
STATUTORY INSTRUMENTS

2010 No. 1088

**The Transnational Information and Consultation
of Employees (Amendment) Regulations 2010**

Further provisions in relation to European Works Councils, etc

11. After regulation 19 (cooperation) insert—

“Means required

19A.—(1) Subject to paragraph (2), the central management shall provide the members of a European Works Council with the means required to fulfil their duty to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings under these Regulations.

(2) The obligation on central management in paragraph (1) does not include an obligation to provide a member of a European Works Council with—

- (a) time off during working hours to perform functions as such a member, or remuneration for such time off (as required by regulations 25 and 26);
- (b) the means required to undertake training (as required by regulation 19B); or
- (c) time off during working hours to undertake training, or remuneration for such time off (as required by regulations 25 and 26).

Right to training for members of a European Works Council, etc

19B.—(1) Subject to paragraph (2), the central management shall provide an employee who is—

- (a) a member of a special negotiating body; or
- (b) a member of a European Works Council,

with the means required to undertaking training to the extent necessary for the exercise of the employee’s representative duties.

(2) The obligation on central management referred to in paragraph (1) does not include an obligation to provide time off during working hours to undertaking training, or remuneration for such time off (as required by regulations 25 and 26).

European Works Council to inform, etc

19C. Subject to regulation 23, a European Works Council shall inform—

- (a) the employees’ representatives in the establishments of a Community-scale undertaking or in the undertakings of a Community-scale group of undertakings; or
- (b) to the extent that any employees are not represented by employees’ representatives, the employees themselves,

of the content and outcome of the information and consultation procedure carried out in accordance with these Regulations.

Complaint of failure to inform

19D.—(1) An employee or employees' representative may present a complaint to the CAC that—

- (a) the European Works Council has failed to inform them under regulation 19C of the content or outcome of the information and consultation procedure; or
- (b) the information which has been provided by the European Works Council is false or incomplete in a material particular.

(2) Where the CAC finds the complaint well-founded it shall make an order requiring the European Works Council to disclose information to the complainant which order shall specify—

- (a) the information in respect of which the CAC finds that the complaint is well-founded and which is to be disclosed to the complainant;
- (b) the date (or if more than one, the earliest date) on which the European Works Council refused or failed to disclose information, or disclosed false or incomplete information; and
- (c) a date (not less than one week from the date of the order) by which the European Works Council must disclose the information specified in the order.

(3) The CAC shall not find a complaint under this regulation well-founded where it considers that the failure to inform, or the provision of false or incomplete information, resulted from a failure by the central management to provide the members of the European Works Council with the means required to fulfil their duty to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings (as required by regulation 19A).

(4) A complaint brought under paragraph (1) must be brought within a period of six months beginning with the date of the alleged failure to inform, or the provision of false or incomplete information.

Links between information and consultation of European Works Council and national employee representation bodies

19E.—(1) Paragraph (2) applies where—

- (a) no arrangements to link information and consultation of a European Works Council with information and consultation of national employee representation bodies have been made under regulation 17(4)(c), and
- (b) there are circumstances likely to lead to substantial changes in work organisation or contractual relations.

(2) Subject to regulation 2(4B), the—

- (a) management of every undertaking belonging to the Community-scale group of undertakings;
- (b) central management; or
- (c) representative agent or the management treated as the central management of the Community-scale undertaking or Community-scale group of undertakings within the meaning of regulation 5(2),

as the case may be, shall ensure that the procedures for informing and consulting the European Works Council and the national employee representation bodies in relation to the substantial changes in work organisation or contractual relations referred to in sub-paragraph (b) of paragraph (1) are linked so as to begin within a reasonable time of each other.

(3) The national employee representation bodies referred to in paragraph (2) are those bodies which are entitled, whether by law, agreement or custom and practice, to be informed and consulted on the substantial changes in work organisation or contractual relations referred to in sub-paragraph (b) of paragraph (1).

Adaptation

19F.—(1) The central management shall initiate negotiations for the establishment of a European Works Council or an information and consultation procedure where the structure of a Community-scale undertaking or Community-scale group of undertakings changes significantly and paragraphs (2) and (3) apply.

(2) This paragraph applies where there is—

- (a) one European Works Council agreement, or one agreement for an information and consultation procedure;
- (b) more than one European Works Council agreement;
- (c) more than one agreement for an information and consultation procedure;
- (d) at least one European Works Council agreement and at least one agreement for an information and consultation procedure,

in force and there are no provisions for the continuance of the European Works Council or information and consultation procedure, as the case may be, where there are significant changes in the structure of the Community-scale undertaking or Community-scale group of undertakings or there are such provisions, but there is a conflict between them.

(3) This paragraph applies where a valid request within the meaning of regulation 9(2) and (3) has been made by employees or employees' representatives and on the relevant date the undertaking is a Community-scale undertaking or the group of undertakings is a Community-scale group of undertakings.

(4) Notwithstanding paragraph (1), the central management may initiate the negotiations referred to in paragraph (1) on its own initiative.

(5) Where the central management has initiated negotiations under paragraph (1) or (4), there shall be on the special negotiating body at least three members of every existing European Works Council in addition to the members elected or appointed in accordance with regulation 12(2).

(6) Before the establishment of a European Works Council or an information and consultation procedure under paragraph (1) or (4), any agreement establishing an existing European Works Council or information and consultation procedure—

- (a) shall continue to operate in accordance with its terms, and
- (b) may be adapted by agreement between the members of the European Works Council and the central management, or the information and consultation representatives and the central management, as the case may be, as a result of the change in structured referred to in paragraph (1).

(7) Where information is to be disclosed under a European Works Council agreement or an information and consultation procedure which includes information as to the employment situation in the Community-scale undertaking or, as the case may be, the

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Community-scale group of undertakings, this shall include suitable information relating to the use of agency workers (if any).”.