

## SCHEDULES

### SCHEDULE 2

Article 11(3).

#### CONDUCT OF INVESTIGATIONS BY THE COMMISSION

##### *Preliminary*

1. In this Schedule “the investigation” means an investigation under Article 11 or 71.

##### *Notices*

2. Before holding the investigation, the Commission shall—
  - (a) serve on every person whose practices it intends to investigate notice of the Commission’s intention to hold the investigation; and
  - (b) furnish to each such person, in writing, particulars of the scope and purpose of the investigation.

##### *Procedure*

3. The Commission shall afford to every person such as is mentioned in paragraph 2(a) an opportunity to comment on the matters which are the subject of the investigation and to furnish oral or other evidence respecting them.
4. The investigation shall be conducted in private.
5. Subject to paragraphs 3 and 4, the procedure for conducting the investigation shall be such as the Commission considers appropriate in the circumstances of the case.

##### *Information and evidence*

6. For the purposes of the investigation, the Commission may obtain information from such persons and (subject to paragraph 4) in such manner and may make such inquiries and call for such reports (including reports by officers of the Commission on inquiries or interviews conducted by them on the Commission’s behalf) as the Commission thinks fit.

7.—(1) For the purposes of the investigation the Commission may require any person who in its opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(2) For those purposes the Commission shall have the same powers as the High Court in respect of—

- (a) the attendance and examination of witnesses, including the administration of oaths and the examination of witnesses abroad; and
  - (b) the production of documents.
- (3) A person shall not be compelled for the purposes of the investigation—

- (a) to give any information or produce any document which he could not be compelled to give in evidence or produce in civil proceedings before the High Court; or
- (b) to give any information or produce any document which discloses, or from which there can be deduced, his religious belief, if he informs the Commission that he objects to doing so; or
- (c) to attend at any place unless the necessary expenses of his journey to and from that place are paid or tendered to him.

8. For the purposes of the investigation the Commission may also require an employer or vocational organisation to take such reasonable action as the Commission specifies for communicating to his or its employees or members (as the case requires), or to employees or members of any class, any written material provided for the purposes by the Commission.

#### *Obstruction and contempt*

9.—(1) If any person, without lawful authority or reasonable excuse, obstructs the Commission or any member or officer of the Commission in the performance of its or his functions in connection with the investigation, or is guilty of any act in relation to the investigation which, if the investigation were a proceeding in the High Court, would constitute contempt of court, the Commission may certify the offence to the High Court.

(2) Where an offence is certified under this paragraph, the High Court may inquire into the matter and after hearing—

- (a) any witnesses who may be produced against or on behalf of the person charged with the offence; and
- (b) any statement that may be offered in defence,

may deal with the person charged with the offence in any manner in which the court could deal with him if he had committed the like offence in relation to the court.

#### *Expenses*

10. Without prejudice to paragraph 7(3)(c), the Commission may, if it thinks fit, pay to any person who attends, or furnishes information for the purposes of, the investigation, sums in respect of expenses properly incurred by him and allowances by way of compensation for the loss of his time in accordance with such scales and subject to such conditions as the Department with the approval of the Department of Finance and Personnel may determine.