
STATUTORY INSTRUMENTS

1999 No. 3323

**The Transnational Information and
Consultation of Employees Regulations 1999**

PART IV

**EUROPEAN WORKS COUNCIL AND
INFORMATION AND CONSULTATION PROCEDURE**

Negotiation procedure

16.—(1) With a view to concluding an agreement referred to in regulation 17 the central management must convene a meeting with the special negotiating body and must inform local managements accordingly.

(2) Subject to paragraph (3), the special negotiating body shall take decisions by a majority of the votes cast by its members and each member of the special negotiating body is to have one vote.

(3) The special negotiating body may decide not to open negotiations with central management or to terminate negotiations. Any such decision must be taken by at least two thirds of the votes cast by its members.

(4) Any decision made under paragraph (3) shall have the following effects—

- (a) the procedure to negotiate and conclude the agreement referred to in regulation 17 shall cease from the date of the decision; and
- (b) a purported request made under regulation 9 less than two years after the date of the decision shall not be treated as such a request, unless the special negotiating body and the central management otherwise agree.

(5) For the purpose of the negotiations, the special negotiating body may be assisted by experts of its choice.

(6) The central management shall pay for any reasonable expenses relating to the negotiations that are necessary to enable the special negotiating body to carry out its functions in an appropriate manner; but where the special negotiating body is assisted by more than one expert the central management is not required to pay such expenses in respect of more than one of them.

Content and scope of a European Works Council agreement and information and consultation procedure

17.—(1) The central management and the special negotiating body are under a duty to negotiate in a spirit of cooperation with a view to reaching a written agreement on the detailed arrangements for the information and consultation of employees in a Community-scale undertaking or Community-scale group of undertakings.

(2) In this regulation and regulations 18 and 20, the central management and the special negotiating body are referred to as “the parties”.

(3) The parties may decide in writing to establish an information and consultation procedure instead of a European Works Council.

(4) Without prejudice to the autonomy of the parties, where the parties decide to proceed with the establishment of a European Works Council, the agreement establishing it shall determine—

- (a) the undertakings of the Community-scale group of undertakings or the establishments of the Community-scale undertaking which are covered by the agreement;
- (b) the composition of the European Works Council, the number of members, the allocation of seats and the term of office of the members;
- (c) the functions and the procedure for information and consultation of the European Works Council;
- (d) the venue, frequency and duration of meetings of the European Works Council;
- (e) the financial and material resources to be allocated to the European Works Council; and
- (f) the duration of the agreement and the procedure for its renegotiation.

(5) If the parties decide to establish an information and consultation procedure instead of a European Works Council—

- (a) the agreement establishing the procedure must specify a method by which the information and consultation representatives are to enjoy the right to meet to discuss the information conveyed to them; and
- (b) the information conveyed to the information and consultation representatives shall relate in particular to transnational questions which significantly affect the interests of the employees.

(6) An agreement referred to in paragraph (4) or (5) is not to be subject to the provisions of the Schedule, except to the extent that the parties provide in the agreement that any of those requirements are to apply.

(7) Where a Community-scale group of undertakings comprises one or more undertakings or groups of undertakings which are themselves Community-scale undertakings or Community-scale groups of undertakings, the European Works Council shall be established at the level of the first-mentioned Community-scale group of undertakings, unless an agreement referred to in paragraph (4) provides otherwise.

(8) Unless a wider scope is provided for in an agreement referred to in paragraph (1), the powers and competence of a European Works Council and the scope of an information and consultation procedure shall, in the case of a Community-scale undertaking, cover all the establishments located within the Member States and, in the case of a Community-scale group of undertakings, all group undertakings located within the Member States.

Subsidiary requirements

18.—(1) The provisions of the Schedule shall apply if—

- (a) the parties so agree;
- (b) within the period of six months beginning on the date on which a valid request referred to in regulation 9 was made, the central management refuses to commence negotiations; or
- (c) after the expiry of a period of three years beginning on the date on which a valid request referred to in regulation 9 was made, the parties have failed to conclude an agreement under regulation 17 and the special negotiating body has not taken the decision under regulation 16(3).

Cooperation

19.—(1) The central management and the European Works Council are under a duty to work in a spirit of cooperation with due regard to their reciprocal rights and obligations.

(2) The duty in paragraph (1) shall apply also to the central management and information and consultation representatives.