

2009 No. 771

TERMS AND CONDITIONS OF EMPLOYMENT

**The Employment Code of Practice (Disciplinary and Grievance
Procedures) Order 2009**

Made

20th March 2009

Whereas—

(1) under section 199(4) of the Trade Union and Labour Relations (Consolidation) Act 1992^(a) (“the 1992 Act”) the Advisory, Conciliation and Arbitration Service (“ACAS”) may from time to time revise the whole or any part of a Code of Practice issued by it;

(2) in pursuance of section 199(4) of the 1992 Act ACAS proposed to revise the whole of the Code of Practice on Disciplinary and Grievance Procedures which came into effect on 1st October 2004^(b);

(3) in pursuance of section 200(1) of the 1992 Act ACAS prepared and published in draft a revised Code of Practice on Disciplinary and Grievance Procedures (“the draft Code”) and considered any representations made to it about the draft Code, and modified it accordingly;

(4) in pursuance of section 200(2) of the 1992 Act ACAS transmitted the draft Code to the Secretary of State;

(5) in pursuance of section 200(2)(a) of the 1992 Act, the Secretary of State approved the draft Code and laid it before both Houses of Parliament, and 40 days beginning on the day on which the draft Code was laid before Parliament, have elapsed;

(6) in pursuance of section 200(4) of the 1992 Act, neither House having resolved that no further proceedings should be taken on the draft Code, ACAS is issuing the Code of Practice on Disciplinary and Grievance Procedures in the form of the draft Code;

The Secretary of State, in exercise of the power conferred by section 200(5) of the 1992 Act, makes the following Order:

Citation

1. This Order may be cited as the Employment Code of Practice (Disciplinary and Grievance Procedures) Order 2009.

Appointed day for the Code of Practice

2. The day appointed by the Secretary of State under section 200(5) of the Trade Union and Labour Relations (Consolidation) Act 1992 for the coming into effect of the Code of Practice on

(a) 1992 c. 52, to which there are amendments not relevant to this Order.

(b) ACAS Code of Practice Disciplinary and Grievance Procedures (2004) was brought into effect by S.I. 2004/2356.

Disciplinary and Grievance Procedures (the draft of which was laid before both Houses of Parliament on 9th December 2008) issued by ACAS pursuant to that section is 6th April 2009.

Transitional provision

3. The Code of Practice on Disciplinary and Grievance Procedures referred to in Article 2 will not have effect in circumstances where sections 29 to 33 of, and Schedules 2 to 4 to, the Employment Act 2002^(a) apply.

20th March 2009

Pat McFadden,
Minister of State for Employment Relations and Postal Affairs,
Department for Business, Enterprise and Regulatory Reform

(a) 2002 c. 22. Section 29 to 33 and Schedules 2 to 4 of the Employment Act are repealed by section 1 of the Employment Act 2008 (c. 24), subject to the transitional arrangements in the Employment Act 2008 (Commencement No. 1 Transitional Provisions and Savings) Order 2008. (S.I. 2008/3232 C.146).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 6th April 2009 as the day upon which the Code of Practice on Disciplinary and Grievance Procedures which is being issued by ACAS under section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992 will come into effect. Article 3 provides that the ACAS Code does not apply in circumstances where the statutory disciplinary and grievance procedures apply. The repeal of the statutory disciplinary and grievance procedures is subject to the transitional arrangements in the Employment Act 2008 (Commencement No. 1 Transitional Provisions and Savings) Order 2008. (S.I. 2008/3232 C.146).

A separate Impact Assessment has not been prepared for the ACAS Code because it is part of a package of legislative and non-legislative measures for the new dispute resolution framework. Please refer to the Employment Bill Impact Assessment published in February 2008 for further details. A copy can be obtained from the Department of Business, Enterprise and Regulatory Reform, Employment Relations Directorate, 1 Victoria Street, London SW1H 0ET or on www.berr.gov.uk. Copies have also been placed in the libraries of both Houses of Parliament.

The Code of Practice replaces the Code of Practice on Disciplinary and Grievance Procedures which came into effect on 1st October 2004.

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