



**Report to Minister for Public Enterprise on a Role for  
the Commission for Electricity Regulation in the  
Regulation of the Electrical Contracting Industry**

**March 2002**

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## **1. EXECUTIVE SUMMARY**

### **1.1 Objective**

The following report details the advice from the Commission for Electricity Regulation ('the Commission') in response to a request from the Minister for Public Enterprise ('the Minister') to explore a role for the Commission in the future regulation of the Irish electrical contracting sector taking account of the effectiveness and cost efficiency of options considered.

### **1.2 Study Approach**

Following the request, the CER undertook the following:

- A review of the current system for regulating electrical contractors, which examined the respective roles of all interested parties including present self regulatory bodies within the sector, Register of Electrical Contractors in Ireland (RECI) and Electrical Contractors' Safety and Standards Association (ECSSA), in addition to the ESB - Distribution System Operator ('DSO'), the Electrical Technical Council of Ireland ('ETCI') and others who represent electrical contractors;
- Shortcomings in the present system were identified, including different criteria for membership of existing self-regulatory bodies, incompatibility in the penalty provisions for non-compliance and problems accessing premises for the purposes of inspection;
- Options to address the deficiencies in the present system were considered taking account of the cost effectiveness, efficiency and impact on the quality and safety of electrical installations of each option;

- The Commission then completed a draft report for the Department of Public Enterprise ('DPE'), which detailed a proposed approach to the future regulation of the sector; this was subsequently presented to the DPE and other interested parties for comment; and,
- Following the completion of the consultation process, this report was drafted which contains the final proposals for the short-term and long-term future regulation of the sector.

### **1.3 Proposed Approach to Future Regulation**

The proposed approach to the future regulation of the sector, which involves two phases of implementation, is outlined below (*see section 1.3.1 for short-term approach and section 1.3.2 for long-term approach*).

In the longer term a role for the Commission in the regulation of the electrical contractors sector should be given statutory backing within the forthcoming Electricity Bill.

In the interim, the proposed approach is enforceable through the introduction of particular conditions within the Distribution System Operators licence (DSO-licence), issued under section 14 of the Electricity Regulation Act 1999, (as amended).

This approach builds on the strengths and well-established roles of the main players. It further provides for a regulatory approach, which recognises the diversity of work and skills in the electrical contracting industry while providing the necessary reassurance to customers and the public in respect of the safety of electrical installations.

### **1.3.1 Short-term approach**

The key elements of the proposal in the short-term are that:

- The Commission will assume the role of Supervisory Regulator for the proposed scheme; while,
- The DSO will be required under their licence to assume responsibility for the day to day operation and monitoring of the scheme as follows;
  - Preparation and consultation by the DSO on new criteria (approved by the CER) to be met by all self regulatory bodies wishing to operate within the sector;
  - The receipt by the DSO of a completion certificate becomes mandatory prior to connection;
  - Only those contractors, which are members of approved self-regulatory bodies, can submit a completion certificate to the DSO. (In the event that the contractor does not have ' self-certification' rights, the completion certificate is countersigned by an inspector from a self regulatory body);
  - The DSO will implement a quality management system for the completion certificate process, develop an audit and monitoring regime for ensuring compliance by the self regulatory bodies with the criteria and reporting performance on the operation of the overall scheme to the Commission;
  - The DSO will in co-operation with the Commission co-ordinate an advertising campaign informing those in the sector of the proposed changes; and,
  - The ETCI could be tasked with mediating on membership issues, which are undermining the current system.

### **1.3.2 Long-term approach**

In the longer term it is proposed that the above approach be given statutory backing within the proposed New Electricity Bill and contain explicit reference to the following:

- Statutory backing for a new role for the Commission, which authorises the Commission to licence self-regulatory bodies within the sector, in line with criteria submitted by the DSO;

- Provision for access by authorised officers to premises to inspect electrical installations in respect of public safety requirements;
- Provision for penalties for breaches or misuse of the completion certificate system; and,
- Challenges under Competition Law could be avoided through defining the approved self-regulatory bodies as standards bodies, not commercial bodies or trade associations.

#### **1.4 Next Steps**

- Agreement in principle from the DPE to the approach in the short and long term, as outlined in this document;
- DSO, ETCI, NSAI, RECI, ECSSA, AECI and other relevant bodies will be briefed on the proposed regime and any concerns dealt with;
- Insertion by the DPE into the draft of forthcoming Electricity Bill of necessary provisions to accommodate the proposed approach; and,
- Implementation of proposals.

