

Status: This version of this provision is prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Transnational Information and Consultation of Employees Regulations 1999. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

STATUTORY INSTRUMENTS

1999 No. 3323

The Transnational Information and Consultation of Employees Regulations 1999

PROSPECTIVE

PART VII

PROTECTIONS FOR MEMBERS OF A EUROPEAN WORKS COUNCIL, ETC.

Detriment

31.—(1) An employee to whom paragraph (2) or (5) applies has the right not to be subjected to any detriment by any act, or deliberate failure to act, by his employer, done on a ground specified in, respectively, paragraph (3) or (6).

(2) This paragraph applies to an employee who is—

- (a) a member of a special negotiating body,
- (b) a member of a European Works Council,
- (c) an information and consultation representative, or
- (d) a candidate in an election in which any person elected will, on being elected, be such a member or representative.

(3) The ground is that—

- (a) the employee performed any functions or activities as such a member, representative or candidate, or
- (b) the employee or a person acting on his behalf made a request to exercise an entitlement conferred on the employee by regulation 25 or 26;

or proposed to do so.

(4) The ground in paragraph (3)(a) does not apply where the ground for the subjection to detriment is that in the performance, or purported performance, of the employee's functions or activities he has disclosed any information or document in breach of the duty in regulation 23(1), unless the employee reasonably believed the disclosure to be a "protected disclosure" within the meaning given to that expression by section 43A of the 1996 Act or, as the case may be, Article 67A of the 1996 Order.

(5) This paragraph applies to any employee, whether or not he is an employee to whom paragraph (2) applies.

(6) The grounds are that the employee—

- (a) took, or proposed to take, any proceedings before an employment tribunal or industrial tribunal to enforce a right or secure an entitlement conferred on him by these Regulations;

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- (b) exercised, or proposed to exercise, any entitlement to apply or complain to the Appeal Tribunal, the CAC, or in Northern Ireland the Industrial Court, conferred by these Regulations;
 - (c) requested, or proposed to request, information in accordance with regulation 7;
 - (d) acted with a view to securing that a special negotiating body, a European Works Council or an information and consultation procedure did or did not come into existence;
 - (e) indicated that he supported or did not support the coming into existence of a special negotiating body, a European Works Council or an information and consultation procedure;
 - (f) stood as a candidate in an election in which any person elected would, on being elected, be a member of a special negotiating body or of a European Works Council or an information and consultation representative;
 - (g) influenced or sought to influence the way in which votes were to be cast by other employees in a ballot arranged under these Regulations;
 - (h) voted in such a ballot;
 - (i) expressed doubts, whether to a ballot supervisor or otherwise, as to whether such a ballot had been properly conducted; or
 - (j) proposed to do, failed to do, or proposed to decline to do, any of the things mentioned in sub-paragraphs (d) to (i).
- (7) It is immaterial for the purposes of paragraph (6)(a)—
- (a) whether or not the employee has the right; or
 - (b) whether or not the right has been infringed;
- but for that paragraph to apply, the claim to the right and, if applicable, the claim that it has been infringed must be made in good faith.

Commencement Information

II Reg. 31 in force at 15.1.2000, see [reg. 1\(1\)](#)

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Changes and effects yet to be applied to :

- Regulations modified by [S.R. 2011/350 art. 23\(1\)Sch. 1 para. 1\(a\)](#)
- Regulations words substituted by [S.I. 2019/535 Sch. 2 para. 2\(a\)](#)
- Regulations words substituted by [S.I. 2019/535 Sch. 2 para. 2\(b\)](#)
- reg. 31 coming into force by [S.I. 1999/3323 reg. 1\(1\)](#)
- reg. 31(6)(b) words inserted by [S.I. 2010/1088 reg. 18](#)

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):

