

# Labour Court Submission in respect of the Mechanical Engineering Building Services Contracting Sector

August 2017



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## 1. Introduction

- 1.1. This submission is made by Unite the Union and the Technical, Engineering and Electrical Union (the applicant unions) on behalf of workers employed in the Mechanical Engineering Building Services Contracting Sector (the sector). The applicant unions request the Labour Court to examine the terms and conditions relating to the remuneration, pension and sick pay schemes of workers in the sector under the terms of the Industrial Relations (Amendment) Act 2015 (the 2015 Act) with a view to making recommendations to the Minister that a Sectoral Employment Order (SEO) for the sector be established as provided for under section 16 of the 2015 Act.
- 1.2. It is respectfully submitted that the preliminary questions arising from section 15(1) of the 2015 Act allowing the Labour Court to conduct a review of the sector have been answered in their submissions to the Labour Court from the applicant unions<sup>1</sup>. However, for the sake of completeness and ease of reference much of the text and documentation from those submissions are included in this document.

## 2. Context and background

- 2.1. The trade 'Plumber' has featured in the national construction industry employment agreements for pay and pensions since their inception as registered employment agreements in the 1960's<sup>2</sup>. Since the early 1970's Plumbers and other mechanical grades (Fitters & Welders explained below) received plus payments beyond the construction industry pay rates on foot of engagement and agreement with the employers in the industry/sector represented by the Construction Industry Federation (the employers). These plus payments were linked to levels of proficiency and service attained; they were housed in agreements between the employers and trades unions within the sector.<sup>3</sup> These agreements are referred to as the MEBSCA agreement/s. A copy of the most recent of these agreements is attached at appendix A(1).

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<sup>1</sup> Correspondence to the Labour Court 29<sup>th</sup> May 2017 providing points of clarification concerning the applicant unions' application for examination of the sector- Attached at appendix A of this submission.

<sup>2</sup> Registered Employment Agreement (Construction Industry Wages and Conditions of Employment) 15<sup>th</sup> March, 1967 , Registered Employment Agreement (Construction Pensions Assurance and Sick Pay) 7<sup>th</sup> March, 1969

<sup>3</sup> The Mechanical Engineering & Building Service Contractors Association of the Construction Industry Federation and Unite/TEEU

- 2.2. In 2011, under the auspices of the then Labour Relations Commission, the mechanical rates were agreed on the basis of service, i.e. one to six years beyond apprenticeship completion. A copy of the agreed rates at that point in time are attached at appendix A(2). The pay rates were agreed on the basis that the then MEBSCA rates would form the basis of a registered employment agreement in the sector. It was envisaged that the unions and employers would agree a comprehensive redrafted agreement before applying to the Labour Court to have it registered as an employment agreement as provided for under the then Section 3 of the Industrial Relations Act 1946. Events unfolded that hindered the parties' ability to get the agreement registered. These included legislative changes as well as High Court and Supreme Court decisions.
- 2.3. In May 2016 agreement was reached between the unions and the employers in the sector under the auspices of the Workplace Relations Commission on new MEBSCA rates. A copy of this agreement is attached at appendix A(3). This agreement expires on September 30<sup>th</sup> 2018. It provides for pay increases and a joint commitment to the principle of establishing an SEO in the sector.
- 2.4. There has also been an ongoing engagement between the applicant unions and the employers in the sector concerning a possible Mechanical Sector Registered Employment Agreement, as also provided for under the 2015 Act. This process has unfolded parallel to engagement with the employers on pay and commitment to the principle of an SEO and what that might include. It is envisaged between the parties that a Mechanical Sector Registered Employment Agreement would address much of the non-pay elements that exist with the generic contract/s of employment within the sector. This process has not been concluded to date. Also, while there are substantial areas of agreement between the employers and the unions as to what might be contained in an SEO, there is not full agreement. The most up-to date correspondences between the parties in this regard are attached at appendix B.
- 2.5. On January 27<sup>th</sup> 2017 the applicant unions made an application to the Labour Court for an examination of the terms and conditions relating to the remuneration and pension and sick pay scheme of workers in the sector. In separate, but important developments, on November 22<sup>nd</sup> 2016 the Construction Industry Federation made an application to the Labour Court for a request to have the terms and conditions of employment of the construction sector examined for the purposes of establishing an

SEO concerning all craft disciplines and general operative grades within that sector, with the specific exclusion of mechanical grades.

- 2.6. The exclusion of mechanical grades from the construction sector SEO application process was agreed to and is the applicant unions preferred option. The same applied to negotiations on a possible Registered Employment Agreement for the construction sector.

### 3. Definitions

- 3.1. The applicant unions' request to the Labour Court concerning the "*class, type or group of workers to which the request applies*"<sup>4</sup> are Mechanical Craft Workers (Plumbers, Pipefitters, Welders including supervisory grades and apprentices). These grades are defined as follows:

#### ***i) Mechanical Craft Worker***

The mechanical craft worker trades are Plumbing and Pipefitter<sup>5</sup>. Some Plumbers and Fitters may operate as Welders having firstly attained the appropriate state standard based apprenticeship qualification (Advanced Craft Certification or equivalent) and thereafter appropriate welding certification, they include but are not limited to: BS4871- Arc Welding, AP1 1104 – Oil and Gas, BS 4871 – Weld testing. As referenced above the rates are paid on the basis of service attained in the sector. The current rates are attached at appendix A(5).

