



Submission to the Labour Court

Examination into the Terms and Conditions in the Construction Sector pursuant to Section 15 of the Industrial Relations Amendment Act 2015

17 June 2024

1. Introduction

2. The Industrial Relations (Amendment) Act 2015 provides for, amongst other things, the making of Sectoral Employment Orders (SEOs). SEOs can establish certain legal minimum conditions of employment for workers in the sector concerned.
3. On the 28 April 2023 the Minister for State at the Department of Business, Enterprise and Employment, Mr. Neale Richmond TD, made a Sectoral Employment Order (SI No. 207 of 2023) setting certain legally enforceable minimum conditions of employment for workers in the construction sector. Save in exceptional circumstances, a further order cannot be made for 12 months.
4. On the 29 April 2024 BATU, Connect Trade Union, OPATSI, SIPTU and Unite the Union (hereafter referred to as 'the Unions') requested the Labour Court to conduct an examination into the minimum terms and conditions of employment in the construction sector as provided for in Section 15 of the Industrial Relations (Amendment) Act 2015.
5. In May 2024, the Labour Court published a notice advising of its intention to conduct an examination and inviting interested parties to make written representations to the Court by 18 June 2024.
6. If the Labour Court decides to make a recommendation to the Minister and it is accepted, it will be the fifth SEO in the construction sector since 2017. While much of the SEO from 2017 continues in force, the Court will be aware that there are significant changes underway in the construction sector. For example:
 - There has been a marked increase in the use of what is termed in the sector as Modern Methods of Construction (MMC). MMC which is widely used in the construction of timber framed housing involves sections of the individual houses being constructed before being brought to site. The use of MMC will continue to grow;
 - There is a plan to significantly upgrade the national railway network. While we believe that this work falls within the scope of the definition of the sector, clarity may be required to ensure that our view is confirmed;
 - Workers are also up-skilling and one significant development has been the creation of an apprenticeship for scaffolding.

It is crucially important that if SEOs are to be regarded as valuable they must be capable of meeting the changing needs of both workers and employers in the sector. It is the intention of the Unions to seek to address some of these issues as part of a future applications to the Court.

7. However, on this occasion the Unions are requesting the Labour Court to make a recommendation to the Minister for a new SEO for the construction sector which would include:

- Increases in basic pay as follows;
 - an increase in basic pay of 6% from 1 January 2025;
 - an increase in basic pay of 6% from 1 January 2026;
- the payment of not less than one hour's basic pay per day in recognition of time spent traveling to construction sites that are not designated bases;
- the elimination of the new entrant rate;
- Increases in employer and worker pension contributions. We are requesting that pension contributions be expressed as percentage of basic pay with the employer contribution being 5% and the worker contribution being 3%;

We will provide more detail on each of these later in this submission.

8. The Unions

9. At the time of making the application the Unions represented approximately 27,031 workers in the construction sector.

10. We estimate that there are approximately 46,600 workers currently employed in the sector covered by the scope of the Construction SEO. This is based on a report provided to the Unions by the Nevin Economic Research Institute (NERI)¹. This report was provided to the Labour Court as part of the Unions application for an examination.

11. The main employer organisation in the sector is the Construction Industry Federation (CIF). Since the mid 1960's, the Unions and the CIF have conducted collective bargaining negotiations through the National Joint Industrial Council for the Construction Industry (NJIC).

12. The Labour Court is required by the provisions of the Industrial Relations (Amendment) Act 2015 to be satisfied that the party seeking an examination is substantially representative. Given the number of workers represented by the Unions in the sector and the fact that the Unions are recognised by the main employer organisation for collective bargaining purposes, it is clear that the Unions are substantially representative.

¹ www.nerinstitute.net

13. The Position of the Construction Sector

14. Section 16 (2) of the Industrial Relations (Amendment) Act 2015 requires the Labour Court to have regard to certain matters when making a recommendation to the Minister.

15. The matters that the Labour Court are required to have regard to are as follows:

- the impact on the level of employment/unemployment in the construction sector;
- the potential impact on competitiveness in the construction sector;
- the general level of remuneration in other economic sectors in which workers of the same class, type group are employed;
- the terms of any relevant national agreement relating to pay and conditions currently in existence;
- that the SEO shall be binding on all workers and employers in the construction sector.

We have sought the advice of NERI on these issues, and this is reflected in paragraphs 16 to 33 of this submission.

