



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Commission for Energy Regulation's
Proposed Criteria for the Regulation of
Electrical Contractors**

A Consultation Document

CER/07/213

7th December 2007

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1 INTRODUCTION AND BACKGROUND

Introduction

On the 24th December 2006, the Energy (Miscellaneous Provisions) Act 2006 (“the Act”) was signed into law. Section 4 of the Act assigns to the Commission for Energy Regulation (“the Commission”) the function to “*regulate the activities of electrical contractors with respect to safety*”.

Sections 4(9)C to 4(9)D of the Act set out that the Commission shall publish criteria relating to:

- electrical safety supervision;
- the safety standards to be achieved and maintained by electrical contractors; and,
- the procedures to be operated by a person appointed as a designated body.

These criteria will be a fundamental element of establishing and implementing the new regulatory model in accordance with the requirements of the Act.

This paper sets out the Commission’s proposals for those criteria (to be set out through the “Criteria Document”), being those detailed rules for the regulation of electrical contractors with respect to safety. The Criteria Document is now presented for industry and public consultation.

Background

In the implementation of its function under the Act, the Commission will be putting in place a model for the regulation of electrical contractors with respect to safety. This will be in accordance with the requirements of the Act. This model (“the new regulatory model”) will replace the voluntary, self-regulatory model (“the voluntary model”) which has been subject to the Commission’s oversight since June 2004.

This voluntary model has been operated by two self-regulatory bodies, namely ECSSA and RECI. They have been operating under the detailed rules for that voluntary model, as set out in the Criteria Document for that system (“the Voluntary Criteria”, reference: CER/06/248).

Following consultation, the Commission published its decision on the design of the new regulatory system on 8th November 2007. The decision document, entitled “Vision for the Regulation of Electrical Contractors with respect to Safety” (“the Vision Document”, reference: CER/07/203) sets out the Commission’s high-level design of the new regulatory model.

In that Vision Document, the Commission stated that its Regulatory Objective in the implementation and operation of its function with respect to electrical contractors is:

To protect the safety interests of customers with respect to electrical installation activities through creating a suitable regulatory system which provides for electrical works to be carried out, tested and certified in compliance with the appropriate technical rules/standards.

The Commission stated that it plans to achieve its Regulatory Objective through the following approach:

The design and implementation of a regulatory system for the regulation of electrical contractors with respect to safety in line with the requirements of the legislation through:

- *Putting in place, through a **Criteria Document**, appropriate rules and standards for the regulation of the day-to-day activities of electrical contractors with respect to the safety of specified electrical works;*
- *Seeking to ensure the effective operation of the appointed **Designated Body** (or Bodies) charged with the day-to-day activities of registration, audit and inspection of registered contractors as per the requirements of the legislation and the Criteria Document; and,*
- *The operation of the Commission's **governance and enforcement arrangements** for the regulatory model.*

The Commission furthermore stated that it was its objective that the regulatory model established is to:

- be stable and robust;
- be subject to regular review with stakeholder involvement in order to fulfil the Regulatory Objective;
- ensure the Commission has the requisite powers, tools and capabilities to regulate the activities of electrical contractors with respect to safety;
- be supported through customer awareness programmes and promotions in order to ensure its success; and,
- evolve, over time, towards expanding on and improving on the activities of electrical contractors with respect to safety.

In designing the high-level regulatory model to apply, the Commission stated that it would seek to build on the strengths, and address the weaknesses, of the current self-regulatory system and the Voluntary Criteria. In doing so, the Commission identified the following critical elements in the design of the new regulatory model:

- The Criteria Document¹;

¹ For the avoidance of confusion, “*Voluntary Criteria*” refers to the Criteria Document for the voluntary, self-regulatory system (reference: CER/06/248). “*Criteria Document*” refers to the

- The Technical Rules;
- The Designated Body;
- The Certification System; and,
- The Promotion of the new regulatory model.

The Vision Document presented the Commission's brief for each of the above elements.

As is clear from the Vision Document, and the Act, one of the most critical elements of the new regulatory model is the Criteria Document. This will set out the detailed rules for the regulation of electrical contractors, including the obligations to be placed on the registered electrical contractor ("the REC") and any party designated by the Commission to regulate the activities of the REC ("an Electrical Safety Supervisory Body").

The Commission may appoint one or more parties to act as an Electrical Safety Supervisory Body (any party so designated is referred to in this document as "the Body").

