

## 6. Reminder - Irish Electrical Benevolent Association

In an earlier Newsletter we issued an appeal to all Members to contribute €10 to the Irish Electrical Benevolent Association Fund before the end of 2006.

This could be done in conjunction with an Order or could be sent separately to the ECSSA Office.

To date contributions have been slow, with a mere trickle of Members contributing. While contributions are totally voluntary, nevertheless it is important that Members realise the amount of good work done by the IEBA and the amount of hardship among the dependents of electrical contractors which the Fund has alleviated over the past number of years. Although most of the income of the IEBA comes from the major manufacturers, most of the payouts have been to the members of the contracting industry. We would therefore urge all Members to ensure that a contribution is made before the end of 2006 so that the Electrical Contracting Industry can be seen to play its part in funding a very worthwhile Organisation.

## 7. ETCI Amendment

We have been notified by ETCI of the following Amendment to Clause 514.3.4 (Amendment No.2). The last paragraph beginning *"the following applies to insulator conductor wiring systems .... shall be brown"* and insert the following in its place *"Note: where single phase circuits are fed directly from a 3 phase Distribution Board, the appropriate phase colour may be extended into the single phase circuits fed from that phase. In all other single phase circuits the phase colour shall be brown"*.

## 8. Earthing of Sinks

ETCI have also clarified the situation regarding the earthing of sinks. It is quite common nowadays that neither the sink nor the kitchen are in place when the electrical contractor is testing and certifying the finished installation. Indeed, in some cases, although the sink may be in place, it could well be ceramic, with a granite or other non conducting worktop. In these situations it is sufficient to bring an earth cable from the nearest socket circuit and leave it in a box at the future sink position so that it can be subsequently connected if and when a metal sink is fitted.

## 9. Return of Completion Certs to the Regulatory Bodies

The Pilot Scheme whereby Electrical Contractors in both Counties Kerry and Wexford send their Completion Certs to their Regulatory Body rather than to the local ESB Office has now been operating for over 18 months. It has proved very successful from both ESB and Contractor's point of view.

Initially, it was proposed that this Scheme would be extended nationwide on January 1st 2007, but we now hope to have the introduction date brought forward to either October or November 2006. Full details of the operation of the Scheme and how it will affect contractors will be published in the Autumn Newsletter.

## 10. Safe Pass Courses

Members throughout the country continue to have difficulty finding places on Safe Pass Courses. This is particularly problematic at the moment due to the fact that all those who did the Course, when it was first introduced, are now due to have their Safe Pass Cards renewed.

In addition, the huge influx of overseas workers, none of whom have completed such a Course, is putting additional pressures on the available courses.

We have run a number of Safe Pass Courses in the ECSSA Training Centre but it is very difficult to get dates from the available tutors.

Our Kerry Inspector, Michael Guerin, is currently completing a third level course as the first step of obtaining accreditation from FAS as a Safe Pass Course Tutor. Once he has qualified, we will be in a position to run Courses at dates of our choice and will be able to facilitate our members by providing Courses at times and locations suitable to them.

## 11. Multi Tenant Distribution Boards

ESB Networks have brought to our attention a number of 'near misses' which they have encountered when working on Distribution Boards which contain a number of separate meters for the individual tenants in apartments or commercial units.

What usually happens is that somebody moves into an apartment or shop unit before ESNB have energised the meter covering that particular account.

The electrical contractor 'borrows' electricity from another meter e.g.. the landlord, or another energised unit, to supply the new tenants while waiting for their own meter.

The usual practice is to feed the 'borrowed' power from the live meter to the consumer side of the main switch for the new tenant.

ESB Networks later come along, install a new meter for the new tenant, and make supply live to the incoming side of that consumer's main switch.

The contractor forgets to remove the cable from the landlords supply and when the main switch for the new customer is closed, it can result in a direct short between two different phases at either side of the switch.

This is a total unacceptable practice and it's continuation will almost certainly lead to serious injury, or worse, for somebody working on such a Distribution Board.

There is an onus on the electrical contractor to ensure that no supply exists on the consumer side of the main switch before closing that switch to make supply available.

## 12. Sporting Success

### Liebherr Golf Classic

For many years, ECSSA has sponsored a team in the Golf Classic organised by Liebherr Container Cranes, for the benefit of the Kerry Parents & Friends of the Mentally Handicapped.

Over the years, our various teams have always finished in the top five or six but this year, we are delighted to announce that the ECSSA Team emerged as overall winners of the event on Friday, June 9th.

The team consisted of former Technical Manager of ECSSA, Sean O'Shea, ECSSA's Solicitor, Padraig Burke, the ESB nominated Director on the Board of ECSSA, Gerry Whelan, and Mick O'Connell of ESB Networks, Tralee.

