

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

DECLARATION OF RECOGNITION

The Parties:

AMICUS

and

Diageo Baileys Global Supplies

Introduction:

1. AMICUS (the Union) submitted an application to the Industrial Court (the Court) dated 14 July 2004 to be recognised for the purposes of collective bargaining by Diageo Baileys Global Supplies (the Company) in respect of a bargaining unit comprising “All employees excluding HR Manager, Plant Director and all Supervisors and Charge Hands” working in the Hightown Industrial Estate. The Court gave both parties notice of receipt of the application on 20 July 2004. The Company submitted a response to the Court on 28 July 2004, which was copied to the Union.
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 as Chairman, and Mr Mervyn Simpson and Ms Fiona Cummins as Members. The Case Manager appointed to support the Court was Ms Anne-Marie O’Kane, who was replaced by Mrs Joanna Calixto.
3. The Panel appointed to consider the above application decided on 31 August 2004 that the application was admissible, The appropriate bargaining unit was decided at a hearing on the 11 October 2004 and this decision was issued to Parties on 12 October 2004.
4. A membership check was conducted by the Case Manager on 15 October 2004 and Parties were notified that on this date the Union had 54.5% membership within the Bargaining Unit. Following this check, it was made known to the Court that check-off arrangements had not actually been in place, and in fact this was not the correct percentage of Union membership on the specified date. On 22 October 2004 the Court granted a postponement to allow an updated Case Manager’s report in light of the new evidence. This revised Case Manager’s report showed Union membership to be at 6.06% on 15 October

2004. Parties were given the opportunity to comment on this revised report and were asked, without prejudice to a decision of the Court under Paragraphs 22 and 23 of the Schedule, if a ballot was ordered, what their preference would be regarding the form of ballot.

5. Given that the Court was not satisfied that the majority of the workers constituting the Bargaining Unit were Union members, the Court was compelled to arrange for the holding of a ballot under Paragraph 23 of Schedule 1A. The Court, having considered the submissions from the Parties, Paragraph 25(6) of the Schedule and having taken into account the industrial relations experience of the Panel, decided that a combination ballot would ensure the highest possible return.
6. The Parties were subsequently informed that a secret ballot would be conducted and 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 the ballot.
7. The Panel directed that a Qualified Independent Person (QIP) would be appointed to conduct a ballot of all workers in the bargaining unit on the question of whether they wished the Union to conduct collective bargaining on their behalf.
8. Electoral Reform Services was appointed as the QIP on 22 November 2004 to conduct the ballot and the Parties were notified accordingly. The workplace element of the ballot was conducted on the Company's premises between 1pm and 4pm on 14 December. The postal ballot papers were despatched and the closing date for their return was 5pm on 14 December 2004.
9. The QIP reported the Industrial Court on 15 December 2004, that out of 34 workers in the bargaining unit, 29 workers had voted (79.4% of the bargaining unit) and that there were no blank or spoilt papers. 26 workers (89.7% of the valid vote) had voted to support the proposal that the Union be recognised by the Company for collective bargaining purposes. 3 workers (10.3% of the valid vote) had voted to reject the proposal. The number of votes supporting the proposal as a percentage of the bargaining unit was 76.5%.

Declaration of Recognition

10. In accordance with Paragraph 29(2) of the Schedule, the Industrial Court informed the Company and the Union of the result of the ballot on 17 December 2004.
11. The ballot establishes that a majority of the workers voting and at least 40% of the workers constituting the bargaining unit support the proposal that the union be recognised for the purpose of conducting collective bargaining in respect of the determined bargaining unit. This satisfies the conditions under which the Industrial Court must issue a declaration in favour of recognition in accordance with Paragraph 29 (3) of Schedule 1A to the Order.

12. The Industrial Court declares that the Union is recognised by the Company as entitled to conduct collective bargaining on behalf of “All employees excluding HR Manager, Plant Director and all Supervisors and Charge Hands” working in the Hightown Industrial Estate.

Professor Barry Fitzpatrick
Mr Mervyn Simpson
Ms Fiona Cummins

Date of Decision: 17 December 2004
Date issued to Parties: