

SCHEDULES

^{F1}SCHEDULE 1A

COLLECTIVE BARGAINING: RECOGNITION

F1 1999 NI 9

PART I

RECOGNITION

General provisions about validity

43.—(1) Paragraphs 44 to 50 apply if the Court 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 Court.

44.—(1) The application in question is invalid if the Court 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^{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 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^{F1} 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

Changes to legislation: There are currently no known outstanding effects for the The Trade Union and Labour Relations (Northern Ireland) Order 1995, Cross Heading: General provisions about validity. (See end of Document for details)

(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 Court to decide whether one group of workers is the same or substantially the same as another, but in deciding the Court may take account of the views of any person it believes has an interest in the matter.

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45. The application in question is invalid unless the Court 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 Court 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 Court has not issued a declaration under paragraph^{[F2} 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).

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47.—(1) This paragraph applies if the Court 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.

(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 Court 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 Court issues a declaration under paragraph^{[F3} 27D(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^{F3} arranged] under this Part or Part III.

- (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.

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49.—(1) This paragraph applies if the Court issues a declaration under paragraph^{F4} 119D(4), 119H(5) or] 121(3) that bargaining arrangements are to cease to have effect; and this is so whether he ballot concerned is^{F4} arranged] under Part IV or Part V.

- (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.

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50.—(1) This paragraph applies for the purposes of paragraphs 47 to 49.

(2) It is for the Court to decide whether one bargaining unit is the same or substantially the same as another, but in deciding the Court may take account of the views of any person it believes has an interest in the matter.

Changes to legislation:

There are currently no known outstanding effects for the The Trade Union and Labour Relations (Northern Ireland) Order 1995, Cross Heading: General provisions about validity.