The finalised Criteria Document (to be called Version 1.0) will be implemented at the point of commencement of the new regulatory model. At this point, the voluntary model (and its Voluntary Criteria) shall cease to operate.

Preparation of the Criteria Document

In preparing for the drafting of the Criteria Document, the Commission established a working group of key stakeholders who would have been involved in the drafting of the Voluntary Criteria and managing the operation of the voluntary model ("Criteria Working Group").

The intention in establishing the Criteria Working Group was to learn from the parties operating the existing system as to what were the key issues, weaknesses, challenges and successes associated with the operation of the Voluntary Criteria and the voluntary model to date. This exercise was aimed at assisting the Commission in the design of the Criteria Document and using, as stated, the existing system as the basis for same.

In all, six Criteria Working Group sessions were held between April and August 2007. These sessions were led by the Commission and were attended by representatives of the Electro-Technical Council of Ireland, ESB Networks and the current Regulatory Bodies (ECSSA and RECI).

Further to those discussions, the Commission embarked upon the drafting of the Criteria Document. Having completed this, the Commission is now presenting this paper for industry, and public, consultation.

document to be prepared further to the requirements of the Act and the draft of which is presented in this paper.

2 ROLE OF THE CRITERIA DOCUMENT

The Criteria Document is intended to serve as an open and transparent means of:

- establishing the standards for parties undergoing the designation process to be measured against;
- outlining the rights, duties and functions to be fulfilled by the Body and RECs;
- prescribing the technical rules which all RECs will be obliged to comply with;
- prescribing the training and competency requirements associated with the certification of work carried out by RECs;
- specifying how the Certification Process will operate;
- providing a basis for the on-going assessment/audit of the Body and RECs;
- specifying the procedures to be employed at interfaces between industry participants necessary to ensure the effective operation of the regulatory system; and,
- specifying the overall governance arrangements to be applied in overseeing the regulatory system.

The Act requires that the Commission shall only designate a party to act as an Electrical Safety Supervisory Body if it is satisfied that the party is capable of complying with the requirements of the Criteria Document.

RECs and the Body will be required to accede to the requirements and procedures of the Criteria Document.

As provided for in the Act, the Commission will publish the Criteria Document and “*may review or amend the criteria as often as it considers necessary*”. The Criteria Document will act as the mechanism through which changes to the operation of the regulatory system, be they corrective actions or improvements, will be managed by the Commission.

As set out in the Vision Document, the Criteria Document will be subject to ongoing review and modification by the Commission in order to ensure that it evolves to meet the requirements of the regulatory system and the Act in light of experience and other developments.

In this regard, the Commission has committed to on-going stakeholder involvement in the review of the Criteria Document and its operation and this review and modification process will be formalised through the Electrical Contractor Criteria Review Panel (“ECCRP”), as described in the Vision Document. The core function of the ECCRP will be to act as the mechanism for the industry to propose and discuss modifications to the Criteria Document in an open and transparent manner. Further to this, any such modification proposals will be presented to the Commission for decision.

Purpose of the Consultation

The purpose of this consultation on the Criteria Document is to:

- present the detailed proposals concerning the rules for the operation of the new regulatory model to the industry and public for review and comment;
- set out key areas for discussion and those on which the Commission invites specific comment; and, in doing so,
- ensure that the industry has a clear view on how the Commission intends to implement and regulate the activities of electrical contractors with respect to safety and to provide clarity and certainty to the electrical contracting industry regarding same.

Further to this consultation process, the Commission will consider the comments received and will amend the new Criteria Document as deemed appropriate. The Commission will then publish its decision on the new Criteria Document which will be Version 1 of the Criteria Document. This is aimed to be fully understood by the industry, be appropriate and fit-for-purpose and, ultimately, the operation of the regulatory system in accordance with the requirements of the Criteria Document will assist in the achievement of the Regulatory Objective.

