

**CENTRAL ARBITRATION COMMITTEE**  
**TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992**  
**SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION**  
**DECLARATION OF RECOGNITION**

**The Parties:**

RMT

and

Swietelsky Construction Company Ltd

**Introduction**

1. The RMT (the Union) submitted an application to the CAC dated 18 September 2017 that it should be recognised for collective bargaining by Swietelsky Construction Company Ltd (the Employer) for a bargaining unit comprising the "All Rail Maintenance Grades; including Supervisors; On Track Machine Operators, Maintainers, Drivers, Fitters: Kirow Operators, Maintainers, Fitters; and Day Shift Technicians; excluding Management and Clerical grades, employed by Swietelsky Construction Company Ltd nationally". The CAC gave both parties notice of receipt of the application on 19 September 2017. The Employer submitted a response to the CAC dated 25 September 2017 which was copied to the Union.
2. In accordance with section 263 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act), the CAC Chairman established a Panel to deal with the case. The Panel consisted of Professor Lynette Harris, Chairman of the Panel, and, as Members, Mr Bill Lockie and Mr Paul Talbot. The Case Manager appointed to support the Panel was Nigel Cookson.
3. By a decision dated 17 October 2017 the Panel accepted the Union's application. Although the parties had not reached agreement as to the appropriate bargaining unit prior to

the application being lodged with the CAC the Employer, in its response to the application dated 25 September 2017, had stated that it now agreed the composition of the bargaining unit and so the Panel moved immediately to the question as to whether or not a secret ballot should be held.

4. On 17 October 2017 the Panel, not being satisfied that a majority of the workers constituting the agreed bargaining unit were members of the Union, gave notice in accordance with paragraph 23(2) of Schedule A1 to the Act (the "Schedule"), that it intended to arrange for the holding of a secret ballot and the parties were asked for their views on the form the ballot should take. The Panel 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) and 24(6), before arranging a secret ballot. The parties were also asked for their views on the form the ballot should take.

5. The notification period under paragraph 24(5) and 24(6) of the Schedule ended on 30 October 2017. The CAC was not notified by the Union or by both parties jointly that they did not want the ballot to be held, as per paragraph 24(2).

6. As the parties disagreed as to the form that the ballot should take the Panel, in a decision dated 31 October 2017, determined that the ballot would be a postal ballot and the parties were duly notified in accordance with paragraph 25(4) of the Schedule. The parties were then able to reach agreement as to access during the balloting period and the CAC was notified accordingly.

7. The CAC was not informed by the Union or both parties jointly prior to the end of the notification period under paragraph 24(5) of the Schedule that they did not want the ballot to be held, as envisaged by paragraph 24(2).

### **The Ballot**

8. Electoral Reform Services was appointed as QIP on 10 November 2017 to conduct the ballot and the parties were notified accordingly. The postal ballot papers were despatched on 27 November 2017 to be returned by no later than noon on 8 December 2017, the day that the ballot closed.

9. The QIP reported to the CAC on 12 December 2017 that out of 46 workers eligible to vote, 41 ballot papers had been returned: no ballot papers were found to be spoilt. Thirty-one (31) workers, that is 75.6% of those voting, had voted to support the proposal that the Union be recognised for the purposes of collective bargaining with the Employer. Ten (10) workers, that is 24.4% of those voting, voted to reject the proposal. The number of votes supporting the proposal as a percentage of the bargaining unit was 67.4%.

10. The CAC informed the Employer and the Union on 12 December 2017 of the result of the ballot in accordance with paragraph 29(2) of the Schedule.

### **Declaration of Recognition**

11. 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 should be recognised by the Employer for the purpose of conducting collective bargaining in respect of the bargaining unit. This satisfies the conditions under which the CAC must issue a declaration in favour of recognition in accordance with paragraph 29(3) of the Schedule.

12. The CAC declares that the Union is recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit comprising the "All Rail Maintenance Grades; including Supervisors; On Track Machine Operators, Maintainers, Drivers, Fitters: Kirow Operators, Maintainers, Fitters; and Day Shift Technicians; excluding Management and Clerical grades, employed by Swietelsky Construction Company Ltd nationally".

### **Panel**

Professor Lynette Harris, Chairman of the Panel

Mr Bill Lockie

Mr Paul Talbot

14 December 2017