

## SCHEDULES

### SCHEDULE 2

#### Investigation under section 4(4)

##### *Conduct of investigation*

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

(2) Where the Commissioner determines under section 4(4) to conduct an investigation the Commissioner must—

- (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 matter being investigated and to give oral or other evidence respecting those matters.

(3) An investigation must be conducted in private.

(4) Except as otherwise provided by this Act, the procedure for conducting an investigation is 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.

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

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

(7) 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 must 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.
- (8) The Commissioner may, if the Commissioner 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 that person;
  - (b) allowances by way of compensation for the loss of that person's time,
- in accordance with such scales and subject to such conditions as the Office may determine.
- (9) An investigation does 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.