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## SCHEDULES

### <sup>F1</sup>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 III

#### CHANGES AFFECTING BARGAINING UNIT

##### *Introduction*

- 64 (1) This Part of this Schedule applies if—
- (a) the CAC has issued a declaration that a union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of a bargaining unit, and
  - (b) provisions relating to the collective bargaining method apply in relation to the unit.
- (2) In such a case, in this Part of this Schedule—
- (a) references to the original unit are to the bargaining unit on whose behalf the union is (or unions are) recognised as entitled to conduct collective bargaining, and
  - (b) references to the bargaining arrangements are to the declaration and to the provisions relating to the collective bargaining method which apply in relation to the original unit.
- (3) For this purpose provisions relating to the collective bargaining method are—
- (a) the parties' agreement as to the method by which collective bargaining is to be conducted with regard to the original 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 original unit, or
  - (c) any provision of this Part of this Schedule that a method of collective bargaining is to have effect with regard to the original unit.
- 65 References in this Part of this Schedule to the parties are to the employer and the union (or unions) concerned.

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*Either party believes unit no longer appropriate*

- 66 (1) This paragraph applies if the employer believes or the union believes (or unions believe) that the original unit is no longer an appropriate bargaining unit.
- (2) The employer or union (or unions) may apply to the CAC to make a decision as to what is an appropriate bargaining unit.
- 67 (1) An application under paragraph 66 is not admissible unless the CAC decides that it is likely that the original unit is no longer appropriate by reason of any of the matters specified in sub-paragraph (2).
- (2) The matters are—
- (a) a change in the organisation or structure of the business carried on by the employer;
  - (b) a change in the activities pursued by the employer in the course of the business carried on by him;
  - (c) a substantial change in the number of workers employed in the original unit.
- 68 (1) The CAC must give notice to the parties of receipt of an application under paragraph 66.
- (2) Within the acceptance period the CAC must decide whether the application is admissible within the terms of paragraphs 67 and 92.
- (3) In deciding whether the application is admissible the CAC must consider any evidence which it has been given by the employer or the union (or unions).
- (4) If the CAC decides that the application is not admissible —
- (a) the CAC must give notice of its decision to the parties,
  - (b) the CAC must not accept the application, and
  - (c) no further steps are to be taken under this Part of this Schedule.
- (5) If the CAC decides that the application is admissible it must—
- (a) accept the application, and
  - (b) give notice of the acceptance to the parties.
- (6) The acceptance period is—
- (a) the period of 10 working days starting with the day after that on which the CAC receives the application, or
  - (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
- 69 (1) This paragraph applies if—
- (a) the CAC gives notice of acceptance of the application, and
  - (b) before the end of the first period the parties agree a bargaining unit or units (the new unit or units) differing from the original unit and inform the CAC of their agreement.
- (2) If in the CAC's opinion the new unit (or any of the new units) contains at least one worker falling within an outside bargaining unit no further steps are to be taken under this Part of this Schedule.
- (3) If sub-paragraph (2) does not apply—
- (a) the CAC must issue a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the new unit or units;

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- (b) so far as it affects workers in the new unit (or units) 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 or units, with any modifications which the CAC considers necessary to take account of the change of bargaining unit and specifies in the declaration.
  - (4) The first period is—
    - (a) the period of 10 working days starting with the day after that on which the CAC gives notice of acceptance of the application, or
    - (b) such longer period (so starting) as the parties may from time to time agree and notify to the CAC.
  - (5) An 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;
    - (c) the union (or at least one of the unions) is not a party referred to in paragraph 64.
- 70 (1) This paragraph applies if—
  - (a) the CAC gives notice of acceptance of the application, and
  - (b) the parties do not inform the CAC before the end of the first period that they have agreed a bargaining unit or units differing from the original unit.
- (2) During the second period—
  - (a) the CAC must decide whether or not the original unit continues to be an appropriate bargaining unit;
  - (b) if the CAC decides that the original unit does not so continue, it must decide what other bargaining unit is or units are appropriate;
  - (c) the CAC must give notice to the parties of its decision or decisions under paragraphs (a) and (b).
- (3) In deciding whether or not the original unit continues to be an appropriate bargaining unit the CAC must take into account only these matters—
  - (a) any change in the organisation or structure of the business carried on by the employer;
  - (b) any change in the activities pursued by the employer in the course of the business carried on by him;
  - (c) any substantial change in the number of workers employed in the original unit.
- (4) In deciding what other bargaining unit is or units are appropriate the CAC must take these matters into account—
  - (a) the need for the unit or units to be compatible with effective management;
  - (b) the matters listed in sub-paragraph (5), so far as they do not conflict with that need.
- (5) The matters are—
  - (a) the views of the employer and of the union (or unions);

