Construction Industry Federation

Submission in Respect of a Sectoral Employment Order in the General Construction Sector

3rd February 2023

Chairman and Members of the Labour Court

This submission is made by the Construction Industry Federation (CIF) representing contractors and employers operating in the construction sector. CIF is a registered trade union under the Trade Union Acts 1871-1975 and is the representative body for firms in the construction industry in Ireland. CIF is recognised by Government and all stakeholders as the voice for construction employers.

Our members, who are involved in general building, civil engineering, specialist sub-contracting activities and house building, employ substantial numbers of craft workers, general operatives (GOs) and apprentices in the sector. In 2016, CIF applied to the Labour Court under s.14 of the Industrial Relations (Amendment) Act 2015, as a result of which the first Sectoral Employment Order (Construction Sector) 2017 (SEO) was introduced. The second SEO in the construction sector was introduced in 2019, and this SEO was amended by Statutory Instrument No 598 in 2021.

On 9th December 2022 ICTU, on behalf of the Construction Industry Committee, applied to the Labour Court in accordance with s.14 of the Industrial Relations (Amendment) Act 2015 to request the Court to examine the terms and conditions relating to the remuneration and pensions/sick pay of craftworkers, general operatives and apprentices working in the construction industry. This submission is being made in response to that application.

INTRODUCTION

The first SEO in the construction sector was introduced four years after the striking down of REAs by the Supreme Court in 2013. Prior to their striking down, REAs existed in the industry for decades. The absence of a legally binding mechanism for setting wages in the industry in the period from 2013 to 2017, together with an extremely severe recession and low levels of construction activity, resulted in a general reduction in hourly rates nationally. Depending on the availability of work, many contractors and their employees negotiated hourly rates downwards to ensure the survival of the business and continuity of employment. From 2016 onwards, the industry was beginning to emerge from recession. CIF applied to the Labour Court for an SEO towards the end of 2016 in an attempt to re-introduce a mechanism for setting legally binding rates of pay and terms and conditions of employment in the sector.

The first SEO in the sector, S.I. No. 455/2017 SEO (Construction Sector) 2017, was introduced in October 2017. This SEO introduced a legally binding hourly rate of €18.93 for craft workers. This rate represented an increase of 10% for those craft workers in receipt of the old REA rates, and a significantly higher increase for workers who had negotiated new rates of pay with their employers.

ICTU applied for a new SEO in December 2018. Following this application, SI 234/2019 was introduced which provided for increases in pay of 5.4%, to be paid in two moieties. The first increase of 2.7% was applied on 1st October 2019 and the second increase of 2.7% was applied on 1st October 2020.

The third, and current SEO, was signed into law in November 2021. This SEO, SI 598/2021, provided for an increase in pay of 2.8% on 1st February 2022, and a further increase of 2.8% on 1st February 2023.

CIF is supportive of SEOs. They are beneficial to the industry in that they enable contractors to tender for work on a level playing field. Labour and materials are the main cost elements included in a tender. Where labour costs are set, contractors can tender for work in the knowledge that their competitors are also bound by the labour costs associated with the SEO. A competitive advantage is found by investing in training, new technologies, etc. SEOs also provide good rates of pay and terms and conditions of employment for construction workers. These conditions will serve to entice new entrants into the sector.

ICTU sought a meeting with CIF in September 2022 to discuss the impact of inflation on their members. A meeting took place in November at which ICTU advised that it was their intention to apply to the Labour Court under s.14 If the Industrial Relations (Amendment) Act 2015. The purpose of the application is to amend the SEO to provide for additional increases in pay. This application was made in December 2022.

While we recognise the right of the union side to apply to the Court to amend the terms of the SEO, our members were of the view that, with the exception of the increase in pay of 2.8% which was applied on 1st February 2023, no further increases in pay would be due until at least 2024. The application by ICTU to amend the current SEO was made prior to the second increase in pay being applied under the current SEO. Contracts priced for 2023, therefore, included one increase in pay for 2023 only. Contracts are generally awarded on a fixed-price basis and, therefore, increased costs are not recoverable.

The current high level of inflation is due to bottlenecks associated with Covid-19, supply chain issues and the war in Ukraine. CIF members have experienced substantial increases in energy costs and materials. While inflation is reducing, it is anticipated that it will remain at high levels in 2023 before reducing to more moderate levels in 2024.

In recognition of the current exceptional circumstances, CIF proposes that the following additional increases in pay are provided in an amended SEO:

1st July 2023	1% increase in pay
1st July 2023	1% increase in pension contributions
1st July 2024	3% increase in pay
1st July 2024	3% increase in pensions

The proposal set out above is elaborated on further in this submission.

This submission is structured on the following basis:

Part 1 Sections 15 and 16 of the Industrial Relations (Amendment) Act 2015.

Part 2 (a) Submission in relation to amendments to current SEO (S.I. 598 of 2021):

- Inclusion of increase in pay of 1% on 1st July 2023
- Inclusion of increase in pay of 3% on 1st July 2024
- Inclusion of increase in pension contributions of 1% on 1st July 2023
- Inclusion of increase in pension contributions of 3% on 1st July 2024

(b) Submission in relation to objection to the inclusion of travel allowances in an amended SEO.

Part 3 Economic argument in support of Part 2.

PART 1

INDUSTRIAL RELATIONS (AMENDMENT) ACT 2015

Introduction

CIF is supportive, in principle, of a mechanism that sets pay and conditions of employment for construction workers.

Following the collapse of the REA system in 2013, and the introduction of the Industrial Relations (Amendment) Act in 2015, CIF applied for the first SEO in the construction sector in 2016. The 2015 Act re-established a mechanism for setting pay and conditions of employment for construction workers. Labour and material costs form a substantial portion of any project, and an ability to tender on a level playing field with regard to labour costs is essential in an industry where competition for work is intense.

Two further SEOs have been introduced following applications to the Court by ICTU. The current SEO was signed into law by the Minister of State at the Dept of Enterprise, Trade and Employment in November 2021.

s.15 (1)(a) – Substantially Representative

In accordance with the report by the Nevin Research Institute, which was included with the unions' application, CIF accepts that the applicants are substantially representative of craft workers, apprentices and general operatives in the construction sector.

s.15((1)b) – Universal Applicability

CIF accepts that the application submitted by ICTU refers to all craft workers, apprentices and general operatives employed in the construction sector.

s.15(1)(c) – Normal and Desirable Practice / Expedient to have Separate Terms & Conditions for Construction Workers

It is normal and desirable practice to have terms and conditions relating to remuneration, pensions and sick pay applied to all craft workers, apprentices and general operatives in the construction industry. These workers are currently covered by the SEO (Construction Sector) 2021.

In the period from 1967 to 2013, the terms and conditions of employment for workers in the construction sector were covered by the Registered Employment Agreement (Construction Industry Wages & Conditions of Employment). This REA was varied on 25 occasions prior to it being struck out by the Supreme Court in 2013.

Following the introduction of the Industrial Relations (Amendment) Act 2015, which re-introduced a mechanism for setting terms and conditions in a sector, general construction workers have been covered by three SEOs – in 2017, 2019 and 2021.

Therefore, with the exception of four years between 2013 and 2017, a system for setting pay and conditions for craft workers, apprentices and general operatives has existed in the construction industry for more than five decades.

