Construction Industry Federation

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

27th July 2021

Chairman and Members of the Labour Court

On 28 May 2021 the 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. ICTU has requested the Court to examine the following:

- Minimum rates of remuneration, including basic pay and travelling time
- The standard daily and weekly hours of work
- Pension contributions

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 craftworkers, 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 was introduced.

BACKGROUND

SEOs in the Construction Sector

The first SEO in the construction sector was introduced 4 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 in order for the contractor to remain in business and the employee to remain in 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 of 2017 SEO (Construction Sector) 2017, was introduced in October 2017. This SEO provided for a rate of €18.93 for craft workers. This rate provided 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.

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

APPLICATION BY ICTU UNDER s.14 OF THE INDUSTRIAL RELATIONS (AMENDMENT) ACT 2015

CIF is supportive, in principle, of a new SEO being introduced in the construction sector. Since the enactment of the Industrial Relations (Amendment) Act in 2015, two SEOs have been introduced in the industry. Prior to the striking down of REAs in 2013, employers and workers in the industry were covered under the REA, which was first introduced in the late 1960s and varied several times over the following 4 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.

A disputes resolution procedure is also essential to ensure that disputes that arise can be dealt with in an orderly manner without recourse to instantaneous industrial action.

An SEO, therefore, that applies to all craftworkers, general operatives and apprentices in the construction industry is a normal and desirable practice. An SEO that provides a mechanism for settling individual and collective disputes will undoubtedly promote harmonious relations in a labour-intensive industry.

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 disruption caused by Covid-19, Brexit, a global shortage of building materials and the substantial increases in the cost of these materials. There is grave concern amongst our members that the trade union side is ignoring these very serious challenges in pursuit of substantial increases in hourly rates. 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 below.

INDUSTRIAL RELATIONS (AMENDMENT) ACT 2015

In accordance with s.16 of the Industrial Relations (Amendment) Act 2015, the Court is obliged to consider the following:

a) The potential impact on levels of employment and unemployment in the sector

b) The terms of any relevant national agreement

c) The potential impact on competitiveness in the sector

d) The general level of remuneration in other economic sectors in which workers of the same class, type or group are employed

In accordance with the above, CIF makes the following submission:

COMPARATIVE RATES

1.1 Pay Rates in Irish Public Bodies

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

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

	Start	**Mid-Point**	**Top**
Local Authorities (increase of 2% on 1/10/20)			
Craftworker	€16.83	€19.04	€19.69
Craftworkers Mates	€13.97	€15.79	€16.09
GO's/Labourers (outside Dublin)	€14.17	€15.79	€16.09
HSE (Increase of 2% on 1/10/20)			
Craftsmen (Paypath)	€16.89	€19.09	€19.76
Craftsmen (Non-paypath)	€16.70	€18.85	€19.38
Craftsmen's Mates (Paypath)	€14.02	€15.80	€16.15
Builders Labourers	€13.78	€15.62	€16.61
General Labourers	€13.78	€15.62	€16.61
Builders Labourers Non-Dublin (Non-Paypath)	€13.96	€15.61	€15.95
General Labourers Non-Dublin (Non-Paypath)	€13.96	€15.61	€15.95
University (Increase of 2% on 1/10/20)			
Craftsmen	€18.64	€19.17	€19.69
General Operatives	€15.23	€15.49	€15.78

Source: Individual Organization Publications

All craftworkers in the construction sector are currently paid €19.96 per hour, regardless of service or experience. The hourly rate paid to craftworkers in the construction sector are higher than the top rate paid to a craftworker employed by a Local Authority.

Category B workers in the construction sector are GOs with 2 years' experience in the industry. These workers are entitled to a rate of €17.97 per hour. This rate is 11.5% higher than the top GO rate on the Local Authorities pay scale. The €17.97 rate is also 8% higher than the top rate for GOs in the HSE and 13.5% higher than the top rate in the university sector.

Category A workers in the construction sector are GOs on a rate of €19.37 per hour. This rate is over 16.5% greater than that paid to GOs in the HSE, 20.4% higher than the top rate for a GO employed by Local Authorities and 22.7% greater than their equivalent in the university sector.

Building Momentum –Public Service Agreement 2021 – 2022

The above agreement was negotiated between ICTU and Government in December 2020. It provides for increases in pay for public sector workers in 2021 and 2022 as follows:

- 1% (or €500, whichever is greater) on 1 October 2021
- 1% (or €500, whichever is greater) on 1 October 2022
- The equivalent of a 1% increase to be used as a Sectoral Bargaining Fund

After applying the above increases to equivalent workers in the public sector, the HSE and the university sector, the current rates of pay for workers in the construction industry are higher than those in the public sector.

1.2 Comparative National Pay Rates – CSO

As the industry was in lock-down in Q1 2021, we have used the data for Q4 of 2020 below. Data on earnings for Q4 2020, as released by the CSO, show the following weekly averages:

	Average Earnings per Week for Q4 2020
National	€847.21
Construction Sector	€888.54
Private Sector	€792.63

Source: CSO

As can be seen from the above table, average weekly earnings in the construction sector for Q4 in 2020 were 4.8% (€41.33) greater than the national average, and 12% (€95.91) greater than the national average in the private sector.

1.3 Comparative International Pay Rates

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 1.5% wage rate increase that came into effect on 21 June 2021. The euro equivalent (as at 26 July 2021) for the published BATJIC wage rates are:

Advanced Craft: €15.63

Intermediate Craft: €13.47

General Operative: €12.63

Craftworkers and general operatives employed in Ireland are paid substantially higher rates than their equivalents employed in the UK. 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. Despite the fact that the SEO applies to all workers working in the Republic of Ireland, Irish contractors operating in the border regions in particular continue to lose contracts to competitors from the North of Ireland. Further increases in labour costs 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.