## **2. BACKGROUND**

### **2.1 Introduction**

The Minister for Public Enterprise requested the Commission's advice on the following:

- The potential role for the Commission in the regulation of the electrical contracting industry;
- How the Commission could best approach the performance and oversight of such a function in the most cost effective and efficient manner;
- What are the human and financial resources needed to carry out this additional function; and,
- What legislative provisions for the assignment of this function to the CER would be required.

On receipt of this request the CER agreed in principle to assume this additional function and initiated a review to address how this might best be achieved.

This position was affirmed in the Minister's response to a question in the Dail on 20<sup>th</sup> June 2001, (Appendix 1).

### **2.2 Objective**

Pending any development on the main recommendation in the "Review of Public Safety in Ireland" to set up an Office for Public Safety Regulation, the Commission is minded to develop a regulation system, focused on the issue of Public Safety, which builds on the strengths of the existing bodies in the Electrical Contracting Industry, which has statutory authority, which addresses the major shortcomings in the current self regulatory regime and which provides practical reassurance to customers on the quality and safety of their electrical installations.

## 2.3 Study Approach

### ***Stage 1- Preparation of Report for Discussion with Department of Public Enterprise***

- A review of the current position with regard to Regulation of the Electrical Contracting Industry, the roles of the key players involved in the setting of standards, the promotion of electrical safety and the self-regulatory regime involving the ETCI, ESB, RECI and ECSSA was undertaken by the Commission.
  
- The main issues and shortcomings with the current system were identified. These included the voluntary nature of wiring rules, the quasi-regulatory role of ESB, the shortcomings in the criteria developed for recognition of self-regulatory bodies by the ESB following the High Court challenge under EU Competition Law by the Association of South Western Electrical Contractors (ASWEC) to the ESB/RECI voluntary regime in 1992<sup>1</sup>.
  
- Options to address the issue which were considered included,
  - The amalgamation of existing bodies with statutory authority granted to them;
  - The Commission as Supervisory Regulator taking over present ESB quasi-regulatory role; and,
  - The Commission to be provided with statutory backing, with roles/responsibilities of existing bodies better clarified. It is this approach, which the Commission is recommending.
  
- A proposed approach that builds on the strengths of the existing players and which provided a cost effective solution was recommended.

The results of Stage 1 were presented to the DPE at a meeting on the 19<sup>th</sup> October, 2001 with agreement to prepare and issue a document

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<sup>1</sup> *Criteria do not address issues such as change of membership while undergoing disciplinary procedure, dual membership and are not prescriptive enough with regard to inspections of workmanship and testing of completed installations*

outlining the proposed approach to the main players to facilitate discussion and receive input and comment.

***Stage 2 - Consultation with Main Industry Players on Discussion Document***

The attached high level discussion document (Appendix 2) was prepared following the meeting on 19<sup>th</sup> October and was issued to the DSO, ETCI, AECI, RECI and ECSSA, with an invitation to meet with the Commission and input to the discussion. Meetings were held with all interested parties' including RECI, DSO, AECI and ETCI and a written submission was received from ECSSA in January 2002.

***Comments received during consultation***

The parties consulted accepted there is a compelling need to address the shortcomings in the existing system. As anticipated there were different views on the roles assigned to the various players in the proposed approach, with some respondents indicating a willingness to consider an expanded role while others wished for clearer information on the limits of their responsibility. A number of respondents advocated a more 'hands on' or direct involvement of the Commission in the regulatory process particularly with respect to licensing and auditing. The following comments were made during the consultation process.

- The role of the DSO in providing the connection following receipt of a valid completion certificate (a) should not involve any inspection of the Contractors' work and (b) put any liability for a faulty installation on to the DSO.
- Unauthorised use of Completion Certificates (by unregistered contractors) for obtaining connections is an issue which needs to be addressed.
- Current wiring rules/ certification system covers Low Voltage installations only. (Noted that a Committee under the auspices of ETCI is in the process of addressing High Voltage installations).