16. The construction sector underwent a period of rapid expansion prior to the onset of the Covid-19 pandemic. The CSO's seasonally adjusted *Production in Building and Construction Index* increased in value terms from 102.1 to 171.4 (68.0% or 17% per annum) between Q1 2016 and Q1 2020 (the last mainly pre-pandemic quarter) and increased by 56.1% over the same time in volume terms.² The volume and value indices were showing double digit annual growth just prior to the pandemic. Overall, the construction sector was one of the fastest growing industrial sectors between 2013 and 2019.

17. The lockdown caused a dramatic, albeit temporary, slowdown in activity. The value of production index fell 6.7% in 2020, while the volume index fell 6.5%. However, the indices have recovered substantially from their Q2 2020 levels.

18. The recovery in the construction sector is further illustrated by the growth in employment in the period between Q1 2021 and Q1 2024. The CSO Labour Force Survey shows that in that three-year period employment in the construction sector has grown by almost 37% from its lowest point, with the addition of almost 50,000 employments³. Seasonally adjusted Q1 2024 employment is also up on the pre-pandemic peak in Q1 2020, with employment increasing almost 16% in the four-year period.

²CSO (May 2024), Production in Building and Construction Index

³ [Employment - CSO - Central Statistics Office](#)

19. The job vacancy rate (JVR) in the construction sector was 1% in the Q1 2024.⁴ While this is below the post-pandemic peak of 1.6% in Q3 2022, it is well above the 2015–2019 average of 0.635%.
20. It is also clear that the construction sector is set to grow very rapidly over the next five years. Notably, residential housing supply remains well below projected medium-term population demand and there is likely to be immense and ongoing political pressure for governments to ensure continued growth in supply. The very healthy state of the public finances suggests significant increased capacity for the government to follow on and expand plans to increase capital spending on housing supply. For example, the *National Recovery and Resilience Plan*⁵ places a very strong emphasis on the need to accelerate retrofitting as a response to the climate change challenge and the construction sector is well placed to benefit from government supports.
21. The likely growth in the construction sector over the coming years will result in strong demand for more qualified construction workers. 32,695 homes were completed in 2023, representing the largest annual delivery of new homes in fifteen years and exceeding the Housing for All target of 29,000 homes⁶. 33,450 homes are expected to be built in 2024, with output increasing each year out to 2030 with 40,500 new homes predicted⁷. Additional measures such as the waiver of development levies or the removal of particular construction professionals from the Ineligible List of Occupations for Employment Permits shows the strong government support for the construction sector. Our view is that construction is the economic sector with the largest growth potential over the next three to five years. It is therefore imperative that we have wage rates sufficient to attract the skills the sector will require. Higher levels of public investment in infrastructure projects, including sustained investment in the ongoing capital projects is necessary to achieving Ireland’s net zero targets. This will further increase the need to attract thousands of new workers into construction. If terms and conditions of employment in the sector are not attractive, then Ireland will fail to achieve its housing and climate targets.
22. It is clear that the construction sector has recovered strongly following the pandemic, that it will continue to grow, and that there will be continued strong growth in the numbers employed in the sector over the short to medium term. The high number of job vacancies in the sector, along with strong growth in output in spite of higher interest rates and input price increases, implies that wage increases in the sector will not lead to a reduction in employment. The improvements in terms and conditions of employment being sought by the Unions will be needed to make the sector more attractive to workers.

⁴ CSO (May 2024) Earnings and Labour Costs

⁵ <https://www.gov.ie/en/publication/d4939-national-recovery-and-resilience-plan-2021/>

⁶ <https://www.gov.ie/en/publication/53a08-housing-for-all-q4-2023-progress-report/>

⁷ <https://www.gov.ie/en/publication/ef5ec-housing-for-all-a-new-housing-plan-for-ireland/>

- 23.** It is important to note that the construction sector is not an internationally traded export sector and is not subject to international competitiveness pressures in the same way as manufacturing and certain types of services such as ICT. The Irish construction sector does not compete for market share with construction sectors in other countries. Even so, we note that the total hourly labour cost in construction in 2023 per hour worked was €36.6, 8th out of the former EU15 (excluding the UK). This suggests that Irish construction worker wages are not high by Western European standards.⁸
- 24.** Another way of examining Ireland relative to other countries is its wage differential as a means of predicting potential additional labour supply through workers coming to Ireland from abroad. The Irish Fiscal Advisory Council have done just this in their recent June 2024 Fiscal Assessment Report, showing that the wage differential, when correcting for higher prices in Ireland relative to countries within the EU27 from where we could potentially source additional labour, has weakened considerably in the last 15 years to about half its pre-crisis level.
- 25.** Overall, the position of the construction sector within the economy as a whole is positive. The ESRI and other bodies estimate that long-run demand for housing remains well above current supply levels. It's important to consider the ongoing supply and demand mismatch alongside the very high levels of household savings and record net wealth, the low levels of household and corporate debt, and the potential for significant further government initiatives to support housing supply and investment in green infrastructure. All of this implies significant scope over the next three to five years for rapid expansion in house building and in investment generally, as well as sustained high levels of employment growth in the sector, and high levels of profitability.
- 26.** The contribution of the construction sector to the economy as a whole or gross value added (GVA) in current prices was €3.2 billion in Q4 2023. This represents a significant increase over the previous quarter of around 6%. Output increased by 5.9% in current prices in 2023 when compared with 2022.⁹
- 27.** The available data would suggest that in the short to medium term the construction sector will continue to have a strong competitive position within the Irish economy. The view of the Unions is that improvements we have sought for workers will not undermine the competitive position of the construction sector.
- 28.** The Labour Court is required to consider the general level of remuneration in other economic sectors in which workers of the same class, type group are employed.

