



National Electrical Contractors Ireland
Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

The Secretary
The Labour Court
Lansdowne House,
Lansdowne Road,
Ballsbridge,
Dublin 4.

26th June 2017

By Hand

**OUTLINE WRITTEN SUBMISSION TO THE LABOUR COURT IN RELATION TO
THE INTENDED EXAMINATION INTO TERMS AND CONDITIONS OF ELECTRICIANS AND THEIR
APPRENTICES EMPLOYED IN THE ELECTRICAL CONTRACTING INDUSTRY**

INTRODUCTION

1. The following submission is made without prejudice to the fact that the NECI contends that for the reasons set out in the correspondence of its solicitors dated 6th June 2017, 14th September 2016 and 6th September 2016 with the Labour Court in relation to the TEEU's application to have the terms and conditions of employment in the "Electrical Contracting Sector" examined, the required statutory provisions have not been complied with by the Labour Court or at least have not been demonstrated to have been complied with. We refer in particular to the mandatory requirements at section 15(1) of the Industrial Relations (Amendment) Act 2015. The NECI therefore reserves all of its rights in that regard and does not consent to any derogation from those strict requirements.
2. It is extremely important that the legislative steps are complied with at all stages of this exercise. They are important protections which have been introduced by the Oireachtas following the striking down of part III of the Industrial Relations Act of 1946 because it was found to be unconstitutional. In an effort to understand and respond to the application before the Labour Court, the NECI has already requested that the Labour Court confirm to whom the economic sector at issue in this application relates. Regrettably the Labour Court has referred instead to the TEEU's application rather than furnish the information. We have also requested that the Labour Court confirm how has it determined that the TEEU is substantially representative of the sector. The statute requires that this be ascertained before the Labour Court commences this examination. Furthermore, we have asked the Labour Court for a definition of the term "substantially representative" relied on by the Labour Court pursuant to section 15(1) of the Act



National Electrical Contractors Ireland
Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

of 2015. The Labour Court is compelled to have established that before undertaking this examination. We still require that information and submit that it must be provided before the

examination is commenced. The legislation clearly states that the Labour Court shall not undertake the examination it now says it is undertaking unless it is satisfied that the TEEU is substantially representative of the workers of in the electrical contracting sector. In doing so, the Labour Court shall take into consideration the number of workers in that class, type or group represented by the TEEU. This is central to the issue. The statute requires the Labour Court to determine whether the TEEU is substantially representative of workers in the sector and in making that determination must take into consideration the numbers in the TEEU. When was that done? Who undertook this research? Where are the figures? The NECI made a submission (see attached) in 2016 when the TEEU made an almost identical application. Were the figures provided by the NECI in that submission considered by the Labour Court? The NECI submits that these issues must be clarified before any examination commences. Those are not issues for the examination. They are decisions which must be taken by the Labour Court – and considered by the parties, including the NECI – before any examination is undertaken. There may be grounds for challenging the findings made by the Labour Court. We simply do not know the basis on which the Labour Court asserts that it is entitled to commence an examination. That is a breach of our members rights.

3. Furthermore, according to section 15(1) of the Act of 2015, the Labour Court shall not undertake an examination such as this unless it is satisfied that it is normal and desirable practice, or that it is expedient, to have separate terms and conditions relating to remuneration, sick pay schemes or pension schemes in respect of workers of the particular class, type or group in the electrical contracting sector. Has the Labour Court been so satisfied and how was it satisfied? When was that exercise conducted? By whom was it done? What was the conclusion and what is it based on? What evidence and/or submissions were considered in relation to determining whether the Labour Court was satisfied in that regard. NECI members are concerned that either this has not been done or that it has not been done in a fair and transparent manner. Who had an input into the investigations required by 15(1)a-d of the Act? Are there any documents or records? If not, why not? If there are such documents or records, the NECI requires sight of them before this examination commences. Was there a ballot of the TEEU members? These are preliminary steps to be taken by the Labour Court which are mandated by the legislation before the Labour Court conducts the examination it has given notice¹ of. The NECI requires to

¹ The NECI argued in its submission dated 14 September 2016 that the Labour Court's reliance on legal notices of the *Irish Times*, *Irish Independent* and the *Irish Examiner* (on that occasion the advertisements were published on 5 August 2016 and on the WRC's website) was inadequate. We stated that if the requirement was to make electrical contractors aware of the Labour Court's intention to undertake an examination of the sector under the Act, it would have been better to place those adverts in tabloid



National Electrical Contractors Ireland
Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

be satisfied that the steps were complied with by the Labour Court. With respect, mere assertions that the Labour Court has done so do not suffice given the gravity of the consequences. These are important protections included in the legislation. Please provide evidence of compliance so that the NECI can consider the Labour Court's methodology and conclusions which it says enabled it to give notice of its intention to conduct an examination.

