REVIEW OF JOINT LABOUR COMMITTEES CARRIED OUT BY THE LABOUR COURT IN ACCORDANCE WITH SECTION 41A(1) THE INDUSTRIAL RELATIONS ACT, 1946.

INCLUDING

RECOMMENDATIONS OF THE LABOUR COURT MADE UNDER SECTION 41A(4) OF THE INDUSTRIAL RELATIONS ACT 1946

20TH APRIL 2018

Review of Joint Labour Committees

Introduction

Section 41A of the Industrial Relations Act 1946 ('the Act') requires the Labour Court to carry out a review of each Joint Labour Committee (JLC) at least once every five years. The last such review was completed on 22nd April 2013. Following the completion of that Review and the making of orders by the Minister following its completion the following Joint Labour Committees are in existence:

1. Agricultural Workers;
2. Catering (excluding Dublin City and Dun Laoghaire);
3. Catering (Dublin City and Dun Laoghaire);
4. Contract Cleaning;
5. Hairdressing;
6. Hotels;
7. Retail, Grocery and Allied Trades;
8. Security Industry.

The within review is undertaken in accordance with the Act at Section 41(A) which provides as follows:

41A. — (1) As soon as practicable after the commencement of section 11 of the Industrial Relations (Amendment) Act 2012, and at least once every 5 years thereafter the Court shall carry out a review of each joint labour committee.

(2) Before carrying out a review under subsection (1), the Court shall publish in the prescribed manner a notice setting out —

(a) that the Court proposes to carry out a review of a joint labour committee, and

(b) that submissions in respect of the review may, before a date specified in the notice, be made to the Court in writing setting out the grounds on which the joint labour committee concerned should be retained, abolished or amalgamated with another joint labour committee, and the Court shall consider any submissions made in accordance with paragraph (b) and carry out the review within 6 weeks of the date specified in the notice for receipt of submissions.

(3) When carrying out a review under subsection (1), the Court shall have regard to the following:

(a) a review by the Labour Relations Commission made under section 39 of the Industrial Relations Act 1990 in respect of the joint labour committee concerned;

(b) the class or classes of workers to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since —

(i) the committee was established, or

(ii) the last review under this section was carried out;

(c) the type or types of enterprises to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since —

(i) the committee was established, or

(ii) the last review under this section was carried out;

(d) the experience of the enforcement of statutory minimum remuneration and statutory conditions of employment within the sector;

(e) the experience of any adjustments made to the rates of statutory minimum remuneration and statutory conditions of employment;

(f) the impact on employment levels, especially at entry level, of fixing statutory minimum remuneration and statutory conditions of employment;

(g) whether the fixing of statutory minimum remuneration and of statutory conditions of employment by the joint labour committee has been prejudicial to the exercise of collective bargaining as a means of achieving the legitimate interests of employers and workers in the sector;

(h) in the case of a joint labour committee that represents workers and employers in a particular region in the State, whether the basis for the continuation of such regional representation is justified;

(i) any submissions made in accordance with subsection (2)(b).

(4) Following a review under subsection (1) —

(a) where the Court is satisfied that to do so would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest, the Court may recommend that —

(i) the joint labour committee is maintained in its current form,

(ii) the joint labour committee is amalgamated with another joint labour committee, or

(iii) the establishment order pursuant to which the joint labour committee was established is amended,

or

(b) where the Court is satisfied that it is no longer appropriate to maintain a joint labour committee the Court may recommend that the joint labour committee is abolished.

Clarification

At the outset of this report the Court clarifies that its function in carrying out this review is confined to that set out in the legislation. In essence that function is to have regard to the factors specified in the legislation at Section 41A(3) and having done so to make a recommendation to the Minister. The Court may, where to do so would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest, recommend the maintenance of a JLC in its current form or the amalgamation of one JLC with another or the amendment of the establishment order for the JLC. Alternatively, where the Court is satisfied that it is no longer appropriate to maintain a JLC, the Court may recommend that the abolition of the JLC.

It is not the function of the Court in this review to recommend for or against the making of an Employment Regulation Order (ERO) for any sector. The procedure for the formulation of proposals for the making of an Employment Regulation Order is set out in the Act at Section 42A and 42B of the Act. The statutory functions of the Court in considering any such proposals are set out in the Act at Section 42B. The Act at Section 42A(6) sets out a clear and comprehensive range of matters to which a JLC making proposals for an ERO must have regard.

The Act makes no provision for the Court to consider, as part of this review, the establishment of a new JLC.

Background

Part IV of the Industrial Relations Act 1946 empowered the Labour Court to establish JLC's in certain circumstances. Following a decision of the High Court in July 2011 in relation to an action brought by a group of employers in the catering sector, which decision found Part IV of the Act to be unconstitutional, all JLC's were suspended. A review of JLC's conducted by Kevin Duffy and Frank Walsh, at the behest of the Government, was followed by legislative amendment and a revised statutory framework as set out in the Industrial Relations (Amendment) Act 2012 (the Act of 2012).

The Act of 2012, at Section 11, provides for a review of all JLC's to be carried out at least once in every 5 years. The first such review was carried out by the Labour Court and completed on 22nd April 2013.

Of the JLC's in existence at this time, three have met since the completion of the last review by the Court, viz: Security Industry; Contract Cleaning; Hairdressing. In the case of two of these JLC's, proposals have been formulated for the making of ERO's in that period. These proposals have resulted in the making of ERO's as follows:

1. **<u>Security Industry</u>**
   Employment Regulation Order (Security Industry Joint Labour Committee) 2017 (S.I. 231 of 2017) [effective 1st June 2017].

2. **<u>Contract Cleaning</u>**
   a. Employment Regulation (Amendment) Order (Contract Cleaning Joint Labour Committee) 2016 (S.I. 548 of 2016) [effective 27th October 2016];
   b. Employment Regulation Order (Contract Cleaning Joint Labour Committee) 2015 (S.I. 418 of 2015) [effective 1st October 2015]

This report sets out briefly the history of operation of each of the existing JLC's since the completion of the Court's Review in April 2013. The Report also sets out the detail of the Court's consideration in the case of each JLC of the factors set out in the Act at Section 41(A)(3). Finally, this report sets out the Court's recommendations in respect of each existing JLC in accordance with the Act at Section 41A(4).

Methodology

The Industrial Relations Act, 1969 (the Act of 1969) at Section 3 in relevant part provides as follows:

> *3.— Whenever the chairman is of opinion that for the speedy dispatch of the business of the Court it is expedient that the Court should act by divisions, he may direct accordingly, and, until he revokes his direction— ..*
>
> > *(c) for the purpose of the business so assigned to it, each division shall have all the powers of the Court and the chairman of the division shall have all the powers of the chairman and references in this Act to the Court and the chairman shall be construed as including references to a division and the chairman of a division respectively.*

The conduct of the within review was assigned by the Chairman to a division of the Court. That division has, in accordance with the Act of 1969 at Section 3(c), carried out this review and formulated the within recommendations.

In accordance with the Act at Section 41(A), subsection (2) the Court published a notice in national newspapers on 16th March 2018, advising that the Court was carrying out a review and inviting written submissions in respect of the review which would, taking account of the legislation at Section 41(A), address considerations to be taken into account by the Court in carrying out the Review. The fact of the conduct of the Review was communicated by the Court to the Chairpersons of the existing JLC's at the same time and was also advised to bodies nominating persons to be members of the existing JLC's. The deadline for receipt of submissions was Friday 6th April 2018. A total of 21 submissions were received by the Court by the deadline specified. The detail of bodies who made submissions is set out at Appendix 3 to this document.

In addition to advertising the fact of the review, the Court, in consideration of the requirement placed upon it by the Act at Section 41A(3)(d), requested from the Workplace Relations Commission detail of the experience of enforcement of statutory minimum remuneration and statutory conditions of employment within the sector since the completion of the last review in 2013 (see appendix 2).

The Court conducted this review on the basis of the submissions received and the response of the Workplace Relations Commission to a request for information as regards the experience of enforcement and the information contained in the Annual Reviews of NERA for 2013, 2014 and 2015 as well as the Annual Reports of Workplace Relations Commission for 2015 and 2016 (see appendix 2).

The division met on the following dates to conduct the review:

9th April, 2018, 13th April 2018, 16th April 2018 and 20th April 2018.

Conclusions

The Court has considered the submissions of the parties. The obligation of the Court is to have regard to the matters set out in legislation at Section 41(A)(3). The parties' observations have been most helpful to the Court in this regard. The Court, at Appendix 1, has set out a summary of the submissions of the parties as they impinge upon the matters required to be considered by the Court and the Court has set out its conclusions arising therefrom.

As a general summation, there appears to be almost unanimous support for the maintenance in their current form of those JLC's which have met since the completion of the last review. In the case of the remaining five JLC's the parties have made submissions which demonstrate a polarity of opinion.

It is clear that there is a majority view from worker representatives and the employer representatives who made submissions in relation to those JLC's, that the Security Industry, Contract Cleaning and Hairdressing JLC's should be retained in their current form.

Insofar as the remaining five existing JLC's are concerned the unanimous view of the employer representatives who made submissions is that all five should be abolished. The view of the worker representatives, as set out by the ICTU, is that all five should be retained albeit that the two catering JLC's should be amalgamated.

Those parties who made submissions to the Court and who addressed the issue of the conduct of industrial relations have, without exception, asserted that industrial relations have been harmonious in the period since the date of the last review. The Court notes that, throughout that period, all of the JLC's currently under review have been in existence. The Court also notes the assertion by ICTU that the abolition of a JLC would mean that that '*Unions would have to adopt a much more aggressive strategy in seeking to advance the terms and conditions of their members, most likely on an employer by employer basis'.*

Having considered all of the submissions received, the Court concludes that the experience of the sectors involved since the completion of the last review has been one of harmonious industrial relations. That experience has been against the background of the existence throughout that period of the JLC's under review. The Court consequently has been unable to conclude that the existence of such JLC's has posed or does pose a threat to the harmonious conduct of industrial relations in any sector.