#### ***ii) Mechanical Craft Apprentices***

Mechanical craft apprentices are those who complete the state's standard based apprenticeship programmes in the aforementioned trades. Section 16(5)(d) of the Industrial Relations (Amendment) Act 2015 (the 2015 Act) allows the Labour Court to recommend to the Minister minimum hourly rates of basic pay for apprentices. Pay rates are paid to apprentices in the sector on the basis of time served i.e. 1<sup>st</sup> year rate, 2<sup>nd</sup> year rate, 3<sup>rd</sup> year rate, 4<sup>th</sup> year rate, with the increases applied on the anniversary of registration of the apprenticeship.

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<sup>4</sup> See page 1 of application to the Labour Court for examination of the sector – Appendix A(4)

<sup>5</sup> <http://www.solas.ie/Pages/WhoWeAre.aspx>

### ***iii) Mechanical Craft Supervisor***

Mechanical craft supervisory grades include Craft Charge Hands and Craft Foremen; they are derived from the pool of above mentioned qualified craft workers. They are defined as being qualified craft workers in the first instance within either the charge hand or foreman grade, subject to levels of responsibilities, the attainment of recognised supervisory standards and agreement with the employer/s. The supervisory grade is interchangeable, for example, a craft worker can operate as a charge hand for a period of time due to the nature of the project, receive the charge hand allowance for that period of time and when the project is over revert to the craft rate. In some circumstances craft workers will negotiate to keep either the charge hand or foreman allowance on an ongoing basis. There is a standard allowance attached to these grades across the industry, paid in addition to the craft rate: Craft Charge Hand Allowance – Not less than 10% of the Craft Rate, Craft Foreman Allowance – Not less than 20% of the Craft Rate. The rates attached to supervisory grades featured in the early MEBSCA agreements (Charge Hand is referenced specifically, Foreman evolved at local/enterprise level). Mechanical craft supervisory grades are viewed, in the sector, as the natural progression after an individual has served their apprenticeship and then served time as a craft worker in the sector. Table 1 below sets out this progression.

- 3.2. The grades explained above are all included in the applicant unions' application to the Labour Court because they reflect the reality of the sector. While we appreciate that the legislation is prescriptive concerning apprentices, we believe that the term "*class, type of group*" can be constructed to allow for two or more grades within a given sector, in this case: Craft Worker grades and Supervisory grades as detailed in table 1 below. The workers represented by the applicant unions in the sector, as detailed in appendix 3 of the application, include all three grades detailed above.

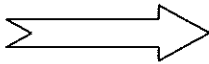
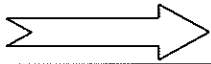
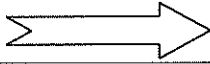
<b>Mechanical Apprentices</b>	<b>Mechanical Craft Worker</b>	<b>Mechanical Supervisor</b>
1 <sup>st</sup> year	1 <sup>st</sup> year out of time <i>(Basic craft hourly rate)</i>	Charge Hand <i>(Basic supervisor hourly rate)</i>
2 <sup>nd</sup> year	3 <sup>rd</sup> year out of time <i>(1<sup>st</sup> higher hourly rate of basic craft pay)</i>	Foreman <i>(1<sup>st</sup> higher supervisor hourly rate)</i>
3 <sup>rd</sup> year	6 <sup>th</sup> year out of time <i>(2<sup>nd</sup> higher hourly rate of basic craft pay)</i>	
4 <sup>th</sup> year		
		

Table 1

#### 4. Remuneration, Pensions and Sick Pay, and Dispute Resolution Procedures

4.1. Section 15(c) of the 2015 Act provides:

*“it is a normal and desirable practice, or that it is expedient, to have separate terms and conditions relating to remuneration, sick pay schemes or pension schemes in respect of workers of the particular class, type or group in the economic sector in respect of which the request is expressed to apply, and”*

##### 4.1.1. Minimum Hourly Rates of Pay

4.1.2. The applicant unions seeking the examination of the sector have been party to a collective agreement with the employers in the sector for over fifty years. The agreement has evolved and is now referred to as the MEBSCA agreement. The MEBSCA agreement has historically provided mechanical workers *inter alia*, with plus payments above the terms of the construction industry agreements. Changes to the mechanical rates followed negotiations between the employers and both unions in the sector, as detailed in section two above. The above, and attached documentation at appendix A, illustrates that it is a normal and desirable practice to have separate terms and conditions relating to the remuneration of workers of the particular class, type or group in the economic sector to which the SEO application applies. With the above in mind, the applicant unions would ask the Labour Court to recommend that the hourly rates set out in table 2 below would feature in any recommendation to the Minister for an SEO in the sector.

