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STATUTORY INSTRUMENTS

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**2009 No. 2402**

**The European Public Limited-Liability Company (Employee Involvement) (Northern Ireland) Regulations 2009**

**PART 6**

**COMPLIANCE AND ENFORCEMENT**

**Disputes about the operation of an employee involvement agreement or the standard rules on employee involvement**

**20.**—(1) Where—

- (a) an employee involvement agreement has been agreed, or
- (b) the standard rules on employee involvement apply,

a complaint may be presented to the Industrial Court by a relevant applicant who considers that the competent organ of a participating company [<sup>F1</sup> the SE or the UK Societas] has failed to comply with the terms of the employee involvement agreement or, as the case may be, one or more of the standard information and consultation provisions.

(2) A complaint brought under paragraph (1) must be brought within the period of 3 months commencing with—

- (a) the date of the alleged failure, or
- (b) where the failure takes place over a period, the last day of that period.

(3) In this regulation—

“failure” means an act or omission;

“relevant applicant” means—

- (a) in a case where a representative body has been appointed or elected, a member of that body;
- (b) in a case where no representative body has been elected or appointed, an information and consultation representative or an employee of the SE [<sup>F2</sup> or the UK Societas].

(4) Where it finds the complaint well-founded, the Industrial Court—

- (a) must make a declaration to that effect, and
- (b) may make an order requiring the SE [<sup>F3</sup> or the UK Societas] to take such steps as are necessary to comply with the terms of the employee involvement agreement or, as the case may be, the standard rules on employee involvement.

(5) An order made under paragraph (4) must specify—

- (a) the steps which the SE [<sup>F4</sup> or the UK Societas] is required to take;
- (b) the date of the failure;
- (c) the period within which the order must be complied with.

(6) If the Industrial Court makes a declaration under paragraph (4), the relevant applicant may, within the period of three months beginning with the day on which the decision is made, make an application to the High Court for a penalty notice to be issued.

(7) Where such an application is made, the High Court must issue a written penalty notice to the SE [<sup>F5</sup>or the UK Societas] requiring it to pay a penalty to the Department for Employment and Learning in respect of the failure, unless the High Court is satisfied, on hearing representations from the SE [<sup>F5</sup>or the UK Societas],—

(a) that the failure resulted from a reason beyond its control, or

(b) that it has some other reasonable excuse for its failure.

(8) Regulation 21 applies in respect of a penalty notice issued under this regulation.

(9) No order of the Industrial Court under this regulation has the effect of suspending or altering the effect of any act done or of any agreement made by the participating company [<sup>F6</sup>, the SE or the UK Societas].

#### Textual Amendments

- F1** Words in reg. 20(1) substituted (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **72(a)** (with regs. 153-159A) (as amended by S.I. 2019/685, Sch. 3 paras. 16, 17 and S.I. 2020/523, regs. 1(2), 5(k)-(n)); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in reg. 20(3)(b) inserted (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **72(b)** (with regs. 153-159A) (as amended by S.I. 2019/685, Sch. 3 paras. 16, 17 and S.I. 2020/523, regs. 1(2), 5(k)-(n)); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 20(4)(b) inserted (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **72(b)** (with regs. 153-159A) (as amended by S.I. 2019/685, Sch. 3 paras. 16, 17 and S.I. 2020/523, regs. 1(2), 5(k)-(n)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 20(5)(a) inserted (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **72(b)** (with regs. 153-159A) (as amended by S.I. 2019/685, Sch. 3 paras. 16, 17 and S.I. 2020/523, regs. 1(2), 5(k)-(n)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 20(7) inserted (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **72(b)** (with regs. 153-159A) (as amended by S.I. 2019/685, Sch. 3 paras. 16, 17 and S.I. 2020/523, regs. 1(2), 5(k)-(n)); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in reg. 20(9) substituted (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **72(c)** (with regs. 153-159A) (as amended by S.I. 2019/685, Sch. 3 paras. 16, 17 and S.I. 2020/523, regs. 1(2), 5(k)-(n)); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:**

There are currently no known outstanding effects for the The European Public Limited-Liability Company (Employee Involvement) (Northern Ireland) Regulations 2009, Section 20.