Those parties, workers' representatives and employers' representatives, who made submissions in relation to the two Catering JLC's and who referenced the existence of a JLC relating to a region contended that no continuing justification existed for a separate JLC in the sector representing employers and workers in a particular region in the State.

Section 40 of the Act provides as follows:

> *40.— Where an establishment order in respect of any workers and their employers is in force, the Court, on the application (which shall specify the grounds on which it is made) of—*
>
> > *(a) the Minister, or*
> > *(b) any trade union, or*
> > *(c) any organisation or group of persons which claims to be and is, in the opinion of the Court, representative of such workers or of such employers,*
>
> *may make a recommendation to the Minister to abolish the joint labour committee established by such establishment order or amend such establishment order, and the provisions of section 38 and section 39 (amended by section 41 of the Industrial Relations (Amendment) Act 2015) of this Act shall apply in relation to such application as if the application were an application under section 36.*

The Court, in carrying out this review, has been unable to establish that any application in accordance with the Act at Section 40 for a Recommendation to abolish any JLC has been made by any party since the last review of JLC's in 2013.

No submission has been made to the Court that any of the existing JLC's have, over the period since the completion of the last review, (a) had a negative impact on employment levels in any sector, or (b) been prejudicial to the exercise of collective bargaining in any sector.

The Court notes the significant emphasis placed in some submissions on the existence of the Low Pay Commission, the National Minimum Wage and the body of employment law generally as a basis to conclude that a justification for the existence of JLC's no longer exists. The Court notes the commentary of Duffy / Walsh at section six of their ***Report of Independent Review of Employment***

Regulation Orders and Registered Employment Agreement Wage Settling Mechanisms April 2011 as follows:

> *6.6 However, it is not accurate to suggest, as many of those advocating abolition of the system contend, that the body of primary employment rights legislation currently in force adequately covers matters dealt with by EROs and REAs. EROs typically set down standard weekly working hours for workers, usually at 39 hours per week, in line with the norm in industry generally. While the Organisation of Working Time Act 1997 sets down maximum working hours, at 48 per week, it does not limit an employer's capacity to require workers to work up to that statutory limit as their standard or contractual hours. EROs typically provide for overtime rates, again in line with the general norms. In some sectors they provide for sick pay entitlements, pensions and higher rates for workers having particular skills. These are matters which are not covered by primary legislation.*

The Court does not consider it reasonable to contend that the extent of employment law obviates the need for sector specific engagement focussed on the regulation of conditions of employment outside of those conditions regulated by law. The Court concludes that JLC framework provides a mechanism for engagement on a range of matters not specifically dealt with in employment law and where engagement at a sectoral level can find consensus on a framework of sector appropriate arrangements as regards the regulation of conditions of employment. In reaching this conclusion the Court notes that the Act at Section 42A and 42B is comprehensive in relation to the matters to be taken account of in the development of proposals for the making of Employment Regulation Orders by JLC's.

The Court notes the history of the existing JLC's in the period since the completion of the last review. That history, in the case of five sectors, is one of inactivity in relation to the operation of the existing JLC's. The Court cannot conclude that the inactivity of a JLC is, of itself, a basis for the abolition of the JLC.

The Court has set out in detail at Appendix 3 its consideration of the submissions of the parties in each sector in the context of its statutory obligation to have regard to the matters set out in the Act at Section 41A(3).

The Court concludes that, but for two Catering JLC's, the existing JLC's should be maintained in their current form. In the case of the JLC structure for the Catering sector the Court concludes that the two existing JLC's should be amalgamated.

Recommendations to the Minister or Business, Enterprise and Innovation in accordance with Section 41(A)(4) of the Industrial Relations Act, 1946

1. Agricultural Workers JLC;

The Court, having had regard to the matters set out in the Act at Section 41(A)(3) and noting the submissions of the parties, recommends that the Joint Labour Committee be maintained in its current form. In making this recommendation the Court notes the assertions of the parties in their submissions that the sector has enjoyed harmonious industrial relations in the period since the last review and during which time the JLC has been in existence. Consequently, the Court is satisfied that the maintenance of the JLC in its current form would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest.

2. **Catering (excluding Dublin City and Dun Laoghaire);**

The Court, has had regard to the matters set out in the Act at Section 41(A)(3). The Court has taken particular note of the submissions of the employers and workers representatives who made comment on the fact of the existence of two JLC's for this sector. Those submissions were unanimous in contending that no continuing justification existed for a framework providing for two JLC's in this sector.

In making its recommendation the Court also notes the assertions of the parties in their submissions that the sector has enjoyed harmonious industrial relations in the period since the last review and during which time JLC's for the sector have been in existence.

Consequently, the Court is satisfied that the amalgamation of this Joint Labour Committee with the Catering (Dublin and Dun Laoghaire) Joint Labour Committee would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest.

The Court therefore recommends that this Joint Labour Committee be amalgamated with the Catering (Dublin and Dun Laoghaire) Joint Labour Committee.

3. Catering (Dublin City and Dun Laoghaire);

The Court, has had regard to the matters set out in the Act at Section 41(A)(3). The Court has taken particular note of the submissions of the employers and workers representatives who made comment on the fact of the existence of two JLC's for this sector. Those submissions were unanimous in contending that no continuing justification existed for a framework providing for two JLC's in this sector.

In making its recommendation the Court also notes the assertions of the parties in their submissions that the sector has enjoyed harmonious industrial relations in the period since the last review and during which time JLC's for the sector have been in existence.

Consequently, the Court is satisfied that the amalgamation of this Joint Labour Committee with the Catering (Dublin and Dun Laoghaire) Joint Labour Committee would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest.

The Court therefore recommends that this Joint Labour Committee be amalgamated with the Catering (excluding Dublin City and Dun Laoghaire) Joint Labour Committee.

4. Contract Cleaning;

The Court, having had regard to the matters set out in the Act at Section 41(A)(3) and noting the submissions of the parties, recommends that the Joint Labour Committee be maintained in its current form. In making this recommendation the Court notes the assertions of the parties in their submissions that the sector has enjoyed harmonious industrial relations in the period since the last review and during which time the JLC has been in existence. Consequently, the Court is satisfied that the maintenance of the JLC in its current form would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest.

5. Hairdressing;

The Court, having had regard to the matters set out in the Act at Section 41(A)(3) and noting the submissions of the parties, recommends that the Joint Labour Committee be maintained in its current form. In making this recommendation the Court notes the assertions of the parties in their submissions that the sector has enjoyed harmonious industrial relations in the period since the last review and during which time the JLC has been in existence. Consequently, the Court is satisfied that the maintenance of the JLC in its current form would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest.

6. Hotels;

The Court, having had regard to the matters set out in the Act at Section 41(A)(3) and noting the submissions of the parties, recommends that the Joint Labour Committee be maintained in its current form. In making this recommendation the Court notes the assertions of the parties in their submissions that the sector has enjoyed harmonious industrial relations in the period since the last review and during which time the JLC has been in existence. Consequently, the Court is satisfied that the maintenance of the JLC in its current form would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest.

7. Retail, Grocery and Allied Trades;

The Court, having had regard to the matters set out in the Act at Section 41(A)(3) and noting the submissions of the parties, recommends that the Joint Labour Committee be maintained in its current form. In making this recommendation the Court notes the assertions of the parties in their submissions that the sector has enjoyed harmonious industrial relations in the period since the last review and during which time the JLC has been in existence. Consequently, the Court is satisfied that the maintenance of the JLC in its current form would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest.

8. Security Industry.

The Court, having had regard to the matters set out in the Act at Section 41(A)(3) and noting the submissions of the parties, recommends that the Joint Labour Committee be maintained in its current form. In making this recommendation the Court notes the assertions of the parties in their submissions that the sector has enjoyed harmonious industrial relations in the period since the last review and during which time the JLC has been in existence. Consequently, the Court is satisfied that the maintenance of the JLC in its current form would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest.

Appendix 1

Consideration of matters set out at Section 41A(3) of the Act

Section 41A(3)(a) – The Court notes that no review has been undertaken by the Labour Relations Commission / Workplace Relations Commission since the completion of the last review in 2013. This matter therefore is not a matter which can impact on the Court's recommendation to the Minister in the case of any JLC.

Agricultural Workers JLC

Operation of Agricultural Workers JLC Since 22 April 2013

Chairman: Mr. John Kelly

Established by order pursuant to Section 4 (1) of the Industrial Relations Act 1976 (the Act of 1976), the Joint Labour Committee for Agricultural Workers has not met since the date of the last review on 22nd April 2013. Following amendment of the Act of 1976 by Sections 43 and 46 of the Industrial Relations (Amendment) Act, 2015, the Secretary to the Joint Labour Committee placed an advertisement on the www.workplacerelations.ie website and in major national newspapers "inviting applications from representative bodies that wish to be included on a panel from which membership of the Agricultural Workers Joint Labour Committees shall be constituted". While applications were initially received from both Worker and Employer bodies, no meetings have been held following the withdrawal of nominations from certain organisations.

Section 41A(3) – Summary of key points submitted to the Court and conclusions

Section 41A(3)(b)

The class or classes of workers to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, *since* —

(i) the committee was established, or

(ii) the last review under this section was carried out

IFA

The change in the definition of agriculture by section 46 of the Industrial relations (Amendment) Act 2015 includes new categories of workers who the IFA has concerns and difficulties with. The changing structure of farm employment means that employment is often more specialised and not the class of employment or worker who would have traditionally have been covered by a JLC.