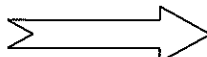
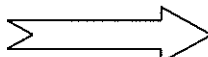
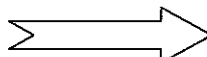
<b>Apprentice Category</b>	<b>Category 1</b>	<b>Category 2</b>
<b>Mechanical Apprentices</b>	<b>Mechanical Craft Worker</b>	<b>Mechanical Supervisor</b>
1 <sup>st</sup> year 33.3%	*1 <sup>st</sup> year out of time €22.17 <i>(Basic craft hourly rate)</i>	Charge Hand €25.32 <i>(Basic supervisor hourly rate)</i>
2 <sup>nd</sup> year 50%	*3 <sup>rd</sup> year out of time €22.64 <i>(1<sup>st</sup> higher hour rate of basic craft pay)</i>	Foreman €27.62 <i>(1<sup>st</sup> higher supervisor hourly rate)</i>
3 <sup>rd</sup> year 75%	*6 <sup>th</sup> year out of time €23.02 <i>(2<sup>nd</sup> higher hour rate of basic craft pay)</i>	
4 <sup>th</sup> year 90%		
		

Table 2, \* Rates derived from WRC/MEBSCA Agreement 1<sup>st</sup> July 2016 - 30th September 2018 dated 19<sup>th</sup> May 2016. Attached at appendix A(3)

4.1.3. Without prejudice to our above argument, in the event of the Labour Court not supporting our view concerning the construction of the term “class, type of group” the applicant unions would request that the Court consider the term “Mechanical Craft Worker” as an all-encompassing term for craft and supervisory grades (not apprentices) and apply the rates set out in table 3 below as part of any recommendation made to the Minister.

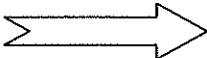
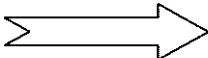
<b>Mechanical Apprentices</b>	<b>Mechanical Craft Worker</b>	
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3 <sup>rd</sup> year 75%	6 <sup>th</sup> year out of time €23.02 <i>(2<sup>nd</sup> higher hour rate of basic craft pay)</i>	
4 <sup>th</sup> year 90%		
		

Table 3

4.1.4. It is also important to note that unlike apprentices in comparable sectors<sup>6</sup> mechanical apprentices’ rates do not bear a percentage relationship to the substantive craft rate.

<sup>6</sup> Construction Sector - Craft Rate (CR) i.e. 1<sup>st</sup> year - 33.3% of CR, 2<sup>nd</sup> year – 50% of CR, 3<sup>rd</sup> year 75% of CR and 4<sup>th</sup> year 90% CR



This is due to historical linkage to the construction industry craft rate<sup>7</sup>. This anomaly put mechanical craft apprentices at a disadvantage to other craft grades regarding the relationship of their hourly rates to the rate of qualified craft workers in the sector. However, this disadvantage is ameliorated by fact that mechanical craft apprentices receive *'full travel pay'*, we return to this point further in the document.

#### **4.2. Traveling time and Subsistence (Country Money)**

4.2.1. The current sector travel time is specified in the travel bands provided in the former Registered Employment Agreement (Construction Industry Wages and Conditions of Employment), with the first hour of travel included into the rate by virtue of amendments to MEBSCA rates in 2011 as detailed at appendix A(2). The result of this change is that the one and a half-hour's travelling time per day is the maximum that a mechanical craft worker can receive on a daily basis within the terms of the sector agreement.

4.2.2. While payment of travel time applies across the sector, its application can be subject to the geographic location of a given project. More and more contractors in the sector use the application of travel pay to entice mechanical workers whether they are required to apply such payments as per sector wide agreements or not. Obviously, where local positive arrangements have prevailed, with or without the direct input of the unions there has been no arguments from workers or unions. However, this and the general geographic application of travelling time do create a number of difficulties. These include: negative manoeuvring for project selection among workers and using project selection negatively by employers. The applicant unions are also mindful of the Labour Court's concerns around the *"legal and technical issues"*<sup>8</sup> concerning how traveling time might feature in an SEO. With this in mind, we submit the follow arguments why travelling time should and can feature in a recommendation to the Minister:

##### **i) History of Traveling Time**

Payment for expenses for costs incurred and time spent traveling to construction projects have featured in the construction sector as early as the 1930's<sup>9</sup>. In 1970 and in 1990 Subsistence (Country Money) and Travel Time payment respectively

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<sup>7</sup> See LRC document at appendix A(2) – *"Apprentice rates will remain in line with the current Registered Agreement for the Construction Industry"*

<sup>8</sup> See Labour Court Recommendation to the Minister for Jobs, Enterprise and Innovation, 13<sup>th</sup> July 2017

<sup>9</sup> See Dublin Working Rule Agreement for construction and electrical 1938

became formally enshrined in the then Construction Industry Registered Employment Agreement for Wages and Conditions of Employment (the construction REA)<sup>10</sup>. The central role of these payments was to compensate workers for the need to travel to different work places on an ongoing basis. It also facilitates employers in not requiring workers to arrive at work at a fixed location i.e. the employers' premises and travel to construction projects. It has since become a key part of workers overall remuneration in the sector, to the extent that elements of it are paid when workers are on leave and not necessarily incurring the costs involved in traveling to work<sup>11</sup>.

