

**‘A NEW FRAMEWORK FOR A NEW FUTURE’**

**Outline of a proposed *Industry Framework Agreement* for the UK Engineering  
Construction Industry**

***Consultation paper issued by the Engineering Construction  
Industry Employment Relations Development Working Party***

**Deadline for responses: 29 August 2006**

# **‘A NEW FRAMEWORK FOR A NEW FUTURE’**

## **Outline of a proposed *Industry Framework Agreement* for the UK Engineering Construction Industry**

### **Background**

1. During the negotiations for the 2006 NAECI wage review, the employers expressed their view that the NAECI was no longer sustainable beyond April 2007. They asked the trades unions to join with them in developing a new, improved employment relations framework for the industry.
2. Following the successful conclusion of that wage review at the end of February 2006, the trades unions agreed to enter into discussions with the employers, in the interests of preserving national bargaining and developing an agreement that is ‘fit for purpose’ for the twenty-first century.

### **Objectives**

3. In May 2006, the parties announced the establishment of a joint Employment Relations Development Working Party (‘the Working Party’). In June 2006, the Working Party published a statement of agreed aims, objectives and milestones.<sup>1</sup>
4. The objectives include the establishment of an Industry Framework Agreement (‘IFA’) that:
  - (a) Is as concise as possible and written in clear, simple English.
  - (b) Introduces employment arrangements appropriate for the industry in April 2007 and beyond, while retaining the main achievements of NAECI 1981-2006.
  - (c) Resolves outstanding scope issues.
  - (d) Supports workforce recruitment, retention and mobility, as well as labour market stability and employment security, by providing a core of standard terms and conditions applicable across different industry sectors (including new construction, term maintenance and events).

---

<sup>1</sup> The full statement can be downloaded from [www.whatyouthink.org.uk/hot/](http://www.whatyouthink.org.uk/hot/).

# 'A NEW FRAMEWORK FOR A NEW FUTURE'

## 4. *(continued)*

- (e) Permits the flexible application of these terms and conditions in order to accommodate particular sectoral, local and/or company requirements.
- (f) Enables the introduction of innovative arrangements at sectoral, local and/or company level designed to improve employment relations, employment security, flexibility, productivity and reward.
- (g) Includes a fair, impartial and effective procedure for the resolution of disputes.
- (h) Promotes industry good practice through separately published guidance.

## **Overview**

- 5. In order to ensure that a new IFA is seen as useful and accessible (and so fulfil objective 4(a) above), the Working Party proposes that it should focus on regulating terms and conditions of employment. In accordance with objectives 4(b) and 4(d)-4(g), the IFA would consist of the following:
  - (a) Core terms and conditions.
  - (b) Sector-specific provisions:
    - i. New construction projects
    - ii. Term maintenance sites
    - iii. Events
    - iv. Company agreements.
  - (c) Procedures.
- 6. In addition to an IFA regulating employment terms and conditions, the Working Party proposes that there should be a separate supplement dealing with other important matters. This would draw from, update and build upon existing NAECI rules, codes of practice and guidance on:
  - (a) Safety
  - (b) Competence, training and skills
  - (c) Major project employment relations arrangements

# 'A NEW FRAMEWORK FOR A NEW FUTURE'

## 6. *(continued)*

- (d) High performance working
- (e) Welfare facilities
- (f) Trade union matters
- (g) National Joint Council.

7. **Timing.** The Working Party has set itself the task of producing a draft IFA by September 2006, and a final agreement by November. It is then proposed to develop the supplement covering other matters between November and March 2007.

## Core terms and conditions

8. In accordance with objective 4(d) above, this section of a new IFA would provide everyone employed on in-scope work with a common set of basic terms and conditions. It would also provide a 'default' employment package in the absence of a specific project, site, event or company agreement covering the employee(s) concerned. This 'core' would include:

- (a) Grading and skills
- (b) Working hours, including overtime and shift working
- (c) Base rates, overtime and shift rates
- (d) Allowances
- (e) Holidays
- (f) Bereavement leave
- (g) Pension
- (h) Welfare benefits.

9. **Pay simplification.** In the interests of simplicity (objective 4(a), above), and to reflect changes that have occurred in the industry since 1981, it is proposed that the hourly rate should incorporate **all** job requirements and working conditions. Accordingly, a new IFA would not necessarily replicate some NAECI supplementary payments:

- (a) Specialist crane driver's allowance
- (b) Height money
- (c) Restricted working money
- (d) Abnormal conditions money.

