



## Application or Complaint under the Information and Consultation of Employees Regulations (Northern Ireland) 2005

**THIS FORM IS FOR AN EMPLOYEE OR EMPLOYEES' REPRESENTATIVE WHO WISHES TO  
COMPLAIN THAT AN EMPLOYER IS NOT ENTITLED TO HOLD A BALLOT TO SEEK THE  
ENDORSEMENT OF THE EMPLOYEE REQUEST FOR THE ESTABLISHMENT OF INFORMATION AND  
CONSULTATION ARRANGEMENTS**

***BEFORE COMPLETING THIS FORM, PLEASE READ THE NOTES AT APPENDIX 1***

**1. Person making the complaint:**

<b>Your Name:</b>		
<b>Are you:</b>	An employee? An employees' representative?	
<b>Address for correspondence:</b>		
<b>Telephone:</b>		
<b>Fax:</b>		
<b>E-Mail:</b>		

**2. Undertaking to which the complaint applies:**

<b>Name of undertaking:</b>		
<b>Name of contact:</b>		
<b>Address:</b>		
<b>Telephone:</b>		
<b>Fax:</b>		
<b>E-Mail:</b>		

4. Do you believe that a valid employee request has been made? (A request has to meet the requirements of Regulations 7 and 12; these are summarised in Appendix 2)

YES/NO

5. If your answer to question 4. is no, please give further details:

6. Do you believe that the number of employee requests is at least 10%, but less than 40%, of those employed in the undertaking?

YES/NO

7. If your answer 6. is no, please state the proportion of employees you believe to have made requests:

8. Do you consider that there is a pre-existing agreement between the employer and the employees which does not conform to the requirements of Regulation 8?

YES/NO

9. Please tick the boxes below to identify those areas in which you consider the pre-existing agreement does not conform to the requirements of Regulation 8 and give further details in question 10:

(a) It is not in writing

(b) It does not cover all the employees of the undertaking

(c) It has not been approved by the employees

(d) It does not set out how the employer is to give information to the employees or their representatives and seek their views on such information

10. Please give further details of any of the items you have identified in question 9. For instance, where you have documentary evidence to support your view(s), such as the pre-existing agreement, please provide a copy of same, ensuring you highlight the relevant details.

Signature:

Date:

## Appendix 1

### *Notes for guidance*

#### **MAKING AN APPLICATION OR COMPLAINT TO THE INDUSTRIAL COURT**

- **Check whether the Industrial Court can deal with your problem**

The Information and Consultation Regulations provide for the Industrial Court (the Court) to consider applications or complaints from employers, employees and their representatives at several stages in the process of establishing or operating information and consultation arrangements. The full list of applications or complaints is in the Court's *Guidance for Employers and Employees* which is available from the Court at the contact points given at the foot of this page or from the Court's website ([www.industrialcourt.gov.uk](http://www.industrialcourt.gov.uk)).

There is a separate application form for each application or complaint. Please make sure you have the right one.

The Department for Employment and Learning (DEL) has also published guidance which is available on the DEL website ([www.delni.gov.uk](http://www.delni.gov.uk)) and the Regulations can also be downloaded from that site.

- **Check that you understand the Regulations relevant to your application or complaint**

Appendix 2 to this form contains a summary of the Regulations relevant to this application but it is not an authoritative statement of the law. You may wish to consult the Regulations themselves, the Court or the DEL guidance.

- **Completing the form:**

#### **Question(s)**

- |                    |   |
|--------------------|---|
| <b>1 and 2</b>     | Give your own contact details and those of the person who is dealing with the matter on behalf of the employer  |
| <b>3</b>           | Give the date on which the employer notified the employees that it intended to hold a ballot (NB the complaint to the Court must be made within 21 days of that date)   |
| <b>4 and 5</b>     | State whether you believe a valid request has been made and complete question 5 if appropriate  |
| <b>6 and 7</b>     | An employer is only entitled to hold a ballot if the number of requests is at least 10% but less than 40%. State whether you understand this to be the case and, if not, give the proportion of requests you understand to have been made |
| <b>8, 9 and 10</b> | State whether you consider that there is a pre-existing agreement which conforms to Regulation 8. If not, explain in question 9 why you consider the agreement does not conform and give details in question 10                           |

▪ **Please sign and date the form and send it to:**

The Industrial Court  
Room 203  
39-49 Adelaide Street  
Belfast  
BT2 8FD

028 9025 7599  
028 9025 7555 (Fax)

enquiries@industrialcourt.gov.uk

▪ **What happens next?**

The Court will copy your form and any attachments to the employer. If you have any supporting information which you regard as confidential, **do not** send it to the Court at this stage.

The Court will ask the employer to complete a response form and this will be copied to you. An Industrial Court Case Manager will then be in touch with you to explain the next steps in the procedure. This may include attending a formal hearing with a Court Panel.

The Court's *Guidance for Employers and Employees* contains a detailed description of the way the Court handles applications and complaints.

The Industrial Court website

**[www.industrialcourt.gov.uk](http://www.industrialcourt.gov.uk)**

contains a detailed guide to the legislation and the full text of published Court decisions

## Appendix 2

### Summary of the Regulations relevant to this complaint

(Please see the Court's *Guidance for Employers and Employees* for an explanation of the types of complaints and applications that can be submitted to the Court)

*Regulation 3:* The Regulations came into effect on 6 April 2005 and apply to undertakings in the Northern Ireland with at least 150 employees. From 6 April 2007, the Regulations will cover undertakings with 100 employees and, from 6 April 2008, those with 50 employees.

*Regulation 7:* An employer must initiate negotiations to establish information and consultation arrangements if a request is made by 10% of the employees in an undertaking. The 10% figure is subject to a minimum of 15 employees and a maximum of 2500. The employee request must be in writing, be sent to the employer or the Court, specify the names of the employees making the request and state the date on which it was sent. If employees make separate requests, they must be made within a six month period.

*Regulation 8:* This Regulation applies where a valid request has been made by fewer than 40% of the employees in the undertaking and there is a pre-existing agreement which satisfies the following conditions: it is in writing; it covers all the employees in the undertaking; it has been approved by the employees; and, it sets out how the employer is to give information to employees and seek their views.

An employer may hold a ballot to seek the endorsement of the employees for the employee request. The employer must inform the employees within one month of the date of the request that it intends to hold a ballot and arrange for the ballot to take place as soon as is reasonably practicable but *not* before 21 days has passed since the employer informed the employees that a ballot was to take place. This Regulation also requires the employer to fulfil certain conditions in relation to the conduct of the ballot and the disclosure of the result.

*Regulation 10:* An employee or employees' representative who believes that an employer is not entitled to hold a ballot under Regulation 8 may make a complaint to the Court within 21 days of the employer notifying the employees that it intends to hold a ballot.

*Regulation 12:* An employee request is not valid if it is made within three years of the date of a negotiated agreement or before the date of termination, within three years of the date on which the standard provisions started to apply or where there was a pre-existing agreement, within three years of a request which led to the non-endorsement of the request in a ballot