- Wiring Rules are at present voluntary and do not have euro national (EN) standard status as yet – this is a future aim.
- Time Scale for implementing the regime is of major concern to a number of respondents who foresee significant delays if no change can be made pending new Electricity Regulation Bill. Change is urgent as outlined in report on Public Safety.
- Will the new regime impose additional costs on contractors?
- Mandatory licensing or registration of contractors and electricians is advocated by a number of respondents as a prerequisite for an improvement in public safety.
- The need for co-operation between the self regulatory bodies and a mechanism to facilitate this is acknowledged. Major issues to be immediately addressed relate to confining individual membership to one such body and to prevent transfer of membership during a disciplinary process.
- Proposal for procedure to address the 'Access to Premises' issue should be fleshed out.
- Connection of installations only covers about 60% of the completion certificates issued. DSO involvement perceived not to be wide enough by a number of respondents to police the full activity. The remaining 40 per cent of certificates covers maintenance work, additions / changes to the electrical installation which have no impact on the electricity supply.
- New legislation should specifically exempt CER & DSO from Competition Laws in respect of regulation of the Electrical Contracting Industry.
- CER to be given power to issue licences to the self-regulatory bodies.

- Self-regulatory bodies not to be permitted to act as Trade Associations or representative bodies.
- There should be a mandatory requirement for contractors/ electricians to register annually with one of the self-regulatory bodies and it would be an offence to carry out electrical contracting work without registration. An alternative suggestion is for individual electricians to be licensed, placing the onus on the individual to keep that license free from endorsement.
- Right of access to premises to be conferred on authorised officers (e.g. Inspectors employed by a self-regulatory body) with a warrant from a District Court required if the owner refuses permission.

### ***Commission's response on issues raised***

The description of the proposed approach in the discussion document is at a high level. The recommended approach, also, is based on a realisation that electrical contracting activity covers a very wide area (new installations, repairs, maintenance, extensions to existing installations) and a varied range of equipment (from appliances to motors to complex electronic systems). Industry, commercial bodies and institutions' employees engaged on electrical work can be multi-skilled craftspeople (including maintenance personnel), technicians, supervisors etc. who are not necessarily electricians by trade.

The wiring rules, as outlined in the discussion document, while they are accepted as the industry norm, do not currently have EN status – i.e. application is voluntary.

The auditing role envisaged for the DSO on behalf of the Commission is intended to monitor and review the use of all completion certificates as a copy of each one is returned to the appropriate self-regulatory body.

The revised criteria for the self-regulatory bodies is intended to prescribe the requirements for membership, including a restriction to membership

of only one body, and a prohibition on change of membership during a disciplinary process. Other key areas to be addressed would include the inspection regime, the appeals process, the co-ordination process, the completion certificate process (issue of, authentication of, monitoring/tracking etc.) and the communications and training processes for members.

The recommended approach envisaged that the more glaring shortcomings in the current system could be addressed, in advance of new legislation through the introduction of requirements into the DSO licence, which is issued under Section 14 of the Electricity Regulation Act, (as amended). It was, also, explained to the respondents how costs would be covered (current financing of self regulatory bodies via charges for the completion certificates and membership fees) and DSO/CER costs (including enhanced advertising to members of the public, auditing costs etc.) via the distribution 'use of system' charges.

### ***Requirements for Legislation***

A number of the points made with respect to legislation requirements need to be taken on board and decisions made on what will be included in the new Electricity Regulation Bill.

At a minimum, the legislation should: -

- Have penalties incorporated in respect of misuse of completion certificates;
- Provide for rights of access (with reasonable safeguards) for authorised officers of the DSO and CER, self regulatory bodies or, where applicable, other bodies, to monitor installation work and/or inspect installations on grounds of public safety (i.e. adherence to standards for such installations); and,
- Challenges under Competition Law could be avoided through defining the approved self-regulatory bodies as standards bodies, not commercial bodies or trade associations. Consideration should be given to legal backing for this.

***Stage 3 - Progress Report/ Discussion with DPE***

On completion of Stage 2 a progress report was made to DPE on 13<sup>th</sup> February 2002 outlining the outcome of the consultation process. Following a discussion on the issues raised and taking account of the Private Members Bill tabled by Fine Gael in January it was agreed that this report, with a recommended approach, be now submitted.

