

# **SkillsBank proposal within the Electrical Contracting Industry**

## **Regional Members Consultation**



January 2011

# Temporary and Agency Workers Directive

- Consistent campaigning by unions.
- 6 years of negotiations between TUC and the CBI.
- UK Government announced they would sign up to the EU Temporary and Agency Workers Directive in Slovenia in June 2008.
- Negotiations TUC (rights from day 1) and CBI (12 months) led to:
  1. Compromise of 12 weeks for right to comparable pay, overtime and holidays.
  2. Statutory Sick Pay.
  3. Regulations come into force in October 2011.



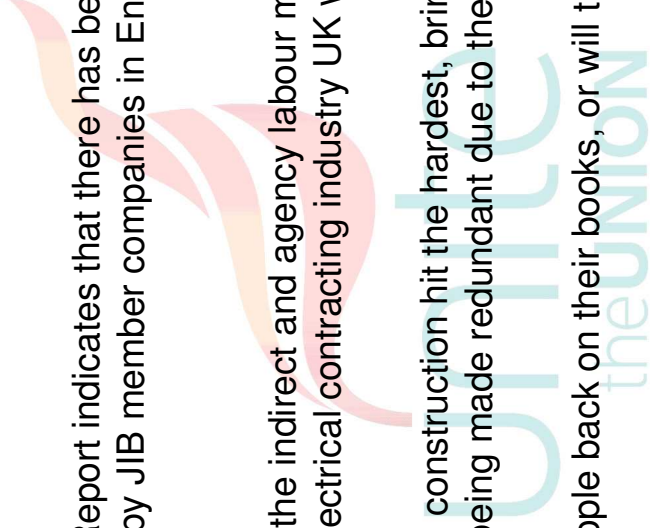
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# Development

- Ongoing campaign for Direct Employment (Unite, Amicus, T&G, AEEU).
- Large numbers of cases taken over the years by Unite Regional Officers in pursuit of holiday pay and statutory entitlements for workers employed via agencies etc.
- Decisions taken by shop stewards in 2006 and 2007 to not try and regulate the agencies, either via Forum or Registration Board, instead, Union asked to explore Employment Pool concept.
- HMRC legislation on Managed Service Companies (MSC's), Composites etc – 2007 onwards.
- HMRC CIS scheme revisions – CIS scheme constantly being changed, but never addressing the fundamental underlying problems of bogus self employment and the status of a “worker”.
- Union looked at the old JIB Employment Pool model, New York JIB (IBEW local 3 and NECA) referrals, book system, and benefits.
- Unite proposal to ECA employers for JIB Employment Pool / Skills Bank (May 2007).
- Amicus documents including “*Sustainable solutions*” and “*The Spectre of Agencies and the Case for Direct Employment*”. (August 2008).
- SkillsBank consultation - Electrical Contracting Shop Stewards 2 day meeting – London, September 2008. (Communiqué issued 5<sup>th</sup> September 2008).
- Motion 3 – Proposed Skills Bank/Employment Pool (24<sup>th</sup> November 2009) calls for regional consultative exercise.
- Proposals resulting from ERC SkillsBank sub-committee.
- January 2011 – Regional consultation exercise.

# Current state of direct employment in the industry

- November 2010 JIB Labour Report indicates that there has been a 22% decline in the number of operatives directly employed by JIB member companies in England, Wales and Northern Ireland between 2000 and 2010.
- Approximate estimates place the indirect and agency labour market at nearly 50 per cent of the overall workforce within the electrical contracting industry UK wide.
- The economic recession, with construction hit the hardest, brings further detriment to direct employment with operatives being made redundant due to the downturn.
- Will employers take these people back on their books, or will they turn to the agencies?



**JIB SkillsBank**



# Introduction

*To develop and ultimately regain control via an industrial structure that will allow all operatives and contractors to move towards Direct Employment.*

*Creating Continuity and Stability of Employment within the Electrical Contracting Industry.*

*Bringing the JIB Holiday and Combined Benefits Scheme to all operatives within the industry.*

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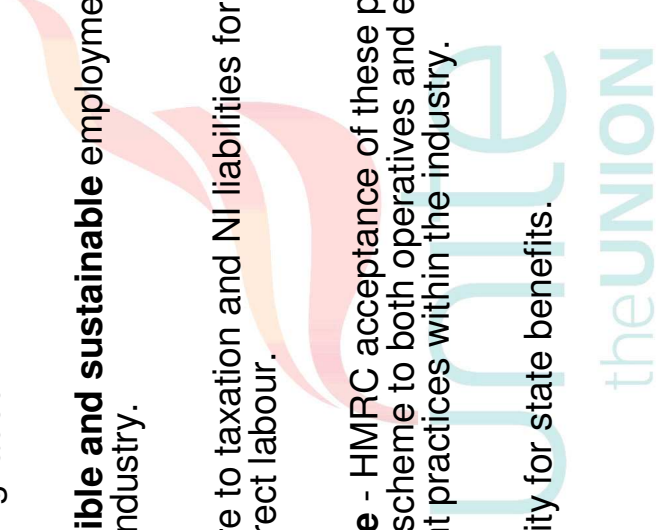
# Objectives

- To ensure a sustainable, qualified, competent and direct workforce for JIB and ECA members.
- To provide a service to operatives, small, medium and large businesses in all areas of the industry.
- To create an alternative to the current over reliance on 'agencies' and bogus self employment which will ultimately destroy the industry – must be Tax, NI and IR35 compliant.
- To provide JIB Benefit Credits including Holiday Pay to the industry's temporary workforce.
- To provide a PAYE vehicle to replace the 'composite umbrella' and an alternative for operatives forced into the 'Construction Industry Scheme' (CIS).
- To address and develop apprenticeships and skills needs that currently exist.
- To meet requirements of all associated parties:
  - The Operatives
  - The Contractors
  - Unite the Union
  - ECA
  - JIB
  - Clients and Public Procurement

The logo for 'Unite the Union' features the word 'Unite' in a large, light blue, sans-serif font. Below it, the words 'the UNION' are written in a smaller, dark blue, sans-serif font. To the left of the text is a stylized graphic consisting of three overlapping, curved shapes in shades of red, orange, and yellow, resembling a flame or a rising sun.

