Statutory Recognition

Guide for the Parties on Part II of Schedule A1

Agreements for recognition

Introduction

Part II (paragraphs 52-63) of Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992 applies where the union and employer have reached a voluntary agreement following a request by the union for statutory recognition. These agreements are positioned between statutory recognition on the one hand (see the separate publication, Statutory Recognition - Guide for the Parties), and non-binding, voluntary recognition on the other. The Act refers to these as “agreements for recognition” and describes Part II as “Voluntary Recognition”. Under Part II, where the employer and union have reached agreement, they can ask the CAC to specify the method by which they will conduct collective bargaining. Any method specified by the CAC will be legally binding unless both parties agree otherwise.

Characteristics

- Whereas the CAC may not interfere in a purely voluntary bargaining arrangement (except in respect of the derecognition of a non-independent union - see separate Guide to Part VI), it will have the power to impose a binding method of collective bargaining on the application of either party to an agreement for recognition.

- The employer will not be entitled to terminate an agreement for recognition before three years have passed, subject to the terms of the agreement. After three years the employer may terminate the agreement without going through any statutory procedure. The union may terminate an agreement for recognition at any time without the consent of the employer.
Qualifying conditions

An agreement qualifies as an agreement for recognition if:

- The agreement is between a union (or unions) and an employer and, under the agreement, the union(s) is (are) recognised to conduct collective bargaining on behalf of a group or groups of workers employed by the employer.

- The union had initiated the statutory recognition procedure set out in Part I of the Schedule - a request must have been made to the employer which is valid within the terms of paragraphs 5 to 9 of Schedule A1.

- The agreement is made in the permitted period (as set out in paragraphs 52(3)-(5)). The “permitted period” begins on the day on which the employer receives the request for recognition and ends when one of the events described in paragraphs 52(3)-(5) occurs. These events include the union withdrawing its request, the CAC deciding an application is invalid or inadmissible, the CAC declaring recognition without a ballot or making arrangements to hold a ballot. If an application for recognition has been made to the CAC, in accordance with paragraphs 11 or 12, the parties must have given notice to the CAC that they want no further steps to be undertaken.

Procedure

Stage 1 Application to CAC to determine whether an agreement is an agreement for recognition

1.1 Under paragraph 55 either party to an agreement may apply to the CAC for a decision to determine whether or not an agreement is an “agreement for recognition”. The party will need to complete an application form for Part II applications.

Admissibility

- The application to the CAC must be made on the proper form and supported by such documents as the CAC shall specify.

- The party making the application must copy it and any supporting documents to the other party.

An application is not admissible and may not be accepted by the CAC otherwise.

How the CAC decides whether an agreement is an agreement for recognition

1.2 The CAC panel has ten working days in which to make a decision as to whether the agreement is an agreement for recognition. The panel can extend the period if they inform the parties giving reasons for an extension. Preliminary work on the tests or qualifying conditions will be carried out by the case manager, who will report his/her findings to the panel as appropriate. The CAC panel will make a decision based on the evidence before it. Where there is conflicting evidence, the panel may call a hearing to determine the issue. A declaration of any decision will be made by the panel.
Stage 2 Application to CAC to specify method of collective bargaining

2.1 If the agreement is an agreement for recognition, the parties have 30 working days from the date the agreement is made in which to negotiate with a view to agreeing a method of collective bargaining. If no agreement is reached, either party may apply to the CAC for assistance under paragraph 58.

Stage 3 Application to CAC for assistance for failure by party to carry out the terms of the agreement

3.1 Under paragraph 59 either party can also apply to the CAC for assistance if agreement on a method of collective bargaining is reached but one of the parties fails to carry out the agreement.

Admissibility (applies to stages 2 and 3)

An application under paragraph 58 or 59 is not admissible if:

- The employer employs less than 21 workers on the day the application is made.
- The union does not possess a certificate of independence.
- It is not made in such form and is supported by such documents as the CAC has specified.
- The party making the application does not copy the application and any supporting documents to the other party.

CAC’s response to application (applies to stages 2 and 3)

3.2 The CAC will give notice to the parties of receipt of an application under paragraph 58 and 59. The CAC panel has 10 working days in which to determine whether an application can be accepted under these paragraphs applying the admissibility tests as stated above. The CAC will notify the parties of its decision.

3.3 If the CAC accepts an application it has 20 days in which to help the parties to reach an agreement on a method by which they are to conduct collective bargaining. If at the end of the period the parties have not made such an agreement, the CAC must specify the method by which they are to do so.

3.4 The bargaining procedure is established in the same way as under Part I of Schedule A1, guidance on this can be found in the CAC’s Statutory Recognition - Guide for the Parties (see Annex 1, Stage 9 pages 29-30).