SCHEDULES

SCHEDULE 3

INVESTIGATIONS UNDER ARTICLE 8(4) OR 9(7)

Conduct of investigation

2.—(1) In determining whether to conduct or discontinue an investigation, the Commissioner shall act in accordance with his own discretion.

(2) Where the Commissioner determines under Article 8(4) to conduct an investigation he shall—

(a) produce terms of reference for the investigation;

(b) send notice of the proposed investigation and a copy of the terms of reference to any relevant authority concerned and such other bodies or persons as the Commissioner thinks fit; and

(c) afford to every such authority an opportunity to comment on the matters being investigated and to give oral or other evidence respecting those matters.

(3) Where the Commissioner determines under Article 9(7) to conduct an investigation he shall—

(a) produce terms of reference for the investigation;

(b) send notice of the proposed investigation and a copy of the terms of reference to the relevant authority concerned; and

(c) afford to the relevant authority concerned an opportunity to comment on the matters being investigated and to give oral or other evidence respecting those matters.

(4) An investigation shall be conducted in private.

(5) Except as otherwise provided by this Order, the procedure for conducting an investigation shall be such as the Commissioner considers appropriate in the circumstances of the case; and, in particular, it is for the Commissioner to determine whether any person may be represented by counsel or solicitor or otherwise in the investigation.

(6) The Commissioner may for the purposes of an investigation obtain information from such persons and in such manner, and make such enquiries, as he thinks fit.

(7) Subject to sub-paragraph (8), in conducting an investigation the Commissioner shall not be obliged to hold any hearing, and no person shall be entitled as of right to be heard by the Commissioner.

(8) If at any time during the course of an investigation it appears to the Commissioner that there may be grounds for making any report or recommendation that may adversely affect any relevant authority or person, the Commissioner shall afford to that authority or person—

(a) an opportunity to give oral or other evidence; and

(b) an opportunity of testing by cross-examination any evidence which may affect that authority or person.

(9) The Commissioner may, if he thinks fit, pay to any person who attends or supplies information for the purposes of a formal investigation—

(a) sums in respect of expenses properly incurred by him;

(b) allowances by way of compensation for the loss of his time,

in accordance with such scales and subject to such conditions as the Office may determine.

(10) An investigation shall not affect—

(a) any action taken by a relevant authority or by any department or Minister with respect to that authority; or

(b) any power or duty of that authority, department or Minister to take further action with respect to any matters subject to the investigation.