association (ECA) which is a trade association, affiliated to the Construction Industry Federation. The CIF is the holder of a negotiation licence. ECA comprises 51 member firms who normally employ, in aggregate, some 4,800 electricians and apprentice electricians;
- The Association of Electrical Contractors Ireland (AECI) which is an unincorporated body comprising 220 members who carry on business as electrical contractors. AECI does not hold a negotiation license;
- The National Electrical Contractors Ireland, which was formed in June 2008, with the aims to form a association that will represent the greatest number of employers and be involved in negotiations for a new Registered Employment Agreement that is fair and transparent for all employers and workers in the sector. NECI does not hold a negotiation license;
- The National Electrical Contractors Trade Association, which is a trade association established in July 2009 by two former Directors of ECSSA. The aims of NECTA, according to the Autumn newsletter of ECSSA, is to create the largest single trade association, to provide a voice for contractors at all levels, to provide advise and to negotiate

on all issues which affect it's members. NECTA does not hold a negotiation license;

- Mr. Michael Marshall. Mr. Marshall is technical manager of the Electrical Contractors Safety and Standards Association Limited (ECSSA), which is one of two electrical safety supervisory bodies appointed by the Commission for Energy Regulation to regulate the activities of Registered Electrical Contractors.
- The Technical Engineering and Electrical Union (TEEU) which is an authorised trade union and the holder of a negotiation licence. TEEU represents 40,000 members, 10,229 of who are employed in electrical contracting.

Some of the organizations also provided written documentation to the enquiry.

We were asked, in undertaking the enquiry, to have appropriate regard to previous Labour Court/Labour Relations Commission recommendations of relevance to the subject matter of the enquiry. In that context, we met separately with the Chairman of the Labour Court and the Chief Executive of the Labour Relations Commission.

The terms of reference of the enquiry asked us to enquire into the current systems of promoting adherence to employments standards within the sector. In that context, we met with the Chief Executive and other staff of the National Employment Rights Authority (NERA) and the relevant officials in the Department of Enterprise, Trade and Employment.

We also held discussions with the parties responsible for EPACE. (EPACE is a private company, limited by guarantee, set up under the auspices of the National Joint Industrial Council for the Electrical Contracting Industry to advise electrical contractors of their obligations under the Registered Employment Agreement and to ensure compliance with the REA).

### **3. SYSTEMS OF DETERMINING PAY AND CONDITIONS OF EMPLOYMENT**

The matters in dispute between the TEEU and employers in the Electrical Contracting Industry arose from an Employment Registered Agreement for the Electrical Contracting sector. To ensure that there is a full understanding of the matters in dispute, we have set out below in some detail the system of determining pay and conditions of employment in the sector. We have also set out in Appendix B how agreements reached under this system are registered, varied, cancelled and enforced.

Pay and conditions of employment in many employments in Ireland are determined through voluntary negotiations between employers and trade unions. Agreements which result from these negotiations between trade unions and employers are called *Collective Agreements*.

In some sectors, representative trade unions and the employers of their members negotiate collectively for an entire trade or industry. This is most common in labour intensive sectors where labour costs are a high proportion of overall costs and where a large number of firms compete against each other for available work through competitive tender. These characteristics are most prevalent in sectors such as construction, electrical contracting, contract cleaning and security services.

From the 1920s, pay and conditions of employment in a number of these labour intensive sectors were fixed through voluntary collective agreements that applied across the entire sector and, whether formally or informally, were referred to as the “union rate”.

In 1946, this system of fixing common rates of pay and conditions of employment across a trade or sector was given legal effect in the Industrial Relations Act 1946. This Act allowed representative trade unions and the employers of their members to negotiate collectively for an entire trade or industry. It also provided, through registration with the Labour Court, that the common rates of pay and conditions thus agreed would have legal effect across the sector.

Electrical contracting is one of the labour intensive sectors where from the 1920s pay and conditions of employment were fixed through voluntary collective agreements agreed between representative trade unions and employer organizations. These agreements were applied across the entire sector, formally and informally, through what was referred to as the “union rate” This system was made more formal in 1931 with the setting up of a *National Joint Industrial Council* for the sector. This brought together the different bodies within the sector:

- (1) The Contracts Section of the ESB\*
- (2) The Association of Electrical Contractors
- (3) The Society of Irish Electrical Traders (Contractors Section)
- (4) The Electrical Trades Union
- (5) The Irish Engineering Industrial and Electrical Trade Union.

This Council met regularly to discuss and set wage rates, conditions of employment and training for the entire industry. Historical reviews of the electrical contracting industry show that the parties were satisfied that the NJIC system was the most appropriate for the industry and that it worked very well.

In 1990, an employment agreement was made between the Electrical Trade Union and the National Engineering and Electrical Trade Union (now the Technical Engineering and Electrical Trade Union), the

Electrical Contractors Association and the Association of Electrical Contractors of Ireland (all of whom together constitute the *National Joint Industrial Council for the Electrical Contracting Industry*).

On the application of the parties, this agreement was entered by the Labour Court in the Register of Employment Agreements under the Industrial Relations Act 1946 in accordance with the procedures set out in Appendix B. This gave legal effect to the system of fixing common rates of pay and conditions of employment across the sector which existed from 1931.

The agreement registered in 1990 is still in force and applies to all electricians who are engaged in the general electrical contracting industry and their employers.

Since 1990, the agreement has been varied on 14 occasions the most recent variation being made with effect from April 2007. These variations mainly related to increases in the rates of pay.

*\*In 1967, the ESB admitted their contract electricians to the same salary as electricians employed in their operations section. As the NJIC only fixed down-town rates for electricians, the ESB could no longer remain on the Council and withdrew.*

#### 4. ADEQUACY OF NEGOTIATING ARRANGEMENTS IN THE SECTOR

These negotiating and collective bargaining arrangements within the sector appear to have worked well over many years and provided both employers and workers with a fair and, until recently, orderly system of fixing wages and conditions of employment in the industry.

Indeed the Labour Court has expressed the view that “*the Electrical Contracting Industry has been a model of stable and cooperative industrial relations --- This has been achieved, to a significant extent, by the maintenance of effective negotiating structures in the form of the National Joint Industrial Council*”.

As the Court pointed out the Registered Employment Agreement provides a “level playing field” in which common labour costs apply to all contractors and competition is based on efficiencies and other modes of cost saving. It prevents firms which would otherwise have paid lower rates than those agreed from gaining a competitive advantage over firms who observe the agreed rates and conditions of employment.

The REA ensures in a number of ways that contractors from outside the jurisdiction do not obtain an advantage over local contractors in terms of wage costs. Firstly, under the *EU Directive (96/71/EC) on the Posting of Workers in the Framework for the Provision of Services*, the terms of the REA are applicable to and can be enforced against contractors based outside the state.

In the absence of an REA contractors from other EU Member States could exercise their freedom to engage in electrical contracting in this jurisdiction at the same rates and conditions of employment as

their country of origin. Depending on the country of origin this could seriously undermine the competitive position of Irish contractors.

Also the fair wages clause in public contracts applies equally to all contractors regardless of their place of origin. This clause stipulates that the contractor must observe rates of pay and conditions of employment no less favourable than those prescribed in the REA.

The REA brings stability in industrial relations by precluding trade unions from seeking to enforce more favourable terms than those prescribed by the agreement. Moreover, industrial relations disputes have to be referred to third party adjudication, usually through the Labour Court, before a trade union can support a strike.

The agreement has been varied on 14 occasions since 1990 with until recently no objections to the agreement or its variation.

Serious problems have emerged, however, in recent years with the operation of this system due in part to:

- The current economic and employment circumstances of the electrical contracting industry and the construction sector which it, in part, relies on.
- The failure to update the agreement to reflect the reality of the industry, including changes in the sector, the diversity of firms and the way in which work is now undertaken;
- Competition from outside the jurisdiction;
- The enforcement of the agreement, including the method of enforcement;
- A series of legal challenges to the system by parties who are not members of the NJIC.

The immediate dispute arose from an application to vary the Employment Agreement so as to give effect to adjustments agreed to the hourly rates of pay. This increase was agreed in September 2007 by the TEEU and the employer bodies (ECA and AECI) through the review mechanism provided by the REA and was due to take effect on 1<sup>st</sup> April 2008. However the increase was not applied at the due date because of legal interventions by certain parties outside the National Joint Industrial Council.

