SQUIRE PATTON BOGGS

"WOOLWORTHS CASE"
European Court Gives Positive Ruling for UK Employers

30 April 2015

The European Court of Justice has today given its decision in the "Woolworths case" concerning the duty to consult collectively under the Collective Redundancies Directive, in particular the meaning of "establishment" for the purposes of determining when that duty is triggered.

The ECJ made two key conclusions, namely that:

- the term "*establishment*" in a collective redundancy context means "*the entity to which the workers made redundant are assigned to carry out their duties*", i.e. an individual workplace as opposed to the employer as a whole. It seems that the Employment Tribunal was right after all to decide that each of the individual Woolworths stores was to be regarded as a separate establishment for collective consultation purposes; and
- employers are only required to engage in collective consultation if 20 or more redundancies are proposed at a particular establishment within a 90-day period, i.e. Woolworths was not required to engage in collective consultation in those stores where fewer than 20 redundancies were proposed.

This decision is good news for UK employers and means that when this case comes back before the Court of Appeal later this year it should overturn the EAT's controversial decision that the words "at one establishment" should be treated as deleted from s.188(1) of the Trade Union and Labour Relations (Consolidation) Act 1992.

In practical terms it should mean that we will be back to where we were prior to the *Woolworths* case and in the vast majority of cases multi-site employers will no longer be required to aggregate all proposed redundancies across their UK business locations for the purposes of determining whether the duty to consult collectively is triggered. The focus will once again be on whether there are 20 or more proposed redundancies at a particular "establishment" (which in many cases will mean a single location).

Contact

Caroline E. Noblet
Partner
T +44 207 655 1473
E caroline.noblet@squirepb.com