

## 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 FORM OF BALLOT

#### 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 bodyshop 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 Industrial Court Chairman established a panel to deal with the case. The Panel 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 Anne-Marie O’Kane.
3. For the purposes of this decision only, Mr Richard Steele chaired the meeting in the absence of Professor Fitzpatrick who was unable to attend.
4. The Panel appointed to consider the above application decided on 19 April 2002 that the application was admissible. The appropriate bargaining unit was decided at a hearing on 5 June 2002 and the Parties were notified of the decision on 24 June 2002.

5. A membership check was conducted by the Case Manager on 19 July 2002 and the Parties were notified on 22 July 2002 that the Union had 24% membership within the Bargaining Unit. The Parties were subsequently informed that a secret ballot would be conducted and invited submissions from the Parties on the form of ballot and whether an extension to the balloting period was required. The Court also advised the Parties that it would wait until the end of the notification period of ten working days, as specified in paragraph 24(5) of Schedule 1A of the Employment Relations (Northern Ireland) Order 1999, before arranging a secret ballot.
6. The notification period under paragraph 24(5) of the Schedule has now elapsed. The Court has not been notified by either party singly or by both jointly that they do not want the ballot to be held, as per paragraph 24(2) of the Schedule.
7. The Court met today to decide on the form of ballot and on whether an extension was necessary to the 20 day period in which the ballot was to be conducted.

**Considerations:**

8. In deciding the type of ballot to be held, ie. postal, workplace or combined, the Court must take into account the following considerations under paragraph 25(5) of the Schedule:
  - (a) the likelihood of the ballot being affected by unfairness or malpractice if it were conducted at a workplace;
  - (b) costs and practicability; and
  - (c) such other matters as the Court considers appropriate.

**Submissions:**

9. In its submission dated 30 July 2002, the Union stated that it would prefer a postal ballot and did not require an extension to the 20 day period in which the ballot must be conducted.
10. In its submission dated 30 July 2002, the Company stated that it would prefer a workplace ballot, no comment being made on an extension to the 20 day period in which the ballot must be conducted.

**Determinations:**

11. The Court having considered the limited submissions from the Parties, paragraph 25(6) of the Schedule and taking into account the industrial relations experience of the Panel, decided, particularly in relation to the criteria in paragraph 25(5)(b), that a postal ballot would be conducted.

12. The name of the Qualified Independent Person appointed to conduct the ballot will be notified to the Parties shortly as will the period within which the ballot is to be held.
13. The Court will of course take into consideration the question of costs when appointing a QIP.

**Decision:**

14. The Court's decision is that a secret ballot should be conducted by postal voting and an extension to the 20 day period in which to conduct the ballot is not required.



Mr Richard Steele  
Ms Fiona Marshall  
Mr George McGrath

Date of Decision: 9 August 2002  
Decision issued to Parties: 14 August 2002