IBEC

Ibec argued 5 years ago for the removal of industrial scale producers and processors of food and flowers. *"Notwithstanding the concerns raised and without further consultation with the businesses affected, the scope of the JLC was amended to include the production of animals, including*

- *the production of meat and other animal produce intended for human consumption*
- *the sorting and packaging of meat and other animal produce, and*
- *the production, sorting, and packaging of crops, including fruit and vegetables intended for human or animal consumption on farm land and,*

- *horticulture, including market gardening, garden nurseries and nursery grounds.*

These undertakings are particularly vulnerable to international competition as transport supply chains are already in place and are no obstacles to timely delivery into the grocer sector in Ireland. Competition comes from jurisdictions (including the UK) where wage rates and other costs are significantly lower than they are in Ireland. The 'one size fits all' approach which was a feature of the Agricultural Workers JLC is inappropriate for these businesses and risks negatively impacting employment levels."

Conclusion:

The Court notes the submissions as regards the scope of this JLC. The Court does not consider however that the submissions received demonstrate compelling reasons for the abolition of this JLC. Neither does the Court consider, given the absence of detailed submissions from all parties on this matter, that is has been provided with sufficient detail to allow a proposal to amend the Establishment Order for this JLC. The Court considers that this JLC, if it were to meet, would have the capacity to consider matters related to the operation of the sector in considering whether to make proposals for the making of an ERO.

Section 41A(3)(c)

the type or types of enterprises to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since —

(i) the committee was established, or

(ii) the last review under this section was carried out;

IFA

"In terms of continued relevance of the Agricultural Workers JLC to different enterprises and classes of workers, it should be noted that the structure of the agricultural sector and agricultural employment has changed significantly over the past number of decades.

In 1965, the number of farm holdings was 350,000, compared with 140,000 recorded in the CSO Census of Agriculture 2010. In 2010, of the 272,000 labour units on farms, these comprised 140,00 farm owners, 115,000 family members and 16,500 (6% of total) regular non-family workers.

The majority of farms comprise one or two labour units, mainly family members, with additional employment engaged on a contractual/seasonal basis. This employment is often more specialised and therefore not the class of employment or workers who would traditionally have been covered by a JLC."

IBEC

See comments under section 11(3)(b)

Conclusion: The Court notes the submissions as regards the scope of this JLC and the nature of enterprises engaged in the Sector. The Court does not consider however that the submissions received demonstrate compelling reasons for the abolition of this JLC. Neither does the Court consider, given the absence of detailed submissions from all parties on this matter, that is has been provided with sufficient detail to allow a proposal to amend the Establishment Order for this JLC. The Court considers that this JLC, if it were to meet, would have the capacity to consider matters related to the operation of the sector in considering whether to make proposals for the making of an ERO.

.

Section 41A(3)(d) **the experience of the enforcement of statutory minimum remuneration and statutory conditions of employment within the sector;**

IFA

"IFA has always strongly advocated compliance with the statutory requirements of agricultural employment. However, if employers are required to comply only with primary legislation to protect employee rights, without an additional requirement to comply with terms specific to the agricultural sector, IFA believes that this will improve compliance levels, reduce confusion on compliance and allow for a more straightforward policing of compliance by the relevant authorities."

IBEC

"Despite its retention (the JLC) following the review (in 2013) no ERO has been established in the intervening five years."

ICTU

"The lack of a JLC is contributing to the continued exploitation of workers, particularly in the horticulture industry, including fruit and vegetable growing and processing and on farms across the state. This sector is highly dependent on migrant workers with the percentage of migrant workers exceeding 90%. The worker in the sector are low skilled, have limited or no English, and a high proportion are female."

Conclusion:

The Court, noting the submissions and the information sourced from the Workplace Relations Commission, concludes that the experience of enforcement is not of such a nature as to lead to a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Section 41A(3)(e) ***the experience of any adjustments made to the rates of statutory minimum remuneration and statutory conditions of employment***

ICMSA

"There is a considerable body of employment legislation in place with considerable protections for employees and ICMSA believes that imposing additional requirements over and above this legislation does not make sense and is inappropriate."

IFA

"Given the existence of primary legislation for employment for all employees, providing baseline wage rates and working conditions, the role of the JLC has been much reduced.

Adjustments to agricultural rates have been made on the basis of national wage agreements, rather than the economic circumstances of the agricultural sector. While flexibilities were achieved in 2010, the experience for employers was that achieving this flexibility was very difficult and that the JLC structure has not proven sufficiently responsive to adapt to changing economic and employment circumstances in the agricultural sector."

Conclusion:

The Court has not received submissions which would lead it to a conclusion that this consideration should lead to the abolition of this JLC. The Court considers that the JLC, were it to meet, would be in a position to consider all matters impinging on the sector.

Section 41A(3)(f) ***the impact on employment levels, especially at entry level, of fixing statutory minimum remuneration and statutory conditions of employment;***

ICMSA

"Most farms in Ireland are family run and to introduce further minimum requirements on top of what is already required is onerous at least and could potentially dissuade uptake of employment in rural areas."

IFA

"There is a major concern among employers that further increase in wages or restrictions in terms and conditions of employment, which are a justifiable concern with the prospect of new EROs would result in reduced employment and a potential threat to the viability of the businesses.

The arguments presented by the UK government in arriving at the decision to abolish the Agricultural Wages Board are closely aligned to those of the IFA. IFA believes there will be greater employment potential and flexibility for employers and employees in the agriculture sector if it remains fully integrated into the National Minimum Wage and Organisation of Working Time Act structures."

Conclusion:

The Court has not received submissions which would lead it to a conclusion that this consideration should lead to the abolition of this JLC. The Court considers that the JLC, were it to meet, would be in a position to consider all matters impinging on the sector.

Section 41A(3)(g) ***whether the fixing of statutory minimum remuneration and of statutory conditions of employment by the joint labour committee has been prejudicial to the exercise of collective bargaining as a means of achieving the legitimate interests of employers and workers in the sector;***

Conclusion:

No fixing of statutory minimum remuneration and of statutory conditions of employment by the Joint Labour Committee has not taken place since completion no the last review and so no matter arises for consideration in this regard.

Section 41A(3)(h) ***in the case of a joint labour committee that represents workers and employers in a particular region in the State, whether the basis for the continuation of such regional representation is justified;***

ICMSA

"Given ICMSA views on the abolition of the JLC, we do not believe that regional representation would be appropriate in any event."

Conclusion:

No such matter arises in the case of this JLC

Section 41A(3)(i) ***any submissions made in accordance with subsection (2)(b).***

ICMSA

"If the decision is that a JLC for agricultural workers is to be established, ICMSA should be represented on the JLC given our role as a representative body for farmers."

Conclusion: The submissions of the Employer Representatives unanimously sought abolition of this JLC. The subnmission of worker representatives sought retention of the JLC. In the absence of engagement of the parties at the JLC since the completion of the last review the court does not have the benefit of the parties' experience in dealing with the matters referred to in submissions. In all the circumstances the Court cannot conclude on the basis of the submissions that this JLC should be abolished.

Catering Joint Labour Committees

NOTE: The analysis of submissions made and the conclusions of the Court encompass both existing JLC's This approach is reflective of the approach taken by parties who made submissions.

Operation of Catering JLC (Excluding Dublin and Dun Laoghaire) Since 22 April 2013

Chairman: Mr. Damien Cannon

Established by S.I. No. 236 of 1992 The Catering Joint Labour Committee has not met since the completion of the last review in April 2013. On the 19th February 2014, in line with Section 44 of the Industrial Relations Act 1990, the Secretary of the Joint Labour Committee wrote to all relevant organisations of workers and organisations of employers seeking nominations for all existing Joint Labour Committees.

While nominations were received from workers' representatives, an insufficient response was received from other potential nominating bodies to convene a meeting of the JLC.

Operation of Catering JLC (County Borough of Dublin and the Borough of Dun Laoghaire) Since 22 April 2013

Chairman: Mr. Damien Cannon

Established by S.I. 351 of 1992 The Catering Joint Labour Committee (County Borough of Dublin and the Borough of Dun Laoghaire) has not met since the completion of the last review in April 2013. On the 19th February 2014, in line with Section 44 of the Industrial Relations Act 1990, the Secretary of the Joint Labour Committee wrote to all relevant organisations of workers and organisations of employers seeking nominations for all existing Joint Labour Committees.

While nominations were received from workers' representatives, an insufficient response was received from other potential nominating bodies to convene a meeting of the JLC.

Section 41A(3)(b)

The class or classes of workers to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, *since* —

(i) the committee was established, or

(ii) the last review under this section was carried out

VFI

"Since the last review there has been a growth in the sector leading to a shortage of more class or classes of workers to which this JLC applies. When there are labour shortages in specific sectors that leads to a pressure on wages and conditions and that is evident in this area. As a result, this further reduces the need for any other layer of conditions and that is evident in this area."

Conclusion:

There is, in the view of VFI, a labour shortage within the class of workers covered. The Court has not however received sufficiently detailed submissions to allow a conclusion that this consideration should lead to a conclusion that the JLC's should be abolished. The Court considers that, were the JLC to meet, the parties could consider the particular factors affecting this sector in a comprehensive fashion.

Section 41A(3)(c)

the type or types of enterprises to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since —

(i) the committee was established, or

(ii) the last review under this section was carried out;

RAI

"There is no basis for requiring the various types of business which serve food, including restaurants, pubs, take-aways and some canteens to be subject to a JLC."

VFI

"Since the last review under this section was carried out there are probably more of our members have entered the food sector for reasons outlined above."

Conclusion:

The sector is, in the view of the employer side submissions received, an expanding sector with an increasing variety of enterprise involved in the sector. The Court has not, however, received sufficiently detailed submissions to allow a conclusion that these considerations should lead to a conclusion that the JLC's should be abolished.

Section 41A(3)(d) **the experience of the enforcement of statutory minimum remuneration and statutory conditions of employment within the sector;**

No submission made in relation to section 41A(3)(d)

Conclusion:

The Court, noting the information sourced from the Workplace Relations Commission, concludes that the experience of enforcement is not of such a nature as to lead to a conclusion that the JLC's should be abolished or that the Establishment Order should be amended.

