

SCHEDULES

SCHEDULE 3

FORMAL INVESTIGATIONS AND NON-DISCRIMINATION NOTICES

PART III

ACTION PLANS

Introductory

- 14 (1) This Part of this Schedule applies where a person (“P”) has been served with a non-discrimination notice which has become final and includes a requirement for him to propose an action plan.
- (2) In this Part “adequate” in relation to a proposed action plan means adequate (as defined in section 4(4)(b)) for the purposes of the requirement mentioned in section 4(1)(b).

The first proposed action plan

- 15 (1) P must serve his proposed action plan on the Commission within such period as may be specified in the non-discrimination notice.
- (2) If P fails to do so, the Commission may apply to a county court or by way of summary application to the sheriff for an order directing him to serve his proposed action plan within such period as the order may specify.
- (3) If P serves a proposed action plan on the Commission in response to the non-discrimination notice, or to an order under sub-paragraph (2), the action plan shall become final at the end of the prescribed period, unless the Commission has given notice to P under paragraph 16.

Revision of first proposed action plan at invitation of Commission

- 16 (1) If the Commission considers that a proposed action plan served on it is not an adequate action plan, the Commission may give notice to P—
- (a) stating its view that the plan is not adequate; and
 - (b) inviting him to serve on the Commission a revised action plan which is adequate, within such period as may be specified in the notice.
- (2) A notice under this paragraph may include recommendations as to action which the Commission considers might be included in an adequate action plan.
- (3) If P serves a revised proposed action plan on the Commission in response to a notice under this paragraph, it shall supersede the previous proposed action plan and become

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final at the end of the prescribed period, unless the Commission has applied for an order under paragraph 17.

- (4) If P does not serve a revised action plan in response to a notice under this paragraph, the action plan previously served on the Commission shall become final at the end of the prescribed period, unless the Commission has applied for an order under paragraph 17.

Action by Commission as respects inadequate action plan

- 17 (1) If the Commission considers that a proposed action plan served on it is not an adequate action plan it may apply to the county court or by way of summary application to the sheriff for an order under this paragraph.
- (2) The Commission may not make an application under this paragraph in relation to the first proposed action plan served on it by P (even where it was served in compliance with an order of the court under paragraph 15(2)) unless—
- (a) a notice under paragraph 16 has been served on P in relation to that proposed action plan; and
 - (b) P has not served a revised action plan on the Commission in response to it within the period specified in the notice under paragraph 16(1)(b).
- (3) An order under this paragraph is an order—
- (a) declaring that the proposed action plan in question is not an adequate action plan;
 - (b) requiring P to revise his proposals and serve on the Commission an adequate action plan within such period as the order may specify; and
 - (c) containing such directions (if any) as the court considers appropriate as to the action which should be specified in the adequate action plan required by the order.
- (4) If on an application under this paragraph the court does not make an order, the proposed action plan in question shall become final at the end of the prescribed period.
- 18 (1) This paragraph applies where an order of the court under paragraph 17 (“the order”) requires P to serve an adequate action plan on the Commission.
- (2) If, in response to the order, P serves an action plan on the Commission, that action plan shall become final at the end of the prescribed period unless the Commission has applied to a county court or, in Scotland, to the sheriff to enforce the order on the ground that the plan does not comply with the order (and any directions under paragraph 17(3)(c)).
- (3) Where an application is made as mentioned in sub-paragraph (2)—
- (a) if the Commission withdraws its application, the action plan in question shall become final at the end of the prescribed period;
 - (b) if the court considers that the action plan in question complies with the order, that action plan shall become final at the end of the prescribed period.

Variation of action plans

- 19 An action plan which has become final may be varied by agreement in writing between the Commission and P.

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Enforcement of action plans

- 20 (1) This paragraph applies during the period of five years beginning on the date on which an action plan drawn up by P becomes final.
- (2) If during that period the Commission considers that P has failed to comply with the requirement under section 4(3)(b) to carry out any action specified in the action plan, the Commission may apply to a county court or by summary application to the sheriff for an order under this paragraph.
- (3) An order under this paragraph is an order requiring P to comply with that requirement or with such directions for the same purpose as are contained in the order.

Power to obtain information

- 21 (1) For the purposes of determining whether—
- (a) an action plan proposed by P is an adequate action plan; or
 - (b) P has complied or is complying with the requirement to take the action specified in an action plan which has become final,
- the Commission may serve a notice on any person requiring him to give such information in writing, or copies of documents in his possession or control, relating to those matters as may be described in the notice.
- (2) A person may not be required by a notice under this paragraph to give information, or produce a document, which he could not be compelled to give in evidence or produce in civil proceedings before the High Court or the Court of Session.
- (3) The Commission may apply to a county court or by summary application to the sheriff for an order under this sub-paragraph if a person has been served with a notice under this paragraph and fails to comply with it.
- (4) An order under sub-paragraph (3) is an order requiring the person concerned to comply with the notice or with such directions for the same purpose as may be contained in the order.