The industry is labour intensive and due to their universal application, SEOs provide a level playing field for contractors when tendering for work. SEOs also provide good rates of pay and terms and conditions of employment for workers in the industry. As such, SEOs assist in attracting new workers which is essential for the sustainability of the industry.

s.15(1)(d) – Harmonious Relations Between Workers and Their Employers

An SEO which sets legally binding rates of pay, pension and sick pay contributions for all construction workers will make a substantial contribution towards ensuring harmonious relations between employers and workers in the sector. Workers in the sector are transient by nature and tend to move from employer-to-employer as work dictates. An SEO will ensure that all workers, regardless of employer, will be entitled to the same terms and conditions of employment. An SEO that sets an entitlement to pay and conditions of employment in a Statutory Instrument will, therefore, eliminate disputes on these issues between individual workers and their employers.

It is essential in an industry that employs substantial numbers of workers that all workers are entitled to the same rates of pay, and terms and conditions of employment. A construction site can comprise of a number of different employers. An SEO ensures that all workers, regardless of their employer, are entitled to the same terms and conditions of employment. An SEO, therefore, assists in the promotion of harmonious relations between workers and their employers in the industry.

S.16(2)(a) – Potential Impact on Levels of Employment and Unemployment

Employment levels in the sector are determined by the level of work available. As the economy grows there will be a greater need for new entrants. A sector that provides good quality employment, with decent and sustainable rates of pay and conditions of employment will entice new entrants into the apprenticeship system.

New workers will be required to meet the targets set out in the National Development Plan, the Housing for All scheme and the Climate Action Plan.

The absence of legally binding rates of pay and conditions of employment will provide those contractors from outside the State who have a lower cost base with a competitive advantage over Irish construction employers. An SEO will ensure that all construction firms, including those from outside the State, can tender for work on a level playing field. This is particularly important for contractors operating in the border counties who face competition from Northern Irish firms.

An SEO that sets legally binding rates of pay and conditions of employment will ensure that the current high levels of employment in the sector can be maintained.

s.16(2)(b) – Relevant National Agreement in Existence

(a) General Construction Sector

Workers and employers in the industry are currently covered by the terms of the SEO (Construction Sector) 2021. This SEO provided for increases in pay and pensions as follows:

1st February 2022	2.8% increase in pay
	2.0% increase in pensions
1st February 2023	2.8% increase in pay
	2.0% increase in pensions

(b) Mechanical Engineering and Building Services Sector

Workers employed in the mechanical engineering and building services contracting sector are currently covered by the SEO (Mechanical Engineering Building Services Contracting Sector) 2018.

Over the last four years, attempts to amend the terms of this SEO have been fraught with difficulty. It is likely, however, that a fresh application, under s.14 of the Industrial Relations (Amendment) Act 2015 will be made in due course. In the meantime, an industrial relations agreement was reached at the WRC in February 2022 to provide mechanical workers employed by members of the Mechanical Engineering and Building Services Contractors Association (MEBSCA) with the following increases:

29th April 2022	2.8% increase in pay
	2.0% increase in pensions
1st January 2023	2.8% increase in pay
	2.0% increase in pensions

The above agreement was negotiated between MEBSCA on the employer side, and Connect Trade Union and Unite the Union on the employee side.

(c) Electrical Contracting Sector

Electricians employed in the electrical contracting sector were covered by the SEO (Electrical Contracting Sector) 2021. This SEO was struck out by the High Court in October 2022 following a challenge taken by an association of electrical contractors outside the sphere of the CIF.

The Electrical Contractors Association (a constituent Association of the CIF), the Association of Electrical Contractors Ireland and Connect Trade Union are parties to the Electrical National Joint Industrial Council (ENJIC). Agreement was reached at the ENJIC that, in the interests of maintaining good industrial relations, the terms of the SEO of 2021 would continue to be observed. The parties also agreed to make a joint application to the Labour Court for a new SEO in due course. The electrical SEO provided for the following:

1st February 2022	2.8% increase in pay
	2.0% increase in pensions
1st February 2023	2.8% increase in pay
	2.0% increase in pensions

(d) Public Sector Pay Deal – Building Momentum

Craft workers and general operatives employed by Local Authorities are covered by the terms of the pay agreement in the public sector, *Building Momentum.* This agreement, which was reviewed in 2022, provides for the following:

- 1st October 2021 1% increase in pay (or €500, whichever is greater)
- 2nd February 2022 3% increase in pay*
- 1st October 2022 1% increase in pay (or €500, whichever is greater)
- 1st March 2023 2% increase in pay *
- 1st October 2023 1.5% (or €750, whichever is greater)*

In addition to the above, a sectoral bargaining fund of 1% to be applied from 1st February 2022.

(denotes the revised agreement)*

s.16(2)c) – Potential Impact on Competitiveness

The tendering process whereby contractors tender to the principal contractor, or directly to the client, for work contributes to intensifying competition between contractors. The absence of legally binding terms and conditions of employment for workers employed in the sector would undoubtedly lead to an erosion of the quality of employment conditions in the sector as competition between contractors to win work intensifies. Where intense competition for work exists, the cost of investing in training is critically examined by employers. An SEO that sets legally binding labour costs eliminates the opportunity to erode employment conditions as a means of securing projects.

Activity in the sector will increase to meet the targets set out in the National Development Plan, Housing for All and the National Climate Action Plan. Investment in new technologies, training and health and safety will be required to ensure the sector can continue to deliver a high-quality product. Where labour is taken out of competition, investment in new technologies and training provides contractors with a competitive advantage when tendering for work.

S.16(2)(d) – Level of Remuneration in Other Sectors

Building Momentum 2021 – 2023

Rates of pay for craft workers and general operatives employed by Local Authorities are based on a scale of 13 points (see below).

Local Authorities Rates from 1st October 2022

	Start	**Mid-Point**	**Top**
Craftworker	€18.01	€19.50	€20.99
Craftworker's Mate	€15.04	€16.14	€17.24
General Operative (outside Dublin)	€15.24	€16.24	€17.24

The above rates are due to increase by 2% in March 2023, and again by 1.5% in October 2023.

s.16(2)(e) – SEO Binding on All Workers

The CIF is supportive of an SEO that ensures that all craft workers, apprentices and general operatives employed in the sector are covered by the terms of the SEO.

s.16(4)(a) – Harmonious Relations / Avoidance of Industrial Unrest

See also submission in respect of s.15(1)(d) (page 6) regarding the promotion of harmonious relations between workers and employers.

The current SEO provides a mechanism for resolving disputes that may arise at local level or national level. This procedure has undoubtedly contributed towards industrial peace and the avoidance of industrial unrest in the sector.

The industry employs substantial numbers of construction workers. It is essential that clients and investors have confidence in the industry's ability to resolve any disputes that may arise in an orderly manner. A disputes resolution procedure that is binding on employers and workers is essential in ensuring that clients, including multi-nationals, who are considering investing in Ireland can do so in the knowledge of good industrial relations practices.

s.16(4(b)(i) – High Standards of Training and Qualification

The setting of legally binding rates of pay and conditions of employment creates a level playing field in terms of labour costs when tendering for work. This in turn eliminates the opportunity to erode employment conditions as a means of undercutting a competitor to secure a project.