We have set out in Appendix C how the dispute arose and its impact on the system for determining pay and conditions of employment.

From our review of the operation of the system, and our discussions with the parties we have concluded that the arrangements for negotiating and collective bargaining are appropriate for this sector.

The current serious problems do not arise from the system itself but from the way in which the system has been operated. In particular, they arise from the grave economic and financial difficulties, the significant decline in levels of activity, the consequential fragmentation of the sector, the failure to update the agreement to reflect these realities and the method of enforcing the agreement.

We set out below our conclusions and recommendations on these issues.

## **5. NEED TO REFORM NATIONAL JOINT INDUSTRIAL COUNCIL**

In sectors where trade unions and the employers of their members negotiate collectively for an entire trade or industry, they normally do so through a National Joint Industrial Council. To initially register the Agreement and ensure it has legal effect across the sector, the Labour Court must be satisfied that the parties to the agreement are substantially representative of workers and employers in the sector.

Section 28 of the Industrial Relations Act provides for the variation of a Registered Agreement by the Labour Court on the application of any party to the Agreement. While the Act sets down the procedure to be followed by the Court in considering such an application it does not set out the criteria to be applied by the Court in considering the application. However it appears from the most recent decision of the Labour Court on this point that the level of support for the variation is a central consideration.

In the electrical contracting sector, the Electrical Contractors Association (ECA), the Association of Electrical Contractors Ireland (AECI) and the Technical Engineering and Electrical Union (TEEU) together constitute the *National Joint Industrial Council for the Electrical Contracting Industry*. All of the above parties are fully committed to the current system for determining pay and conditions of employment, including the NJIC.

Two groups, *National Electrical Contractors Ireland (NECI)* and the *National Electrical Contractors Trade Association (NECTA)*, who are not members of the NJIC, have sought the cancellation of the Registered Employment Agreement in the Labour Court and the High Court. They have sought the cancellation of the REA on the grounds,

inter alia, that the parties to the agreement are not substantially representative of the industry.

NECI, while opposed to the current NJIC and the current REA, are not opposed to an NJIC for the sector and the setting of pay and conditions through a registered employment agreement. Indeed NECI states in its *Aims and Objectives* that its first objective “is to be involved in the negotiations for a new Registered Employment Agreement that is fair and transparent for all employers and workers in the sector”.

The majority of electrical contractors and the TEEU are clearly in favour of determining pay and conditions of employment in the sector through an NJIC and a Registered Employment Agreement. The question in dispute relates to how effective the current arrangements are in providing representative decision making structures.

When registering the current agreement for the electrical contracting sector in 1990, the Labour Court considered that the parties to the agreement were substantially representative of electricians and employers in the sector.

Obviously substantial change has occurred in the sector since then. To satisfy ourselves about the position today, we asked each of the bodies (ECA, AECl, NECI and NECTA) to supply us with a list of electrical contractors who are members of their organization and the number of electricians and apprentice electricians employed by each contractor. We also requested the TEEU to supply details of the number of members they have in the electrical contracting industry.

Three of the bodies (ECA, AECl and NECl) provided a list of electrical contractors who are members of their organization. However they were unable to present us with details of the number of employees employed by each contractor. Instead they submitted, in each case, an overall estimate of the number of employees. No information was received from NECTA.

The information supplied was as follows:

- **ECA:** There are 51 electrical contractors who are members of ECA employing, ECA estimates, approximately 4,800 employees. ECA estimates that its members carry out 80% of all publicly funded contracts in the State.
- **AECl:** There are 220 electrical contractors who are members of AECl employing, AECl estimates, approximately 3,000 employees.
- **NECl:** There are 681 electrical contractors who are members of NECl employing, NECl estimates, approximately 4747 employees. No details were given as to the number of these who are individual contractors, the number who employ workers or the number of employees. The estimate of the number is based on a 2008 NECl survey of the entire sector which showed an average number of employees per company of 6.09 ( The figure supplied to us by NECl for the number of employees appears to have been reached by multiplying 681x7)
- **NECTA:** No information was provided to us as to the number of contractors who are members of NECTA.
- **TEEU:** The union provided an affidavit that the TEEU represents 10,229 electricians employed in the electrical contracting industry.

It was submitted to the Labour Court and to us that the number of contractors now operating in the sector demonstrates that the employer parties to the REA are not substantially representative of the industry. We could find no reliable data from official sources or from the bodies in the sector concerning the number of electrical contractors or the number of electricians in the industry.

We decided, therefore, not to pursue this matter any further. Pursuing a negative, even if it could be proved, would simply lead to greater disharmony in the sector. It is not necessary in any case when concerns about the current arrangements can be dealt with by changing the system.

The adequacy or otherwise of the current arrangements can be addressed for the future by reforming the National Joint Industrial Council for the Electrical Contracting Industry. ECA, AECl, NECl and the TEEU have indicated to us that they would be prepared to participate in a reformed NJIC

#### **CONCLUSION No.1**

*We have concluded that the National Joint Industrial Council should be totally reformed through the introduction of new rules.*

While it is not for us to draft the new rules we are recommending that:

#### Membership of the reformed NJIC

1. The new rules of a reformed NJIC should afford representational rights on the Council to the TEEU and to any

permanent body of standing which is representative of employer interest in the sector.

To be a member of the NJIC, under the new rules, a body would apply for membership and with the application would supply a list of contractors who are members of the organization with details of the number of employees employed by each contractor.

Should any issue arise as to the extent to which any body is representative, the new rules should provide that this issue will be referred to the Labour Court for final adjudication.

Concerns were expressed to us that a group might seek representation on the NJIC solely for the purpose of frustrating the work of the Council. To allay these fears the new rules should provide that any representative body in the sector seeking to become a member of the NJIC should subscribe to the objectives of the Council and the new rules of the NJIC.

#### Number of representatives on the reformed NJIC

2. An employer is affected by the work of the NJIC and the agreements it makes in proportion to the number of employees they have. The new rules should specify, therefore, that representative capacity on the Council will be allocated to each body by the total number of employees represented by employers who are members of the body.

Again should any issue arise as to the number of representatives any body should have on the Council, the new

rules should provide that the issue will be referred to the Labour Court for final adjudication.

#### Drafting of the new rules

3. Concerns were also expressed to us that the new rules would be drafted by the parties to the existing NJIC in such a way as to exclude other bodies from qualifying for representation on the Council. Again to allay fears the new rules should be drafted by an Implementation Group comprising of representatives of those bodies who have accepted the conclusions and recommendation of this enquiry. The Implementation Group should have the assistance of an independent facilitator agreed by the parties or, in default of agreement, nominated by the Labour Court.

#### Registration of the reformed NJIC

4. The new rules should be submitted to the Labour Court for approval. In that context an application should be made to the Labour Court, under s61 of the Industrial Relations Act 1946 for the NJIC established under the new rules to be registered in the Register of Joint Industrial Councils. Registration of the Council would overcome any difficulties which might otherwise arise by the participation in negotiations of bodies which are not the holder of a negotiation license.

#### Objectives of the reformed NJIC

5. Many IR issues and other matters not covered by the REA were raised with us during the enquiry. In the interest of the sector it should be possible for the representative bodies on the NJIC to work together on these issues, undertake joint

initiatives and represent the sector in discussions with the relevant authorities.

To achieve this, the objectives of the NJIC should be broadened to cover, not just pay and conditions of employment but all issues of common interest to the parties. These would include training and apprenticeships, health and safety, adaptation to change, the system of tendering for work, subcontracting. Also the method by which a person becomes an electrical contractor, including the development in line with other sectors of a licensing system, should be examined by the reformed Council.

#### Permanent Secretariat

6. A permanent Secretariat should be appointed to enable the NJIC to undertake its work, under the broadened mandate, in a professional manner.

## **6. NEED TO REVIEW REGISTERED EMPLOYMENT AGREEMENT**

The current Registered Employment Agreement for Electrical Contracting was drafted and registered in 1990. Since then the agreement has been varied on 14 occasions but these variations have related mainly to increases in the rates of pay. The basic structure of the agreement has remained unchanged.