ECONOMIC CONSIDERATIONS

An increase in GDP is forecast for 2021 but this is expected to decrease in 2022 (see Economic Outlook – GDP is at 8.8%). This is reflective of a very unstable period due to the effects of Covid-19, Brexit and other international dynamics. There is growing concern on competitiveness pressures driven by rapid international price increases on goods and materials. We are still in the midst of a global pandemic and the future remains uncertain.

1. National Development Plan 2018-2027/Project Ireland 2040

It took over five years of economic expansion for the growth rate in infrastructure investment to turn positive with the launch of the NDP in 2018. Investment pre Covid-19 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. There is a fear that sustained high levels of uncertainty, along with the mounting government deficit, may further delay infrastructure investment. Ireland's public infrastructure needs significant modernisation. Digitalisation and dealing with climate change also require large public investments over the coming years.

CAPITAL CARRYOVER PER ANNUM 2016 – 2020					
€ million	**2016**	**2017**	**2018**	**2019**	**2020**
Capital Carryover	74	70	93	215	710
% share of total capital expenditure	1.9	1.5	1.5	2.9	7.2

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

The European Investment Bank (EIB) has reported that investment in the European Union fell sharply at the onset of the Covid-19 outbreak. This decline followed a slowdown in investment that had gradually set in during 2019 and intensified as Government placed restrictions on movement and business activity, especially in the second quarter of 2020. The EIB finds that elevated uncertainty, along with deteriorating firm finances, are likely to further impede corporate investment in the short to medium-term.[1]

Labour costs account for over 40% of any tender. Therefore, stability with regard to labour costs is of paramount importance to the industry. The threat of wage rate and construction price inflation will dominate the government's agenda in 2021 and beyond and may impact on the appraisal of capital projects and programmes identified under the National Development Plan 2018-2027.

[1] European Investment Bank, Investment Report 2020/2021 'Building a smart and green Europe in the COVID-19 era'.

Businesses in the construction industry need certainty around the forward work programme. The prioritisation and timeframe for delivery of capital projects and programmes becomes a vital business planning consideration for CIF members. Construction cost inflation may disrupt allocations to specific projects and programmes - thereby reducing the pipeline of work ahead for the sector and impacting on growth and certainty of the forward work programme. It is assumed that the future expenditure figures detailed within the National Development Plan will not vary. This infers that if costs are higher than anticipated then Exchequer expenditure will not change but the deliverables from the National Development Plan will be reduced – which is bad news for construction companies, society and the general economy.

Should the unit labour cost element in construction increase beyond what is deemed reasonable and sustainable, without a concurrent increase in expenditure by the Exchequer, then there will likely be a reduction in the number of projects that proceed and a reduction in the total labour hours required. Our position is not that there will be job losses but that an increase in the unit labour cost will reduce the future employment potential of the construction sector in Ireland at a time when Ireland is in the midst of a housing crisis and emerging from a global pandemic.

2. Foreign Direct Investment

The industry is acutely aware of the value of the FDI sector to the Irish economy in general and the construction industry in particular. Investment in projects in Ireland by large multi-nationals creates employment for thousands of construction workers. Unsustainable increases in labour costs in the construction sector will result in foreign direct investment being re-directed to other countries with lower cost bases.

3. Employment

The construction sector comprises predominantly of SMEs and micro-enterprises. Over 96% of businesses in the construction industry employ 9 people or less. Over 65% of people employed and engaged in construction work are in small companies of 9 persons or less, and just 14 companies employ over 250 people. The construction sector has the third highest share of micro-enterprises in comparison to other sectors of the Irish economy. As a result of its structure and degree of fragmentation, the construction sector is highly sensitive to the costs of doing business. The construction industry is labour-intensive and the cost of labour is a substantial element in the overall cost of doing business.

Construction sector SMEs operate within very tight margins and are more likely to be vulnerable to the effects of rising wage rate inflation. SMEs in construction are often left with the decision to reduce staff or operating hours or to raise prices, which in turn increases overall construction cost inflation.

4. Covid-19

The construction sector has been heavily impacted by the Covid-19 pandemic. With the exception of essential services sites, the industry was shut down for 7 weeks in 2020 and a further 16 weeks in 2021. The industry has, therefore, been closed for approximately 6 months out of the last 16 months. Construction firms in lockdown were faced with substantial costs in terms of storage of materials, keeping sites safe, security, insurance, head office costs, etc. These costs are not recoverable and occurred at a time when firms were not operating and there was no cash flow.

The impact of the lock-down in the industry this year can be illustrated as follows:

- There were 59,867 construction workers in receipt of the Pandemic Unemployment Payment (PUP) on 2 March 2021 i.e. almost one in two workers (43.9%) of the total number of workers directly employed in the construction sector (136,400) in Q4 2020.

- 5,266 construction employers availed of the Employment Wage Subsidy Scheme in January 2021.

While house building resumed work in April, it was not until May 2021 that restrictions were fully lifted in the industry. Work resumed on a phased basis and, due to social distancing requirements, many contractors could only resume work at a reduced capacity.

The CIF developed the Covid-19 Standard Operating Procedures (SOPs) to assist firms in keeping workers safe and sites open. These procedures have been revised 8 times since they were initially introduced and provide guidance on travelling safely to and from work, managing social distancing on sites, hygiene/sanitation requirements, testing, managing incidents on site, etc. While these measures are necessary in the current environment, they have placed substantial costs on construction firms.

