

# Common Procedure No. 6

## *Modifications*

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## PREAMBLE

On the 24<sup>th</sup> December 2006, the Energy (Miscellaneous Provisions) Act 2006 was signed into law. Under the Act, the Commission for Energy Regulation was given the legal function “to regulate the activities of electrical contractors with respect to safety”.

Section 9D(5) of the Electricity Act 1999 inserted by section 4 Energy (Miscellaneous Provisions) Act 2006 states 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.

Further to its legislative requirements, the Commission published a Criteria Document, which establishes the rules governing the Regulatory System, and the obligations bestowed on participants operating within the system including RECs, the Body and the DSO.

Section A of the Criteria Document states that:

*“The Commission may amend the Criteria Document from time to time as the Commission may deem appropriate. Any amendment may be further to consultation, as the Commission may decide is appropriate, with the parties bound by and/or affected by this Criteria Document.”*

The purpose of this document is to outline the modifications process by which any amendment of the Criteria Document is to take place.

## 1 DEFINITIONS AND INTERPRETATION

**“Act”**: the Energy (Miscellaneous Provisions) Act 2006 (and any amendment thereto);

**“Alternate”**: any person selected by a Member to represent the views of the Member’s Appointing Body in the Member’s place at Modification Committee meetings.

**“Appointing Body”**: any person or persons selected by the Commission, to appoint a Member to the Modifications Committee.

**“Body”**: any person or persons appointed by the Commission, pursuant to the Act, to act as an Electrical Safety Supervisory Body;

**“Business Day”**: any day other than (a) any Saturday or Sunday or (b) any other day that is a public holiday in Ireland;

**“Commission”**: the Commission for Energy Regulation;

**“Commission’s Representative”**: the individual (if any) for the time being appointed by the Commission to the Modification Committee in accordance with these Rules;

**“Criteria Document”**: the document which is specified and published by the Commission pursuant to the Act and as may be amended from time to time;

**“Criteria Modification Proposal Form”**: the document that must be filled out in order to request a modification of the Criteria Document. See Appendix.

**“DSO”**: or “Distribution System Operator”: the Business Division (ESB Networks) of the ESB licensed to exercise the functions of the distribution system operator by the Commission;

**“ECCRP”**: the Electrical Contractors’ Criteria Review Panel;

**“ECSSA”**: the Electrical Contractors Safety & Standards Association;

**“ESB”**: the Electricity Supply Board;

**“ETCI”**: the Electro-Technical Council of Ireland;

**“Invitee(s)”**: the organisation(s) or, where the context allows, the individual(s) who are not Member(s) and who are nominated or appointed from time to time by the Commission to sit as parties on the Modification Committee;

**“Meeting Papers”**: documentation circulated to the Modification Committee Members before a meeting of the Committee in order to allow them to familiarise themselves with the items to be discussed at that meeting.

## COMMON PROCEDURE NO. 6 – MODIFICATIONS PROCEDURE

**“Member”**: any individual for the time being appointed to the Modification Committee who for the avoidance of doubt, is treated at all times and for all purposes in connection with these Rules as a representative of his/her Appointing Body;

**“Modify”**: modify, revise, amend, vary, suspend (in whole or in part), supplement, extend or replace and **“Modification”** shall be construed according;

**“Modification Committee”**: the Modification Committee for the time being in place and constituted pursuant to and in accordance with these Rules;

**“Modification Committee Chairman”**: the person appointed by the Commission to chair the Modification Committee pursuant to Rule 2.4;

**“Modification Committee Secretary”**: the individual for the time being appointed as Modification Committee Secretary pursuant to Rule 2.5;

**“Modification Procedures”**: the procedures relating to Modifications and Modification Proposals set out in these Rules;

**“Modification Proposal”**: a proposal made by a member of the ECCRP or a party nominated by the Commission;

**“Publish”**: the release and distribution to the industry and the general public of documentation and information in the form approved by the Commission, which shall include the presentation of the documentation and information through the website of the Body and the email distribution list (and/or postal distribution list) of all RECs registered with the Body;

**“RECI”**: the Register of Electrical Contractors of Ireland;

**“REC”**: a registered electrical contractor who is registered by a Body further to the requirements of the Criteria Document;

**“Rules”**: the rules contained herein, as the same may, from time to time, be modified; and **“Rule”** shall be construed accordingly;

## **2 THE MODIFICATION COMMITTEE**

### **2.1 Purpose**

The Modification Committee shall advise the Commission on proposed Modifications to the Criteria Document. However, the Commission, as owner of the Criteria Document, shall at all times reserve the right to make a final determination on a Modification.