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- (b) existing national and local bargaining arrangements;
  - (c) the desirability of avoiding small fragmented bargaining units within an undertaking;
  - (d) the characteristics of workers falling within the original unit and of any other employees of the employer whom the CAC considers relevant;
  - (e) the location of workers.
- (6) If the CAC decides that two or more bargaining units are appropriate its decision must be such that no worker falls within more than one of them.
- (7) The second period is—
- (a) the period of 10 working days starting with the day after that on which the first period ends, or
  - (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
- 71 If the CAC gives notice under paragraph 70 of a decision that the original unit continues to be an appropriate bargaining unit no further steps are to be taken under this Part of this Schedule.
- 72 Paragraph 82 applies if the CAC 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.
- 73 (1) This paragraph applies if—
- (a) the parties agree under paragraph 69 a bargaining unit or units differing from the original unit,
  - (b) paragraph 69(2) does not apply, and
  - (c) at least one worker falling within the original unit does not fall within the new unit (or any of the new units).
- (2) In such a case—
- (a) the CAC must issue a declaration that the bargaining arrangements, so far as relating to the worker or workers mentioned in sub-paragraph (1)(c), are to cease to have effect on a date specified by the CAC in the declaration, and
  - (b) the bargaining arrangements shall cease to have effect accordingly.

*Employer believes unit has ceased to exist*

- 74 (1) If the employer—
- (a) believes that the original unit has ceased to exist, and
  - (b) wishes the bargaining arrangements to cease to have effect,
- he must give the union (or each of the unions) a notice complying with sub-paragraph (2) and must give a copy of the notice to the CAC.
- (2) A notice complies with this sub-paragraph if it—
- (a) identifies the unit and the bargaining arrangements,
  - (b) states the date on which the notice is given,
  - (c) states that the unit has ceased to exist, and

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- (d) states that the bargaining arrangements are to cease to have effect on a date which is specified in the notice and which falls after the end of the period of 35 working days starting with the day after that on which the notice is given.
- (3) Within the validation period the CAC must decide whether the notice complies with sub-paragraph (2).
- (4) If the CAC decides that the notice does not comply with sub-paragraph (2)—
  - (a) the CAC must give the parties notice of its decision, and
  - (b) the employer's notice shall be treated as not having been given.
- (5) If the CAC decides that the notice complies with sub-paragraph (2) it must give the parties notice of the decision.
- (6) The bargaining arrangements shall cease to have effect on the date specified under sub-paragraph (2)(d) if—
  - (a) the CAC gives notice under sub-paragraph (5), and
  - (b) the union does not (or unions do not) apply to the CAC under paragraph 75.
- (7) The validation period is—
  - (a) the period of 10 working days starting with the day after that on which the CAC receives the copy of the notice, or
  - (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
- 75 (1) Paragraph 76 applies if—
  - (a) the CAC gives notice under paragraph 74(5), and
  - (b) within the period of 10 working days starting with the day after that on which the notice is given the union makes (or unions make) an application to the CAC for a decision on the questions specified in sub-paragraph (2).
- (2) The questions are—
  - (a) whether the original unit has ceased to exist;
  - (b) whether the original unit is no longer appropriate by reason of any of the matters specified in sub-paragraph (3).
- (3) The matters are—
  - (a) a change in the organisation or structure of the business carried on by the employer;
  - (b) a change in the activities pursued by the employer in the course of the business carried on by him;
  - (c) a substantial change in the number of workers employed in the original unit.
- 76 (1) The CAC must give notice to the parties of receipt of an application under paragraph 75.
- (2) Within the acceptance period the CAC must decide whether the application is admissible within the terms of paragraph 92.
- (3) In deciding whether the application is admissible the CAC must consider any evidence which it has been given by the employer or the union (or unions).
- (4) If the CAC decides that the application is not admissible—
  - (a) the CAC must give notice of its decision to the parties,