Section 41A(3)(e) ***the experience of any adjustments made to the rates of statutory minimum remuneration and statutory conditions of employment***

VFI

"Since the last review under this section, two important things have happened. Firstly, the Low Pay Commission has been established and secondly, as a result of that there is now an annual review of National Minimum Wage. As a result, the NMW has increased significantly well ahead of the rate of inflation. Employees are well protected and on the other hand, employers are pressurised to meet rates of inflation that cannot be passed on to the customer."

Conclusion:

The Court notes the submission on this matter. The Court is not satisfied that the operation of the Low Pay Commission has been demonstrated to raise matters of such significance as to lead to a conclusion that the JLC should be abolished. The Court notes that National Minimum Wage legislation predates the completion of the last review. The Court considers that the JLC, were it to meet, has the capacity to consider matters other than those within the scope of the Low Pay Commission or encompassed by the National Minimum Wage Act, 2000.

Section 41A(3)(f) ***the impact on employment levels, especially at entry level, of fixing statutory minimum remuneration and statutory conditions of employment;***

VFI

"The statutory minimum remuneration is already fixed and conditions of employment are covered under other employment legislation and as such there is no need for further intervention in this area."

Conclusion:

The Court has not received submissions of sufficient detail to allow a conclusion that this consideration should lead to abolition of the JLC's.

Section 41A(3)(g)

whether the fixing of statutory minimum remuneration and of statutory conditions of employment by the joint labour committee has been prejudicial to the exercise of collective bargaining as a means of achieving the legitimate interests of employers and workers in the sector;

VFI

"All the evidence points to harmonious relationships between the employers and employees in the area and further intervention by a JLC will have no beneficial effect in this area. In fact, any such intervention has the possibility to have negative consequences."

RAI

"Over the past five years there has been a considerable level of industrial peace, wages have been rising, the National Minimum Wage has increased significantly and employment is growing strongly.

In this environment, the JLC structure is redundant and there is no great clamour for new EROs"

IBEC

"Throughout the economic recovery there has largely been industrial peace, highlighting that the JLC structure has been largely superfluous to requirements in this sector.

Conclusion:

No fixing of statutory minimum remuneration and of statutory conditions of employment by the Joint Labour Committees has taken place since completion of the last review and consequently no matter arises for consideration in this regard.

Section 41A(3)(h)

in the case of a joint labour committee that represents workers and employers in a particular region in the State, whether the basis for the continuation of such regional representation is justified;

RAI

"There is no basis for different terms and conditions to apply to businesses in Dublin and those which apply outside Dublin."

IBEC

"The arbitrary and unfair geographical distinction which applied between catering establishments in respect of which the JLC operated and catering businesses in the rest of the Country was entirely unjustified"

ICTU

"There is no continued justification for two JLC's with different geographical jurisdictions. All of the major players in this sector operate on a national basis. Congress and SIPTU believe the two catering JLCs should be merged.

However, one of the major developments in the sector has been that catering companies provide bids to services such as those in factory canteens and other places through competitive tendering competitions, similar to those that operate in contract cleaning and security.

Given this development Congress and SIPTU believe that it is appropriate to establish a separate JLC for the contract catering sector operating on a national basis."

Conclusion: The Court notes the consensus in submissions that there is no continuing justification for the operation of two JLC's in the sector. The JLC structure is a framework for sector specific engagement between workers and employers which has the capacity to address issues related to remuneration and the regulation of conditions of employment. The Court therefore must give serious weight to the shared view of Employer and worker representatives as regards the justification for a JLC structure which provides for regional representation in this sector. The Court therefore concludes that the two JLC's should be amalgamated so as to provide for one JLC covering the sector nationally.

Section 41A(3)(i) ***any submissions made in accordance with subsection (2)(b).***

RAI

"Over the past five years there has been a considerable level of industrial peace, wages have been rising, the National Minimum Wage has increased significantly and employment is growing strongly.

In this environment, the JLC structure is redundant and there is no great clamour for new EROs"

IBEC

"Throughout the economic recovery there has largely been industrial peace, highlighting that the JLC structure has been largely superfluous to requirements in this sector.

In the absence of a JLC catering establishments have continued to negotiate individually and collectively, rates of pay and conditions of employment that are sustainable for each catering establishment."

In an extensive submission IBEC contended that the JLC's should be abolished.

ICTU

ICTU contended that a JLC should be retained for the sector and contended that the national nature of the sector required that the existing structure should be developed so as to provide a single JLC with national coverage.

Conclusion: There has, in the view of all parties, been a considerable level of industrial peace in the industry since the completion of the last review. The JLC's for the sector have been in place since the completion of the last review. The parties' views are polarised as regards whether the JLC's should be retained. The Court concludes that the submissions of the parties cannot, when taken together, lead to a conclusion that the JLC's should be abolished. The Court does however, taking account of the consensus of the undesirability of a structure which provides for two JLC's in the sector, conclude that the existing JLC's should be amalgamated.

Contract Cleaning Joint Labour Committee

Operation of Contract Cleaning JLC since 22 April 2013

Chairman: Mr.Brendan Cunningham

This JLC was established by S.I. No. 626/2007 - Contract Cleaning Joint Labour Committee Establishment, Order 2007. That S.I was amended by S.I. No.25 of 2014.

On the 19th February 2014, in line with Section 44 of the Industrial Relations Act 1990, the Secretary of the Joint Labour Committee wrote to all relevant organisations of workers and organisations of employers seeking nominations for all existing Joint Labour Committees. On 31st March 2014, the Irish Congress of Trade Unions responded to the request nominating members for the Contract Cleaning Committee. On 29th April 2014, The Irish Business Employers Confederation responded to the request nominating members for the Contract Cleaning Committee. Noonan Services group also nominated members to the Committee.

The Committee's first meeting was held on 30 July 2014. Since July 2014 the Committee has continued to meet on a regular basis. In the period since April 2013 there have been two Employment Regulation Orders for the Contract Cleaning Industry - S.I. No. 418 of 2015 and S.I. No. 548 of 2016.

Section 41A(3) – Summary of key points made to the Court and conclusions.

Section 41A(3)(b)	**The class or classes of workers to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, *since* —** ***(i) the committee was established, or*** ***(ii) the last review under this section was carried out*** **ICCA** *"The scope of workers to whom the order applies has been amended as a result of the reviews of the JLC's. It is now widely accepted and understood."* **IBEC** "*Certain industries remain suited to centralised systems for setting pay and conditions and it is considered desirable for the contract cleaning industry to maintain such a system."* **Conclusion:** The submissions raise no issues in relation to this matter which would lead to a conclusion that the JLC should be abolished.
Section 41A(3)(c)	**the type or types of enterprises to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since —**

(i) the committee was established, or

(ii) the last review under this section was carried out;

ICCA

"*The ICCA represents 19-member companies who are all governed by the Contract Cleaning JLC. In excess of 27,500 are employed by our member companies*."

ISME

"ISME is the main representative body of Irish SME's with in excess of 10,500 members nationwide. The Association represents companies in a wide range of sectors, including the Contract Cleaning and Security Industry."

Conclusion: The submissions suggest that this is an expanding industry. The submissions raise no issues in relation to this matter which would lead to a conclusion that the JLC should be abolished.

Section 41A(3)(d) **the experience of the enforcement of statutory minimum remuneration and statutory conditions of employment within the sector;**

ICCA

"It is our position that the re-establishment of the Contract Cleaning JLC structure has been a very positive and important development"

"It has provided a platform for the establishment of agreed minimum terms and conditions of employment which are now the established norm in our industry across contractors. It is our experience that enforcement/application rates of the ERO is good."

IBEC

"There is no doubt but that challenges remain within the industry in relation to aspects of the content of the ERO, but these challenges may be possible to address through the existing architecture of the JLC."

Conclusion:

The Court notes the submissions of the parties and the information supplied by the Workplace Relations Commission. The Court concludes that no issues have been raised in relation to this matter which would lead to a conclusion that the JLC should be abolished.

Section 41A(3)(e) ***the experience of any adjustments made to the rates of statutory minimum remuneration and statutory conditions of employment***

ICCA

"It is our position that the re-establishment of the Contract Cleaning JLC structure has been a very positive and important development for a number of reasons; for our members, our members' employees, our clients and also our unions. These reasons are:

It has provided a platform for the establishment of agreed minimum terms and conditions of employment which are now the established norm in our industry across Contractors (Enterprises)."

IBEC

"In the absence of a JLC, commercial pressures between contract service providers may create a downward pressure on wage rates notwithstanding the semi-skilled nature of many of these roles. This would lead to a comparative diminution of rewards and incentives and would create a difficulty in recruiting and maintaining in employment workers in these roles."

Conclusion:

The Court concludes that no submission has been made which would lead to a conclusion that the JLC should be abolished.

Section 41A(3)(f) ***the impact on employment levels, especially at entry level, of fixing statutory minimum remuneration and statutory conditions of employment;***

NOONAN

"It helps us attract and retain people to our organisation and recognises the semi-skilled nature of the employees who often work in challenging environments and critical support functions."

Conclusion:

No matters have been put to the Court in relation to this matter which would lead the Court to conclude that the JLC should be abolished.

Section 41A(3)(g) ***whether the fixing of statutory minimum remuneration and of statutory conditions of employment by the joint labour committee has been prejudicial to the exercise of collective bargaining as a means of achieving the legitimate interests of employers and workers in the sector;***

NOONAN

The JLC structure provides "*collective bargaining for the industry – rather than individual pay claims being lodged by company or client location, the JLC structure facilitates proactive and considered negotiations between the key stakeholders."*

Conclusion: The Court concludes that no evidence exists such that this matter should cause the Court to recommend abolition of this JLC.

Section 41A(3)(h) ***in the case of a joint labour committee that represents workers and employers in a particular region in the State, whether the basis for the continuation of such regional representation is justified;***

This subsection is not applicable to this sector.

