

Mechanical Engineering and Building Services Contractors Association



Submission in Respect of a Sectoral Employment Order in the Mechanical Engineering and Building Services Contracting Sector

September 2019

INTRODUCTION

On 30 July 2019, Connect Trade Union and Unite the Union jointly applied to the Labour Court under s.14 of the Industrial Relations (Amendment) Act 2015 to request the Court to examine the terms and conditions relating to the remuneration and pension/sick pay scheme of craftworkers and apprentices in the Mechanical Engineering and Building Services Contracting Sector.

The Mechanical Engineering and Building Services Contractors Association (MEBSCA) is a trade Association affiliated to the Construction Industry Federation (CIF) and we are supportive of the unions' application for a new SEO in the sector. The Association comprises of approximately 50 contractors nationally, who employ approximately 3,230 craftworkers and apprentices in the sector. The Association has traditionally negotiated rates of pay and terms and conditions of employment with Connect Trade Union and Unite the Union. These two unions represent plumbers, pipefitters and welders employed by our members. These workers were covered by the previously Registered Employment Agreement and, since its introduction in March 2018, are now covered by the SEO in the Mechanical Engineering and Building Services Contracting Sector.

The introduction of the first SEO in this sector has provided certainty with regard to labour costs when tendering for projects, as well as providing mechanical workers with a fair rate of pay. Labour costs account for approximately 40% of the cost of a project, therefore, a mechanism to ensure that contractors can compete for work on a level playing field with regard to labour costs is essential in a sector where competition for work is intense.

INDUSTRIAL RELATIONS (AMENDMENT) ACT 2015

An SEO in the Mechanical Engineering and Building Services Contracting Sector is desirable for the following reasons:

- An SEO will apply to the following workers in the sector:
 - Plumbers
 - Pipefitters
 - Qualified plumbers and pipefitters who have acquired additional or advanced welding qualifications and who are required to function as welders on a day to day basis
 - Apprentice plumbers and pipefitters

- It is a normal and desirable practice to have terms and conditions relating to remuneration, pensions and sick pay in the mechanical contracting sector. The terms and conditions of employment for workers in this sector were covered by the REA for the construction industry, with a higher rate payable to these workers in recognition of additional skills attained. Since the Supreme Court Judgment in the McGowan case in 2013, the parties continued to meet to agree new terms and conditions of employment in order to provide certainty and stability for both contractors and workers. The first SEO in the sector was introduced in 2018.



- An SEO in the mechanical sector which sets legally binding rates of pay, pension and sick pay contributions, would undoubtedly lead to harmonious relations between employers and workers in the sector.
- An SEO provides a mechanism for resolving disputes in an orderly manner without recourse to industrial action. A legally binding disputes resolution procedure is essential in a sector that employs substantial numbers of workers.
- Prior to the striking down of the REAs in 2013, it was a statutory requirement for workers in the mechanical sector over the age of 20 to be registered in a pension and sick pay scheme. Since the introduction of the SEO in March 2018, this has again become a legal requirement. MEBSA is supportive of the inclusion of these schemes in an SEO, as an income upon retirement, as well as payment for absence due to illness, is undoubtedly beneficial to the workers concerned. Due to the transient nature of the industry where workers move from site-to-site and employer-to-employer on a regular basis, it is essential that pension and sick pay schemes are transferable.
- An SEO provides certainty and stability to contractors, mechanical workers and ultimately the client, as it establishes legally binding rates of pay.
- The setting of legally binding rates of pay creates cost uniformity, and in turn eliminates the opportunity to erode employment conditions as a means of undercutting a competitor and securing a project.
- Where minimum 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.
- Employment levels in the sector are determined by the level of work available. As the economy grows, there will be greater need for new entrants. A sector that provides good quality employment, with reasonable and sustainable rates of pay and conditions of employment will entice new entrants into the apprenticeship system.
- In between the striking down of the REAs in 2013, and the introduction of the SEO in the mechanical sector in 2018, contractors from outside the State, with a lower cost base, enjoyed a competitive advantage over Irish mechanical contractors. The current SEO ensures that all mechanical contractors, including those from outside the State, can tender for work on a level playing field, which is of benefit to our members in the border counties in particular. It has been over 18 months since the first SEO was introduced in the sector and, similar to all other sectors, labour costs have risen in the meantime. A new SEO is required to ensure that all contractors, including those based outside the State, have an equal opportunity when tendering for work with regard to labour costs.