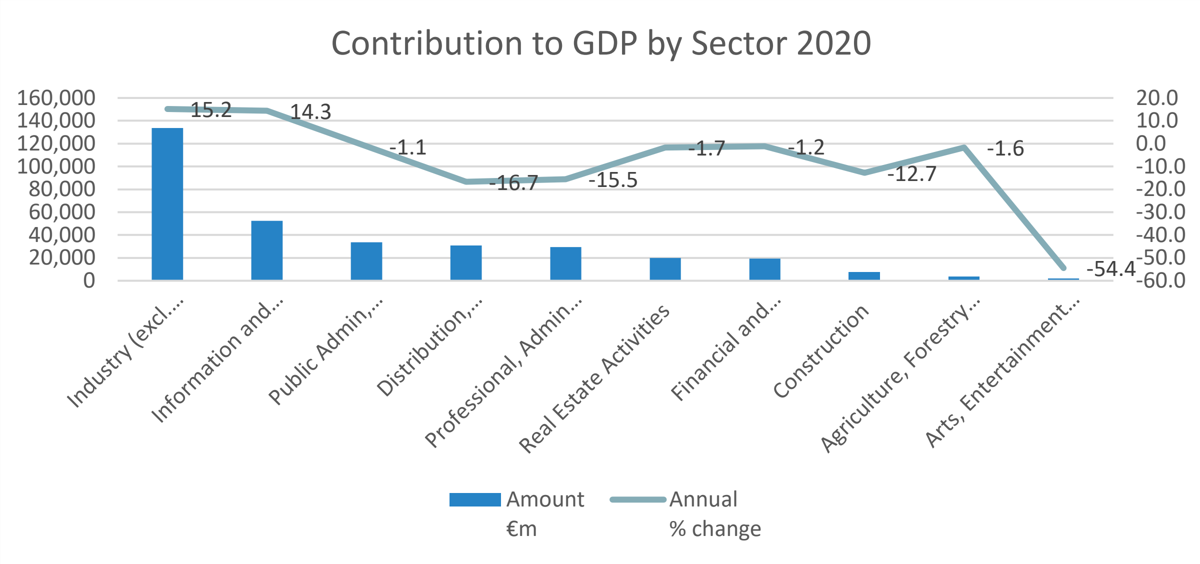
The majority of contracts are entered into on a fixed price basis and the cost of the Covid-related safety measures are not recoverable. Additionally, many projects have been delayed indefinitely, or cancelled, due to the uncertainty posed by the pandemic.

The uncertainty due to the Covid-19 pandemic has intensified with the delta variant and increasing case numbers. We cannot be certain that there will not be any further containment measures in the face of new Covid-19 variants. The Public Sector Purchase Programme (PSPP) is currently at €280bn and the Pandemic Emergency Purchase Programme (PEPP) is at €1.1 trillion. As Covid-19 supports continue, so too does the deficit. There are concerns that the cost of Covid-19 on the Exchequer may result in reduced capital spending in the industry.

5. Construction Activity and the Impact of Covid-19

The Covid-19 pandemic impacted the international and domestic sectors of the economy differently during 2020 (and in 2021 to date), as the levels of Covid-19 related restrictions were rolled out over the past 18 months.

Sectors focused on the domestic market experienced significantly lower levels of economic activity in 2020, with construction contracting by -12.7 per cent. GVA for the sector was €7,502m in 2020.



