

## SCHEDULE

### ACAS (FLEXIBLE WORKING) ARBITRATION SCHEME

## PART XXVI

### MISCELLANEOUS PROVISIONS

#### Requirements in connection with legal proceedings

**168EW.** Sections 80(1), (2), (4), (5), (6) and (7) of the Arbitration Act 1996(1) shall apply to English/Welsh arbitrations conducted in accordance with the Scheme, subject to the following modification—

*In subsection (1) for “to the other parties to the arbitral proceedings, or to the tribunal” substitute “to the other party to the arbitral proceedings, or to the arbitrator, or to ACAS”.*

#### Service of documents and notices on ACAS or the ACAS Arbitration Section

**169.** Any notice or other document required or authorised to be given or served on ACAS or the ACAS Arbitration Section for the purposes of the arbitral proceedings shall be sent by pre-paid post to the address stipulated in the ACAS Guide to the Scheme.

*or* transmitted by facsimile, addressed to the ACAS Arbitration Section, at the number stipulated in the ACAS Guide to the Scheme,

*or* by electronic mail, at the address stipulated in the ACAS Guide to the Scheme.

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(1) 1996 c. 23. Sections 80(1), (2), (4), (5), (6) and (7) of the Arbitration Act 1996 provide as follows:

“**80.**—(1) References in this Part to an application, appeal or other step in relation to legal proceedings being taken “upon notice” to the other parties to the arbitral proceedings, or to the tribunal, are to such notice of the originating process as is required by rules of court and do not impose any separate requirement.

(2) Rules of court shall be made—

- (a) requiring such notice to be given as indicated by any provision of this Part, and
- (b) as to the manner, form and content of any such notice.

...

(4) References in this Part to making an application or appeal to the court within a specified period are to the issue within that period of the appropriate originating process in accordance with rules of court.

(5) Where any provision of this Part requires an application or appeal to be made to the court within a specified time, the rules of court relating to the reckoning of periods, the extending or abridging of periods, and the consequences of not taking a step within the period prescribed by the rules, apply in relation to that requirement.

(6) Provision may be made by rules of court amending the provisions of this Part –

- (a) with respect to the time within which any application or appeal to the court must be made,
- (b) so as to keep any provision made by this Part in relation to arbitral proceedings in step with the corresponding provision of rules of court applying in relation to proceedings in the court, or
- (c) so as to keep any provision made by this Part in relation to legal proceedings in step with the corresponding provision of rules of court applying generally in relation to proceedings in the court.

(7) Nothing in this section affects the generality of the power to make rules of court.”

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

170. Paragraph 169 does not apply to the service of documents on the ACAS Arbitration Section for the purposes of legal proceedings.

### **Service of documents or notices on any other person or entity (other than ACAS or the ACAS Arbitration Section)**

171. Any notice or other document required or authorised to be given or served on any person or entity (other than ACAS or the ACAS Arbitration Section) for the purposes of the arbitral proceedings may be served by any effective means.

172. If such a notice or other document is addressed, pre-paid and delivered by post—

(i) to the addressee’s last known principal residence or, if he or she is or has been carrying on a trade, profession or business, his or her last known principal business address, or

(ii) where the address is a body corporate, to the body’s registered or principal office,

it shall be treated as effectively served.

173. Paragraphs 171 and 172 (above) do not apply to the service of documents for the purposes of legal proceedings, for which provision is made by rules of court.

### **Powers of court in relation to service of documents: English/Welsh arbitrations**

174EW. *Section 77 of the Arbitration Act 1996(2) shall apply to English/Welsh arbitrations conducted in accordance with the Scheme, subject to the following modifications.*

(i) *In subsection (1) omit “in the manner agreed by the parties, or in accordance with provisions of section 76 having effect in default of agreement,”;*

(ii) *In subsection (2) for “Unless otherwise agreed by the parties, the court” substitute “The High Court or Central London County Court”.*

(iii) *In subsection (3) for “Any party to the arbitration agreement may apply” substitute “ACAS or any party to the Arbitration Agreement may apply”.*

### **Reckoning periods of time**

175EW. *Sections 78(2), (3), (4) and (5) of the Arbitration Act 1996(3) shall apply to English/Welsh arbitrations conducted in accordance with the Scheme, subject to the following modifications to subsection 2 of that section—*

(2) 1996 c. 23. Section 77 of the Arbitration Act 1996 provides as follows:

“77.—(1) This section applies where service of a document on a person in the manner agreed by the parties, or in accordance with provisions of section 76 having effect in default of agreement, is not reasonably practicable.

(2) Unless otherwise agreed by the parties, the court may make such order as it thinks fit—

- (a) for service in such manner as the court may direct, or
- (b) dispensing with service of the document.

(3) Any party to the arbitration agreement may apply for an order, but only after exhausting any available arbitral process for resolving the matter.

(4) The leave of the court is required for any appeal from a decision of the court under this section.”

(3) 1996 c. 23. Sections 78(2), (3), (4) and (5) of the Arbitration Act 1996 provide as follows:

“78.—(2) If or to the extent there is no such agreement, periods of time shall be reckoned in accordance with the following provisions.

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

- (i) omit “If or to the extent that there is no such agreement,”;
- (ii) after “periods of time” insert “provided for in any provision of this Part”.

**176S.** Except as otherwise specified in the Scheme, periods of time shall in Scottish arbitrations be reckoned in accordance with the following provisions—

- (i) Where the act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.
- (ii) Where an act is required to be done a specified number of clear days after a specified date, at least that number of days must intervene between the day on which the act is done and that date.
- (iii) Where the period is a period of seven days or less which would include a Saturday, Sunday or public holiday in the place where anything which has to be done within the period falls to be done, that day shall be excluded.
- (iv) In relation to Scotland a “public holiday” means a day which under the Banking and Financial Dealings Act 1971<sup>(4)</sup> is to be a bank holiday in Scotland and in relation to England and Wales or Northern Ireland a “public holiday” means Christmas Day, Good Friday or a day under which the Banking and Financial Dealings Act 1971 is to be a bank holiday in England and Wales or Northern Ireland as the case may be.

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(3) Where the act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.

(4) Where the act is required to be done a specified number of clear days after a specified date, at least that number of days must intervene between the day on which the act is done and that date.

(5) Where the period is a period of seven days or less which would include a Saturday, Sunday or a public holiday in the place where anything which has to be done within the period falls to be done, that day shall be excluded.

In relation to England and Wales or Northern Ireland, a “public holiday” means Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday.”

(4) 1971 c. 80.