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- (b) the CAC must not accept the application, and
  - (c) no further steps are to be taken under this Part of this Schedule.
- (5) If the CAC decides that the application is admissible it must—
- (a) accept the application, and
  - (b) give notice of the acceptance to the parties.
- (6) The acceptance period is—
- (a) the period of 10 working days starting with the day after that on which the CAC receives the application, or
  - (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
- 77 (1) If the CAC accepts an application it—
- (a) must give the employer and the union (or unions) an opportunity to put their views on the questions in relation to which the application was made;
  - (b) must decide the questions before the end of the decision period.
- (2) If the CAC decides that the original unit has ceased to exist—
- (a) the CAC must give the parties notice of its decision, and
  - (b) the bargaining arrangements shall cease to have effect on the termination date.
- (3) If the CAC decides that the original unit has not ceased to exist, and that it is not the case that the original unit is no longer appropriate by reason of any of the matters specified in paragraph 75(3)—
- (a) the CAC must give the parties notice of its decision, and
  - (b) the employer’s notice shall be treated as not having been given.
- (4) If the CAC decides that the original unit has not ceased to exist, and that the original unit is no longer appropriate by reason of any of the matters specified in paragraph 75(3), the CAC must give the parties notice of its decision.
- (5) The decision period is—
- (a) the period of 10 working days starting with the day after that on which the CAC gives notice of acceptance of the application, or
  - (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
- (6) The termination date is the later of—
- (a) the date specified under paragraph 74(2)(d), and
  - (b) the day after the last day of the decision period.
- 78 (1) This paragraph applies if—
- (a) the CAC gives notice under paragraph 77(4), and
  - (b) before the end of the first period the parties agree a bargaining unit or units (the new unit or units) differing from the original unit and inform the CAC of their agreement.
- (2) If in the CAC’s opinion the new unit (or any of the new units) contains at least one worker falling within an outside bargaining unit no further steps are to be taken under this Part of this Schedule.
- (3) If sub-paragraph (2) does not apply—

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- (a) the CAC must issue a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the new unit or units;
  - (b) so far as it affects workers in the new unit (or units) 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 or units, with any modifications which the CAC considers necessary to take account of the change of bargaining unit and specifies in the declaration.
- (4) The first period is—
- (a) the period of 10 working days starting with the day after that on which the CAC gives notice under paragraph 77(4), or
  - (b) such longer period (so starting) as the parties may from time to time agree and notify to the CAC.
- (5) An 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;
  - (c) the union (or at least one of the unions) is not a party referred to in paragraph 64.
- 79 (1) This paragraph applies if—
- (a) the CAC gives notice under paragraph 77(4), and
  - (b) the parties do not inform the CAC before the end of the first period that they have agreed a bargaining unit or units differing from the original unit.
- (2) During the second period the CAC—
- (a) must decide what other bargaining unit is or units are appropriate;
  - (b) must give notice of its decision to the parties.
- (3) In deciding what other bargaining unit is or units are appropriate, the CAC must take these matters into account—
- (a) the need for the unit or units to be compatible with effective management;
  - (b) the matters listed in sub-paragraph (4), so far as they do not conflict with that need.
- (4) The matters are—
- (a) the views of the employer and of the union (or unions);
  - (b) existing national and local bargaining arrangements;
  - (c) the desirability of avoiding small fragmented bargaining units within an undertaking;
  - (d) the characteristics of workers falling within the original unit and of any other employees of the employer whom the CAC considers relevant;
  - (e) the location of workers.
- (5) If the CAC decides that two or more bargaining units are appropriate its decision must be such that no worker falls within more than one of them.
- (6) The second period is—

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- (a) the period of 10 working days starting with the day after that on which the first period ends, or
  - (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
- 80 Paragraph 82 applies if the CAC gives notice under paragraph 79 of a decision as to the bargaining unit which is (or units which are) appropriate.
- 81 (1) This paragraph applies if—
- (a) the parties agree under paragraph 78 a bargaining unit or units differing from the original unit,
  - (b) paragraph 78(2) does not apply, and
  - (c) at least one worker falling within the original unit does not fall within the new unit (or any of the new units).
- (2) In such a case —
- (a) the CAC must issue a declaration that the bargaining arrangements, so far as relating to the worker or workers mentioned in sub-paragraph (1)(c), are to cease to have effect on a date specified by the CAC in the declaration, and
  - (b) the bargaining arrangements shall cease to have effect accordingly.

*Position where CAC decides new unit*

- 82 (1) This paragraph applies if the CAC 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 CAC gives notice under paragraph 79 of a decision as to the bargaining unit which is (or units which are) appropriate.
- (3) The CAC—
- (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 CAC’s opinion the new unit contains at least one worker falling within a statutory outside bargaining unit.
- (2) In such a case—
- (a) the CAC 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 CAC 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.



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- (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—
  - (a) the declaration recognising a union (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 of this Schedule 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 CAC;
  - (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 [F1(2)(a)] must be—
  - (a) the date on which the relevant period expires, or
  - (b) if the CAC 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.