### **3. RECOMMENDED FUTURE APPROACH FOR REGULATION OF SECTOR**

#### **3.1 Preamble**

The roles, responsibilities, and regime recommended are developed against the following background and requirements:

- The current voluntary self-regulatory regime has made a major contribution to improved wiring standards and public safety since 1992. Despite the deficiencies in the current criteria for recognition of self-regulatory bodies, ECSSA, the second body to qualify for recognition, has improved its organisation and operation since 1997 with a corresponding improvement in the quality of installation work carried out by its members.
- The DSO's (ESB's) current requirement for submission of a Completion Certificate prior to connection of a new/increased supply, its technical resources, its ongoing relationships with the ETCI, self regulatory bodies, electrical contractors, consulting engineers, and its role in developing and interpreting standards for connecting and metering supplies<sup>2</sup> are key aspects of an effective regime.
- The current roles of bodies such as ETCI/NSAI in standards and safety are working well and in many cases with voluntary compliance and resources.
- There is a need to implement a speedy interim improvement in advance of new legislation as advocated in the Report of the Review group on Public Safety.

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<sup>2</sup> This covers technical issues at the interface such as earthing, use of standby generators, protection co-ordination and other issues.

### 3.2 Short-term approach

- CER would formally take on the role of Supervisory Regulator for the self regulatory bodies (as “standard bodies”);
- The DSO will be required under their licence to assume responsibility for the day to day operation of the proposed regulation scheme;
- The provision of statutory backing for regulation to improve public safety in the Electrical Contracting Industry would be achieved by the CER modifying the DSO licence so as to formally require a valid Completion Certificate to be submitted in advance of connection of new/increased electricity supply;
- The DSO would, also, be tasked with designing the criteria for approved Self Regulatory Bodies for approval by the CER following a consultative process;
- The DSO would, also, be tasked with:
  - (a) developing a focused advertising campaign emphasising to customers the requirement for a valid Completion Certificate for electrical installation work and highlighting the dangers of using non -registered contractors.
  - (b) upgrading the current Completion Certificate system to a quality system (covering sale, authorised signatories, and tracking of certificates) in co-operation with ETCI, RECI and ECSSA.
  - (c) developing, on behalf of the CER, an audit regime for monitoring and reporting performance of the scheme.
- ETCI, which has directors on boards of RECI and ECSSA, could be in a good position to mediate on any difficulties posed by

self-regulatory bodies applying different disciplinary procedures or any issues arising with dual membership;

- CER to develop and implement, following consultation, an appeals procedure to deal with disputes with DSO;
- The DSO / CER to explore the issue of access for DSO to premises to inspect installations where permission has been refused by the owner/occupier. A similar procedure to that in Section 12 of the Electricity Regulation Act 1999 could be considered; and,
- The costs of the functions assigned to the DSO would be allowed for in the 'use of system' charge and the self regulatory bodies would continue to cover their costs through membership fees/sale of Completion Certificates, as heretofore.

### **3.3 Long-term approach**

In this context, long term it is intended to cover those requirements of the new regime which are to be included in the New Electricity Bill.

To copper fasten the new roles and responsibilities and give explicit statutory backing to the proposed regime, the new Electricity Regulation Bill could include the following:

- An explicit role as supervisory regulator of self regulatory electrical standards bodies for the CER with the power to issue licences to such bodies;
- The DSO to be required to assume responsibility for the day to day operation/monitoring of the proposed regulation scheme;
- The ringfencing of the CER and DSO from challenges under Competition Law in respect of the Regulation of the Electrical Contracting Industry would need to be discussed further (this

would require a formal definition of the self regulatory bodies as standards bodies, i.e. not commercial bodies or trade associations);

- The 'right of access' provisions in Sections 11 and 12 of the Electricity Regulation Act 1999 would need to be expanded to cover inspections by authorised officers of the DSO, the self regulatory bodies and other appropriate bodies on grounds of public safety; and,
- The provision of penalties for misuse of Completion Certificates.

### **3.4 Conclusion**

This approach achieves immediate action to deal with the more critical shortcomings in the current system while building on the strengths, well-established roles and good practice of existing players. It gives immediate statutory backing for regulation of electrical contracting under the self regulatory system, does not interfere with the powers for Industrial and Commercial worksites and workplaces covered by the Health and Safety Authority under various Acts and gives domestic customers reassurance and protection while using registered contractors. It is the most effective and efficient solution to a long-standing problem. With the inclusion in new legislation of explicit statutory backing for the system, protection against legal challenge under Competition Laws, and penalties for non-compliance, the new regime will be fully implemented.

