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STATUTORY INSTRUMENTS

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**2004 No. 3426**

The Information and Consultation  
of Employees Regulations 2004

PART IX

MISCELLANEOUS

**ACAS**

**38.**—(1) If on receipt of an application or complaint under these Regulations the CAC is of the opinion that it is reasonably likely to be settled by conciliation or other assistance provided by the Advisory, Conciliation and Arbitration Service ('ACAS') in accordance with paragraph (2), it shall refer the application or complaint to ACAS and shall notify the applicant or complainant and any persons whom it considers have a proper interest in the application or complaint accordingly.

(2) Where the CAC refers an application or complaint to ACAS under paragraph (1), section 210 of the Trade Union and Labour Relations (Consolidation) Act 1992 (power of ACAS to offer assistance to settle disputes) shall apply, and ACAS may offer the parties to the application or complaint its assistance under that section with a view to bringing about a settlement, as if—

- (a) the dispute or difference between the parties amounted to a trade dispute as defined in section 218 of that Act; and
- (b) the parties to the application or complaint had requested the assistance of ACAS under section 210.

(3) If ACAS does not consider it appropriate to offer its assistance in accordance with paragraph (2) it shall inform the CAC.

(4) If ACAS has offered the parties its assistance in accordance with paragraph (2), the application or complaint referred has not thereafter been settled or withdrawn, and ACAS is of the opinion that no provision or further provision of its assistance is likely to result in a settlement or withdrawal, it shall inform the CAC of its opinion.

(5) If—

- (a) an application or complaint is not referred to ACAS, or
- (b) it is so referred, but ACAS informs the CAC as mentioned in paragraph (3) or (4),

the CAC shall proceed to hear and determine the application or complaint.