#### Textual Amendments

**F1** Words in Sch. A1 para. 83(8) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 57\(1\), 59\(2\)-\(4\), Sch. 1 para. 23\(17\)](#); S.I. 2005/872, [art. 4, Sch. 1](#) (with arts. 6-21)

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- (1) This paragraph applies if in the CAC'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 CAC 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 CAC in the declaration, and
    - (b) the original bargaining arrangements shall cease to have effect accordingly.

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- (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 CAC 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 CAC’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 CAC’s decision is that such support does not need to be assessed—
- (a) the CAC 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 CAC considers necessary to take account of the change of bargaining unit and specifies in the declaration.
- 86 (1) This paragraph applies if the CAC decides under paragraph 85(1) that the support of the union (or unions) within the new unit needs to be assessed.
- (2) The CAC 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 CAC decides one or both of the questions in the negative—
- (a) the CAC 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 CAC in the declaration, and
  - (b) the bargaining arrangements shall cease to have effect accordingly.

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- 87 (1) This paragraph applies if—
- (a) the CAC decides both the questions in paragraph 86(2) in the affirmative, and
  - (b) the CAC is satisfied that a majority of the workers constituting the new unit are members of the union (or unions).
- (2) The CAC 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 conditions is fulfilled, instead of issuing a declaration under sub-paragraph (2) the CAC 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 CAC is satisfied that a ballot should be held in the interests of good industrial relations;
  - [<sup>F2</sup>(b) the CAC 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 CAC 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 CAC is satisfied that such evidence should be taken into account.
- (6) If the CAC 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 CAC considers necessary to take account of the change of bargaining unit and specifies in the declaration.

#### Textual Amendments

**F2** Sch. A1 para 87(4)(b) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\), ss. 6\(2\), 59\(2\)-\(4\); S.I. 2005/872, art. 4, Sch.](#) (with arts. 6-21)

- 88 (1) This paragraph applies if—
- (a) the CAC decides both the questions in paragraph 86(2) in the affirmative, and

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- (b) the CAC is not satisfied that a majority of the workers constituting the new unit are members of the union (or unions).
- (2) The CAC 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 CAC gives notice under paragraph 87(3) or 88(2) the union (or unions) may within the notification period notify the CAC that the union does not (or unions do not) want the CAC 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 CAC's notice.
- (2) If the CAC 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 CAC is not so notified it must arrange for the holding of the ballot.
- (4) Paragraph 25 applies if the CAC arranges under this paragraph for the holding of a ballot (as well as if the CAC arranges under paragraph 24 for the holding of a ballot).
- (5) Paragraphs 26 to 29 apply accordingly, [F3 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 CAC 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 CAC 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 CAC 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 CAC 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 CAC issues a declaration under paragraph 27(2) [F4 or 27D(3)].

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[<sup>F5</sup>(9) Paragraphs (a) and (b) of sub-paragraph (7) also apply if the CAC issues a declaration under paragraph 27D(4).]

#### Textual Amendments

- F3** Words in Sch. A1 para. 89(5) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 23\(18\)](#); S.I. 2005/872, [art. 4](#), Sch. (with arts. 6-21)
- F4** Words in Sch A1 para. 89(8) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 23\(19\)](#); S.I. 2005/872, [art. 4](#), Sch. (with arts. 6-21)
- F5** Sch A1 para. 89(9) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 23\(20\)](#); S.I. 2005/872, [art. 4](#), Sch. (with arts. 6-21)

#### *Residual workers*

- 90 (1) This paragraph applies if—
- (a) the CAC decides an appropriate bargaining unit or units under paragraph 70 or 79, and
  - (b) at least one worker falling within the original unit does not fall within the new unit (or any of the new units).
- (2) In such a case —
- (a) the CAC must issue a declaration that the bargaining arrangements, so far as relating to the worker or workers mentioned in sub-paragraph (1)(b), are to cease to have effect on a date specified by the CAC in the declaration, and
  - (b) the bargaining arrangements shall cease to have effect accordingly.
- 91 (1) This paragraph applies if—
- (a) the CAC has proceeded as stated in paragraphs 83 to 89 with regard to the new unit (if there is one only) or with regard to each new unit (if there are two or more), and
  - (b) in so doing the CAC has issued one or more declarations under paragraph 83.
- (2) The CAC must—
- (a) consider each declaration issued under paragraph 83, and
  - (b) in relation to each declaration, identify each statutory outside bargaining unit which contains at least one worker who also falls within the new unit to which the declaration relates;
- and in this paragraph each statutory outside bargaining unit so identified is referred to as a parent unit.
- (3) The CAC must then—
- (a) consider each parent unit, and
  - (b) in relation to each parent unit, identify any workers who fall within the parent unit but who do not fall within the new unit (or any of the new units);
- and in this paragraph the workers so identified in relation to a parent unit are referred to as a residual unit.
- (4) In relation to each residual unit, the CAC must issue a declaration that the outside union is (or outside unions are) recognised as entitled to conduct collective bargaining on its behalf.

