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## STATUTORY INSTRUMENTS

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# 2009 No. 2401

## The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009

### PART 3

#### ELECTION OR APPOINTMENT OF UK MEMBERS OF THE SPECIAL NEGOTIATING BODY

##### Ballot arrangements

**10.**—(1) Subject to regulation 11, the UK members of the special negotiating body must be elected by balloting the UK employees.

(2) The management of the participating companies that employ UK employees (“the management”) must arrange for the holding of a ballot or ballots of those employees in accordance with the requirements specified in paragraph (3).

(3) The requirements are—

(a) in relation to the election of ordinary members under regulation 8(2), that—

- (i) if the number of members which UK employees are entitled to elect to the special negotiating body is equal to the number of participating companies which have UK employees, there must be separate ballots of the UK employees in each participating company;
- (ii) if the number of members which the UK employees are entitled to elect to the special negotiating body is greater than the number of participating companies which have UK employees, there must be separate ballots of the UK employees in each participating company and the management must ensure, as far as practicable, that at least one member representing each such participating company is elected to the special negotiating body and that the number of members representing each company is proportionate to the number of employees in that company;
- (iii) if the number of members which the UK employees are entitled to elect to the special negotiating body is smaller than the number of participating companies which have employees in the United Kingdom—
  - (aa) the number of ballots held must be equivalent to the number of members to be elected,
  - (bb) a separate ballot must be held in respect of each of the participating companies with the higher or highest number of employees, and
  - (cc) it must be ensured that any employees of a participating company in respect of which a ballot does not have to be held are entitled to vote in a ballot held in respect of one of the other participating companies;

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- (iv) if there are any UK employees employed by a concerned subsidiary or establishment of non-UK participating companies, the management must ensure that those employees are entitled to vote in a ballot held pursuant to this regulation;
  - (b) that in relation to the ballot of additional members under regulation 8(3) the management must hold a separate ballot in respect of each participating company entitled to elect an additional member;
  - (c) that, in a ballot in respect of a particular participating company, all UK employees employed by that participating company or by its concerned subsidiaries or at its concerned establishments are entitled to vote;
  - (d) that a person is entitled to stand as a candidate for election as a member of the special negotiating body in a ballot in respect of a particular participating company if, immediately before the latest time at which a person may become a candidate, the person is—
    - (i) a UK employee employed by that participating company, by any of its concerned subsidiaries or at any of its concerned establishments, or
    - (ii) if the management of that participating company so permits, a representative of a trade union who is not an employee of that participating company or any of its concerned subsidiaries;
  - (e) that the management must appoint in accordance with paragraph (7) a person (a “ballot supervisor”)—
    - (i) to supervise the conduct of the ballot of UK employees, or
    - (ii) where there is to be more than one ballot, to supervise the conduct of each of the separate ballots,
 and, in a case falling within paragraph (ii), may appoint different persons to supervise the conduct of such different separate ballots as the management may determine;
  - (f) that after the management has formulated proposals as to the arrangements for the ballot of UK employees and before it has published the final arrangements under sub-paragraph (g) it must, so far as reasonably practicable, consult the UK employees' representatives on the proposed arrangements for the ballot of UK employees; and
  - (g) that the management must publish the final arrangements for the ballot of UK employees in such manner as to bring them to the attention of, so far as reasonably practicable, all UK employees and the UK employees' representatives.
- (4) Any UK employee or UK employees' representative who believes that the arrangements for the ballot of the UK employees do not comply with the requirements of paragraph (3) may, within a period of 21 days beginning on the date on which the management published the final arrangements under sub-paragraph (g) of that paragraph, present a complaint to the CAC.
- (5) If the CAC finds the complaint well-founded, it must make a declaration to that effect and may make an order requiring the management to modify the arrangements it has made for the ballot of UK employees or to satisfy the requirements in sub-paragraph (f) or (g) of paragraph (3).
- (6) An order under paragraph (5) must specify—
- (a) the modifications to the arrangements which the management is required to make, and
  - (b) the requirements it must satisfy.
- (7) The management may appoint a person to be a ballot supervisor for the purposes of paragraph (3)(e) only if the management—
- (a) reasonably believes that the person will carry out competently any functions conferred on the person in relation to the ballot, and

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- (b) has no reasonable grounds for believing that the person's independence in relation to the ballot might reasonably be called into question.

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**Changes and effects yet to be applied to :**

- Regulations applied by Regulation (EC) No. 2157/2001, Art. 1(4) (as substituted) by [S.I. 2018/1298 reg. 98\(c\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 12(4) (as amended) by [S.I. 2018/1298 reg. 107\(b\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 40(2) (as amended) by [S.I. 2018/1298 reg. 113\(b\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 43(2) (as amended) by [S.I. 2018/1298 reg. 115\(b\)\(iv\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 52(b) (as amended) by [S.I. 2018/1298 reg. 122\(a\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art. 9(1)(c)(i) (as substituted) by [S.I. 2018/1298 reg. 104\(a\)\(ii\)](#)
- Regulations applied by Regulation (EC) No. 2157/2001, Art.AA1 (as inserted) by [S.I. 2018/1298 reg. 97](#)
- reg. 5-16 omitted by [S.I. 2018/1298 reg. 51](#)

**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):

- reg. 3(2A) inserted by [S.I. 2018/1298 reg. 49\(c\)](#)
- reg. 17(4)(d) inserted by [S.I. 2018/1298 reg. 52\(c\)\(iii\)](#)
- reg. 20(3)(b) words substituted by [S.I. 2018/1298 reg. 54\(b\)](#)
- reg. 24(1)(aa) inserted by [S.I. 2018/1298 reg. 57\(a\)](#)
- reg. 41(2A) inserted by [S.I. 2018/1298 reg. 64\(b\)](#)