

**CENTRAL ARBITRATION COMMITTEE**  
**TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992**  
**SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION**  
**DECLARATION OF RECOGNITION WITHOUT A BALLOT**

**The Parties:**

Prospect  
and  
Babcock Mission Critical Services – Offshore Ltd

**Introduction**

1. Prospect (the Union) submitted an application to the CAC dated 1 March 2018 that it should be recognised for collective bargaining by Babcock Mission Critical Services - Offshore Ltd (the Employer) in respect of a bargaining unit comprising “all staff working for Babcock Mission Services – Offshore at all operational locations and undertaking the role of Pilot at any grade or Search and Rescue flight crew at any grade”. The application was received by the CAC on 6 March 2018 and the CAC gave both parties notice of receipt of the application on the same day. The Employer submitted a response to the CAC on 16 March 2018 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 Mr Rohan Pirani, Chair of the Panel, and, as Members, Mr Alistair Paton and Mr Paul Gates OBE. The Case Manager appointed to support the Panel was Linda Lehan.

3. By its written decision dated 11 April 2018 the Panel accepted the Union’s application. Following this decision the parties were unable to reach agreement as to the appropriate

bargaining unit. Both parties were invited to supply the Panel with, and to exchange, written submissions relating to the question of the determination of the appropriate bargaining unit for a hearing held on 25 May 2018. In a decision dated 11 June 2018 the Panel decided that the appropriate bargaining unit was that proposed by the Union in its application. For the purposes of that decision, Mr. Rob Lummis deputised for Mr Alistair Paton and Mr Keith Sonnet for Mr. Paul Gates OBE.

## **Issues**

4. Paragraph 22 of Schedule A1 to the Act (the Schedule) provides that if the CAC is satisfied that a majority of the workers constituting the bargaining unit are members of the union, it must issue a declaration of recognition under paragraph 22(2) unless any of the three qualifying conditions specified in paragraph 22(4) applies. Paragraph 22(3) requires the CAC to hold a ballot even where it has found that a majority of workers constituting the bargaining unit are members of the union if any of these qualifying conditions is fulfilled. The three qualifying conditions are:

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

(b) the CAC 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 CAC 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. Paragraph 22(5) states that “membership evidence” is (a) evidence about the circumstances in which union members became members, or (b) evidence about the length of time for which union members have been members, in a case where the CAC is satisfied that such evidence should be taken into account.

### **The Union's claim of majority membership**

5. By a letter dated 11 June 2018 the Union was asked by the CAC whether it claimed majority membership within the bargaining unit and, if so, whether it submitted that it should be recognised without a ballot. In their reply dated 13 June 2018 the Union stated that it believed their membership was now above 70% and had risen consistently throughout the CAC process. The Union also offered to provide further membership information if required on the same basis they had at the membership check stage. According to the Union, the vast majority of members had joined during their campaign for recognition amongst the engineering staff. It was therefore submitted it was reasonable to conclude that members would have joined for the express purpose of seeking collective bargaining.

### **The views of the Employer**

6. No comments were received from the Employer.

### **Considerations**

7. As set out in paragraph 4 above, the Act requires the Panel to consider whether it is satisfied that the majority of the workers constituting the bargaining unit are members of the Union. If the Panel is satisfied that the majority of the workers constituting the bargaining unit are members of the Union, it must then decide if any of the three conditions in paragraph 22(4) is fulfilled. If the Panel considers that any of them is fulfilled it must give notice to the parties that it intends to arrange for the holding of a secret ballot.

8. A membership check carried out by the Case Manager for the purposes of the Panel's decision on acceptance, the result of which was reported to the Panel and the parties on 27 March 2018, showed that 97 of the 142 workers in the bargaining unit were members of the Union, a membership level of 68.31%. In the absence of any evidence to the contrary, the Panel is satisfied that the majority of the workers in the bargaining unit are members of the Union.

### ***Paragraph 22(4) (a)***

9. The first condition is that the Panel is satisfied that a ballot should be held in the interests of good industrial relations. In this case neither party has submitted evidence that holding a secret ballot would be in the interests of good industrial relations. The Panel is therefore satisfied that this condition does not apply.

***Paragraph 22(4) (b)***

10. The second condition is that the CAC 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 to conduct collective bargaining on their behalf. The CAC has no such evidence and this condition does not apply.

***Paragraph 22(4) (c)***

11. The third condition is that membership evidence is produced which leads the CAC to conclude that there are doubts whether a significant number of the union members within the bargaining unit want the union to conduct collective bargaining on their behalf. No such evidence has been produced, and this condition does not apply.

**Declaration of recognition**

12. The Panel is satisfied in accordance with paragraph 22(1)(b) of the Schedule that the majority of the workers constituting the bargaining unit are members of the Union. The Panel is satisfied that none of the conditions in paragraph 22(4) of the Schedule are met. Pursuant to paragraph 22(2) of the Schedule, the CAC must issue a declaration that the Union is recognised as entitled to conduct collective bargaining on behalf of the workers constituting the bargaining unit. The CAC accordingly declares that the Union is recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit comprising “all staff working for Babcock Mission Services – Offshore at all operational locations and undertaking the role of Pilot at any grade or Search and Rescue flight crew at any grade”.

**Panel**

Mr Rohan Pirani, Chair of the Panel

Mr Alistair Paton  
Mr Paul Gates OBE

19 June 2018