### **2.2 Membership**

- (a) The Modification Committee shall be composed of the individuals listed in Rule 2.2.1-2.2.6 (inclusive) and any such Invitee(s) as the Commission may at its discretion, appoint to the Modification Committee; and
- (b) Members will, as appropriate, represent the interests of and inform the Modification Committee of the views of that Member's Appointing Body in relation to Modification Proposals.

2.2.1 The RECs' representative: The representatives of RECs who are also members of the ECCRP shall together appoint (and as may be the case re-appoint) one representative to the Modification Committee.

2.2.2 The ECSSA's representative: The ECSSA shall appoint (or as may be the case re-appoint) one representative to the Modification Committee.

2.2.3 The DSO's representative: The DSO shall appoint (or as may be the case re-appoint) one representative to the Modification Committee.

2.2.4 The RECI's representative: The RECI shall appoint (or as may be the case re-appoint) one representative to the Modification Committee.

2.2.5 The ETCI's representative: The ETCI shall appoint (or as may be the case re-appoint) one representative to the Modification Committee.

2.2.6 The Commissions' representative: The Commission shall appoint (or as may be the case re-appoint) one representative to the Modification Committee.

### **2.3 Appointment of Chairman**

2.3.1 The Commission shall appoint one individual, as the Chairperson for the Modification Committee meetings, and may remove and replace any individual so appointed;

2.3.2 If the person appointed as Chairperson is unable to attend, the Commission shall appoint another individual under Rule 2.4.1.

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### 2.4 **Appointment of Modification Committee Secretary**

The Commission shall appoint an individual (being an individual other than a Member) as the Modification Committee Secretary, and may remove and replace any individual so appointed. The Modification Committee Secretary will attend all meetings of the Modification Committee.

### 2.5 **Invitees**

2.5.1 The Commission may invite where appropriate an Invitee(s) to sit on the Modification Committee. The Invitee(s) shall have the same rights as Members pursuant to these Rules, at meetings of the Modification Committee. If such Invitee(s) accept an offer by the Commission to sit on the Modification Committee, the Modification Committee Secretary shall notify all the Members of the Modification Committee of the name of the Invitee(s), the organisation that the Invitee(s) represents, and any other information the Commission deems it is appropriate to furnish to the Modification Committee.

2.5.2 The Commission reserves the right to remove and replace Invitee(s) from the Modification Committee as it deems appropriate.

### 2.6 **Retirement and removal of Members**

2.6.1 Each Member shall serve a one year term from the 25<sup>th</sup> of February of each year.

2.6.2 In respect of each individual who is a Member, the Appointing Body shall, not later than the 10<sup>th</sup> of February each year, notify the Modification Committee Secretary, who is to represent them for the following year.

2.6.3 The Commission reserves the right to remove a Member or Invitee from the Modification Committee due to a misbehaviour, which may warrant removal. Without prejudice to the right of the Commission to immediately furnish a Member or Invitee with particulars of misbehaviour warranting removal, where a Member or Invitee behaves in a manner that might, if continued, warrant his or her removal from the Modification Committee, the Commission shall issue a written warning to that Member or Invitee. The letter shall state that any further incidence of the behaviour concerned or any other misbehaviour will result in him or her having to answer a charge of misbehaviour warranting removal.

2.6.4 Where the Commission has issued a warning and identified further occurrences of misbehaviour, or identified sufficiently serious occurrences of a particular misbehaviour, the Commission may remove a Member or Invitee from the Modification Committee. The Commission shall then furnish to the Member or Invitee in writing, the particulars of the misbehaviour alleged to have occurred, and invite such a Member or Invitee to provide a written response within a timeframe specified by the Commission.

