
STATUTORY INSTRUMENTS

2009 No. 2402

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

PART 7

CONFIDENTIAL INFORMATION

Breach of statutory duty

24.—(1) Where a body which is—

- (a) an SE,
- [^{F1}(aa) a UK Societas,]
- (b) a subsidiary of an SE [^{F2}or a UK Societas],
- (c) a participating company, or
- (d) a concerned subsidiary,

entrusts a person, pursuant to the provisions of these Regulations, with any information or document on terms requiring it to be held in confidence, the person must not disclose that information or document except in accordance with the terms on which it was disclosed to the person.

(2) In this regulation a person referred to in paragraph (1) to whom information or a document is entrusted is referred to as a “recipient”.

(3) Where paragraph (1) applies—

- (a) the obligation to comply with that paragraph is a duty owed to the body that disclosed the information or document to the recipient, and
- (b) a breach of the duty is actionable accordingly (subject to the defences and other incidents applying to actions for breach of statutory duty).

(4) Paragraph (3) does not affect—

- (a) any legal liability which any person may incur otherwise than under this regulation by disclosing the information or document, or
- (b) any right which any person may have in relation to such disclosure otherwise than under this regulation.

(5) No action lies under paragraph (3) where the recipient reasonably believed the disclosure to be a “protected disclosure” within the meaning given by Article 67A of the 1996 Order ^{M1}.

(6) A recipient to whom a body mentioned in paragraph (1) has, pursuant to the provisions of these Regulations, entrusted any information or document on terms requiring it to be held in confidence may apply to the Industrial Court for a declaration as to whether it was reasonable for the body to require the recipient to hold the information or document in confidence.

(7) If the Industrial Court considers that the disclosure of the information or the document by the recipient would not, or would not be likely to, harm the legitimate interests of the undertaking,

it must make a declaration that it was not reasonable for the body to require the recipient to hold the information or document in confidence.

(8) If a declaration is made under paragraph (7), the information or document is not at any time after the making of the declaration to be regarded as having been entrusted to the recipient who made the application under paragraph (6), or to any other recipient, on terms requiring it to be held in confidence.

Textual Amendments

- F1** Reg. 24(1)(aa) inserted (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **75(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. 24(1)(b) inserted (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **75(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)

Marginal Citations

- M1** Article 67A was inserted by article 3 of S.I. 1998/1763 (N.I. 17).

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 24.