

**Case Ref No: IC-23/2003**

**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**

**DECISION ON WHETHER TO ACCEPT THE APPLICATION**

**The Parties:**

ATGWU

and

J E McCabes Ltd

**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). The Court gave both parties notice of the receipt of the application on 4 August 2003. The Company submitted a response to the Court on 14 August 2003, which was copied to the Union.
2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the IC Chairman established a Panel of the Court to deal with the case. The Court 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.

**Issues**

3. The Court is required by the Trade Union and Labour Relations (Northern Ireland) Order 1995 to decide whether the Union's application to the IC is valid within the terms of: Schedule 1A, Article 3, paragraph 5 – 8; is made in accordance with paragraphs 11 or 12; and is admissible within the terms of paragraph 33 to 42 of Schedule 1A to the Order, and is therefore to be accepted.
4. The Court has considered all the documentation relating to the tests and is satisfied that the Union's application meets all the statutory criteria.

## Considerations

5. The Union provided evidence that it had 14 union members within the proposed bargaining unit of 38 workers. Evidence was also submitted in the form of a petition signed by 36 members of the proposed bargaining unit inclusive of Union members. The wording of the petition being "We the undersigned would wish to join the Amalgamated Transport and General Workers Union if a voluntary agreement has been reached between J E McCabe Ltd and the AT&GWU to negotiate on matters of pay, hours and holidays on our behalf or the Industrial Court awards recognition to the Amalgamated Transport and General Workers Union for same".
6. The Company submitted that there was no way of concluding that the Union's claimed membership actually fell within the proposed bargaining unit and that the Union have failed to provide adequate evidence to satisfy Paragraph 36(b) of the Schedule in relation to majority likely to support. The Court did consider if a membership check would be advisable. However, given the evidence before it, the Court is satisfied that the application should be accepted.

## Decision

7. For the reasons given above, the Industrial Court is satisfied that:
  - a) members of the union constitute at least 10% of the workers constituting the proposed bargaining unit;
  - b) a majority of workers constituting the proposed bargaining unit would be likely to favour recognition of the union as entitled to conduct collective bargaining on behalf of the bargaining unit; and
  - c) having considered the submissions made by the Parties, the application meets the remaining statutory admissibility and validity criteria.

The Industrial Court's decision is therefore that the application is accepted.

*Barry Fitzpatrick*

Professor Barry Fitzpatrick  
Mr Bob Gourley  
Ms Caroline Whiteside

Decision Date: 14 August 2003  
Date Issued to Parties: 26 August 2003