2.6.5 The Commission shall consider any such response in deciding whether or not to proceed with the removal of the Member or Invitee in question.

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- 2.6.6 The Commission shall inform the Member or Invitee of its decision regarding his/her future attendance at the Modification Committee. In the event of the Member or Invitee response not satisfying the Commission, his or her proposed removal will be notified to the Appointing Body without further notice to him or her. The Appointing Body shall have a period of ten (10) Business Days within which to notify the Modification Committee Secretary of the identity of the replacement Member to be appointed, and upon the appointment of such a replacement (which shall take effect immediately upon receipt of the relevant notice by the Modification Committee Secretary), his or her period of appointment shall cease.
- 2.6.7 It should be noted that full attendance is not required for the Modification Committee to operate. If a replacement is not nominated by the Appointing Body in question, the work of the Modification Committee may continue without the involvement of that Appointing Body's Members or Invitee(s).
- 2.6.8 Examples of misbehaviour warranting removal from the Modification Committee include, but are not limited to, persistent non-attendance, abusive behaviour and consistent failure to represent the views or interests of the Appointing Body.

### 2.7 **Ceasing to be a Member**

Without prejudice to the provisions of Rule 2(7), a Member will cease to be a Member if:

- (a) he/she resigns; or
- (b) the relevant Appointing Body notifies the Modification Committee Secretary that he/she is to be replaced in which event that Appointing Body shall appoint a replacement member as its representative and shall notify the Modification Committee Secretary of the replacement no less than five (5) Business Days before the next Modifications Committee meeting.

### 2.8 **Alternates**

Each Member may, from time to time, by notice to the Modification Committee Secretary appoint (or revoke the appointment of) an Alternate. The appointment (and revocation of the appointment) of any Alternate shall be conditional, and shall only be effective, upon receipt of notice by the Modification Committee Secretary and upon approval by the Commission.

An Alternate may attend any meeting of the Modification Committee which is not also attended by the Member (in his capacity as a Member) who appointed him and shall be able to exercise and discharge any and all of the functions, powers and duties of the Member who appointed him.

If a Member ceases to be a Member of the Modifications Committee, the appointment of any Alternate of the Member shall also cease.

### **3 TERMS OF REFERENCE**

The Commission shall from time to time set the Terms of Reference for the Modification Committee. The Terms of Reference for the Modification Committee shall include but not limited to making or considering, as the case may be, in accordance with these Rules, Modification Proposals;

- (a) taking into account the provisions of the Act;
- (b) taking into account the need to review the Criteria Document on a regular basis;
- (c) taking into account the likely cost implications of the Modification proposed;
- (d) taking into account representations made pursuant to a process of consultation in respect of Modification Proposals;
- (e) taking into account any other issue or matter which the Commission shall, from time to time or at any given time, direct shall be a relevant consideration for the Modification Committee.

## **4 MODIFICATION COMMITTEE MEETINGS**

### **4.1 Frequency of meetings**

Subject to Rule 4.2, meetings of the Modification Committee shall take place twenty (20) working days after each ECCRP meeting, where so requested by the Commission. Such meetings shall be convened by the Modification Committee Secretary who shall give Members seven (7) business days (or such shorter notice as the Commission may in any particular case specify) written notice thereof. Every notice convening a meeting of the Modification Committee shall specify the place, day and time of the meeting and enclose an agenda, all Modification Proposals received by the Modification Committee Secretary before the date of the Notice, and all relevant materials. Supplementary meetings may be called by the Commission, as and when the Commission determines necessary.

### **4.2 Location and form of meetings**

4.2.1 Meetings of the Modification Committee will take place in a venue specified by the Commission.

4.2.2 Meetings of the Modification Committee may take place by means of any audio, audio-visual or interactive communication provided that each Member shall be able to communicate to each of the other Members and be heard by each of the other Members simultaneously.

### **4.3 Minutes**

4.3.1 The Modification Committee Secretary shall take minutes of every meeting of the Modification Committee and shall circulate copies of the minutes to every ECCRP Member.