Where labour costs are set for every contractor in the sector, contractors must look to gain a competitive advantage elsewhere when tendering for projects. This will lead to investment in new technologies, training and health and safety.

s.16(4)(b)(ii) – Fair and Sustainable Rates of Remuneration

The industry values its workforce and construction workers are well paid. The REAs in the sector, and the subsequent SEOs, have ensured that construction workers continue to be well paid and not out of line with other workers in the economy in terms of pay.

It is essential, however, that remuneration and pension contribution rates are set at realistic and sustainable levels. While the predictions for the industry are positive, the industry is facing a number of serious challenges which, if not managed appropriately, could threaten the survival of many companies. These challenges include the continued disruption caused by Covid-19, Brexit, a global recession, supply chain issues, increases in the cost of building materials and, consequently, inflation.

There is grave concern amongst our members that the trade union side is ignoring these very serious challenges in pursuit of substantial increases in pay. Together with the disruption caused by Covid-19, the inflationary pressures currently in place could threaten the survival of many firms who are locked into fixed priced contracts and, therefore, have no recourse to recover increased costs. We have expanded on these challenges in economic arguments set out in Part 3 of this submission.

PART 2

CONTENT OF AMENDED SEO

(a) <u>AMENDMENTS TO S.I. 598/2021</u>

CIF submit that S.I No. 598 of 2021 – Sectoral Employment Order (Construction Sector) 2021 is amended as follows:

1.1 Hourly Rates of Pay

The following hourly rates of pay (effective from 1st February 2023) are included in S.I 598/2021:

Craft Worker	*€21.09*
Category A Worker	*€20.47*
Category B Worker	*€18.99*
New entrant Worker	*€15.35*
Apprentice	*Year 1 – 33.33% of craft rate*
	Year 2 – 50% of craft rate
	Year 3 – 75% of craft rate
	Year 4 – 90% of craft rate

CIF submit that (a) the above hourly rates are included in an amended SEO, and (b) the following rates of pay are also included:

<u>Hourly Rates Effective From 1st July 2023 to 30th June 2024 (inclusive of an increase of 1%)</u>:

Craft Worker	€21.30 per hour
Category A Worker	€20.67 per hour
Category B Worker	€19.18 per hour
New entrant worker	€15.50 per hour

Apprentice	Year 1 - 33.33% of craft rate
	Year 2 – 50% of craft rate
	Year 3 – 75% of craft rate
	Year 4 – 90% of craft rate

Hourly Rates Effective From 1st July 2024 to 30th June 2025 (inclusive of an increase of 3%):

Craft Worker	€21.94 per hour
Category A Worker	€21.29 per hour
Category B Worker	€19.76 per hour
New entrant worker	€15.97 per hour

Apprentice	Year 1 - 33.33% of craft rate
	Year 2 – 50% of craft rate
	Year 3 – 75% of craft rate
	Year 4 – 90% of craft rate

1.2 **Pension Contributions**

The following pension contributions (effective from 1st February 2023) are included in S.I.598/2021:

Pension Contributions from 1st February 2023

Employer daily rate	*€5.84 (weekly - €29.22)*
Employee daily rate	*€3.90 (weekly - €19.50)*
Total contribution daily per employee	*€9.74*
Total contribution weekly per employee	*€48.70*

CIF submit that (a) the above contribution rates are included in an amended SEO and (b), the following contribution rates are also included:

Pension Contribution Rates Effective from 1st July 2023 to 30th June 2024:

Employer daily rate	€5.90 (weekly - €29.50)
Employee daily rate	€3.94 (weekly - €19.70)
Total contribution daily per employee	€9.84
Total contribution weekly per employee	€49.20

(The above contribution rates are inclusive of an increase of 1%.)

Pension Contributions from 1st July 2024 to 30th June 2025:

Employer daily rate	€6.08 (weekly - €30.40)
Employee daily rate	€4.06 (weekly - €20.30)
Total contribution daily per employee	€10.14
Total contribution weekly per employee	€50.70

(The above contribution rates are inclusive of an increase of 3%.)

With the exception of amendments to hourly rates and pension contributions, CIF is not seeking any further amendments to S.I.598/2021.

(b) **TRAVEL ALLOWANCES**

CIF is strongly opposed to travelling allowances being introduced in an amended SEO for the following reasons:

(a) The introduction of one hour's travelling allowance per day represents an increase in pay of 12.8%.

(b) No other sector in the economy is obliged to pay a travelling allowance.

(c) For the past 10 years no legally binding travel allowances have existed in the industry.

(d) The former Registered Employment Agreement for the Construction Industry contained a clause on travel allowances to apply in the urban areas of Dublin, Cork, Limerick, Waterford and Galway. Outside of the Dublin City area all other travel agreements were conditional. There was no provision for travel allowances outside the urban areas.

(e) In the urban areas of Cork, Limerick, Waterford and Galway a series of conditions were attached to the agreements which meant that in the latter years of the REAs the majority of workers working on construction sites in these city areas were not entitled to a travel allowance. An example of the conditions attached to the various travel agreements included the clause in the Limerick Travel Agreement which stated that operatives were only entitled to a travel payment where they were sent outwards to work, in other words they had to move from city centre sites out to other sites in order for the travel payment to apply.

(f) As these cities grew, other conditions, such as the clause in the Waterford City Travel Agreement which mentioned the old city boundary and the new city boundary, meant that effectively on the majority of construction sites in Waterford city no travel payment was made. In Galway and Cork similar conditions arose with the result that travel was only paid on large pharmaceutical projects.

(g) The striking down of the REA in 2013 resulted in the discontinuation of travelling allowances being paid to the majority of workers, including those in Dublin.

(h) The original intention of the travel agreement in urban areas was to compensate workers who had to pay bus fares to travel to sites throughout these cities. Travel allowances were introduced at a time when hourly rates of pay were at much lower levels. In the intervening time, pay has increased substantially. Construction workers are now regarded as well-paid workers.

(i) Contractors outside of the urban areas, in particular, have seen significant increases in labour costs since the introduction of the first SEO in October 2017. Covid-19 bottlenecks, supply chain disruption, and increases in energy costs and materials, have placed a substantial financial burden on construction companies To introduce a travel allowance on contractors located outside the urban areas, where travel was never paid in the past, would place an additional financial burden on contractors which could have the potential of threatening the very survival of many companies.

(j) The commercial viability of housing remains a significant challenge in the sector. The introduction of a minimum of one hour's travelling allowance (i.e. an increase of 12.8%) would have a significant impact on the commercial viability of residential developments throughout Ireland, especially in those regions where residential development and construction is not commercially viable, or where viability is marginal. Any increased costs may further stall residential housing projects at a time when the country is in the midst of a housing crisis.

It is, therefore, the case that the payment of travel allowances in the construction industry has been consigned to history. To introduce travelling allowances now would result in significant costs and place an undue financial burden on construction companies.

The current practice in the industry is that many contractors pay a subsistence allowance/country money, tax free, to workers who are transferred to sites which are over 20 miles from the contractors' base. This payment is €182 approx. (tax free) per week and is made in accordance with Revenue Commissioner Guidelines.

IMPLEMENTATION DATE / LEAD-IN TIME

The duration of an average contract in the construction industry is one year. The vast majority of contracts are awarded on a fixed-price basis with the result that any increases in costs which arise during the course of the project cannot be recovered and, therefore, must be borne by the contractor. The timeframe between the awarding of the contract and the commencement of the contract must also be considered.

