



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

**THIS FORM IS FOR AN EMPLOYER WHO WISHES TO APPLY TO THE INDUSTRIAL COURT FOR A DECLARATION AS TO WHETHER THERE HAS BEEN A VALID EMPLOYEE REQUEST FOR THE ESTABLISHMENT OF INFORMATION AND CONSULTATION ARRANGEMENTS**

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

**1. Employer making the complaint:**

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

**2. Employee or employees' representative to whom the application applies:**

<b>Name of employee or representative:</b>		
<b>Address:</b>		
<b>Telephone:</b>		
<b>Fax:</b>		
<b>E-Mail:</b>		

3. Please tick the box or boxes below to indicate why you consider the request to be invalid and give further details under Question 4:

**Regulation 3**

- (a) The undertaking does not employ in United Kingdom the required number of employees

☐

- (b) The undertaking does not employ in Northern Ireland the required number of employees. **(Please provide details in Part 4 of the number of employees in Northern Ireland and in Great Britain).**

☐

- (c) The employer does not fall within the definition of an 'undertaking'

☐

- (d) The undertaking's registered office is situated in Northern Ireland.

☐ Yes/No

- (e) The undertaking's head office is situated in Northern Ireland.

☐ Yes/No

- (f) The undertaking does not have a registered office or head office but the principal place of business is situated in Northern Ireland.

☐ Yes/No

**Regulations 7(2) - (4)**

- (g) The request was not made by 10% of the employees

☐

- (h) The requests were not submitted within a six month period

☐

- (i) The requests were not made in the correct form

☐

**Regulation 12**

- (j) The request was made within three years of the date of a negotiated agreement or before the date that agreement was terminated

☐

- (k) The request was made within three years of the date on which the standard provisions applied

☐

- (l) The request was made within three years of the date on which a ballot was held, where a pre-existing agreement was in place, and the result of the ballot was that a request was not endorsed by the employees

☐

4. Please give your reasons for all the grounds you have ticked above:

5. Please give the date of the employee request:

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 web site ([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)**

**1 and 2** Give your own details and those of the employee or employees' representative who submitted the request to you.

**3** Under the Regulations there are a number of specific grounds on which you may challenge the validity of a request for the establishment of information and consultation arrangements. Please tick the box or boxes that you consider apply to your situation and give your reasons in answer to question 4.

If you answered No to question (d), (e) or (f) and the registered office or head office or principal place of business is based **in GB** please state the total number of employees based in Northern Ireland and the total based in GB

**4** Give your reasons here for the boxes you have ticked in answer to question 3.

**5** Give the date of the employees' request. Regulation 13(3) states that an application to the Court must be made within a one month period beginning with the date of the employee request.

▪ **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 employee or employees' representative. 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 employee or representative 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's 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 Northern Ireland with at least 150 employees, whose registered office, head office or principal place of business is in Northern Ireland. From 6 April 2007, the Regulations will cover undertakings with 100 employees and, from 6 April 2008, those with 50 employees.

*Regulation 4:* The number of employees is determined by calculating the average number of employees employed in the previous 12 months. If the undertaking has been in existence for less than 12 months, the number is *calculated* on the number of months the undertaking has been in existence. An employee who works for 75 hours a month or less can be counted as half a full-time employee.

*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 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

*Regulation 13:* An employer may make an application to the Court that an employee request is not valid because it did not satisfy the *requirements* of Regulation 7(2) to 7(4), was prevented from being valid by Regulation 12 or that the undertaking was not one to which the Regulations applied (under Regulation 3). The Court can only consider an application if it is made within a one month period beginning with the date of the employee request.