### ***ii) Travelling Time in an SEO***

The 2015 Act makes very clear provision for traveling time (when working away from base); the nature of the sector requires workers to almost always work away from their base. It is also important to note that, notwithstanding the constitutional checks and balances that are included in the 2015 Act, a key features of the 2015 Act and the principle Act<sup>12</sup> has been to give legal expression to agreements between “workers and employers”; a key feature of the agreement between workers and employers in the sector has been the provision of traveling time. Furthermore, the 2015 Act at 16(2)(b) specifically advises that the Court should have regard to “*the terms of any relevant national agreement relating to pay and conditions for the time being in existence*”; it is common case between the employers and unions in the sector that traveling time payments are in existence in the sector. It is respectfully submitted that the inclusion of paid traveling time in an SEO for the sector is entirely appropriate. Similar to overtime, traveling time by its very nature in the mechanical sector is variable, but this does not negate the need to arrive at a formula to facilitate its provision.

### ***iii) Subsistence (Country Money)***

As explained above Country Money has its origins in the earliest collective and registered agreements within the sector and the wider construction sector. The sector agreements provides for Country Money to be paid where an “*operative resides away from home*”. The language in the sector agreements concerning Country Money is dated; this is evident in the fact that the revenue commissioners

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<sup>10</sup> Subsistence (Country Money) see Variation Order 1970, Travel Time see Variation Order 1990

<sup>11</sup> See documents attached at appendix C illustrating the inclusion of travel time in holiday, 1999, 2000

<sup>12</sup> Section 1(2) of the 2015 Act provides – “*The Industrial Relations Acts 1946 to 2015 and Part 3, other than section 36, shall be construed together as one Act*”.

provide exclusions for tax for Country Money but do not require an operative to reside away from home to avail of such exclusions<sup>13</sup>. The reality is that many workers in the sector receive County Money where they have to work away from base beyond the bands provided for by travelling time. Country Money functions mainly as an extension of the travel time bands and because it applies at a particular distance from an employer's base, regardless of the geographic location of the base, it has standard and universal application.

#### ***iv) Universal Application***

While the Labour Court does not advise how travel time applies in its recent construction sector SEO recommendation, its comments are instructive. It is clear that the Court did not accept that the current arrangements within the construction sector have universal application. The current arrangements in the construction sector are, by and large, the arrangement in the mechanical sector. The important difference in this sector is that the employers are on record as supporting the continuation of Travel Time and Country Money<sup>14</sup>.

Despite the employers' acceptance that Travel Time and Country Money be continued there has not been a basis for the employers and the unions in the sector to reach agreement on the way in which a travel time arrangement might feature in the context of an SEO, despite extensive engagement on this matter directly and under the auspices of the WRC. It is clear to the applicant unions that the only basis for the employers and unions in the sector accepting a travel time arrangement that can be housed in an SEO is for the Labour Court to provide recommendations on such arrangements. With this in mind we have structured a proposal below for the payment of Travel Time and Country Money in the sector.

#### ***v) Proposal on Traveling Time and Country Money***

##### **National Travel Time Rates:**

Distance to be calculated from the general post office in each city or town (unless place of business previously agreed), for smaller towns and villages distance to be calculated from place of business.

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<sup>13</sup> See Income Tax Statement of Practice SP-IT/2/07 – Tax treatment of the reimbursement of Expenses of Travel and Subsistence to Office Holders and Employees, at 14 and 15

<sup>14</sup> See correspondence from the employers in the sector to the applicant unions of the 24<sup>th</sup> of March 2017 and 8<sup>th</sup> of August 2017 at appendix C

- 0 - 6 kilometres 1 hour per day**
- 6 - 8 kilometres 1¼ hours per day**
- 8 - 10 kilometres 1½ hours per day**
- 10 - 12 kilometres 1¾ hours per day**
- 12 - 20 kilometres 2 hours per day**
- 20 - 32 kilometres 2½ hours per day**

- a) The hours or fraction of hours above refer to the basic rate for craftsmen and apprentices, as appropriate.
- b) All distances are radial and are measured from the GPO (or place of business as above) outwards to the actual job/site. All distances are measured on a straight line basis and are one way only.
- c) These payments are paid only on the strict understanding that they are allowances towards compensating the operative in full both for the expense and time involved in travelling to and from the job/site. This travelling is to be done in the operative's own time and at his own expense and he must be available on the site for work at the normal starting time.
- d) Where transport is provided 75% of the appropriate travel allowance is paid in that situation.

***Subsistence Allowance (Country Money)***

Subsistence allowance (country money) shall be €50 per day or €250 for 5 days and increase pro rata for 6 or 7 days. The allowance will be increased every 6 months in accordance with increases in the consumer price index. The allowance shall be paid where an operative has to either reside away from home or travel more than 32 km (in one direction) in the performance of his duties. In the event of residing away from home, all accommodation costs should be covered by the employer, lodging expenses shall be paid on foot of appropriate receipts. No back week should apply to this payment.

