CourtneyDeery
ARCHAEOLOGY & CULTURAL HERITAGE

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

By Email: secretariat@labourcourt.ie

02/03/2026

RE: APPLICATION BY UNITE FOR A SECTORAL EMPLOYMENT ORDER IN THE COMMERCIAL ARCHAEOLOGY SECTOR

Dear Sir or Madam,

We write in response to the Labour Court's examination of the commercial archaeology sector under Section 14D of the Industrial Relations (Amendment) Act 2015.

i. Introduction

At the outset, we wish to acknowledge the objectives underpinning the Union's application. The promotion of fair remuneration, professional standards, and stable employment within the commercial archaeology sector are goals which we support. Many established archaeological practices already operate in accordance with those principles.

Companies that directly employ staff carry substantial statutory and operational obligations. These include employer PRSI contributions, pension provision, statutory annual leave and

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public holiday entitlements, sick leave, redundancy exposure, structured training and mentoring, health and safety compliance systems, employer liability insurance, and ongoing professional development. In addition, employers incur significant fixed overhead costs associated with maintaining professional operations - including office premises, software and computer licensing, specialist digital systems, insurance, audit and compliance requirements, and administrative infrastructure. These costs are integral to sustaining stable employment and maintaining professional standards within the sector.

Our concern is that the proposed SEO does not sufficiently reflect the manner in which commercial archaeology is delivered in practice.

ii. Operational Structure of the Commercial Archaeology Sector

Commercial archaeology operates within a competitive, procurement-driven market. Alongside direct PAYE employment, a significant proportion of work is delivered through subcontracting arrangements and engagement of self-employed practitioners.

Those alternative engagement models do not carry equivalent employer-side statutory obligations, pension liabilities, redundancy exposure, or fixed overhead burdens. The sector is therefore characterised by mixed business models rather than a uniform employment structure.

Any statutory intervention must reflect that structural reality.

iii. Evidential Basis Relied Upon in Appendix 1

Appendix 1 to the clarification document submitted by Unite the Union in support of the proposed Sectoral Employment Order asserts that approximately 40 archaeological companies operate in Ireland, of which only eleven are described as medium to large employers of the majority of archaeologists in the sector. It further relies on CRO returns indicating that twelve companies registered employees, totalling 218 individuals as of January 2025.

On the face of it, this would suggest that a substantial proportion of companies operate without direct PAYE employment. Alternatively, it suggests that the dataset relied upon does not capture the full employer base or accurately reflect how employment is structured within the sector.

In either case, the material demonstrates that the sector is fragmented and characterised by mixed business models, including direct employment, subcontracting arrangements, project-based contracts, and engagement of self-employed practitioners. It does not present a clearly defined, homogeneous class of employers or employees.

CRO filings provide limited statutory accounting snapshots. They do not reliably reflect full-time equivalent employment, temporary project-based contracts, subcontracted labour, associated corporate structures, or peak staffing levels during infrastructure programmes. As such, they cannot be treated as a definitive measure of sectoral employment.

iv. Competitive and Procurement Implications

An SEO that applies primarily to direct employees, while alternative engagement models remain outside its effective scope, risks creating regulatory asymmetry.

Commercial archaeology operates within a competitive, procurement-driven market. Alongside direct PAYE employment, a significant proportion of work is delivered through subcontracting arrangements and engagement of self-employed practitioners. Those models do not carry equivalent employer-side statutory obligations, pension liabilities, or fixed overhead burdens.

Employers who comply fully with employment legislation and maintain structured offices, IT systems, and professional infrastructure etc. would be required to absorb increased statutory labour costs. Providers operating primarily through subcontract arrangements, without equivalent overheads or employment liabilities, would not bear those same burdens.

In competitive tender environments where price remains a material evaluation factor, even modest differences in labour and overhead costs can affect outcomes. The result may be an

unintended competitive disadvantage for employers who provide stable employment, training, and professional development.

There is a real risk that such asymmetry could incentivise a reduction in direct employment in favour of subcontracting arrangements in order to remain commercially viable. That outcome would undermine long-term workforce development and structured career progression - outcomes which the proposed SEO seeks to support.

v. International Pay Comparisons (Appendix 1C)
Appendix 1C presents international pay rate comparisons presented are expressly 'not broken down into grades'.

In a regulated profession comprising clearly differentiated levels of responsibility, from site assistants to supervisors, project managers and directors, aggregated averages cannot provide a reliable basis for establishing statutory wage structures.

Without grade-specific data, qualification thresholds, and defined responsibility bands, such comparisons cannot meaningfully inform the calibration of an SEO.

vi. Proportionality and Application
A Sectoral Employment Order is a statutory intervention intended to apply across a defined class, type or group of workers and employers.

In circumstances where the employer base, employment numbers, and employment structures are not clearly established or consistently evidenced, it is difficult to see how such an Order could be proportionately calibrated or confidently applied.

A regulatory intervention of this scale requires a robust and transparent evidential foundation. The material provided in Appendix 1 does not yet provide that foundation.

It is also relevant that market rates within the sector have been increasing in recent years in response to labour supply and demand dynamics. This suggests that wage levels are already adjusting through market mechanisms. Before statutory intervention is imposed, it is important to ensure that regulatory measures are proportionate and equitably applied across all providers operating in the same market.

Conclusion

We do not oppose fair and sustainable employment standards. However, any Sectoral Employment Order must be calibrated to the full structure of the sector and must apply on a genuinely level playing field.

Without such alignment, there is a risk that the proposed SEO may distort competition and weaken compliant employers rather than strengthening professional standards.

We respectfully request that the Labour Court consider these structural and proportionality concerns in its deliberations.

Yours sincerely,

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