
STATUTORY INSTRUMENTS

2001 No. 1185

**The ACAS Arbitration Scheme
(England and Wales) Order 2001**

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the ACAS Arbitration Scheme (England and Wales) Order 2001 and shall come into force on 21 May 2001.

(2) In this Order—

“the 1996 Act” means the Employment Rights Act 1996;

“basic amount” means such part of an award of compensation made by an arbitrator as comprises the basic amount, determined in accordance with paragraphs 118 to 134 of the Scheme;

“the Scheme” means the arbitration scheme set out in the Schedule with the exception of paragraphs 43, 94, 159, 162 to 167, 171, 177 and 178 thereof.

(3) This Order extends to England and Wales.

Commencement of the Scheme

2. The Scheme shall come into effect on 21 May 2001.

Application of Part I of the Arbitration Act 1996

3. The provisions of Part I of the Arbitration Act 1996(1) referred to in the Schedule at paragraphs 43, 94, 159, 162 to 167, 171, 177 and 178 and shown in italics shall, as modified in those paragraphs, apply to arbitrations conducted in accordance with the Scheme.

4.—(1) Section 46(1)(b) of the Arbitration Act 1996 shall apply to arbitrations conducted in accordance with the Scheme, subject to the following modification.

(2) For “such other considerations as are agreed by them or determined by the tribunal” in section 46(1)(b) substitute “the Terms of Reference in paragraph 12 of the arbitration scheme set out in the Schedule to the ACAS Arbitration Scheme (England and Wales) Order 2001”.

Enforcement of re-employment orders

5.—(1) Employment tribunals shall enforce re-employment orders made in arbitrations conducted in accordance with the Scheme in accordance with section 117(2) of the 1996 Act (enforcement by award of compensation), modified as follows.

(2) In subsection (1)(a), subsection (3) and subsection (8), for the words “section 113” substitute in each case “paragraph 102(i) of the Scheme”.

(1) 1996 c. 23.

(2) Section 117 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a) and 14(1), Schedule 1, paragraph 20 and Schedule 2; by the Public Interest Disclosure Act 1998 (c. 23), section 8(2); and by the Employment Relations Act 1999 (c. 26), section 33 and Schedule 9.

(3) In subsection (2) for “section 124” substitute “section 124(1) and (5) and subsections (9) and (10)”.

(4) In subsection (3)(a) for the words “sections 118 to 127A” substitute the words “sections 118 to 123, section 124(1) and (5), sections 126 and 127A and subsections (9) and (11)”.

(5) After subsection (8) insert—

“(9) Section 124(1) shall not apply to compensation awarded, or to a compensatory award made, to a person in a case where the arbitrator finds the reason (or, if more than one, the principal reason) for the dismissal (or, in a redundancy case, for which the employee was selected for dismissal) to be a reason specified in any of the enactments mentioned in section 124(1)A.

(10) In the case of compensation awarded to a person under section 117(1) and (2), the limit imposed by section 124(1) may be exceeded to the extent necessary to enable the award fully to reflect the amount specified as payable under the arbitrator’s award in accordance with paragraphs 110(i) or 113(iv) of the Scheme.

(11) Where—

(a) a compensatory award is an award under subsection (3)(a) of section 117, and

(b) an additional award falls to be made under subsection (3)(b) of that section,

the limit imposed by section 124(1) on the compensatory award may be exceeded to the extent necessary to enable the aggregate of the compensatory award and additional awards fully to reflect the amount specified as payable under the arbitrator’s award in accordance with paragraphs 110(i) or 113(iv) of the Scheme.

(12) In this section “the Scheme” means the arbitration scheme set out in the Schedule to the ACAS Arbitration Scheme (England and Wales) Order 2001.”.

Awards of compensation

6. An award of a basic amount shall be treated as a basic award of compensation for unfair dismissal for the purposes of section 184(1)(d)(3) of the 1996 Act (which specifies such an award as a debt which the Secretary of State must satisfy if the employer has become insolvent).

Alan Johnson,
Parliamentary Under Secretary of State for
Competitiveness,
Department of Trade and Industry

23rd March 2001