In the meantime, to quote the Labour Court the sector has experienced substantial change since the REA was registered. The principle manifestations of that change are the number and diversity of firms carrying on business in the sector, the way in which work is now undertaken, technological change, the extent of competition from outside the jurisdiction and the serious decline in activity in consequence of the current recession.

A majority of electrical contractors and the TEEU are in favour of reviewing the Registered Employment Agreement. In July 2009 in the Labour Relations Commission, ECA, AECl and TEEU committed themselves to a joint review of the agreement within a four month period.

NECI has sought the cancellation of the existing REA in the Labour Court and the High Court on the grounds that it is onerous and unfair especially for small firms. However it is not opposed to setting pay and conditions for the sector through a registered employment agreement. Indeed NECI states in its *Aims and Objectives* that its first objective is “to be involved in the negotiations for a new Registered Employment Agreement that is fair and transparent for all employers and workers in the sector”.

## CONCLUSION No. 2

We have concluded that the Registered Employment Agreement should be reviewed, updated and rewritten to reflect the reality of the changed circumstances of the electrical contracting industry

While it is not for us to set down the precise changes that should be made to the agreement, we are recommending that all provisions of the agreement should be reviewed.

In particular, we recommend that:

### Definitions

1. The definition of electrical contractor, electrical work and the scope of the agreement should be clearly defined;

### Application of the agreement

2. An examination should be carried out to see if the application of the agreement can be structured to differentiate by size of firm, size of contract or type of work (e.g domestic, industrial, commercial).

The rates and conditions of employment established by the REA are not dependent on the size or capacity of individual firms. There is no doubt that small firms operating in the domestic and related segments of the sector have particular difficulties in meeting the terms of the REA in the current dramatically changing environment. As described by the

Labour Court, those involved in this type of activity depend on private households for work or sub - contract to small builders engaged in renovation or home extensions. They often compete against self-employed individuals who are not encumbered by the REA.

It will not be easy to devise arrangements whereby small firms, measured on employment levels, would not have the same obligations to their employees as larger firms. As pointed out by the Labour Court there would be obvious difficulties in defining a small firm. Even if those difficulties could be overcome there would be practical problems arising from the fluctuation in employment levels within firms depending on the type of work and the volume of work in hand at a particular time.

Also different pay and conditions based on size of firm might encourage a practice of sub – dividing significant projects into small contract units to be undertaken by a multiplicity of small firms.

However, despite these difficulties, the issue needs to be examined.

### Wage Review

3. The wage review by reference to a set of analogue companies should be updated to deal with concerns that significant changes have occurred in how wages are determined and structured in some of the analogous employments.

The Registered Employment Agreement provides its own mechanism for pay determination. Rather than applying national pay agreements directly, pay adjustments are determined by reference to movements in pay in an agreed range of analogous employments. Under that arrangement the pay of electricians in the analogous employments is determined annually in September each year and the NJIC establishes the average basic rate payable in those employments. This rate is then incorporated in the Registered Employment Agreement with effect from 1<sup>ST</sup> April of the following year.

Thus pay is determined on the basis of following movement in the rate of pay of electricians in a representative group of analogous employments. The underlying rationale of this system is that electricians in the electrical contracting industry should be paid no more and no less than the average rate paid to electricians employed in other sectors.

This system, as the Labour Court found, has worked well over many years and provided both employers and unions with a fair and orderly way of fixing wages in the industry. However, concerns were expressed to us that significant changes have occurred in how wages are determined and structured in some of the analogous employments and these concerns should be addressed.

#### *Employers in Financial Difficulty*

4. Consideration should be given to amending the agreement and the relevant legislation to provide that where an

employer is in financial difficulty and unable to comply with the terms of the Registered Employment Agreement, he/she may apply with the consent of employees to the Labour Court for a temporary exemption from such terms.

As explained earlier pay adjustments in the electrical contracting sector are determined by reference to movements in pay in a representative group of analogous employments, rather than apply national pay agreements.

The national pay agreements which form part of the Partnership Agreements provide that an employer may claim that it is not possible to pay the terms of the agreement in full or in part. The employer may seek some cost offsetting measures or may claim inability to pay where this would result in serious loss of competitiveness and employment. These claims must be processed through the Labour Relations Commission and the Labour Court.

The National Minimum Wage Act 2000 provides that the Labour Court may grant a temporary exemption to an employer in financial difficulty from the legal obligation to pay the adult hourly minimum rate. The employer must show that if compelled to pay this hourly rate, he/she would likely terminate the employment of an employee or put an employee on lay – off. To apply to the Labour Court for an exemption the employer must have the consent of a majority of the employees affected. The exemption period may not exceed one year and the Labour Court specifies the average hourly rate of pay to be paid during that period. An employer is not entitled to be granted a second temporary exemption.

Given that the rates of pay set down in the Registered Employment Agreement are legally binding on all contractors in the sector, it would not be appropriate to have the type of ongoing inability to pay arrangements provided for in national wage agreements.

However consideration should be given to introducing for contractors in serious financial difficulties a temporary form of exemption.

#### Travel and subsistence

- 4 The agreement should be reviewed to specify with greater clarity than at present the precise circumstances in which travel and subsistence payments fall due.

The REA sets down when travel time and subsistence should be paid. These arrangements were put in place in 1990. Since then the way work is done in the sector has changed and the road network has improved significantly. Also from submissions to the Labour Court and our discussions with the parties, there would appear to be genuine confusion as to when travel time and subsistence apply.

#### Pension Arrangements

5. The REA provides that “A Pension and Mortality Scheme equal in conditions and benefits to the terms of the pension and mortality scheme of the Registered Agreement for the Construction Industry to be provided for all employees between the age of 20 and 65 years. *In this connection each*

*employee between the age of 20 and 65 years to be entered in the Construction Federation Pension and Mortality Scheme.”*

The above words would appear to imply that employees must be entered by electrical contractors in the Construction Federation Pension and Mortality Scheme.

The review of the Agreement should make it clear that the obligation imposed on an employer is to provide pension, assurance and sick pay cover up to a specified minimum level of benefits and ensure that these entitlements are transferable within the sector. The agreement should also make it clear that employers are free to obtain cover for these benefits from any source of their choosing provided that the benefits and other conditions meet the requirements of the Agreement.

Where electrical contractors enter their employees in the Construction Workers Pension Scheme, employees should, each year, receive a personal benefit statement from the Trustees. Also the full Annual Report and Accounts should be available to participating employers and employees.

#### Handling of Disputes

6. Procedures for settling grievances and disputes should be strengthened. In that context, consideration should be given to providing for mandatory dispute resolution procedures in the agreement, the outcome of which would be binding on the parties for a defined period.

## Review

7. The review and rewriting of the agreement should be carried out by the reformed NJIC under the new rules with the assistance of an independent facilitator agreed by the parties or, in default of agreement, nominated by the Labour Court.

Should any issue arise in the course of the review upon which agreement cannot be reached they should be referred to the Labour Court for investigation and adjudication.

The revised agreement should be submitted to the Labour Court for approval and entry in the Register of Employment Agreements.

The agreement should be monitored on an ongoing basis and variations made if and when necessary. In addition the overall agreement and the system for determining pay and conditions in the sector should be reviewed every five years to take account of any significant changes in the sector.

## **7. PROMOTION OF COMPLIANCE**

Registration of the REA in 1990 introduced legally enforceable regulation in the fixing of wages and conditions of employment throughout the Industry. It also provided a mechanism, in s32 of the 1946 Act, by which the terms of the REA could be enforced via complaints from trade unions to the Labour Court leading to the possibility of criminal sanctions against those who failed to comply. Public authorities also promoted compliance by contractually obliging contractors engaged in public contracts to observe the terms of the REA in respect to workers employed on those contracts.

Because of the difficulties caused by non-compliance, the parties to the REA decided to introduce a form of internal industry monitoring and enforcement regime. They established EPACE, a private company sponsored by TEEU, ECA and AECl. The Memorandum of Association states that the objects of the company are to ensure compliance by all electrical contractors with the REA, to appoint agents to ensure compliance and to investigate complaints of non-compliance.