Section 41A(3)(i) ***any submissions made in accordance with subsection (2)(b).***

ICCA

"It is our position that the re-establishment of the Contract Cleaning JLC structure has been a very positive and important development for a number of reasons; for our members, our members' employees, our clients and also our unions. These reasons are:

It has provided a platform for the establishment of agreed minimum terms and conditions of employment which are now the established norm in our industry across Contractors (Enterprises)."

NOONAN

"It is our opinion that the cleaning JLC and security JLC should be maintained in the current formats."

ICTU

"It is the view of Congress and SIPTU that the contract cleaning JLC should be maintained."

ISME

The JLC allows has legislated for a "minimum rate of pay that is currently 8.9% higher than the national minimum wage.

JLC's are "heavily stacked against small employers. The representatives from the employer side who make up the JLC are, for the most part, dominated by large businesses who in general would be unable to provide an insight into the concerns of the smaller enterprises

The average cost of labour in an SME is 48% of the company's total costs, as opposed to approximately 8% in larger companies. The equivalent increase in labour costs place a disproportionate burden on SMEs and further undermines their ability to compete with larger companies".

Conclusion: There is tension between what is perceived as the interests of large businesses versus that small businesses. The Court concludes that the submission on this point relates to the operation of the JLC and the operation of the procedure for the making of an ERO in the sector insofar as it is contended that the impact on smaller

business has not been adequately considered. The Court concludes that the submissions are not of a nature as to cause the Court to recommend abolition of this JLC.

Hairdressing

Joint Labour Committee

Operation of Hairdressing JLC Since 22 April 2013

Chairman: Mr. Louis Mooney

The Joint Labour Committee for the current Hairdressing Industry JLC was established by S.I. No. 45/2009 - Hairdressing Joint Labour Committee Establishment Order 2009. That order was amended by S.I. No. 26/2014. On the 19th February 2014, in line with Section 44 of the Industrial Relations Act 1990, the Secretary of the Joint Labour Committee wrote to all relevant organisations of workers and organisations of employers seeking nominations for all existing Joint Labour Committees. On 31st March 2014, the Irish Congress of Trade Unions responded to the request nominating members for the Hairdressing Joint Labour Committee, further nominations were received from ICTU on 19th May 2014. Nominations for the Hairdressing Joint Labour Committee were also received from the Irish Hairdressers Federation.

The Committee's first meeting was held on Monday 21st July 2014. Since July 2014 the Committee has met on several occasions, most recently in March 2017. To date, agreement has not been reached on a proposal for an Employment Regulation Order.

Section 41A(3) – Summary of key points made to the Court and conclusions.

Section 41A(3)(b)

The class or classes of workers to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, *since* —

(i) the committee was established, or

(ii) the last review under this section was carried out

IBEC

"Ibec acknowledges the recommendation issued as part of the 2013 review, in particular the restriction of the operation of the JLC to those who provide a hairdressing service. The reformed JLC has met and there is a draft employment regulation order under consideration."

Conclusion: No matter arises from the submissions received on this matter which would lead the Court to recommend abolition of this JLC.

Section 41A(3)(c)

the type or types of enterprises to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since —

(i) the committee was established, or

(ii) the last review under this section was carried out;

No submissions were received in relation to Section 41A(3)(c) of the Act

Conclusion: no issues arise which would impact on the Court's recommendation to the Minister.

Section 41A(3)(d)

the experience of the enforcement of statutory minimum remuneration and statutory conditions of employment within the sector;

No submissions were received in relation to Section 41A(3)(d) of the Act

Conclusion: The Court notes the information sourced from the Workplace Relations Commission. No issues arise which would cause the Court to recommend abolition of this JLC or amendment of the Establishment Order.

Section 41A(3)(e)

the experience of any adjustments made to the rates of statutory minimum remuneration and statutory conditions of employment

No submissions were received in relation to Section 41A(3)(e) of the Act

Conclusion: No issues arising which would impact on the Court's recommendation to the Minister.

Section 41A(3)(f)

the impact on employment levels, especially at entry level, of fixing statutory minimum remuneration and statutory conditions of employment;

IHF

"In February 2017, the employer representative bodies reached an agreement with the union representatives on a revised draft JLC for the hairdressing sector."

Conclusion: No issues arise which would cause the Court to recommend abolition of this JLC or amendment of the Establishment Order.

Section 41A(3)(g)

whether the fixing of statutory minimum remuneration and of statutory conditions of employment by the joint labour committee has been prejudicial to the exercise of

collective bargaining as a means of achieving the legitimate interests of employers and workers in the sector;

Conclusion: No statutory conditions of employment have been fixed by the JLC since the completion of the last review. Consequently, no issues arise from consideration of this subsection.

Section 41A(3)(h) ***in the case of a joint labour committee that represents workers and employers in a particular region in the State, whether the basis for the continuation of such regional representation is justified;***

This subsection is not applicable to this sector.

Section 41A(3)(i) ***any submissions made in accordance with subsection (2)(b).***

ICTU

"It is essential that the Hairdressing JLC be maintained."

Conclusion: No submissions have been received which would cause the Court to recommend abolition of this JLC.

Hotels

Joint Labour Committee

Operation of Hotels JLC Since 22 April 2013

Chairman: Ms. Aoibheann Ni Shuilleabhain

The Joint Labour Committee for the Hotel Industry was established by S.I. No. 81/1965 - Hotels Joint Labour Committee Establishment Order, 1965, which order was amended by S.I. No.28 of 2014 on the 28th January 2014. On the 19th February 2014, in line with Section 44 of the Industrial Relations Act 1990, the Secretary of the Joint Labour Committee wrote to all relevant organisations of workers and organisations of employers seeking nominations for all existing Joint Labour Committees.

While nominations were received from at least one organisation, insufficient responses were received from other nominating bodies. As a result, the Hotel JLC has not met since the completion of the last review.

Section 41A(3) – Summary of key points made to the Court and conclusions.

Section 41A(3)(b)

The class or classes of workers to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, *since* —

(i) the committee was established, or

(ii) the last review under this section was carried out

IHF

"*There is no new class or classes of workers or fundamental changes in the industry."*

Conclusion: No change in the trade or business since the completion of the last review has been detailed to the Court. The Court has been provided with a detailed statement of the current dynamics of the industry but no analysis of how that represents change over the period. The Court concludes that consideration of this subsection cannot lead to a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Section 41A(3)(c)

the type or types of enterprises to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since —

(i) the committee was established, or

(ii) the last review under this section was carried out;

IHF

"The reintroduction of a JLC structure governing hotels will impact very negatively and significantly on the competitiveness, profitability and ability of hotels to reinvest and sustain employment."

IBEC

'In the economic downturn, the hotel business in Dublin in particular (which was covered by the Hotels (Dublin and Dunlaoghaire) JLC hadn't proposed a JLC for 16 years at the time of the last review) suffered a significant negative impact."

Conclusions: No change in the trade or business over the period since the completion of the last review has been detailed to the Court. The Court has been provided with a detailed statement of the current dynamics of the industry but no analysis of how that represents change over the period. The Court has not received detail as regards the impact of the JLC as distinct from a potential proposal for an Employment Regulation Order. Noting that the mechanisms for the making of proposals for an ERO are comprehensive in terms of consideration of the Sector concerned, the Court concludes that consideration of this subsection cannot lead to a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Section 41A(3)(d)

the experience of the enforcement of statutory minimum remuneration and statutory conditions of employment within the sector;

IHF

"Much of the reported non-compliance, we believe, relates to complexity of interpretation and implementation. We would dispute certain interpretations of the legislation by the WRC Inspectors (e.g. in respect of Board and Lodgings) and much of non-compliance has been of a technical nature.

WRC statistics in the past have not differentiated between major and minor breaches or between technical and substantive breaches and cannot be relied on as the basis for objective decision making on this issue.

The 5 sectors that were singled out for special mention in the WRC Annual Report 2016 in terms of non-compliance included Electrical, Hair and Beauty, Construction, Agriculture and Wholesale and Retail (WRC Annual Report 2016 p25)."

Conclusion: There is some frustration around the interpretation and application of existing legislation by WRC inspectors. The Court notes the submission made and the detail of information from the Workplace Relations Commission (Appendix 4). The

Court concludes that consideration of the submissions made in respect of this sub-section of the Act cannot lead to a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Section 41A(3)(e) ***the experience of any adjustments made to the rates of statutory minimum remuneration and statutory conditions of employment***

IHF

"The IHF experience of adjustments made to the rates of minimum remuneration and conditions of employment within the JLC process was extremely negative. We found it impossible to get any effective consideration of the employer view in discussion at the JLC and have no confidence in any new system operating in a manner that is fair to employers.

JLCs operated with some relevance until the introduction of the National Minimum Wage (NMW) following which a series of aggressive NMW increases were duplicated and compounded by the JLC process which blindly implemented increases agreed as part of the ill-conceived national understandings."

Conclusion: The court notes the submissions made and the fact that the JLC has been in existence throughout the period since the last review. The Court notes that the submission refers to statutory minima arising from the 'JLC process' and that no such minima have arisen since the completion of the last review. The Court considers that the JLC, were it to meet, would have the capacity to consider all matters impacting on the sector in coming to any conclusions as regards remuneration or conditions of employment in the sector. The Court concludes that matters raised in relation to this sub-section of the Act are not of such a nature as to allow a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Section 41A(3)(f) ***the impact on employment levels, especially at entry level, of fixing statutory minimum remuneration and statutory conditions of employment;***

IHF

"Setting a new minimum rate of pay for the hotel sector in excess of the statutory minimum wage will affect employment numbers at entry level. Since the abolition of the EROs in July 2011, the numbers employed in the accommodation and food services sector has increased as follows:

Q1 2011 = 110,700

Q3 2017 = 161,400

The abolition of the ERO has undoubtedly contributed to a positive impact on employment levels in the sector

The re-introduction of EROs over some or all of the state would be a massive blow to the ability of hotels to sustain and create employment. (In a IHF survey of members

conducted in 2012, 89% of employers stated that the re-introduction of the JLC system would hinder their ability to take on additional staff over the following 12 months.)

