
STATUTORY INSTRUMENTS

2009 No. 2401

The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009

PART 3

ELECTION OR APPOINTMENT OF UK MEMBERS OF THE SPECIAL NEGOTIATING BODY

Appointment of UK members by a consultative committee

- 12.—(1) This regulation applies where—
- (a) regulation 10(3)(a)(i) or (ii) or (b) would (apart from this regulation) require a ballot to be held, but
 - (b) there exists in the participating company in respect of which a ballot would be held under regulation 10, a consultative committee.
- (2) Where this regulation applies—
- (a) the election provided for in regulation 10 must not take place;
 - (b) the consultative committee is entitled to appoint the UK member or members of the special negotiating body who would otherwise be elected pursuant to regulation 10;
 - (c) any such appointment by the consultative committee must comply with paragraph (3).
- (3) The consultative committee may appoint as a member of the special negotiating body—
- (a) one of their number, or
 - (b) if the management of the participating company in respect of which the consultative committee exists so permits, a trade union representative who is not an employee of that company.
- (4) In this regulation a “consultative committee” means a body of persons—
- (a) whose normal functions include or comprise the carrying out of an information and consultation function,
 - (b) which is able to carry out its information and consultation function without interference from the management of the participating company,
 - (c) which, in carrying out its information and consultation function, represents all the employees of the participating company, and
 - (d) which consists wholly of persons who are employees of the participating company or its concerned subsidiaries.
- (5) In paragraph (4) “information and consultation function” means the function of—
- (a) receiving, on behalf of all the employees of the participating company, information which may significantly affect the interests of the employees of that company, but excluding

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information which is relevant only to a specific aspect of the interests of the employees, such as health and safety or collective redundancies, and

(b) being consulted by the management of the participating company on the information referred to in sub-paragraph (a).

(6) The consultative committee must publish the names of the persons whom it has appointed to be members of the special negotiating body in such a manner as to bring them to the attention of the management of the participating company and, so far as reasonably practicable, the employees and the employees' representatives of that company and its concerned subsidiaries.

(7) Where the management of the participating company, or an employee or an employees' representative, believes that—

(a) the consultative committee does not satisfy the requirements in paragraph (4), or

(b) any of the persons appointed by the consultative committee is not entitled to be appointed, the management of the participating company or, as the case may be, the employee or the employees' representative may present a complaint to the CAC within a period of 21 days beginning on the date on which the consultative committee published under paragraph (6) the names of the persons appointed.

(8) If the CAC finds the complaint well-founded it must make a declaration to that effect.

(9) Where the CAC has made a declaration under paragraph (8)—

(a) any appointment made by the consultative committee is ineffective, and

(b) the members of the special negotiating body must be elected by a ballot of the employees in accordance with regulation 10.

(10) Where the consultative committee appoints any person to be a member of the special negotiating body, that appointment has effect—

(a) where no complaint has been presented under paragraph (7), after the expiry of a period of 21 days beginning on the date on which the consultative committee published under paragraph (6) the names of the persons appointed;

(b) where a complaint has been presented under paragraph (7), as from the day on which the complaint has been determined without a declaration under paragraph (8) being made.

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Changes and effects yet to be applied to :

- Regulations applied by Regulation (EC) No. 2157/2001, Art. 1(4) (as substituted) by [S.I. 2018/1298 reg. 98\(c\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 12(4) (as amended) by [S.I. 2018/1298 reg. 107\(b\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 40(2) (as amended) by [S.I. 2018/1298 reg. 113\(b\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 43(2) (as amended) by [S.I. 2018/1298 reg. 115\(b\)\(iv\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 52(b) (as amended) by [S.I. 2018/1298 reg. 122\(a\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 9(1)(c)(i) (as substituted) by [S.I. 2018/1298 reg. 104\(a\)\(ii\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art.AA1 (as inserted) by [S.I. 2018/1298 reg. 97](#)
- reg. 5-16 omitted by [S.I. 2018/1298 reg. 51](#)

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):

- reg. 3(2A) inserted by [S.I. 2018/1298 reg. 49\(c\)](#)
- reg. 17(4)(d) inserted by [S.I. 2018/1298 reg. 52\(c\)\(iii\)](#)
- reg. 20(3)(b) words substituted by [S.I. 2018/1298 reg. 54\(b\)](#)
- reg. 24(1)(aa) inserted by [S.I. 2018/1298 reg. 57\(a\)](#)
- reg. 41(2A) inserted by [S.I. 2018/1298 reg. 64\(b\)](#)