Well done to all concerned.

### Success for ECSSA Sponsored Swimmer

Brilliant young swimming prospect, Niamh O'Sullivan of Killarney, who has been sponsored by ECSSA for the past two years, has achieved further success in the Munster Swimming Championships in May 2006.

Her overall wins in the 200, 400 and 800 metre Freestyle have now raised her international rankings to No. 1 in Ireland and 32nd in the

EU at 200 metres, and 1st in Ireland and 43rd in the EU in the 400 Freestyle.

Niamh, whose ultimate ambition is to represent Ireland at the 2012 London Olympics, is maintaining steady progress on her planned programme to achieve that goal. We wish her well in the years ahead.



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Coolmore House,  
Park Road,  
Killarney,  
Co. Kerry  
Tel 064-37266  
Fax 064-37269  
info@ecssa.ie

www.ecssa.ie

## Important Please Read!

Over the past number of issues we have been attempting to bring various important matters to the attention of our Members. Unfortunately, it appears that a high proportion of those Members simply do not read the Newsletter.

On a daily basis we get calls asking for information on items which have already been fully explained in Newsletters.

Typical of such items is the whole question of EPACE. When EPACE first started to make contact with contractors, we received a number of queries from these contractors who were worried about the aggressive approach and methods employed by EPACE.

We sought the opinion of a leading Senior Counsel. His advice to us confirmed what we already suspected, namely that EPACE is a Private Limited Company, with no statutory powers whatsoever, and no right to demand any information or any access to books or records from any contractor.

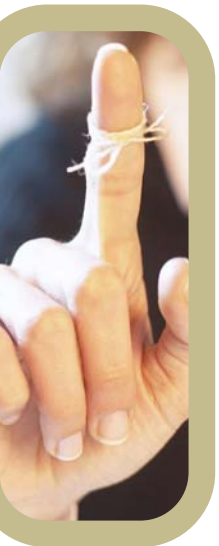
Counsel further advised that if a contractor was contacted by EPACE, he should tell them to go away and not to contact him again and if the harassment continued, he should instruct his Solicitor to write an appropriate letter to prevent further interference.

This message was clearly conveyed in an earlier Newsletter, yet despite this, we constantly have contractors on the phone asking about EPACE, what it is, and what the contractor should do about it. Regrettably, in some cases, they seek the information too late and have already allowed EPACE to examine their books, under the false pretences that they have the authority to do so.

**Can we once again appeal to all our Members to READ our Newsletter, take note of the information given, and retain the Newsletter for further reference if required.**

The primary purpose of a Newsletter is to keep our Members up to date with changes within the industry and matters of importance to their own livelihoods.

The secondary purpose is to avoid having ECSSA staff answering the same questions, on a daily basis, to contractors who simply have not read what has already been set out in print for them.





## Notice to Members

### 1. Annual General Meeting

The Annual General Meeting of ECSSA will take place in the Brehon Hotel, Killarney on Saturday, July 1st at 11am. All Members are welcome.

Once the formal business of the Meeting has been completed, there will be an open forum where any items of interest can be aired and discussed.

### 2. New Director

The Board of ECSSA are delighted to announce that our former Chief Inspector, Jimmy Leahy, has agreed to join the Board of ECSSA.

Jimmy's long experience will be a welcome addition to the Board and his presence will create a direct link between the Directors and the Inspectorate.

His co-option was proposed and unanimously adopted at the Board Meeting on June 6th.

### 3. Insurance

The CER has given a ruling on the minimum levels of insurance indemnity required for Members of the Regulatory Bodies, ECSSA and RECI.

These levels are currently set at €6.35 million for Public and Product Liability and €13 million for Employers Liability.

Both Arachas and AON, the two main Insurers to the Electrical Contracting Industry, have had these levels in place for a number of years.

However, we have recently seen the entry into the market of two other Insurance Companies who are offering cover at a much lower premium. Unfortunately, the level of indemnity on both their policies is €2.6 million for Public and Products Liability and as such, does not meet the minimum requirement for Membership of a Regulatory Body.

Contractors who have submitted such policies have been advised that the level of indemnity must be raised to the minimum CER requirements, and, while both Insurances Companies are prepared to do this, they then demand an extra premium which, when added to the original premium, makes the cost of the contractors insurance significantly higher than it would have been had they gone to AON or Arachas in the first place.

We have written to both of these Insurance Companies, pointing out that policies which do not contain the minimum levels

of indemnity will be rejected but, as yet, we have neither had acknowledgement of our letters nor has there been any change in the manner in which both companies continue to initially issue policies with a €2.6 million level of cover.

