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SCHEDULES

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS

The Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

- 7 After section 212A of the Trade Union and Labour Relations (Consolidation) Act 1992 (which is inserted by section 7 of this Act) insert—

“212B Dismissal procedures agreements

ACAS may, in accordance with any dismissal procedures agreement (within the meaning of the Employment Rights Act 1996), refer any matter to the arbitration of a person appointed by ACAS for the purpose (not being an officer or employee of ACAS).”

- 8 In section 273(2) of that Act (which specifies the provisions which do not apply to persons in Crown employment), for “section 87(3) (power of court” substitute “section 87(4)(b) (power of tribunal”.

- 9 (1) Section 288 of that Act (which restricts contracting out of the provisions of the Act) is amended as follows.

- (2) In subsection (2B)(b) (which provides that a compromise agreement must relate to the particular complaint), for “complaint” substitute “proceedings”.

- (3) For subsections (4) and (5) substitute—

“(4) A person is a relevant independent adviser for the purposes of subsection (2B)(c)—

- (a) if he is a qualified lawyer,
- (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union,
- (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre, or
- (d) if he is a person of a description specified in an order made by the Secretary of State.

- (4A) But a person is not a relevant independent adviser for the purposes of subsection (2B)(c) in relation to the complainant—

- (a) if he is, is employed by or is acting in the matter for the other party or a person who is connected with the other party,

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- (b) in the case of a person within subsection (4)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,
- (c) in the case of a person within subsection (4)(c), if the complainant makes a payment for the advice received from him, or
- (d) in the case of a person of a description specified in an order under subsection (4)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.

(4B) In subsection (4)(a) “qualified lawyer” means—

- (a) as respects England and Wales, a barrister (whether in practice as such or employed to give legal advice), a solicitor who holds a practising certificate, or a person other than a barrister or solicitor who is an authorised advocate or authorised litigator (within the meaning of the Courts and Legal Services Act 1990), and
- (b) as respects Scotland, an advocate (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.

(4C) An order under subsection (4)(d) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) For the purposes of subsection (4A) any two persons are to be treated as connected—

- (a) if one is a company of which the other (directly or indirectly) has control, or
- (b) if both are companies of which a third person (directly or indirectly) has control.”

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In section 301(1) of that Act (which provides that that Act extends to England and Wales and Scotland), after “Wales and” insert “(apart from section 212A(6)) to”.