The management committee of EPACE is comprised of representatives of TEEU, ECA and AECl. However, ECA and AECl told the enquiry that, arising from the current difficulties in the sector, they have withdrawn from the management committee of EPACE.

It would appear that the vigour with which EPACE has sought to discharge its role has contributed in no small part to many of the complaints that were ventilated in the course of our enquiry and the Labour Court hearing. There is disquiet amongst some

contractors that EPACE presents itself as if it had some legal or statutory mandate to inspect employers' business records and carries out inspections mainly through TEEU representatives.

As a result of the enforcement activities of EPACE many contractors received substantial demands for arrears of pay and pension contributions for periods when they were non-compliant with the REA. As the Labour Court pointed out *"It seems likely that many of those contractors would not have made provision in their charge out rate to cover the rates and other benefits prescribed by the REA"*.

The Government has now established the National Employment Rights Authority (NERA) for the purpose of promoting and enforcing the statutory rights of workers, including those derived from registered agreements.

### **CONCLUSION No. 3**

*We have concluded that the enforcement of the Registered Employment Agreement for the Electrical Contracting Industry and the promotion of adherence to employment standards within the sector should be undertaken by the National Employment Rights Authority (NERA).*

We are recommending that NERA should proactively work with the employer bodies, the trade union, individual contractors and employees in the sector to achieve a culture of compliance through education and awareness and proportionate enforcement.

Specifically, we are recommending:

1. Education and Awareness Programme

NERA should undertake in cooperation with the reformed NJIC and appropriate industry bodies a major education and awareness programme to ensure that employers and employees in the sector know about the provisions of the revised Registered Employment Agreement, the records employers must keep and encourage compliance.

2. Inspections

Inspections to ensure that employers comply with the revised Registered Employment Agreement should be undertaken by NERA. These inspections should, as is currently the practice in other sectors, be carried out in a fair and impartial manner.

The reformed NJIC should encourage employers in the sector to cooperate with NERA inspections. Where evidence of non – compliance is found, the Inspectors should work with the employer to achieve compliance. However, where employers refuse to cooperate or rectify breaches of the registered agreement, NERA, to protect employees and compliant employers, should seek redress and, where appropriate, initiate prosecutions.

3. Public Works Contract

The Department of Finance and the Department of the Environment must ensure that those sections of the Public Works Contract which contractually oblige contractors engaged in public contracts to observe the terms of the REA are more rigorously enforced by Public Authorities including the Local

Authorities. In addition, there should be a greater sharing of information regarding compliance between Public Authorities, including Local Authorities, and NERA.

#### 4. Firms from Other Jurisdictions

Discussions should be held between NERA, the reformed NJIC, the Department of Enterprise, Trade and Employment and the Director of Public Prosecutions to develop a more rigorous system of enforcement against firms from other jurisdictions, including Northern Ireland, which undertake short-term assignments in this jurisdiction.

## **CONCLUSION AND SUMMARY OF RECOMMENDATIONS**

Arising from our findings, we have concluded that, to restore the orderly conduct of relationships between all of the parties in the sector, a comprehensive integrated solution to all of the issues in dispute would be desirable.

To achieve this, we are recommending:

### **RECOMMENDATION NO.1 (Reform of National Joint Industrial Council)**

- New rules should be drafted for the National Joint Industrial Council for the Electrical Contracting Industry.
- These new rules should afford representational rights on the Council to any permanent body of standing, which is representative of employer interest in the sector.
- The new rules should specify that representative capacity on the Council will be allocated to each body by the number of employees represented by employers who are members of the body;
- Should any issue arise as to the extent to which any body is representative, the new rules should provide that this issue will be referred to the Labour Court for final adjudication.
- Any representative body in the sector seeking to become a member of the reformed Council should subscribe to the objectives of the Council and the new rules;
- The objectives of the reformed Council should be broadened to cover, not just pay and conditions of employment, but also issues of common interest to the parties in the sector including training and apprenticeships, health

and safety, adaptation to change, the system of tendering for work and the method by which a person becomes an electrical contractor;

- The Labour Court should appoint the chairperson of the reformed Council and a permanent Secretariat should be appointed to enable the Council to undertake its work, under the broadened mandate, in a professional manner.
- The new rules and objectives of the reformed Council should be drafted by an Implementation Group comprising of representatives of those organizations who have accepted the conclusions and recommendations of this Enquiry. The Implementation Group should have the assistance of an independent facilitator agreed by the parties or, in default of agreement, nominated by the Labour Court;
- The new rules and objectives should be submitted to the Labour Court for approval with an application, under s61 of the Industrial Relations Act 1946, for the reformed Council to be registered in the Register of Joint Industrial Councils.

## **RECOMMENDATION NO.2 (Review of Registered Employment Agreement)**

- The Registered Employment Agreement should be reviewed, updated and rewritten by the reformed NJIC to reflect the reality of the changed circumstances of the electrical contracting industry;
- All of the provisions of the agreement should be reviewed;
- As part of the review, the definition of electrical contractor, electrical work and the scope of the agreement should be clearly defined;
- Consideration should be given to the application of the agreement to differentiate by size of firm, size of contract or type of work ( e.g domestic, industrial, commercial);
- The review of wages by reference to a set of analogue companies should be updated to deal with concerns that significant changes have occurred in how wages are determined and structured in some of the analogous employments. In addition the agreement should specify with greater clarity than at present the precise circumstances in which travel and subsistence payments fall due;
- Consideration should be given to amending the relevant legislation to provide that where an employer is unable to comply with the terms of the Registered Employment Agreement, he/she may apply to the Labour Court for a temporary exemption from such terms;
- As regards pensions, the Agreement should make it clear that the obligation imposed on an employer is to provide pension, assurance and sick pay cover up to a specified minimum level of benefits. The employer should also ensure that these entitlements are transferable within the sector. The agreement should also made it clear that employers are free to

obtain cover for these benefits from any source of their choosing provided that the benefits and other conditions meet the requirements of the Agreement;

- Following the registration of the revised agreement, employers who are currently not in compliance should be given a once off opportunity to comply with the pension provisions of the agreement on terms to be agreed with the pension providers. Following the once-off opportunity to achieve compliance, the terms of the agreement should be rigorously enforced.
- Procedures for settling grievances and disputes should be strengthened. In that context, consideration should be given to providing for mandatory dispute resolution procedures, the outcome of which would be binding on the parties for a defined period.
- The agreement should be varied from time to time as required. However, the revised agreement should provide that the overall agreement will be reviewed every five years to reflect changes in the sector and ensure that it is delivering on the underlying objectives which it is intended to achieve.
- The review and rewriting of the agreement should be carried out with the assistance of an independent facilitator agreed by the parties or, in default of agreement, nominated by the Labour Court. Should any issues arise in the course of the review upon which agreement cannot be reached they should be referred to the Labour Court for investigation and final adjudication.
- The revised agreement should be submitted to the Labour Court for approval and entry in the Register of Employment Agreements.

### **RECOMMENDATION NO.3 (Promotion of Compliance)**

- Enforcement of the Registered Employment Agreement and promotion of adherence to employment standards within the sector should be undertaken by the National Employment Rights Agency (NERA).
- NERA should proactively work with the employer bodies, the trade union, individual contractors and employees in the sector to achieve a culture of compliance through education and awareness and proportionate enforcement;
- Specifically, NERA should undertake in cooperation with the reformed NJIC and appropriate industry bodies a major education and awareness programme to ensure that employers and employees in the sector know about the provisions of the revised Registered Employment Agreement, the records employers must keep and encourage compliance.
- Inspections to ensure that employers comply with the revised Registered Employment Agreement should be undertaken by NERA. These inspections should, as is currently the practice in other sectors, be carried out in a fair and impartial manner.
- The reformed NJIC should encourage employers in the sector to cooperate with NERA inspections. Where evidence of non – compliance is found, the Inspectors should work with the employer to achieve compliance. However, where employers refuse to cooperate or rectify breaches of the registered agreement, NERA, should seek redress and, where appropriate, initiate prosecutions.