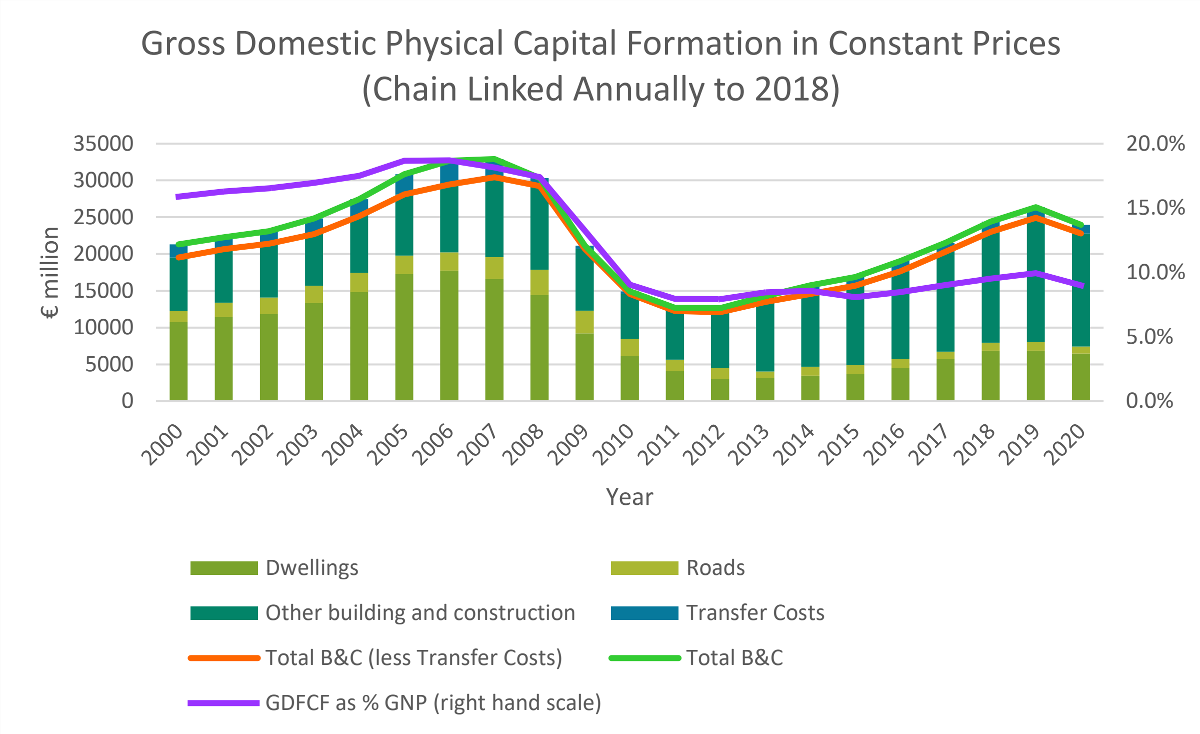
Data Source: National Accounts CSO

GVA by NACE sector, 1995-2020 (€ Million)	1995	2000	2005	2010	2015	2017	2019	2020
Construction	2,908	6,894	14,559	2,289	5,353	6,937	8,594	7,502 (-12.7%)
All Sectors	49,367	96,353	148,984	152,125	245,583	275,947	322,219	336,541

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 €24 billion (in constant prices) in 2020. Prior to the onset of Covid-19, the Department had forecasted that GFCF in the sector would increase to €41 billion by 2023.

While there was a moderate gain in the share of sectoral GDP for construction in Q4 2020 (€2.2bn) compared to Q3 2020 (1.9bn), data for Q1 2021 shows a steep decline from Q4 2020 investment figures of -27.9 per cent following the closure of all non-essential construction activity earlier this year. In 2020, all GFCF declined by 32.3 per cent. This decline was largely driven by the significant yearly drops in machinery and equipment (-25.2 per cent) and building and construction activity (-9.1 per cent).



Data Source: National Accounts CSO

Covid-19 had a major impact on the construction sector, effectively shutting down almost all output at the height of the crisis except for a limited number of essential projects. All non-essential construction sites were closed at times during 2020 and in Q1 2021. These closures are reflected in the year-on-year change for the Residential sector, which saw a volume decrease of 60.9% in the seasonally adjusted index. Meanwhile, the Civil Engineering and Non-Residential sectors also decreased on an annual basis by 33.6% and 19.5% respectively.

COMPARISON OF BUILDING AND CONSTRUCTION SECTOR 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	-4.5	12.6		145,600	21,087	26,237
2020	-6.5	-14.3	-20.1		136,400	20,676	21,686
2021 (12 months to end Q1)	-27.3	-33.6	-60.9		n/a	3,953 (Q1)	Jan-Feb: 1,530
[1] Labour Force Survey							
[2] Department of Housing, Planning and Local Government.							
[3] CSO Seasonally Adjusted series introduced in Q1 2015.							

As most construction investment was halted at various stages during 2020 and the first quarter of 2021, leading indicators, such as planning permissions and commencements, signal a weaker construction outlook for 2021.

The prevailing environment is likely to lead to a further reduction in investment in new dwellings in 2021. This decline in supply will further exacerbate the persistent demand gap. House completions of circa 18,000 units are expected this year, down from circa 21,000 units last year.

Data Source: CSO

6. Increases in Materials

The cost of building materials has increased substantially this year due to significant disruption in the supply of raw materials. This is due to a number of factors including, unprecedented global demand, the inevitable interruption of supply chains caused by Covid-19, Brexit, and bad weather in the US in the earlier part of the year. Over the past number of months, suppliers have been writing to building firms outlining price increases due to shortages and warning that they may have difficulty meeting orders. The crisis in the supply and cost of materials in the construction sector has resulted in companies reporting major cost increases and pressures that are threatening sustainable business.

The Irish Home Builders Association (IHBA, a constituent Association of the CIF), conducted a survey in May 2021 and found that there were significant increases in the cost of materials in quarter 1 2021. Timber prices increased by over 10%, steel by 12.6%, insulation materials by almost 10% and cement aggregates by 6%. At that time, the IHBA predicted that the cost of a new 3-bed semi-detached home could jump by between €12,000 - €15,000 by the end of the year due to the surge in prices for building materials. There is already a lack of housing supply and an affordability issue. Unsustainable increases in labour costs will only serve to escalate the price of a new home even further.

Since the IHBA report was issued, our members are reporting additional increases in building materials. While many contracts were cancelled due to the uncertainty of the pandemic, we are now aware that a number of projects have been cancelled due to the substantial increases in building materials.

This crisis is not abating and is likely to continue for at least the rest of this year. The vast majority of contracts are entered into on a fixed-price basis and have been priced pre-2021. It is essential that increases in labour costs do not exacerbate an already extremely difficult situation. To add to the existing inflationary pressures at this time by increasing labour costs to the magnitude sought by ICTU could threaten the viability of many construction firms.

7. Pay Increases in the Construction Industry

The first SEO in the industry was introduced in 2017. This SEO provided for a minimum increase of 10% in hourly rates; the increase was higher where agreements were reached between employers and workers on reductions in rates during the recession.

The second (and current) SEO in the sector provided for increases of 5.4%, paid in two moieties – 2.7% in October 2019 and 2.7% in October 2020. This SEO also stipulates that the normal working week is 39 hours, after which overtime is paid. This clause incurred an additional cost on contractors whose working week was greater than 39 hours.

Therefore, over the past 4 years approximately, hourly rates in the construction have increased by a minimum of 15.4%. While we accept that the first SEO sought to re-establish legally binding rates of pay following the striking down of REAs in 2013, together with reductions in pay as a result of the recession, construction workers are now well-paid individuals and increases of this magnitude going forward are simply not sustainable.

