

Status: This version of this provision is prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Transnational Information and Consultation of Employees Regulations 1999. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

STATUTORY INSTRUMENTS

1999 No. 3323

The Transnational Information and Consultation of Employees Regulations 1999

PROSPECTIVE

PART II

EMPLOYEE NUMBERS & REQUEST TO NEGOTIATE ESTABLISHMENT OF A EUROPEAN WORKS COUNCIL OR INFORMATION AND CONSULTATION PROCEDURE

Calculation of numbers of employees

6.—(1) For the purposes of determining whether an undertaking is a Community-scale undertaking or a group of undertakings is a Community-scale group of undertakings, the number of employees employed by the undertaking, or group of undertakings, shall be determined—

- (a) in the case of UK employees, by ascertaining the average number of employees employed during a two year period, calculated in accordance with paragraph (2) below;
- (b) in the case of employees in another Member State, by ascertaining the average number of employees employed during a two year period, calculated in accordance with the provisions of the law or practice of that Member State which is designed to give effect to the Transnational Information and Consultation Directive.

(2) Subject to paragraph (3), the average number of UK employees is to be ascertained by—

- (a) determining the number of UK employees in each month in the two year period preceding the relevant date (whether they were employed throughout the month or not);
- (b) adding together all of the monthly numbers, and

dividing the number so determined by 24.

(3) For the purposes of the calculation in paragraph 2(a) if for the whole of a month within the two year period an employee works under a contract by virtue of which he would have worked for 75 hours or less in that month—

- (a) were the month to have contained 21 working days;
- (b) were the employee to have had no absences from work; and
- (c) were the employee to have worked no overtime,

the employee may be counted as half a person for the month in question, if the UK management so decides.

(4) For the purposes of this regulation, regulations 7 to 10 and regulation 20 “relevant date” means—

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- (a) where a request under regulation 7 is made and no valid request under regulation 9 has been made, the last day of the month preceding the month in which the request under regulation 7 is made; and
- (b) where a valid request under regulation 9 is made (whether or not a request under regulation 7 has been made), the last day of the month preceding the month in which the request under regulation 9 is made.

(5) Where appropriate, the references in paragraph (4) to regulations 7 and 9 shall be read, instead, as references to the provisions of the law or practice of a Member State other than the United Kingdom which are designed to give effect to, respectively, Article 11(2) and Article 5(1) of the Transnational Information and Consultation Directive.

Commencement Information

II Reg. 6 in force at 15.1.2000, see [reg. 1\(1\)](#)

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Changes and effects yet to be applied to :

- Regulations modified by S.R. 2011/350 art. 23(1)Sch. 1 para. 1(a)
- Regulations words substituted by S.I. 2019/535 Sch. 2 para. 2(a)
- Regulations words substituted by S.I. 2019/535 Sch. 2 para. 2(b)
- reg. 6 coming into force by S.I. 1999/3323 reg. 1(1)
- reg. 6(4) words omitted by S.I. 2019/535 Sch. 2 para. 8(a)
- reg. 6(4)(a)(b) substituted by S.I. 2019/535 Sch. 2 para. 8(b)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Blanket amendment words substituted by S.I. 2011/1043 art. 3-68-10

