



STATUTORY INSTRUMENTS.

S.I. No. 59 of 2018

SECTORAL EMPLOYMENT ORDER (MECHANICAL ENGINEERING
BUILDING SERVICES CONTRACTING SECTOR) 2018

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BUILDING SERVICES CONTRACTING SECTOR) 2018

WHEREAS I, PAT BREEN, Minister of State at the Department of Business, Enterprise and Innovation, being in receipt of a recommendation from the Labour Court under section 16 of the Industrial Relations (Amendment) Act 2015 (No. 27 of 2015) and being satisfied, having regard to the report referred to in subsection (3)(b) of that section accompanying the recommendation, that section 16 has been complied with:

NOW, I, PAT BREEN, in exercise of the powers conferred on me by subsection (1) of section 17 of the Industrial Relations (Amendment) Act 2015 (No. 27 of 2015) (as adapted by the Jobs, Enterprise and Innovation (Alteration of Name of Department and Title of Minister) Order 2017 (S.I. No. 364 of 2017)) and the Business, Enterprise and Innovation (Delegation of Ministerial Functions) Order 2017 (S.I. No. 569 of 2017), hereby make the following order with respect to which, pursuant to subsection (4) of section 17 of that Act, a draft has been laid before each House of the Oireachtas and a resolution approving of the draft has been passed by each such house:

1. This Order may be cited as the Sectoral Employment Order (Mechanical Engineering Building Services Contracting Sector) 2018.
2. This Order gives effect to the proposals set out in the Schedule.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 9th March, 2018.*

SCHEDULE

Definition

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

In this Sectoral Employment Order “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

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 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.

Pay and Pay Categories

Pay and conditions of employment of the following categories of workers are covered in this Sectoral Employment Order:-

A basic minimum hourly rate of pay to apply to all newly qualified Plumbers and Pipefitters employed in the sector. **(Category 1)**

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 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 6th year of employment after qualification as Plumber and or Pipefitter. **(Category 3)**

In accordance with section 16(5)(d) of the Industrial Relations (Amendment) Act 2015, a minimum hourly rate of pay to apply to apprentices.

The following hourly rates of pay shall apply to the indicated Categories of employee employed in the sector:-

Category 1	€22.73
Category 2	€23.33
Category 3	€23.60

The following rates of pay shall apply to apprentices employed in the sector:-

Apprentice Year 1	33.3% of Category 1 hourly rate of pay
Apprentice Year 2	50% of Category 1 hourly rate of pay
Apprentice Year 3	75% of Category 1 hourly rate of pay
Apprentice Year 4	90% of Category 1 hourly rate of pay

Normal Working Time and Unsocial Hours Payments

The following definitions shall apply in respect of hours worked by qualified craftspersons and apprentices in the sector:-

Normal Working Week

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 7 am (normal weekday starting time) and 5 pm (normal weekday finishing time) Monday — Thursday inclusive and between the hours of 7 am (normal Friday starting time) and 4 pm (normal Friday finishing time) on Friday.

Other Hours Worked

Hours worked outside of those hours shall constitute unsocial working hours and shall attract the following premium payments:-

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 7 am 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

A worker to whom this Sectoral Employment Order relates shall be entered by his or her employer into a pensions scheme the terms of which, including both employer and employee contribution rates, shall be no less favourable than those set out in the Construction Workers Pension Scheme.

The minimum pension and death in service scheme contribution rates for employers and workers shall be set at the following levels:-

Pension Contribution

Employer Contribution	Worker Contribution	Total Combined Employer and Worker Contributions
€5.32 per day to a maximum of €26.63 per week	€3.52 per day to a maximum of €17.76 per week	€8.84 per day to a maximum of €44.39 per week.

Death In Service Contribution

Employer Contribution	Worker Contribution	Total Combined Contribution
€1.11 per day to a maximum of €1.11 per week	€1.11 per day to a maximum of €1.11 per week	€2.22 per day to a maximum of €2.22 per week

For ease of reference the main features of the Construction Workers Pension Scheme are attached at *Appendix 1*.

Sick Pay Scheme

A worker to whom this Sectoral Employment Order relates shall be entered by his or her employer in a sick pay scheme the terms of which, including both employer and employee contribution rates into the scheme shall be no less favourable than those set out in the Construction Workers Sick Pay Scheme.

