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STATUTORY RULES OF NORTHERN IRELAND

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**2004 No. 417**

**The European Public Limited-Liability  
Company Regulations (Northern Ireland) 2004**

**PART III**

**EMPLOYEE INVOLVEMENT**

**CHAPTER 3**

election or appointment of uk members of the special negotiating body

**Appointment of UK members by a consultative committee**

**25.—**(1) This regulation applies where –

- (a) regulation 23(3)(a)(i) or (ii) or (b) would require a ballot to be held; and
- (b) there exists in the participating company in respect of which a ballot would be held under regulation 23, a consultative committee.

(a) (2) (a) Where this regulation applies, the election provided for in regulation 23 shall not take place but the consultative committee shall be entitled to appoint the UK member or members of the special negotiating body who would otherwise be elected pursuant to regulation 23 provided that the consultative committee's appointment complied with subparagraph (b).

(b) The consultative committee is entitled to appoint as a member of the special negotiating body –

(i) one of their number; or

(ii) 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.

(3) 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.

(4) In paragraph (3) “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

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).

(5) 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.

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

- (a) the consultative committee does not satisfy the requirements in paragraph (3); or

(b) any of the persons appointed by the consultative committee is not entitled to be appointed, it, or as the case may be, he, may, within a period of 21 days beginning on the date on which the consultative committee published under paragraph (5) the names of the persons appointed, present a complaint to the Industrial Court.

(7) Where the Industrial Court finds the complaint well-founded it shall make a declaration to that effect.

(8) Where the Industrial Court has made a declaration under paragraph (7) –

- (a) no appointment made by the consultative committee shall have effect; and

(b) the members of the special negotiating body shall be elected by a ballot of the employees in accordance with regulation 23.

(9) Where the consultative committee appoints any person to be a member of the special negotiating body, that appointment shall have effect –

- (a) where no complaint has been presented under paragraph (6) after the expiry of a period of 21 days beginning on the date on which the consultative committee published under paragraph (5) the names of the persons appointed; or

(b) where a complaint has been presented under paragraph (6), as from the day on which the complaint has been determined without a declaration under paragraph (7) being made.