
STATUTORY INSTRUMENTS

2004 No. 3426

**The Information and Consultation
of Employees Regulations 2004**

PART IV

STANDARD INFORMATION AND CONSULTATION PROVISIONS

Standard information and consultation provisions

20.—(1) Where the standard information and consultation provisions apply pursuant to regulation 18, the employer must provide the information and consultation representatives with information on—

- (a) the recent and probable development of the undertaking's activities and economic situation;
- (b) the situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged, in particular, where there is a threat to employment within the undertaking; and
- (c) subject to paragraph (5), decisions likely to lead to substantial changes in work organisation or in contractual relations, including those referred to in—
 - (i) sections 188 to 192 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽¹⁾; and
 - (ii) regulations 10 to 12 of the Transfer of Undertakings (Protection of Employment) Regulations 1981⁽²⁾.

(2) The information referred to in paragraph (1) must be given at such time, in such fashion and with such content as are appropriate to enable, in particular, the information and consultation representatives to conduct an adequate study and, where necessary, to prepare for consultation.

(3) The employer must consult the information and consultation representatives on the matters referred to in paragraph (1)(b) and (c).

- (4) The employer must ensure that the consultation referred to in paragraph (3) is conducted—
- (a) in such a way as to ensure that the timing, method and content of the consultation are appropriate;
 - (b) on the basis of the information supplied by the employer to the information and consultation representatives and of any opinion which those representatives express to the employer;

⁽¹⁾ 1992 c. 52.

⁽²⁾ S.I.1981/1794; regulations 10 to 12 have been amended by the Tribunals and Inquiries Act 1992 (1992 c. 53), the Trade Union Reform and Employment Rights Act 1993 (1993 c. 19), the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 (S.I. 1995/2587), the Employment Rights (Dispute Resolution) Act 1998 (1998 c. 8), the [Collective Redundancies and Transfer of Undertakings \(Protection of Employment\) \(Amendment\) Regulations 1999](#) (S.I. 1999/ 1925) and the Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1999 (S.I. 1999/2402).

- (c) in such a way as to enable the information and consultation representatives to meet the employer at the relevant level of management depending on the subject under discussion and to obtain a reasoned response from the employer to any such opinion; and
- (d) in relation to matters falling within paragraph (1)(c), with a view to reaching agreement on decisions within the scope of the employer's powers.

(5) The duties in this regulation to inform and consult the information and consultation representatives on decisions falling within paragraph (1)(c) cease to apply once the employer is under a duty under—

- (a) section 188 of the Act referred to in paragraph (1)(c)(i) (duty of employer to consult representatives); or
- (b) regulation 10 of the Regulations referred to in paragraph (1)(c)(ii) (duty to inform and consult representatives),

and he has notified the information and consultation representatives in writing that he will be complying with his duty under the legislation referred to in sub-paragraph (a) or (b), as the case may be, instead of under these Regulations, provided that the notification is given on each occasion on which the employer has become or is about to become subject to the duty.

(6) Where there is an obligation in these Regulations on the employer to inform and consult his employees, a failure on the part of a person who controls the employer (either directly or indirectly) to provide information to the employer shall not constitute a valid reason for the employer failing to inform and consult.