The minimum Sick Pay Contribution Rates for employers and workers be set at the following levels:-

Employer Contribution	Worker Contribution	Total Combined Contribution
€1.27 per day to a maximum of €1.27 per week	€0.63 per day to a maximum of €0.63 per week	€1.90 per day to a maximum of €1.90 per week

For ease of reference the terms and benefits of the Construction Workers Sick Pay Scheme are attached at *Appendix 2*.

Dispute Resolution Procedure

The following dispute resolution procedure shall apply to those covered by this Sectoral Employment Order.

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 a 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.

APPENDIX 1

Every employer to whom the SEO applies shall participate in an SEO pension scheme that meets the pensions requirements of the SEO.

Pension Scheme Structure

The pension scheme to which the SEO applies (“**SEO pension scheme**”) should include the following features and benefits:-

1. An SEO pension scheme should be an Occupational Pension Scheme which is registered with and regulated by the Pensions Authority.
2. Recognising the flexible nature of employment across employers within the construction sector and related industries (the Sector), an SEO pension scheme should be established as a multi-employer scheme open to all employers in the Sector.
3. Whilst a member remains employed within the Sector, members should be able to have a single individual pension account within the SEO pension scheme thereby enabling successive employers of the member to contribute to the member’s account provided the employer has joined itself to the SEO pension scheme.
4. Where an employee member leaves service of an employer, the contributions which have been paid by the employee and the employer in respect of the member will be retained in full within the SEO pension scheme in the individual account of that member.
5. The rules of an SEO pension scheme should not permit a member to take a refund of their own contributions prior to reaching retirement age.
6. Bodies that are representative of both employers and unions involved in the Sector must appoint the members of the SEO pension scheme trustee. The constitution of the Trustee Board should also include representatives of both employers and employees in the Sector.
7. In addition to providing pension benefits, an SEO pension scheme must also provide an additional Death in Service benefit with members covered for this benefit upon joining the scheme.
8. An existing pension scheme at the time the SEO comes into force may qualify as an SEO pension scheme provided it complies with the terms of the SEO or is adapted to so comply.
9. An SEO pension scheme must disclose and publicise information about the pension scheme’s charges and who bears them. There must be full transparency of charges and this information should be disclosed in the scheme’s Trustee Annual Report as well as provided to each member when joining. The total annual charges borne by members should be disclosed and must include all administration costs, Trustee costs, distribution

costs, fund management costs, actuarial, accounting, legal and auditing fees and all other charges incurred by the SEO pension scheme.

10. Scheme Design

The terms and conditions applying under an SEO pension scheme and benefits to be provided must be at least as great as that described below.

10.1. Eligibility

An SEO pension scheme must at least provide for an employee of a participating employer in the Sector to be eligible for membership of the scheme provided they have attained age 20 but not yet attained age 65.

10.2. Relevant Pension Contributions

Employers and their employees working in the construction sector and related industries (the Sector) must contribute to an SEO pension scheme.

Contributions should be remitted by employers to an SEO pension scheme in accordance with all relevant pension and other legislative requirements.

10.3. Pension Benefits

- a) Members' pension benefits within an SEO pension scheme should be based on the full value of their individual pension funds and there should be no deductions from the contributions paid or when the funds are drawn down.
- b) The Trustees of the Scheme will invest each member's pension contributions and these along with the investment returns declared, net of charges, will determine the value of the member's pension fund.

10.4. Retirement

Normal Retirement Age shall be age 65. However a member may be permitted to retire from age 60 (at the discretion of the scheme trustee). When a member retires, he or she should be able to choose from a range of options based on their entire fund value in line with applicable pension and tax legislation. One of the options which must be available is the provision of a pension for life for the member.

10.5. Death in Service Benefits

- a) Every employer to whom the SEO applies must participate in an SEO pension scheme that provides a death in service benefit for the deceased member's dependants. The death in service benefit should be in addition to the benefits provided for the dependants based on the full value of the member's pension fund.
- b) Provided the employee has completed a once-off initial qualifying contribution period, inclusion for death in service benefits shall be automatic on becoming a member of the SEO pension scheme, without

medical underwriting or by reference to any previous medical conditions of the member. In the event of the member moving to another participating employer within the Sector, the member should not be required to complete any further qualifying period in order to be covered for death in service benefits.