- The Department of Finance and the Department of the Environment must ensure that those sections of the Public Works Contract which contractually oblige contractors engaged in public contracts to observe the terms of the REA are more rigorously enforced by Public Authorities including the Local Authorities. In addition, there should be a greater sharing of information regarding compliance between Public Authorities, including Local Authorities, and NERA.
- Discussions should be held between NERA, the reformed NJIC, the Department of Enterprise, Trade and Employment and the Director of Public Prosecutions to develop a more rigorous system of enforcement against firms other jurisdictions, including Northern Ireland, which undertake short-term assignments in this jurisdiction.

#### **RECOMMENDATION NO.4 (IMPLEMENTATION OF THE RECOMMENDATIONS)**

To transition from the current arrangements to a reformed National Joint Industrial Council, we are recommending that the new rules and objectives should be drafted by an Implementation Group comprising of representatives of those organizations who have accepted the conclusions and recommendations of this enquiry.

The Implementation Group should have the assistance of an independent facilitator agreed by the parties or, in default of agreement, nominated by the Labour Court.

The review and rewriting of the Registered Employment should be carried out by the reformed National Joint Industrial Council. Again, the reformed NJIC should have the assistance of an independent facilitator agreed by the parties or, on default of agreement, nominated by the Labour Court.

In addition, the reformed NJIC should hold discussions with the National Employment Rights Authority (NERA) on the development of a major education and awareness programme to ensure that employers and employees in the sector know about the provisions of the revised Registered Employment Agreement, the records employers must keep and encourage compliance.

## **APPENDIX A**

### **Acknowledgements**

**We wish to acknowledge the cooperation of many people with the Enquiry. We would like to thank them for the courtesy and goodwill shown to us at all times.**

**These include:**

Officials of the Department of Enterprise, Trade and Employment

The Chairman of the Labour Court

The Chief Executive of the Labour Relations Commission (LRC)

The Chief Executive of the National Employment Rights Authority (NERA)

The Electrical Contractors Association (ECA)

The Association of Electrical Contractors Ireland (AECI)

The National Electrical Contractors Ireland (NECI)

The National Electrical Contractors Trade Association (NECTA)

The Director – General of the Construction Industry Federation (CIF)

Mr. Michael Marshall, Electrical Contractors Safety and Standards Association Ltd

The Technical Engineering and Electrical Union (TEEU)

## **APPENDIX B**

### **Employment Registered Agreements**

Under the Industrial Relations Act 1946, employer and worker representatives from a particular sector or industry may apply to the Labour Court to have a collective agreement registered in the Register of Employment Agreements. Once an agreement has been approved and registered by the Labour Court it is legally binding on all employers and employees working in the industry or sector covered by the registered employment agreement (REA).

Before the Labour Court will register an agreement as an REA, it must be satisfied that the agreement meets the requirements set out in s.27 of the 1946 Act:

1. that there is substantial agreement amongst the parties representing the interests of workers and employers that the agreement should be registered;
2. that it is normal and desirable to have a separate agreement for the class, type or group of workers to whom the agreement is expressed to apply;
3. that the parties to the agreement are substantially representative of such workers and employers;
4. that the agreement is not intended to unduly restrict employment generally, or the employment of workers of a particular class, type or group;

5. that the agreement specifies that where a dispute arises between workers and employers to whom the agreement relates, the dispute must first be submitted for settlement pursuant to the terms of the agreement before a strike or lock-out takes place; and
6. that the agreement is in a form suitable for registration.

The Labour Court will not register an agreement until 14 days after it has published notice of the application for registration. This allows time for any interested parties to notify the Labour Court of an objection to its registration. Where the Court receives notice of an objection to the agreement being registered, the Court will consider the objection and will hear all parties appearing to the Court to be interested and desiring to be heard. If, after such consideration, the Court is satisfied that the agreement does not comply with the requirements specified above, the Court will refuse to register the agreement.

Registered Employment Agreements generally provide that the provisions of the agreement may be varied from time to time. Any party to the agreement may apply to the Court to have it varied. Where an application is made to vary an agreement, the Court will consider the application and will hear all persons appearing to the Court to be interested and desiring to be heard. After such consideration, the Court may, as it thinks fit, refuse the application or make an order varying the agreement in such manner as it thinks proper.

Finally, the registration of an employment may be cancelled by the Court on the joint application of the parties to the agreement. The

Court may also cancel the registration of an employment agreement if it is satisfied that there has been such substantial change in the circumstances of the trade or business to which it relates since the registration of the agreement that it is undesirable to maintain registration.

As outlined earlier, the provisions of Registered Employment Agreements are legally binding on all employers and employees in the sector of employment to which the agreement applies. Under the Industrial Relations Acts 1949-2001, the National Employment Rights Agency (NERA) is responsible for enforcing Registered Employment Agreements.

## **APPENDIX C**

### **DETAILS OF THE CURRENT DISPUTE BETWEEN TEEU AND EMPLOYERS IN THE SECTOR**

Clause 25 of the Registered Employment Agreement for the Electrical Contracting Industry provides that wages payable in the electrical contracting industry will be determined annually (in September of each year) by reference to a set of analogue companies and the agreed increase will be paid on the 1<sup>st</sup> of April of the following year. An increase was agreed through this review mechanism in September 2007. That increase was due to take effect on 1<sup>st</sup> April 2008.

In May 2008 the agreement was before the Labour Court for variation. However, Sheehan Ryan & Ryan Co. Solicitors on behalf of named individual “un-aligned electrical contractors” claimed before the Labour Court that the parties to the agreement were not substantially representative of the industry and sought to have the Registered Employment Agreement cancelled. The National Electrical Contractors of Ireland made a similar submission. The Labour Court adjourned the hearing to the 16<sup>th</sup> June 2008. On 13<sup>th</sup> June the unaligned group and NECI applied for and were granted a High Court injunction preventing the Labour Court from proceeding with the scheduled hearing.

In July 2008 the TEEU secured a hearing before the High Court to have the injunction lifted. The High Court heard initial submissions from both sides and adjourned the case to a further hearing. In September 2008, the High Court re-convened the hearing and

reserved judgment to a further date. In October 2008, the High Court lifted the injunction.

In November 2008, the Labour Court reconvened its hearing on the application to vary the rates of pay in the agreement. At that hearing, the Labour Court rejected an application from the unaligned group of contractors and NECI to defer the hearing until the 'case stated' before the High Court is determined. Instead the Labour Court set aside a number of dates in January 2009 to hear the application for a variation.

In January 2009, there were two issues before the Labour Court:

- An application to vary the Employment Agreement so as to give effect to adjustments agreed in the hourly rates of pay from 1<sup>st</sup> April 2008. This application was supported by the TEEU and opposed by the Electrical Contractors Association and the Association of Electrical Contractors Ireland, all of whom are parties to the agreement. The application was also opposed by the National Electrical Contractors Ireland and a group of unaligned individuals who applied to the Court to be heard on the application.
- An application from the National Electrical Contractors of Ireland and the unaligned group of individuals to cancel the registration of the Registered Employment Agreement. Section 29 of the Industrial Relations Act provides that "*The Court may cancel the registration of an employment agreement if satisfied that there has been such substantial change in the circumstances of the trade or business to which it*

*relates since the registration of the agreement that it is undesirable to maintain registration”*

This application was opposed by the parties to the registered agreement (ECA, AECl and TEEU)

In February 2009, the Labour Court refused the application to vary the agreement so as to give effect to adjustments agreed in the hourly rates of pay. The Court determined that: *“In the circumstances in which the application does not have the support of the employer bodies which are party to the agreement the Court does not consider it appropriate to make an order varying the Agreement. Accordingly the application is refused”*.

The Court also refused the application to cancel the registration of the employment agreement: *“Having regard to all the circumstances of this case the Court has come to the view that the changes in the electrical contracting industry since the registration of the REA have not made it undesirable to maintain its registration. Accordingly the application is refused”*

At the same time, the Labour Court, separately, made a number of recommendations for the guidance and assistance of the parties, including a recommendation that *“the parties to the Agreement resume negotiation at the NJIC on rates of pay, having regard to all relevant considerations, including the terms of the pay agreement associated with Towards 2016 Transitional Agreement 2008-2009, the provisions of the REA itself and the current economic circumstances of the industry”*.

Following a number of meetings of the NJIC in March, April and May, the parties were unable to reach agreement on pay.

