



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Commission Decision on Electrical
Safety Supervisory Criteria Document
(Version 1.0)**

A Decision Document

CER/08/071

25th April 2008

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1 INTRODUCTION AND BACKGROUND

Introduction

On 7th December 2007, the Commission for Energy Regulation (“the Commission”) published its consultation document, entitled “Proposed Criteria for the Regulation of Electrical Contractors” (“the Consultation Document”, reference CER/07/213, Parts 1 - 5).

The Consultation Document set out the Commission’s proposals for the Criteria Document, being those detailed rules for the regulation of electrical contractors with respect to safety.

The purpose of the consultation on the Commission’s proposed Criteria Document was 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.

The Commission received a substantial response on its consultation. Further to the conclusion of the consultation process, the Commission has considered the responses received and is now publishing its decision on the Criteria Document, which is the **Electrical Safety Supervisory Criteria Document Version 1.0 (“Criteria Document Version 1.0”, reference CER/08/071)**, confirming the detailed rules to be applied to the regulation of electrical contractors and any bodies designated for undertaking the role of “Electrical Safety Supervisory Body” for the new regulatory system.

In conjunction with the publication of the Commission’s decision on the Criteria Document Version 1.0, the Commission is publishing the comments it received further to the consultation and its response to same (“the Response Document”).

Background

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 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.

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;
- 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”).

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 Criteria Document, prepared further to the requirements of the Act and which is presented with this paper.

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”).

Role of the Criteria Document

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

The Criteria Document Version 1.0 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 Version 1.0.

RECs and the Body will be required to accede to the requirements and procedures of the Criteria Document Version 1.0.

As provided for in the Act, the Commission will publish the Criteria Document (published with this paper) and “*may review or amend the criteria as often as it considers necessary*”. The Criteria Document Version 1.0 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 Version 1.0 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.

Criteria Document Structure

The remainder of this document is structured as follows:

- Section 2: Consultation Responses;
- Section 3: Overview of the Electrical Safety Supervisory Criteria Document;
- *Appendix 1*: Criteria Document Version 1.0, reference: CER/08/071 (A – F); and,
- *Appendix 2*: The Response Document, reference: CER/08/071-2.

2 CONSULTATION RESPONSES

The Commission received substantial and detailed comment on its proposals and submissions were received from 8 parties. These were as follows:

1. Council for Registered Gas Installers (UK) (CORGI);
2. Dublin City Council;
3. Electrical Contractors Association (ECA);
4. Electrical Contractor Safety & Standards Association (ECSSA);
5. Electro-Technical Council of Ireland (ETCI);
6. ESB Networks (Distribution System Operator or DSO).
7. Institute of Electrical Inspectors in Ireland (IEII); and,
8. Register of Electrical Contractors of Ireland (RECI);

The Commission welcomes the considered responses from the above parties and would like to thank all respondents for their valuable inputs.

The Commission has attempted to respond to each of the detailed comments received and these are set out in the Response Document (see Appendix 2 of this document).

3 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 Version 1.0.

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 Version 1.0 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 a Body unless it is satisfied that the party is capable of complying with the Criteria Document.

Overall Structure of the Criteria Document Version 1.0

The Criteria Document Version 1.0 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 Electrical 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; and,
- 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 Version 1.0 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 Version 1.0, they constitute part of the Criteria Document Version 1.0 and should be interpreted as such.

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

- 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 the Consultation Document, the Commission presented the proposed 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 did not present its detailed proposals with respect to the Common Procedures No. 1, 4, 5 and 6 with the Consultation Document.*

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 viewed 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 also applied 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.

Note on the further development of the Common Procedures

It should be noted that the Commission received a substantial level of comment on the Common Procedures. The Commission has not published its Decision or Response to these as the Commission is of the view that the Common Procedures cannot be fully finalised until the Commission convenes working groups to support the development of same. The Commission will engage with the industry further on the development of these finalised Common Procedures over the period to full implementation of the new regulatory system and, as part of this work, it will consider the comments received on the Common Procedures from the consultation process.

