

SCHEDULE 3

INDUSTRIAL TRIBUNALS (EQUAL VALUE) RULES OF PROCEDURE

Conduct of stage 1 equal value hearing

3.—(1) When in an equal value claim there is a dispute as to whether any work is of equal value as mentioned in section 1(2)(c) of the Equal Pay Act(1), the tribunal shall conduct a “stage 1 equal value hearing” in accordance with both this rule and the rules applicable to pre-hearing reviews in Schedule 1.

(2) Notwithstanding rule 18(1) and (3) of Schedule 1, a stage 1 equal value hearing shall be conducted by a tribunal composed in accordance with Article 6(1) of the Industrial Tribunals Order.

(3) At the stage 1 equal value hearing the tribunal shall –

- (a) where section 2A(2A) of the Equal Pay Act(2) applies, strike out the claim (or the relevant part of it) if, in accordance with section 2A(2A) of that Act, the tribunal must determine that the work of the claimant and the comparator are not of equal value;
- (b) decide, in accordance with section 2A(1) of the Equal Pay Act, either that –
 - (i) the tribunal shall determine the question; or
 - (ii) it shall require a member of the panel of independent experts to prepare a report with respect to the question,
- (c) subject to rule 4 and with regard to the indicative timetable, make the standard orders for the stage 1 equal value hearing as set out in rule 4;
- (d) if the tribunal has decided to require an independent expert to prepare a report on the question, require the parties to copy to the independent expert all information which they are required by an order to disclose or agree between each other;
- (e) if the tribunal has decided to require an independent expert to prepare a report on the question, fix a date for the stage 2 equal value hearing, having regard to the indicative timetable;
- (f) if the tribunal has not decided to require an independent expert to prepare a report on the question, fix a date for the hearing under rule 26 of Schedule 1, having regard to the indicative timetable; and
- (g) consider whether any further orders are appropriate.

(4) Before a claim or part of one is struck out under paragraph (3)(a), the Secretary shall send notice to the claimant giving him the opportunity to make representations to the tribunal as to whether the evaluation contained in the study in question falls within paragraph (a) or (b) of section 2A(2A) of the Equal Pay Act. The Secretary shall not be required to send a notice under this paragraph if the claimant has been given an opportunity to make such representations orally to the tribunal as to why such a decision should not be issued.

(5) The tribunal may, on the application of a party, hear evidence upon and permit the parties to address it upon the issue contained in section 1(3)(3) of the Equal Pay Act (defence of a genuine material factor) before determining whether to require an independent expert to prepare a report under paragraph (3)(b)(ii).

(6) When the Secretary gives notice to the parties of the stage 1 equal value hearing under rule 14(4) of Schedule 1, he shall also give the parties notice of the matters which the tribunal shall and

(1) Section 1(2)(c) was inserted by S.R. 1984 No. 16, regulation 2(1)

(2) Section 2A was inserted by S.R. 1984 No. 16, regulation 3 and amended by S.R. 1996 No. 465, regulation 2 and S.R. 2005 No. 145, regulation 2

(3) Section 1(3) was modified by S.R. 1984 No. 16, regulation 2(2)

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may consider at that hearing which are described in paragraphs (3) and (5) and he shall give the parties notice of the standard orders in rule 4.

(7) The tribunal's power to strike out the claim or part of it under paragraph (3)(a) is in addition to powers to strike out a claim under rule 18(7) of Schedule 1.