TRAVEL

MEBSCA is strongly opposed to travelling allowances being included in an SEO for the following reasons:

Background

- Mechanical workers were covered under the previously Registered Employment Agreement for the Construction Industry. This agreement provided for travel allowances 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.
- Since the REAs were struck down by the Supreme Court in 2013, MEBSCA members have continued to pay a travelling allowance to employees. However, in 2011 when the industry was in the midst of a very severe recession, agreement was reached between MEBSCA, Connect (formerly the TEEU) and Unite to incorporate the first hour of travel into the hourly rate.

Inclusion in SEO

- The SEO provides a mechanism for setting remuneration, pensions and sick pay for all workers in a sector on a national basis. The REA provided for travel allowances in the urban areas only. To include travel allowances in the SEO would place an undue financial burden, and in many cases an unsustainable burden, on contractors located outside the urban areas, where travel was never paid in the past.
- Travel allowances were not included in either the SEOs for the construction sector 2017 and 2019 or the SEO in the electrical contracting sector 2019. Many mechanical contractors also operate in the electrical sector. To include travel allowances in the SEO for mechanical workers would undoubtedly lead to knock-on claims in these other sectors, which in turn would lead to industrial unrest.
- To introduce sector-wide travelling allowances now would result in significant costs and place an undue financial burden on mechanical companies who are not members of MEBSCA in particular.
- As outlined above, MEBSCA members pay travel allowances, with the first hour incorporated in the rate. However, outside of MEBSCA, 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 contractor's base. This payment is €182 approx. (tax free) per week and is made in accordance with Revenue Commissioner Guidelines.



Increase in Travel Allowance

- MEBSCA members are firmly opposed to any increase on what is already being paid.
- Since the travel allowance clause was first introduced in the previously registered employment agreement, the urban areas have become much more assessable with improved infrastructure and transport links.
- Under the auspices of the Workplace Relation Commission, a number of conciliation conferences took place in early 2019, where the unions were claiming an additional one hour's travel. This claim amounts to an increase of 12.8%. MEBSCA members have recently agreed to a 2.7% pay increase which came into effect on 1st September 2019, and a further increase of 2.7% on 1st September 2020. Our members simply cannot afford any further cost increases at this time.
- The rate of pay for newly qualified mechanical workers is 20% higher than the craft rate set out in the new Construction Sector SEO, with the top rate being approximately 25% higher. MEBSCA members simply cannot afford further increases on top of what has already been agreed on pay. To recommend a further increase in labour costs in the form of travel would put mechanical companies significantly out of line with others in the industry.
- As the travel allowances are linked to employees' hourly rates of pay, the increases in pay recently agreed automatically provides for an increase in travel allowances being paid by MEBSCA.
- To increase what is already being paid by MEBSCA, and include this allowance in the SEO, would result in unsustainable costs for mechanical contractors, particularly those who are not members of MEBSCA.

SUMMARY

In summary, an SEO that provides fair and sustainable remuneration, pensions and sick pay will benefit the mechanical sector insofar as:

- An SEO will ensure contractors have an equal opportunity when tendering for work with regard to labour costs.
- An SEO will promote harmonious relations between employers and workers in the sector.
- An SEO will provide certainty with regard to labour costs for a minimum of one year.
- An SEO will provide stability in terms of dispute resolution procedures. This will entice investment as clients will have the confidence in the sector's ability to deliver a project without unnecessary delays due to industrial action.



- An SEO which establishes fair and sustainable rates of pay will serve to attract bright, young people into the sector.
- An SEO will encourage contractors to invest in new technologies, training, health and safety etc., in order to gain a competitive advantage.
- An SEO will make the sector more attractive to investors, both nationally and internationally.
- In relation to travel, MEBSCA is opposed to:
 1. The inclusion of travel allowances in the SEO;
 2. Increasing the allowance currently paid.



SECTORAL EMPLOYMENT ORDER - CONTENT

Definition of the Economic Sector

For the purposes of this Sectoral Employment Order the Mechanical Engineering Building Services Contracting Sector means the sector of the economy comprising the following economic activity: —

The installation, alteration, fabrication, fitting, repair, maintenance, commission, removal and demolition in any building or its sites of articles, fittings, pipes, containers, tubes or instruments, storage facilities, etc. (including central heating apparatus, central plant apparatus, machinery and fuel containers connected thereto) for heating, cooling, including domestic hot and cold water systems, medical and process gases, process pipe services, utility pipe services and compressed and vacuum services of such buildings.”