It is essential that sufficient lead-in time is in place to ensure that labour cost increases can be included in tenders going forward. As stated previously, there have been substantial increases in the cost of energy and materials and these costs cannot be recovered. It is essential, therefore, that firms have sufficient time to include the additional cost of labour into tender prices.

On previous occasions where a s.14 application has been made, CIF has argued strongly for sufficient lead-in time before an SEO takes effect. CIF is proposing an increase in pay of 1% on 1st July 2023. While this timeframe is tight, it is being proposed in recognition of the exceptional circumstances that currently exist. It should also be recognised that for the majority of contractors, it is unlikely that this increase will be recovered.

SUMMARY

To summarise, CIF respectfully makes the following submissions:

1. Increases in pay and pensions:

    - An increase in hourly rates of pay of 1% on 1st July 2023
    - An increase in pension contributions of 1% on 1st July 2023
    - An increase in hourly rates of 3% on 1st July 2024
    - An increase in pension contributions of 3% on 1st July 2024.

2. Travel Allowance

Travel allowances should not be provided for in the SEO. One hour's travel allowance per day represents an increase of 12.8%. The effect of the introduction of one hour's travel in regions and areas where it has never been paid, and in regions where it has ceased to be paid, would impose an unsustainable financial burden on contractors.

We request that the Court take into consideration the impact of the introduction of any future SEO in the construction industry in terms of an employer's ability to include any increases in labour costs into tender prices. We submit that the first increase in pay of 1% on 1st July 2023 is unlikely to be recovered as contractors could not have foreseen additional labour cost increases this year.

PART 3

ECONOMIC ARGUMENTS IN SUPPORT OF PART 2

Macroeconomic Outlook for 2023 and the Medium-term

The central expectation for the economy and labour market remains positive into 2023, albeit subject to inflationary and energy price pressures.

The ECB forecasts European GDP growth to reach 3.1% in 2022, before falling to 0.9% in 2023, and recovering to 2.3% in 2024.

Meanwhile, the domestic economy grew strongly in the first half of 2022, but domestic economic activity began to slow sharply towards the end of 2022. The economic effects of the war in Ukraine - principally rising energy prices and uncertainty about energy supplies - are leading to lower levels of consumption and investment.

Recent data from the CSO shows that construction output in Ireland fell by 4.5% from a year earlier in the third quarter of 2022[1], after two quarters of growth. A decline in production for both residential (-20.4% v 12.5% in Q3) and non-residential (-4.5% vs 6.9%) building offset a rebound in civil engineering works (4.8% vs -6.5%). On a seasonally quarterly basis, construction output decreased 2.7%, following a 2.8% drop in each of the previous two quarters.

The PNP Paribas Real Estate Construction Purchasing Managers Index (PMI) – December 2022 – reported that the end of 2022 saw the Irish construction sector remain in contraction territory as challenging economic conditions hit market demand. Falling workloads led some firms to reduce their staffing levels. Meanwhile, supply-chain delays remained pronounced and input prices continued to rise sharply, albeit the rate of inflation was the softest since early-2021.

The total activity index dropped to 43.2 in December 2022, down from 46.8 in November, and below the 50.0 no-change mark for the third month running. This latest decrease was sharp and the fastest since July 2022. PNP reported a general market slowdown amid challenging economic conditions. Activity decreased in all civil engineering, commercial and housing.

The drop in total construction activity coincided with a decline in new orders. Employment also decreased in December 2022 as firms responded to new workloads. Although modest, the reduction in staffing levels was the sharpest since March 2021.

Towards the end of 2022, the Department of Finance published revised macroeconomic and labour market forecasts for the period 2021-2025. Real GDP was forecast to grow by 10 % in 2022, before moderating to 4.7% in 2023. However, this reflects the growth from 2020's exceptionally low base and the strong performance of those industries focused on international export markets, such as manufacturing. The Department of Finance predicts that Modified Domestic Demand is forecast to grow by 7.7% in 2022, before falling sharply to 1.2% in 2023, and recovering to 3.3% in 2024.

[1] *CSO*

MACROECONOMIC GROWTH AND LABOUR MARKET FORECASTS 2020 – 2025					
	2021	2022	2023	2024	2025
Real MMD (% growth)	5.8	7.7	1.2	3.3	3.6
Real GDP (% growth)	13.6	10.0	4.7	3.3	3.8
Real GNI*	15.4	5.1	0.4	2.7	3.1
Total Employment ('000)	2,140	2,531	2,563	2,603	2,650
Employment (% growth)	11.0	18.3	1.2	1.6	1.8
Unemployment (%)	15.9	5.2	5.1	5.0	4.7

Data Source: Dept. Finance

In its Budget 2023 statement, Government pointed to several vulnerabilities facing the Irish economy beyond the short term. These include:

- The international trend of monetary tightening involving higher interest rates is raising sovereign borrowing costs. Government believes that this may reflect a permanent rather than temporary policy shift.

- The exceptionally high corporate tax receipts have been used as a key revenue stream in Ireland. In anticipation of a loss of this revenue stream, Government has begun transferring money into the National Reserve Fund.

- The ageing population and other structural changes in our population will result in increasing costs to the Exchequer to maintain the existing level of service provision.

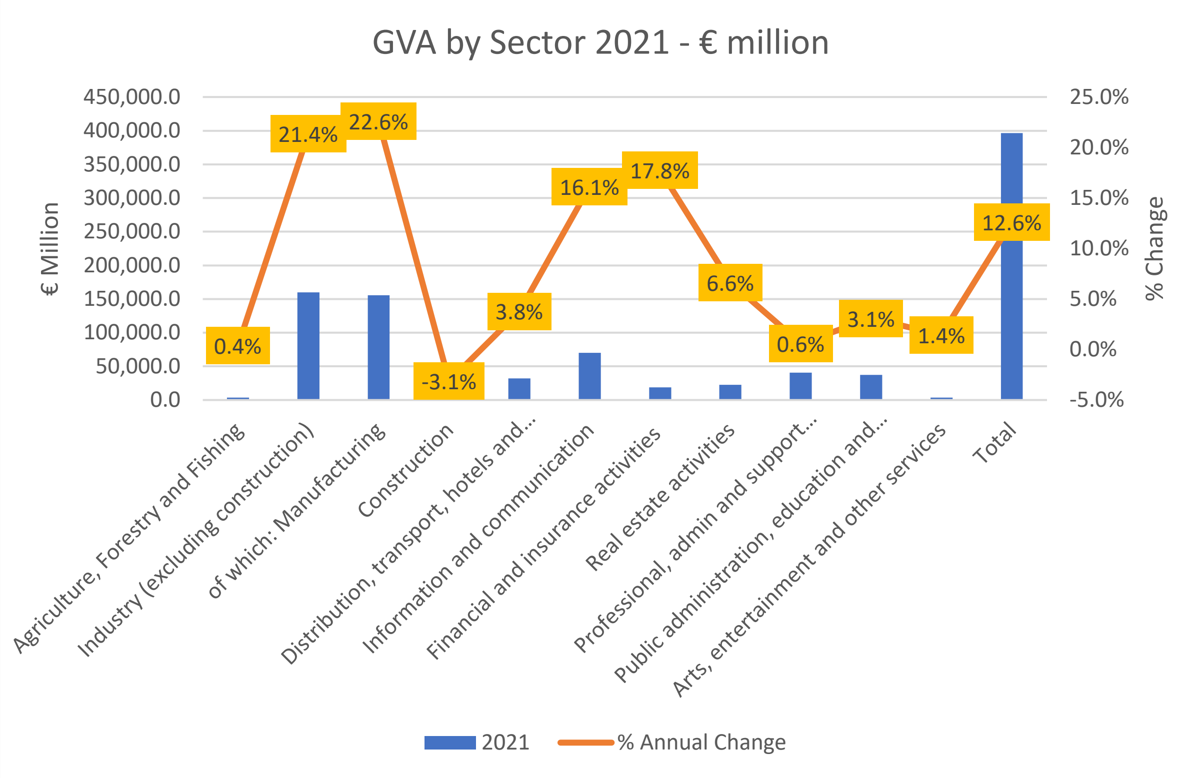
- Transitioning to a carbon neutral economy will involve further significant levels of public and private expenditure.