4. As well as being mandatory steps to be undertaken by the Labour Court in advance of conducting an investigation, the power given to the Labour Court in that section in particular appears very far reaching and there appears to be no oversight retained in relation to that aspect of the process. This makes it all the more important that the Labour Court conducts the steps in a public and transparent and fair manner. The NECI reserves its position in relation to whether section 15 of the 2015 Act constitutes a breach of Article 15.2.1 of the Constitution due to the level of delegation and in view of the absence of guidelines in the Act in relation to how the Labour Court is to "satisfy" itself in relation to the issues raised in section 15(1). It again exposes individuals and firms to the risk of having their constitutional and European rights traversed due to a failure to consider the interests of those who oppose (or indeed were unaware of) the introduction of a sectoral employment order (or registered employment agreement) although they would be bound by it. There is no guidance or instruction in the Act as to how the matters of representativity, what is normal and desirable practice, or expedient, to have separate terms and conditions relating to remuneration, sick pay schemes or pension schemes in respect of workers of the particular class, type or group in the electrical contracting sector.
5. The NECI also submits that any terms and conditions which are purportedly imposed on its members (and arguably their employees) through any sectoral employment agreement or other arrangement which might be put in place would be a breach of the constitutional rights of its members and an interference with their right to contract with employees in accordance with existing employment legislation, including but not limited to the National Minimum Wage Act.

newspapers or to notify the employer organisations directly. We also suggested that the Labour Court use the free and widely distributed trade magazine electric.ie and pointed out that all contractors are required to be members of Safe Electric, who have an industry wide data base and a website which is read by all electrical contractors. We were disappointed that the Labour Court used none of these methods of notification this time around and did not notify the NECI directly but relied again on the broadsheets referred to above and on its own website. We would have expected that as we made a submission in the last TEEU application and raised the issue of the adequacy of the notification that we would have been notified of this application. We were not; it came to our members' attention by happenstance. That is too great a risk for our members given the sector wide application of any SEO that the Labour Court might recommend. We would again urge the Labour Court to notify the NECI and other employer bodies directly or any such matters.



National Electrical Contractors Ireland

Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

Lest there be any doubt, the NECI is not advocating for a rate of pay for electricians in line with the national minimum wage but rather is arguing against a minimum wage specifically for

electricians which would be many multiples of the national minimum wage and which would be mandatory within the so-called “electrical contracting industry” given the fact that “one size” does not fit all; there are many different sizes of firms within what is called the electrical contracting industry and what is financially viable for the largest or indeed the medium sized firms who employ electricians would be unsustainable for the smaller contractor.

6. If there is to be such an examination (and it seems premature given that it is not at all clear how the requirements of section 15 of the Industrial Relations (Amendment) Act 2015 have been met, a submission which we also made in September 2016), the NECI requests that an oral hearing be convened prior to any decision being taken². It strongly recommends that that oral hearing be publicly announced other than in a one-off advertisement in a national newspaper (for the reasons set out in footnote 1 above).
7. The NECI reserves the right to make further submissions both in writing and orally. There has been a dearth of information in relation to both the proposal by the TEEU and in relation to the manner in which it is proposed to determine what is meant, for example, by “substantially representative” of the industry. In particular, the information provided by the TEEU in what is said to be a statutory declaration is inadequate and regrettably unreliable as will be explained further below.
8. In addition, the NECI makes the following points regarding the proposed examination:
 - i. Accurately establishing the number of electricians and electrical contractors in the State is important in order to establish who the TEEU, the ECA and AEI are actually representative of. It appears from the legislation that the representivity issue must be decided before an examination is even conducted. We are at a loss to understand how that was said to have been done and require an opportunity to examine the decision taken. In this case because the request was made by the TEEU only, it appears that the Labour Court must have examined whether the TEEU is substantially representative of the workers of the particular class, type or group in the economic sector in respect of which the request is expressed to apply, and in satisfying itself in that regard, the Labour Court shall take into consideration the number of workers in that class, type or group represented by the trade union of workers. This is very important as if the economic sector includes non-TEEU members, and