Overview of the Changes in the Criteria Document

The Commission published, in its Consultation Document, its proposed Criteria Document. The Criteria Document Version 1.0 published with this document presents the Commission's decision further to that consultation. The Criteria Document Version 1.0 differs from the Consultation Document as set out below.

Consideration of Consultation Comments

The Commission has, further to the consideration of certain comments received, amended its policy with respect to the treatment of certain elements of the Criteria Document and has consequently amended the drafting for the Criteria Document Version 1.0 to reflect its decisions in that regard.

The Response Paper published accompanying this Decision Document presents the Commission's response to the comments received and refers to any changes reflected in the drafting of the Criteria Document Version 1.0.

Certain key changes further to the Commission's consideration of the comments received include the following:

Tracking System for Qualified Certifiers

- The Commission had proposed the requirement for a system for Qualified Certifiers whereby the Body would be required to maintain a register of all RECs and the Qualified Certifiers associated with each. This was seen as providing an opportunity for enhanced tracking and validation procedures associated with the Body's monitoring of RECs;
- The Commission received substantial comment on this proposal as being unnecessary and unnecessarily costly and that, rather, the focus of the system should be on the REC. The Commission has responded to these comments in the Response Paper, stating that it will consider the matter in the future, once the system is operating and the drafting of the Criteria Document reflects this decision by the Commission;

Qualifications of Inspectors

- The Commission had proposed imposing a requirement for inspectors of the Body hold a "City & Guilds" Qualification;
- The Commission has not included such a requirement in the Criteria Document Version 1.0, but the document does allow the Commission to prescribe further training/qualification requirements to be applied to the role of Inspector;
- The Commission shall consider this matter further in due course in conjunction with any Body/Bodies designated and an

Industry Working Group which is to be established to address the matter of training;

Unsafe Works

- Wording has been included to provide for the Inspector to discharge their duties in the context of discovering unsafe works. Such requirements in this regard shall need to be re-enforced through the development of the Common Procedure No. 5 on Enforcement with the industry and, critically, the DSO.

Removal of Certain Requirements

- The Commission had provided details relating to the imposition of certain requirements upon the Body relating to, for example, insurance, financial arrangements and procedures for the de-designation of a Body. This detail was provided in the Criteria Document Consultation in order to obtain comment on same;
- However, such matters will be more appropriately dealt with through the Designation Conditions which are to be specified as part of the Designation Process and, hence, certain details in that regard are not included in the Criteria Document Version 1.0.

Legal Review

The Commission carried out a full legal review of the Criteria Document in order to ensure that it is legally appropriate and fit-for-purpose and any changes emanating from that review and those requirements are now reflected in the drafting of the Criteria Document Version 1.0;

Designation Conditions

The Commission has decided that certain provisions relating to the Body are more appropriately dealt with through the Designation Conditions and the drafting of certain provisions of Section B has been amended to reflect this.

The Criteria Document Version 1.0 reflects changes further to the above. The Criteria Document, as the critical document which will influence the design and operation of the new regulatory system, will be subject to routine review through the ECCRP and further to other changes in the regulatory environment, in order to ensure that it remains a suitable, fit-for-purpose document that will support the operation of the new regulatory system in the achievement of the Regulatory Objective.

APPENDIX 1: THE CRITERIA DOCUMENT

Appendix 1 presents the “Electrical Safety Supervisory Criteria Document (Version 1)”.

Each of the Sections A – F of the Criteria Document Version 1.0 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.

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

- **Section A of the Criteria Document Version 1.0 - CER/08/071A;**
- **Section B of the Criteria Document Version 1.0 - CER/08/071B;**
- **Section C of the Criteria Document Version 1.0 - CER/08/071C;**
- **Sections D, E and F of the Criteria Document Version 1.0 - CER/08/071D-F.**

Note: *In reviewing the Criteria Document Version 1.0, 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), the Response Document accompanying that paper (reference: CER/07/204) and the Response Document accompanying this document (reference: CER/08/071-2). Those documents provide a further indication of the intentions of the Commission with respect to the operation of the new regulatory model and the Criteria Document Version 1.0 should be considered in conjunction with these stated intentions.*

APPENDIX 2: THE RESPONSE DOCUMENT

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

- ***Response Document - CER/08/071-2***