- Sustainable future growth can be achieved by financing productivity-enhancing investment in human and physical capital and resuming the reduction of public debt in relation to GNI.

Construction activity in a post pandemic world

The Covid-19 pandemic had a major impact on the Irish construction industry, effectively shutting down almost all output at the height of the pandemic except for a limited number of essential projects. All non-essential construction sites were closed for significant periods throughout 2020 and 2021. The industry then faced a new set of challenges in a post pandemic world with a significant rebound in demand, which produced a 2022 bounce in output, combined with a worldwide shortage of raw materials and the highest level of inflation experienced in Ireland in almost 50 years.

During the pandemic, sectors focused on the domestic market experienced significantly lower levels of economic activity in 2020 and 2021, with construction contracting by -12.5 per cent in 2020 and by a further -3.2% in 2021. GVA for the sector was €7,922m in 2021 and is estimated to have increased to €8,310m in 2022.

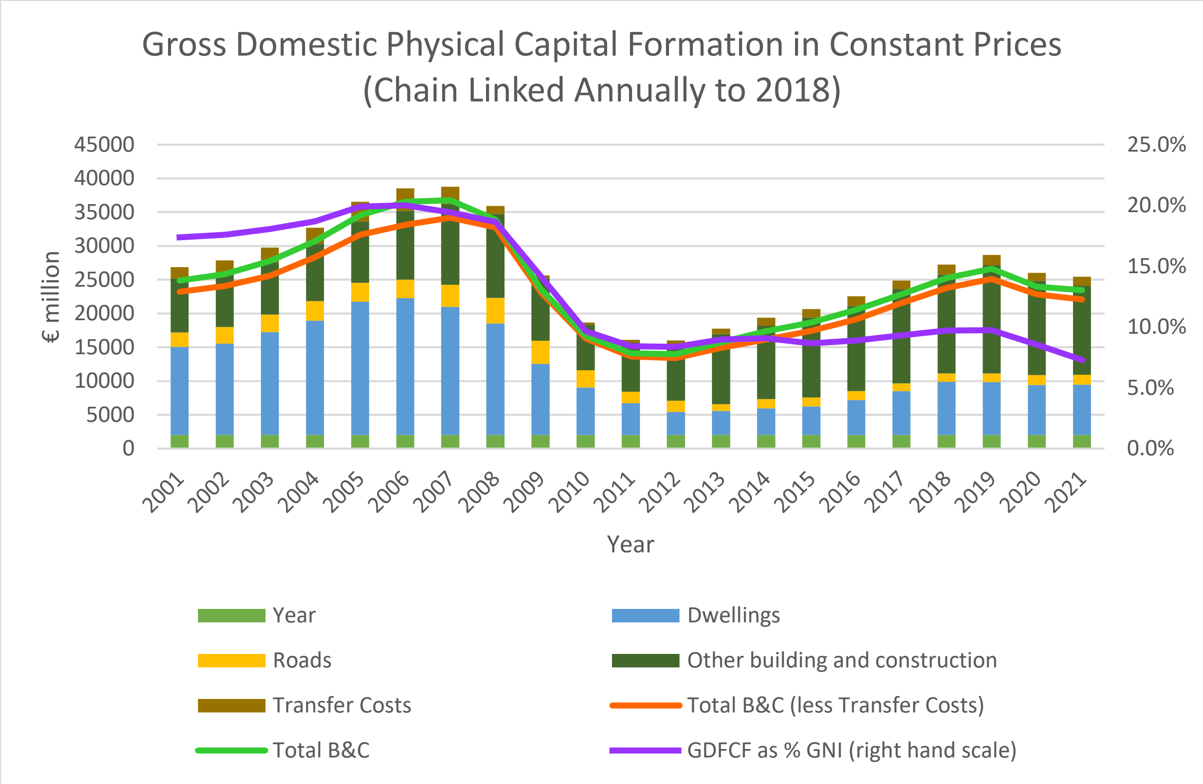


Data Source: National Accounts CSO

Gross Value Added (Constant Prices)	2016	2017	2018	2019	2020	2021
Construction (€ Million)	7,321	8,145	8,885	9,337	8,179	7,922
Gross National Income (€ Million)	231,223	245,102	259,826	273,404	280,670	321,523

Data Source: National Accounts CSO

National accounts show that the official measure of construction investment, Gross Domestic Fixed Capital Formation (GFCF) in Building and Construction was valued by the Department of Finance at approximately €23.5 billion (in constant prices) in 2021. The EY / Euroconstruct Winter 2022 Report estimated that construction investment would increase by 9% in 2022, before growth slowed to 2.5% in 2023 and 4.1% in 2024. Prior to the onset of the pandemic, the Department had forecast that GDFCF in the sector would increase to €41 billion by 2023.



Data Source: National Accounts CSO

Comparison of Building and Construction Industry Indicators						
	CSO Production in Building and Construction Series (base year 2015)			Other Indicators		
	Annual Percentage Change in Volume of Production in Building and Construction[3]	Annual Percentage Change in Volume of Production in Civil Engineering[3]	Annual Percentage Change in Volume of Production in Residential Building[3]	Persons Employed in the Construction Sector[1]	New Dwelling Completions	House Commencements[2]
2007	-13.2	4.5	-21.1	240,000	-	48,876
2008	-28.9	-6	-44.7	214,000	-	22,852
2009	-36.8	-12.8	-58	132,800	-	8,599
2010	-30.0	-22.3	-37.8	104,400	-	6,391
2011	-17.1	-24	-27	86,800	6,994	4,365
2012	-2.3	16.6	-12.4	81,300	4,911	4,042
2013	11.1	5	10.7	86,200	4,575	4,708
2014	8.5	3.3	16.9	90,800	5,518	7,717
2015	8.1	-3.7	29.7	109,000	7,219	8,747
2016	9.5	2.6	23.5	119,400	9,916	13,234
2017	13.2	3.6	16.3	128,000	14,407	17,572
2018	10.2	11.1	-0.9	145,700	18,072	22,467
2019	5.6	-4.4	12.6	145,600	21,087	26,237
2020	-8.7	-15.1	-21.4	136,400	20,676	21,686
2021	-4.1	12.0	-12.7	158,300	20,560	30,724
2022 *incomplete	-4.5 (Q3 only))	4.8 (Q3 only)	-20.4 (Q3 only)	171,000 (to end Q3)	20,807 (to end Q3)	25,162 (11 mths)
[1] Labour Force Survey						
[2] Department of Housing, Planning and Local Government.						