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- (5) But no such declaration shall be issued in relation to a residual unit if the CAC has received an application under paragraph 66 or 75 in relation to its parent unit.
- (6) In this paragraph references to the outside union (or to outside unions) in relation to a residual unit are to the union which is (or unions which are) recognised as entitled to conduct collective bargaining on behalf of its parent unit.
- (7) If the CAC issues a declaration under sub-paragraph (4)—
- (a) the declaration shall have effect in place of the existing declaration that the outside union is (or outside unions are) recognised as entitled to conduct collective bargaining on behalf of the parent unit, so far as the existing declaration relates to the residual unit;
  - (b) if there is a method of collective bargaining relating to the parent unit, it shall have effect in relation to the residual unit with any modifications which the CAC considers necessary to take account of the change of bargaining unit and specifies in the declaration.

#### *Applications under this Part*

- 92 (1) An application to the CAC under this Part of this Schedule 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.
- (2) An application which is made by a union (or unions) to the CAC under this Part of this Schedule 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.
- (3) An application which is made by an employer to the CAC under this Part of this Schedule is not admissible unless the employer gives to the union (or each of the unions)—
- (a) notice of the application, and
  - (b) a copy of the application and any documents supporting it.

#### *Withdrawal of application*

- 93 (1) If an application under paragraph 66 or 75 is accepted by the CAC, the applicant (or applicants) may not withdraw the application—
- (a) after the CAC issues a declaration under paragraph 69(3) or 78(3),
  - (b) after the CAC decides under paragraph 77(2) or 77(3),
  - (c) after the CAC issues a declaration under paragraph [F<sup>6</sup>83(2)], 85(2), 86(3) or 87(2) in relation to the new unit (where there is only one) or a declaration under any of those paragraphs in relation to any of the new units (where there is more than one),
  - (d) after the union has (or unions have) notified the CAC under paragraph 89(1) in relation to the new unit (where there is only one) or any of the new units (where there is more than one), or
  - (e) after the end of the notification period referred to in paragraph 89(1) and relating to the new unit (where there is only one) or any of the new units (where there is more than one).
- (2) If an application is withdrawn by the applicant (or applicants)—

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- (a) the CAC must give notice of the withdrawal to the other party (or parties), and
- (b) no further steps are to be taken under this Part of this Schedule.

#### Textual Amendments

**F6** Words in Sch. 1A para. 93(1)(c) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 23\(21\)](#); S.I. 2005/872, [art. 4](#), Sch. (with arts. 6-21)

#### *Meaning of collective bargaining*

- 94 (1) This paragraph applies for the purposes of this Part of this Schedule.
- (2) Except in relation to paragraphs 69(5), 78(5) and 83(6), the meaning of collective bargaining given by section 178(1) shall not apply.
  - (3) In relation to a new unit references to collective bargaining are to negotiations relating to the matters which were the subject of collective bargaining in relation to the corresponding original unit; and the corresponding original unit is the unit which was the subject of an application under paragraph 66 or 75 in consequence of which the new unit was agreed by the parties or decided by the CAC.
  - (4) But if the parties agree matters as the subject of collective bargaining in relation to the new unit, references to collective bargaining in relation to that unit are to negotiations relating to the agreed matters; and this is the case whether the agreement is made before or after the time when the CAC issues a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the new unit.
  - (5) In relation to a residual unit in relation to which a declaration is issued under paragraph 91, references to collective bargaining are to negotiations relating to the matters which were the subject of collective bargaining in relation to the corresponding parent unit.
  - (6) In construing paragraphs 69(3)(c), 78(3)(c), 85(2)(c), 87(6)(b) and 89(6)(b)—
    - (a) sub-paragraphs (3) and (4) do not apply, and
    - (b) references to collective bargaining are to negotiations relating to pay, hours and holidays.

#### *Method of collective bargaining*

- 95 (1) This paragraph applies for the purposes of this Part of this Schedule.
- (2) Where a method of collective bargaining has effect in relation to a new unit, that method shall have effect as if it were contained in a legally enforceable contract made by the parties.
  - (3) But if the parties agree in writing—
    - (a) that sub-paragraph (2) shall not apply, or shall not apply to particular parts of the method, or
    - (b) to vary or replace the method,the written agreement shall have effect as a legally enforceable contract made by the parties.

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- (4) Specific performance shall be the only remedy available for breach of anything which is a legally enforceable contract by virtue of this paragraph.



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