4.3.2 The Commission shall publish the minutes of every meeting of the Modification Committee on its web-site after circulation by the Modification Committee Secretary.

## **5 MODIFICATION PROPOSALS**

5.1 A Modification Proposal shall be submitted to the Modification Committee Secretary.

5.2 A Modification Proposal may be made by:

- (a) members of the ECCRP;
- (b) or any party nominated by the Commission.

### **5.3 Form of Modification Proposals:**

5.3.1 Each Modification Proposal shall:

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- (i) be submitted electronically to the Modification Committee Secretary using the “*Criteria Modification Proposal Form*”, appended to this document. Modification Proposals shall not be accepted by any means other than email, except in exceptional circumstances, at the discretion of the Commission.
- (ii) be completed fully before submission.

### 5.3.2 The submission should outline:

- (i) which section(s) of the Criteria Document the proposed Modifications relate to;
- (ii) the proposed alternative wording of the section(s) in question;
- (iii) a high-level description of the proposed Modification and the justification for it;
- (iv) the impact of not adopting the proposed Modification;
- (v) what further action needs to be taken before the Modification is workable (e.g. industry consultation, legal advice, etc.)

### 5.4 **Deadline for Submission of Modification Proposals**

In order to be considered for discussion at a committee meeting, Modification Proposals must be submitted to the Modification Committee Secretary no later than fifteen (15) business days before a committee meeting. Otherwise, any proposal that successfully passes the Commission’s vetting process (outlined in section 6.2 and 6.3) will only be eligible for discussion at subsequent Committee meetings at the Commission’s discretion.

## **6 MODIFICATION PROCEDURE**

6.1 Upon receipt of a Modification Proposal from a party as set out in Section 6.2, the Secretary will enter a vetting and evaluation process.

### 6.2 **Initial Evaluation of the Modification Proposal**

The Secretary shall:

- (a) confirm that the proposal was submitted by an ECCRP member or a nominee of the Commission;
- (b) evaluate whether the “*Criteria Modification Proposal Form*” has been filled out correctly in full.

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6.3 The Secretary shall within two (2) working days of receiving the proposal, reply to the party that has submitted the proposal. The reply shall confirm receipt of the proposal.

### 6.4 **Evaluation of the Modification Proposal on basis of Merit**

If the Commission finds the proposal meets the criteria outlined in Section 6.2 (a) and 6.2 (b), it will then evaluate the merit of the proposal. In doing so the merit of the proposal will be considered in terms of Section 4 of this document (Terms of Reference) as well as any other criteria the Commission deems relevant.

The Commission shall, within five (5) working days of receiving the proposal, reply to the party that has submitted the proposal. The reply shall confirm acceptance\non-acceptance of the proposal.

The Commission reserves the right to adopt a Modification Proposal without calling a meeting of the committee. Reasons as to why this might happen include, but are not limited to the Modification Proposal being of a minor nature or if time were a critical factor in adopting a Modification.

### 6.5 **Non- Acceptance of a Modification Proposal**

In the case of a Modification Proposal not meeting the criteria of Sections 6.2-6.4, the Commission will return the proposal to its author, stating why it has decided not to accept the Modification Proposal.

The Commission reserves the right of non-acceptance of proposals which it believes are not within the scope of the Criteria Document.

### 6.6 **Acceptance, Recording and Circulation of a Modification Proposal**

Once a Modification Proposal has been accepted for consideration by the Commission, it shall be recorded and filed by the Commission, and allocated an individual identification number.

The Secretary shall circulate the Modification Proposal(s), as part of the Meeting Papers, six (6) working days (or such shorter notice as the Commission may in any particular case specify) before the next Committee Meeting.

A meeting agenda shall be included within the Meeting Papers. It will specify which proposals shall be discussed at the next meeting, and which shall be carried over for future discussion or otherwise.

It is at the discretion of the Commission to decide which proposals it wishes to include for discussion at Committee Meetings, taking into consideration the relative importance and/or urgency of such proposals and the resources available to it.

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### 6.7 Discussion of Modification Proposals at Committee Meetings

Where proposals are included for discussion at a Modifications Committee meeting, the Commission shall give a brief presentation on the proposal at hand. The matter will then be left open for general discussion with the Committee.

