



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

Definition of the Scope of Controlled Works

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CER – Information Page**Abstract:**

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

Further, Section 9D (27) of the 2006 Act provides that the Commission may determine a class or classes of electrical works to be specified electrical works.

Further to the requirements of the legislation, and consequent to publishing a consultation paper and having considered and responded to all comments received, the Commission has approved a definition of “specified electrical works” also known as “controlled works.”

Target Audience:

This Decision Paper is aimed at the electrical contracting industry, other parties involved in or associated with the electrical contracting industry and the general public.

Executive Summary

Under section 4 of the Energy (Miscellaneous Provisions) Act 2006 (the “2006 Act”), the Commission for Energy Regulation (“the Commission”) has the responsibility to regulate the activities of electrical contractors with respect to safety. In November 2007, the Commission published the decision paper “Vision for the Regulation of Electrical Contractors with respect to Safety” (ref. CER/07/203) which sets out the Commission’s high-level approach to the regulation of electrical contractors with respect to safety.

The Regulatory Objective was stated as:

“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.”

On the 28th April 2008 the Commission’s Decision on the Electrical Safety Supervisory Criteria Document (Version 1.0) was published following a consultation process. The definition of Controlled Works is a key element in the implementation of these Criteria.

The 2006 Act provides in Section 9D(27) that the Commission, having consulted with such persons as it considers appropriate, may determine that a class or classes of electrical works be “specified works” (now called “Controlled Works”), which will require the issue of a valid completion certificate.

In consultation paper CER/08/212, the Commission presented its proposals on the definition of Controlled Works. Having completed this consultation process and considered and responded to all comments received during the consultation, the Commission is now issuing its Decision, namely, to approve the definition of Controlled Works as proposed in the consultation paper.

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1.0 Introduction

1.1 The Commission for Energy Regulation

The Commission for Energy Regulation ('the Commission') is the independent body responsible for overseeing the regulation of Ireland's electricity and gas sectors. The Commission was initially established and granted regulatory powers over the electricity market under the Electricity Regulation Act, 1999. The enactment of the Gas (Interim) (Regulation) Act, 2002 expanded the Commission's jurisdiction to include regulation of the natural gas market, while the Energy (Miscellaneous Provisions) Act 2006 granted the Commission additional powers in relation to gas and electrical safety. These safety powers are being implemented from January 2009 through the establishment of new statutory-based regulatory systems for electrical contractors and gas installers. The Electricity Regulation Amendment (SEM) Act 2007 outlined the Commission's functions in relation to the Single Electricity Market (SEM) for the island of Ireland. This market is regulated by the Commission and the Northern Ireland Authority for Utility Regulation (NIAUR). The Commission is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

1.2 Purpose of this paper

The purpose of this paper is to outline and describe the Commission's decision with regard to the proposed definition of the Scope of Controlled Works as outlined in the Commission's consultation paper *Definition of the Scope of Controlled Works CER/08/212*. In November 2008 the Commission embarked upon a public consultation on this topic in order to:

- present a detailed proposal concerning the definition of Controlled Works under 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 those electrical works that will require certification, that is, those activities of electrical contractors, that the Commission intends to regulate with respect to safety, and further, to provide clarity and certainty to the electrical contracting industry regarding same.

The Commission received a number of responses to its consultation paper on Controlled Works. Further to the conclusion of this consultation process, the Commission has considered the responses received and is now publishing this decision paper *Definition of the Scope of Controlled Works (reference CER/09/009)*. This Decision paper sets out the definition of the Scope of Controlled Works which applies to the regulation of electrical contractors.

In conjunction with the publication of the Commission's decision on the Definition of the Scope of Controlled Works, the Commission is publishing the comments it received further to the consultation and its response to same ("the Response Document")

1.3 Comments Received

Respondents to the Consultation Paper were broadly supportive of the proposed objectives and principles. However, some Respondents did comment on the operation of the certification of Controlled Works. Respondents comments related in particular, to a perceived administrative burden that may be associated with the certification of Controlled Works.

The Commission welcomes the considered responses it received, and has carefully considered the points raised by Respondents and how the scope of Controlled Works should be defined in light of those comments.

The Commission received responses to the consultation paper (CER/08/212) from the following organisations:

- Dublin City Council
- Matrix Electrical
- ETCI

The Commission would like to thank all those who submitted responses. Further to the consideration of those comments, the Commission is now publishing its decision on the definition of the scope of Controlled Works which is to be applied to the new regulatory system. This decision incorporates the Commission's response to the comments received from the consultation.

The Commission has now published each of the submitted responses received on the Commission's website www.cer.ie with a summary of its responses (reference: CER/09/010).