² Pursuant to section 17 of the 2015 Act, the decision to make a sectoral employment order would have to be put before the Oireachtas by the Minister but the recommendation of the Labour Court would presumably carry significant weight and it is at this point that individual views can be aired.



National Electrical Contractors Ireland
Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

we say that it does, it is crucial that the representitivity of the TEEU is established in relation to electricians in the whole of the sector.

- ii. The representative capacity of the employer bodies is also relevant to any decision to conduct and examination and to any recommendation to be provided to the Minister. All electrical contractors are legally required to be registered with a Safety Supervisory Body (SSB). There is currently only one SSB which is operated by RECI under the Safe Electric brand. The membership of this SSB is in excess of 4,000 contractors. The current combined membership of the trade associations ECA and AECl named as employer parties by the TEEU on their application which prompted this examination is approximately 300. Therefore the employers referred to by the TEEU cannot substantially representative of the sector. It would be unacceptable that 3,700 contractors who are not to be members of ECA and AECl would be bound by terms and conditions which the TEEU and the ECA and/or AECl wished to agree amongst themselves.
- iii. The 3,700 contractors who do not support the request made by the TEEU and are opposed to a SEO or REA (and we do not as yet know if the ECA or AECl support the TEEU request and/or wish to impose an SEO or REA) must be afforded an opportunity to influence whether terms and conditions apply across the board in their industry and to their businesses or be excluded from any such agreement/SEO.
- iv. The TEEU has filed two statutory declarations which constitute sworn evidence. It claimed in the statutory declaration filed in 2016 in relation the first application³:

“At the height of the Industrial Boom (26th February 2009) the Labour Court conducted an investigation (the outcome of which was published in Determination No. REP091) to establish the number of Electricians employed in the section.

The Court established a figure of 12,000 Electricians within the sector.”

The most recent declaration by Mr Kavanagh, also refers to the Labour Court having “established” that there were 12,000 electricians within the sector. That declaration is not correct in a number of respects: the Labour Court did not conduct any investigation to establish the number of electricians. The determination (REP091) referred to was a combined decision in response to the application to vary and cancel the REA and was not an examination of the number of electricians. It stated that it accepted the TEEU’s witness’

³ Statutory Declaration of Paddy Kavanagh, General Secretary dated 24 March 2017. See also Statutory Declaration of Brian Nolan TEEU official dated 15 June 2016 attached.



National Electrical Contractors Ireland
Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

figure of 12,000 electricians. The NECI and non-aligned contractors did not accept that figure. The Labour Court determination stated:

"16.1 There is also an absence of reliable evidence concerning the number of electricians employed in the industry. Mr Wills told the Court that TEEU represents upwards of 10,000 electricians within the sector. He estimates that the total number of electricians in electrical contracting to be of the order of 12,000."

...
"16.6 While the matter is by no means certain the Court is inclined to accept that the figure of 12,000 electricians in the sector given by Mr Wills, while probably conservative, is nearer the reality. In that regard it is noted that all parties accept that TEEU is representative of electricians within the sector."

The TEEU is therefore now attempting to present the figure of 12,000 as though it were objectively verified and/or from an authoritative source when it was not. The figure of 12,000 electricians is an unsubstantiated figure produced by the TEEU to the Labour Court in 2008/9 and has never been enquired into.

In support of the application for an examination of the terms and conditions, the TEEU has also cited a figure of 11,675 electricians⁴ and Mr Devoy deposed in June 2016 that his means of knowledge in relation to that figure was based on the combined number made up of current membership of the TEEU (said to be 8,528) and "past members". With respect, "past members" are not represented by the TEEU and cannot be used to gauge the number of electricians to be governed by an agreement to which they are not party and about which they have not been consulted. (Past members could be deceased, have emigrated or left the sector entirely.) Mr Kavanagh does not explain the 11,675 figure but relies on it. However, he refers to DKM consultants' having released reports in 2011 and 2016. The reports have not been furnished, nor is it explained by whom they were commissioned.

