

Status: Point in time view as at 13/09/2017.

Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Cross Heading: General provisions about admissibility is up to date with all changes known to be in force on or before 05 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

^{F1}SCHEDULE A1

COLLECTIVE BARGAINING: RECOGNITION

Textual Amendments

F1 Sch. A1 (paras. 1-173) inserted (6.6.2000) by 1999 c. 26, s. 1(3), **Sch. 1**; S.I. 2000/1338, **art. 2(d)**

Modifications etc. (not altering text)

C1 Sch. A1 (paras. 1-173) applied (14.8.2000) by S.I. 2000/1282, **art. 2(5)(a)**

C1 Sch. A1 modified (temp. from 6.4.2005) by The Employment Relations Act 2004 (Commencement No.3 and Transitional Provisions) Order 2005 (S.I. 2005/872), arts. 4, **21**, Sch. (with arts. 6-21)

PART I

RECOGNITION

General provisions about admissibility

- 33 An application under paragraph 11 or 12 is not admissible unless—
- (a) it is made in such form as the CAC specifies, and
 - (b) it is supported by such documents as the CAC specifies.
- 34 An application under paragraph 11 or 12 is not admissible unless the union gives (or unions give) to the employer—
- (a) notice of the application, and
 - (b) a copy of the application and any documents supporting it.
- 35 (1) An application under paragraph 11 or 12 is not admissible if the CAC is satisfied that there is already in force a collective agreement under which a union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of any workers falling within the relevant bargaining unit.
- (2) But sub-paragraph (1) does not apply to an application under paragraph 11 or 12 if—
- (a) the union (or unions) recognised under the collective agreement and the union (or unions) making the application under paragraph 11 or 12 are the same, and
 - (b) the matters in respect of which the union is (or unions are) entitled to conduct collective bargaining do not include [^{F1}all of the following: pay, hours and holidays (“the core topics”)].
- (3) A declaration of recognition which is the subject of a declaration under paragraph 83(2) must for the purposes of sub-paragraph (1) be treated as ceasing to have effect

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to the extent specified in paragraph 83(2) on the making of the declaration under paragraph 83(2).

- (4) In applying sub-paragraph (1) an agreement for recognition (the agreement in question) must be ignored if—
- (a) the union does not have (or none of the unions has) a certificate [^{F2}of independence],
 - (b) at some time there was an agreement (the old agreement) between the employer and the union under which the union (whether alone or with other unions) was recognised as entitled to conduct collective bargaining on behalf of a group of workers which was the same or substantially the same as the group covered by the agreement in question, and
 - (c) the old agreement ceased to have effect in the period of three years ending with the date of the agreement in question.
- (5) It is for the CAC to decide whether one group of workers is the same or substantially the same as another, but in deciding the CAC may take account of the views of any person it believes has an interest in the matter.
- (6) The relevant bargaining unit is—
- (a) the proposed bargaining unit, where the application is under paragraph 11(2) or 12(2);
 - (b) the agreed bargaining unit, where the application is under paragraph 12(4).

Textual Amendments

- F1** Words in Sch. A1 para. 35(2)(b) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 11, 59\(2\)-\(4\)](#); [S.I. 2004/872, art. 4, Sch.](#) (with arts. 6-21)
- F2** Words in Sch. A1 para. 35(4)(a) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 50\(6\), 59\(2\)-\(4\)](#), [S.I. 2005/872, {art. 4}, Sch.](#) (with arts. 6-21)

- 36 (1) An application under paragraph 11 or 12 is not admissible unless the CAC decides that—
- (a) members of the union (or unions) constitute at least 10 per cent of the workers constituting the relevant bargaining unit, and
 - (b) a majority of the workers constituting the relevant bargaining unit would be likely to favour recognition of the union (or unions) as entitled to conduct collective bargaining on behalf of the bargaining unit.
- (2) The relevant bargaining unit is—
- (a) the proposed bargaining unit, where the application is under paragraph 11(2) or 12(2);
 - (b) the agreed bargaining unit, where the application is under paragraph 12(4).
- (3) The CAC must give reasons for the decision.
- 37 (1) This paragraph applies to an application made by more than one union under paragraph 11 or 12.
- (2) The application is not admissible unless—
- (a) the unions show that they will co-operate with each other in a manner likely to secure and maintain stable and effective collective bargaining arrangements, and

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- (b) the unions show that, if the employer wishes, they will enter into arrangements under which collective bargaining is conducted by the unions acting together on behalf of the workers constituting the relevant bargaining unit.
- (3) The relevant bargaining unit is—
- (a) the proposed bargaining unit, where the application is under paragraph 11(2) or 12(2);
 - (b) the agreed bargaining unit, where the application is under paragraph [F312(4)].

