



Employment Relations Act 2004

2004 CHAPTER 24

PART 3

RIGHTS OF TRADE UNION MEMBERS, WORKERS AND EMPLOYEES

Other rights of workers and employees

43 Information and consultation: Northern Ireland

- (1) The Department for Employment and Learning may make regulations for the purpose of conferring on employees of an employer to whom the regulations apply, or on representatives of those employees, rights—
 - (a) to be informed by the employer about prescribed matters;
 - (b) to be consulted by the employer about prescribed matters.
- (2) Regulations made under subsection (1) must make provision as to the employers to whom the regulations apply which may include provision—
 - (a) applying the regulations by reference to factors including the number of employees in the United Kingdom in the employer's undertaking;
 - (b) as to the method by which the number of employees in an employer's undertaking is to be calculated; and
 - (c) applying the regulations to different descriptions of employer with effect from different dates.
- (3) Regulations made under subsection (1) may make provision—
 - (a) as to the circumstances in which the rights mentioned in subsection (1) arise and the extent of those rights;
 - (b) for and about the initiation and conduct of negotiations between employers to whom the regulations apply and their employees for the purposes of reaching an agreement satisfying prescribed conditions about the provision of information to the employees, and consultation of them (whether that provision or consultation is to be direct or through representatives);

Status: This is the original version (as it was originally enacted).

- (c) about the representatives the employees may have for the purposes of the regulations and the method by which those representatives are to be selected;
 - (d) as to the resolution of disputes and the enforcement of obligations imposed by the regulations or by an agreement of the kind mentioned in paragraph (b).
- (4) Regulations made under subsection (1) may—
- (a) confer jurisdiction (including exclusive jurisdiction) on industrial tribunals and on the High Court;
 - (b) confer functions on the Industrial Court;
 - (c) require or authorise the holding of ballots;
 - (d) amend, apply with or without modifications, or make provision similar to any provision of—
 - (i) the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5));
 - (ii) the Trade Union and Labour Relations (Northern Ireland) Order 1995 (S.I. 1995/1980 (N.I. 12));
 - (iii) the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16))(including, in particular, Parts 6, 11 and 15); or
 - (iv) the Industrial Tribunals (Northern Ireland) Order 1996 (S.I. 1996/1921 (N.I. 18));
 - (e) include supplemental, incidental, consequential and transitional provision, including provision amending any enactment;
 - (f) make different provision for different cases or circumstances.
- (5) Regulations made under subsection (1) may make any provision which appears to the Department for Employment and Learning to be necessary or expedient—
- (a) for the purpose of implementing Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community;
 - (b) for the purpose of dealing with any matter arising out of or related to the United Kingdom’s obligations under that Directive.
- (6) Nothing in subsections (2) to (5) prejudices the generality of this section.
- (7) Power to make regulations under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (8) No regulations under this section may be made unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.
- (9) In this section—
- “enactment” includes—
 - (a) a provision of an Act;
 - (b) a provision of, or of any instrument made under, Northern Ireland legislation; and
 - (c) a provision of subordinate legislation;
 - “the Industrial Court” means the Industrial Court constituted under Article 91 of the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5));

“industrial tribunals” has the meaning given by section 42(5) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)); and

“prescribed” means prescribed by regulations under this section.