On 6<sup>th</sup> July, members of the TEEU undertook a nationwide strike in furtherance of the claim for a pay increase which, they contend, is outstanding under the terms of the Registered Agreement.

The Labour Relations Commission intervened and following extensive conciliation substantial agreement was reached on a range of issues in contention between the parties. The question of pay was referred to the Labour Court for non-binding arbitration and a Labour Court recommendation was issued on 12<sup>th</sup> July.

In its settlement proposal, the Labour Relations Commission noted *“the desire of all parties that an independent review of the dynamics of the industry and how they have contributed to this dispute and the difficulty in finding resolution be carried out”*.

In August 2009, we were commissioned by the Tanaiste and Minister for Enterprise, Trade and Employment to enquire into and report on matters in dispute (excluding pay) between the TEEU and employers in the Electrical Contracting Industry. In particular, we were asked as outlined earlier to enquire into and report on:

- The adequacy of current negotiating and collective bargaining arrangements within the sector. The effectiveness of these arrangements in providing representative decision making structures in industrial relations matters.
- The need, if any, for adaptation and change in collective agreements to meet the current and emerging needs of the sector and the wider economy and the most effectiveness in providing representative

decision making structures in industrial relations matters for employers, workers and their trade unions.

- Current systems of promoting adherence to employment standards within the sector

Appendix D

Terms of the current Registered Employment Agreement

**THE LABOUR COURT**

COPY OF AN EMPLOYMENT AGREEMENT REGISTERED IN THE REGISTER OF EMPLOYMENT AGREEMENTS ON 24<sup>TH</sup> SEPTEMBER, 1990, AS VARIED FOR THE FOURTEENTH TIME WITH EFFECT FROM 11<sup>TH</sup> MAY 2007, BY ORDER OF THE LABOUR COURT UNDER SECTION 28 OF THE INDUSTRIAL RELATIONS ACT, 1946.

**ELECTRICAL CONTRACTING INDUSTRY**

**EMPLOYMENT AGREEMENT**

**BETWEEN**

**ELECTRICAL CONTRACTORS ASSOCIATION**

**ASSOCIATION OF ELECTRICAL CONTRACTORS (IRELAND)**

**AND**

**TECHNICAL ENGINEERING AND ELECTRICAL UNION  
(FORMERLY THE ELECTRICAL TRADES UNION AND NATIONAL  
ENGINEERING AND ELECTRICAL TRADE UNION)**

**EMPLOYMENT AGREEMENT**  
**(ELECTRICAL CONTRACTING INDUSTRY)**

**SCOPE**

This agreement is made between the Electrical Contractors' Association, the Association of Electrical Contractors (Ireland) and the Technical Engineering and Electrical Union, all of whom together constitute the National Joint Industrial Council for the Electrical Contracting Industry.

This agreement will apply to all electricians who are engaged in the general electrical contracting industry and to their employers and to all electrical contractors engaged in the Industry. An electrical contractor is defined as the proprietor of a business whose main activity is the performance of electrical work on a contract or sub-contract basis for any third party.

Electrical work is defined as the installation, repair, commissioning or maintenance of electrical and electronic equipment, including the marking off and preparing for the wiring (whether temporary or permanent) of all electrical and/or electronic appliances and apparatus, fitting and erecting all controllers, switches, junction section distribution and other fuseboards and all electrical communications, bells, telephone, radio, telegraph, x-ray, computer and data cabling, instrumentation, fibre optics and kindred installations; fitting and fixing of metallic and other conduits, perforated cable tray and casing for protection of cables, cutting away of walls, floors and ceilings etc., for same; erection, care and maintenance of all electrical plant,

including generators, motors, oil burners, cranes, lifts, fans, refrigerators and hoists; adjustments of all controls, rheostats, coils and all electrical contacts and connections; wiring of chassis for all vehicles; erection of batteries and switchboards; erection of crossarms, insulators, overhead cables (LT and HT); fitting of staywires, brackets, lightning arrestors etc. and underground mains.

This agreement will not apply to employees in state and semi-state companies who are engaged in similar activities and are covered by other agreements. Neither will it apply to electricians and apprentices employed directly by manufacturing companies for the maintenance of those companies' plants.

## **1. STANDARD WORKING HOURS**

The standard working week shall be 39 hours (from 1st August, 1990), 5 days Monday to Friday.

The working hours shall be 8.30 a.m. to 5 p.m. Monday to Thursday inclusive and 8.30 a.m. to 4 p.m. on Friday. Lunch period - half an hour.

Where on occasion, an official early start is required, no extra payment shall apply, but the normal finishing time after which overtime rates would apply, will be brought back by the same amount as was the starting time. The early start in this context is limited to an hour before normal starting time.

The above hours, including the lunch period, can be subject to variation by arrangement with the Union to suit transport or client's requirements etc.

## 2. WAGES

(a) The hourly rates for electricians shall be as follows:-

### From 1<sup>st</sup> April, 2007

<b>1<sup>st</sup> Year out of time (Craft Basic Rate)</b>	<b>€20.74</b>
<b>After 1 year's service</b>	<b>€21.01</b>
<b>After 2 years' service</b>	<b>€21.15</b>
<b>After 3 years' service</b>	<b>€21.26</b>
<b>After 4 years' service</b>	<b>€21.38</b>
<b>After 5 years' service</b>	<b>€21.49</b>

### Apprentice Rates

<b>1<sup>st</sup> Year</b>	<b>€6.22</b>
<b>2<sup>nd</sup> Year</b>	<b>€9.33</b>
<b>3<sup>rd</sup> Year</b>	<b>€13.48</b>
<b>4<sup>th</sup> Year</b>	<b>€16.59</b>

The length of service is determined by the number of years an electrician has worked in the electrical contracting industry. This is what will be used to establish an electrician's position on the above pay scale.

**Note:** Electricians who commence work under this agreement having worked as an electrician outside the scope of the Agreement shall be paid the Craft Basic Rate.

For time worked 40 feet from the ground on ladders, hanging cradles or scaffolding and suchlike temporary or mobile staging, an extra payment of 8 cent per hour shall apply to the above rates.

- (b) Any person who loses employment within the scope of this agreement and who subsequently is re-employed will commence to be paid at the same point on the scale as when he/she ceased employment.

Any claims of unfair treatment arising out of any section of this Clause, may be considered under Rule 19 Grievance Procedure.

- (c) **Chargehand**

An electrician in charge of two but not more than six electricians shall be paid a premium of 10% above his/her hourly rate.

Electricians who have been chargehands for 12 months or over should carry the Chargehand's rate for a further six months.

With regard to the continuation of chargehand rate, exceptional cases should be referred to the NJIC for individual ruling.

- (d) **Foremen**

Any electrician on site in charge of more than six electricians shall be entitled to be paid an hourly premium which shall not be less than 20% above his/her hourly rate.

### 3. **PAYMENT OF WAGES**

- (a) In accordance with the Payment of Wages Act, 1991 it is agreed that payment of wages by cheque, credit transfer or other non-cash methods should be encouraged.
- (b) Where paid by cheque or other non-cash methods, wages shall be paid not later than 4 p.m. on Thursday and pay slips shall be enclosed.
- (c) Where paid in cash, wages shall be paid not later than 4 p.m. on Friday.
- (d) Where a non-cash method of payment is used, an employer must produce Banker's reference of ability to pay for inspection by a Trade Union official upon receipt of one day's notice of intent to inspect from that official.

### 4. **OVERTIME RATES**

#### (a) ***Monday to Friday***

Normal finishing time to 12.00 midnight - time plus a half.

Midnight to normal starting time - double time.

#### (b) ***Week-ends***

Midnight Friday to normal starting time Saturday - double time. Normal starting time to 12.30 p.m. Saturday - time plus a half. 12.30 p.m. Saturday to normal starting time Monday - double time.

#### (c) ***Planned Overtime***

Where men/women are notified beforehand to report for work on Saturday morning at normal starting time, a minimum of 4 hours work at time plus a half will be guaranteed.

(d) ***Statutory Public Holidays***

Double time for time worked in addition to payment for statutory holidays.

(e) ***Rest Intervals***

Where an electrician works overtime after 12.00 midnight he/she shall be entitled to an 8-hour rest period without loss of pay.

