



Employment Relations Act 2004

2004 CHAPTER 24

PART 1

UNION RECOGNITION

4 Determination of appropriate bargaining unit

For paragraph 19 of Schedule A1 to the 1992 Act substitute—

- “19 (1) This paragraph applies if—
- (a) the CAC accepts an application under paragraph 11(2) or 12(2),
 - (b) the parties have not agreed an appropriate bargaining unit at the end of the appropriate period (defined by paragraph 18), and
 - (c) at the end of that period either no request under paragraph 19A(1)(b) has been made or such a request has been made but the condition in paragraph 19A(1)(c) has not been met.
- (2) Within the decision period, the CAC must decide whether the proposed bargaining unit is appropriate.
- (3) If the CAC decides that the proposed bargaining unit is not appropriate, it must also decide within the decision period a bargaining unit which is appropriate.
- (4) The decision period is—
- (a) the period of 10 working days starting with the day after that with which the appropriate period ends, or
 - (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
- 19A (1) This paragraph applies if—
- (a) the CAC accepts an application under paragraph 11(2) or 12(2),
 - (b) during the appropriate period (defined by paragraph 18), the CAC is requested by the union (or unions) to make a decision under this paragraph, and

Status: This is the original version (as it was originally enacted).

- (c) the CAC is, either at the time the request is made or at a later time during the appropriate period, of the opinion that the employer has failed to comply with the duty imposed by paragraph 18A.
 - (2) Within the decision period, the CAC must decide whether the proposed bargaining unit is appropriate.
 - (3) If the CAC decides that the proposed bargaining unit is not appropriate, it must also decide within the decision period a bargaining unit which is appropriate.
 - (4) The decision period is—
 - (a) the period of 10 working days starting with the day after the day on which the request is made, or
 - (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
- 19B
- (1) This paragraph applies if the CAC has to decide whether a bargaining unit is appropriate for the purposes of paragraph 19(2) or (3) or 19A(2) or (3).
 - (2) The CAC must take these matters into account—
 - (a) the need for the unit to be compatible with effective management;
 - (b) the matters listed in sub-paragraph (3), so far as they do not conflict with that need.
 - (3) The matters are—
 - (a) the views of the employer and of the union (or unions);
 - (b) existing national and local bargaining arrangements;
 - (c) the desirability of avoiding small fragmented bargaining units within an undertaking;
 - (d) the characteristics of workers falling within the bargaining unit under consideration and of any other employees of the employer whom the CAC considers relevant;
 - (e) the location of workers.
 - (4) In taking an employer's views into account for the purpose of deciding whether the proposed bargaining unit is appropriate, the CAC must take into account any view the employer has about any other bargaining unit that he considers would be appropriate.
 - (5) The CAC must give notice of its decision to the parties.”