Operatives shall be paid travelling expenses consisting of fares and travelling time when going to or coming from a job which necessitates their taking lodgings. All time spent in travelling shall be paid for at single rates.

### 4.3. Overtime

The applicant unions would propose the following concerning overtime:

a) ***Monday to Friday***

Overtime worked between normal finishing time and midnight shall be paid for at time and one half. Overtime worked after midnight shall be paid at double time.

Eight hours (seven on Friday) must be worked daily before an operative is entitled to an overtime payment.

b) ***Weekends***

Overtime worked on Saturdays shall be paid for as follows:-

8.30 am to 12.30 pm – time and one half, thereafter double time paid until starting time on Monday morning.

In addition to the holiday entitlement double time will be paid for all hours worked on Public Holidays.

### 4.4. Shift Work

The applicant unions would propose the following concerning shift work:

First 8 hours, time plus 1/3, Thereafter overtime rates to apply to time plus 1/3

Workers to be paid shift rate the week immediately after coming off shift work.

### 4.5. Pensions and Sick Pay

4.5.1. It has been the normal and desirable practice in the sector to have mechanical workers enrolled in the Construction Workers Pension Scheme (CWPS) for the purpose of pensions, assurance and sick pay. This has been the case since the establishment of the then Construction Industry Registered Employment Agreement for Pension, Assurance and Sick Pay in 1969. The applicant unions asks the Court to recommend to the Minister that mechanical workers be registered in a pension and sick pay scheme not less favourable than the CWPS and as a percentage of the

mechanical craft rate. We further request that the enrolment in such a scheme would be from the age of 18 years to National Retirement Age.

#### **4.6. Disputes Resolution Procedure**

4.6.1. The applicant unions would propose the following disputes resolution procedure:

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.

##### 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's 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 Services 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 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 Conciliation Services of the WRC.
- c) If the issue remains unresolved, it shall be referred to the Labour Court for investigation and recommendation.

## 5. Economic Impact, Competitiveness and Future Demand

5.1. This section addresses the issues of economic impact on levels of employment and the competitiveness in the sector. We use the construction sector data as there is not adequate breakdown of the mechanical sector itself. We will put forward evidence that the recovery in the economy and the construction sector is dependent on sustainable wage growth. Furthermore, we will put forward evidence that Ireland does not experience high wage levels in the construction sector.

### 5.1.1. International Comparisons

Irish employee compensation (wages including employers' social insurance – essentially, labour costs) is the lowest among our peer group.<sup>15</sup>

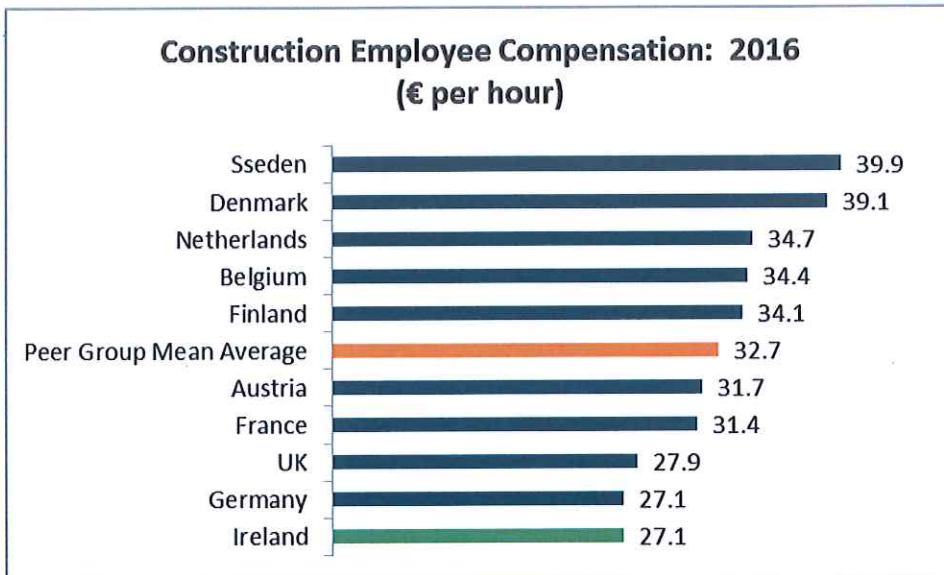


Table 4

This, of course, refers to construction employees.<sup>16</sup> Therefore, it excludes pay rates for workers forced into bogus self-employment which is likely to be lower. However, it can be seen as indicative. This shows that overall construction labour costs can hardly be described as 'uncompetitive'. Employee compensation would have to increase by 21 percent to reach the average of our peer group. Another way of assessing the impact of wages is to measure wages as a percentage of output.

<sup>15</sup> Our peer group is the advanced economies in the EU; in particular, the EU-15 excluding the poor Mediterranean countries. Irish national income per head is approximately equal to the national income of the combined countries in the table above.

