

SCHEDULES

SCHEDULE 1

FORMAL INVESTIGATIONS AND NON-DISCRIMINATION NOTICES

PART I

CONDUCT OF FORMAL INVESTIGATIONS

Investigation of unlawful acts etc.

3.—(1) This paragraph applies where the Commission proposes to investigate in the course of a formal investigation (whether or not the investigation has already begun) whether—

- (a) a person has committed or is committing any unlawful act;
- (b) any requirement imposed by a non-discrimination notice served on a person (including a requirement to take action specified in an action plan) has been or is being complied with;
- (c) any undertaking given by a person in an agreement made with the Commission under Article 7 is being or has been complied with.

(2) The Commission may not investigate any such matter unless the terms of reference of the investigation confine it to the activities of one or more named persons (and the person concerned is one of those persons).

(3) The Commission may not investigate whether a person has committed or is committing any unlawful act unless—

- (a) it has reason to believe that the person concerned may have committed or may be committing the act in question, or
- (b) that matter is to be investigated in the course of a formal investigation into his compliance with any requirement or undertaking mentioned in sub-paragraph (1)(b) or (c).

(4) The Commission shall serve a notice on the person concerned offering him the opportunity to make written and oral representations about the matters being investigated.

(5) If the Commission is investigating whether the person concerned has committed or is committing any unlawful act (otherwise than in the course of a formal investigation into his compliance with any requirement or undertaking mentioned in sub-paragraph (1)(b) or (c)) the Commission shall include in the notice required by sub-paragraph (4) a statement informing that person that the Commission has reason to believe that he may have committed or may be committing any unlawful act.

(6) The Commission shall not make any findings in relation to any matter mentioned in sub-paragraph (1) without giving the person concerned or his representative a reasonable opportunity to make written and oral representations.

(7) The Commission may refuse to receive oral representations made on behalf of the person concerned by a person (not being counsel or a solicitor) to whom the Commission reasonably objects as being unsuitable.

Status: This is the original version (as it was originally made).

(8) If the Commission refuses to receive oral representations from a person under sub-paragraph (7), it shall give reasons in writing for its objection.

(9) A notice required by sub-paragraph (4) may be included in a notice required by paragraph 2(3).

(10) In this paragraph “unlawful act” means an act which is unlawful discrimination for the purposes of any provision of Part II or Part III of the 1995 Act or any other unlawful act of a description prescribed for the purposes of this paragraph.