
STATUTORY INSTRUMENTS

1995 No. 2587

**The Collective Redundancies and Transfer of Undertakings
(Protection of Employment) (Amendment) Regulations 1995**

Collective Redundancies

Duty to consult representatives

3.—(1) Section 188 of the 1992 Act shall be amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) Where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, the employer shall consult about the dismissals all the persons who are appropriate representatives of any of the employees who may be so dismissed.

(1A) The consultation shall begin in good time and in any event—

- (a) where the employer is proposing to dismiss 100 or more employees as mentioned in subsection (1), at least 90 days, and
- (b) otherwise, at least 30 days,

before the first of the dismissals takes effect.

(1B) For the purposes of this section the appropriate representatives of any employees are—

- (a) employee representatives elected by them, or
- (b) if the employees are of a description in respect of which an independent trade union is recognised by the employer, representatives of the trade union,

or (in the case of employees who both elect employee representatives and are of such a description) either employee representatives elected by them or representatives of the trade union, as the employer chooses.

(2) The consultation shall include consultation about ways of—

- (a) avoiding the dismissals,
- (b) reducing the numbers of employees to be dismissed, and
- (c) mitigating the consequences of the dismissals,

and shall be undertaken by the employer with a view to reaching agreement with the appropriate representatives.”

(3) In subsection (4), for “trade union” substitute “appropriate”.

(4) In subsection (5)—

- (a) for “delivered to the trade union representatives” substitute “given to each of the appropriate representatives by being delivered to them”; and
- (b) after “employer, or” insert “(in the case of representatives of a trade union)”.

(5) After that subsection insert—

“(5A) The employer shall allow the appropriate representatives access to the employees whom it is proposed to dismiss as redundant and shall afford to those representatives such accommodation and other facilities as may be appropriate.”

(6) Omit subsection (6).

(7) In subsection (7), in the first sentence, for “(2), (4) or (6)” substitute “(1A), (2) or (4)”.

(8) After that subsection insert—

“(7A) Where—

- (a) the employer has invited any of the employees who may be dismissed to elect employee representatives, and
- (b) the invitation was issued long enough before the time when the consultation is required by subsection (1A)(a) or (b) to begin to allow them to elect representatives by that time,

the employer shall be treated as complying with the requirements of this section in relation to those employees if he complies with those requirements as soon as is reasonably practicable after the election of the representatives.”

(9) In subsection (8), after “a trade union” insert “, a representative”.

(10) In the sidenote to section 188, and in the heading immediately preceding it, omit “trade union”.

(11) In consequence of the amendments made by this regulation, in section 34 of the Trade Union Reform and Employment Rights Act 1993(1), omit subsection (2)(b).

Complaints.

4.—(1) Section 189 of the 1992 Act shall be amended as follows.

(2) For subsection (1) substitute—

“(1) Where an employer has failed to comply with any requirement of section 188, a complaint may be presented to an industrial tribunal on that ground

- (a) in the case of a failure relating to employee representatives, by any of the employee representatives to whom the failure related,
- (b) in the case of a failure relating to representatives of a trade union, by the trade union, and
- (c) in any other case, by any of the employees who have been or may be dismissed as redundant.”

(3) In subsection (4), for the words from “section 188(2)(a)” to the end substitute “paragraph (a) of subsection (1A) of section 188 or 30 days in a case falling within paragraph (b) of that subsection.”

(4) In subsection (5)—

- (a) in paragraph (a), for “proposed dismissal” substitute “date on which the last of the dismissals to which the complaint relates”;
- (b) in paragraph (b)—
 - (i) for “before the end of” substitute “during”; and
 - (ii) for “the date on which the dismissal takes effect” substitute “that date”; and
- (c) in paragraph (c), for “within the” substitute “during the”.

(5) In the sidenote, omit “by trade union”.

Duty to notify Secretary of State.

- 5.—(1) Section 193 of the 1992 Act shall be amended as follows.
- (2) In subsection (2)—
- (a) for “10” substitute “20”; and
 - (b) for “a period of 30 days or less” substitute “such a period”.
- (3) In subsection (4), for paragraph (b) substitute—
- “(b) where there are representatives to be consulted under section 188, identify them and state the date when consultation with them under that section began.”.
- (4) In subsection (6)—
- (a) for the first sentence substitute—
“Where there are representatives to be consulted under section 188 the employer shall give to each of them a copy of any notice given under subsection (1) or (2).”;
and
 - (b) in the second sentence, after “employer, or” insert “(in the case of representatives of a trade union)”.

Construction of references to representatives.

6. For section 196 of the 1992 Act substitute—

“196 Construction of references to representatives.

- (1) For the purposes of this Chapter persons are employee representatives if—
- (a) they have been elected by employees for the specific purpose of being consulted by their employer about dismissals proposed by him, or
 - (b) having been elected by employees (whether before or after dismissals have been proposed by their employer) otherwise than for that specific purpose, it is appropriate (having regard to the purposes for which they were elected) for the employer to consult them about dismissals proposed by him,
- and (in either case) they are employed by the employer at the time when they are elected.
- (2) References in this Chapter to representatives of a trade union, in relation to an employer, are to officials or other persons authorised by the trade union to carry on collective bargaining with the employer.”

Defined expressions

- 7.—(1) Section 299 of the 1992 Act shall be amended as follows.
- (2) After the entries relating to “employee” insert—

“employee representatives (in Part IV, Chapter II section 196(1).”

- (3) For the entry relating to “representative (of trade union)” substitute—

“representatives of a trade union (in Part IV, Chapter II section 196(2).”

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