[3] CSO Seasonally Adjusted series introduced in Q1 2015.

Construction Labour Market Outlook

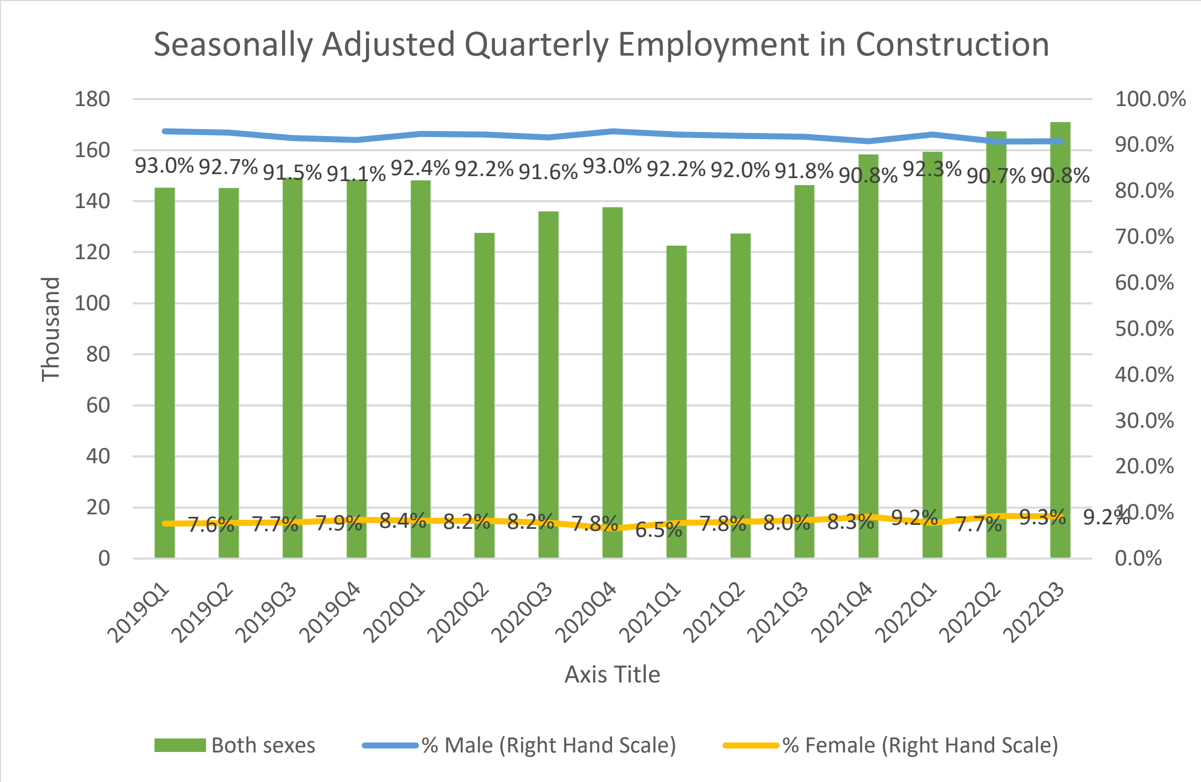
The most recent CSO data shows that the number of persons in employment increased across most economic sectors in the year to the end of Quarter 3 2022, most notably in construction, which increased by 40,000 or 31.4 per cent. 171,000 persons were employed directly in construction at the end of Q3 2022.

During the Covid-19 Pandemic, the Expert Group on Future Skills Needs (EGFSN) published research at the end of 2020 on the demand for skills in the built environment sector to 2030. The EGFSN report published annualised targets for skills needs for the 2020-2030 period based on central, high and low growth forecasts. These forecasts consider and estimate the replacement rate and skills leakage to maintain the existing built environment labour force. Under the high growth forecast the annual requirement for niche and core built environment skills (including Architects and Engineers) is 11,285 per annum or a combined built environment workforce of 281,060 by 2030 (+75,660 from 205,400 in 2019). Under the central forecast the annual requirement for new entrants with core and niche skills to 2030 is 3,853 per annum.

There is no doubt that the skills requirement over the next decade will be influenced by the outlook for the industry. Public investment under the NDP 2030 will remain an important stabiliser for construction demand and employment. It is likely that additional employment is needed in the short term as the sector returns to growth post the pandemic.

While labour market capacity tends to be quite elastic in construction, it is important that short-term policy supports are considered in the current geopolitical and economic environment that may minimise labour market exits, and support the employer and employee, by investing in skills and by maximising firm survival rate through business supports.

The construction sector knows only too well that the cyclical nature of the industry can lead to extreme fluctuations in employment at any given point in time based on the underlying economy, however many of the skills needed over the coming decade will be the same as those required today.



Data Source: CSO LFS 2023

Public Capital Investment

It took over five years of economic expansion for the growth rate in infrastructure investment to turn positive with the launch of the National Development Plan in 2018. Investment pre the pandemic was still well below the level seen in many countries before the global financial crisis. The resurgence was due to increased investment from both the private sector and the Government. The €165 billion NDP represents the most ambitious programme of public capital investment ever seen in Ireland and all stakeholders agree that Ireland's public infrastructure needs significant modernisation. Even so, there has been a significant degree of capital carryover since the NDP was launched and this is concerning to the CIF.

CAPITAL CARRYOVER PER ANNUM 2016 – 2020

€ million	2016	2017	2018	2019	2020	2021
Capital Carryover	74	70	93	215	710	819
% share of total capital expenditure	1.9%	1.5%	1.5%	2.9%	7.2%	5.8%

Data Source: Dept. Finance and Dept. Public Expenditure & Reform

Sustained high levels of uncertainty - now caused by the war in Ukraine, which has destabilised the European economy and led to an energy crisis - together with other post pandemic issues and supply chain pressures have led to a delay in the roll out of some NDP projects. This is extremely concerning and a continuation of delays in rolling out projects, or indeed the cancellation of projects, would have a detrimental effect on construction activity.

Future competitiveness of the construction sector

It is important to highlight the trade, supply chain and contractual challenges that will continue to impact on the competitiveness of the construction sector in 2023 and beyond.

Supply chain and viability challenges will continue because of global volatility and the duration of inflation and rising prices remains uncertain. Slow economic growth and diverging levels of inflation across European Member States is a growing matter of concern for the European Commission and EU Member States. It is a priority for the wider built environment sector that contract conditions continue to attract the industry to bid for public projects. This will require investing in the resources necessary to bring the public procurement process and the Public Works Contract (PWC) in line with international norms, including fair and effective price variation mechanisms.

As indicated earlier, the fiscal challenges facing budgetary policy over the medium-term as Ireland faces the costs of an ageing population and climate change will continue to deepen.

Private consumption and total investment are forecast to weaken over the medium term which precipitates pressure on existing services and infrastructure.

COMPARATIVE RATES OF PAY

a) Pay Rates in Irish Public Bodies – Building Momentum 2021-2023

Pay rates in the public sector are based on a scale of up to 15 points or increments.

The rates of pay for craft workers and GOs employed by Local Authorities, the HSE and the university sector are shown in the table hereunder.

