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## STATUTORY INSTRUMENTS

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# 2009 No. 2401

## The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009

### PART 1

#### INTRODUCTORY PROVISIONS

##### Citation, commencement and extent

1.—(1) These Regulations may be cited as the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009.

(2) These Regulations come into force on 1st October 2009.

(3) These Regulations extend to the whole of Great Britain.

##### EC Directive and EC Regulation

2.—(1) In these Regulations—

“the EC Directive” means Council Directive [2001/86/EC](#) of 8 October 2001 supplementing the Statute for a European Company with regard to the involvement of employees <sup>M1</sup>;

“the EC Regulation” means Council Regulation [2157/2001/EC](#) of 8 October 2001 on the Statute for a European Company <sup>M2</sup>.

(2) References in these Regulations to numbered Articles are, unless otherwise specified, references to Articles in the EC Regulation.

##### Marginal Citations

**M1** OJ L 294, 10. 11. 2001, p. 22.

**M2** OJ L 294, 10. 11. 2001, p.1.

##### Interpretation

3.—(1) In these Regulations—

“absolute majority vote” means a vote passed by a majority of the total membership of the special negotiating body where the members voting with that majority represent the majority of the employees of the participating companies and their concerned subsidiaries and establishments employed in the EEA states;

[<sup>F1</sup>“agency worker” has the same meaning as in regulation 3 of the Agency Workers Regulations 2010;]

“Appeal Tribunal” means the Employment Appeal Tribunal;

“CAC” means the Central Arbitration Committee;

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“dismissed” and “dismissal”, in relation to an employee, have the same meaning as in Part 10 of the Employment Rights Act 1996 <sup>M3</sup>;

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

“employee involvement agreement” means an agreement reached between the special negotiating body and the competent organs of the participating companies governing the arrangements for the involvement of employees within the SE;

“employees' representatives” means—

- (a) if the employees are of a description in respect of which an independent trade union is recognised by their employer for the purpose of collective bargaining, representatives of the trade union who normally take part as negotiators in the collective bargaining process, and
- (b) any other employees of their employer who are elected or appointed as employee representatives to positions in which they are expected to receive, on behalf of the employees, information—
  - (i) which is relevant to the terms and conditions of employment of the employees, or
  - (ii) about the activities of the undertaking which may significantly affect the interests of the employees,

but excluding representatives who are expected to receive information relevant only to a specific aspect of the terms and conditions or interests of the employees, such as health and safety or collective redundancies;

“information and consultation representative” has the meaning given to it in regulation 15(5);

“participation” means the influence of the representative body and the employees' representatives in the SE or a participating company by way of the right to—

- (a) elect or appoint some of the members of the SE's or the participating company's supervisory or administrative organ, or
- (b) recommend or oppose the appointment of some or all of the members of the SE's or the participating company's supervisory or administrative organ;

“representative body” means the persons elected or appointed under the employee involvement agreement or under the standard rules on employee involvement;

“SE” means a European Public Limited-Liability Company (or Societas Europaea) within the meaning of the EC Regulation;

“SE established by merger” means an SE established in accordance with Article 2(1);

“SE established by formation of a holding company or subsidiary company” means an SE established in accordance with Article 2(2) or 2(3), as the case may be;

“SE established by transformation” means an SE established in accordance with Article 2(4);

“standard rules on employee involvement” means the rules in the Schedule to these Regulations;

[<sup>F2</sup>“suitable information relating to the use of agency workers” means—

- (a) the number of agency workers working temporarily for and under the supervision and direction of the undertaking;
- (b) the parts of the undertaking in which those agency workers are working; and
- (c) the type of work those agency workers are carrying out.]

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“two thirds majority vote” means a vote passed by a majority of at least two thirds of the total membership of the special negotiating body where the members voting with that majority—

- (a) represent at least two thirds of the employees of the participating companies and their concerned subsidiaries and establishments employed in the EEA states, and
- (b) include members representing employees employed in at least two EEA states;

“UK employee” means an employee employed to work in the United Kingdom;

“UK members of the special negotiating body” means members of the special negotiating body elected or appointed by UK employees.

(2) In these Regulations the following expressions have the meaning given by Article 2 of the EC Directive—

“participating companies”,

“subsidiary”,

“special negotiating body”,

“involvement of employees”,

“information”,

“consultation”,

and references to a “concerned subsidiary” or a “concerned establishment” are to be construed in accordance with the definition of “concerned subsidiary or establishment” in the EC Directive.

(3) Except as otherwise provided, words and expressions used in the EC Regulation or the EC Directive have the same meaning in these Regulations as they have in that Regulation or Directive.

(4) Except as otherwise provided, references in these Regulations to an SE are to an SE that is to be, or is, registered in Great Britain.

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#### Textual Amendments

- F1** Words in [reg. 3\(1\)](#) inserted (1.10.2011) by [The Agency Workers Regulations 2010 \(S.I. 2010/93\)](#), [reg. 1\(1\)](#), [Sch. 2 para. 48\(a\)](#)
- F2** Words in [reg. 3\(1\)](#) inserted (1.10.2011) by [The Agency Workers Regulations 2010 \(S.I. 2010/93\)](#), [reg. 1\(1\)](#), [Sch. 2 para. 48\(b\)](#)

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#### Marginal Citations

- M3** [1996 c. 18](#).

### Application of these Regulations

4.—(1) These Regulations apply where—

- (a) a participating company intends to establish an SE whose registered office is to be in Great Britain, or
- (b) an SE has its registered office in Great Britain.

(2) Where there are UK employees, Part 3 also applies (regardless of where the registered office is to be situated) in relation to the election or appointment of UK members of the special negotiating body, unless the majority of those employees is employed to work in Northern Ireland.

(3) Parts 6 to 9 also apply (regardless of where the registered office of the SE is, or is intended to be situated) if any of the following is registered or, as the case may be, situated in Great Britain—

- (a) a participating company, its concerned subsidiaries or establishments;

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- (b) a subsidiary of an SE;
- (c) an establishment of an SE;
- (d) an employee or an employees' representative.

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**Changes and effects yet to be applied to :**

- Regulations applied by Regulation (EC) No. 2157/2001, Art. 1(4) (as substituted) by [S.I. 2018/1298 reg. 98\(c\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 12(4) (as amended) by [S.I. 2018/1298 reg. 107\(b\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 40(2) (as amended) by [S.I. 2018/1298 reg. 113\(b\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 43(2) (as amended) by [S.I. 2018/1298 reg. 115\(b\)\(iv\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 52(b) (as amended) by [S.I. 2018/1298 reg. 122\(a\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 9(1)(c)(i) (as substituted) by [S.I. 2018/1298 reg. 104\(a\)\(ii\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art.AA1 (as inserted) by [S.I. 2018/1298 reg. 97](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3-68-10](#)

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 3(2A) inserted by [S.I. 2018/1298 reg. 49\(c\)](#)
- reg. 17(4)(d) inserted by [S.I. 2018/1298 reg. 52\(c\)\(iii\)](#)
- reg. 20(3)(b) words substituted by [S.I. 2018/1298 reg. 54\(b\)](#)
- reg. 24(1)(aa) inserted by [S.I. 2018/1298 reg. 57\(a\)](#)
- reg. 41(2A) inserted by [S.I. 2018/1298 reg. 64\(b\)](#)