

## SCHEDULE

### ACAS (FLEXIBLE WORKING) ARBITRATION SCHEME

## PART VII

### ACCESS TO THE SCHEME

**25.** The Scheme is an entirely voluntary system of dispute resolution: it will only apply if parties have so agreed.

#### **Requirements for entry into the Scheme**

**26.** Any agreement to submit a dispute to arbitration under the Scheme must satisfy the following requirements (an “Arbitration Agreement”):

- (i) the agreement of each party (which may be expressed in the same or in separate documents) must be in writing;
- (ii) the agreement must concern an existing dispute;
- (iii) the agreement must not seek to alter or vary any provision of the Scheme;
- (iv) the agreement must have been reached either:
  - (a) where a conciliation officer has taken action under section 18 of the Employment Tribunals Act 1996(1) or
  - (b) through a compromise agreement, where the conditions regulating such agreements under the 1996 Act are satisfied;
- (v) the agreement must be accompanied by a completed Waiver Form for each party. Parties applying for English/Welsh arbitrations should complete Appendix A; parties applying for Scottish arbitrations should complete Appendix B.

**27.** Where an agreement fails to satisfy any one of these requirements or where the parties are unable to agree whether the arbitration should be an English/Welsh arbitration or a Scottish arbitration, no valid reference to the Scheme will have been made, and the parties will have to settle their dispute by other means or have recourse to the employment tribunal.

**28.** Where:

- (i) a dispute concerning a Flexible Working Claim as well as other claims has been referred to the employment tribunal, and
- (ii) the parties have agreed to settle the other claims and refer the Flexible Working Claim to arbitration under the Scheme,

a separate settlement must be reached referring the Flexible Working Claim to arbitration which satisfies all the requirements listed above (although it may form part of one overall settlement document).

#### **Notification to ACAS of an Arbitration Agreement**

**29.** All Arbitration Agreements must be notified to ACAS within two weeks of their conclusion, by either of the parties or their independent advisers or representatives, or an ACAS conciliator, sending a copy of the agreement and Waiver Forms, together with IT1 and IT3 forms if these have been completed, to the ACAS Arbitration Section.

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(1) 1996 c. 17 Section 18 was amended by paragraph 23 of Schedule 7 to the Employment Act 2002.

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

**30.** For the purposes of the previous paragraph, an Arbitration Agreement is treated as “concluded” on the date it is signed, or if signed by different people at different times, on the date of the last signature.

**31.** Where an Arbitration Agreement is not notified to ACAS within two weeks, ACAS will not arrange for the appointment of an arbitrator under the Scheme, unless notification within that time was not reasonably practicable. Any party seeking to notify ACAS of an Arbitration Agreement outside this period must explain in writing to the ACAS Arbitration Section the reason for the delay. ACAS shall appoint an arbitrator, in accordance with the appointment provisions below, to consider the explanation, and that arbitrator may seek the views of the other party, and may call both parties to a hearing to establish the reasons for the delay. The arbitrator shall then rule in an award on whether or not the agreement can be accepted for hearing under the Scheme.

**32.** Any such hearing and award will be governed by the provisions of this Scheme.

### **Consolidation of proceedings**

**33.** Where all parties so agree in writing, ACAS may consolidate different arbitral proceedings under the Scheme.