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STATUTORY RULES OF NORTHERN IRELAND

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**2004 No. 417**

The European Public Limited-Liability  
Company Regulations (Northern Ireland) 2004

PART III

EMPLOYEE INVOLVEMENT

CHAPTER 6

compliance and enforcement

**Disputes about operation of an employee involvement agreement or the standard rules on employee involvement**

33.—(1) Where –

- (a) an employee involvement agreement has been agreed; or
- (b) the standard rules on employee involvement apply,

a complaint may be presented to the Industrial Court by a relevant applicant who considers that the competent organ of a participating company or of the SE has failed to comply with the terms of the employee involvement agreement or, as the case may be, one or more of the standard information and consultation provisions.

(2) A complaint brought under paragraph (1) must be brought within a period of 3 months commencing with the date of the alleged failure or where the failure takes place over a period, the last day of that period.

(3) In this regulation –

“failure” means an act or omission;

“relevant applicant” means –

- (a) in a case where a representative body has been appointed or elected, a member of that body; or
- (b) in a case where no representative body has been elected or appointed, an information and consultation representative or an employee of the SE.

(4) Where the Industrial Court finds the complaint well-founded it shall make a declaration to that effect and may make an order requiring the SE to take such steps as are necessary to comply with the terms of the employee involvement agreement or, as the case may be, the standard rules on employee involvement.

(5) An order made under paragraph (4) shall specify –

- (a) the steps which the SE is required to take;
- (b) the date of the failure; and
- (c) the period within which the order must be complied with.

(6) Where the Industrial Court makes a declaration under paragraph (4), the relevant applicant may, within the period of three months beginning with the day on which the declaration is made, make an application to the High Court for a penalty notice to be issued.

(7) Where such an application is made, the High Court shall issue a written penalty notice to the SE requiring it to pay a penalty to the Department for Employment and Learning in respect of the failure unless satisfied, on hearing representations from the SE, that the failure resulted from a reason beyond its control or that it has some other reasonable excuse for its failure.

(8) Regulation 34 shall apply in respect of a penalty notice issued under this regulation.

(9) No order of the Industrial Court under this regulation shall have the effect of suspending or altering the effect of any act done or of any agreement made by the participating company or the SE.