If this persists, we will have to consider more serious action such as notifying the appropriate Government Department and the CER.

In the meantime, contractors who are renewing should not be fooled by the offer of lower premiums and should ensure that the policy contains the appropriate levels of indemnity and that the policy specifically indemnifies the CER, ESB, ETCI and the Regulatory Bodies (ECSSA & RECI).

### 4. Change of Business Name

In the normal course of business it is not unusual to find that contractors change the structure and name under which they trade. Contractors who previously traded as Sole Traders may opt to form a Limited Company or get involved in a Partnership with another contractor, or indeed to wind up a Company and continue to operate on smaller scale as a Sole Trader.

There are a wide variety of reasons why people make these changes and they are perfectly entitled to do so.

However, it is important that the change of name and status is reflected in all paperwork associated with the business and that all those with whom the contractor has dealings are aware of the changes. This is vital in the case of insurance in that insurance put in place by a company does not necessarily transfer to a Sole Trader once the Company has been wound up.

It is also important that ECSSA be notified, as Certs sold to the individual or Company need to be recorded under the correct name. Furthermore, the name which appears on our website and on the contractor's membership card will be the last name of which we have been notified but may not be the correct current name under which the contractor is trading. This can lead to errors, delay and frustration when trying to trace the whereabouts of a Cert or to update the contractors insurance.

It is therefore vital that all such changes and all other changes such as new address, change of phone number or other contact details are notified in writing to ECSSA as soon as possible after the change has occurred.

## 5. Private Security Services Act 2004

The Private Security Services Act 2004, which was initiated on Jan 2nd 2001, was signed by the President on May 4th 2004, and comes into force on August 1st 2006.

This Act, which establishes the Private Security Authority (PSA), has far reaching consequences for many electrical contractors.

While much of the content of the Act is devoted to the structure, powers and operation of the PSA and those of the Independent Appeals Board, it does, nevertheless, contain sufficient detail to cause concern to those contractors for whom Security Systems constitutes a significant part of their turnover.

It will be of even greater concern to those contractors whose main income is derived from main stream electrical work but who do, from time to time, install Intruder Alarms and/or CCTV Systems.

Without a license from the PSA it will henceforth be illegal to carry out such work

The question which contractors will have to ask themselves is whether the amount of income generated, or more importantly, the amount of profit accruing from alarm installations, will justify the substantial cost of obtaining and maintaining a PSA license.

Section 33 of the Act provides for the setting up of a Register by the PSA, while the various categories of persons who are required to register are set out in Section 2.

These categories include Door Supervisors, Suppliers and Installers of Security Equipment, Private Investigators, Security Consultants, Security Guards, Providers of Protected Transport, Locksmiths and the Suppliers and Installers of Safes.

The relevant category from an electrical contractor's point of view is obviously "Suppliers and Installers of Security Equipment".

An Installer of Security Equipment is defined in Section 2 of the Act as a person

(a) "who, for remuneration installs, maintains, repairs or services electronic or other devices designed, constructed or adapted to give warning of, or to monitor or record unauthorised entry, or misconduct on, or in the vicinity of, premises" and

(b) "who may in that connection, as necessary, advise on methods of protecting the devices from damage or interference."

The Act would not appear to cover the installation of Electric gates or barriers, nor does it extend to door access systems. A number of worried contractors have called ECSSA, saying that they have been told that the new law prevents them from even buying items such as CCTV equipment and prevents suppliers supplying them unless they are registered with the PSA.

There is nothing in the Act which creates this prohibition and, even if the PSA were to introduce further regulations to that effect, they would be illogical and unenforceable, in that there are many areas where CCTV is used other than for the purpose of monitoring or recording unauthorised entry. Most dairy farmers use CCTV to monitor cows at calving time. The engine room and net drums of virtually every fishing trawler are monitored from the wheelhouse by CCTV, and there are many automated industrial processes which are now remotely monitored, and indeed recorded, by CCTV.

It would therefore be ridiculous to suggest that an electrical contractor, engaged in providing such a service to his customers, should have to register, at considerable expense, with the PSA, in order to obtain supplies of equipment vital to the provision of service to his customers.

Quite apart from the absurdity of such a situation, it would contravene of Section 4 (1)e of the 1991 Competitions Act which lists as anti-competitive practice anything which "makes the conclusion of contracts subject to acceptance by other parties of supplementary obligations which by their nature and by commercial usage have no connection with the subject of such contracts."

In plain English that section of Competition Law should be enough to ensure that that you would not be required to have a license from the PSA in order, for example, to install a camera to watch a cow calving or to alert the skipper of a trawler to the fact that water is pouring into the engine room of his vessel through a faulty valve.

