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STATUTORY INSTRUMENTS

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**2004 No. 3426**

The Information and Consultation  
of Employees Regulations 2004

PART VII

CONFIDENTIAL INFORMATION

**Withholding of information by the employer**

**26.**—(1) The employer is not required to disclose any information or document to a person for the purposes of these Regulations where the nature of the information or document is such that, according to objective criteria, the disclosure of the information or document would seriously harm the functioning of, or would be prejudicial to, the undertaking.

(2) If there is a dispute between the employer and—

- (a) where information and consultation representatives have been elected or appointed, such a representative; or
- (b) where no information and consultation representatives have been elected or appointed, an employee or an employees' representative,

as to whether the nature of the information or document which the employer has failed to provide is such as is described in paragraph (1), the employer or a person referred to in sub-paragraph (a) or (b) may apply to the CAC for a declaration as to whether the information or document is of such a nature.

(3) If the CAC makes a declaration that the disclosure of the information or document in question would not, according to objective criteria, be seriously harmful or prejudicial as mentioned in paragraph (1), the CAC shall order the employer to disclose the information or document.

(4) An order under paragraph (3) shall specify—

- (a) the information or document to be disclosed;
- (b) the person or persons to whom the information or document is to be disclosed;
- (c) any terms on which the information or document is to be disclosed; and
- (d) the date before which the information or document is to be disclosed.