
STATUTORY INSTRUMENTS

2009 No. 2401

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

PART 2

PARTICIPATING COMPANIES AND THE SPECIAL NEGOTIATING BODY

Composition of the special negotiating body

8.—(1) The competent organs of the participating companies must make arrangements for the establishment of a special negotiating body constituted in accordance with the following provisions of this regulation.

(2) In each EEA state in which employees of a participating company or concerned subsidiary are employed to work, those employees must be given an entitlement to elect or appoint one member of the special negotiating body for each 10%, or fraction of 10%, which those employees represent of the total workforce. These members are the “ordinary members”.

(3) If, in the case of an SE to be established by merger, following an election or appointment under paragraph (2), the members elected or appointed to the special negotiating body do not include at least one eligible member in respect of each relevant company, the employees of any relevant company in respect of which there is no eligible member must be given an entitlement, subject to paragraph (4), to elect or appoint an additional member to the special negotiating body.

(4) The number of additional members which the employees are entitled to elect or appoint under paragraph (3) must not exceed 20% of the number of ordinary members elected or appointed under paragraph (2). If the number of additional members under paragraph (3) would exceed that percentage, the employees who are entitled to appoint or elect the additional members are—

- (a) if one additional member is to be appointed or elected, those employed by the company not represented under paragraph (3) having the highest number of employees;
- (b) if more than one additional member is to be appointed or elected, those employed by the companies in each EEA state that are not represented under paragraph (3) having the highest number of employees in descending order, starting with the company with the highest number, followed by those employed by the companies in each EEA state that are not so represented having the second highest number of employees in descending order, starting with the company (among those companies) with the highest number.

(5) The competent organs of the participating companies must, as soon as reasonably practicable and in any event no later than one month after the establishment of the special negotiating body, inform their employees and those of their concerned subsidiaries of the identity of the members of the special negotiating body.

(6) If, following the appointment or election of members to the special negotiating body in accordance with this regulation, changes to the participating companies, concerned subsidiaries or concerned establishments result in the number of ordinary or additional members which employees would be entitled to elect or appoint under this regulation either increasing or decreasing—

- (a) the original appointment or election of members of the special negotiating body ceases to have effect, and
 - (b) those employees are entitled to elect or appoint the new number of members in accordance with the provisions of these Regulations.
- (7) If a member of the special negotiating body is no longer willing or able to continue serving as such a member, the employees whom the member represents are entitled to elect or appoint a new member in place of that member.

(8) In this regulation—

“eligible member” means a person who is—

- (a) in the case of a relevant company registered in an EEA state whose legislation allows representatives of trade unions who are not employees to be elected to the special negotiating body, an employee of the relevant company or a trade union representative;
- (b) in the case of a relevant company not registered in such an EEA state, an employee of the relevant company;

“relevant company” means a participating company which has employees in the EEA state in which it is registered and which it is proposed will cease to exist on or following the registration of the SE;

“the total workforce” means the total number of employees employed by all participating companies and concerned subsidiaries throughout all EEA states.