8. Introduction of Statutory Sick Pay

The introduction of statutory sick pay will place an additional financial burden on construction firms. The SEO provides workers in the industry with sick pay. In accordance with the SEO, construction workers are entitled to €44 per day from day 4 of illness up to day 50 in any given year. The proposed legislation on statutory sick pay will provide that in 2022 all construction workers will be entitled to 3 days sick pay per year, rising to 10 days per year in 2025. Therefore, in 2022, an employer in the construction may be liable to pay each worker up to €330 per annum for sick pay, in addition to making contributions to the sick pay scheme. In 2025, this figure will increase to €1,100 per annum.

9. Brexit

The full impact of Brexit nationally and internationally has been masked by the Covid-19 pandemic. There are concerns that the current global crisis concerning the supply and price of construction materials will turn into a Brexit issue in the near future. The construction industry is concerned with the supply chain and there are fears that delays in deliveries of materials are almost inevitable due to Brexit.

Further, bilateral trade under the 'Trade and Co-operation Agreement' between the EU and the UK will be affected by non-tarrif barriers including rules-of-origin checks, customs procedures, etc. We have not felt the full economic impact of Brexit yet.

9 Economic Outlook for 2022 and the Medium-Term

The economic outlook for 2022 and the medium-term is uncertain but somewhat positive – provided that the re-opening of labour-intensive sectors of the economy continues and that no further containment measures in the face of new Covid-19 variants are introduced.

As economic recovery takes hold it will need to be adjusted to sustainably boost growth. This can be achieved by financing productivity-enhancing investment in human and physical capital and resuming the reduction of public debt in relation to GNI.

The Department of Finance has recently published revised macroeconomic and labour market forecasts for the period 2020-2025. Real GDP is forecast to grow by 8.8 per cent in 2021, before moderating to 5 per cent in 2022. 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. Meanwhile, Real MMD (Modified Domestic Demand) is forecast to grow by 2.6 per cent in 2021, before rebounding more strongly in 2022.

MACROECONOMIC GROWTH AND LABOUR MARKET FORECASTS 2020 – 2025						
	2020	2021	2022	2023	2024	2025
Economic Activity						
Real MMD (% growth)	-5.5%	2.6	7.4	3.8	3.4	3.4
Real GDP (% growth)	3.4	8.8	5.1	3.7	3.3	3.2
Labour Market						
Total Employment ('000)	1,972	2,051	2,276	2,351	2,405	2,457
Employment (% growth)	-15.1	4.0	11.0	3.3	2.3	2.2
Unemployment (%)	18.7	16.3	8.2	6.7	6.0	5.5

10. Competitiveness of the Construction Sector in 2022 and the Medium-Term

It is nonetheless important to highlight the trade, supply chain and financial challenges that will continue to impact on the competitiveness of the construction sector into 2022 and beyond.

Emerging price pressures where supply is expected to be constrained with external and global volatility in prices of raw materials;

- Supply chain shortages of some key raw materials, such as timber;

- The duration of inflation and rising consumer prices remains uncertain;

- Brexit issues and the rising cost of doing business is resulting in increased costs. Bilateral trade under the 'Trade and Co-operation Agreement' between the EU and the UK will be affected by a variety of non-tarrif barriers including rules-of-origin checks, customs procedures, etc. meaning that the full economic impact of Brexit will not be evident for some time yet;

- The Impact of the unwinding of pandemic-related supports in 2021 and 2022;

- The deepening fiscal challenges facing budgetary policy over the medium-term as Ireland faces the costs of an ageing population and climate change;

- The impact of the cyclical nature of private sector investments on commercial construction; and

- Profitability and conditions of contract in Public Works remain problematic.

CONTENT OF NEW SEO

CIF is supportive of setting legally binding rates of pay to ensure that employers in the industry can compete for work on a level playing field with regard to labour costs. This ensures that firms will invest in new technologies and training to gain a competitive edge. The construction industry, however, is faced with substantial challenges over the short-to-medium term, as outlined above. The industry is recovering from the impact of lock-downs due to Covid-19 in 2020 and 2021. The pandemic is not yet over and we are concerned that any further imposition of restrictions will erode the gains currently being made. It is, therefore, essential that we act prudently to enable the sector withstand the current pressures.

Sustainable increases in hourly rates, together with sufficient lead-in time to allow firms include labour cost increases in tender prices, are essential. We are, therefore, proposing that hourly rates increase by 1.6% on 1st April 2022, followed by a further increase of 1.6% on 1st April 2023. We further propose that a corresponding increase of 1.6% is applied to pension contributions on 1st April 2022 and 1st April 2023.

Our submission in respect of a new SEO in the construction industry is set out below.

The class, type or group of workers to whom the request is expressed to apply:

Persons Employed in the Construction Sector as Craftworkers, Construction Operatives and Apprentices

For the purpose of a Sectoral employment Order a worker to whom such Order has application is defined as any person aged 15 years or more who has entered into or works under a contract with an employer, (including through an employment agency within the meaning of the Employment Agency Act, 1971 and/or the Protection of Employees (Temporary Agency Work) Act, 2021), whether the contract be for manual labour or otherwise, whether it be expressed or implied, oral or in writing, and whether it be a contract of service or of apprenticeship or a contract personally to execute any work or labour. For the purpose of this definition, apprentice and apprenticeship has the same meaning as it has in the Industrial Training Act 1967.