⁸ Eurostat (April 2024), Hourly labour costs (https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Hourly_labour_costs)

⁹ CSO (March 2024), Quarterly National Accounts

- 29.** Average hourly earnings in the construction sector in Q1 2024 (€26.17) are lower than in the economy as a whole (€29.82), lower than in the private sector (€28.21), and lower than in the industry sector (€30.65). Average hourly total labour costs in the construction sector (€29.67) are also lower than in the economy as a whole (€34.87), lower than in the private sector (€33.52), and lower than in the industry sector (€36.92). Average weekly earnings in the construction sector (€961.97) are lower than in the economy as a whole (€969.12) and higher than in the private sector (€915.64). The relatively similar average weekly earnings, relative to the much lower hourly earnings when comparing the construction sector and the wider economy, is explained by significantly higher average weekly paid hours in the Construction Sector (36.8 versus 32.5 in the economy as a whole and 32.5 in the private sector). Weekly earnings are higher in the Industry sector due to a combination of higher hourly wages and higher average weekly paid hours.
- 30.** As of Q3 2022, the average hourly labour cost in the construction sector was €29.67. This was 14.8% below the €34.87 average for the economy as a whole and 11.5% behind the €33.52 average for the private sector.¹⁰ The construction sector has the 7th lowest average hourly labour cost of the 18 main economic sectors. Hourly labour costs in construction increased 24.9% in the five years between Q1 2019 and Q1 2024, with hourly labour costs in the economy as a whole increasing 25.7%.
- 31.** Average weekly earnings in the construction sector grew 8.5% year-on-year in Q1 2024. It is important to bear in mind that this growth in earnings reflects the growth in earnings of workers not within the scope of the Construction SEO. It is also worth noting that the construction sector has some of the longest average weekly hours worked of any sector, reflecting labour supply issues. Further, average hourly earnings in construction are just 87.8% of the economy-wide average and 92.8% of the private sector average. The relatively low wages are likely to be a significant impediment to attracting new labour into the sector with ongoing potential consequences in terms of the housing crisis and the net zero transition.
- 32.** High rates of inflation are undermining workers' real incomes. The annual CPI inflation for 2022 was 7.8% while annual inflation was 6.3% in 2023. All in all, the price level has increased by close to 17% since the pre-pandemic period¹¹. Most institutional forecasts are projecting inflation rates in the region of 2% in 2024. The 2024 Stability Programme Update estimates HICP inflation for 2024 will be 2.1% for 2024, and 2.1% for 2025 also¹².
- 33.** Longer-term nominal wage increases in the Irish economy are likely to average close to 3.5%. This is based on the ECB's revised inflation target of 2% and an economy-wide productivity growth averaging close to 1.5%. Any amount lower than 3.5% is likely to be consistent with a decline in the labour share of GDP. Ireland has a very low labour share relative to other Western countries, suggesting medium-term policy should aim for wage

¹⁰ CSO (May 2024), Earnings and Labour Costs

¹¹ CSO (June 2024) Consumer Price Index

¹² <https://www.gov.ie/en/publication/f9556-stability-programme-update-2024/>

increases in excess of the long-run average of 3.5%. Of course, in the shorter run it will be necessary to have even higher nominal wage increases simply to prevent living standards from falling.

34. The Labour Court is further required to have regard to the terms of any relevant national agreement relating to pay and conditions currently in existence and to consider if the SEO shall be binding on all workers and employers in the construction sector. The Unions are not aware of any relevant national agreement that will be impacted by revising the SEO as proposed in this submission.

35. The Unions further confirm that all workers falling within the scope of the definition of the Construction SEO will be bound by the terms of any new SEO.