<sup>16</sup> Eurostat: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lc\\_lci\\_lev&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lc_lci_lev&lang=en)

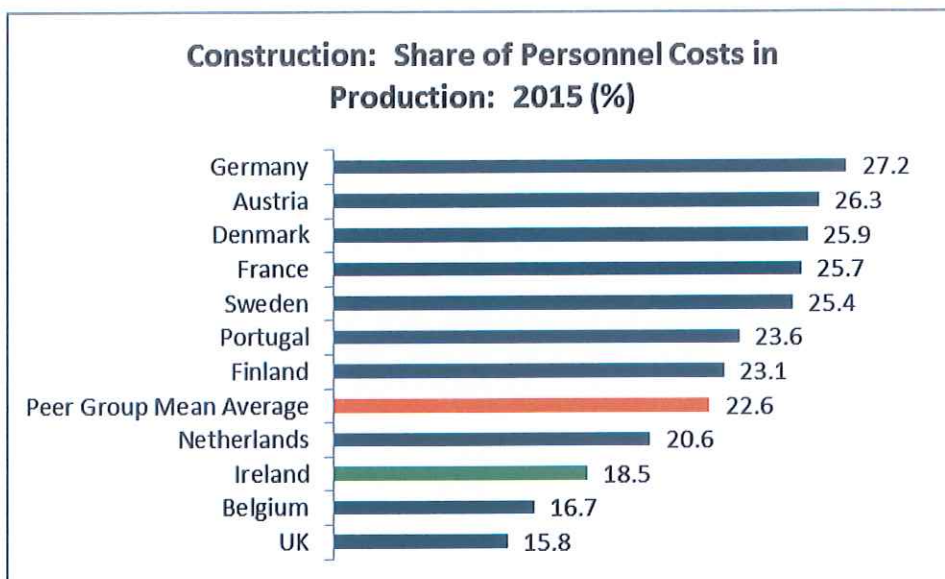


Table 5

Irish construction personnel costs take up a smaller portion of production costs than most other countries.<sup>17</sup> Were Irish personnel costs to rise to the average of our peer group, they would have to rise by 22 percent. This mirrors the rise needed in employee compensation as shown in the first chart (21 percent).

### 5.1.2. Domestic Comparisons

It is important we use data in its proper context. For instance, the Construction Industry Federation (CIF) in its Submission<sup>18</sup> produces Table 6.4 (of CIF Sub) to show that construction and industry wages are approximately the same:

Average Weekly Earnings by Enterprise Size: 2016 Q4 (€)			
	Under 50 employees	50 – 250 employees	Greater than 250 employees
<b>Construction</b>	659	915	1,119
<b>Industry</b>	648	757	1,013

Table 6

In all the enterprise sizes, construction weekly earnings are higher than earnings in the industrial sector. However, the CSO also shows that average weekly earnings for the total construction sector are €751 while average earnings in industry are €868 for that same period (2016 Q4). What accounts for the discrepancy?

<sup>17</sup> Eurostat: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs\\_na\\_con\\_r2&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs_na_con_r2&lang=en). Data for Belgium, France, Finland and Sweden from 2014.

<sup>18</sup> CIF Submission in Respect of a Sectoral Employment Order in the Construction Sector, April 2017



The CIF fails to take account of composition.<sup>19</sup> For instance, 86 percent of all construction workers are employed in small firms (less than 50) – the lowest paid of the three size sectors. However, only 29 percent of industrial workers are employed in small firms. Conversely, 45 percent of industrial workers are employed in the highest paid size sector – large firms (greater than 250 employees). Only 6 percent of construction workers are employed by large firms. The fact is that, according to the CSO, construction workers earn 13.5 percent less than industrial workers.

Another way to compare domestic ratios is to observe the ratio of construction wages to economy-wide wages. This is done at table 7 below.