Definition of the Sector

The sector to which the Order should have application is defined as the sector of the economy comprising the following economic activity:

- The construction, reconstruction, alteration, repair, painting, decorating, fitting of glass in buildings and demolition of buildings;

- The clearing and laying out of sites for buildings, the construction of foundations of such sites, the construction, reconstruction, repair and maintenance within such sites of all sewers, drains and other works for use in connection with sanitation of buildings or the disposal of waste;

- The construction, reconstruction, repair and maintenance on such sites of boundary walls, railings and fences for the use, protection or ornamentation of buildings, the making of roads and paths within the boundaries of such sites;

- The manufacture, alteration, fitting and repair of articles of worked stone (including rough punched granite and stone), granite, marble, slate and plaster;

- The construction, reconstruction, alteration, repair, painting, decoration and demolition of roads, paths, kerbs, bridges, viaducts, aqueducts, harbours, docks, wharves, piers, quays, promenades, landing places, sea defences, airports, canals, waterworks, reservoirs, filter beds, works for the production of gas or electricity, sewerage works, public mains for the supply of water or the disposal of sewerage and all work in connection with buildings and their sites with such mains; rivers works, dams, weirs, embankments, breakwaters, moles, works for the purpose of road drainage or the prevention of coastal erosion, cattle markets, fair grounds, sports grounds, playgrounds, tennis-courts, ball alleys, swimming pools, public baths, bathing places in concrete, stone tarmacadam, asphalt or such like material, any boundary walls, railings, fences and shelters erected thereon;

- The painting or decoration of poles, masts, standard pylons for telephone, telegraph, radio communication and broadcasting;

- Ground levelling, ground formation or drainage in connection with the construction or reconstruction of grass sports grounds, public parks, playing fields, tennis-courts, golf links, playgrounds, racecourses and greyhound racing tracks.

Categories of Worker

- A basic rate of pay to apply to all Skilled General Operatives who have worked in the sector for more than 2 years – (**Category B Worker)**

- (1) A higher hourly rate of pay to apply to Scaffolders who hold an Advanced Scaffolding Card and who have four years' experience; Banks operatives, Steel fixers, Crane Drivers and Heavy Machine Operators with 4 years experience (**Category A Worker)**

  and

  (2) a top hourly rate of pay to apply to Craftworkers in the following trades (**Craftworkers):**

  Bricklayers/Stone layers
  Carpenters and Joiners
  Floor layers
  Glaziers
  Painters
  Plasterers
  Stone Cutters
  Wood Machinists
  Slaters and Tilers

An hourly rate of pay to apply to General Operatives who enter employment for the first time after attaining the age of 18 years and for two years after entering employment in the industry (**New Entrant Worker**).

An hourly rate of pay to apply to Apprentices (**Apprentice).**

HOURLY RATES OF PAY
The current SEO provides for the following rates of pay:

Craft Worker	*€19.96 per hour*
Category A Worker	*€19.37 per hour*
Category B Worker	*€17.97 per hour*
New entrant worker	*€14.52 per hour*
Apprentice	*Year 1 - 33.3% of craft rate - €6.65 per hour*
	Year 2 – 50% of craft rate - €9.98 per hour
	Year 3 – 75% of craft rate - €14.97 per hour
	Year 4 – 90% of craft rate - €17.96 per hour

Submission to the Court on a New SEO in the Sector

CIF submit that an increase in pay of 1.6% is applied to the above hourly rates on 1 April 2022 and a further increase of 1.6% is applied to the hourly rates on 1 April 2023. We, therefore, submit that the following rates of pay are included in a new SEO:

1 April 2022 (+1.6%)

Craft Worker	€20.28 per hour
Category A Worker	€19.68 per hour
Category B Worker	€18.26 per hour
New entrant worker	€14.75 per hour
Apprentice	Year 1 - 33.3% of craft rate - €6.75 per hour
	Year 2 – 50% of craft rate - €10.14 per hour
	Year 3 – 75% of craft rate - €15.21 per hour
	Year 4 – 90% of craft rate - €18.25 per hour

<u>**1 April 2023 (+ 1.6%)**</u>

Craft Worker	€20.60 per hour
Category A Worker	€19.99 per hour
Category B Worker	€18.55 per hour
New entrant worker	€14.99 per hour
Apprentice	Year 1 - 33.3% of craft rate - €6.86 per hour
	Year 2 – 50% of craft rate - €10.30 per hour
	Year 3 – 75% of craft rate - €15.45 per hour
	Year 4 – 90% of craft rate - €18.54 per hour

HOURS OF WORK

The current SEO provides for the following in relation to hours of work:

<u>***Normal Working Time***</u>

• The normal Working week shall consist of 39 hours worked between Monday and Friday each week;
• Normal daily working hours shall consist of four days of eight consecutive hours work undertaken between 7am (normal starting time) and 5pm (normal finishing time) Monday – Thursday inclusive and one day of seven consecutive hours work between the 7am (normal starting time) and 4pm (normal finishing time) on Friday.

Submission to the Court
CIF submits that the provision in relation to hours of work should remain in place.

OVERTIME

The SEO provides for the following overtime to apply:

Monday to Friday normal finishing time to midnight	*time plus a half*
Monday – Friday Midnight to normal starting time	*double time*
Saturday (1) first four hours from normal starting time	*time plus a half*
(2) all subsequent hours until midnight	*double time*
Sunday All hours worked	*double time*

Submission to the Court

CIF submits that the above provisions should remain in place and should remain under the heading of "Overtime Payments".

<u>TRAVEL</u>

CIF is strongly opposed to travelling allowances being introduced for the following reasons:

1. The introduction of one hour's travelling allowance per day represents an increase of 12.8%.

2. To our knowledge, no other sector of the economy is obliged to pay a travelling allowance.

3. For the past 7 years approx. no legally binding travel allowances have existed in the industry.

4. 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.

5. In the urban areas of Cork, Limerick, Waterford and Galway a series of conditions were attached to the agreements which meant 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.

6. 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. 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.

7. 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.

8. Contractors outside of the urban areas, in particular, have seen significant increases in labour costs since the introduction of the SEO in October 2017. In most cases the increase in hourly rates was over 20%. The financial hardship from the effects of the Covid-19 pandemic have put companies in jeopardy. 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 and would have the potential to threaten the very survival of many companies.

