

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:

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 purposes by Kwik-Fit Ireland (the Company) for all staff excluding Area Managers and Depot Managers at Ballymena, Belfast 4 Units, Bangor, Coleraine, Enniskillen, Glengormley, Lisburn, Newry, Newtownards and Portadown. The IC gave both parties notice of receipt of the application on 6th July 2001 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 Mr 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.
3. By a decision dated 20 July 2001, the Court accepted the Union's application. Despite the involvement of the LRA, no agreement on the bargaining unit was reached. So, 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 7th September 2001 and the names of those who attended are appended to this decision.

BACKGROUND

4. Kwik-Fit Ireland is part of the Kwik-Fit Group of Companies offering a range of automotive repairs, care and insurance services. It reports to Kwik-Fit Holdings plc. whose Head Office is in Edinburgh, Scotland.
5. Kwik-Fit in Northern Ireland was originally part-owned by the Hamden Home Care Group which was bought out in 1999 and its administration in Northern Ireland closed down. Kwik-Fit, along with D C Kwik-Fit in the Republic of Ireland, were then run from a Dublin Headquarters.
6. There are 32 trading centres within Kwik-Fit Ireland, 13 in Northern Ireland and 19 in the Republic of Ireland. However, there are two centres, Athlone and Dundalk, which, while geographically in the Republic of Ireland are run as Northern Ireland centres and are covered by the two Northern Ireland Regional Managers for operational purposes.
7. Not counting those based in the Dublin Office there are approximately 175 staff employed by Kwik-Fit Ireland, 69 geographically based in Northern Ireland and 106 geographically based in the Republic of Ireland. There is a total of 8 staff based in the Athlone, Dundalk centres.
8. The AEEU has members in England, Scotland, Wales and Ireland representing members across industrial and manufacturing sectors.

SUMMARY OF THE UNION CASE

9. The Union's proposed bargaining unit consists of all Supervisors and Fitters working in the thirteen depots in Northern Ireland which are located in Ballymena, Belfast (4 depots), Bangor, Coleraine, Enniskillen, Glengormley, Lisburn, Newry, Newtownards and Portadown. They are said by the Union in its application to number about 50 workers.
10. The Union stated that it had now a membership of 29 (plus two pending applications) in the proposed bargaining unit. All are members paying full contributions through direct debit. It further stated that it had not included Managers in the proposed bargaining unit as they have different terms and conditions from the Supervisors and Fitters.
11. The Union contended that their proposed bargaining unit would in no way hinder effective management, as the operation in Northern Ireland was autonomous and self-contained. Their proposal was to give Northern Ireland employees similar collective bargaining opportunities to those afforded to their counterparts coming under the national agreements (PPF) on wages and conditions of employment covering all workers in the Republic of Ireland.

SUMMARY OF THE COMPANY CASE

12. In its submission to the Court, the Company stated that it operates throughout Ireland, with all strategic and central management decisions being made from Dublin, subject to the agreement of the head office in Edinburgh. The company administration, operational and financial management function is also delivered by the Dublin HQ. The company is currently working on an Ireland-wide package of terms and conditions for all staff. It currently sets pay for all staff on an island of Ireland basis and, with the exception of bonus payments, addresses currency differences, on an annual basis.
13. The Company in its submission made two proposals to the Court in respect of an appropriate bargaining unit. First, it contended that Northern Ireland depots alone would not be a viable bargaining unit, that the only viable bargaining unit which was compatible with the management structure of the company was that which had been in operation since 1999 and included Athlone and Dundalk. These centres, Athlone and Dundalk, were allocated to the Northern Ireland Regional Managers to ensure a more equitable split in terms of numbers of centres allocated to the Regional Managers. The company further argued that by not including Athlone and Dundalk in the bargaining unit, the IC would effectively be creating a small fragmented bargaining unit consisting of these two centres. The Company's second proposal was that the Northern Irelands should also be included in the bargaining unit because their terms and conditions were similar to the fitters and supervisors.

CONSIDERATIONS

14. 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.
15. The Court accepted the Union's evidence that its proposed bargaining unit was based on a clearly identifiable group of workers. Although many terms and conditions of employment are common to all such workers at Kwik-Fit Ireland, there are also differences between North and South e.g.

- Different hours of opening in Northern Ireland and the Republic of Ireland. For instance, Northern Ireland depots are open between 8.30am and 6.00pm, Monday to Friday, 8.30am to 5.00pm on Saturday and closed on Sunday. The Republic of Ireland depots operates on a variety of opening and closing times Monday to Saturday and some open on Sunday. Similar differences occur at Bank Holiday periods.
- Separate banking arrangements for Northern Ireland and the Republic of Ireland.
- Compliance with the differing business and legislative requirements between Northern Ireland and the Republic of Ireland.
- Current staffing contract situations are different in Northern Ireland and the Republic of Ireland. In Northern Ireland employees have original Hamden terms and conditions of employment while staff in the Republic of Ireland do not have formal terms and conditions of employment, other than DC Kwik-Fit contracts if they apply.
- Current leave entitlements are different in NI and the Republic of Ireland for former Hamden/DC staff who keep their old entitlement.

The Court concluded that the company, for business and jurisdictional reasons, in the main, treats the staff employed in Northern Ireland differently for administration and operational purposes from those employed in the Republic of Ireland.

16. While the Company's counter proposal for a bargaining unit would also be compatible with effective management, this does not mean that the Union's proposal is not. The Court has the view that the Company's proposal is more to do with the need to ensure equitable allocation of workloads to the Regional Managers than a comprehensive analysis of effective management considerations.
17. The Court also considered the Company's argument about creating small, fragmented bargaining units (Dundalk, Athlone). The Court does not consider that these arguments are decisive in this case as Dundalk and Athlone could be integrated into the Republic of Ireland operation and may, in fact fit more neatly, bearing in mind the clear separation of Northern Ireland and the Republic of Ireland in the Company's operating methods.
18. On the specific issue of whether or not to include Managers in the Union proposed bargaining unit, the Court's own industrial experience led it to the conclusion that it would be common industrial relations practice to exclude the Managers from the bargaining unit. Also the Court found that the managers do have differing terms and conditions from the supervisors and fitters.
19. Decisions by the IC under Schedule 1A have to be made at a particular point in time. The Court is of the view that the current position of the company does not yet accord with the island of Ireland status to which the company aspires. The Court considers that there is merit in the Company's aspirations and proposed bargaining unit. However, there are significant differences in the terms and conditions of Northern Ireland workers and the Republic of Ireland workers; not

only contractual, operational and organisational differences but differences in the legislative framework under which both sets of workers function.

On the balance of the evidence the Court concluded that the appropriate bargaining unit is the one proposed by the Union. It is, in the Court's considered view, compatible with the need for effective management.

DECISION

The Court decision is that the appropriate bargaining unit is that proposed by the Union, that is, all staff excluding Area Managers and Depot Managers at Ballymena, Belfast 4 Units, Bangor, Coleraine, Enniskillen, Glengormley, Lisburn, Newry, Newtownards and Portadown employed by Kwik-Fit Ireland.

Panel Chair Mr Richard Steele

Members Mr Mervyn Simpson

 Mr Bob Gourley

Date: 13 September 2001

Appendix (list of those attending)

Representing the Union

Mr Peter Williamson (Regional Secretary, Ireland)

Mr Terry Collins (Regional Organiser, Northern Ireland)

Representing the Employer

Mr Ivan Holloway (Managing Director, Kwik-Fit Ireland)

Mr John Bowers QC

Mr Stephen Hills (Halliwell Landau, solicitors)