## APPENDIX 1

Dáil Question  
No: \_\_\_\_\_

\*To ask the Minister for Public Enterprise her views on the establishment of a statutory authority for the regulation of the electrical contracting industry; and if she will make a statement on the matter.

- Pat Rabbitte. (Nominated by: Emmet Stagg).

For ORAL answer on Wednesday, 20<sup>th</sup> June, 2001

Ref No: 18051/01    Lottery: 5    Proof: 11

Answered by the Minister for Public Enterprise,  
(Mary O'Rourke)

### REPLY

The Interdepartmental/Agency Review Group on Public Safety, sponsored by the Department of Enterprise, Trade and Employment, recommended, inter alia, the establishment of an Office of Public Safety and that each Government Department needs to place public safety high among the concerns to be addressed in decision making and the development of public policy.

In the course of its work, the Review Group noted the current system of self-regulation of the electrical contracting industry in Ireland. While the Health and Safety Authority has a general responsibility in the case of non-domestic installations in the context of the safety and health of workers, it does not have such a role in respect of domestic installations.

I have always placed the highest priority on matters of public safety. It is for this reason that I have, through my Department, formally requested the Commission for Electricity Regulation to advise me on the potential of a role for the Commission in the regulation of the electrical contracting industry and how it could best approach the performance and oversight of such an additional function in the most cost effective and efficient manner.

The Commission has confirmed to my Department that it is agreeable in principle to assuming this additional function. It has initiated work on devising an appropriate scheme for the regulation of the industry and identifying the financial and human resource requirements, as a basis for its recommendation to me. Additional staff have been recruited to facilitate the carrying out of this task and the Commission has assured my Department that work on devising an appropriate scheme will be given priority.

Legislative provisions for the assignment of this additional function to the Commission for Electricity Regulation could be included in the forthcoming Electricity Bill, which subject to drafting is expected to be introduced in the Autumn of next year.

More recently, I have received representations on behalf of the Register of Electrical Contractors of Ireland (RECI) and my officials have met with RECI to discuss their proposals in relation to the regulation of the electrical contracting industry. It has been suggested to them that it would be useful for them to contact the Commission with any proposals they wish to make, including proposals for any interim non-statutory arrangements, in order that these can be taken into account by the Commission in formulating its recommendations to me.

## **APPENDIX 2**

- **Consultation Document Issued to the Main Players.**



FOR DISCUSSION

**A PROPOSED APPROACH BY**

**THE COMMISSION FOR ELECTRCITY REGUALTION**

**TO**

**THE**

**FUTURE REGULATION**

**OF**

**THE ELECTRICAL**

**CONTRACTING INDUSTRY**

## 1. OBJECTIVE

The objective of this document is to facilitate consultation with the main players in the Electrical Contracting Industry on a proposed regulatory regime, which is designed to ensure that public safety issues arising in this industry are subject to a co-ordinated regulatory approach, which ensures that best standards in installation are promoted and that the public/customer are protected.

## 2. INTRODUCTION

The report of the Interdepartmental/ Agency Review Group on Public Safety (which was sponsored by the Department of Enterprise, Trade and Employment) published in July 2000 entitled “A Review of Public Safety in Ireland” identified that action on the regulation of the electrical contracting industry was required.

In reply to a Dail Question on the 20<sup>th</sup> June 2001, the Minister for Public Enterprise (Mary O'Rourke T.D.) stated, inter alia, that

- “I have, through my Department, formally requested the Commission for Electricity Regulation to advise me on the **potential of a role for the Commission in the regulation of the electrical contracting industry** and how it could best approach the performance and oversight of such an additional function **in the most cost effective and efficient manner.**”
- “It has initiated work on devising an appropriate scheme for the regulation of the industry and identifying the financial and human resource requirements ...”
- “Legislative provisions for **the assignment of this additional function to the Commission for Electricity Regulation (‘the Commission’)** could be included in the forthcoming Electricity Bill, which, subject to drafting is expected to be introduced in the Autumn of next year.”

In response to this request from the Minister, the Commission has recently completed a review of the options for addressing the public

safety issues in the Electrical Contracting Industry and for its assumption of the additional functions.

The Commission proposal is put forward for comment in this document. The current position is outlined in Schedule A below.