# 'A NEW FRAMEWORK FOR A NEW FUTURE'

## New construction projects

10. As explained above in paragraph 6, it is intended that the main provisions governing employment relations on major new construction projects should be included in a separately issued supplement. It is anticipated that this would preserve a large part of the existing provisions. Within the IFA itself, the focus would be on employment terms and conditions, including:

- (a) **Bonus arrangements on new construction projects** – linking opportunities for further reward to the achievement of key project objectives.
- (b) **Non-UK employees' terms and conditions** – confirmation that non-UK residents employed on in-scope projects shall have the same entitlements under the IFA/ SPA as UK workers, subject to defined flexibilities in respect of accommodation arrangements, leave weekends and journeys between home and site.
- (c) **Payroll transparency/ verification requirements** – ensuring that allegations of non-compliance with IFA/ SPA terms and conditions can be investigated swiftly and conclusively.
- (d) **Skills shortages** – provisions for responding to shortages posing a significant threat to work progress, including the possible use (in a regulated manner) of agency workers.

## Term maintenance sites

11. A growing proportion of the in-scope workforce no longer fits the traditional NAECI profile of short-term, peripatetic employment. Many are engaged, more or less permanently, on term maintenance of existing plant.

12. In many ways this trend towards longer-term employment is a very positive development. Nevertheless, clients, contractors and employees alike have become increasingly concerned that they may not be reaping the full benefits of longer-term employment. Among term maintenance clients, in particular, there is a growing sense that specifying the NAECI has not delivered sufficient levels of cost control or increased performance. Among contractors, there is a strong desire to secure improvements in employee motivation, commitment and productivity. Meanwhile, among employees, there are aspirations for enhanced terms and conditions, higher status and a better sense of employment security.

# ‘A NEW FRAMEWORK FOR A NEW FUTURE’

13. In order to assist those term maintenance sites, where the client specifies and coordinates use of the IFA, to achieve a step-change in culture, productivity and employment relations, the Working Party proposes that the IFA should include enabling provisions allowing such sites to vary and/or supplement certain core terms and conditions by agreement. In accordance with objectives 4(e) and 4(f) above, the intention would be to create an employment package more likely to motivate a long-term, local workforce. Examples of the changes that might be agreed include:

- (a) **Moving from hourly pay to a salary** – enhancing employees’ status for the purposes of mortgages and other loans.
- (b) **Restructuring the employment package** – for example, radius payments, pension and/or welfare benefits.
- (c) **Improving employment security** – for example, by increasing notice periods.

14. Talks between the local stakeholders about changes to employment terms and conditions might also provide an opportunity to discuss other, significant issues. For example, clients, contractors and employees on term maintenance sites all have a common interest in agreeing ways to:

- (a) **Encourage innovation** – for example, by linking opportunities for client investment to more efficient working practices.
- (b) **Supplement the site workforce during peak periods** – including the possible use (in a regulated manner) of agency workers and overseas contractors.
- (c) **Improve employment relations** – including initiatives to develop greater mutual understanding and an increased sense of shared interests and objectives.

## **Shutdowns, turnarounds & outages (‘Events’)**

15. Given the severe difficulties that have sometimes arisen recently through a lack of coordination of employment terms and conditions (particularly on some power station outages and non-NAECI process site shutdowns/turnarounds), there is still a strong case for providing a clear framework for events, building upon the existing provisions.

# 'A NEW FRAMEWORK FOR A NEW FUTURE'

## Company agreements

16. As the industry's workload has shifted away from new construction towards repair and maintenance, companies have been able to offer significantly longer periods of continuous employment than was previously the case. Once the IFA is introduced, it is anticipated that these longer-term employees would mainly fall into one of three categories:

- (a) Those engaged more or less permanently on term maintenance on a particular site where the client specifies, and coordinates, use of the IFA (see paragraphs 11-14 above).
- (b) Those engaged more or less permanently on term maintenance on a particular site where the client does NOT specify use of the IFA.
- (c) Other longer-term employees, who while continuing to move frequently between sites and types of work, remain continuously employed by the same employer.

17. Where in-scope employees fall into either category 16(b) or 16(c) above, the Working Party proposes that the IFA should include enabling provisions allowing individual companies to vary and/or supplement certain core terms and conditions by agreement. Examples of the changes that might be agreed include:

- (a) **Moving from hourly pay to a salary** – enhancing employees' status for the purposes of mortgages and other loans.
- (b) **Restructuring the employment package** – for example, radius payments, pension and/or welfare benefits.
- (c) **Improving employment security** – for example, by increasing notice periods.

## Procedures

18. Since 1981, the NAEI disputes procedure has proved an invaluable strength. However, as the years have passed, both unions and employers have experienced increasing difficulties in providing sufficient qualified representatives to serve as panel members at Stages 3 and 4. Furthermore, over the same period, panel members have had less success in reaching unanimity on the issues before them.

