
EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out a revised scheme, submitted to the Secretary of State by ACAS pursuant to section 212A of the Trade Union and Labour Relations (Consolidation) Act 1992, providing for arbitrations in the case of disputes involving proceedings, or claims which could be the subject of proceedings, before an employment tribunal, arising out of a contravention or alleged contravention of Part X of the Employment Rights Act 1996 (unfair dismissal). The Order revokes and replaces a previous Order which extended to England and Wales only (the “ACAS Arbitration Scheme (England and Wales) Order 2001”). This Order extends to Great Britain. The Order provides for the revised Scheme to come into effect on 6th April 2004. The revised Scheme will provide from that date a voluntary alternative to the employment tribunal for the resolution of unfair dismissal disputes by arbitration where both parties agree. The Order contains a transitional provision under which arbitration agreements signed before 6th April 2004 will continue to be determined under the Scheme set out in the 2001 Order.

The Order also provides—

- (a) for certain provisions of the Arbitration Act 1996, as modified by the Order, to apply to arbitrations conducted in accordance with the Scheme, where the parties have agreed that the arbitration will be determined according to the law of England and Wales;
- (b) for employment tribunals to enforce re-employment orders made in such arbitrations; and
- (c) for the award of a basic amount in such an arbitration to be treated as a basic award of compensation for unfair dismissal for the purposes of debts which the Secretary of State must satisfy, under Part XII of the Employment Rights Act 1996, if the employer has become insolvent.

No regulatory impact assessment has been prepared in relation to this Order. The revised Scheme offers arbitration of unfair dismissal disputes to employers and employees in Scotland, an option already available to employers and employees in England and Wales under the previous Scheme. The impact of the previous Scheme on business has been low, and the revised Scheme is expected to have a similar impact.