

## SCHEDULES

### <sup>F1</sup>SCHEDULE 1A

#### COLLECTIVE BARGAINING: RECOGNITION

**F1** 1999 NI 9

### PART III

#### CHANGES AFFECTING BARGAINING UNIT

##### *Position where Court decides new unit*

- 82.**—(1) This paragraph applies if the Court gives notice under paragraph 70 of—
- (a) a decision that the original unit is no longer an appropriate bargaining unit, and
  - (b) a decision as to the bargaining unit which is (or units which are) appropriate.
- (2) This paragraph also applies if the Court gives notice under paragraph 79 of a decision as to the bargaining unit which is (or units which are) appropriate.
- (3) The court—
- (a) must proceed as stated in paragraphs 83 to 89 with regard to the appropriate unit (if there is one only), or
  - (b) must proceed as stated in paragraphs 83 to 89 with regard to each appropriate unit separately (if there are two or more).
- (4) References in those paragraphs to the new unit are to the appropriate unit under consideration.
- 83.**—(1) This paragraph applies if in the Court's opinion the new unit contains at least one worker falling within a statutory outside bargaining unit.
- (2) In such a case—
- (a) the Court must issue a declaration that the relevant bargaining arrangements, so far as relating to workers falling within the new unit, are to cease to have effect on a date specified by the Court in the declaration, and
  - (b) the relevant bargaining arrangements shall cease to have effect accordingly.
- (3) The relevant bargaining arrangements are—
- (a) the bargaining arrangements relating to the original unit, and
  - (b) the bargaining arrangements relating to each statutory outside bargaining unit containing workers who fall within the new unit.
- (4) The bargaining arrangements relating to the original unit are the bargaining arrangements as defined in paragraph 64.
- (5) The bargaining arrangements relating to an outside unit are—

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- (a) the declaration recognising a unit (or unions) as entitled to conduct collective bargaining on behalf of the workers constituting the outside unit, and
  - (b) the provisions relating to the collective bargaining method.
- (6) For this purpose the provisions relating to the collective bargaining method are—
- (a) any agreement by the employer and the union (or unions) as to the method by which collective bargaining is to be conducted with regard to the outside unit,
  - (b) anything effective as, or as if contained in, a legally enforceable contract and relating to the method by which collective bargaining is to be conducted with regard to the outside unit, or
  - (c) any provision of this Part that a method of collective bargaining is to have effect with regard to the outside unit.
- (7) A statutory outside bargaining unit is a bargaining unit which fulfils these conditions—
- (a) it is not the original unit;
  - (b) a union is (or unions are) recognised as entitled to conduct collective bargaining on its behalf by virtue of a declaration of the Court;
  - (c) the union (or at least one of the unions) is not a party referred to in paragraph 64.
- (8) The date specified under sub-paragraph<sup>[F1]</sup> (2)(a)] must be—
- (a) the date on which the relevant period expires, or
  - (b) if the Court believes that to maintain the relevant bargaining arrangements would be impracticable or contrary to the interests of good industrial relations, the date after the date on which the declaration is issued;

and the relevant period is the period of 65 working days starting with the day after that on which the declaration is issued.

**F1** 2004 NI 19

- 84.**—(1) This paragraph applies if in the Court's opinion the new unit contains—
- (a) at least one worker falling within a voluntary outside bargaining unit, but
  - (b) no worker falling within a statutory outside bargaining unit.
- (2) In such a case—
- (a) the Court must issue a declaration that the original bargaining arrangements, so far as relating to workers falling within the new unit, are to cease to have effect on a date specified by the Court in the declaration, and
  - (b) the original bargaining arrangements shall cease to have effect accordingly.
- (3) The original bargaining arrangements are the bargaining arrangements as defined in paragraph 64.
- (4) A voluntary outside bargaining unit is a bargaining unit which fulfils these conditions—
- (a) it is not the original unit;
  - (b) a union is (or unions are) recognised as entitled to conduct collective bargaining on its behalf by virtue of an agreement with the employer;
  - (c) the union (or at least one of the unions) is not a party referred to in paragraph 64.
- (5) The date specified under sub-paragraph (2)(a) must be—
- (a) the date on which the relevant period expires, or

- (b) if the Court believes that to maintain the original bargaining arrangements would be impracticable or contrary to the interests of good industrial relations, the date after the date on which the declaration is issued;

and the relevant period is the period of 65 working days starting with the day after that on which the declaration is issued.

**85.**—(1) If the Court's opinion is not that mentioned in paragraph 83(1) or 84(1) it must—

- (a) decide whether the difference between the original unit and the new unit is such that the support of the union (or unions) within the new unit needs to be assessed, and
- (b) inform the parties of its decision.

(2) If the Court's decision is that such support does not need to be assessed—

- (a) the Court must issue a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the new unit;
- (b) so far as it affects workers in the new unit who fall within the original unit, the declaration shall have effect in place of any declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the original unit;
- (c) the method of collective bargaining relating to the original unit shall have effect in relation to the new unit, with any modifications which the Court considers necessary to take account of the change of bargaining unit and specifies in the declaration.