19. In order to avoid replicating the same problems, and to fulfil objective 4(g) above, the Working Party proposes that the disputes provisions of a new IFA should:

# 'A NEW FRAMEWORK FOR A NEW FUTURE'

## 19. (continued)

- (a) **Promote domestic resolution of grievances.** This could be achieved by a clause in the IFA requiring employers to establish proper domestic grievance procedures in line with the *Dispute Resolution Regulations 2004*. The industry disputes procedure could then focus on more important, collective matters relating to the interpretation and application of specific IFA provisions.
- (b) **Replace the current NAECI Stages 3 and 4 with a single industry appeals stage, conducted by a three-member local disputes panel.** The panel would be made up of one union nominee, one employer nominee and an independent chairman drawn from an agreed list of qualified persons. The chairman could be voting or non-voting, although our preference would be for him/her to have a casting vote in the event that the union and employer nominees are unable to agree. The location of the panel hearing would be flexible: depending on the circumstances, it could be in London or near to the site. The intention would be for the panel to be convened as quickly as possible.
- (c) **Permit references/ appeals up to the national disputes panel in certain circumstances.** Where a local disputes panel concludes that the case before it raises issues of wider significance that cannot be resolved properly without a decision at national level, then the case should be referred up to the national disputes panel. This could be made up of the NECC Secretary, the ECIA Managing Director and the NJC Executive Chairman. The national disputes panel would also hear appeals against local panel decisions where either the union or employer side have reasonable grounds for arguing that the panel was wrong on a significant point of IFA interpretation.

20. **Dismissal appeals.** In order to reflect the changes that have occurred since 1981, including the growth in long-term employment and improvements in legal protections for employees, the Working Party proposes that the dismissal appeals provisions of a new IFA should:

- (a) **Promote domestic resolution of dismissal appeals.** This could be achieved by a clause in the IFA requiring employers to establish proper domestic dismissal procedures in line with the *Dispute Resolution Regulations 2004*. In the normal run of things, procedure would be exhausted on the conclusion of the domestic appeals procedure, leaving it open to an employee whose appeal fails to pursue a remedy in an employment tribunal.

# 'A NEW FRAMEWORK FOR A NEW FUTURE'

20. *(continued)*

- (b) **Enable projects to opt into an industry dismissal appeals procedure through a clause in an SPA.** Dismissals can still provoke strong negative reactions on major new construction projects. There is therefore a good case for giving employees on such projects access to an external independent appeal, especially as most will not initially have the 12 months' qualifying service required for a tribunal claim.
- (c) **Replace the various current dismissal appeals processes with a single industry appeals stage, conducted by a three-member local disputes panel.** This would be the same arrangement as that for disputes (see paragraph 19(b) above)
- (d) **Define the scope of the appeal.** The local disputes panel would confine itself to determining the issue of whether or not the dismissal was carried out in accordance with the IFA dismissal provisions.

## **Transitional provisions and phasing-in**

- 21. The Working Party will need to bear in mind that any substantial changes they propose could cause severe difficulties if imposed on projects already under way, or tendered, in accordance with the previous NAECI provisions. Accordingly, the IFA will need to be accompanied by suitable transitional provisions applicable to those projects.
- 22. It is also possible that the wider industry will also require time to prepare for some of the changes. Accordingly, the Working Party will need to consider whether any IFA provisions should be phased in at some date, or dates, later than 2 April 2007.

## **Consultation responses**

- 23. The purpose of this paper is to elicit responses from as many individuals, groups and organisations within the industry as possible, prior to publication of a draft Industry Framework Agreement this September. We would welcome your views and your detailed comments on the following proposals in particular:
  - (a) The proposals for core terms and conditions in **paragraph 8**, and pay simplification in **paragraph 9**.
  - (b) The proposals for sector-specific provisions for new construction projects in **paragraph 10**.

# 'A NEW FRAMEWORK FOR A NEW FUTURE'

23. *(continued)*

- (c) The proposals for term maintenance sites in **paragraphs 13 and 14**.
- (d) Any sector-specific provisions you believe are required for major events (see **paragraph 15**).
- (e) The proposals for company agreements in **paragraph 17**.
- (f) The proposals for disputes in **paragraph 19** and dismissal appeals in **paragraph 20**.
- (g) The proposals for transitional provisions in **paragraph 21** and phasing-in in **paragraph 22**.
- (h) Any other matters you believe the Working Party should have regard to in developing a new Industry Framework Agreement.

24. The deadline for written responses is **Tuesday 29 August 2006**. Responses can be e-mailed to [andreweldred@ecia.co.uk](mailto:andreweldred@ecia.co.uk); faxed to 020 7233 1930; or, posted to:

*Andrew Eldred  
Secretary, ER Development Working Party  
ECIA  
Broadway House  
Tothill Street  
London  
SW1H 9NS*

***ER Development Working Party  
27 July 2006***