The best interest of employees and those unemployed are absolutely prejudiced by high minimum rates that exclude them from employment. The choice of taking up employment at entry level is taken away from many first-time workers and critically their opportunity to commence developing career skills."

Conclusion: The Court has considered the submissions insofar as they addressed this sub-section and notes that a considerable focus is on the impact of Employment Regulation Orders. The Court concludes that the provisions of the Act in relation to the making of an Employment Regulation Order require consideration by the JLC of a comprehensive range of factors prior to the making of a proposal for such an Order. The Court concludes that matters raised in relation to this sub-section of the Act are not of such a nature as to allow a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Section 41A(3)(g) ***whether the fixing of statutory minimum remuneration and of statutory conditions of employment by the joint labour committee has been prejudicial to the exercise of collective bargaining as a means of achieving the legitimate interests of employers and workers in the sector;***

IHF

"The scope for collective bargaining will effectively be narrowed by the combination of a statutory minimum wage and the content of any ERO. The alternative is to allow collective bargaining to operate at a level above the statutory minimum wage rather than create a further zone without collective bargaining between the statutory minimum wage and the ERO."

Conclusion: The submission received contends that in the absence of an ERO collective bargaining will be more prevalent. The Court notes that no ERO has been in place in the sector since the completion of the last review. The Court also notes that the JLC has been in existence since the completion of the last review and no submission has been made that its existence has been prejudicial to the exercise of collective bargaining in the period. The Court concludes that the matters raised are not of such a nature as to allow a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Section 41A(3)(h) ***in the case of a joint labour committee that represents workers and employers in a particular region in the State, whether the basis for the continuation of such regional representation is justified;***

This subsection is not applicable to this sector.

Section 41A(3)(i) ***any submissions made in accordance with subsection (2)(b).***

IHF

"There is no evidence of industrial unrest in the hotel sector in the past 20 years.

The IHF strongly believes that the IR pressures that would arise from any re-introduction of a JLC and ERO would create significant cost pressures and tensions that could damage current harmonious relations and we have no doubt the re-introduction of JLCs in the sector will compromise these efforts especially in the current climate.

The JLC system is archaic, discourages employment and should be abolished."

IBEC

"The conduct of harmonious industrial relations is better served by the abolition of this JLC in its entirety."

ICTU

The JLC is an important IR infrastructure that extends beyond pay into other T&Cs such as sick pay and contributes to the maintenance of fair and sustainable pay and conditions. Protects migrant workers and casualisation of labour

Conclusion: The Court notes the assertion that the experience of the sector has been one of harmonious industrial relations. The Court notes that the JLC has been in existence throughout the period since the completion of the last review. The Court cannot conclude that the views expressed are of such a nature as to allow a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Retail Grocery & Allied Trades

Joint Labour Committee

Operation of Retail Grocery and Allied Trades Establishments JLC Since 22 April 2013

Chairman: Mr. John Kelly

The Joint Labour Committee for Retail Grocery and Allied Trades Establishments was established by S.I. No. 58 of 1991. The JLC has not met since the completion of the Court's last review in April 2013.

On the 19th February 2014, in line with Section 44 of the Industrial Relations Act 1990, the Secretary of the Joint Labour Committee wrote to all relevant organisations of workers and organisations of employers seeking nominations for all existing Joint Labour Committees. While nominations were received from at least one organisation, insufficient responses were received other nominating bodies.

Section 41A(3) – Summary of key points made to the Court and conclusions

Section 41A(3)(b)

The class or classes of workers to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, *since* —

(i) the committee was established, or

(ii) the last review under this section was carried out

BWG

"Uncertainty prevails regarding the class or classes of workers to which Employment Regulation Orders apply. Similarly, ambiguity prevails regarding the type or types of enterprises. The landscape of our retail estate continues to change in our sector and our symbol franchise estate alike. The existence of the Employment Regulation Orders creates ambiguity regarding the terms and conditions applicable to employees within the symbol franchise stores we represent and this will likely continue and become more complex into the future. To suggest that terms and conditions of employment of all employees be amended upon the introduction of a new department is unworkable and leaves businesses at a competitive ds disadvantage (e.g. according to the previous NERA guidance the introduction of a seating area for the consumption of food would require the application of the relative Catering JLC).

We refer to the Topaz/Ard Services v National Employment Rights Authority (Decision No. DEC16) whereby the Labour Court found that RGAT ERO applied to service stations as the retail unit was wholly or mainly engaged in the retail grocery and allied trades. Where enforcement bodies are unable to identify and/or apply a consistent measure of the applicability of class or classes of workers/ type or types of enterprise, it would be unreasonable to expect sole traders understand the application of such measures.

This ambiguity is likely to be compounded with ongoing changes within our, and other sectors."

CSNA

"The concept of a JLC containing itself to Retail Grocery (and Allied Trades) yet not providing for retail at large is totally anachronistic and ignores the reality of modern retailing.

Whilst there may once have been a justification (in 1991) to bring employees engaged in the sale of specified products into a JLC, CNSA submits that this is no longer the case.

The difficulty in ascertaining, in 2018, which undertakings would be considered to have an obligation to pay in accordance with RGAT JLC ERO are much greater than they were in 1991. 27 years ago, there were no forecourt stores, no pound shops selling considerable volumes of grocery, confectionary and minerals. 27 years ago, the public houses and the independent off-licence sector did not have competition from Supermarkets in the off-trade.

The great difficulty in considering the schedule is forming an opinion as to what is considered by phrases such as 'wholly or mainly' and having regard to 'the time spent on work in those trades.

The trade is now clearly retail, it incorporates practically every element of those products and services that were excluded by definition in 1991.

The fundamental difficulty, is one that is structurally built into the core of the problem, is the interpretation given to the scope of application of the EO and the related ERO's."

RGDATA

"Given how utterly different the retail landscape is in 2018 compared to 1991 RGDATA believes that it is impossible to justify separating out a 'class of worker' or' type of enterprise' in the retail trade that should be subject to a different wage setting mechanism than all the rest."

IBEC

"Even with the amendments proposed as part of the 2013 review, retaining a Retail Grocery JLC seeks to define a sector which has simply become too fragmented to justify such a 'one size fits all' approach.

This JLC created some of the greatest anomalies in the application and enforcement of the employment regulation order previously in force."

ICTU

"This JLC is of particular importance as its coverage i.e. number of employees makes it the largest JLC in that context."

Conclusion: There is a polarity of views on this matter between employer and worker representatives. It is clear that the employer side believe that the industry has changed over a period of many years. Views are expressed as regards an Employment Regulation Order which has not had effect in the period since the completion of the last review. The worker side submission identifies the JLC for this sector as particularly important. The Court notes that the JLC has been in existence since 2014 in its current form and throughout the period since the completion of the last review. The Court considers that the JLC, were it to meet, would have the capacity to consider the current nature of the sector and all factors impinging upon it in the context of exploring the potential to form proposals for an ERO. The Court concludes that the submissions received do not allow a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Section 41A(3)(c)

the type or types of enterprises to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since —

(i) the committee was established, or

(ii) the last review under this section was carried out;

See comments from the various parties under section 41A(3)(b)

Conclusion: There is a polarity of views on this matter between employer and worker representatives. It is clear that the employer side believe that the industry has changed over a period of many years. Views are expressed as regards an Employment Regulation Order which has not had effect in the period since the completion of the last review. The worker side submission identifies the JLC for this sector as particularly important. The Court notes that the JLC has been in existence since 2014 in its current form and throughout the period since the completion of the last review. The Court considers that the JLC, were it to meet, would have the capacity to consider the current nature of the sector and all factors impinging upon it in the context of exploring the potential to form proposals for an ERO. The Court concludes that the submissions received do not allow a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Section 41A(3)(d)

the experience of the enforcement of statutory minimum remuneration and statutory conditions of employment within the sector;

CSNA

"The most recent WRC Annual Report published in March 2017 for 2016 showed that the Wholesale and Retail Sector (not limited to Retail Grocery) had 295 cases inspected, of which 132 were found to have breaches in aspects of compliance.

There were no prosecutions resulting in a conviction of any employer within the RGAT JLC sector of the 72 prosecutions noted in the Report. These were primarily from within the Food and Drink sector, a significant portion of which were 'ethnic' outlets."

Conclusion: The Court notes the submissions and takes account of the information sourced from the Workplace Relations Commission. The Court does not conclude that matters raised in relation to this sub-section lead to a conclusion that the JLC should be abolished or the Establishment Order amended.

Section 41A(3)(e) ***the experience of any adjustments made to the rates of statutory minimum remuneration and statutory conditions of employment***

CSNA

"Since the striking down of the wage-setting mechanism, retailers and employers have managed to conduct their wage discussions and requests in a civilised, non-combative fashion at local level. Many employees have had their skills, experience and training rewarded by way of increases to their pay in line with what individual businesses could afford to pay whilst remaining competitive.

One aspect that most certainly does occur is that, whether it is by way of historic increases per ERO or increases in the NMW, those workers employed by the undertaking so affected will receive requests/demands from workers earning above the statutory minimum (JLC or NMW) for increases in their wages to maintain parity of differentials."

Conclusion: The submission referring to this matter concentrates on the matter of Employment Regulation Orders. This review is concerned with the JLC which has been in existence since the completion of the last review. The procedure for the making of proposals for an ERO allow comprehensive consideration of all matters impacting on the sector. The submissions received do not bring the Court to a conclusion that the experience of the matters referred to in this subsection are such as to mean that the JLC should be abolished or the ERO amended.

Section 41A(3)(f) ***the impact on employment levels, especially at entry level, of fixing statutory minimum remuneration and statutory conditions of employment;***

CSNA

"The discount of 30% of the Adult rate comes with a number of very significant structural barriers to entry that most likely has the effect that fewer younger people under the age of 18 managed to find work in our retail outlets."

Conclusion: The Court has not been given detailed submissions on this matter and draws no conclusions which would suggest that the JLC should be abolished or the Establishment Order amended.

