SQUIRE SANDERS

WOOLWORTHS CASE – TO BE REFERRED TO THE ECJ

Yesterday the Court of Appeal decided to refer the "Woolworths case" to the Court of Justice of the European Union (ECJ). This turn of events was not entirely unexpected, but it does mean that there is going to be further delay before we get a final ruling on the issues raised in this case.

By way of reminder, last year the EAT controversially ruled that the words "at one establishment" in s. 188(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 should be disregarded when deciding whether the duty to carry out collective redundancy consultation applies. In other words, if your company is proposing to dismiss 20 or more employees as redundant within a period of 90 days or less, irrespective of where those employees are based, then you must ensure you comply with your collective consultation obligations under s.188, or run the risk of a protective award being made against you.

We understand that the parties in ***Woolworths*** have been given 7 days to agree on the specific questions that will be referred to the ECJ for consideration. They will also ask for the case to be expedited so that it can be heard with the Northern Irish case, ***Lyttle & ors v Bluebird UK***, which has already been referred to the ECJ on a similar point.

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