***Note 1:** It should be noted that the Criteria Document, as presented in Appendix 1, will be subject to full legal review. In this drafting presented, the Commission has presented its proposals with respect to the core rules to be specified in the finalised Criteria Document. The precise drafting of these requirements may be subject to change further to that legal review.*

***Note 2:** This Consultation Document is also to be used as a firm indication of the Commission’s intentions and proposals with respect to the operation of the regulatory system and, specifically, the function and obligations to be placed on the Body with respect to its operation. This will form the basis of the brief to be issued to parties interested in designation as part of the proposed Stage 1 of the Designation Process (“Stage 1”) and as outlined in Appendix C of the Vision Document. Parties participating in the Designation Process should be informed by the proposals set out with respect to the operation of the Body as set out in this consultation document on the new Criteria Document.*

Consultation Document Structure

The remainder of the consultation paper is structured as follows:

- Section 3: Consultation and Next Steps;
- Section 4: Overview of the Criteria Document;
- Appendix 1: The Draft Criteria Document;
- Appendix 2: The Common Procedures; and,
- Appendix 3: Consultation Response Form (see below).

3 CONSULTATION AND NEXT STEPS

In presenting this paper for consultation, the Commission invites comment on:

- the overall scope, design and structure of the Criteria Document;
- the detailed rules set out in the Criteria Document; and
- the specific issues high-lighted for comment in the “Guidance and Consultation” included in each section of the Criteria Document.

Responses to this consultation are requested **by 5.00pm on 6th February 2008.**

With respect to the format for response comments, please note the following:

- To facilitate the receipt of comments and consideration of same, the Commission has drafted a **Consultation Response Form** on which drafting comments on the various sections of the new Criteria Document should be submitted;
- The Response Form in Appendix 2 is available in Word Template format on the Commission’s website www.cer.ie (published accompanying this paper – reference: CER/07/213-A)) or by contacting Karen Trant at the Commission (ktrant@cer.ie);
- This Consultation Response Form should be completed and submitted for all comments on the detailed drafting. The completed Consultation Response Form may be accompanied by a more general submission providing comment on the overall paper and policies set out therein.

Responses should be submitted, preferably in electronic format, to Karen Trant. The details for submission are:

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| <i>Email:</i> | <i>ktrant@cer.ie</i> |
| <i>Postal Address:</i> | <i>Commission for Energy Regulation, The Exchange, Belgard Square North, Tallaght, Dublin 24</i> |
| <i>Due Date for Submissions:</i> | <i>5.00pm on 6th February 2008</i> |

Further to the consideration of the comments received, the Commission will publish its decision on the Criteria Document.

4 OVERVIEW OF THE CRITERIA DOCUMENT

This section outlines the requirements for the Criteria Document and presents an overview of the sections of the Criteria Document.

Legislative Requirements concerning the Criteria Document

The requirement for the development of a Criteria Document is clearly specified in the Act (Section 4, subsection 5 (a)) which provides for the Commission to publish criteria relating to:

- electrical safety supervision;
- the safety standards to be achieved and maintained by electrical contractors; and,
- the procedures to be operated by a person appointed as a Designated Body.

The Criteria Document has been prepared further to the requirements of the Act. The Act specifies that the Criteria Document to be published pursuant to the Act is to include, but is not limited to, the rules/requirements relating to the following:

- (i) the procedures to be adopted by the Body for the registration of electrical contractors;
- (ii) the procedures to be followed by a person applying for registration with the Body;
- (iii) the services which the Body may carry out to facilitate the performance of its functions;
- (iv) the standard of training and safety to be achieved and maintained by parties registered with the Body and the procedures to be followed by the Body in monitoring such standards;
- (v) the procedures to be followed by the Body for the inspection of any work carried out by a party registered with it, or by a person who is not an REC;
- (vi) the procedures to be followed by the Body in connection with the suspension or revocation of the registration of an REC;
- (vii) the matters to be covered by a Completion Certificate in respect of different categories or classes of electrical works and the circumstances in which each such class of certificate shall be used;
- (viii) the type of accounts to be kept by the Body, and the manner in which such accounts should be audited;
- (ix) the method by which the accounts should be published; and,
- (x) the procedures to be followed, and the records to be maintained, by the Body or parties registered with it (where appropriate), in connection with the above provisions.

The Act furthermore requires that the Commission shall not appoint a party to act as the Body unless it is satisfied that the party is capable of complying with the Criteria Document.

Overall Structure of the Criteria Document

The Criteria Document comprises of several distinct sections. These may be broadly categorised as being either (1) Sections of the Criteria Document or (2) Common Procedures.

