

**THE INDUSTRIAL COURT**

**THE TRADE UNION AND LABOUR RELATIONS (NORTHERN IRELAND)  
ORDER 1995 (AS INSERTED BY ARTICLE 3 OF THE EMPLOYMENT  
RELATIONS (NORTHERN IRELAND) ORDER 1999)**

**SCHEDULE 1A – COLLECTIVE BARGAINING: RECOGNITION**

**DECLARATION THAT UNION IS ENTITLED TO BE RECOGNISED**

**The Parties:**

ATGWU

and

J E McCABES LIMITED

**Introduction**

1. The ATGWU (the Union) submitted an application to the Industrial Court (the Court) dated 30 July 2003 that it should be recognised for collective bargaining by J E McCabes Ltd (the Company) in respect of a bargaining unit comprising “All hourly paid/weekly paid employees including warehouse operatives, drivers and helpers operating in and from Carn Distribution Centre, in Card Industrial Estates, Portadown. The bargaining unit does not include supervisory and admin staff or those who fulfil a senior management role”. The Court gave both Parties notice of receipt of the application on 4 August 2003 and invited a response from the Company in regard to the application.
2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the Industrial Court Chairman established a panel to deal with the case. The Panel consisted of Professor Barry Fitzpatrick, Chairman, and, as members Mr Bob Gourley and Ms Caroline Whiteside. The Case Manager appointed to support the Court was Mrs Patricia McIlroy who was replaced by Ms Anne-Marie O’Kane.
3. The Panel appointed to consider the application decided on 14 August 2004 that the application was admissible. The appropriate bargaining unit was determined at a Hearing on 26 January 2004 and 31 March 2004. The Parties were notified of the decision on 9 April 2004.

4. By letter dated 9 April 2004 the Parties were asked to participate in a confidential membership check, the results of which were circulated to the Parties. The membership check showed Union membership within the bargaining unit at 42.8%. The Parties were subsequently informed that a secret ballot would be conducted and invited submissions on the form of ballot and whether an extension to the balloting period was required. The Court also advised the Parties that it would wait until the end of the notification period of ten working days, as specified in paragraph 24(5) of Schedule 1A of the Employment Relations (Northern Ireland) Order 1999, before arranging a secret ballot.
5. The Court, having considered the submissions from the Parties and paragraph 25(6) of the Schedule and having taken into account the industrial relations experience of the Panel, decided that a combination ballot would ensure the highest possible return.
6. The Panel directed that a Qualified Independent Person (QIP) should be appointed to conduct a ballot of all workers in the bargaining unit on the question of whether they wished the Union to conduct collective bargaining on their behalf.

### **The Ballot**

7. Electoral Reform Services was appointed as the Qualified Independent Person (QIP) on 3 June 2004 to conduct the ballot and the Parties were notified accordingly. The workplace element of the ballot was conducted on the Company's premises between 7.30 am & 9.30 am and 3.30 pm & 5.30 pm on 30 June 2004. The postal ballot papers were despatched on 21 June 2004 and the closing date for their return was 3.00 pm on 30 June 2004.
8. The QIP reported to the Industrial Court on 1 July 2004, that out of 40 workers in the bargaining unit, 33 workers (82.5% of the bargaining unit) had voted and there were no blank or spoilt papers. 26 workers (that is 78.8% of those voting) had voted to support the proposal that the Union be recognised for the purposes of collective bargaining with the Company. 7 workers (that is 21.2% of those voting) had voted to reject that proposal. The number of votes supporting the proposal as a percentage of the bargaining unit was 65%.

### **Declaration of Recognition**

9. The Industrial Court informed the Company and the Union on 1 July 2004 of the result of the ballot in accordance with paragraph 29(2) of Schedule 1A to the Order.
10. The ballot establishes that a majority of the workers voting and at least 40% of the workers constituting the bargaining unit support the proposal that the Union be recognised for the purpose of conducting collective

bargaining in respect of the determined bargaining unit. This satisfies the conditions under which the Industrial Court must issue a declaration in favour of recognition in accordance with paragraph 29(3) of Schedule 1A to the Order.

11. The Industrial Court declares that the Union be recognised by the Company as entitled to conduct collective bargaining on behalf of 'All hourly paid/weekly paid employees including warehouse operatives, drivers and helpers operating in and from Carn Distribution Centre, in Carn Industrial Estate, Portadown. The bargaining unit does not include supervisory and admin staff or those who fulfil a senior management role'.

*Barry Fitzpatrick*

Professor Barry Fitzpatrick  
Mr Bob Gourley  
Ms Caroline Whiteside

Date of Decision: 1 July 2004  
Date issued to Parties: 8 July 2004