	Start	**Mid-Point**	**Top**
Local Authorities (rates as at 1st October 2022)			
Craftworker	€18.01	€19.50	€20.99
Craftworkers Mates	€15.04	€16.14	€17.24
GO's/Labourers (outside Dublin)	€15.24	€16.24	€17.24
HSE (rates as at 1st October 2022)			
Craftsmen (Paypath)	€18.07	€19.57	€21.06
Craftsmen (Non-paypath)	€17.88	€19.27	€20.66
Craftsmen's Mates (Paypath)	€14.02	€15.09	€16.15
Labourers	€14.76	€16.23	€17.70
University (Increase of 1st October 2022)			
Craftsmen	€19.76	€20.32	€20.87
General Operatives	€16.14	€16.43	€16.72

Source: Individual Organization Publications

The above rates of pay are inclusive of the provisions of the revised *Building Momentum* agreement which was agreed between the Dept of Public Expenditure & Reform and ICTU in late 2022.

Building Momentum provides for the following increases in pay in 2022 and 2023:

- 1% (sectoral bargaining fund) — 1nd February 2022
- 3% — 2st February 2022 (backdated)
- 1% — 1st October 2022
- 2% — 1st March 2023
- 1.5% (or €750, whichever is greater) — 1st October 2023

Agreement expires 31 December 2023.

Building Momentum provides for higher percentage increases in pay than the current construction SEO. However, as can be seen above, the rates of pay for craftworkers and general operatives covered by the SEO are substantially higher than those paid to equivalent workers employed in public bodies.

- Craftworkers employed in the construction sector are currently paid €21.09 per hour, regardless of service. Craft workers in the construction sector are paid higher rates of pay than craft workers employed by Local Authorities, the HSE or craft workers employed in the university sector.

- Category B workers in the construction sector are General Operatives (GOs) with 2 years' experience in the industry. These workers are entitled to a rate of €18.99 per hour. This rate is 9% higher than the top GO rate on the Local Authorities pay scale. The €18.99 rate is also 7% higher than the top rate paid to GOs employed by the HSE, and 12% higher than the top rate paid to GOs in the university sector.

- Category A workers in the construction sector are GOs on a rate of €20.47 per hour. This rate is over 16% higher than that paid to GOs in Local Authorities, 14% higher than that paid in the HSE, and 18% higher than their equivalent employed in the university sector.

Excluding the sectoral bargaining fund, workers employed by Local Authorities are entitled to an increase in pay of 7.5% in 2022 and 2023. In accordance with the SEO, workers employed in the construction industry received pay increases of 5.6% over the same period. However, workers in the construction industry are in receipt of higher rates of pay than equivalent workers employed in the public sector. Additionally, CIF is proposing a further increase in pay of 1% in 2023 and 3% in 2024.

b) **<u>Comparative National Pay Rates – CSO</u>**

Data on earnings for Q3 2022, as released by the CSO, show the following weekly averages:

	Average Earnings per Week for Q3 2022
National	€864.32
Construction Sector	€913.75
Private Sector	€808.33

Source: CSO

As can be seen from the above table, average weekly earnings in the construction sector for Q3 in 2022 were 5.5% (€49.43) greater than the national average, and 11.5% (€105.42) greater than the national average in the private sector. [1]

[1] Earnings and Labour Costs Q2 2022 (Final) Q3 2022 (Preliminary Estimates) - CSO - Central Statistics Office

As can be seen from the above, average earnings in the construction sector are approx. 5.5% higher than the national average, and 12% higher than earnings in the private sector.

c) **<u>Comparative International Pay Rates</u>**

Our nearest competitors are based in Northern Ireland and Britain. The British Building and Allied Trades Joint Industrial Council (BATJIC) recently concluded a one-year agreement for a 5% wage rate increase across the board.

The euro equivalent of the increased rates as at 30th of January 2023 are:

Advanced Craft:	€15.96
Intermediate Craft:	€13.76
General Operative:	€12.20[2]

Craft workers and general operatives employed in Ireland are paid substantially higher rates of pay than their equivalents employed in the UK and Northern Ireland. Despite the fact that the SEO applies to all workers in the Republic of Ireland, Irish contractors operating in border regions continue to lose work to Northern Irish contractors who are more competitive due to lower labour costs as per the above. Further increases in labour costs beyond what is being proposed by CIF will widen the gap between rates of pay for workers from the North and South of Ireland, which in turn will diminish our international competitiveness.

<u>Workers Covered by the SEO</u>

Construction workers are well paid workers to reflect the skills and performance required. Since the introduction of the first SEO in the industry in 2017, construction workers have been awarded increases in pay of over 21%:

10%	October 2017
2.7%	October 2019
2.7%	October 2020
2.8%	February 2022

[2] BATJIC wages and holidays | FMB, Federation of Master Builders

2.8%	February 2023

As set out above, an increase in pay of 2.8% was awarded to construction workers on 1st February 2023. The current SEO was signed into law in November 2021 and it was anticipated that no further increases would apply until at least February 2024. An additional increase in pay in 2023 could not have been foreseen and, therefore, could not be priced into contracts. Employers and workers in the industry have been severely impacted by high levels of inflation due to Covid-related bottlenecks, supply chain issues and the war in Ukraine. Therefore, due to these exceptional circumstances, CIF is proposing the following additional increases in pay:

1st July 2023	1% increase in pay
	1% increase in pension contributions
1st July 2024	3% increase in pay
	3% increase in pension contributions

CIF is, therefore, proposing that in the period 2022-2024 construction workers will receive increases in pay of 9.6%. This equates to an average increase of approximately 3.2% p.a.

Craft workers and general operatives employed in the construction industry are paid substantially higher rates of pay than craft workers and general operatives employed by Local Authorities, the HSE, the university sector. Construction workers covered by the SEO are also paid substantially higher than the national average and equivalent workers employed in the North of Ireland and the UK.

Any increase in pay to Irish construction workers in excess of what is proposed above will:

- place the industry out of line with other workers in the economy
- further widen the gap between our nearest competitors in the North of Ireland and the UK, thus impacting negatively on competitiveness
- negatively impact on investment decisions which would erode growth potential

INFLATION

In January 2023, the CSO reported that inflation reached a 38 year high in 2022, with the annual rate peaking at 9.2% in October, before falling slightly in November. However, in October wholesale energy prices decreased by 37% compared to October 2021 and were at their lowest level in a year.

According to initial estimates by the CSO, the annual rate of inflation slowed to 7.7% in January 2023. November 2022 saw for the first time in 17 months that the rate of inflation eased internationally. According to the CSO, the CPI eased to 8.2% in December 2022, down from 8.9% the previous month. The main factor was a fall in the price of petrol, diesel and home heating oil. Data from the CSO shows that the annual average rate of inflation for 2022 was 7.8%, the highest annual rate since 1984. Inflation is due to continue to reduce with the Irish Central Bank predicting that inflation will fall to 6.3% in 2023.

Inflation rose globally in 2022 as a result of supply-chain bottlenecks lingering from the pandemic, and shocks to the energy and food market due to the war in Ukraine. In 2022, Government made supports available to all households to ease the burden of rising costs in 2022 and 2023. Supply-chain issues are easing, the cost of energy has decreased and it is anticipated that the rate of inflation will continue to reduce.