### **3. ISSUES SURROUNDING THE PRESENT REGULATION OF THE ELECTRICAL CONTRACTING INDUSTRY**

Following the High Court case which challenged, under EU Competition Law, the arrangement between RECI and the ESB regarding 'Self Certification' by registered contractors, and on foot of the undertaking by the ESB to the Competition Authority that similar self-regulatory bodies to RECI would be recognised if they met criteria set down by the ESB, the ESB drew up, with legal advice, "Criteria for Recognition of Self-Regulatory Bodies for the Electrical Contracting Trade having access to the National Grid". These criteria essentially relate to matters of establishment and operation of the bodies rather than prescribing detailed standards and procedures.

These criteria were drawn up by Senior Counsel "to comply strictly with the provisions of competition law and as such are confined to covering only matters which the ESB is permitted to be concerned with under law".

As a result, the criteria have gaps as they are not prescriptive enough particularly in regard to admittance to membership, standards of workmanship (including ownership and calibration of test equipment, and quality of inspections), and disciplinary procedures (e.g. a registered contractor going through the disciplinary procedure in one body can be accepted into the other body and continue to exercise self-certification).

In essence, the self-regulatory bodies are operating to different standards, which undermines the promotion and implementation of best practice in the electrical contracting industry.

It is not sustainable for the self-regulatory bodies (which are essentially standards bodies, i.e. not trade associations) to be competing on the basis of different standards (for membership, for inspections, for disciplinary issues). These standards must be harmonised to achieve best practice. Statutory backing is required to achieve this.

There is also the possibility of more regulatory bodies who meet the criteria for recognition being formed, which might further dilute the effectiveness of the system.

Access to premises to carry out inspections on the work of contractors is another issue. At present, if the owner of the premises refuses access, there is nothing the self-regulatory bodies can do about it.

Additional issues raised in the submissions to the Review Group on Public Safety relate to the need for a licensing system for electricians (it is the contractor who is registered), the policing of the standard of electrical products available on the Irish market (as highlighted by the NEOZED switch/ fuse installations problem), and the ETCI wiring rules having only voluntary application.

In summary, the main issues are:

- The assignment of responsibility for regulating the electrical contracting industry (including statutory authority).
- The different standards applied by the two self-regulatory bodies.
- The risk of a proliferation of self-regulatory bodies.
- The lack of “power of access” to premises for inspection of contractors’ work.

The other issues relating to the licensing of qualified electricians and the use of sub standard products by contractors are not as critical and would be addressed by good business practices on the part of contractors (use of competent staff, purchase of materials conforming to EU standards/ low voltage directive) and customers. It is noted that the Forum for the Construction Industry (under the Department of the Environment) is addressing the issues of registration of contractors, certification of qualified person etc.

## **4. REGULATORY REGIME PROPOSED**

### **4.1 OBJECTIVE**

The objective, pending any development on the main recommendation in the “Review of Public Safety in Ireland” to set up an Office for Public Safety Regulation, is to address the current difficulties with the regulatory system for electrical contracting.

### **4.2 RECOMMENDED APPROACH**

The recommended approach, taking account of the current situation, is to assign overall responsibility for supervising regulatory bodies for the electrical contracting industry to the CER (to give the CER necessary statutory power’) and for the CER to direct the Distribution System Operator (DSO), in view of the ESB’s pivotal role, technical resources and connection activity, to take on the ‘day to day’ tasks associated with implementing this supervisory role. The effectiveness of this approach would be kept under review and amended in light of experience, if appropriate.

### **4.3 ROLE OF DSO**

In the electrical contracting industry the ESB’s Distribution System Operator (DSO) function plays a key role in the regulatory regime arising from the requirement for a valid completion certificate to be submitted before new or upgraded connections to the networks are made. In addition, there is a strong ongoing working relationship between the DSO and the various bodies, contractors and associations involved in interpreting/ meeting the requirements of the Electrical Technical Council of Ireland (ETCI) wiring rules in a nationally consistent manner, in adjusting to developments in technology and equipment, and in operating a regime with the current self-regulatory bodies to ensure the requirement for submission of a valid completion certificate are met. In the new structure of the electricity supply industry, the DSO function is a ‘ring

fenced' business separate from the ESB's commercial activities and there is no conflict of interest in it taking on the day to day running of the regulatory regime as directed by the Commission. The DSO has, of course, the technical expertise and can provide the necessary resources with its costs identified and recovered through the 'Use of System' charges.