- v. The TEEU appears to wish to reduce the figure for the number of electricians in the State. For example, in February 2009 (when Mr Devoy said that there were 12,000 electricians) the State was not *"the height of the Industrial Boom"*. The State was at that time experiencing what was described as the worst recession since the World War II and indeed the Labour Court stated in the determination on which the TEEU relies:

*"The fact that Ireland is experiencing a deep economic recession is clear beyond argument."*⁵

⁴ Para. e of Statutory Declaration of Eamon Devoy, General Secretary of the TEEU dated 5 April 2016.

⁵ Para. 26.1 of the Labour Court determination REP091 dated 26 February 2009.



National Electrical Contractors Ireland

Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

- vi. It is the NECI's opinion that there are currently approximately 21,500 electricians employed in the sector, the sector being a very diverse one. It is our opinion that the TEEU is made up mainly of electricians who are employed by the ECA and AECl. We estimate that there are at most 4,000 employees of the ECA and AECl who are members of the TEEU. The TEEU is therefore not substantially representative of electricians/employees in the sector (even if it had 8,616 members and those members had been balloted in relation to the proposed SEO). It would be unacceptable that 17,500 electricians/employees in the sector who are not represented by the TEEU would have no input into the terms and conditions of their employment or would be deemed to be included in the group purportedly represented by the TEEU.
- vii. The NECI figures are substantiated by the CSO. While the figures for the 2016 Census will not be available until December 2017, the CSO website contains the following the data in relation to 2011 (at which time the recession was still ongoing):

**Population Aged 15 Years and Over by Principal Economic status,
Employment Status, Unemployment rate by Detailed Occupational Group,
Statistical Indicator and Census Year**

2011

Electricians and electrical maintenance fitters	
Total in labour force (Number)	20,359
At work - employer or own account worker (Number)	4,412
At work - employee (Number)	10,185
At work - assisting relative (Number)	9
Unemployed, having lost or given up previous job (Number)	5,753
Unemployment rate (Rate)	28.3

**Population Aged 15 Years and Over by Principal Economic status,
Employment Status, Unemployment rate by Detailed Occupational Group,
Statistical Indicator and Census Year**

2011

Electrical trades workers	
Total in labour force (Number)	33,059
At work - employer or own account worker (Number)	6,168
At work - employee (Number)	19,567
At work - assisting relative (Number)	20



National Electrical Contractors Ireland
Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

Unemployed, having lost or given up previous job (Number)	7,304
Unemployment rate (Rate)	22.1

- viii. The NECI is concerned that a type of cartel operates in the industry. It is being promoted as workers' rights but it acts as a bar to employment by our members.
- ix. In relation to the appendices furnished by the TEEU (and referred to by the Labour Court in response to our queries):
- There is no flexibility with the 3 house rule in developments. This impacts on the employees of small contractors who will go from one house to a scheme of possible 19 at a time. Are the terms to change as the job changes?
 - Who will police this method of selection? WRC?
 - How will they determine whether a site is low density?
 - There is no mention of the one-off small commercial unit.
 - What is the definition of a domiciled unit?
 - How does the small/medium contractor with 4-20 employees complete his employment contracts to cover all the definitions of a SEO especially if they do predominately one-off houses and then get a commercial unit or a small industrial unit or a low density new housing developments of 3 units or more?
 - The definition of the work carried out covers telephone installers, alarm installers, cctv installers, computer installers, smart home installers – are they to be included?
 - The definition includes cutting away of walls, floors, and ceilings etc. – there are contractors out there who specialise in this area who are not electrical contractors – are they included? If not, will they not then have an unfair advantage as above?
- x. There has been no legally binding agreement in the sector since the legislation providing for the previous REA was deemed unconstitutional in May 2013. Despite the TEEU referring to a current "national agreement" the current arrangement can at best be described as a "gentlemen's agreement". This situation has caused no difficulties to the majority of employers and employees. Our members have engaged in one to one agreements with their own employees and negotiated mutual agreeable terms and conditions which suit the particular requirements of each unique business.
- xi. While we are all described as "electrical contractors", we submit that the sector is so diverse that it is impossible to impose a set of terms and conditions across the industry which will allow all contractors to remain competitive. Our members are in the main small contractors who compete with one another and with one-man operators for small domestic and commercial contracts. Our members do not ordinarily compete with the members of ECA and AECl and clearly those trade organisations wish to ensure that if we did so compete that we would have to