However, one of the weaknesses of the Competitions Authority, is that, while it can take action against a person or firm who acts in an anti competitive manner, it's hands are tied when the anti competitive practice arises from legislation. It reflects badly on our legislators when an Act of the Oireachtas can permit conduct which would normally offend not only against Irish Competition Law, but also against the provisions of the Treaty of Rome.

Breach of various provisions of the Act, attract substantial fines and /or terms of imprisonment. Section 38 is particularly onerous in this regard in that it renders liable to prosecution, any person who employs a person or contractor, who is not licensed by the PSA, to carry out any work which would, according to the provisions of the Act, require a license. On summary conviction such a customer can be

fined up to €3000 or imprisoned for up to twelve months, while conviction on indictment can incur a prison sentence of up to five years.

A growing feature of Irish Legislation is the tendency to create new criminal offences by way of general prohibitions and then give the task of enforcement to a body other than the Government. In the case of the PSA they have a staff of just 12 to monitor and enforce compliance with the entire Act throughout the 26 counties. Additionally, they have set up a facility for informers who wish to spy on their neighbours. One wonders how the minister refrained from extending this piece of jack-boot legislation to criminalising citizens who fail, for example, to inform the PSA that their neighbours have replaced their front door, including the lock, the changing of which also requires a license under this new Act. Section 38 of this Act is a typical example of ill-conceived and poorly drafted legislation. It's enactment and potential consequences must call into question the level of debate, or indeed common sense, which was applied to it's preparation by the politicians and their legal and technical advisors.

In all probability that Section of the Act would not survive a legal challenge on Constitutional grounds, but until somebody goes to the trouble of mounting such a challenge, the provisions of the Act will stand as Law.

The Act does not make it clear if a Licensed Security Installer must carry out the entire installation, or if the alarm cables can be installed by the main electrical contractor on site, as has mainly been the case in the past. This is an area which requires clarification as, if sub contracting is not permitted, the Security Installer, to escape liability under Section 38 will have to be present, or have staff present, for much of the duration of the building period. On a big project such as a hotel or apartment complex, this could prove a costly exercise. Although there may only be a small number of cables to install, somebody needs to be on site to ensure that they are put in before access is closed. In the high speed world of modern construction methods, nobody is going to wait for people who are not on site to install their services at the appropriate time. The additional costs of continuous presence on site will obviously be passed on to the end user.

If, on the other hand, it is permissible for the electrical contractor to install the cables, as a sub contract from the security installer, is it not likely that the electrical contractor will increase his price to compensate for his exclusion from a section of the industry in which he was permitted to trade up to now? Once again any additional cost will be reflected in the final cost to the customer.

Looking at another common scenario in house building leads to further unanswered questions.

What for example is the position of a person who in order to provide for an alarm system which they may fit years later, has cables put into place at the building stage by the electrical contractor carrying out the main wiring of the house?

If that contractor does not have a PSA license, is the homeowner guilty of a criminal offence?

After all, cables running around a house do not constitute a Security System.

Does the offence kick in if the alarm system is installed five years later using these same cables?

What if the house has changed ownership in the meantime? Who is then liable?

One could safely say that the most immediate effect of the new law, and of this increased regulation of the industry, will be yet another Government inspired increase in the cost of houses and commercial property and a further contribution to the already significant growth in inflation. It will undoubtedly reduce the level of competition within the security industry by putting in place substantial financial barriers to entry, thereby excluding many, whose character and competence may be beyond reproach, but whose level of involvement in the provision of security systems could not sustain the inordinate costs involved in obtaining a license.

Furthermore a hefty price increase for the end user generally follows the elimination or reduction of competition in any area of trade or industry and there is no reason to believe that the security alarm industry will be any different.

Already we have had reports of Alarm Companies gloating about the fact that electrical contractors on projects will henceforth have no choice but to employ licensed firms for the entire Intruder Alarm Installation, irrespective of the rates which these licensed Companies choose to charge.

Over the years I have seen the quality of cable installation which some of the specialist Alarm Companies produce and, suffice to say, I have seen more professionally erected clothes' lines!

Is there any reason to suspect that the quality of work will improve when they find themselves in a much less competitive situation?

Finally, one of the weaknesses of the Act would appear to be that, while the registered individual or company must have character clearance from the Gardai, there does not appear to be any requirement for similar clearance for the individuals employed by the registered company to actually carry out the installation. If the security of security systems is to be treated with the seriousness to which this Act aspires, one wonders how it is proposed to eliminate this weak link in the whole scheme of things.