Where more than 2 hours overtime is worked a 10 - 15 minutes paid break shall be given.

(f) ***After Hour Calls***

Minimum pay for calls between normal finishing time and midnight shall be 2 hours at the appropriate overtime rate of time plus a half (home to home). After midnight three hours at double time (home to home).

Normal starting time after 12.00 midnight on Friday is 8.30 a.m. on Monday.

(g) ***Special Late Start***

Where for short fixed periods hours are required to differ considerably from those set out in Rule 1, rates will be as follows:-

When starting time is before 1.00 p.m. - 8 hours at time and a quarter.

When starting time is after 1.00 p.m. - 8 hours at time and one third.

(h) ***Bazaar Work***

Single time rates for standing by; normal rates for erection and dismantling.

(i) ***Shift Work***

All time worked on Contractors' jobs in three continuous shifts shall be paid at the following rates:-

From 8.00 a.m. to 4.00 p.m. and from 4.00 p.m. to 12 midnight - time and a quarter.

From 12 midnight to 8.00 a.m. - time and a third.

(j) ***Church Holidays***

If a contractor receives notice from the client of objection to working on church property during Church Holidays, the contractor shall endeavour to provide suitable alternative employment for the employee concerned.

Where this is not feasible the employee shall be paid a normal day's wages. Where provision has been made to compensate the employer for Church Holidays, no alteration of the employment shall occur, and a normal day's wages shall be paid by the contractor.

**5. NOTICE**

- (a) Notice shall be in accordance with the Minimum Notice and Terms of Employment Act, 1973.
- (b) For those employed less than 13 weeks, 8 hours' notice shall be given of termination of employment or 8 hours' pay in lieu thereof.
- (c) An electrician newly engaged shall be paid at least one day's wages.
- (d) In the case of dismissals, it is recognised that in the circumstances of the industry, it is the prerogative of management to take a decision in any particular case. This however, does not affect the right of trade unions to invoke the agreed disputes procedure in any particular case.

**6. STARTING ON SITE**

- (a) Where within a distance of 11 miles by road from the shop, an electrician starts on site instead of in the shop, travelling time shall be paid in accordance with the following scale:-

over 4 up to 5 miles	-	a quarter hour per day
over 5 up to 6 miles	-	a half hour per day
over 6 up to 7 miles	-	three quarter hours per day
over 7 up to 8 miles	-	one hour per day
over 8 up to 9 miles	-	one and a quarter hours per day
over 9 up to 10 miles	-	one and a half hours per day
over 10 up to 11 miles	-	one and three quarter hours per day

- (b) And in addition where the distance from the shop exceeds half a mile and the employer does not provide transport, he/she may pay the bus fares which would ordinarily be incurred for the journey each way. As an alternative he/she may provide where feasible, a reduced cost commuter ticket or cash equivalent, provided the employee is given reasonable advance notice.

## **7. COUNTRY WORK**

Jobs shall be done on a country work basis when the distance of the job from the shop precludes (in the employer's opinion) working from shop or in site in accordance with Rule 1.

- (a) The ordinary hours of work, subject to alteration on particular sites by mutual agreement, shall be 8.30 a.m. to 5.30 p.m. with one hour, 1 p.m. to 2 p.m. for dinner, Monday to Thursday inclusive. On Friday normal finishing time will be 4.30 p.m.
- (b) Overtime to be in accordance with Rule 4.
- (c) As from 1<sup>st</sup> April 2007, €168.26 (7 days) shall be paid to cover maintenance. If the week's work is completed in 5/6 days, full subsistence of €168.26 will be paid.

The Subsistence Allowance shall be increased on 1st April, each year, by the percentage increase in the Consumer Price Index from Mid November of the previous year to the previous Mid November.

The amount shall be reviewed independently every 3 years in December, the intention being that any new amount agreed shall be effective from 1st January the following year.

- (d) For absences of 4 nights or less working in the country, lodging expenses shall be paid if accounted for to the satisfaction of the employer.
- (e) Travelling time where payable shall be at basic rate only.
- (f) For the purpose of visiting home, return standard rail fare or bus fare plus 2 hours each way to place of ordinary employment which shall be interpreted as being the Company shop shall be allowed once in 7 weeks when the job is over 40 miles and up to 100 miles away. Over 100 miles return standard rail or bus fare plus 4 hours each way shall be allowed also once in 7 weeks.
- (g) On temporary or other termination of employment due to certified illness, rail fare to place of ordinary employment shall be allowed, if required or payment for lodging expenses up to two weeks if certified unfit to travel.

## **8. TRADE UNION MEMBERSHIP**

All foremen, chargehands, and electricians employed by the ECA and the AECI hereafter called the employer bodies shall be or become members of the TEEU hereafter called the Union and must hold current union cards. The Union will not unreasonably refuse membership subject to their own rules and regulations.

Union delegates with written authority from the union shall be entitled to visit jobs and shops during working hours.

Qualified electricians must be over 20 years of age and able to produce references providing not less than 5 years of employment in general contracting work or in accordance with the National Apprenticeship Training Rules.

## 9. **TOOLS**

- (a) Each electrician shall provide himself/herself with a full kit of tools and keep in efficient order comprising: -

Tool box and lock

2 Screw drivers

Electrician's pliers - insulated

Side cutting pliers - insulated

Long nose pliers - insulated

2m Steel tape

Large hacksaw

Junior hacksaw

Stillson, vice grips or slip joint pliers

Universal rawlplug tool

Wood chisel

Tonging chisel

Pad Saw

Hammer

Cold chisel 9" X 5/8"

Centre punch

Square

Plumb bob and line

Level

2 Philips screwdrivers

Set of open spanners 8 - 19 mm

Test lamp/Voltage tester (other than neon phase-tester)

Knife

- (b) Where an electrician's tools are lost, the employer will contribute to the cost of replacement subject to the following conditions:-
- (i) The maximum total contributed by the employer will be €101.58 or 50% of the cost of the replacement whichever is the lesser.
  - (ii) It applies only in the case of a break-in (burglary) or fire at a site "lock-up".
  - (iii) It would apply only in the case of tools lost by electricians while actually physically working for the employer.
  - (iv) It would apply only to electricians.
  - (v) The tools must be replaced shortly after the time of the loss or theft.
  - (vi) The employer has the discretion to give the employee a loan to cover his/her contribution to the cost of replacement and the terms of the loan will be at the discretion of the employer.
  - (vii) As well as notification by the employer to the Garda Siochana or the Insurance Company where appropriate, the employee must notify his/her trade union and submit the claim through the trade union.

- (viii) The Scheme applies only to full-time electricians who are in benefit with their unions at the time of the loss.
- (ix) The employer has the right to purchase the tools, or at his/her discretion to have sight of receipt for the purchase of them.
- (x) Employers shall have the right to check an electrician's tool kit at the time of his/her engagement and thereafter to conduct periodic checks.
- (xi) Claims of €12.70 or less do not come within the terms of the Scheme.

**10. ANNUAL LEAVE**

Statutory Holidays shall be in accordance with the Organisation of Working Time Act, 1997. Annual leave, 21 days, will be taken as follows: -

- (a) 2 weeks in Summer
- (b) 4 days at Christmas
- (c) 1 day on Good Friday
- (d) 6 days at agreed times during year.

The NJIC shall fix annually the latter 6 days leave. Annual leave at (b), (c) and (d) above, may be altered by local agreement.

**11. LABOURERS**

The Labourers shall not perform work usually carried out by electricians. They may be employed to dig trenches, handle ladders, scaffolding etc., and assist electricians laying heavy cables. They shall not help electricians running conduit, casing, cables, etc., or in any way, in regard to Rule 12, take the place of an apprentice.

**12. ELECTRICIAN'S WORK**

Marking off and preparing for and wiring (whether temporary or permanent) of all electrical and/or electronic appliances and apparatus fitting, fixing and erecting all controllers, switches, junction section distribution and other fuseboards and all electrical communications, bells, telephone, radio telegraph, xray, computer and data cabling, instrumentation, fibre optics, and kindred installations, fitting and fixing of metallic and other conduits, perforated cable tray and casings for protection of cables, cutting away of walls, and floors and ceilings for same.