Definition of a Worker

A “worker” has the following meaning: -

“any person aged 15 years or more who has entered into or works under a contract with an employer, whether the contract be for manual labour, clerical work 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.

Scope

We respectfully request that this Sectoral Employment Order applies to the following categories of worker who are directly employed or employed through an employment agency within the meaning of the Employment Agency Act 1971 and or the Protection of Employees (Temporary Agency Work) Act 2012 in the Mechanical Engineering and Building Services Contracting Sector: -

Qualified Plumbers and Registered Apprentice Plumbers (Craftsperson) and Qualified Pipefitters and Registered Apprentice Pipefitters (Craftsperson) working in the Sector.

For the avoidance of doubt qualified plumbers and pipefitters who have acquired additional or advanced welding qualifications and who are required to function as welders on a day to day basis within the sector come within the scope of this Order.



Remuneration, Pensions/Sick Pay and Dispute Resolution Procedures

Rates of Pay

An agreement on pay is currently in place between MEBSCA and Connect/Unite (see Appendix 1). This agreement provides for a 2.7% pay increase on the current SEO rates (which came into effect on 1st September 2019) with a further 2.7% pay increase on 1st September 2020.

The rates of pay are to apply to the following categories of workers:

Category 1

A basic minimum hourly rate of pay to apply to all newly qualified Plumbers and Pipefitters employed in the sector.

Category 2

A higher hourly rate of pay to apply to qualified Plumbers and Pipefitters employed in the sector with effect from the commencement of their 3rd year of employment after qualification as a Plumber and or Pipefitter.

Category 3

A higher hourly rate of pay to apply to qualified Plumbers and Pipefitters employed in the sector with effect from the commencement of their 6th year of employment after qualification as Plumber and or Pipefitter.

MEBSCA respectfully submits the rates set out below should be included:

	On Introduction of SEO	01-Sep-2020
Category 1	€23.34	€23.97
Category 2	€23.83	€24.47
Category 3	€24.24	€24.89

We also respectfully request the Court to amend the current percentage relativity between apprentices and Category 1 workers. Currently, apprentices are entitled to the following percentage of the Category 1 rate:

Year 1	33.3%
Year 2	50%
Year 3	75%
Year 4	90%



We request the Court to amend the above relativities to the following:

Year 1	40%
Year 2	50%
Year 3	70%
Year 4	85%

MEBSCA contend that a re-balancing of apprentice rates is required for the following reasons:

1. Increasing the 1st year rate will entice more apprentices into the sector, in turn addressing the current labour shortage.
2. Reducing the 3rd and 4th year rates will encourage these apprentices to work towards completing exams in a timely manner.

Normal Working Week

The normal working week shall consist of 39 hours worked between Monday and Friday each week.

Normal Daily Working Hours

Normal daily working hours shall consist of eight consecutive hours of work undertaken between the hours of 7am (normal starting time) and 5pm (normal finishing time) Monday – Thursday inclusive and seven consecutive hours of work between the hours of 7am (normal starting time) and 4pm (normal finishing time) on a Friday.

Overtime

Hours worked in excess of the normal daily working hours shall constitute overtime and shall attract the following premium payments. To qualify for overtime payments, employees must have first worked the standard number of hours in that day.

Hours worked between normal finishing time and Midnight Monday to Friday inclusive	Time plus a Half
Hours worked between Midnight and normal starting time Monday to Friday	Double time
First four hours worked after 7am on Saturday	Time plus a Half
All other hours worked on Saturday	Double time
All hours worked on Sunday	Double time
All hours worked on Public Holidays	Double time plus an additional day's leave



Pensions, Death in Service and Sick Pay Scheme

MEBSCA members continue to recognise the benefits of contributing to a scheme for pensions, sick pay and death in service for all employees. We believe the contribution rates set out below should be implemented on the introduction of an SEO, with further increases of 2.7% provided for on 1st October 2020. Workers to whom the SEO relates should be enrolled in a pension scheme on reaching the age of 20. The contribution rates set out below are the same rates applicable in the general construction sector. Therefore, all construction workers, including those in the mechanical sector, will be entitled to the same benefits on retirement.