Textual Amendments

F3 Words in Sch. A1 para. 37(3)(b) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 23\(8\)](#); S.I. 2005/872, [art. 4](#), Sch. (with arts. 6-21)

- 38 (1) This paragraph applies if—
- (a) the CAC accepts a relevant application relating to a bargaining unit or proceeds under paragraph 20 with an application relating to a bargaining unit,
 - (b) the application has not been withdrawn,
 - (c) no notice has been given under paragraph 17(2),
 - (d) the CAC has not issued a declaration under paragraph [F419F(5), 22(2), 27(2), 27D(3), 27D(4),] 29(3) or 29(4) in relation to that bargaining unit, and
 - (e) no notification has been made under paragraph 24(2).
- (2) Another relevant application is not admissible if—
- (a) at least one worker falling within the relevant bargaining unit also falls within the bargaining unit referred to in sub-paragraph (1), and
 - (b) the application is made by a union (or unions) other than the union (or unions) which made the application referred to in sub-paragraph (1).
- (3) A relevant application is an application under paragraph 11 or 12.
- (4) The relevant bargaining unit is—
- (a) the proposed bargaining unit, where the application is under paragraph 11(2) or 12(2);
 - (b) the agreed bargaining unit, where the application is under paragraph 12(4).

Textual Amendments

F4 Words in Sch. A1 para. 38(1)(d) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 23\(9\)](#); S.I. 2005/872, [art. 4](#), Sch. (with arts. 6-21)

- 39 (1) This paragraph applies if the CAC accepts a relevant application relating to a bargaining unit or proceeds under paragraph 20 with an application relating to a bargaining unit.
- (2) Another relevant application is not admissible if—

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- (a) the application is made within the period of 3 years starting with the day after that on which the CAC gave notice of acceptance of the application mentioned in sub-paragraph (1),
 - (b) the relevant bargaining unit is the same or substantially the same as the bargaining unit mentioned in sub-paragraph (1), and
 - (c) the application is made by the union (or unions) which made the application mentioned in sub-paragraph (1).
- (3) A relevant application is an application under paragraph 11 or 12.
- (4) The relevant bargaining unit is—
- (a) the proposed bargaining unit, where the application is under paragraph 11(2) or 12(2);
 - (b) the agreed bargaining unit, where the application is under paragraph 12(4).
- (5) This paragraph does not apply if paragraph 40 or 41 applies.
- 40 (1) This paragraph applies if the CAC issues a declaration under paragraph [F527D(4) or] 29(4) that a union is (or unions are) not entitled to be recognised as entitled to conduct collective bargaining on behalf of a bargaining unit; and this is so whether the ballot concerned is [F6arranged] under this Part or Part III of this Schedule.
- (2) An application under paragraph 11 or 12 is not admissible if—
- (a) the application is made within the period of 3 years starting with the day after that on which the declaration was issued,
 - (b) the relevant bargaining unit is the same or substantially the same as the bargaining unit mentioned in sub-paragraph (1), and
 - (c) the application is made by the union (or unions) which made the application leading to the declaration.
- (3) The relevant bargaining unit is—
- (a) the proposed bargaining unit, where the application is under paragraph 11(2) or 12(2);
 - (b) the agreed bargaining unit, where the application is under paragraph 12(4).