1.4 Background Information

This Decision Paper is a further step in the Commission's work with regard to the design, development and implementation of the new regulatory system for the regulation of the activities of electrical contractors with respect to safety.

The definition of the scope of Controlled Works, further to the consultation process undertaken, is a critical input into this work as it determines the scope of the new regulatory system – i.e. in regulating the activities of electrical contractors, the scope of Controlled Works determines what electrical works (i.e. activities) are to be regulated.

To assist the Commission in defining the scope of Controlled Works, the Commission worked closely with Electro-Technical Council of Ireland (ETCI) who provided expert technical input into the proposals. These inputs were based on the National Wiring Rules¹.

¹ The National Wiring Rules are the national standard for electrical installations in Ireland and are published by the ETCI (Electro-Technical Council of Ireland).

In developing the definition of Controlled Works, the Commission held meetings with relevant bodies and industry participants to help formulate a policy approach. Separately, the Commission received expert technical advice. Inputs were also received during workshops with the Electro-Technical Council of Ireland (ETCI).

Related Documents/Reference Documents:

- Energy (Miscellaneous Provisions) Act, 2006;
- “*Vision for the Regulation of Electrical Contractors with Respect to Safety*” (CER/07/203);
- “*Commission Decision on Electrical Safety Supervisory Criteria Document (Version 1.0)*” CER/08/071;
- “*Definition for the Scope of Controlled Works*” (Consultation Paper – CER/08/212).

Note: All of the above documentation is published on the Commission’s website www.cer.ie.

1.5 Structure of this paper

This paper is structured as follows:

- **Section 1.0** Introduction;
- **Section 2.0** Background and context to the regulation of electrical works;
- **Section 3.0** Overall summary of the decision.

2.0 Background and context to the regulation of electrical works

2.1 Introduction

This section presents the background to the requirement for the Commission to define the scope of Controlled Works in order to implement the provisions of the Energy (Miscellaneous Provisions) Act 2006.

2.2 Scope of Regulation

The CER is now responsible under law² for regulating the activities of electrical contractors with respect to safety.

In January 2009 a new system for regulating electrical safety came into force. This new regulatory system promotes the safety interests of customers by, amongst other things, specifying who can carry out electrical work, how it is certified and what standards apply. In order to achieve the objective and requirements of the legislation the Commission set about defining the scope of those electrical works that will require certification and will therefore will be controlled and enforced through the certification system, namely *Controlled Works*.

Controlled Works are those electrical works which will come under the scope of the new regulatory system at the outset. As stated previously, these are electrical works which **require a certificate** to be issued. The issuance of a certificate for Controlled Works can only be carried out by a Registered Electrical Contractor or an Inspector of one of the two Safety Supervisory Bodies³. The issuance of a certificate provides confirmation that the electrical work carried out has been tested and its safety verified in line with the national standard (as prescribed in the National Wiring Rules).

The scope of Controlled Works shall constitute electrical works which are considered significant enough in the context of electrical safety to be “controlled” through the issuance of a Completion Certificate. In doing so, such works shall be:

1. Certified as being in compliance with the Technical Rules;
2. In compliance with the certification procedure for electrical installations prescribed in the Wiring Rules and Common Procedure No 1 – Certification;
3. Subject to oversight, compliance, validation and regulation by an Electrical Safety Supervisory Body (as part of its role in the oversight and monitoring of the activities of Registered Electrical Contractors and/or further to its role in inspecting works carried out by Non-Registered Parties who undertake

² Energy (Miscellaneous Provisions) Act 2006

³ The two Bodies are ECSSA (Electrical Contractors Safety & Standards Association) and RECI (Register of Electrical Contractors of Ireland)

Controlled Works and in arranging for a Completion Certificate for same to issue);

Further to the requirements of the 2006 Act the Commission is to prescribe the scope of these works (i.e. what type of electrical works shall require a Completion Certificate). By defining Controlled Works the Commission's aim is to ensure that specified electrical installation work is carried out, inspected and tested to verify that the relevant equipment, materials used and installation standards have been met, that the safety standards required by the Technical Rules have been achieved and that the installation was designed and installed to afford appropriate protection against mechanical and thermal damage. Furthermore, it provides for such works to be subject to full oversight, monitoring and scrutiny by an Electrical Safety Supervisory Body or other relevant party (an Authorised Officer, the Commission, etc.).