**86.**—(1) This paragraph applies if the Court decides under paragraph 85(1) that the support of the union(or unions) within the new unit needs to be assessed.

(2) The Court must decide these questions—

- (a) whether members of the union (or unions) constitute at least 10 per cent of the workers constituting the new unit;
- (b) whether a majority of the workers constituting the new unit would be likely to favour recognition of the union (or unions) as entitled to conduct collective bargaining on behalf of the new unit.

(3) If the Court decides one or both of the questions in the negative—

- (a) the Court must issue a declaration that the bargaining arrangements, so far as relating to workers falling within the new unit, are to cease to have effect on a date specified by the Court in the declaration, and
- (b) the bargaining arrangements shall cease to have effect accordingly.

**87.**—(1) This paragraph applies if—

- (a) the Court decides both the questions in paragraph 86(2) in the affirmative, and
- (b) the Court is satisfied that a majority of the workers constituting the new unit are members of the union (or unions).

(2) The Court must issue a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the workers constituting the new unit.

(3) But if any of the three qualifying condition is fulfilled, instead of issuing a declaration under sub-paragraph (2) the Court must give notice to the parties that it intends to arrange for the holding of a secret ballot in which the workers constituting the new unit are asked whether they want the union (or unions) to conduct collective bargaining on their behalf.

(4) These are the three qualifying conditions—

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

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- [<sup>F2</sup>(b) the Court has evidence, which it considers to be credible, from a significant number of the union members within the new bargaining unit that they do not want the union (or unions) to conduct collective bargaining on their behalf;]
- (c) membership evidence is produced which leads the Court to conclude that there are doubts whether a significant number of the union members within the new unit want the union (or unions) to conduct collective bargaining on their behalf.
- (5) For the purposes of sub-paragraph (4)(c) membership evidence is—
- (a) evidence about the circumstances in which union members became members;
- (b) evidence about the length of time for which union members have been members, in a case where the Court is satisfied that such evidence should be taken into account.
- (6) If the Court issues a declaration under sub-paragraph (2)—
- (a) so far as it affects workers in the new unit who fall within the original unit, the declaration shall have effect in place of any declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the original unit;
- (b) the method of collective bargaining relating to the original unit shall have effect in relation to the new unit, with any modifications which the Court considers necessary to take account of the change of bargaining unit and specifies in the declaration.

**F2** 2004 NI 19

**88.**—(1) This paragraph applies if—

- (a) the Court decides both the questions in paragraph 86(2) in the affirmative, and
- (b) the Court is not satisfied that a majority of the workers constituting the new unit are members of the union (or unions).

(2) The Court must give notice to the parties that it intends to arrange for the holding of a secret ballot in which the workers constituting the new unit are asked whether they want the union (or unions) to conduct collective bargaining on their behalf.

**89.**—(1) If the Court gives notice under paragraph 87(3) or 88(2) the union (or unions) may within the notification period notify the Court that the union does not (or unions do not) want the Court to arrange for the holding of the ballot; and the notification period is the period of 10 working days starting with the day after that on which the union (or last of the unions) receives the Court's notice.

(2) If the Court is so notified—

- (a) it must not arrange for the holding of the ballot,
- (b) it must inform the parties that it will not arrange for the holding of the ballot, and why,
- (c) it must issue a declaration that the bargaining arrangements, so far as relating to workers falling within the new unit, are to cease to have effect on a date specified by it in the declaration, and
- (d) the bargaining arrangements shall cease to have effect accordingly.

(3) If the Court is not so notified it must arrange for the holding of the ballot.

(4) Paragraph 25 applies if the Court arranges under this paragraph for the holding of a ballot (as well as if the Court arranges under paragraph 24 for the holding of a ballot).

(5) Paragraphs 26 to 29 apply accordingly,<sup>F3</sup> but as if—

- (a) references to the bargaining unit were references to the new unit, and

- (b) paragraph 26(4F) to (4H), and the references in paragraph 26(4) and (6) to paragraph 19D, were omitted.]
- (6) If as a result of the ballot the Court issues a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the new unit—
  - (a) so far as it affects workers in the new unit who fall within the original unit, the declaration shall have effect in place of any declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the original unit;
  - (b) the method of collective bargaining relating to the original unit shall have effect in relation to the new unit, with any modifications which the Court considers necessary to take account of the change of bargaining unit and specifies in the declaration.
- (7) If as a result of the ballot the Court issues a declaration that the union is (or unions are) not entitled to be recognised as entitled to conduct collective bargaining on behalf of the new unit—
  - (a) the Court must state in the declaration the date on which the bargaining arrangements, so far as relating to workers falling within the new unit, are to cease to have effect, and
  - (b) the bargaining arrangements shall cease to have effect accordingly.
- (8) Paragraphs (a) and (b) of sub-paragraph (6) also apply if the Court issues a declaration under paragraph 27(2)[<sup>F3</sup> or 27D(3)].
- [<sup>F3</sup>(9) Paragraphs (a) and (b) of sub-paragraph (7) also apply if the Court issues a declaration under paragraph 27D(4).]

**F3** 2004 NI 19

**Changes to legislation:**

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