

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 1A – COLLECTIVE BARGAINING: RECOGNITION

DECISION ON WHETHER TO ACCEPT THE APPLICATION

The Parties:

GMB

and

Ivex Pharmaceuticals Ltd

Introduction

1. The GMB (the Union) submitted an application to the Industrial Court (IC) dated 15 February 2002 that it should be recognised for collective bargaining by Ivex Pharmaceuticals Ltd (the Company). The IC gave both parties notice of the receipt of the application on 19 February 2002. The Company submitted a response to the IC on 27 February 2002, 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 Mr Richard Steele, Chairman, and, as Members, Mr Peter Williamson and Mrs Caroline Whiteside. The Case Manager appointed to support the Court was Ms Anne-Marie O’Kane.

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: Article 3 and Schedule 1A, 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.

4. In correspondence dated 27 November 2001 from the Union to the Company the proposed Bargaining Unit was described as ‘All those working on the shop floor in production, stores and associated areas and directly employed by Ivex Pharmaceuticals Limited at Millbrook Factory, Old Belfast Road, Larne’. However, in its application to the IC the Union described the Bargaining Unit as ‘All those working on the shop floor, stores and associated areas and directly employed by IVEX Pharmaceuticals limited and for the avoidance of doubt to exclude those members of management’. Moreover, in response to Question 9 on the Application Form, reasons for selecting the proposed bargaining unit, the Union described a further variation of its proposed Bargaining Unit, ‘The bargaining unit comprises employees based at that site. The bargaining unit comprises all hourly paid employees working on the shop floor, stores and associated areas at the Larne site. It excludes the management staff’.
5. The legislation requires that applications be made under the Trade Union and Labour Relations (Northern Ireland) Order 1995 (as inserted by Article 3 of the Employment Relations (Northern Ireland) Order 1999). In the letter dated 27 November 2001 to the Company, the Union quoted the Employment Relations (Northern Ireland) Order 1999, Schedule 1A Part 1. The Court decided that although this discrepancy did not necessarily invalidate the application it was a consideration for the Court.

Conclusion

6. The Court concluded that it could not apply the tests in Paragraph 36 (a) and (b), relating to admissibility of the application given the discrepancies between the “proposed Bargaining Unit, as defined by Paragraph 2(3) of the Schedule,” in the request letter and the Bargaining Unit set out in the application.

Decision

7. The Court’s decision is that since the tests specified under Paragraph 36 of the Schedule could not be carried out the application is not admissible and therefore is not accepted.



Court Chair: Mr Richard Steele
Members: Mr Peter Williamson
Mrs Caroline Whiteside

Date of Decision: 1 March 2002
Date Issued to Parties: 7 March 2002

