

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 THAT UNION IS NOT ENTITLED TO BE RECOGNISED

The Parties:

Amicus/AEEU

And

Desmond Motors Ltd

Introduction:

1. Amicus/AEEU (the Union) submitted an application to the Industrial Court (the Court) dated 5 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’.
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 application. 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. By a decision dated 19 April 2002, the Panel decided that the Union’s application should be accepted by the Court. 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.

4. The Case Manager conducted a membership check 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 following submissions from the Parties the Court decided that the ballot would be conducted by postal voting. The Court directed that Election.com should be appointed as the Qualified Independent Person (QIP) to conduct a ballot of the workers in the Bargaining Unit on the question of whether they wanted the Union to conduct collective bargaining on their behalf.

The Ballot:

5. The QIP was appointed on 14 August 2002 and the ballot conducted between 15 August 2002 and 14 October 2002.
6. The QIP reported to the Court on 14 October 2002 that, of the 33 workers in the Bargaining Unit, 25 (76%) had voted in the ballot; there were no invalid ballot papers, 12 (48% of those voting) voted to support the proposal that the Union should be recognised by the Company and 13 (52% of those voting) voted to reject the proposal. The proportion of workers constituting the Bargaining Unit who supported the proposal was 36%.

Declaration:

7. In accordance with paragraph 29(2) of Schedule 1A to the Order, the Court informed both Parties on 15 October 2002 of the result of the ballot.
8. The ballot did not establish that a majority of the workers voting supported the proposal that the Union should be recognised by the Company for the purposes of collective bargaining within the Bargaining Unit.
9. The Court accordingly declares, in accordance with paragraph 29(4) of Schedule 1A to the Order, that the Union is not entitled to be recognised by the Company as entitled to conduct collective bargaining on behalf of the Bargaining Unit.

Barry Fitzpatrick

Professor Barry Fitzpatrick
Ms Fiona Marshall
Mr George McGrath

Date of Decision: 14 October 2002
Decision issued to Parties: 24 October 2002