- Sch. para. 6(3) inserted by [S.I. 2010/1088 reg. 25](#)
- Sch. para. 8A inserted by [S.I. 2010/1088 reg. 28](#)
- Sch. para. 9(7)(8) inserted by [S.I. 2010/1088 reg. 29\(b\)](#)
- Sch. para. 7(3)(4) substituted for Sch, para. 7(3) by [S.I. 2010/1088 reg. 26](#)
- reg. 2(4B)(a) omitted by [S.I. 2019/535 Sch. 2 para. 3\(d\)\(i\)](#)
- reg. 2(4B)(b) word substituted by [S.I. 2019/535 Sch. 2 para. 3\(d\)\(ii\)](#)
- reg. 2(4B)(c) word substituted by [S.I. 2019/535 Sch. 2 para. 3\(d\)\(ii\)](#)
- reg. 16(1A) inserted by [S.I. 2010/1088 reg. 8\(a\)](#)
- reg. 17(4)(dd) inserted by [S.I. 2010/1088 reg. 9\(b\)](#)
- reg. 17(4A) inserted by [S.I. 2010/1088 reg. 9\(d\)](#)
- reg. 17(9) inserted by [S.I. 2010/1088 reg. 9\(f\)](#)
- reg. 18A inserted by [S.I. 2010/1088 reg. 10](#)
- reg. 18A(1)(a) words inserted by [S.I. 2019/535 Sch. 2 para. 14](#)
- reg. 18A(1)(b) words inserted by [S.I. 2019/535 Sch. 2 para. 14](#)
- reg. 19A-19F inserted by [S.I. 2010/1088 reg. 11](#)
- reg. 19B(1)(a) and word omitted by [S.I. 2019/535 Sch. 2 para. 15](#)
- reg. 19E(1)(a) words substituted by [S.I. 2019/535 Sch. 2 para. 16](#)
- reg. 19F omitted by [S.I. 2019/535 Sch. 2 para. 17](#)
- reg. 20(A1) inserted by [S.I. 2019/535 Sch. 2 para. 18\(a\)](#)
- reg. 20(7A) inserted by [S.I. 2010/1088 reg. 12\(c\)](#)
- reg. 21(1A) inserted by [S.I. 2010/1088 reg. 13\(b\)](#)
- reg. 21(1A)(a) words inserted by [S.I. 2019/535 Sch. 2 para. 19\(b\)](#)
- reg. 21(6A) inserted by [S.I. 2010/1088 reg. 13\(e\)](#)
- reg. 21A inserted by [S.I. 2010/1088 reg. 14](#)
- reg. 21A(1)(a) omitted by [S.I. 2019/535 Sch. 2 para. 20\(a\)\(i\)](#)
- reg. 21A(1)(c) words omitted by [S.I. 2019/535 Sch. 2 para. 20\(a\)\(ii\)](#)
- reg. 21A(3) word omitted by [S.I. 2019/535 Sch. 2 para. 20\(b\)](#)
- reg. 21A(10)(c)(i) omitted by [S.I. 2019/535 Sch. 2 para. 20\(c\)\(i\)](#)
- reg. 21A(10)(c)(iii) words omitted by [S.I. 2019/535 Sch. 2 para. 20\(c\)\(ii\)](#)
- reg. 25(1A) inserted by [S.I. 2010/1088 reg. 16](#)
- reg. 25(1A)(a) omitted by [S.I. 2019/535 Sch. 2 para. 21\(b\)](#)
- reg. 27(2A) inserted by [S.I. 2014/386 Sch. para. 7](#)

- reg. 27(2B) inserted by S.R. 2020/4 Sch. para. 12
- reg. 27A inserted by S.I. 2014/386 Sch. para. 8
- reg. 27B inserted by S.R. 2020/4 Sch. para. 13
- reg. 41(7A) inserted by S.I. 2004/2518 reg. 2
- reg. 41(7A) words substituted by S.I. 2009/3348 art. 22Sch. 1
- reg. 41(9) inserted by S.I. 2013/1956 Sch. para. 3(b)
- reg. 44-45A substituted for reg. 44 by S.I. 2010/1088 reg. 23
- reg. 44(4)-(7) omitted by S.I. 2019/535 Sch. 2 para. 27(b)
- reg. 45(4)-(7) omitted by S.I. 2019/535 Sch. 2 para. 28(b)
- reg. 45A(1) substituted by S.I. 2019/535 Sch. 2 para. 29(a)
- reg. 45A(2)(a) words inserted by S.I. 2019/535 Sch. 2 para. 29(b)
- reg. 45A(3) word substituted by S.I. 2019/535 Sch. 2 para. 29(c)
- reg. 45A(3A) inserted by S.I. 2019/535 Sch. 2 para. 29(d)
- reg. 45A(4) omitted by S.I. 2019/535 Sch. 2 para. 29(e)
- reg. 45A(5) substituted by S.I. 2019/535 Sch. 2 para. 29(f)
- reg. 46A inserted by S.R. 2004/417 reg. 51
- reg. 46A inserted by S.I. 2004/2326 reg. 53
- reg. 46A substituted by S.I. 2009/2401 reg. 40
- reg. 46A(1) words substituted by S.I. 2019/685 Sch. 3 para. 19(a)
- reg. 46A(2) substituted by S.I. 2019/685 Sch. 3 para. 19(b)
- reg. 46B inserted by S.I. 2006/2059 reg. 42