

**Case Ref No: IC-11/2002**

**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**

**DETERMINATION OF THE BARGAINING UNIT**

**The Parties:**

**Amicus/AEEU**

**And**

**Desmond Motors Ltd**

**INTRODUCTION:**

1. Amicus/AEEU (the Union) submitted an application to the Industrial Court (the Court) dated 4 April 2002 that it should be recognised for collective bargaining purposes by Desmond Motors Ltd (the Company) for ‘All hourly paid employees in the Body Shop and Garage’. The Court gave both Parties notice of receipt of the application on 5 April 2002 and invited responses from the employer in regard to the application.
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 Professor Barry Fitzpatrick, Chairman, and, as Members, Ms Fiona Marshall and Mr George McGrath. The Case Manager appointed to support the Court was Ms Anne-Marie O’Kane.
3. By a decision dated 19 April 2002, the Court accepted the Union’s application. No agreement on the Bargaining Unit was reached and as a result, both Parties were invited to provide the Court with written submissions relating to the question of the determination of the appropriate Bargaining Unit. The Parties received each other’s submission. A hearing was held on 5 June 2002 and the names of those who attended are appended to this decision.

#### **SUMMARY OF THE UNION CASE:**

4. Mr Oakes opened by outlining the background to the Union's involvement with employees of Desmond Motors Ltd and how the initial request for recognition was made to the Company with no response.
5. Mr Oakes stated that at the meeting with the Labour Relations Agency (LRA), the Company had proposed including other employees ie. foremen, clerical staff and a person employed to valet the cars. Mr Oakes maintained that these employees were salaried staff and that the valet was on a placement from a local training organisation and therefore was not an employee. The foremen's inclusion in the bargaining unit would be inappropriate as they have a management role and have the right to discipline. Mr Oakes then explained the practical difficulties the inclusion of the foremen would impose on the Union.
6. Mr Oakes concluded by stating that the Union's proposed bargaining unit was compatible with and would not hinder effective management.

#### **SUMMARY OF COMPANY CASE:**

7. Mr Mallon opened by outlining the Company history and background. He gave a breakdown of the structure and lines of management responsibility.
8. Mr Mallon submitted that the Union were being selective in their choice of bargaining unit and that he could see no reason why the Parts Department had been omitted. He clarified for the panel that these employees are also hourly paid and the clerical staff the Union are referring to are really advisors who have served a five year apprenticeship and are skilled workers.
9. Mr Mallon concluded by stating that he was not trying to include any salaried staff in the bargaining unit, the foremen were hourly paid and he would be happy for the Court to investigate this.

#### **CONSIDERATIONS:**

10. The Order requires the Court to decide the appropriate bargaining unit and, in making that decision to take into account the need for the unit to be compatible with effective management and the matters listed in Para 19(4) of the Schedule, in so far as they do not conflict with that need. These are: the views of the employer and of the union; existing national and local bargaining arrangements; the desirability of avoiding small fragmented bargaining units within an undertaking; the characteristics of workers falling within the proposed bargaining unit and of any other employees of the employer whom the Court considers relevant; and the location of workers. The Court's decision has been taken after full and detailed consideration of the Parties' views as expressed in their written

submissions and amplified at the hearing and in the light of the evidence placed before it and the Court's own industrial relations experience.

11. In addressing Para 19(4)(a) of the Schedule, the Court accepted the Union's contention that their proposed Bargaining Unit would be compatible with effective management. The Company had proposed including the Parts Department and while this also would be compatible with effective management, the Court is not required to decide on the most compatible bargaining unit.
12. Para 19(4)(b) requires the Court to take into account consideration existing national and local bargaining arrangements. No submissions were made on this point.
13. Para 19(4)(c) requires the Court to take into account the desirability of avoiding small fragmented bargaining units within an undertaking. Again no submissions were made on this point.
14. In addressing Para 19(4)(d) which concerns the characteristics of workers falling within the proposed bargaining unit and of any other employees of the employer whom the Court considers relevant. The characteristics of workers were not raised by either Party, although the Court did consider this matter and heard evidence that the employees in the Parts Department were hourly paid, served a similar apprenticeship to the employees in the Body Shop (Accident Repair Centre) and Garage (Service Department), had the same General Manager as the Garage, although they did have a different bonus system.
15. In relation to Para 19(4)(e), which concerned the location of workers, the Court does not consider this relevant.

On the balance of the evidence the Court concluded that although the proposal made by the Company might also have been an appropriate bargaining unit, in view of the industrial relations experience of the Court, the Court is satisfied that the Union's proposed bargaining unit is compatible with effective management.

**DECISION:**

The Court decision is that the appropriate Bargaining Unit is that proposed by the Union, that is, all hourly paid employees in the Body Shop and Garage at Desmond Motors Ltd, 173 Strand Road, Londonderry.

*Barry Fitzpatrick*

Professor Barry Fitzpatrick  
Ms Fiona Marshall  
Mr George McGrath

Date of Decision: 5 June 2002  
Decision issued to Parties: 24 June 2002

Appendix (list of those attending)

**Representing the Union**

Mr Philip Oakes

**Representing the Employer**

Mr Seamus Mallon

Mr Liam McLaughlin

Mr Eddie Brady