Textual Amendments

- F5** Words in Sch. A1 para. 40(1) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 57\(1\), 59\(2\)-\(4\), Sch. 1 para. 23\(10\)\(a\)](#); S.I. 2005/872, [art. 4, Sch.](#) (with arts. 6-21)
- F6** Word in Sch. A1 para. 40(1) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 57\(1\), 59\(2\)-\(4\), Sch. 1 para. 23\(10\)\(b\)](#); S.I. 2005/872, [art. 4, Sch.](#) (with arts. 6-21)

- 41 (1) This paragraph applies if the CAC issues a declaration under paragraph [F7119D(4), 119H(5) or] 121(3) that bargaining arrangements are to cease to have effect; and this is so whether the ballot concerned is [F8arranged] under Part IV or Part V of this Schedule.
- (2) An application under paragraph 11 or 12 is not admissible if—
- (a) the application is made within the period of 3 years starting with the day after that on which the declaration was issued,

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- (b) the relevant bargaining unit is the same or substantially the same as the bargaining unit to which the bargaining arrangements mentioned in sub-paragraph (1) relate, and
 - (c) the application is made by the union which was a party (or unions which were parties) to the proceedings leading to the declaration.
- (3) The relevant bargaining unit is—
- (a) the proposed bargaining unit, where the application is under paragraph 11(2) or 12(2);
 - (b) the agreed bargaining unit, where the application is under paragraph 12(4).

Textual Amendments

- F7** Words in Sch. A1 para. 41(1) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 23\(11\)\(a\)](#); S.I. 2005/872, [art. 4](#), Sch. (with arts. 6-21)
- F8** Word in Sch. A1 para. 41(1) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 23\(11\)\(b\)](#); S.I. 2005/872, [art. 4](#), Sch. (with arts. 6-21)

- 42 (1) This paragraph applies for the purposes of paragraphs 39 to 41.
- (2) It is for the CAC to decide whether one bargaining unit is the same or substantially the same as another, but in deciding the CAC may take account of the views of any person it believes has an interest in the matter.
- 43 (1) Paragraphs 44 to 50 apply if the CAC has to decide under paragraph 20 whether an application is valid.
- (2) In those paragraphs—
- (a) references to the application in question are to that application, and
 - (b) references to the relevant bargaining unit are to the bargaining unit agreed by the parties or decided by the CAC.
- 44 (1) The application in question is invalid if the CAC is satisfied that there is already in force a collective agreement under which a union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of any workers falling within the relevant bargaining unit.
- (2) But sub-paragraph (1) does not apply to the application in question if—
- (a) the union (or unions) recognised under the collective agreement and the union (or unions) making the application in question are the same, and
 - (b) the matters in respect of which the union is (or unions are) entitled to conduct collective bargaining do not include [^{F9} all of the following: pay, hours and holidays (“the core topics”)].
- (3) A declaration of recognition which is the subject of a declaration under paragraph 83(2) must for the purposes of sub-paragraph (1) be treated as ceasing to have effect to the extent specified in paragraph 83(2) on the making of the declaration under paragraph 83(2).
- (4) In applying sub-paragraph (1) an agreement for recognition (the agreement in question) must be ignored if—
- (a) the union does not have (or none of the unions has) a certificate [^{F10}of independence],

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- (b) at some time there was an agreement (the old agreement) between the employer and the union under which the union (whether alone or with other unions) was recognised as entitled to conduct collective bargaining on behalf of a group of workers which was the same or substantially the same as the group covered by the agreement in question, and
 - (c) the old agreement ceased to have effect in the period of three years ending with the date of the agreement in question.
- (5) It is for the CAC to decide whether one group of workers is the same or substantially the same as another, but in deciding the CAC may take account of the views of any person it believes has an interest in the matter.

Textual Amendments

- F9** Words in Sch. A1 para. 44(2)(b) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 11, 59\(2\)-\(4\); S.I. 2005/872, art. 4, Sch.](#) (with arts. 6-21)
- F10** Words in Sch. A1 para. 44(4)(a) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 50\(6\), 59\(2\)-\(4\); S.I. 2005/872, art. 4, Sch.](#) (with arts. 6-21)

