#### STATUTORY RULES OF NORTHERN IRELAND

### 2005 No. 47

# The Information and Consultation of Employees Regulations (Northern Ireland) 2005

#### **PART VI**

#### COMPLIANCE AND ENFORCEMENT

## Disputes about operation of a negotiated agreement or the standard information and consultation provisions

- **22.**—(1) Where
  - (a) a negotiated agreement has been agreed; or
  - (b) the standard information and consultation provisions apply,

a complaint may be presented to the Industrial Court by a relevant applicant who considers that the employer has failed to comply with the terms of the negotiated 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 three months commencing with the date of the alleged failure.
  - (3) In this regulation
    - "failure" means an act or omission; and
    - "relevant applicant" means -
    - (a) in a case where information and consultation representatives have been elected or appointed, an information and consultation representative; or
    - (b) in a case where no information and consultation representatives have been elected or appointed, an employee or an employees' representative.
- (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 employer to take such steps as are necessary to comply with the terms of the negotiated agreement or, as the case may be, the standard information and consultation provisions.
  - (5) An order made under paragraph (4) shall specify
    - (a) the steps which the employer is required to take; and
    - (b) 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 date 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 employer requiring him to pay a penalty to the Department for Employment and Learning in respect of the failure unless satisfied, on hearing representations from the employer, that the failure

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resulted from a reason beyond the employer's control or that he has some other reasonable excuse for his failure.

- (8) Regulation 23 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 employer or of preventing or delaying any act or agreement which the employer proposes to do or to make.