

# **ISSUES UNDER THE EUROPEAN COOPERATIVE SOCIETY (INVOLVEMENT OF EMPLOYEES) REGULATIONS 2006 ON WHICH APPLICATIONS OR COMPLAINTS CAN BE MADE TO THE CAC**

## **1. COMPLAINT OF FAILURE TO PROVIDE INFORMATION**

### **Regulation 8**

Complaint by an employee or an employees' representative that a participating individual or the competent organ of a participating legal entity has failed to provide information or the information is false or incomplete in a material particular. The information that must be provided must include information:

- (a) identifying the participating individuals, participating legal entities, subsidiaries and establishments,
- (b) identifying the concerned subsidiaries and concerned establishments,
- (c) giving the number of employees employed by each participating individual, participating legal entity, subsidiary and at each establishment, and
- (d) giving the number of employees employed to work in each EEA State.

Further, when a special negotiating body has been formed it must be provided with such information as is necessary to keep it informed of the plan to establish and the progress of establishing the SCE up to the time the SCE has been registered.

There is no deadline for a complaint under this heading.

CAC can make an order requiring the participating individual or the competent organ of a participating legal entity to disclose information to the complainant specifying:

- the information to be disclosed; and
- the date by which it must be disclosed.

## **2. COMPLAINT ABOUT ESTABLISHMENT OF SPECIAL NEGOTIATING BODY**

### **Regulation 11**

Complaint by an employee or an employees' representative or a member of the special negotiating body or a participating individual or the competent organ of a participating legal entity or concerned subsidiary that the special negotiating body has not been established at all or has not been established properly.

Complaint must be submitted within one month of the date upon which the participating individuals and participating legal entities informed, or should have

informed, the employees of the identity of the members of the special negotiating body.

CAC can make a declaration that the participating individuals and the competent organs of the participating legal entities are still obliged to establish a special negotiating body.

### **3. COMPLAINT ABOUT THE BALLOT ARRANGEMENTS**

#### **Regulation 12**

Complaint by a UK employee or UK employees' representative who believes the arrangements for the ballot do not comply with the provisions of the regulations.

Complaint must be submitted within 21 days of the publication of the final ballot arrangements.

CAC can order the relevant employers to:

- modify the arrangements so as to comply with the regulations; or
- consult with the UK employees' representatives before the final ballot arrangements are brought to the attention of all UK employees and UK employees' representatives.

### **COMPLAINT ABOUT THE APPOINTMENT OF UK MEMBERS BY A CONSULTATIVE COMMITTEE**

#### **4. Regulation 14**

Complaint by a participating individual, the participating legal entity, an employee or an employees' representative that the consultative committee does not satisfy the requirements of the regulations or that a person (or persons) appointed by the consultative committee was not eligible to be appointed.

Complaint must be submitted within 21 days of the date on which the consultative committee published the names of those appointed.

CAC can make an order declaring the appointment made by the consultative committee is ineffective and that the members of the special negotiating body are to be elected by ballot.

### **5. COMPLAINT ABOUT DECISIONS OF SPECIAL NEGOTIATING BODY**

#### **Regulation 20**

Complaint by a member of the special negotiating body, an employee representative, or an unrepresented employee that decisions of the special

negotiating body have not been correctly published or, where required by the regulations, have not been made by a majority.

Complaint must be submitted within 21 days of the date the special negotiating body did, or should have, published its decision.

CAC can make a declaration that the decision was not taken properly and that it shall have no effect.

## **6. DISPUTES ABOUT OPERATION OF AN EMPLOYEE INVOLVEMENT AGREEMENT OR THE STANDARD RULES ON EMPLOYEE INVOLVEMENT**

### **Regulation 22**

Where either an employee involvement agreement has been agreed or the standard rules apply, a complaint may be presented by a member of a representative body, if one has been established, or where there is no representative body, an information and consultative representative or an employee who considers that a participating individual or the competent organ of a participating legal entity or of the SCE has failed to comply with the terms of the employee involvement agreement or, where applicable, the standard rules for information and consultation.

A complaint must be brought within a period of 3 months starting with the date of the alleged failure, or where the failure takes place over a period, the last day of that period.

The CAC can make an order that such steps be taken to comply with the terms of the employee involvement agreement or, where applicable, the standard rules on employee involvement specifying:

- the steps which are required to be taken;
- the date of the failure; and
- the period within which the order must be complied with.

If the CAC issues a declaration upholding the complaint, the applicant has 3 months in which to apply to the Appeal Tribunal for a penalty notice to be issued.

## **7. MISUSE OF PROCEDURES**

### **Regulation 24**

A complaint can be made by an employees' representative, or if there is no such representative, an employee, who believes that a participating individual, a participating legal entity or an SCE is misusing or intending to misuse the SCE or the powers in these Regulations for the purpose of:

- depriving any relevant employees of their rights to employee involvement; or
- withholding such rights from any such employees.

A complaint can be made before registration of the SCE or within 12 months of that date.

The complaint shall be upheld unless the respondent proves that it did not misuse or intend to misuse the SCE or the powers in these Regulations for either of the above purposes.

The CAC can make an order requiring such steps to be taken to ensure that employees are not deprived of their rights to employee involvement or that such rights are not withheld.

If the CAC issues a declaration upholding the complaint, the applicant has three months in which to apply to the Appeal Tribunal for a penalty notice to be issued.

## **8. DISPUTES OVER CONFIDENTIAL INFORMATION**

### **Regulation 26**

Application as to whether it was reasonable for an SCE, subsidiary of an SCE, participating legal entity, concerned subsidiary or participating individual to require the recipient of information received to hold the information or document in confidence.

There is no deadline for a complaint under this regulation.

CAC will issue declaration as to whether or not it was reasonable for the body to require the recipient to hold the information or document in confidence.

## **9. DISPUTES REGARDING THE WITHHOLDING OF INFORMATION**

### **Regulation 27**

Application by a member of a representative body or, where no such body has been established, an information and consultation representative or an employee or the SCE, the participating legal entity or participating individual as to whether or not the disclosure of the information or document would seriously harm the functioning of, or would be prejudicial to the the SCE or any subsidiary or establishment of the SCE, the participating legal entity or any subsidiary or establishment of the participating legal entity, the participating individual or any establishment of the participating individual.

If the CAC declares that the disclosure of the information or document in question would not be seriously harmful or prejudicial, the CAC can order its disclosure specifying:

- the information or document to be disclosed;
- the person or persons to whom the information or document is to be disclosed;
- any terms on which the information or document is to be disclosed; and
- the date before which the information or document is to be disclosed.

**Note:           SUBSEQUENT APPLICATION OF REGULATIONS TO A  
FORMERLY EXEMPT SCE**

Where the terms of Schedule 1 apply substitute Schedule 1 paragraph 2 for Regulation 8, Schedule 1 paragraph 5 for Regulation 11, Schedule 1 paragraph 6 for Regulation 12, Schedule 1 paragraph 8 for Regulation 14 and Schedule 1 paragraph 14 for Regulation 20.