The Modifications Committee shall seek to arrive at an agreed position on the Modification Proposal, which shall be finalised and presented to the Commission for consideration.

The Commission shall consider issues raised by Committee Members when making its final decision in relation to the proposal, and may request that any Committee Member make a written submission to the Commission subsequent to the meeting, outlining his/her comments on the proposal.

The Commission may re-table a proposal for discussion in subsequent meetings as it sees fit.

The Commission may also, at its discretion present the proposed Modification to the ECCRP in order to obtain the opinions of its members.

### 6.8 Commission Decisions in relation to Modification Proposals

All decisions relating to the Modification of the Criteria Document shall be made by the Commission.

If the Commission is of the opinion that, for safety or other reasons, there is an urgent need for a Modification to be adopted, it may choose to forgo the Modifications Procedure outlined in section 6.

The Commission may withhold its decision on a Modification Proposal at its discretion.

The Commission shall communicate the outcome of its Modification decisions to the ECCRP at the earliest possible convenience.

## 7 MODIFICATION OF THE CRITERIA DOCUMENT

### 7.1 Internal Commission Review and Approval

All draft Modifications shall be subject to review by the Commission. The Commission may direct that changes be made to draft Modifications with specific reference to the Terms of Reference of the committee. Final approval of all draft Modifications is at the discretion of the Commission.

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### 7.2 **Presentation to the Committee**

The Criteria Document shall be updated with respect to all approved draft Modifications and a new version of the Criteria Document drawn up. This version shall be circulated to all ECCRP Members along with the Meeting Papers.

### 7.3 **Publication**

Once a new version of the Criteria Document has been presented at an ECCRP Meeting, the Commission will publish the new version of the Criteria Document on the Commission website. This new version shall be clearly numbered and the Document History updated to outline which sections have been changed.

However, the Commission reserves the right to publish updated versions of the Criteria Document before presenting it to the ECCRP. The reason as to why this might happen include, but are not limited to time being a critical factor in adopting a Modification due to an emergency.

Changes made to the Criteria Document should be communicated by ECCRP members to their constituents and by the Body to their respective registered members as soon as is practicably possible.

## **8 COSTS**

- 8.1 Each Member shall pay all of his or her costs and expenses and those of its consultants and advisors, unless otherwise determined by the Commission.
- 8.2 Should the Modification Committee need to consult any party who wishes to be remunerated, that party should only be retained and remunerated in accordance with the prior written permission of the Commission.
- 8.3 On a date no later than 5<sup>th</sup> January of each year, the Modification Committee Secretary shall submit a list of all expenses incurred by the Modification Committee for the previous calendar year to the Commission.

## **9 GENERAL**

- 9.1 The Commission is the sole owner of this Modification Procedure and reserves the right to change its content at its discretion.
- 9.2 The Commission is the sole owner of the Criteria Document and reserves the right to change its content at its discretion.

**ADDENDUM: CRITERIA MODIFICATION PROPOSAL FORM****CRITERIA MODIFICATION PROPOSAL FORM**

<b>SECTION A: CONTACT DETAILS</b>	
Name of Requesting Organisation	
Contact Name	
Telephone Number	
E-mail Address	
Date Modification Request Raised	

<b>SECTION B: MODIFICATION DETAILS</b>	
Modification Title	
Sections affected by Modification Proposal	e.g. sections 1.2.3 to 1.2.5

<b>Proposed Alternate Wording</b>
Clearly show your proposed alternate wording to the above stated sections.
<b>Modification Proposal Justification</b>
Clearly state the reason for the Modification and how it effects the Criteria Document.
<b>Implication of not Implementing the Modification</b>
Clearly state the possible outcomes should the Modification not be made, or how the Code Objectives would not be met.

Please return this form to Secretary by e-mail to [modifications@cer.ie](mailto:modifications@cer.ie)

<b>SECTION C: (FOR CER USE ONLY)</b>	
Submitted by	
Date Proposal Received by Secretary	
Type of Proposal (Urgent/Standard)	
Tracking Number	