36.A Revised SEO – The View of the Unions

37. Pay

38. The Unions are seeking an increase in the basic pay rates as follows:

- 6% from 1 January 2025;
- 6% from 1 January 2026;

39. Table one below has been prepared for ease of reference and shows the impact of the increases in basic pay proposed by the Unions.

Table One

Category	Hourly Rate of Pay 5 August 2024	Hourly Rate of Pay 1 January 2025	Hourly Rate of Pay 1 January 2026
Craftsperson	€22.34	€23.68	€25.10
Category A Worker	€21.59	€22.89	€24.26
Category B Worker	€20.03	€21.23	€22.51
Apprentice Year Four	€20.11	€21.31	€22.59
Apprentice Year Three	€16.76	€17.76	€18.83
Apprentice Year Two	€11.17	€11.84	€12.55
Apprentice Year One	€7.45	€7.89	€8.37

40. The Court will be aware that the pay of General Operatives and Apprentices in the construction sector is linked to the pay of craftspersons. The Court will be further aware that there has been a historic pay relationship between the pay of craftspersons in the construction sector and the pay of craftspersons in local authorities.

- 41.** Earlier this year the Public Services Committee of Congress concluded a pay agreement with public service employers. This agreement provides for multiple pay increases, over two and half years ending in June 2026. At the end of this agreement the hourly rate of pay of a Craftsperson at the top of their pay scale in a local authority will have increased to €24.24 per hour. Local authority craftspersons in the four Dublin local authorities also receive an additional five hours pay per week in recognition of travelling time.
- 42.** In paragraphs 29-31 of this submission we have shown that earnings in the construction sector continue to lag those of other workers in the economy. Earnings in the construction sector are close to €5 an hour less than earnings in the economy as a whole and just under €4 an hour less than earnings in the private sector.
- 43.** Travelling time has traditionally formed an important part of the remuneration of workers in the construction sector. It is paid in recognition of the fact that workers are required to travel to numerous different work locations which is not their actual place of employment. The 2015 Act makes very clear provision for the payment of traveling time (when working away from base).
- 44.** There are numerous collective agreements in the construction sector that provide for the payment of travelling time. It is the case that a significant majority of workers in the sector have an additional payment in recognition of time spent travelling to construction sites that are not their base.
- 45.** It is clear therefore that given circumstances in the sector, and the prevalence of travel time payments, it is entirely appropriate for the Court to provide for the payment of a minimum additional one hour of basic pay per day in recognition of time spent by workers travelling to construction sites that are not their actual base.
- 46.** We are requesting the Court to recommend the removal of the new entrant rate of pay. While the removal of this rate will potentially improve the earnings of those currently working in construction it will have a very positive impact on attracting workers to the sector. Numerous reports have pointed to the need to act to address the labour shortage in construction. The removal of the new entrant rates of pay will make the construction sector more attractive for those seeking employment.
- 47.** In light of this and the earnings data referred to in previous paragraphs, it is clear that the improvements in pay that the Unions have sought are justifiable in order to protect the living standards of workers in the sector and to make the sector a more attractive employment option.

48. Pension Contributions

- 49.** As part of the current SEO workers and employers are required to make minimum levels of contributions to a pension scheme. The importance of maintaining and extending the coverage of occupational pension schemes has been recognised by government as a key policy measure in order to avoid poor living standards in retirement.
- 50.** It is the stated policy of government to introduce a form of mandatory occupational pension and this is to be implemented through the introduction of auto-enrolment from 2025. As part of this there will be a minimum level of pension contribution for employers and workers. It is critical therefore that the pension contributions in the construction sector continue to keep pace with the overall movement in basic pay.
- 51.** One of the design features of auto-enrolment is that pension contributions are expressed as percentage of pay. Pension contributions in the current Construction SEO are expressed as fixed daily and weekly amounts. We are requesting that we move to expressing pension contributions as a percentage of basic pay. We are suggesting that commencing on the 1 January 2025 the employer contribution would be 5% of basic pay while the worker contribution would be 3% of basic pay.

52. Summary and Conclusion

- 53.** In this submission we have sought to convince the Court that a revised SEO for the construction sector is required.
- 54.** We believe that we have demonstrated that the current level of activity in the sector means that our claims for improved conditions of employment are affordable, sustainable and fair. The revisions we have sought will assist in attracting and retaining skilled construction workers.
- 55.** In seeking a multi-annual approach to pay we believe that this will benefit employers in the sector as it will allow them to have certainty about the cost of labour when tendering for work. It will also support the maintenance of industrial peace in the sector.