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STATUTORY RULES OF NORTHERN IRELAND

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**2004 No. 417**

The European Public Limited-Liability  
Company Regulations (Northern Ireland) 2004

PART III

EMPLOYEE INVOLVEMENT

CHAPTER 6

compliance and enforcement

**Misuse of procedures**

**35.**—(1) If an employees' representative or where there is no such representative in relation to an employee, the employee, believes that a participating company or an SE is misusing or intending to misuse the SE or the powers in these Regulations for the purpose of –

- (a) depriving the employees of that participating company or of any of its concerned subsidiaries or, as the case may be, of the SE or of its subsidiaries of their rights to employee involvement; or
- (b) withholding rights from any of the people referred to in sub-paragraph (a),

he may make a complaint to the Industrial Court.

(2) Where a complaint is made to the Industrial Court under paragraph (1) before registration or within a period of 12 months of the date of the registration of the SE, the Industrial Court shall uphold the complaint unless the respondent proves that it did not misuse or intend to misuse the SE or the powers in these Regulations for either of the purposes set out in sub-paragraph (a) or (b) of paragraph (1).

(3) If the Industrial Court finds the complaint to be well-founded –

- (a) it shall make a declaration to that effect and may make an order requiring the participating company or the SE, as the case may be, to take such action as is specified in the order to ensure that the employees referred to in paragraph (1)(a) are not deprived of their rights to employee involvement or that such rights are not withheld from them; and
- (b) the provisions in regulations 33(6) to (9) and 34 shall apply to the complaint.