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## STATUTORY INSTRUMENTS

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# 2004 No. 3426

## The Information and Consultation of Employees Regulations 2004

### PART III

#### NEGOTIATED AGREEMENTS

##### **Negotiations to reach an agreement**

**14.**—(1) In order to initiate negotiations to reach an agreement under these Regulations the employer must as soon as reasonably practicable—

- (a) make arrangements, satisfying the requirements of paragraph (2), for the employees of the undertaking to elect or appoint negotiating representatives; and thereafter
- (b) inform the employees in writing of the identity of the negotiating representatives; and
- (c) invite the negotiating representatives to enter into negotiations to reach a negotiated agreement.

(2) The requirements for the election or appointment of negotiating representatives under paragraph (1)(a) are that—

- (a) the election or appointment of the representatives must be arranged in such a way that, following their election or appointment, all employees of the undertaking are represented by one or more representatives; and
- (b) all employees of the undertaking must be entitled to take part in the election or appointment of the representatives and, where there is an election, all employees of the undertaking on the day on which the votes may be cast in the ballot, or if the votes may be cast on more than one day, on the first day of those days, must be given an entitlement to vote in the ballot.

(3) The negotiations referred to in paragraph (1)(c) shall last for a period not exceeding six months commencing at the end of the period of three months beginning with the date on which the valid employee request was made or the valid employer notification was issued; but the following periods shall not count towards the three month period—

- (a) where the employer holds a ballot pursuant to regulation 8 or 9, the period between the employer notifying the employees of his decision to hold such a ballot and whichever of the following dates is applicable—
  - (i) where there is no complaint to the CAC under regulation 10, the date of the ballot;
  - (ii) where there is a complaint to the CAC under regulation 10 and the complaint is dismissed by the CAC or on appeal, the date on which it is finally dismissed;
  - (iii) where there is a complaint to the CAC and the outcome, whether of the complaint or of any appeal from it, is an order to hold the ballot under regulation 8 or 9 again, the date of the ballot that most recently took place;

- (iv) where there is a complaint to the CAC under regulation 10 and the outcome, whether of the complaint or of any appeal from it, is an order requiring the employer to initiate negotiations in accordance with regulation 7(1), the date on which the order is made;
  - (b) where an application for a declaration is made to the CAC pursuant to regulation 13, the period between the date of that application and the final decision of the CAC or any appeal from that decision; and
  - (c) where a complaint about the election or appointment of negotiating representatives is presented pursuant to regulation 15, the time between the date of the complaint and the determination of the complaint, including any appeal and, where the complaint is upheld, the further period until the negotiating representatives are re-elected or re-appointed.
- (4) Where a complaint about the ballot for employee approval of a negotiated agreement is presented pursuant to regulation 17, the time between the date the complaint is presented to the CAC and the determination of the complaint (including any appeal and, where the complaint is upheld, the further period until the re-holding of the ballot) shall not count towards the six month period mentioned in paragraph (3).
- (5) If, before the end of the six month period referred to in paragraph (3), the employer and a majority of the negotiating representatives agree that that period should be extended, it may be extended by such period as the parties agree and thereafter may be further extended by such period or periods as the parties agree.
- (6) Where one or more employers wish to initiate negotiations to reach an agreement to cover employees in more than one undertaking, any employer whose employees have not made a valid employee request and who has not issued a valid employer notification, shall issue such a notification.
- (7) Where paragraph (6) applies, the provisions of paragraphs (1) to (5) of this regulation and regulations 15 and 16 apply with the following modifications—
- (a) the references to the employees of the undertaking refer to the employees of all the undertakings to be covered by any agreement negotiated; and
  - (b) references to employees refer to employees of all the undertakings to be covered by any agreement negotiated.

**Changes to legislation:**

There are currently no known outstanding effects for the The Information and Consultation of Employees Regulations 2004, Section 14.