Section 41A(3)(g) ***whether the fixing of statutory minimum remuneration and of statutory conditions of employment by the joint labour committee has been prejudicial to the exercise of***

collective bargaining as a means of achieving the legitimate interests of employers and workers in the sector;

BWG

"The mere existence of JLC's is wholly prejudicial to the collective bargaining process.

Scope should be given to employers to take a strategic approach to monetary and non-monetary rewards for their employees".

CSNA

"Collective bargaining at local level in non-unionised undertakings is not considered to be the best way of rewarding employees for performance and flexibility but it is far better than externally enforced JLC rates."

Conclusion: The Court notes that there has been no experience of the fixing of statutory minima in this sector since the completion of the last review. The Court does not consider that the matters arising in this subsection are of such a significance as to allow the Court to conclude that the JLC should be abolished or the Establishment Order amended.

Section 41A(3)(h) ***in the case of a joint labour committee that represents workers and employers in a particular region in the State, whether the basis for the continuation of such regional representation is justified;***

This subsection is not applicable to this sector.

Section 41A(3)(i) ***any submissions made in accordance with subsection (2)(b).***

BWG

"The ERO mechanism is anti-competitive.

It is anti-competitive to assume an independent retailer who operates under symbol franchise with four employees can afford to provide the same rates of pay and/or monetary rewards as a large multi-national."

BWG submitted that the JLC should be abolished.

CSNA

"Our members and our staff are best placed to ensure harmonious relations and if there are to be unfortunate differences, they know that the very considerable skills provided through the Irish industrial relations mechanism can find consensus and solutions to any resolved problems."

CSNA submitted that the JLC should be abolished.

RGDATA

RGDATA submitted that the JLC should be abolished.

ICTU

"The lack of a JLC for this sector has led to an increase in the use of low hour and zero-hour contracts. The increased use of these types of contracts means that workers in the sector have no certainty about their hours of work and in turn no certainty about their income. The failure of the employer to engage is not an acceptable reason to abolish this JLC"

Conclusion: Parties have made directly opposing submissions on this matter. The Court notes that, notwithstanding the views of the parties, the JLC has been in existence since the last review and no submission has been made that the impacts ascribed to the JLC's existence have befallen the sector across that timeframe or that the existence of the JLC has impacted on the sector's capacity to respond to the challenges encountered in the period. The fact that the JLC has not met deprives the Court of an opportunity to assess the current relevance or value of the JLC on an evidential basis. In all of the circumstances the Court concludes that the submissions do not provide a basis to find that the JLC should be abolished or that the Establishment Order should be amended.

Security Industry

Joint Labour Committee

Operation of Security JLC Since 22 April 2013

Chairman: Mr. Michael Keegan

The Joint Labour Committee for the Security Industry was established by S.I. No. 377/1998 - Security Industry Joint Labour Committee Establishment Order, 1998 which order was amended by S.I. No.30 of 2014. On the 19th February 2014, in line with Section 44 of the Industrial Relations Act 1990, the Secretary of the Joint Labour Committee wrote to all relevant organisations of workers and organisations of employers seeking nominations for all existing Joint Labour Committees. On 31st March 2014, the Irish Congress of Trade Unions responded to the request nominating members for the Security Joint Labour Committee. Nominations for the Security Joint Labour Committee were also received from the Irish Security Industry Association, the National Union of Security Employers and Noonan Services Group.

Following on from the nomination of members, the Committee's first meeting was held on Monday 14th July 2014. Since July 2014 the Committee has continued to meet on a regular basis.

Since the Committee's establishment in 2014 there have been two Employment Regulation Orders for the Security Industry - **S.I. No. 417 of 2015 and S.I. No. 231 of 2017.**

Section 41A(3) – Summary of key points made to the Court and conclusions

Section 41A(3)(b)	**The class or classes of workers to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, *since* —**
	(i) the committee was established, or
	(ii) the last review under this section was carried out

SII

The Security Institute indicated that it is satisfied with the class or classes of workers to which the JLC applies.

Manguard Plus

"*The class of workers currently covered by the JLC remains appropriate for the industry and should not be expanded upon or changed."*

Securitas

Securitas is satisfied with the class or classes of workers to which the JLC applies.

SEA

"While the JLC in question is called the Security Industry Joint Labour Committee, the class of worker to whom it applies……only applies to the class of workers engaged in 'contract static guarding' and employers providing those services."

Conclusion: The Court concludes that no issue arises from this sub-section which would lead to a conclusion that the JLC should be abolished or the Establishment Order amended.

Section 41A(3)(c)

the type or types of enterprises to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since —

(i) the committee was established, or

(ii) the last review under this section was carried out;

Securitas

"In 2015 there were approximately about 200 licensed security companies proving static security services in the Republic of Ireland that were registered with the Private Security Authority and approximately 15,500 individuals in the industry with licences.

Securitas is satisfied .. with the types of enterprises to which the ERO applies."

Irish Security Industry Association

"The licensable portion of the security industry employs an estimated 36,547 of which static security guards make up just over 23,860."

Manguard Plus

"Manguard Plus is a company… employing 850 security guards, 700 of these within Ireland.

There has been no change in the industry such that the type of enterprise covered needs to be reconsidered and the enterprises currently covered by the JLC remain appropriate."

SEA

"There are currently (as of January 2018) 190 companies licenced in Ireland for contract static guarding.

The number of employees in the sector has been dropping. There is a trend since 2013 indicating that the number of jobs decline with the impact of each ERO and the overall trend is negative with there being 2311 fewer jobs in the sector between 2013 and 2016."

Conclusion: The Court concludes that no issue arises from this sub-section which would lead to a conclusion that the JLC should be abolished or the Establishment Order amended.

Section 41A(3)(d) **the experience of the enforcement of statutory minimum remuneration and statutory conditions of employment within the sector;**

Securitas

"Securitas is comfortable that there are satisfactory levels of enforcement within the security industry in Ireland and that the Private Security Authority are very proactive and positive in this regard."

SII

"The Security Institute feels that there are satisfactory levels of enforcement, which has a lot to do with the active involvement of the Private Security Authority."

Manguard Plus

"Given that this sector is regulated by the Private Security Authority it was always expected that there would be a high level of compliance by companies covered by the JLC and that has been the experience to date, albeit there was a small level of non-compliance at the most recent date of change in the terms of the current Employment Regulation Order."

SEA

"There has been targeted enforcement of the ERO on SEA members in recent times by both the PSA and the WRC."

Conclusion: The Court notes the submissions received and the information obtained from the Workplace Relations Commission. The Court concludes that no issue arises in consideration of this sub-section which would lead to a conclusion that the JLC should be abolished or the Establishment Order amended.

Section 41A(3)(e) **the experience of any adjustments made to the rates of statutory minimum remuneration and statutory conditions of employment**

Securitas

"Securitas Security Services Ireland feels that the pay rate gap has closed between 2015 and today. The increase in the national minimum wage (NMW) has eroded 60 cents of the differences between the 2015 ERO and today's core rate of pay.

Good terms and conditions are essential to be able to keep existing employees in the security industry and for the security companies to have the ability to attach new quality persons to the Security industry and to be able to keep the current trained staff in the industry."

ISIA

"Having set standards of pay through an ERO for Security operatives allows the industry to attract the right calibre of people, justify the training levels required for licensing and not allow for standards to be depleted.

Given that we are providing contracted services, contracts regularly transfer between employers and the provision of the security ERO has resulted in greater acceptance of transfer of employees between contractors.

The security ERO also provides our clients with notice of forthcoming increase which is required for budgetary planning."

SII

"The pay rate gap is closing with the increases in the national minimum wage (NMW) and this needs to be monitored if the industry is to keep existing employees in the industry and to have the ability to attract new persons to the industry.

The notice given for implementation of the new order was insufficient. Employers suffered a loss initially and the industry will require a few months' notice of any future changes or a future implementation date mechanism to be considered.

The 2006 security ERO is a good example of what a good implementation period would look like.

The three-step wage increase plan was reasonable.

The 30-cent increase was also considered reasonable and provided adequate notice to implement which provided certainty for customers around security budgets for a few years to come."

SEA

"One of our SEA members lost three security contracts (total value €966k) in addition to three further contracts having their hours reduced."

Conclusion: The Court concludes that no issue arises in consideration of this sub-section which would lead to a conclusion that the JLC should be abolished or the Establishment Order amended.

Section 41A(3)(f) **the impact on employment levels, especially at entry level, of fixing statutory minimum remuneration and statutory conditions of employment;**

Securitas

"In 2015, there were approximately about 200 licensed security companies providing static security services in the Republic of Ireland that were registered with the Private Security Authority and approximately 15,500 individuals in the industry with licences.

In 2015, an ERO for the Security Industry was enacted on the 1 October 2015, the level of companies virtually remained the same, so the impact of the introduction of the ERO did not put Security companies out of business.

The ability of security companies paying above the national minimum wages and terms and conditions has a positive effect in being able to attract new staff to the industry and allows us to hold on to the staff we have.

Having a single rate, stops customer requests for the officer on the lowest hourly rate to do the job and therefore stops the displacement of senior security staff from their posts."

ISIA

"In the current economic climate attracting and retaining the appropriate calibre of staff is an ongoing concern for our members. The Security ERO has allowed the industry to maintain a level of confidence in its ability to continue to attract and retain the necessary candidates to meet the demands of those organisations requiring the services of the private security industry."

SII

"The impact on employment levels was considered positive overall in attracting people and keeping people.

In referencing PSA figures from their 2016 annual report, there was no significant shift in numbers of staff."

Manguard Plus

"The terms and conditions within the ERO's issued are applicable to all persons employed in the sector, including at entry level, and this has assisted in making the industry attractive to persons entering or re-entering the employment market.

The fact that the terms are in excess of the national minimum wage, especially the soft benefits included e.g. death in service and sickness benefits, makes the sector attractive to employees seeking sustainable long-term employment. This leads to increased client service levels which leads to better and more sustainable employment, a virtuous cycle."