National Electrical Contractors Ireland

Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

pay the same rate of pay to our electricians notwithstanding our margins are much tighter. To impose even the wage rates of the previous REA would price our members out of the market (as occurred with the previous REA when it began to be policed). By way of example, a contractor with one employee is competing with a one-man operator who does not have employees and who is therefore not restricted by any such agreement.

- xii. The diversity in the sector includes the end user – the customer – of our members' services. A domestic customer cannot be expected to absorb the same call out rate as the biggest employers in the country. The consumer will suffer if an SEO (or REA) is imposed on all contractors regardless of their size and nature of their business.
- xiii. Were a national agreement (SEO or REA) controlling labour costs applied across an industry as diverse as the electrical contracting sector it would be with respect a cartel, and would be anti-competitive. The ECA and AECl are not exempted bodies; they are trade associations. Whereas the TEEU is a trade union, any agreement by the ECA or the AECl which purported to limit competition between firms by controlling labour costs would be anti-competitive. Such an anti-competitive agreement would fall foul of competition legislation, particularly where as in this instance there is no benefit to the consumer. Indeed the consumer, particularly the domestic consumer, is hit by the artificially raised wage levels of such agreements. The Competition Authority has said that it has encountered, in the course of its enforcement activities, situations where trade associations have coordinated, or have been used as a vehicle by which to coordinate, the activities of member firms, with the consequence that competition between these firms is restricted. The situation would be even worse if an SEO (sectoral employment order) were to be put in place because it would restrict competition between firms who are not even members of the trade associations who agreed its terms. In the Competition Authority's guidance "Notice on Activities of Trade Associations and Compliance with Competition Law" it is made clear that *"the Competition Act 2002 ("the Act") contains two principal provisions that constrain the activities of trade associations and their members: section 4 of the Act prohibits anticompetitive coordinated conduct, whether occurring as a result of explicit agreement or indirect collusion between firms or other undertakings or through a group such as a trade association, while section 5 prohibits anticompetitive unilateral conduct by an undertaking which holds a dominant market position. The Authority's notice focuses on the prohibition of anticompetitive coordination."* It goes on to state (para.2.2) that *"[w]ere a coordinated activity has an appreciable effect on trade between Member States of the European Union, Article 81 of the EC Treaty ("Article 81") may also apply. This provision, upon which section 4 of the Act is based, prohibits anticompetitive coordinated conduct between undertakings, or an association of undertakings, which affects trade in the Common Market."*
- xiv. Electricians are not all of equal ability. We believe that the competent experienced employees should command higher wages than inexperienced employees. To impose global pay rates has a twofold negative effect:



National Electrical Contractors Ireland
Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

(a) The competent experienced employees become disillusioned because they see the less experienced employees earning the same wages.

(b) The less competent and less experienced employees have no incentive to improve and to learn new skills as under the type of agreement advocated by the TEEU length of service determines the rate of pay.

- xv. It is our experience that the larger contractors who are members of ECA and AECl use subcontract labour many of who are from outside the State. It is impossible to impose any national wage agreements on parties who operate their payroll outside the State. It is also our view that the ECA members use subcontracting in order to avoid the terms and conditions which they have agreed in the first place with the TEEU.
- xvi. The sectoral employment order shall be binding on all workers and employers in the economic sector concerned and reverse the current status in the whole Electrical Contracting Sector which has had the ability to be flexible and adjust to the market trends since the Supreme Court ruling in May 2013.
- xvii. The Electrical Engineering sector for the Class, type or group of workers relates Electricians and their apprentices employed in the Electrical Contracting Industry as referred to in the TEEU request for an examination is all-inclusive but non-specific in a wide ranging and very diverse Industry.
- xviii. It is ironic that the SEO will not apply to a new-build one-off houses which the electrical installation could be valued at €100k while a low density new housing developments of 3 units or more (totality of project) will be included where it could be an affordable scheme of 20 houses with the total electrical installation valued at €70k. Is this proposal for the benefit of the electrical contracting or construction industry?
- xix. Only a registered electrical contractor can carry out restricted electrical works in a domestic setting. Most electrical works in domestic, commercial and industrial environments are covered under the scope of Controlled Electrical Works; these works are defined as electrical works that should be certified if carried out by a REC. Individuals who are not registered who carry out electrical work which falls under the scope of Controlled Electrical Works are not required to certify that work.
- xx. Existing lines of demarcation in the Industry: in tendering for jobs the industry has pre-qualification criteria that excludes the small and medium contractor from the tendering process.



