

Case Ref No: IC-49/2012

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 OF RECOGNITION

The Parties:

Unite the Union

And

Quinn Glass

DECISION

1. Unite the Union submitted an application to the Industrial Court (the Court), received on 8th November 2012, for recognition at Quinn Glass, Derrylin, Co Fermanagh, N Ireland, BT92 9AU. The bargaining unit description was,

“IS Operators, Charge Hands, Line Controllers, Palletise Operators, Warehouse, Resort Teams, DePauls, IS maintenance, Hot End Job Change, Cold End Job Change, Shift-Setters, Control Room Operators, General Maintenance Training, Stores and Quality Control – Not including: Electricians, Gen Engineers, Supervisors, Management Middle/Senior, Temporary and Agency workers”,

and the location was given as *“Derrylin Glass Plant”*.

The Court gave both parties notice of the application on 9th November 2012 and the Employer submitted a response on 20th November 2012.

2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the Industrial Court Acting Chairman established a Panel of the Court to deal with the case. The Court consisted of Mr Barry Fitzpatrick, Chairman, and, as Members, Mr Robin Bell and Mr Neal Willis. The Case Manager appointed to support the Court was Mr Paul Cassidy.

3. By a decision dated 20th December 2012 the Panel accepted the Union’s application. The parties then entered a period of negotiation in an attempt to reach agreement on the appropriate bargaining unit. Following an exchange of e-mails between the parties the Panel was satisfied that the Employer and the Union had reached agreement on an appropriate bargaining unit and that this bargaining unit,

containing 269 workers, was consistent with the description used in the Union's originating letter and application form.

4. Paragraph 22(2) of the Schedule requires the Court to issue a declaration that a Union is recognised as entitled to conduct collective bargaining on behalf of a group of workers constituting the bargaining unit if it is satisfied that a majority of the workers constituting the bargaining unit are members of the Union, unless any of the three qualifying conditions set out in Paragraph 22(4) are fulfilled. If any of these conditions are met, or the Court is not satisfied that a majority of workers in the bargaining unit are members of the Union, the Court must give notice to the parties that it intends to arrange for a secret ballot to be held.

The qualifying conditions in paragraph 22(4) are as follows:-

(a) the Court is satisfied that a ballot should be held in the interests of good industrial relations;

(b) the Court has evidence, which it considers to be credible, from a significant number of the Union members within the bargaining unit that they do not want the Union (or Unions) to conduct collective bargaining on their behalf;

(c) membership evidence is produced which leads the Court to conclude that there are doubts whether a significant number of the Union members within the bargaining unit want the Union (or Unions) to conduct collective bargaining on their behalf.

5. The results of a membership check, carried out on 10th December 2012, showed that the Union had 82 members in the bargaining unit, or 29.18% membership. Therefore, the Panel was satisfied that the Union did not have a majority in the bargaining unit and as per paragraph 23(2) of Schedule 1A the Court gave notice to the parties, on 12th February 2013, that a secret ballot would be held. The parties subsequently entered a notification period of 10 working days, after which the Court would arrange a ballot, unless the parties indicated that they did not wish the Court to do so. Submissions were requested from the parties for their preference on the nature of the ballot and the parties were also asked to confirm, in writing, that they had agreed access arrangements, in line with the Department for Employment and Learning's Code of Practice, for the Union prior to any ballot taking place.

6. Following instruction from the Panel, and with the agreement of the Employer, the Case Manager and the Court's Senior Case Manager, Paul Lyons, visited the Company's premises on 21st February 2013 to view on-site facilities which could allow a possible workplace ballot to take place and provide an opportunity for the Union to meet with employees. The Case Managers were met by Karen Hemphill, Head of Human Resources for Quinn Glass and Noel McGovern, Plant Manager, Derrylin Glass Plant. After the visit the Case Managers were satisfied that a workplace ballot could be facilitated at the training room of Quinn Glass, that the same facilities could be used by the Union to meet with workers and that any workplace ballot should be held on a Thursday and Friday, to accommodate all shift workers.

7. By e-mail, received 26th February 2013, the Union confirmed that it preferred a workplace ballot to take place. In an e-mail received 28th February 2013 the

Employer expressed a preference for a postal ballot, due to the difficulties posed both by the upcoming Easter break and the switchover in shift work patterns in the factory. Both parties also provided information to the Court on access arrangements for the Union. However, at a meeting on 28th February 2013 the Panel noted that whilst the parties had much in common regarding access for the Union in the event of a ballot taking place, it did not amount to a written agreement.

8. The Case Manager issued a letter to both parties on 1st March 2013, setting out the Panel's deliberations on the access arrangements to date, with regard to Paragraph 26 of the Schedule and the Department's Code of Practice. This letter also set a new deadline for agreement by the parties of Monday 4th March 2013. A Case Manager's report was issued to the parties on 5th March 2013, setting out options for the Panel. The parties were invited to comment on the report but none were received.

9. At a meeting on 7th March 2013 the Panel considered the submissions from the parties and determined that a workplace ballot would be held, after the Easter break, with some provision for workers who might be absent on the date of the ballot. The ballot would take place over two days, Thursday 18th April 2013 and Friday 19th April 2013, and at times that would give all shift workers the opportunity to vote. The Case Manager sought quotes from each of the Qualified Independent Persons and the lowest one was selected to conduct the ballot. After seeking information from the parties as to which languages were spoken in the workplace, ballot papers and Industrial Court workplace notices were subsequently translated into Polish, Russian and Lithuanian. The ballot question was, "Do you want Unite the Union to conduct collective bargaining on your behalf?"

10. The outcome of the secret ballot was as follows:

○ No. of workers in the bargaining unit as of 18 th April	266
○ No. of ballot papers distributed by post	3
○ No. of ballot papers returned from workers in the bargaining unit	221
○ No. of ballot papers found to be invalid (blank/spoilt)	1
○ No. voting 'Yes'	177 (80.5% of valid vote)
○ No. voting 'No'	43 (19.5% of valid vote)
No. voting 'Yes' as a percentage of the bargaining unit	66.5%

The Panel met on 22nd April 2013 to consider the result of the ballot. Paragraph 29(3) of Schedule 1A states that,

"If the result is that the Union (or Unions are) supported by-

- a) A majority of the workers voting, and*
 - b) At least 40 per cent of the workers constituting the bargaining unit,*
- the Court must issue a declaration that the Union is (or Unions are) recognized as entitled to conduct collective bargaining on behalf of the bargaining unit.*

Taking into account the result of the secret ballot, which showed that the Union did have the support of a majority of workers voting and also the support of over 40 per

cent of the workers constituting the bargaining unit, the Court **declares** that Unite the Union is recognised as entitled to conduct collective bargaining on behalf of the workers described as

“IS Operators, Charge Hands, Line Controllers, Palletise Operators, Warehouse, Resort Teams, DePauls, IS maintenance, Hot End Job Change, Cold End Job Change, Shift-Setters, Control Room Operators, General Maintenance Training, Stores and Quality Control – Not including: Electricians, Gen Engineers, Supervisors, Management Middle/Senior, Temporary and Agency workers”,

The location of these workers is “*Derrylin Glass Plant*”.

Barry Fitzpatrick

Mr Barry Fitzpatrick
Mr Neal Willis
Mr Robin Bell

20 May 2013