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. para. 6(3) inserted by S.I. 2010/1088 reg. 25
- Sch. para. 8A inserted by S.I. 2010/1088 reg. 28
- Sch. para. 9(7)(8) inserted by S.I. 2010/1088 reg. 29(b)
- Sch. para. 7(3)(4) substituted for Sch, para. 7(3) by S.I. 2010/1088 reg. 26
- reg. 2(4B)(a) omitted by S.I. 2019/535 Sch. 2 para. 3(d)(i)
- reg. 2(4B)(b) word substituted by S.I. 2019/535 Sch. 2 para. 3(d)(ii)
- reg. 2(4B)(c) word substituted by S.I. 2019/535 Sch. 2 para. 3(d)(ii)
- reg. 16(1A) inserted by S.I. 2010/1088 reg. 8(a)
- reg. 17(4)(dd) inserted by S.I. 2010/1088 reg. 9(b)
- reg. 17(4A) inserted by S.I. 2010/1088 reg. 9(d)
- reg. 17(9) inserted by S.I. 2010/1088 reg. 9(f)
- reg. 18A inserted by S.I. 2010/1088 reg. 10
- reg. 18A(1)(a) words inserted by S.I. 2019/535 Sch. 2 para. 14
- reg. 18A(1)(b) words inserted by S.I. 2019/535 Sch. 2 para. 14
- reg. 19A-19F inserted by S.I. 2010/1088 reg. 11
- reg. 19B(1)(a) and word omitted by S.I. 2019/535 Sch. 2 para. 15
- reg. 19E(1)(a) words substituted by S.I. 2019/535 Sch. 2 para. 16
- reg. 19F omitted by S.I. 2019/535 Sch. 2 para. 17
- reg. 20(A1) inserted by S.I. 2019/535 Sch. 2 para. 18(a)
- reg. 20(7A) inserted by S.I. 2010/1088 reg. 12(c)
- reg. 21(1A) inserted by S.I. 2010/1088 reg. 13(b)
- reg. 21(1A)(a) words inserted by S.I. 2019/535 Sch. 2 para. 19(b)
- reg. 21(6A) inserted by S.I. 2010/1088 reg. 13(e)
- reg. 21A inserted by S.I. 2010/1088 reg. 14
- reg. 21A(1)(a) omitted by S.I. 2019/535 Sch. 2 para. 20(a)(i)
- reg. 21A(1)(c) words omitted by S.I. 2019/535 Sch. 2 para. 20(a)(ii)
- reg. 21A(3) word omitted by S.I. 2019/535 Sch. 2 para. 20(b)
- reg. 21A(10)(c)(i) omitted by S.I. 2019/535 Sch. 2 para. 20(c)(i)
- reg. 21A(10)(c)(iii) words omitted by S.I. 2019/535 Sch. 2 para. 20(c)(ii)
- reg. 25(1A) inserted by S.I. 2010/1088 reg. 16
- reg. 25(1A)(a) omitted by S.I. 2019/535 Sch. 2 para. 21(b)

- reg. 27(2A) inserted by S.I. 2014/386 Sch. para. 7
- reg. 27(2B) inserted by S.R. 2020/4 Sch. para. 12
- reg. 27A inserted by S.I. 2014/386 Sch. para. 8
- reg. 27B inserted by S.R. 2020/4 Sch. para. 13
- reg. 41(7A) inserted by S.I. 2004/2518 reg. 2
- reg. 41(7A) words substituted by S.I. 2009/3348 art. 22Sch. 1
- reg. 41(9) inserted by S.I. 2013/1956 Sch. para. 3(b)
- reg. 44-45A substituted for reg. 44 by S.I. 2010/1088 reg. 23
- reg. 44(4)-(7) omitted by S.I. 2019/535 Sch. 2 para. 27(b)
- reg. 45(4)-(7) omitted by S.I. 2019/535 Sch. 2 para. 28(b)
- reg. 45A(1) substituted by S.I. 2019/535 Sch. 2 para. 29(a)
- reg. 45A(2)(a) words inserted by S.I. 2019/535 Sch. 2 para. 29(b)
- reg. 45A(3) word substituted by S.I. 2019/535 Sch. 2 para. 29(c)
- reg. 45A(3A) inserted by S.I. 2019/535 Sch. 2 para. 29(d)
- reg. 45A(4) omitted by S.I. 2019/535 Sch. 2 para. 29(e)
- reg. 45A(5) substituted by S.I. 2019/535 Sch. 2 para. 29(f)
- reg. 46A inserted by S.I. 2004/2326 reg. 53
- reg. 46A substituted by S.I. 2009/2401 reg. 40
- reg. 46A(1) words substituted by S.I. 2019/685 Sch. 3 para. 19(a)
- reg. 46A(2) substituted by S.I. 2019/685 Sch. 3 para. 19(b)
- reg. 46B inserted by S.I. 2006/2059 reg. 42