9. The commercial viability of housing remains a significant challenge in the sector and the market value of houses in most parts of Ireland is less than the replacement cost of constructing new housing units. This trend continues to worsen with the lack of supply and increasing cost of materials. Therefore, the introduction of one hour's travelling allowance (i.e. an increase of 12.8%) will 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.

It is, therefore, the case that the payment of travel allowances in the construction industry have 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.

Submission to the Court

CIF submits that travelling allowances should not be provided for in the SEO.

PENSIONS, SICK PAY AND DEATH IN SERVICE

The provision of a mandatory pensions and sick pay scheme places a significant cost on employers. CIF members recognise the benefits of contributing to a scheme for pensions, sick pay and death in service for all employees. We believe the current contribution rates are fair and reasonable. However, the CIF is proposing that a corresponding increase in hourly rates is applied to pension contribution rates i.e., 1.6% to be applied to the current contribution rates on 1 April 2022 and a further 1.6% to be applied to the contribution rates on 1 April 2023.

CIF is not seeking an increase in sick pay or death-in-service contributions at this time.

The provisions in relation to contributions expressed in terms of daily and weekly contributions should remain. It is important that the daily allowance is included for workers who do not work a full week.

Submission to the Court

The CIF submit that there should be a 1.6% increase in pension contributions in line with increases in hourly rates. We, therefore, submit that there should be an increase of 1.6% in pension contribution rates only on 1 April 2022 and a further increase of 1.6% in pension contributions rates only on 1 April 2023 as follows:

Pension Contribution (+1.6% to Apply on 1 April 2022)

Employer Contribution	*Worker Contribution*	*Total Combined Employer and Worker Contributions*
€5.71 per day to a maximum of €28.54 per week	€3.81 per day to a maximum of €19.03 per week	€9.52 per day to a maximum of €47.57 per week

Death in Service Contribution (as per current SEO)

Employer Contribution	*Worker Contribution*	*Total Combined Contribution*
€0.23 per day to a maximum of €1.17 per week	€0.23 per day to a maximum of €1.17 per week	€0.46 per day to a maximum of €2.34 per week

Sick Pay Scheme (as per current SEO)

Employer Contribution	*Worker Contribution*	*Total Combined Contribution*
€1.34 per day to a maximum of €1.34 per week	€0.67 per day to a maximum of €0.67 per week	€2.01 per day to a maximum of €2.01 per week.

Pension Contribution (+1.6% to Apply on 1 April 2023)

Employer Contribution	*Worker Contribution*	*Total Combined Employer and Worker Contributions*
€5.80 per day to a maximum of €29 per week	€3.87 per day to a maximum of €19.33 per week	€9.67 per day to a maximum of €48.33 per week

Death in Service (as per current SEO)

Employer Contribution	*Worker Contribution*	*Total Combined Contribution*
€0.23 per day to a maximum of €1.17 per week	€0.23 per day to a maximum of €1.17 per week	€0.46 per day to a maximum of €2.34 per week

Sick Pay Scheme (as per current SEO)

Employer Contribution	*Worker Contribution*	*Total Combined Contribution*
€1.34 per day to a maximum of €1.34 per week	€0.67 per day to a maximum of €0.67 per week	€2.01 per day to a maximum of €2.01 per week.

DISPUTE RESOLUTION PROCEDURES

The following procedure is currently provided for in the SEO.

If a dispute occurs between workers to whom the SEO relates and their employers no strike or lock-out, or other form of industrial action shall take place until the following procedures have been complied with. All sides are obliged to fully comply with the terms of the disputes procedure.

Individual Dispute

a) The grievance or dispute shall in the first instance be raised with the employer at local level with a requirement to respond within 5 working days. Notice in writing of the dispute shall be given by the individual concerned or his trade union to the relevant organisation representing employers or to the employer directly.

b) If the dispute is not resolved it shall be referred to the Adjudication Service of the WRC.

c) Either party can appeal the outcome of the Adjudication Hearing to the Labour Court.

Collective Dispute

a) The grievance or dispute shall be raised in the first instance with the employers with a requirement to respond within 5 working days. Notice in writing of the dispute shall be given by the workers concerned or their trade union to the relevant organisation representing employers or to the employer directly.

b) If the dispute is not resolved the issue shall be referred to the Conciliation Service of the WRC.

c) If the issue remains unresolved, it shall be referred to the Labour Court for investigation and recommendation.

Submission to the Court

CIF submits that the disputes procedure set out above should remain unchanged.

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. The construction industry was closed for approximately 6 months out of the last 16 months due to Covid-19. The industry is now recovering from the effects of these shut-downs and uncertainty remains regarding future shut-downs. 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 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.

The current SEO was signed into law in May 2019 and the first increase came into effect on 1st October 2019. This lead in period gave contractors time to plan and prepare for the impending increases in labour costs. We, therefore, submit that the first increase of 1.6% is applied to hourly rates on 1 April 2022.

Submission to the Court

A lead-in time is required prior to the implementation of any future SEO. Therefore, we are requesting that the SEO takes effect no sooner than 1st April 2022.

GUARANTEED WORKING WEEK

We understand that ICTU is seeking the inclusion of a provision on a guaranteed working week to apply in the event of inclement weather.

<u>Background</u>

A provision in the Registered Employment Agreement for the Construction Industry provided for a guaranteed working week in the event of inclement weather.