- 45 The application in question is invalid unless the CAC decides that—
- (a) members of the union (or unions) constitute at least 10 per cent of the workers constituting the relevant bargaining unit, and
 - (b) a majority of the workers constituting the relevant bargaining unit would be likely to favour recognition of the union (or unions) as entitled to conduct collective bargaining on behalf of the bargaining unit.
- 46 (1) This paragraph applies if—
- (a) the CAC accepts an application under paragraph 11 or 12 relating to a bargaining unit or proceeds under paragraph 20 with an application relating to a bargaining unit,
 - (b) the application has not been withdrawn,
 - (c) no notice has been given under paragraph 17(2),
 - (d) the CAC has not issued a declaration under paragraph [^{F11}19F(5), 22(2), 27(2), 27D(3), 27D(4),] 29(3) or 29(4) in relation to that bargaining unit, and
 - (e) no notification has been made under paragraph 24(2).
- (2) The application in question is invalid if—
- (a) at least one worker falling within the relevant bargaining unit also falls within the bargaining unit referred to in sub-paragraph (1), and
 - (b) the application in question is made by a union (or unions) other than the union (or unions) which made the application referred to in sub-paragraph (1).

Textual Amendments

- F11** Words in Sch. A1 para. 46(1)(d) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 57\(1\), 59\(2\)-\(4\), Sch. 1 para. 23\(12\); S.I. 2005/872, art. 4, Sch.](#) (with arts. 6-21)

- 47 (1) This paragraph applies if the CAC accepts an application under paragraph 11 or 12 relating to a bargaining unit or proceeds under paragraph 20 with an application relating to a bargaining unit.

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- (2) The application in question is invalid if—
- (a) the application is made within the period of 3 years starting with the day after that on which the CAC gave notice of acceptance of the application mentioned in sub-paragraph (1),
 - (b) the relevant bargaining unit is the same or substantially the same as the bargaining unit mentioned in sub-paragraph (1), and
 - (c) the application is made by the union (or unions) which made the application mentioned in sub-paragraph (1).
- (3) This paragraph does not apply if paragraph 48 or 49 applies.
- 48 (1) This paragraph applies if the CAC issues a declaration under paragraph [F1227D(4) or] 29(4) that a union is (or unions are) not entitled to be recognised as entitled to conduct collective bargaining on behalf of a bargaining unit; and this is so whether the ballot concerned is [F13arranged] under this Part or Part III of this Schedule.
- (2) The application in question is invalid if—
- (a) the application is made within the period of 3 years starting with the date of the declaration,
 - (b) the relevant bargaining unit is the same or substantially the same as the bargaining unit mentioned in sub-paragraph (1), and
 - (c) the application is made by the union (or unions) which made the application leading to the declaration.

Textual Amendments

- F12** Words in Sch. A1 para. 48(1) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 57\(1\), 59\(2\)-\(4\), Sch. 1 para. 23\(13\)\(a\)](#); S.I. 2005/872, [art. 4, Sch.](#) (with arts. 6-21)
- F13** Words in Sch. A1 para. 48(1) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 57\(1\), 59\(2\)-\(4\), Sch. 1 para. 23\(13\)\(b\)](#); S.I. 2005/872, [art. 4, Sch.](#) (with arts. 6-21)

- 49 (1) This paragraph applies if the CAC issues a declaration under paragraph [F14119D(4), 119H(5) or] 121(3) that bargaining arrangements are to cease to have effect; and this is so whether the ballot concerned is [F15arranged] under Part IV or Part V of this Schedule.
- (2) The application in question is invalid if—
- (a) the application is made within the period of 3 years starting with the day after that on which the declaration was issued,
 - (b) the relevant bargaining unit is the same or substantially the same as the bargaining unit to which the bargaining arrangements mentioned in sub-paragraph (1) relate, and
 - (c) the application is made by the union which was a party (or unions which were parties) to the proceedings leading to the declaration.

Textual Amendments

- F14** Words in Sch. A1 para. 49(1) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 57\(1\), 59\(2\)-\(4\), Sch. 1 para. 23\(14\)\(a\)](#); S.I. 2005/872, [art. 4, Sch. 1](#) (with arts. 6-21)

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F15 Words in Sch. A1 para. 49(1) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 23\(14\)\(b\)](#); S.I. 2005/872, [art. 4](#), Sch. 1 (with arts. 6-21)

- 50 (1) This paragraph applies for the purposes of paragraphs 47 to 49.
- (2) It is for the CAC to decide whether one bargaining unit is the same or substantially the same as another, but in deciding the CAC may take account of the views of any person it believes has an interest in the matter.

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