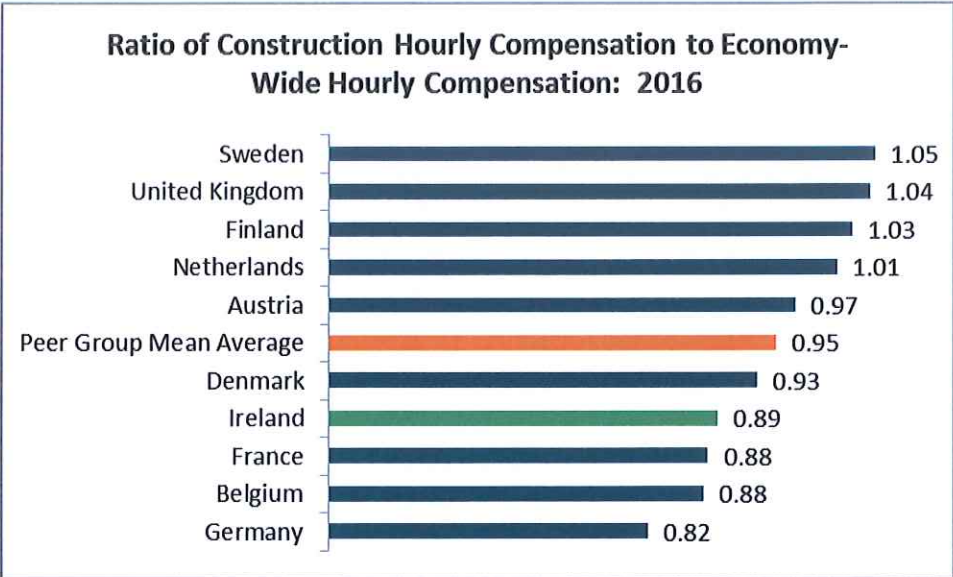


Table 7

In Sweden, the UK, Finland and the Netherlands, construction workers earn more than the economy-wide average. In all the other countries construction workers earn less. Ireland ranks below the mean average of our peer group in this regard. Whether using international or domestic comparisons, it is difficult to argue that construction wages are ‘uncompetitive’ or ‘unsustainable’.

**5.1.3 Wages and Impact on Employment**

CIF states that it commissioned an independent estimate (supplied by Irida Consulting Limited) to estimate the impact of pay increases on employment. This is based on the traditional demand/supply model that has been, if not discredited, severely criticised as it assumes a static approach to jobs, spending, etc. It has also

<sup>19</sup> Eurostat: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs\\_sc\\_con\\_r2&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs_sc_con_r2&lang=en) and Eurostat: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs\\_sc\\_ind\\_r2&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs_sc_ind_r2&lang=en)

been undermined by studies that have undertaken empirical studies, utilised dynamic variables rather than relying on static models.

To show how unsatisfactory this approach is, under the CIF's model any pay rise – no matter how small – will reduce employment. If the goal is to maximise employment, then there should be no pay rise over the four years used in the CIF estimate. Of course, this would mean real pay cuts (that is, after inflation) which would depress consumption. It would also reduce taxation revenue which would impact on public spending, including investment. This reduction in consumption and tax revenue would impact on other sectors reliant upon workers spending power (that is, domestic demand). Cutting pay in real terms could, if replicated in other sectors - under the imperative of the model to maintain employment - would lead to lower employment while reducing investment as businesses anticipate lower consumption in the future. The logical conclusion of this model is a recession or slump. A major flaw in such models is the failure to integrate two key components of an economy: demand and productivity.

***i) Demand:***

Demand drives employment. If there is no demand for a product or service, then the level of wages is irrelevant. Conversely, if there is demand in the market, cost is only one of several factors. For instance, demand for housing may be influenced by availability and cost of credit or the cost of materials and services needed to produce a building. Focusing on one element in a complex market environment can just as easily lead us to overlook real issues in price determination.

***ii) Productivity:***

Productivity is the material basis for wage increases and growth, whether at a sectoral level or economy-wide. If productivity rises, then wage and profit increases can ensue while maintaining relative price stability which would mean less downward pressure on demand. One of the better productivity measurements is gross-value added per employee, along with output (turnover) per employee.

<b>Construction Sector: Productivity Measurements and Weekly Earnings: 2012 – 2015</b>					
	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Increase between 2012 and 2015 (%)</b>
<b>Turnover per Employee (€ 000)</b>	98.5	109.7	142.3	151.4	53.7%
<b>Value-Added per Employee (€ 000)</b>	30.3	39	47.7	40.9	35.0%
<b>Weekly Earnings</b>	683	696	727	713	4.4%

Table 8

2012 was the first year of recovery in the construction sector. Since then turnover and value-added have increased substantially, indicating that the sector is repairing its balance sheet after the crash. However, wage increases have been minimal. A key principle in productivity-driven growth is that if wages rise by X and productivity rises by X+, then wages and profits will rise (all things being equal) while maintaining real price stability.

**iii) Profitability:**

Irish construction has not recovered to pre-crash profitability but this shouldn't be surprising. Pre-crash, economic activity was based on a credit and speculative bubble which was the prime contributor to the recession. Profit must be sustainable. As productivity (measured as gross value-added) rises, as demand increases, profitability will be restored. As a share of value-added, profits have increased by over 75 percent since 2012 (albeit, starting from a low base relative to EU norms). By 2015, Irish construction profit has, as a share of value-added reached those norms.



Table 9

There are two further issues in driving productivity and costs.

First, there is an unfortunate reflex assumption that productivity is driven by wage levels. However, other factors can play a key role. Managerial competence (financial control, marketing, R&D, labour relations, etc.) are key contributors to productivity growth. Unfortunately, there are no straight-forward metrics to measure this. Second, another unfortunate reflex assumption is that 'costs' relate to labour. However, as we saw above, Irish labour costs as a percentage of total production costs is lower than most other peer group countries.

If there is an issue of cost containment, it might be useful to look in other areas.

For instance, CIF's submission compares the cost of residential, commercial and industrial construction between Belfast and Dublin. This is a poor comparison. Belfast is a regional city (and a city in the 2<sup>nd</sup> poorest region in the UK). Belfast is 27 percent below the UK average (measured as gross value-added per capita) in 2015<sup>20</sup>. Given this, it would be surprising if Dublin was not more expensive (and that doesn't factor in the volatility of exchange rates). A proper comparison used by most international databases is to compare like-with-like; that is, capital cities (Dublin, London, Berlin, Vienna, Helsinki, etc.).