The provision read as follows:

"Where a worker in any pay week throughout the year has performed work for his employer and being in that employer's employment has kept himself available for work throughout the normal working hours of each working day of the week, but during any part of that week has been prevented by reason of inclement weather from working, then he shall receive, in respect of time lost, a total payment calculated by reference to the National Joint Industrial Council rate applicable to him (i.e., excluding bonus schemes and bonus payments, site agreements and any plus payments other than official plus payment for machine operators and less the appropriate rate of taxation). Decisions as to when, during normal working hours, work is to be carried out, interrupted and resumed and as to whether some or all of the workers shall work at any particular time shall be made by the employer."

While the REA was struck out by the Supreme Court in 2013 in the McGowan case, many contractors continue to pay workers in full where they are sent home early due to inclement weather.

Submission to the Court

We respectfully submit that a clause that guarantees payment for inclement weather cannot be included within the scope of an SEO as it falls outside the provisions of Section 16(5) of the Industrial Relations (Amendment) Act 2015. Outside of hourly rates of pay, pension and sick pay, the Industrial Relations (Amendment) Act 2015 only allows for the following to be included in an SEO:

- Any pay in excess of basic pay in respect of shift work, piece work, overtime, unsocial hours worked, hours worked on a Sunday, or travelling time.

The Industrial Relations (Amendment) Act 2015 is specific in terms of what can be included in an SEO and a clause on inclement weather is not included within the scope of the parent Act. It is therefore submitted that a clause on inclement weather / guaranteed working week be excluded from the contents of the SEO.

Moreover, it is not necessary to include such a provision in the SEO. Many contractors pay workers who are available for work but are sent home from work due to inclement weather. This is the custom and practice within many organisations.

GREASING ALLOWANCE

We understand that ICTU is seeking the inclusion of a provision on greasing allowance for crane drivers in a new SEO.

Background

Historically crane drivers received an informal allowance for greasing. This allowance was negotiated by SIPTU and paid to crane drivers who regularly greased the crane prior to operating it. Greasing is no longer required on a daily basis and this allowance was generally phased out. However, some crane drivers continued to receive up to one hour's greasing allowance per day.

Following discussions with SIPTU in 2016/17, an agreement was reached that crane drivers in membership of that union would receive a greasing allowance of 2 hours per day. Following a strike by crane drivers in membership of Unite, a Labour Court Recommendation was issued which stated, inter alia, that crane drivers in membership of Unite should also receive the greasing allowance of 2 hours per day.

Crane drivers were traditionally paid a greasing allowance in the industry. This allowance did not form part of the REA as it applied to just one category of worker, and we respectfully submit that this allowance should not form part of the SEO.

Submission to the Court

We respectfully submit that a clause that gives a greasing allowance to one specific category of worker (i.e. crane drivers) cannot be included within the scope of an SEO as it falls outside the provisions of Section 16(5) of the Industrial Relations (Amendment) Act 2015. Outside of hourly rates of pay, pension and sick pay, the Industrial Relations (Amendment) Act 2015 only allows for the following to be included in an SEO:

- Any pay in excess of basic pay in respect of shift work, piece work, overtime, unsocial hours worked, hours worked on a Sunday, or travelling time.

The Industrial Relations (Amendment) Act 2015 is specific in terms of what can be included in an SEO and a clause on greasing allowance is not included within the scope of the parent Act. Furthermore, there is no scope within the act to apply such an allowance to a sub-category (i.e. crane drivers) of the Category A General Operatives. It is therefore submitted that a clause on greasing allowance be excluded from the contents of the SEO.

Crane drivers are in receipt of the daily two-hour greasing time therefore, it is not required to have this provision in an SEO. To provide for a greasing allowance for crane drivers in an SEO which applies to all craft workers, general operatives and apprentices in the industry, would lead to knock-on claims from those other grade relativities.

In Summary

To summarise, CIF respectfully makes the following submissions:

- An increase in pay of 1.6% on the hourly rates to take effect on 1 April 2022.

- An additional increase in pay of 1.6% on the hourly rates to take effect on 1 April 2023.

- A corresponding increase of 1.6% increase in pension contributions on 1 April 2022 and 1 April 2023.

- The provision in relation to hours of work contained in the current SEO should remain unchanged.

- The provision in relation to overtime contained in the current SEO should remain unchanged.

- 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 a 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 extra costs on contractors, during a pandemic crisis, that cannot be recovered.

- The dispute resolution procedure contained in the current SEO should remain unchanged.

- 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 a lead in period is necessary and an increase in remuneration should not take effect until at least 1 April 2022.

- There is no scope within the Industrial Relations (Amendment) Act 2015 to provide for a clause on inclement weather in an SEO. Furthermore, the custom and practice in many organisations is that workers are paid when they are sent home due to inclement weather.

- There is no scope within the Industrial Relations (Amendment) Act 2015 to provide for a clause on greasing allowances. To provide for a greasing allowance for crane drivers in an SEO which applies to all craft workers, general operatives and apprentices in the industry, would lead to knock-on claims from those other grade relativities that the SEO applies to.

CONCLUSION

It has only been three months since the second set of restrictions were lifted in the industry. The industry is currently extremely fragile as it continues to cope with a global pandemic, and the uncertainty and instability that a pandemic imposes. The impact of the scarcity of building materials and the substantial increase in the cost of these materials cannot be over-estimated. Some contracts were deferred, or cancelled altogether, because of the uncertainty of the pandemic. We are now seeing the cancellation of projects due to the substantial increase in the cost of materials. In addition, the full effects of Brexit have not yet been fully felt as they have been masked by the global pandemic.

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.
We, therefore, submit that hourly rates increase by 1.6% on 1 April 2022, with a further increase of 1.6% in hourly rates on 1 April 2023. A corresponding increase in pension contributions should also be applied on the same dates.

END
27 July 2021