It should be noted that the 2006 Act draws a distinction between two different classes of electrical works i.e. *Controlled Works* and *Restricted Works*. The Commission stated in its Vision Document that whilst it would specify the scope of Controlled Works at the outset of the new regulatory system, it would not develop the scope of *Restricted Works*⁴ until after the initial period of operation of the new regulatory system. The Commission is of the view that it is necessary to provide industry participants the opportunity to understand the new system and the requirements to be imposed through the Criteria Document, and also to provide a period of time in which Registered Electrical Contractors can familiarise themselves with the requirements for and obligations further to being registered. This may be achieved only further to a reasonable period of operation which would allow them the opportunity to comply with such requirements. It is only then considered reasonable to define Restricted Works whereby it will become illegal for a party, other than a Registered Electrical Contractor, to engage in such works constituting Restricted Works.

The Commission through its consultation paper put forward its policy proposals for the definition of *Controlled Works*. These policy proposals were developed in line with the National Wiring Rules and through assistance from the ETCI. Two approaches were put forward for consideration in the consultation paper and parties were asked to provide comment on those proposals. Based on the responses received and the comments contained therein, the Commission reached its decision on the scope of Controlled Works. The following section sets out the policy proposals outlined in the Commission's consultation document and the factors considered in reaching a decision on the scope of Controlled Works.

⁴ Section 9E(1) of the Energy (Miscellaneous) Provisions Act 2006 outlines that Restricted Works are those works that will be defined following consultation as electrical works that only a Registered Electrical Contractor can carry out. Any non-REC carrying out Restricted Electrical Works will be guilty of an offence.

3.0 Commission' Decision

3.1 Decision Summary

The Commission's Consultation Paper presented the Commission's policy approach to the proposed definition for the "Scope of Controlled Works. This approach outlined two proposals in defining the scope of Controlled Works, namely:

- a) All Inclusive Scope; and
- b) Defined Scope.

All Inclusive Scope

This approach proposed specifying that the scope of Controlled Works would be **all** electrical installation works. These would be all electrical installation works falling within the scope of the Technical Rules.

This approach to the definition, as set out in the consultation document, would be extremely simple as it would mean any electrical works completed would require a Completion Certificate to issue. However, in doing so, this would mean in practice that any works – no matter how minor – would need to be either carried out by an REC or would need to be subject to a Third Party Inspection by an Electrical Safety Supervisory Body.

This Commission outlined in its consultation paper the view that the consequences of this simple approach would be to impose a scope of Controlled Works which:

- was not risk-based (as any and all electrical works would be included, regardless of the level of risk associated with the work involved);
- would not be enforceable – the Commission would be specifying that all electrical works would require a Completion Certificate but would have no means of enforcing this requirement and this approach would, in effect, mean that the requirements in that regard for Controlled Works (which are considered necessary to be "controlled" in the interests of safety through the issuance of a Completion Certificate) could not be adequately or comprehensively enforced.

Defined Scope

This approach proposed specifying a defined range of electrical installation works which would be prescribed as “Controlled Works”.

This range would be less than the scope of works covered in the All Inclusive Scope above and would specifically exclude any “minor works” and like-for-like replacements which can be carried out by competent persons (including DIY workers with appropriate skills). Within this context, the key determinant as to what works should be considered within the scope and those outside of the scope was to be based on the safety risk presented to the public by the electrical works in question. Further to these considerations the Commission outlined in its consultation paper that the “**Defined Scope**” proposal was a more appropriate approach to the definition of Controlled Works.

The Commission invited parties to comment specifically on the Commission’s proposals as regards a “*Defined Scope*” approach. The Commission received three written submissions from various stakeholders and while these submissions were broadly in favour of the proposed “*Defined Scope*” definition, concern was expressed regarding the expense and administration required in order to adhere to the certification requirements under this new statutory based regulatory system. The Stakeholder submissions, together with the Commission’s responses are contained in the accompanying Response Paper (*ref.CER/09/010*).

Considerations in reaching a Decision on a Defined Scope for Controlled Works

In reaching its decision on the scope of Controlled Works the Commission took a risk-based and consultative approach to assess the safety risks associated with each class of electrical works and took into consideration the following:

- an analysis of the options of managing the specific safety risk posed by that work and whether classifying that work as “Controlled Works” is the most appropriate approach to manage the risk;
- the practicalities of enforcing such a system; and,
- the need to counter against over-regulation for limited benefit.

Further to the above considerations the Commission also took cognisance of the following:

1. The scope of Controlled Works should be clearly established and it is critical that it should be simply and easily communicated in the interests of ensuring it is understood by the industry and public and, therefore, complied with;
2. Controlled Works should be confined to those works which are covered by the National Wiring Rules (and other relevant technical rules/standards as appropriate);
3. Within the context of (2) above, all major electrical works, particularly those requiring a new connection or reconnection to the Electricity Networks, should be automatically Controlled Works in order to ensure that the critical electrical installation associated with a new connection is certified and “controlled”;

Therefore whilst decisions on a number of the types of installations considered above are relatively straightforward, others are more complex.