# Why?

- To provide an **alternative** to ‘agency’ and bogus self-employment.
- Address the **loss of training infrastructure**, created by the industry’s over reliance on short term, unsustainable ways of engaging labour.
- Establish a **socially responsible and sustainable** employment pool/bank which invests in the long term skills needs of the industry.
- A **safeguard** against exposure to taxation and NI liabilities for workforce and contractors (HMRC clampdowns) and promote direct labour.
- **Tax, NI and IR35 compliance** - HMRC acceptance of these proposals is an absolute necessity, a fundamental attraction of the scheme to both operatives and employers would be it’s integrity to counteract bogus employment practices within the industry.
- **Class 1** NI building up eligibility for state benefits.

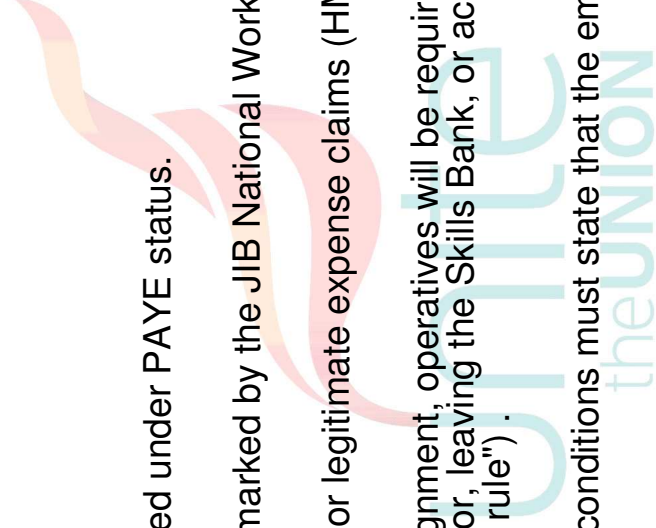


# Why? (Continued)

- Potential for **continuity** of employment and a higher level of **job security**.
- **JIB combined benefits scheme** – offering consistency to workforce, industry standard holidays and benefits.
- Established **Terms and Conditions**.
- **No to cheap labour** and unregulated wage competition - Ensure any migrant workers are compliant with the industry's occupational and grading standards and demands via the ECS owned by JIB and SJIB, with standards of employment reward being consistent for **all** operatives.
- **Workforce planning and utilization** - cost effective vehicle for administering the movement or 'loaning' of labour when surplus labour exists – planning ahead and managing demand to the benefit of all industry stakeholders.

# Conditions of Employment

- All operatives directly employed under PAYE status.
- Terms and Conditions benchmarked by the JIB National Working Rules.
- PAYE arrangements utilised for legitimate expense claims (HMRC '24 month rule').
- After 2 years on a single assignment, operatives will be required to take-up full time PAYE employment with the contractor, leaving the Skills Bank, or accept another assignment elsewhere (HMRC "24 month rule") .
- Under terms of employment, conditions must state that the employee is covered by the JIB benefits scheme.



# For consideration and development by the SkillsBank working party

- Pilot project.
- Not for profit arrangement – with a percentage of surplus to be utilised in funding training and apprenticeships.
- Create website to provide a job board for JIB/ECA member internal vacancies.
- Monitoring of consistency in rates ensuring net bottom line is fair and comparable between skills bank employees and company employees.
- Utilising HMRC dispensations under the national agreement, and HMRC allowable expenses for ‘temporary’ workplaces – ensure consistency between ‘allowances’ and ‘expenses’ to generate comparable bottom lines in net pay.
- Determine the right time to introduce a controlled PAYE vehicle for the industry.



# Summary

- Provision of PAYE workforce.
- Tax and NI compliant.
- All operatives will be included in the JIB Holiday and Benefits Credit Scheme.
- JIB pension scheme will be available for operatives (compulsory from 2012) (Note: under the Agency Workers Directive this will not be obligatory to agencies).
- Severance arrangements – (similar to NAECI provisions, building up redundancy fund from day one *versus* statutory provision after 2 years, and none in the case of agencies).
- Potential for continuity of employment.
- National Working Rule 17 compliance.
- All Operatives will hold a valid ECS card.
- Industry Disciplinary and grievance procedures.
- Organisation of Shop Stewards and Safety Reps and Learning Reps to be integral to the process.
- Development of Training provision - to provide funding for additional training to the benefit of the membership (e.g. BS7671 17<sup>th</sup> Edition, BS 7671 Inspection & Testing, etc).
- Agreed notice period to operative/contractor.
- No placement fee (i.e. operatives identified by the contractor who they wish to employ directly).
- Facility for confidential CRB checks (i.e. for operatives taking up assignments in schools, care homes etc where vulnerable people are present – providing safe, professional and competent craftspeople).

# Issues for consideration by regional meetings

- What is the future for direct employment in electrical contracting if no action is taken to address the growing influence of Agencies?
- Is relying on further legislation from central Government a realistic option?
- What will be the state of the industry be in 10 years time if direct employment is allowed to decline further?
- Do you consider there would be a future for the JIB in an industry where direct employment remains in terminal decline?
- Is the “JIB SkillsBank” a sustainable alternative to combat existing temporary employment measures and taking back the initiative for the development of the industry?
- What would be the positives and the negatives of the “JIB SkillsBank”?

