STATUTORY INSTRUMENTS

2004 No. 2326

The European Public Limited-Liability Company Regulations 2004

PART 3

EMPLOYEE INVOLVEMENT

CHAPTER 1

INTERPRETATION OF PART 3

Interpretation of Part 3

16.—(1) In this Part—

"absolute majority vote" means a vote passed by a majority of the total membership of the special negotiating body where the members voting with that majority represent the majority of the employees of the participating companies and their concerned subsidiaries and establishments employed in the Member States;

"Appeal Tribunal" means the Employment Appeal Tribunal;

"CAC" means the Central Arbitration Committee;

"dismissed" and "dismissal", in relation to an employee, shall be construed in accordance with Part 10 of the 1996 Act;

"EEA state" means a Member State, Norway, Iceland and Lichtenstein;

"employee" means an individual who has entered into or works under a contract of employment and includes, where the employment has ceased, an individual who worked under a contract of employment;

"employee involvement agreement" means an agreement reached between the special negotiating body and the competent organs of the participating companies governing the arrangements for the involvement of employees within the SE;

"employees' representatives" means—

(a) if the employees are of a description in respect of which an independent trade union is recognised by their employer for the purpose of collective bargaining, representatives of the trade union who normally take part as negotiators in the collective bargaining process, and

(b) any other employees of their employer who are elected or appointed as employee representatives to positions in which they are expected to receive, on behalf of the employees, information—

(i) which is relevant to the terms and conditions of employment of the employees, or

(ii) about the activities of the undertaking which may significantly affect the interests of the employees,

but excluding representatives who are expected to receive information relevant only to a specific aspect of the terms and conditions or interests of the employees, such as health and safety or collective redundancies;

"information and consultation representative" has the meaning given to it in regulation 27(5);

"participation" means the influence of the representative body and the employees' representatives in the SE or a participating company by way of the right to—

(a) elect or appoint some of the members of the SE's or the participating company's supervisory or administrative organ; or

(b) recommend and/or oppose the appointment of some or all of the members of the SE's or the participating company's supervisory or administrative organ;

"representative body" means the persons elected or appointed under the employee involvement agreement or under the standard rules on employee involvement;

"SE established by merger" means an SE established in accordance with Article 2(1);

"SE established by formation of a holding company or subsidiary company" means an SE established in accordance with Article 2(2) or 2(3), as the case may be;

"SE established by transformation" means an SE established in accordance with Article 2(4);

"standard rules on employee involvement" means the rules in Schedule 3;

"two thirds majority vote" means a vote passed by a majority of at least two thirds of the total membership of the special negotiating body where the members voting with that majority—

(a) represent at least two thirds of the employees of the participating companies and their concerned subsidiaries and establishments employed in the Member States; and

(b) include members representing employees employed in at least two Member States;

"UK employee" means an employee employed to work in the United Kingdom; and

"UK members of the special negotiating body" means members of the special negotiating body elected or appointed by UK employees.

(2) In this Part, the following terms have the meaning given by Article 2 of the EC Directive—

"participating companies"

"subsidiary"

"special negotiating body"

"involvement of employees"

"information"

"consultation"

and references to a "concerned subsidiary" or a "concerned establishment" shall be construed in accordance with the definition of "concerned subsidiary or establishment" in the EC Directive.