
STATUTORY INSTRUMENTS

2020 No. 51

The Double Taxation Dispute Resolution (EU) Regulations 2020

PART 4

Advisory Commission: composition, procedure and costs etc

CHAPTER 8

Information sharing and representation

Provision of information to an Advisory Commission

48.—(1) Paragraphs (2) to (4) apply if the Advisory Commission makes a request to—

- (a) any affected person,
- (b) the Commissioners, or
- (c) any other competent authority concerned,

to provide any information (including any evidence or documents) which is specified in the request by the Advisory Commission.

(2) Any of those persons who receives such a request must, if the person has possession of the requested information, provide that information to the Advisory Commission without delay.

(3) If the person fails to provide that information, the chair of the Advisory Commission may make an application to the competent court for an order requiring it to be provided by that person, and that court may make such an order.

(4) But the Commissioners, or any other competent authority concerned, may refuse to provide information to the Advisory Commission in any of the cases referred to in points (a) to (d) of Article 13(1) of the Directive.

(5) Paragraph (6) applies where—

- (a) the Commissioners, and each other competent authority concerned, agree to any information being provided by the complainant, or by any other affected person, to the Advisory Commission, and
- (b) that information may be relevant to a question in dispute and has not been requested by the Advisory Commission.

(6) That information may be provided to the Advisory Commission.

Advisory Commission: wrongful disclosure

49.—(1) The chair, independent persons of standing and all other members of an Advisory Commission must not, without the consent of the Commissioners, disclose to any other person any secret information received by them in their capacity as members of the Advisory Commission.

(2) If a person discloses any secret information in contravention of paragraph (1), section 19 (wrongful disclosure) of the Commissioners for Revenue and Customs Act 2005(1) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) (public interest disclosure) of that Act.

(3) “Secret information” means any revenue and customs information relating to a person whose identity—

- (a) is specified in the disclosure, or
- (b) can be deduced from it,

and “revenue and customs information relating to a person” has the same meaning as it has in section 19(1) of the Commissioners for Revenue and Customs Act 2005.

Affected persons: non-disclosure declaration and wrongful disclosure

50.—(1) An affected person, and that person’s representative (if any), must undertake, when required to do so by the Commissioners, not to disclose to any other person any information (including knowledge of documents) which is received in the course of proceedings before the Advisory Commission.

(2) That undertaking must be made by a declaration to the Commissioners.

(3) If an affected person, or that person’s representative, fails to make such a declaration when required to do so by the Commissioners, those persons—

- (a) are not entitled to receive any, or any more, information in the course of the proceedings, and
- (b) must return any information they have already received in the course of the proceedings.

(4) If an affected person, or that person’s representative, fails to comply with paragraphs (1), (2) or (3) the Commissioners may make an application to the competent court for an order which rectifies the non-compliance, and that court may make such an order.

(5) If an affected person, or that person’s representative, discloses to any other person any secret information which was received in the course of proceedings before an Advisory Commission, section 19 of the Commissioners for Revenue and Customs Act 2005 applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.

Affected persons appearing or being represented before Advisory Commission

51.—(1) A complainant or any other affected person may, in respect of the question in dispute, make a request to the Advisory Commission to appear, or to be represented, before it.

(2) That request must be made electronically or otherwise in writing.

(3) If the Commissioners, and each other competent authority concerned, consents to the request, the affected person may appear, or be represented, before the Advisory Commission.

(4) An affected person must appear, or be represented, before an Advisory Commission if that person is requested to do so by it.

(5) Paragraph (6) applies if a person contravenes paragraph (4) by failing to appear, or to be represented, before an Advisory Commission.

(6) The chair of the Advisory Commission may make an application to the competent court for an order requiring that person to appear, or to be represented, before an Advisory Commission, and that court may make such an order.