National Electrical Contractors Ireland
Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

- xxi. The Construction Contracts Act 2013: the Act will exclude construction contracts with a value below €10,000, between a State Authority and its partner in a PPP arrangement, relating to a residential dwelling with a floor area not greater than 200 sqm and where one of the parties will occupy the property as their residence.
- xxii. As we know the Industry is not a one size fits all and has many different aspects such as electrical installations and repairs, Emergency Lighting, Fire Alarm, Data Cabling, Intruder Alarm, CCTV, refrigeration and air conditioning units, food processing automation and water treatment services and many more.
- xxiii. In the intervening years we have experienced harmonious relations between our workers and employers due to the flexibility of the employers and employees through local bargaining.
- xxiv. We agree it is reasonably necessary to promote and preserve high standards of training and qualification to ensure fair and sustainable rates of remuneration.
- xxv. We accept there is a requirement for a minimum hourly rate of basic pay that is greater than the minimum hourly rate of pay declared by order for the time being in force under the Act of 2000 but are not agreeable to an imposed SEO.
- xxvi. We accept there is a requirement for a minimum hourly rate of basic pay for apprentices based upon percentages of the minimum hourly rate of basic pay that is greater than the minimum hourly rate of pay declared by order for the time being in force under the Act of 2000.
- xxvii. The requirements of a pension scheme, including a minimum daily rate of contribution to the scheme by a worker and an employer if made compulsory, employers should be free to obtain cover for these benefits from any source of their choosing provided that the benefits cover up to a specified minimum level of benefits.
- xxviii. The requirements of a sick pay scheme if made compulsory, employers should be free to obtain cover for these benefits from any source of their choosing provided that the benefits cover up to a specified minimum level of benefits.
- xxix. We reserve the right to determine pay and conditions directly with our own employees.

Finally, we note also with concern that notwithstanding that the NECI took part in what was then the longest oral hearing conducted by the Labour Court and the first and only application to cancel the then Registered Employment Agreement for the Electrical Contracting Industry (referred to as “the



National Electrical Contractors Ireland
Ireland's largest Trade Association For Electrical Contractors

National Electrical Contractors Ireland.
6 Main Street
Wicklow Town
County Wicklow
Phone: 086 6008836
Info@neci.ie

REA")⁶ and having been notice parties to the civil litigation which ultimately resulted in Part III of the Industrial Relations Act of 1946 being struck down by the Supreme Court⁷, the NECI was not directly notified of the TEEU's application or of the Labour Court's intention to conduct such an examination. The TEEU listed only the ECA and AEI as organisations of employers who were representative of employers in the sector⁸; is this omission of the NECI to be understood as an acceptance by the TEEU that it is concerned only with the sector which is represented by the ECA and AEI? Or is it intended that non-ECA and AEI members are to be covered by an agreement between the ECA and AEI and the TEEU?

For all of the above reasons and we reserve the right to add to our submission, we are not in favour of any agreement setting terms and conditions which applies to the entire electrical contracting industry.

In conclusion, we request that any hearing conducted by the Labour Court to hear representations in respect of the Labour Court's examination of the above mentioned sector would be done so in Public.

Yours faithfully,

NECI

⁶ Labour Court Determination REP091, 26 February 2009

⁷ *McGowan v Labour Court* [2013] 3 IR 718

⁸ The TEEU did the same in the previous application which was advertised on 5 August 201 and we raised the same objection in submissions filed in September 2016 in response to that application.