However, we have some comparisons using the international recognised Gardiner & Theobald, International Construction Cost Survey.

<sup>20</sup>

<https://www.ons.gov.uk/economy/grossvalueaddedgva/bulletins/regionalgrossvalueaddedincomeapproach/december2016>

Example Building Costs: Office and Industrial (€ / m2)							
City Centre Heated Offices		City Centre Air Conditioned Offices		Warehouses, Industrial, Factories		Out of Town Business Park	
Average EU-15	1,687	Average EU-15	2,029	Average EU-15	1,014	Average EU-15	1,511
Ireland	1,400	Ireland	1,850	Ireland	845	Ireland	775

Source: Gardiner & Theobald, International Construction Cost Survey 2012

Table 10

Example Building Costs: Residential, Retail and Hotels (€ / m2)							
High Rise Apartments		Shopping Centre		Capital City Hotel		Provincial / Suburban Hotel	
Average – EU-15	1,754	Average – EU-15	1,585	Average – EU-15	2,744	Ireland	1,950
Ireland	1,200	Ireland	1,500	Ireland	2,300	Average – EU-15	1,782

Source: Gardiner & Theobald, International Construction Cost Survey 2012

Table 11 NOTE: the full tables attached at Appendix D

It can be seen that Irish construction costs as measured by € per square meter are below the average of all the examples show above, sometimes substantially. The only exception is provincial/suburban hotels.

Another comparison is from Turner and Townsend, another internationally recognised benchmark. This data comes from 2015 and it shows that among material costs Ireland is the lowest in 7 of 11 categories compared to Munich and Amsterdam. Among trade rates, Irish costs are the lowest in half the categories. Taking all these together Irish costs are the highest in only 3 of 31 categories. The full tables are attached at appendix D.

What the above shows is that if there are 'high costs' it cannot be put down to wages or inputs. In short, Ireland is not a high construction cost economy and, so, the argument re: competitiveness is misplaced.

#### 5.1.4. Future Demand

It is generally accepted that future demand for construction will increase, given current low levels of public investment, and private and social housing completions. The examples below underpin this:

The Government estimates government capital expenditure to be €32.2 billion over the next five years (2017 to 2021).<sup>21</sup> This compares to the previous five years of capital expenditure at €20.4 billion. There will be an increase in public investment of 58 percent over the next period.

The Government projects housing output (non-social) to more than double over the next five years (2017 – 2021), averaging 25,000<sup>22</sup> per annum compared to an average annual output of 11,100 in the previous five years.

The Government projects a substantial increase in social housing – 47,000 over the next five years.

Regarding public investment and social housing output, the risk to the above projections are on the up-side; that is, the actual outturn is, if anything, likely to be higher. It should be further noted, that the new Taoiseach has announced a change in the target debt/GDP ratio by the middle of the next decade – from the current 45 percent to a new 55 percent debt to GDP ratio. This is intended to facilitate greater public investment and capital expenditure over the next decade. This equates to an additional €30 to €40 billion expenditure, most of which will be diverted into the capital budget.

All this suggests that considerable resources will be directed into the capital expenditure in the medium-term, reflecting the growing economic and social demand. Further and more extensive examples can be provided to the Labour Court<sup>23</sup>, however in summary:

- Irish construction wages are the lowest among our peer group.
- The share of 'labour costs' in total production costs is well below the mean average of our European peer group.

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<sup>21</sup> Department of Finance, 2017 Stability Programme Update:  
<http://www.finance.gov.ie/sites/default/files/20170410%20Draft%20SPU%20final.pdf>

<sup>22</sup> Rebuilding Ireland: Action Plan for Housing and Homelessness: <http://rebuildingireland.ie/>

<sup>23</sup> ICTU Submission in Respect of a Sectoral Employment Order in the Construction Sector, April 2017 at Appendix IV

- Construction wages as a ratio to economy-wide wages is lower in Ireland than in most other peer group countries.
- Models that are premised on the assumption that wage increases invariably reduce employment are seriously flawed as they are static and do not include dynamic variables such as demand and productivity.
- Irish construction productivity is rising at a substantially higher rate than wages.
- Irish profits, as a percentage of gross value-added is above our peer group average.
- Construction costs in Ireland are well below EU-15 averages.
- As demand rises in the future, the Government projects substantial investment in the capital budget over the medium-term to meet that demand.

## **6. Conclusion**

- 6.1. The applicant unions believe that all the appropriate indices allowing the Labour Court to support a recommendation for the establishment of an SEO in the sector have been met. We believe that an SEO will provide the sector with stability and certainty for employers in the sector while providing workers in the sector with decent standards concerning minimum rates of pay, pensions and sick pay.
- 6.2. While we appreciate that there are some cost increasing elements to our above proposals, we believe this is an inevitably in attempting to strike the balance between existing terms and conditions of employment, future expectations and meeting the criteria in establishing an SEO. We also, believe that any cost increasing elements are offset by virtue of the universal application of an SEO and its impact in taking key elements of labour costs out of competition.