Conclusion: The Court concludes that no issue arises in consideration of this sub-section which would lead to a conclusion that the JLC should be abolished or the Establishment Order amended.

Section 41A(3)(g) **whether the fixing of statutory minimum remuneration and of statutory conditions of employment by the joint labour committee has been prejudicial to the exercise of collective bargaining as a means of achieving the legitimate interests of employers and workers in the sector;**

Securitas

"The security officer rates, terms and conditions has not been unduly prejudicial to any collective bargaining that a company may have with its employees and unions.

In fact, Securitas Security Services Ireland are of the considered opinion that the current Security ERO has had a very positive impact on the rates and terms and conditions of all security employees who are represented and those that are not represented by unions in Ireland.

Our global experiences in the countries where we operate and where there are industry agreements in the security industries is extremely positive for the industry.

The Irish security industry has been very stable in 1997 as regards industrial unrest and relations with the stakeholders is very positive, with the only periods of unrest occurring when there was no ERO between 2011 and 2015 and it was a free for all."

SII

"*Fixing of rates and conditions has not been unduly prejudicial to collective bargaining and has had a very positive impact on those not represented by unions of collective employee groups.*

The industry has been very stable since 1997, with the only period of unrest occurring when there was no ERO between 2011 and 2015."

SEA

"It is not appropriate to deal with all employees engaged in this diverse industry on the same basis, and the regulated process for collective bargaining which underpins the operation of the JLC system is not suitable for the security industry. The diversity of the security industry requires that employers have flexibility in engaging in collective bargaining with groups of employees doing similar work. It is important, in the interests of industrial harmony, that employers have capacity to reward employees who are engaged in riskier, more responsible, or more specialised work with increased pay and/or enhanced terms and conditions, and the requirements of the 2017 ERO have made this an impossible prospect financially for small and mid-sized employers, which can lead to unrest and disharmony between employees.

There was no industrial unrest or disharmony prior to the re-introduction of the JLC system and the security industry ERO in 2015, after the JLC system had been adjudged unconstitutional in 2011.

The JLC has a negative impact on the exercise of collective bargaining as it hampers the flexibility required to recognise the different contributions of employees with different levels of training and/or skill, who take on vastly different work in different environments."

Manguard Plus

"*It is the expressed desire of those organisations that represent both employers and employees, that the JLC process be used for the setting of the basic terms and conditions of employment for employers and this has not prevented individual employers and unions to agree additional terms at local level."*

Conclusion: There is disagreement between those who made submissions as regards the implications for collective bargaining in the industry of the existence of the JLC. The Court has not been supplied with sufficient supporting detail to draw a reliable conclusion as regards the impact of this JLC on the practice of collective bargaining in the sector. In all of the circumstances the Court concludes that the submissions received do not lead to a conclusion, taking account of this sub-section, that the JLC should be abolished or the Establishment Order amended.

Section 41A(3)(h) **in the case of a joint labour committee that represents workers and employers in a particular region in the State, whether the basis for the continuation of such regional representation is justified;**

Securitas

"Securitas Security Services Ireland operate in all the 26 counties in the Republic of Ireland. So, having no regional variances we see as positive, it creates a level playing pitch, and removes a them and us feeling within our staff and allows for countywide prices.

From a legislative, quality, training viewpoint Securitas Security Services Ireland is very happy for holistic approach to continue as regards no regional spikes or differences."

SII

"There are no regional variances within the Irish security industry….and SI is happy for this to continue as it is."

Conclusion: This sub-section has no application in the sector.

Section 41A(3)(i) **any submissions made in accordance with subsection (2)(b).**

Noonan

"*The Security JLC should be maintained in its current format"*

Manguard Plus

"*It is the expressed desire of those organisations that represent both employers and employees, that the JLC process be used for the setting of the basic terms and conditions of employment for employers and this has not prevented individual employers and unions to agree additional terms at local level."*

SEA*"The JLC has a negative impact on the exercise of collective bargaining as it hampers the flexibility required to recognise the different contributions of employees with different levels of training and/or skill, who take on vastly different work in different environments."*

ICTU

The JLC should be retained**.**

Conclusion: The majority submissions received from employer represtntatives contended that the JLC should be retained. The worker side submissions similarly contended that the JLC should be retained. In all of the circumstances the Court does not conclude that submissions made as regards this sub0section lead to a conclusion that the JLC should be abolished or that the Establishment Order should be amended.

Appendix 2

Information sourced from Workplace Relations Commission

2014 – Inspections and outcomes					
Sector	**Cases**	**No in Breach**	**Incidence of Breach %**	**No of Employees**	**Unpaid Wages**
AGRICULTURE	45	26	58%	1,349	€17,965
CONTRACT CLEANING	22	12	55%	6,726	€108
FOOD & DRINK	996	599	60%	12,051	€289,747
HOTEL	104	47	45%	6,270	€143,223
SECURITY	18	6	33%	708	€302
WHOLESALE AND RETAIL	445	261	59%	10,806	€188,630
Totals	**1630**	**951**	**58%**	**37,910**	**€639,975**
2015 – Inspections and outcomes					
Sector	**Cases**	**No in Breach**	**Incidence of Breach %**	**Employees**	**Unpaid Wages**
AGRICULTURE	78	36	46%	1,278	€17,395
CONTRACT CLEANING	29	16	55%	1,362	€6,808
FOOD & DRINK	838	519	62%	10,409	€404,396
HOTEL	75	40	54%	4,777	€51,961
SECURITY	21	10	48%	1,690	€4,593
WHOLESALE AND RETAIL	416	210	50%	14,423	€467,693
Totals	**1,457**	**831**	**57%**	**33,939**	**€952,846**

2016- Inspections and Outcomes					
Sector	**Cases**	**No in Breach**	**Incidence of Breach %**	**Employees**	**Unpaid Wages**
AGRICULTURE	47	22	47%	1,009	€30,137
CONTRACT CLEANING	24	6	25%	7,980	€9,480
FOOD & DRINK	717	343	48%	10,634	€332,903
HOTEL	89	31	35%	4,821	€73,506
SECURITY	17	5	29%	3,667	€52,779
WHOLESALE AND RETAIL	295	132	45%	8,804	€348,550
Totals	**1,189**	**539**	**45%**	**36,915**	**€847,356**
2017- Inspections and outcomes					
Sector	**Cases**	**No in Breach**	**Incidence of Breach %**	**Employees**	**Unpaid Wages**
AGRICULTURE	48	36	75%	804	€56,229
CONTRACT CLEANING	18	14	78%	4,276	€29,395
FOOD & DRINK	645	371	58%	8077	€444,634
HOTEL	55	28	51%	3,679	€109,227
SECURITY	20	7	35%	1,627	€13,167
WHOLESALE AND RETAIL	258	157	61%	9,459	€331,927
Totals	**1,044**	**613**	**61%**	**27,922**	**€984,579**
Jan- March 2018 – inspections and outcomes					
Sector	**Cases**	**No in Breach**	**Incidence of Breach %**	**Employees**	**Unpaid Wages**
AGRICULTURE	17	8	47%	2,940	€38,741
CONTRACT CLEANING	5	1	20%	2,439	€1,066

FOOD & DRINK	146	99	68%	2,833	€109,206
HOTEL	9	6	67%	290	€47,086
SECURITY	4	3	75%	2,846	€20,902
WHOLESALE AND RETAIL	69	37	54%	5,943	€502,354
Totals	250	154	62%	17,291	€719,355
Grand Totals – 2014 to March 2018	**5,320**	**2,475**	**47%**	**136,686**	**€4,144,110**

Note: *The sectoral reporting of the Workplace Relations Commission (and NERA prior to 1st October 2015) does not correspond exactly with the sectors covered by JLC's. The data reproduced above therefore is not to be interpreted as being a record of inspection of sectors covered by JLC's. The above data is extracted from Annual Reviews of NERA and Annual Reports of the Workplace Relations Commission.*

Record of Inspection of ERO's by WRC in 2017.

Sector	Cases Inspected	Cases in Breach	Incidence of Breach %	No Sunday Premium	Records Issues	PYP Issues	Annual Leave / Public Holiday Issues s	Other TCOE	Number of Employees Employed	Unpaid Wages Recovered
CONTRACT CLEANING	18	14	78%	3	11	0	3	1	4,276	29,395
SECURITY	20	7	35%	2	1	0	4	0	1,627	13,167

Note: *Material supplied by WRC at the request of the Court as part of this review.*

APPENDIX 3

List of Submissions Received

	DATE RECEIVED	NAME	DATE ACKNOWLEDGED
1	04 April	VFI (Vintners Federation of Ireland)	Email 04 April
2	05April	Securitas	Post 06 April
3	06 April	LVA (Licensed Vintners Association)	Post 06 April
4	06 April	ICMSA (Irish Creamery Milk Suppliers Association)	Email 06 April
5	06 April	CSNA (Convenience Stores & Newsagents Ass.)	Email 06 April
6	06 April	Irish Hotels Federation	Email 06 April
7	06 April	ICCA (Irish Contract Cleaning Association)	Post 06 April
8	06 April	BWG Foods	Post 06 April
9	06 April	Manguard Plus	Post 06 April
10	06 April	IFA (Irish Farmer`s Association)	Post 06 April
11	06 April	SII (Security Institute of Ireland)	Email 06 April
12	06 April	IBEC	Email 06 April
13	06 April	R.A.I. (Restaurants Assoc. of Ireland)	Email 06 April
14	06 April	RGDATA	Email 06 April
15	06 April	ISME	Email 06 April
16	06 April	Noonan	Email 06 April
17	06 April	The Security Operative	Post 06 April
18	06 April	Irish Hairdressing Association	Post 09 April
19	06 April	I.S.I.A. (Irish Security Industry Association)	Post 09 April
20	06 April	ICTU	Post 09 April
21	06 April	Security Employers Association	Post 06 April