

Multiple-Business Agreements

What are multi-business agreements?

Under section 170LC of the *Workplace Relations Act 1996* the Industrial Relations Commission ("IRC") can certify a multiple-business agreement. Such an agreement is one which binds one or more single businesses (or one of more parts of single businesses) carried on by one or more employers.

Only a Full Bench may certify a multiple-business agreement.

Section 170LC(4) provides:

"A Full Bench ... must not certify a multiple-business agreement unless it is satisfied that it is in the public interest to certify the agreement, having regard to:

- (a) whether the matters dealt with by the agreement could be more appropriately dealt with by an agreement, other than a multiple-business agreement, under this part; and*
- (b) any other matter that the Full Bench considers relevant."*

Ultimately, the question whether a Full Bench will certify a multiple-business agreement turns on whether it is of the view that it is in the public interest to do so.

Example: recent IRC decision

The IRC recently considered two multi-business agreements in *Condreco Pty Ltd Re Contract Dredging (Non Propelled Dredges) Enterprise Agreement 1997*, Print P5262, 17 September 1997. In that case the agreements applied to work performed by the employees of the employer parties in connection with dredging projects which were let either by contract or by sub-contract after the proposed certified agreements would come into force.

The Full Bench certified the relevant agreements as multiple-business agreements. In reaching its conclusion the IRC had particular regard to the following factors:

- "(i) on large dredging projects the employer parties may contract to undertake the work as joint venturers. In these circumstances uniform employment conditions facilitates the most efficient utilisation of dredging plant. Lack of uniformity could generate industrial disputation; and*
- (ii) there is a higher degree of labour mobility and only a relatively small pool of experience dredging personnel in the relevant industry.*

As a result employees often end up working for a number of employers over a period of time when different employers secure dredging contracts. Uniform employment conditions may facilitate a high degree of labour mobility which in turn ensures that employees with necessary skill and experience are available for each dredging project."

The IRC was also satisfied that:

- the matters dealt with could not more appropriately have been dealt with as another type of agreement under the *Act*;
- the other requirements of the *Act* and Rules relevant to certification were met.

Implication

Employers wishing to enter into multi-employer agreements must satisfy the *Act's* public interest test - that is an agreement providing for the same terms and conditions of employment between more than one business must be justified in the public interest.

They must also show that the multi-business agreement is the appropriate form of agreement.

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