Erection care and maintenance of all electrical plant, including generators, motors, oil burners, cranes, lifts, fans, refrigerators and hoists. Adjustment of all controls, rheostats, coils and all electrical contacts and connections. Wiring of chassis for all vehicles, erection of batteries and switchboards. Erection of crossarms, insulators, overhead cables (L.T. and H.T.). Fitting of stay wires, brackets, lightning arrestors, etc., underground mains.

**13. APPLICATION OF SHOP CONDITIONS**

- (a) The following is the definition of shops:-

Premises which are used for the purpose of general electrical trading as distinct from one contract or one or more contracts upon any site.

All employees must be informed in writing as to where their shop is. Where an employer has more than one shop, he/she shall specify in writing to all new employees, which shop is to be regarded as their place of employment. All conditions in this agreement shall be applied to employees on the basis of the specified place of employment unless and until that is changed by mutual written agreement.

- (b) Local men/women who offer themselves for employment on a country site shall, if engaged, be paid at the prevailing rate.

Subsistence shall not be paid and hours shall be in accordance with Rule 1.

- (c) When required by the employer to travel between the shop and the job men/women shall be paid travelling time at basic rate and fares.

- (d) Any employer who has not got a shop or premises as defined in Clause (a) above in the Republic of Ireland, shall pay travelling time and fares from the appropriate GPO.

**14. SPARE TIME WORK**

No member of the Union may for monetary consideration carry out electrical work on his/her own account or in his/her spare time, while employed, the possession by the employer of a man's/woman's RSI form being regarded as evidence that he/she is in employment.

**15. APPRENTICES**

(a) Apprentice rates shall be as follows:-

1st year	-	30% of craft basic rate
2nd year	-	45% of craft basic rate
3rd year	-	65% of craft basic rate
4th year	-	80% of craft basic rate

(b) Subsistence allowance shall be paid under the same terms and conditions as for electricians under Rule 7.

(c) Overtime shall be paid in accordance with Rule 4.

(d) Travelling time shall be paid in accordance with Rule 6.

(e) The apprentice shall not be sent to work on his/her own during the first 33 months. No more than 2 apprentices of 1st, 2nd or 3rd year grades shall be employed on the same job under the supervision of one electrician.

(f) After 33 months an apprentice will be entitled to carry out repair work. He/she may also be employed on minor installations on his/her own.

- (g) After 42 months an apprentice may be entitled to the assistance of a junior apprentice for such work as the drawing in of cables.
- (h) An apprentice shall be eligible to join the trade union but shall not be eligible for full membership until the apprenticeship has been fully served.
- (i) No employer shall employ an apprentice to work and no member of the union shall work with any person who does not hold a registration card. It is understood that an apprentice undergoing his/her initial 6 months probationary period is exempt from this provision.

**16. EQUAL TREATMENT**

The Union agrees to maintain these rules with all other Associations or individuals doing similar work. The employers on their part agree that they will not make any agreement altering the Rules with any other Association or individual engaged in the Electrical Contracting Industry.

**17. SITE FACILITIES, ALLOWANCES AND SAFETY PRECAUTIONS**

The employers shall make all necessary arrangements with the clients for reasonable facilities for workers by providing safe working conditions, canteen, wash-up, toilet and drying facilities for clothing which shall not be less than those laid down by the Factories Acts.

**18. PROTECTIVE CLOTHING**

If requested by the employee, the employer will provide 50% of the cost of one pair of overalls and one pair of safety boots, once per year.

The employee will purchase the items, provide a receipt and will make the items available for inspection when purchased.

Where the employer purchases the items he/she will make the receipt available for inspection by the employee or trade union official, and will recover the employee's contribution by whatever means they have mutually agreed.

**19. GRIEVANCE PROCEDURE**

The following are the steps, and the time within which they will be taken, when a grievance arises:-

1. Man/woman and/or shop steward to take up with man/woman in charge on site within first day.
2. Man/woman and shop steward to take up with employer before end of second working day.
3. Shop steward to take up with union before end of sixth working day.
4. Union to take up with employer before end of seventh working day.
5. Union and employer to take up with NJIC before end of fourteenth working day.

6. NJIC to issue its findings before end of twenty first working day.
7. Where NJIC fails to agree, the grievance shall be referred to the Labour Court or a Rights Commissioner as appropriate.

By agreement the procedures may be adopted as binding arbitration on all parties to the NJIC.

No industrial action by either party shall take place until after the rejection of a Labour Court or Rights Commissioner's Recommendation and then only after the expiry of at least 14 days written notice to the employer.

Grievances arising from the employment of non-union labour or the imminent closure of an employment need not be subject to this clause. In normal circumstances all of these procedures will be exhausted before industrial action is taken.

No stoppage of work, go slow, or lock-out shall take place on the interpretation of these Rules. The findings of the NJIC shall be binding on all parties in respect of these rules.

Shop stewards must hold a credential card from the trade union.

## **20. UNOFFICIAL STRIKES**

In the event of unofficial strikes occurring, neither the union nor management will negotiate until there is a resumption of normal work. The union will make every effort to bring about a resumption as soon as possible. Where the appropriate Association(s) and trade union agree, a trade union official shall go to the particular site as soon as possible to obtain a resumption of normal work.

**21. DEMARCATIION**

Where demarcation issues arise, work will continue as directed by management, subject to observance by them of Rule 12, until the issue is decided by the NJIC or the Demarcation Tribunal of the ICTU.

**22. SICK PAY SCHEME**

- (a) A Sick Pay Scheme equal in benefits to that required by the terms of the Registered Agreement for the Construction Industry to be implemented for all employees over 20 years of age. The Scheme to be a contributory one and each employee must serve a qualifying period of one month with a firm before he/she would be entitled to benefit.
- (b) A Sick Pay Scheme equal in conditions, benefits and contributions to that operated by the Construction Industry will apply for apprentices. The Scheme shall be a contributory one.
- (c) ***Bereavement Leave***

A maximum of 3 days' paid leave will be allowed in the case of bereavement of close relatives. The employer will be notified as soon as possible of the bereavement. The term close relative means, spouse, parent, child, brother or sister.

**23. PENSION AND MORTALITY SCHEME**

A Pension and Mortality Scheme equal in conditions and benefits to the terms of the pension and mortality scheme of the Registered Agreement for the Construction Industry to be provided for all employees between the age of 20 and 65 years. In this connection each employee between the age of 20 and 65 years to be entered in the Construction Federation Pension and Mortality Scheme. Under the terms of this Scheme each employee is entitled to one pension scheme stamp per week to be fixed to his/her pension card (while in the employment of the firm) by his/her employer. The Scheme is contributory and the cost of each stamp is to be borne jointly by the employer and the employee. The responsibility of seeing that stamps are fixed when due rests with the employer.

**24. PROVISION FOR VARIATION**

This Agreement may be varied in accordance with the provisions of section 28 of the Industrial Relations Act, 1946.

**25. WAGE REVIEW**

The wages payable in the electrical contracting industry shall be determined annually by reference to an agreed set of analogue companies which shall be lodged with the Chair of the NJIC. This shall be the sole method of wage determination.

In September, 1998, and each September thereafter, the analogue increase will be determined in accordance with the formula below, and shall be paid on and from the first of April of the following year. The analogue increase shall be calculated as follows:-

1. The top hourly rates on 1st September each year in each of the agreed analogue companies will be established.
2. The average of these companies will be calculated.
3. The difference between this average and 0.89 of the top NJIC hourly rate (i.e. after 5 years' service) will be calculated and expressed as an amount of cent per hour.
4. This number of cent per hour will be added to each point on the electrician's scale. This will produce the new scale, which will be applied from 1st April, of the following year.
5. The apprentice rates will be calculated as per Rule 15, in this case, the "craft basic rate" is taken to mean the "1st year out of time rate".

**SIGNED ON BEHALF OF:-**

**ELECTRICAL CONTRACTORS' ASSOCIATION - TERRY McEVOY**

**ASSOCIATION OF ELECTRICAL CONTRACTORS (IRELAND) -**

**DESMOND FLOOD**

**TECHNICAL ENGINEERING AND ELECTRICAL UNION -**

**FINN LAWLESS**