

**Case Number: IC-01/2001**  
**20 July 2001**

**THE INDUSTRIAL COURT**

**THE TRADE UNION AND LABOUR RELATIONS (NORTHERN IRELAND)  
ORDER 1995 (AS INSERTED BY ARTICLE 3 OF THE EMPLOYMENT  
RELATIONS (NORTHERN IRELAND) ORDER 1999)**

**SCHEDULE 1 A – COLLECTIVE BARGAINING: RECOGNITION**

**DECISION ON WHETHER TO ACCEPT THE APPLICATION**

**The Parties:**

The Amalgamated Engineering and Electrical Union (AEEU)

and

Kwik-Fit Ireland

**Introduction**

1. The AEEU (the Union) submitted an application to the Industrial Court (IC) dated 2 July 2001 that it should be recognised for collective bargaining by Kwik-Fit Ireland (the Company). The IC gave both parties notice of the receipt of the application on 6 July 2001. The company submitted a response to the IC on 17 July 2001 which was copied to the Union.
2. In accordance with Article 92 (A) of the Industrial Relations (Northern Ireland) Order 1992, the IC Chairman established a Panel of the Court to deal with the case. The Court consisted of Richard Steele, Chairman, and, as Members, Mr Bob Gourley and Mr Mervyn Simpson. The Case Manager appointed to support the Court was Mrs Pat Stringer.

## Issues

3. The Court is required by the 1995 Order to decide whether the Union's application to the IC is valid within the terms of: Schedule 1A, Article 3, paragraphs 5 – 8; is made in accordance with paragraphs 11 or 12; and is admissible within the terms of paragraphs 33 to 42 of Schedule 1A to the Order, and is therefore to be accepted. In response to the Union's application, the Company submitted that there were two specific areas in which the application did not meet those tests:
  - i) the bargaining unit proposed by the Union was not compatible with effective management and
  - ii) it did not believe that the majority of workers constituting the relevant bargaining unit would be likely to favour recognition of the trade union.

The Company did not challenge the Union's position on the remaining tests. The Court has considered all the documentation relating to the remaining tests and is satisfied that the Union's application meets all the other statutory criteria.

4. (a) In respect of point (i) above, the Court is not concerned, at this stage of the statutory process, with a dispute between the parties about the proposed bargaining unit except so far as it impacts on the statutory criteria stipulated in paragraphs 36(1)(a) and 36(1)(b) of the Schedule, namely whether 10% of the workers in the proposed bargaining unit are members of the union and whether a majority of workers in the proposed bargaining unit would be likely to favour recognition of the trade union
4. (b) In respect of point (ii) above paragraph 36(1) (b) of the Schedule provides that, for an application to be admissible, the IC must be satisfied that a majority of the workers constituting the proposed bargaining unit would be likely to favour recognition of the union as entitled to conduct collective bargaining on behalf of the bargaining unit. In the Union's proposed bargaining unit of 50, the Court therefore needed to be satisfied that at least 26 employees would be likely to favour recognition.
5. On the application form submitted to the IC, in its response to question 5 on the form which asks for a description of the bargaining unit, the Union described its proposed bargaining unit as "All staff, excluding area managers, depot managers, at the sites listed in 4 above". These were, Ballymena, Belfast 4 units, Bangor, Coleraine, Enniskillen, Glengormley, Lisburn, Newry, Newtownards and Portadown. The

Union further stated that there were “about 50” workers in its proposed bargaining unit. In its response to the Union’s application, the Company stated that Area and Centre Managers and staff in Athlone and Dundalk would bring the total number of workers in the Company proposed bargaining unit to 77 (69 excluding Athlone and Dundalk) and that a union membership of 20 did not provide evidence that the majority of workers would be likely to favour recognition.

6. The Court through the Case Manager asked the Union to provide further verbal evidence to support their contention that a majority of workers in their proposed bargaining unit would be likely to support recognition. The Union confirmed an approximate 50 workers in their proposed bargaining with evidence of 20 members at the date of application with further applications for membership pending. The Union further stated that there was no doubt from their perspective that there would be majority support for recognition should the IC request a ballot.

## **Conclusions**

7. The Court noted the Company’s contention that it operates an integrated business with no operational distinction between the North and South of Ireland. However, we would draw attention to paragraph 7 (3) of the Schedule which states “For the purposes of sub-paragraph (1) (a) any worker employed by an associated company incorporated outside Northern Ireland must be ignored unless the day the request was made fell within a period during which he ordinarily worked in Northern Ireland.” Consequently the Court is satisfied that workers based in Athlone and Dundalk are outside the jurisdiction of the legislation and cannot be included in the proposed bargaining unit.
8. The Court also noted the wish of the Company to extend the bargaining unit to include Centre Managers. The Court took the view that under Part 1 of the Schedule it was required only to consider the Union’s proposed bargaining unit when deciding on validity and admissibility of applications to the IC. For the purposes of Part 1 of the application, the Court therefore accepted the Union’s proposed bargaining unit of about 50 workers.
9. The Court accepted the verbal evidence from the Union to the Case Manager on additional membership applications and noted their contention that there would be majority support for recognition. The Court was prepared to accept that the 20 who were already union members and the new applicants would be likely to support recognition. The Court was therefore of the view that on the evidence presented at this stage of the application the majority likely to support criterion had been satisfied.

## Decision

10. For the reasons given above, the Industrial Court is satisfied that:
- a) members of the union constitute at least 10% of the workers constituting the proposed bargaining unit;
  - b) majority of workers constituting the proposed bargaining unit would be likely to favour recognition of the union as entitled to conduct collective bargaining on behalf of the bargaining unit; and
  - c) that, having considered the submissions made by the parties, the application meets the remaining statutory admissibility and validity criteria.

The Industrial Court's decision is therefore that the application is accepted.

Handwritten signatures of Richard Steele and Bob Gourley.

Richard Steele  
Bob Gourley  
Mervyn Simpson

20 July 2001