Sections of the Criteria Document

Each of these sections deals with a specific area of the new regulatory model. These are as follows:

- Section A: Introduction and Interpretation – this presents the overall operation of the regulatory framework and establishes the legal basis for the Criteria Document. This section also presents information relating to the purpose, structure and interpretation of the Criteria Document and the definition of terms used throughout the document.
- Section B: The Body – this presents the regulatory requirements placed on the Body, as designated by the Commission as an Electricity Safety Supervisory Body.
- Section C: The Registered Electrical Contractor – this presents the regulatory requirements placed on any parties registered with the Body.
- Section D: Disciplinary Process – this presents the requirements with respect to disciplinary procedures to be operated by the Body and to which the REC may be subject;
- Section E: Appeals Process – this presents the requirements with respect to Appeals Procedures in such circumstances where the decision of the Body to suspend or revoke the registration of an REC is appealed to the Commission by the REC subject to such sanction.
- Section F: Authorised Officer – this presents the provisions with respect to the appointment of personnel of the Body as Authorised Officers, as provided for in the Act.

Common Procedures

In addition to the above sections, the Criteria Document will comprise of a number of **Common Procedures**. These set out further, more detailed rules and obligations with respect to the operation of certain procedures under the new regulatory model.

Whilst these operate under the Criteria Document, they constitute part of the Criteria Document and should be interpreted as such.

The Commission has identified the following core Common Procedures for inclusion in Version 1.0 of the Criteria Document:

- Common Procedure No. 1: Certification;
- Common Procedure No. 2: Third Party Inspection;

- Common Procedure No. 3: Change of Contractor;
- Common Procedure No. 4: Transfer of Registration;
- Common Procedure No. 5: Enforcement of Safety Requirements; and,
- Common Procedure No. 6: Modifications Procedure.

In this consultation, the Commission presents the high-level procedure to be operated for “Common Procedure No.2: Third Party Inspection” and “Common Procedure No.3: Change of Contractor” and a description of what the other Common Procedures (No. 1, 4, 5 and 6) are to address.

Note: *The Commission has not presented its detailed proposals with respect to the Common Procedures No. 1, 4, 5 and 6 with this consultation paper.*

Given the critical and crucial role of Certification in the operation of the new regulatory system, and the extensive preparation required for the development of a finalised Common Procedure on same, the Commission views it as necessary to defer the consultation on that Common Procedure until a later date. This will allow for further detailed discussions to take place with the ETCI on the Certification Process and for the drafting of the Common Procedure on same to be completed once the Commission has designated the Body.

This rationale would also apply for the Common Procedures No. 4, 5 and 6 (Transfer of Registration Procedures, Enforcement Procedures and Modifications Procedure), the details of which would need to be developed in conjunction with any Bodies designated and other relevant parties.

APPENDIX 1: THE DRAFT CRITERIA DOCUMENT

Each of the Sections A – F of the Criteria Document is set out in this Appendix.

At the beginning of each section, the Commission introduces the overall structure and scope of the section in the “*Preamble*”. This is for information only and does not form part of the Criteria Document.

At the end of each section as presented, the Commission includes a section entitled “*Guidance and Consultation*”. This is for information only and does not form part of the Criteria Document. In these sections, further detail is presented with respect to its intentions concerning the treatment of certain requirements as set out in that preceding section. In addition, the Commission identifies the areas/issues on which it is inviting specific comment from the industry and the public.

To view the Appendix 1, please download the following documents accompanying this paper from www.cer.ie:

- **Section A of the Draft Criteria Document - CER/07/203-1**
- **Section B of the Draft Criteria Document - CER/07/203-2**
- **Section C of the Draft Criteria Document - CER/07/203-3**
- **Sections D, E and F of the Draft Criteria Document – CER/07/203-4**

Note: In reviewing the draft Criteria Document, readers should take cognisance of the Commission’s stated intentions with respect to the operation of the new regulatory model as set out in its Vision Document (reference: CER/07/203) and the Response Document accompanying that paper (reference: CER/07/204). Those documents provide a further indication of the intentions of the Commission with respect to the operation of the new regulatory model and the Draft Criteria Document should be considered in conjunction with these stated intentions.

APPENDIX 2: COMMON PROCEDURES

To view Appendix 2, please download the following document accompanying this paper from www.cer.ie :

- ***Common Procedures - CER/07/203- 5***

APPENDIX 3: CONSULTATION RESPONSE FORM

To view Appendix 3, please download the following document accompanying this paper from www.cer.ie:

- ***Consultation Response Form Template – reference: CER/07/213-A***