

Draft Regulations laid before Parliament under section 42(8) of the Employment Relations Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No. XXXX

TERMS AND CONDITIONS OF EMPLOYMENT

The Information and Consultation of
Employees (Amendment) Regulations 2006

Made - - - - 2006
Coming into force - - 6th April 2006

The Secretary of State makes the following Regulations, in exercise of the powers conferred by section 42(1), (3)(a), (4)(f) and (9) of the Employment Relations Act 2004⁽¹⁾.

In accordance with section 42(8) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Information and Consultation of Employees (Amendment) Regulations 2006 and shall come into force on 6th April 2006.

(2) These Regulations extend to Great Britain.

Amendment of Regulations

2. The Information and Consultation of Employees Regulations 2004⁽²⁾ (“the 2004 Regulations”) shall be amended in accordance with regulations 3 to 5.

3. In regulation 2 of the 2004 Regulations after the definition of “parties” there shall be inserted the words—

““Pension Schemes Regulations” means the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006⁽³⁾;

4. After regulation 17 of the 2004 Regulations there shall be inserted—

(1) 2004 c.24.
(2) S.I. 2004/3426.
(3) to be provided.

“Negotiated agreements and listed changes to pension schemes

17A.—(1) A requirement in any negotiated agreement or any part of such an agreement made before 6th April 2006 to inform and consult employees or their representatives about a listed change shall cease to apply once—

- (a) the employer is under a duty under any of regulations 7(3) and 11 to 13 of the Pension Schemes Regulations; and
- (b) he has notified the information and consultation representatives or, where he must consult employees directly, the employees in writing that he will be complying with his duty under the provisions of the Pension Schemes Regulations referred to in sub-paragraph (a), instead of his obligations under the negotiated agreement, provided that the notification is given on each occasion on which the employer has become or is about to become subject to the duty.

(2) For the purposes of this regulation “listed change” has the meaning given by regulation 6(2) of the Pension Schemes Regulations.”.

5. In regulation 20(5) of the 2004 Regulations—

- (a) in sub-paragraph (a) the word “or” shall be omitted;
- (b) after sub-paragraph (b) there shall be inserted the words—
“or
(c) any of regulations 11 to 13 of the Pension Schemes Regulations,” and
- (c) for the words “sub-paragraph (a) or (b)” there shall be substituted the words “sub-paragraph (a), (b) or (c)”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Information and Consultation of Employees Regulations 2004 (“the 2004 Regulations”). The Regulations come into force on 6th April 2006.

The 2004 Regulations impose information and consultation obligations on certain employers. Regulation 16 provides that employers and their workforce may reach a negotiated agreement on how these obligations will be satisfied. It is possible that such an agreement may address information and consultation on pensions issues. Further, where, under regulation 20, standard information and consultation provisions apply, these include the obligation to inform and consult on “decisions likely to lead to substantial changes in work organisation or in contractual relations”. This could include the provision of information and consultation on pensions issues. Regulations 7(3) and 11 to 13 of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (“the 2006 Regulations”) require relevant employers to inform and consult about “listed changes” which are certain changes affecting occupational or personal pension schemes.

These Regulations amend the 2004 Regulations so as to provide that the obligations to inform and consult on “listed changes” arising either as a result of a negotiated agreement entered into before these Regulations come into force or pursuant to regulation 20 of the 2004 Regulations do not apply where the employer is under a duty under regulations 7(3) and 11 to 13 of the 2006 Regulations and he has notified the information and consultation representatives appointed under a negotiated agreement or employees (where the agreement requires they be informed and consulted directly) or the information and consultation representatives appointed under the 2004 Regulations, as appropriate, in writing that he will be complying with that duty.

A full Regulatory Impact Assessment has not been prepared for this instrument as it has a negligible impact on the costs of business.

An assessment of the impact on business of the provisions in the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 was included in the Regulatory Impact Assessment relating to the Pensions Act 2004. A copy of that assessment has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the Department for Work and Pensions, Regulatory Impact Unit, Level 4, Adelphi, 1-11 John Adam Street, London, WC2N 6HT.