

**JOINT CONCILIATION COMMITTEE OF THE
HEATING, VENTILATING AND DOMESTIC ENGINEERING INDUSTRY**

COMPRISING:

Building Engineering Services Association

114

Unite – the Union

LINCOLN HOUSE,
137-143 HAMMERSMITH ROAD
LONDON W14 0QL

TEL: 020 7313 4900

28 September, 2015

**TO EMPLOYERS AND EMPLOYEES IN THE HEATING, VENTILATING, AIR
CONDITIONING, PIPING AND DOMESTIC ENGINEERING INDUSTRY**

Dear Sir/Madam

**Revision of Appendix 'C' of the BESA Operative National Agreement
– with effect from 28 September 2015**

1. Introduction and Summary

- 1.1 The Association and the Trade Union, as the Parties to the B&ES Operative National Agreement, have recently concluded a review of Appendices 'C' and 'L' of the National Agreement in relation to the terms and conditions of employment applicable to Operatives covered by the Agreement when engaged on certain categories of projects in the engineering construction industry where the National Agreement for the Engineering Construction Industry (NAECI) applies.
- 1.2 The purpose of this letter is to advise you of the agreement reached between the Parties to introduce a new Enabling Agreement into the National Agreement, which will replace the existing provisions at Appendices 'C' and 'L'.
- 1.3 The provisions set out in the new Enabling Agreement allow Employers:
- i to apply the terms and conditions of the NAECI to members of their Operative workforce while working on NAECI sites/projects;
 - ii to re-apply the terms and conditions of the B&ES Operative National Agreement, when the work on the NAECI site/project on which they have been working has concluded; but
 - iii to do so without a formal variation of the individual contracts of employment for such Operatives.

2. Principal Changes

- 2.1 The version of Appendix 'C' on pages 106-110 of the 2014/16 edition of the B&ES National Agreement handbook is deleted.
- 2.2 The version of Appendix 'C' contained in the Appendix to this JCC Letter replaces it.
- 2.3 Appendix 'L' of the National Agreement is deleted.
- 2.4 These changes shall take effect from 28 September 2015.

Signed on behalf of and as authorised by
BUILDING ENGINEERING SERVICES ASSOCIATION
P.D. RIMMER, Head of Employment Affairs and Skills

Signed on behalf of and as authorised by
UNITE - THE UNION
B. McAULAY, National Officer for Building, Construction and Allied Trades

Revision of Appendix 'C' of the BESA Operative National Agreement

**AGREEMENT concerning Terms and Conditions of Employment of Operatives employed under the B&ES National Agreement engaged on Work which is undertaken under the National Agreement for the Engineering Construction Industry (NAECI) and 'registered' with the National Joint Council for the Engineering Construction Industry.
Introduction**

1. There are occasions when B&ES member companies undertake work on certain sites/projects covered by the National Agreement for the Engineering Construction Industry (NAECI).
2. BESA and Unite the Union, as the Parties to the BESA Operative National Agreement, have agreed therefore to include within this Agreement provisions which would enable B&ES member companies with work on NAECI sites/projects to apply the full terms of the NAECI to their BESA workforce while they are working on such sites/projects. The intention of the Parties is that the enabling provisions set out below would allow Employers, subject to proper notice:
 - a to apply the terms and conditions of the NAECI to the members of their Operative workforce while working on NAECI sites/projects,
 - b to re-apply the terms and conditions of the B&ES Operative National Agreement, when the work on the NAECI site/project on which they may have been working has concluded, but
 - c to do so without a formal variation of the individual contracts of employment of such Operatives.

Enabling Agreement

3. The Parties to this Agreement have agreed that, when an Employer using this Agreement as the basis of the individual contracts of employment of its Operative workforce has work which normally falls within the scope of this Agreement but which is to be carried out on a site/project covered by the agreed scope of the NAECI, that Employer shall apply to the members of its Operative workforce the terms and conditions of the NAECI. This requirement will arise in those circumstances where the NAECI is the principal industrial agreement in use on the site/project concerned.
4. When a B&ES Employer applies the terms and conditions of the NAECI to his B&ES workforce in this way, the Employer commits to full application of the terms and conditions, and processes and procedures of the NAECI and any amendments thereto which might be agreed by the National Joint Council for the Engineering Construction Industry.

Conditions for Applying the Enabling Agreement

5. The enabling provisions of paragraph 3 above are subject to the following conditions:
 - a When an Employer activates the enabling provisions set out above, he must ensure that reasonable written notice is given to each Operative concerned. This should set out:
 - i the date from which the NAECI terms and conditions will apply;
 - ii the key changes which might affect each Operative (for example, NAECI grade title, hourly rate, working hours, pension arrangements, liability to undertake shift working and the conditions relating to any incentive bonus arrangements which might apply to the Operative, etc); and
 - iii the likely duration of the application of the NAECI terms.
 - b When an Employer decides to re-apply the terms and conditions of the BESA Operative National Agreement, when the work on the NAECI site/project on which the Operatives concerned have been working has concluded, the Employer will give each Operative due written notice of the date from which the terms of the B&ES Operative National Agreement will be re-applied to them.
 - c BESA Employers shall provide those welfare benefits provided for under the NAECI through Welplan Ltd – in accordance with NAECI 11.3(a).
 - d To ensure harmonisation of terms and conditions of all workers on NAECI sites/projects, while members of their Operative workforce are working on a NAECI site/project and subject to NAECI terms and conditions, BESA Employers shall substitute for their contractual obligations under the BESA Operative National Agreement Clause 19 in respect of participation of the workforce in Welplan Pensions their statutory obligations in respect of auto-enrolment, even though it is recognised that the Employer's Pension Contribution might be less generous to individual Operatives than the terms of the BESA Operative National Agreement and that this may also require an employee contribution from the Operative. This provision shall apply with immediate effect from the first day an Operative is transferred under this Appendix to NAECI terms and conditions. In these cases, Welplan Pensions will continue to act as the vehicle for pension delivery, based on the principles of auto-enrolment ('Set 1').
6. An Operative's continuity of employment is not of itself broken by the fact of an Employer's need to trigger the use of these enabling provisions – whether to apply NAECI terms and conditions where BESA National Agreement terms and conditions have previously applied or whether to re-apply BESA National Agreement terms and conditions where NAECI terms and conditions have previously applied – always provided that there is no

break in continuity of employment under sections 210-219 of the Employment Rights Act 1996.

Guidance Note: Employers seeking to apply this enabling agreement may find it helpful to find out more about their obligations under the NAECI, their liability for payment of the manpower levy raised under the NAECI and the detail of the 'NAECI registration' process by applying to the principal employers' organisation signatory to the NAECI:

Engineering Construction Industry Association
5th Floor Broadway House
Tothill Street
London SW1H 9NS

Tel No: 020 7799 2000
E-mail: ecia@ecia.co.uk
Website: www.ecia.co.uk

or to the:

National Joint Council for the Engineering Construction Industry
Spirella House
266-270 Regent Street
London W1B 3AH

Tel No: 020 7734 0244
E-mail: info@njceci.org.uk
Website: www.njceci.org.uk