In January 2023, Eurostat, the statistical office of the EU, reported that Eurozone inflation fell by more than expected in December 2022. Despite the fall in inflation, underlying price pressures rose. According to Eurostat, the problem is that the longer price growth stays high, the more difficult it will be to tame it as firms start adapting their pricing and wage policies, perpetuating inflation. Eurostat warned that seeking pay increases to match inflation would only exacerbate the problem further.

On 1st February 2023 Davy Stockbrokers predicted that inflation would slow to an average of 4.7% this year.

In January 2023, the CSO reported on high inflation in the cost of materials in the construction sector, with prices for fabricated metal up 57% on an annual basis in October, and the price of PVC pipes and fittings used in plumbing up 28%. Increases of these magnitudes could not have been foreseen and, therefore, could not have been priced into contracts. The majority of contracts are entered into on a fixed-price basis and additional costs are not recoverable.

WAGE PRICE-SPIRAL

There is a danger of a wage-price spiral emerging where trade unions seek increases in pay to keep up with inflation. Increasing pay broadly in line with increases in the cost of living will do nothing other than perpetuate inflation. To avert the risk of a wage-price spiral emerging, decisions on increases in pay must be made by taking other factors into consideration. The Government introduced significant measures in Budget 2023 to assist all households cope with rising costs. The Government also increased the tax-free bonus which many employers in the industry offered to their employees last Christmas. All of these measures combine to improve living conditions for workers.

IMPORTANCE OF MULTINATIONAL SECTOR

The importance to the construction industry of investment by the multi-national sector in Ireland cannot be over-stated. Continued investment by these firms during the recent recession ensured the survival of a substantial number of construction firms. It is essential that the construction sector remains competitive in order to attract further investment. The recent positive GDP figures and corporate tax receipts reflect the continued strength of the multinational sector in Ireland. GDP is greatly influenced by the outsized role that the multinational sector plays in the economy.

Multinational firms make investment decisions based on a number of criteria. However, it is essential that high labour costs in the construction sector are not an impediment to future investment by these firms.

DETERIORATING ECONOMIC OUTLOOK GLOBALLY

Minister for Enterprise, Trade & Employment, Simon Coveney, at the launch of Enterprise Ireland's latest annual report on 10th January 2023, warned that the deteriorating economic outlook internationally was likely to bring setbacks to the Irish economy. However, he said that the Government still expects the Irish economy to continue to grow this year, while many other peer countries fall into recession.

According to the ESRI, a risk to Ireland is our dependence on the ICT and pharmaceutical sectors. Pharma related products accounted for 5% of Ireland's exported goods in 2022, while ICT services make up 56% of exported services. The ESRI predicts that both sectors are especially vulnerable to changes in the global market and that Ireland's biggest trading partners, including the US and EU, are at risk of recession. Companies such as Meta, Stripe, Twitter, Amazon, Microsoft, Paypal and Intel have all announced job losses due to slowing demand and a worsening global economic outlook. Workforce reductions have not just been confined to the tech sector. Other large companies, such as Salesforce and Goldman Sachs also recently announced reductions in their workforce. The slew of job losses in the tech sector in particular is likely to increase unemployment rates in Ireland.

The ESRI also outlines other risks to the Irish economy, such as:

- The UK is in recession, a fact which is likely to have a detrimental impact on the Irish economy.

- While Ireland's exports grew by 13.5% in 2022, they are expected to grow by only 5.2% in 2023.

HOUSING

Recent CSO data shows that housing commencements are down, apartment planning permissions have plunged and construction indices have illustrated a drop off in house building. The slowdown reflects the soaring cost of construction, meaning there is a viability gap for developers. While 2022's target of 24,600 new homes will be exceeded, housing output will remain very challenging for 2023 due to rising costs, interest rates and planning backlogs.

The industry, therefore, faces many challenges. It is essential that increases in labour costs are realistic and sustainable. It is also essential that sufficient lead-in time is provided to enable firms include any increased cost of labour into tender prices.

STATUTORY SICK PAY

Labour costs increased on 1st January 2023 with the introduction of Statutory Sick Pay. Prior to January 2023, the only mandatory sick pay scheme in the economy was in the construction sector. In addition to contributing to the Construction Industry Sick Pay Scheme, construction employers are now also obliged to adhere to the Statutory Sick Pay Scheme. This Scheme will increase to 10 days over a short period of time. In an industry that is labour intensive, this Scheme increases labour costs on construction employers substantially.

CONCLUSION

CIF is supportive in principle of SEOs. We believe they are of benefit to employers by providing a level playing field in terms of labour costs when tendering for work. They are also beneficial to workers in the industry as they provide good rates of pay and terms and conditions of employment. An SEO also provides a mechanism for resolving disputes in an orderly manner without recourse to immediate industrial action.

We have addressed the various clauses under sections 15 and 16 of the Industrial Relations (Amendment) Act 2015 in Part 1 of this submission.

Part 2 sets out the CIF's position regarding amendments to the current SEO, S.I.598/2021. We respectfully request the Court to amend the current SEO to provide for the following increases:

Increase in pay of 1% on 1st July 2023

Increase in pension contributions of 1% on 1st July 2023

Increase in pay of 3% on 1st July 2024

Increase in pension contributions of 3% on 1st July 2024

CIF is not seeking any further amendments to S.I 598/2021.

CIF requests that travel allowances are not included in an amended SEO.

Part 3 of this submission contains economic arguments in support of our proposal on increases in pay and pensions. CIF members did not foresee any additional increases in pay in 2023 beyond the 2.8% which was paid on 1st February. Additional increases in labour costs have, therefore, not been included in tender prices. CIF members have been subjected to inflationary pressures over the past year with substantial increases in materials and energy costs. As the majority of contracts are entered into on a fixed-price basis, increased costs are not recoverable and most be borne by the contractor.

However, due to the exceptional circumstances existing at present due to the high level of inflation, CIF is proposing an increase in pay and pensions of 1% on 1st July 2023. This will bring the total increase in 2023 to 3.8%. This is on the higher end of increases in pay in the economy generally. Any increase in pay that is higher than 1% is simply not sustainable.

A further increase in pay of 3% is proposed on 1st July 2024. The industry is operating in a time of uncertainty and increases in pay beyond what is being proposed could threaten the survival of many companies.

Construction workers are paid substantially more than their counterparts in the public sector. They are also paid substantially more than workers employed in the North of Ireland and the UK. Contractors based in these jurisdictions are our nearest competitors.

CIF is acutely aware of challenges facing the industry which would impact on future activity. These challenges include:

- A deteriorating global economic outlook. The UK is already in recession and a global recession is predicted. While it is anticipated that Ireland may avoid recession, our economy will undoubtedly be negatively affected by a global downturn. If growth occurs, it will likely be at much reduced levels.

- The Irish economy, and the construction industry, is heavily reliant on the multinational sector. Recent job losses in the tech sector and other multinational firms due to a global slowdown will likely impact on decisions to invest further in Ireland.

- The housing sector is experiencing viability issues will likely result in a reduction in housing projects this year.

CIF respectfully requests the Court to provide for increases in pay and pensions as proposed in this submission. Construction workers are well paid. Government supports have been introduced to assist households with increased prices. Inflation is predicted to reduce to more sustainable levels by 2024. Attempts to match inflation with increases in pay will only serve to increase inflation further.

END

February 2023