## 5. IMPEMENTATION

To implement the new approach: -

- Department of Public Enterprise to explicitly enshrine in the new Electricity Bill the CER's role in this critical area to ensure the safety of the public/customers in the area of electrical installations.
- The DSO will then be formally directed by the CER (under the DSO license) to require the submission of a valid completion certificate before connection to the electricity networks.
- The DSO will prepare, **for approval by the Commission**, revised criteria for the self-regulatory bodies, which addresses the current shortcomings. These criteria should be prescriptive and ensure convergence of the standards and the procedures operated by these bodies. The criteria, in addition to those relating to "Establishment" and "Operation" should specify Membership Categories, Rules for Enrolment, Inspection Regimes (types and frequency), and Training and Communication Service Requirements. The DSO, on behalf of the CER, would on annual basis audit compliance by the self-regulatory bodies with the approved criteria.
- Following approval by the CER of the criteria, the self-regulatory bodies to adapt their systems, as appropriate, but not later than six months after notification of the new requirements.

- A procedure for access to premises for inspection to be developed utilising “authorised officers” from the self-regulatory bodies (if necessary, with a District Court Warrant).
- CER to develop an appeals procedure to arbitrate in disputes between customers, electrical contractors and/or regulatory bodies, as appropriate.

## **6. CONCLUSION**

The proposed approach is focused on building on the strengths of the existing bodies in the current self-regulatory regime. The CER will provide the necessary statutory power to backup the system, ensure harmonisation of standards and procedures in the self-regulatory bodies, direct the DSO not to connect/upgrade connections to installations without receipt of a valid completion certificate, and provide protection to the DSO, in carrying out the 'day to day' tasks associated with implementing the supervisory role on its behalf, from challenge under competition laws.

## **Schedule A**

### **CURRENT POSITION**

#### **1. Electrical Contracting Industry**

The current position with regard to the Electrical Contracting Industry is that there are a number of key players involved in the setting of standards, the promotion of electrical safety and the self-regulation of the Industry.

- The Electro-Technical Council of Ireland (ETCI) is the national body responsible for the harmonisation of standards in the electro-technical field. It operates in collaboration with the National Standards Authority of Ireland (NSAI). A primary role of the ETCI, set up in 1973 on Ireland's accession to the EEC, nominated by the then Department of Energy, involves responsibility for the promotion of electrical safety in electrical equipment and installations. The ETCI is a voluntary body, widely representative of the Electrotechnical Industry, and is the Irish member of the International Electrotechnical Commission (IEC) and the European Electrotechnical Standardisation Committee (CENELEC). A key function of the ETCI is developing and publishing the National Wiring Rules (current rules are the Third Edition effective from 1<sup>st</sup> January 2001), which conform with the EU policy to harmonise national standards. The Wiring Rules are voluntary and are accepted by all sections of the industry as the minimum standards. The main reason for their successful implementation is that the ESB's current connection policy requires that all new installations be wired in accordance with the rules.
- The ESB has a pivotal role in ensuring that standards are adhered to arising from the requirement for the submission of ETCI completion certificates from members (or inspectors) of the two self-regulatory bodies RECI and ECSSA before connection to the electricity networks. However, the ESB, in correspondence with the DPE, RECI, and public representatives, has consistently sought to have the regulation of the Electrical Contracting Industry addressed, while stating it regards its

responsibility for public safety as ending at the meter. In its submission to the Review Group on Public Safety, it stated that the ESB is not in a position to perform the role of supervisory regulator of the self-regulatory bodies due to the requirement of such a role, the implications of Competition Law and the implications for the ESB (open to charges of conflicts of interest due to its own involvement in electrical contracting and in the construction and maintenance of electrical installations) in the new Electricity Supply Industry. The provision of an isolator in all new installations (with the installation now energised by the Customer's own contractor) is seen by the ESB to clearly put the responsibility for safety on the Customer's side of the meter on the Contractor/ Customer.

There are currently two voluntary self-regulatory bodies in Ireland (RECI – Register of Electrical Contractors in Ireland, established in 1992, and ECSSA – Electrical Contractors' Safety and Standards Association, formally recognised in 1997). Their primary aim is the improvement of standards both technical and commercial within the electrical contracting industry. These include conformance with ETCI Wiring Rules, standards of workmanship, insurance, training, testing, monitoring and inspection. The main 'clout' for these self-regulatory bodies comes from their power to allow their registered members issue Completion Certificates on foot of which installations are connected to the ESB networks ("Self Certification" of conformity with ETCI wiring rules).