- c) Death in Service Contributions will form part of the overall contribution rate of an SEO pension scheme with a portion payable by both the member and employer in addition to the pension contributions.
- d) Contributions should be remitted by employers to an SEO pension scheme in accordance with all relevant pension and other legislative requirements.
- e) If a member had met the requirements for the full lump sum death in service benefit, but then leaves service and dies within four weeks of doing so without being re-employed in the Sector, the SEO pension scheme should provide a modified lump sum benefit in addition to the value of their pension account.
- f) Death in Service benefits should be payable regardless of cause or timing of death, so long as the member meets the qualification conditions for inclusion for Death in Service benefits as set out above.

APPENDIX 2**SICK PAY SCHEME**

Every employer to whom the SEO applies must have in place a provision for Sick Pay benefits for each employee covered in the SEO.

Sick Pay Scheme Structure

The sick pay scheme to which the SEO applies (“**SEO Sick Pay Scheme**”) should include the following features and benefits:-

1. An SEO Sick Pay Scheme should be a funded arrangement with contributions held in Trust and independently administered and managed. An SEO Sick Pay Scheme should facilitate participation by multiple employers to reflect the flexible nature of employment within the Sector.
2. The main purpose of an SEO Sick Pay Scheme is the provision of benefits for every worker for periods of illness or injury while in the employment of employers to whom this SEO applies.
3. The Sick Pay Benefit should be paid to each employee without the need for underwriting or reference to previous medical conditions. Entitlement to Sick Pay Benefits should be unaffected and uninterrupted as employees transfer from one employer to another within the Sector.
4. The Sick Pay Benefits provided by an SEO Sick Pay Scheme should be in addition to any sickness, illness or invalidity benefits payable by the State through the social insurance system.

Sick Pay Conditions & Benefits**5. Eligibility**

Inclusion for Sick Pay Benefits will be automatic on becoming a member of an SEO Sick Pay Scheme. No charges should be incurred by either employers or members for Sick Pay benefit provision, other than the relevant contributions required to provide the benefits.

6. Sick Pay Contributions

- a) An SEO Sick Pay Scheme should be a contributory sick pay scheme with contributions payable by both employers and employees.
- b) A member shall not lose accrued Sick Pay Benefit rights or entitlements as a result of changing employment within the Sector as accrued service will transfer to the next employer to whom the SEO applies.
- c) Employers who fail or neglect to make the authorised deduction shall be liable for the total contribution required to ensure that the worker’s Sick Pay Benefits are maintained in full for the period of service with them.

7. Relevant Benefits

- a) An SEO Sick Pay Scheme shall provide for the payment of a standard Sick Pay Benefit for a specified duration and the benefit and duration should be disclosed to participating employers and members.
- b) An SEO Sick Pay Scheme may include a waiting period during which a member would not be entitled to any benefit from the scheme whilst initially absent due to illness or injury. This waiting period should not exceed the first five working days of disability.
- c) An SEO Sick Pay Scheme should facilitate continuity of Sick Pay Benefit from the Scheme from the first working day of disability where a claimant has returned to work for a period of two working days or less. This is provided that the sick pay entitlement from the scheme has not been exhausted by reference to the duration limitations referenced earlier.
- d) An SEO Sick Pay Scheme should facilitate provision of a Supplementary Sick Pay Benefit if the claimant has no entitlement to Social Welfare benefit due to inadequate number of Social Welfare contributions.
- e) An SEO Sick Pay Scheme may set appropriate limitations on the maximum duration for which a Sick Pay Benefit may be payable. These must be clearly documented and disclosed to participating employers and members. The maximum duration under an SEO Sick Pay Scheme should not be any lower than a period of 10 weeks in any calendar year, whether for a single claim or in aggregate in a scheme year.

GIVEN under my hand,
6 March 2018.

PAT BREEN,
Minister of State at the Department of Business,
Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of this Order is to fix from the date of signing of the Order, the statutory minimum rates of remuneration and other conditions of employment for certain workers employed in the Mechanical Engineering Building Services Contracting Sector.

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