For example an amount of Do-It-Yourself (or “DIY”) electrical installation work is a feature of electrical installations in domestic premises in this country and generally involves “like for like” replacements of switches, sockets, lighting fittings and/or additions to an existing circuit. This work must also be in compliance with the Technical Rules.

The Commission is of the view, having given consideration to the responses received to its consultation on this issue, that this type of work may be impossible to police, particularly in the introductory phase of the new system. Therefore these types of electrical works will sit outside the Defined Scope of *Controlled Works*.

For clarity, the table below now sets out clearly the definition of *Controlled Works* as prescribed by the Commission in this decision document.

3.2 Definition

The Commission now sets out the definition of the Scope of Controlled Works. This has been developed further to the work of the Commission in conjunction with the ETCI.

Definition of Controlled Works

<u>CONTROLLED WORKS</u>
<p>Controlled Works are major electrical installation works (including additions, alterations and/or extensions) which are covered by the National Wiring Rules and which involve:</p> <ol style="list-style-type: none"> 1. the installation, commissioning, inspection, and testing of a new fixed electrical installation requiring connection or reconnection to the electricity network; 2. the installation or replacement of a Distribution Board or Consumer Unit, or new installation in special locations as defined in Part 7 of the National Wiring Rules ET101 and ET105; 3. the installation or replacement of one or more extra circuits in an existing installation, including the installation of one or more additional protective devices for such circuits on a distribution board; 4. Subsystems installed in Commercial, Industrial, and Domestic installations where the installation falls within the remit of the National Wiring Rules; 5. the inspection, testing and certification of existing electrical installations (in accordance with Chapter 62 of the Wiring Rules (ET 101 –Fourth Edition-2008 and to conform with Regulation 89 of SI No 732 of 2007). <p>Any works which do not fall within the above scope are not Controlled Works and shall</p>

not necessarily require a Completion Certificate to issue. However, it is recommended that for all other works, an appropriate form of certification is used (for example, a Declaration of Compliance with ET 101 for Minor Works, where appropriate). Furthermore, all entries on the Completion Certificate or Declaration of Compliance should be filled in by the installing electrical contractor.

CONCLUSION

The Commission's Consultation Paper presented the Commission's proposals, for the definition of the scope of Controlled Works.

The Commission received a number of responses to its Consultation Paper and these included comments and proposals regarding the definition of Controlled Works and the operation and requirement for the certification of those works. In making its decision the Commission took into account such comments and proposals insofar as it deemed them appropriate and suitable for the purposes of defining the scope of Controlled Works for the purpose of regulating the activities of electrical contractors as regards safety.

The Commission's decision on the definition of Controlled Works as presented in this Paper is intended to strike the appropriate balance between, on the one hand the achievement of the core objectives in operating the new regulatory system concerning safety, and on the other hand, the comments of Respondents with regard to a pragmatic and reasonable approach to defining Controlled Works and the operation and issuance of certificates required for those works.⁵

The Commission is of the view that the definition as outlined above and the rationale for that decision as presented in this decision paper is suitable, fit-for-purpose and reasonably takes into account Respondents' proposals on the matter. Ultimately, it is the Commission's intention that this definition for the scope of Controlled Works shall, overall, support the operation of the new regulatory systems in delivering the objectives of same with respect to safety.

⁵ Further to this consultation process and this Decision Paper. Common Procedure No 1 – Certification will be finalised in consultation with the designated Electrical Safety Supervisory Bodies and with ETCI and the Distribution System Operator (DSO).

Appendix A - Glossary of terms

- **Addition:** An addition to an existing circuit.
- **Alteration:** Replacement of part of an installation for the purposes of maintenance or repair.
- **Circuit:** Part of an electrical installation supplied from the same origin and protected against over-currents by a single protective device.
- **Electrical installation:** An assembly of associated electrical equipment to fulfil a specific purpose or purposes and having co-ordinated characteristics.
- **Extension** (to an electrical installation): Electrical installation work involving one or more extra circuits in an existing installation.
- **Sub-system:** A completed section or part of an electrical installation e.g. a lift, fire alarm, refrigeration, air conditioning system installed by an electrical or specialist contractor. This sub-system will have as its origin the electrical installation certified by the Main Electrical Contractor. The subsystem may include ancillary electrical installation work (Lighting and circuits to facilitate the connection to the electrical installation). The Machinery Directive covers the supplied lift. Items such as refrigeration and other plant are covered by other directives. An emerging issue in this area that must be addressed is certification of the electrical installation in factory assembled pods, pre-assembled modules etc.