Introduction of SEO:

Pension Contribution

<i>Employer Contribution</i>	<i>Worker Contribution</i>	<i>Total Combined Employer and Worker Contributions</i>
€5.47 per day to a maximum of €27.35 per week	€3.65 per day to a maximum of €18.24 per week	€9.12 per day to a maximum of €45.59 per week

Death in Service Contribution

<i>Employer Contribution</i>	<i>Worker Contribution</i>	<i>Total Combined Contribution</i>
€0.23 per day to a maximum of €1.14 per week	€0.23 per day to a maximum of €1.14 per week	€0.46 per day to a maximum of €2.28 per week

Sick Pay Scheme

<i>Employer Contribution</i>	<i>Worker Contribution</i>	<i>Total Combined Contribution</i>
€1.30 per day to a maximum of €1.30 per week	€0.65 per day to a maximum of €0.65 per week	€1.95 per day to a maximum of €1.95 per week.

Effective from 1st October 2020:

Pension Contribution

<i>Employer Contribution</i>	<i>Worker Contribution</i>	<i>Total Combined Employer and Worker Contributions</i>
€5.62 per day to a maximum of €28.09 per week	€3.75 per day to a maximum of €18.73 per week	€9.37 per day to a maximum of €46.82 per week



Death in Service Contribution

<i>Employer Contribution</i>	<i>Worker Contribution</i>	<i>Total Combined Contribution</i>
€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

<i>Employer Contribution</i>	<i>Worker Contribution</i>	<i>Total Combined Contribution</i>
€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.

Disputes Resolution Procedures

MEBSCA respectfully submit that the following dispute resolution procedures should apply:

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.



In Summary

To summarise, MEBSCA respectfully makes the following submissions:

1. Contractors cannot afford any increases above those set out in this submission. These increases are in line with increases in the general construction and electrical sectors for 2019. To recommend an SEO with increases in excess of 2.7% would undoubtedly lead to unrest and knock-on claims across the industry.
2. We request the Court to amend the Apprentice percentages to entice greater numbers into the industry and to incentivise the completion of exams.
3. The contributions towards pensions, sick pay and death-in-service should increase by 2.7%, with a further 2.7% increase on 1st October 2020. Contribution rates in the mechanical sector should remain in line with the electrical and construction sectors to ensure uniformity across the industry as a whole.
4. The dispute resolution procedure contained in the current SEO should remain unchanged.
5. Travel allowances should not be provided for in the SEO. The effect of a travel allowance in areas where it has never been paid would impose unsustainable costs on contractors that cannot be recovered. Additionally, it would lead to knock-on claims from other sectors in the industry.

CONCLUSION

MEBSCA is supportive of the unions' application for a new SEO in the mechanical engineering and building services sector. We submit that the increases in pay already agreed with the unions are included in any new SEO. This will ensure uniformity across the entire construction industry. We respectfully request that travel allowances are not included in any future SEO for the reasons set out above. In a time of uncertainty, due mainly to Brexit, our members simply cannot afford any further increases than those set out in this submission.

END



Appendix 1

Agreement between MEBSCA and Connect Trade Union & Unite the Union.





An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

Áras Lansdún, Bóthar Lansdún, Droichead na Dothra,
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C-163813-18

27 May 2019

Mechanical Engineering and Building Services Contractors Association / UNITE / CONNECT

Pay Claim

After an extensive process of negotiation under the auspices of the Workplace Relations Commission the following proposal was put forward by the Chairman and agreed for recommendation by the parties.

PAY

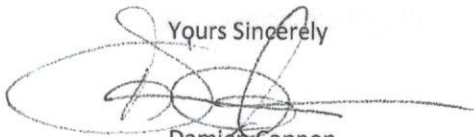
- 2.7% increase to apply for 12 months from 1st September 2019
- 2.7% increase to apply for 12 months from 1st September 2020
- The parties agree to begin engagement on a successor agreement with talks to commence in January 2021. If necessary, these talks will utilise the WRC in accordance with agreed procedures.

TRAVEL TIME

Despite detailed discussion between the parties in the WRC process they were unable to reach agreement on the travel time element of the union claim. Accordingly, it is agreed by the parties that this issue will be referred separately to the Labour Court under the provisions of section 26(1) of the Industrial Relations Act 1990.

The parties also agreed that the amended rates would be reflected in the Sectoral Employment Order. An application to the Labour Court to have the SEO rates amended will be made by the union side no later than 15 July 2019.

Yours Sincerely



Damien Cannon
Regional Manager



Mary Doherty
Industrial Relations Officer