
STATUTORY INSTRUMENTS

2004 No. 3426

The Information and Consultation
of Employees Regulations 2004

PART 1

GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Information and Consultation of Employees Regulations 2004 and shall come into force on 6th April 2005.

(2) These Regulations extend to Great Britain.

Interpretation

2. In these Regulations—

“the 1996 Act” means the Employment Rights Act 1996(1);

“Appeal Tribunal” means the Employment Appeal Tribunal;

“CAC” means the Central Arbitration Committee;

“consultation” means the exchange of views and establishment of a dialogue between—

(a) information and consultation representatives and the employer; or

(b) in the case of a negotiated agreement which provides as mentioned in regulation 16(1)(f)(ii), the employees and the employer;

“contract of employment” means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing;

“date of the ballot” means the day or last day on which voting may take place and, where voting in different parts of the ballot is arranged to take place on different days or during periods ending on different days, the last of those days;

“employee” means an individual who has entered into or works under a contract of employment and in Part VIII and regulation 40 includes, where the employment has ceased, an individual who worked under a contract of employment;

“employee request” means a request by employees under regulation 7 for the employer to initiate negotiations to reach an agreement under these Regulations;

“employer notification” means a notification by an employer under regulation 11 that he wishes to initiate negotiations to reach an agreement under these Regulations;

“information” means data transmitted by the employer—

(a) to the information and consultation representatives; or

- (b) in the case of a negotiated agreement which provides as mentioned in regulation 16(1)(f)(ii), directly to the employees,

in order to enable those representatives or those employees to examine and to acquaint themselves with the subject matter of the data;

“Information and Consultation Directive” means European Parliament and Council Directive 2002/14/EC of 11 March 2002⁽²⁾ establishing a general framework for informing and consulting employees in the European Community;

“information and consultation representative” means—

- (a) in the case of a negotiated agreement which provides as mentioned in regulation 16(1)(f)(i), a person appointed or elected in accordance with that agreement; or
 (b) a person elected in accordance with regulation 19(1);

“negotiated agreement” means—

- (a) an agreement between the employer and the negotiating representatives reached through negotiations as provided for in regulation 14 which satisfies the requirements of regulation 16(1); or
 (b) an agreement between the employer and the information and consultation representatives referred to in regulation 18(2);

“negotiating representative” means a person elected or appointed pursuant to regulation 14(1)(a);

“parties” means the employer and the negotiating representatives or the information and consultation representatives, as the case may be;

“pre-existing agreement” means an agreement between an employer and his employees or their representatives which—

- (a) is made prior to the making of an employee request; and
 (b) satisfies the conditions set out in regulation 8(1)(a) to (d),

but does not include an agreement concluded in accordance with regulations 17 or 42 to 45 of the Transnational Information and Consultation of Employees Regulations 1999⁽³⁾ or a negotiated agreement;

“standard information and consultation provisions” means the provisions set out in regulation 20;

“undertaking” means a public or private undertaking carrying out an economic activity, whether or not operating for gain;

“valid employee request” means an employee request made to their employer by the employees of an undertaking to which these Regulations apply (under regulation 3) that satisfies the requirements of regulation 7 and is not prevented from being valid by regulation 12.

Application

3.—(1) These Regulations apply to undertakings—

- (a) employing in the United Kingdom, in accordance with the calculation in regulation 4, at least the number of employees in column 1 of the table in Schedule 1 to these Regulations on or after the corresponding date in column 2 of that table; and
 (b) subject to paragraph (2), whose registered office, head office or principal place of business is situated in Great Britain.

⁽²⁾ OJ L 80, 23.3.2002, P29.

⁽³⁾ S.I.1999/3323.

(2) Where the registered office is situated in Great Britain and the head office or principal place of business is situated in Northern Ireland or vice versa, these Regulations shall only apply where the majority of employees are employed to work in Great Britain.

(3) In these Regulations, an undertaking to which these Regulations apply is referred to, in relation to its employees, as “the employer”.