

SCHEDULE 2

Industrial Tribunals Complementary Rules of Procedure 1996 *For use only in proceedings involving an equal value claim*

Procedure at hearing

9.—(1) The tribunal shall, so far as it appears to it appropriate, seek to avoid formality in its proceedings and shall not be bound by any statutory provision or rule of law relating to the admissibility of evidence in proceedings before the courts of law. The tribunal shall make such enquiries of persons appearing before it and witnesses as it considers appropriate and, subject to paragraphs (2A), (2B), (2C), (2D) and (2E), shall otherwise conduct the hearing in such manner as it considers most appropriate for the clarification of the issues before it and generally to the just handling of the proceedings.

(2) Subject to paragraphs (1), (2A), (2B), (2C) and (2D), at the hearing of the originating application a party shall be entitled to give evidence, to call witnesses, to question any witnesses and to address the tribunal.

(2A) The tribunal may, and shall upon the application of a party, require the attendance of an expert who has prepared a report in connection with an equal value claim in any hearing relating to that claim. Where an expert attends in compliance with such requirement any party may, subject to paragraph (1), cross-examine the expert on his report and on any other matter pertaining to the question on which the expert was required to report.

(2B) At any time after the tribunal has received the report of the expert, any party may, on giving reasonable notice of his intention to do so to the tribunal and to any other party, call one witness to give expert evidence on the question on which the tribunal has required the expert to prepare a report; and where such evidence is given, any other party may cross-examine the person giving that evidence upon it.

(2C) Except as provided in rule 8A(14) or by paragraph (2D), a party may not give evidence upon, or question any witness upon, any matter of fact upon which a conclusion in the report of the expert is based.

(2D) Subject to paragraphs (2A) and (2B), a tribunal may, notwithstanding paragraph (2C), permit a party to give evidence upon, to call witnesses and to question any witness upon any such matters of fact as are referred to in paragraph (2C) if either—

- (a) the matter of fact is relevant to and is raised in connection with the issue contained in section 1(3) of the Act of 1970 (defence of genuine material factor) upon which the determination of the tribunal is being sought; or
- (b) the report of the expert contains no conclusion on the question of whether the applicant's work and the work of the person identified in the requirement of the tribunal under rule 8A(2) are of equal value and the tribunal is satisfied that the absence of that conclusion is wholly or mainly due to the refusal or deliberate omission of a person required by the tribunal under rule 4(2A) to furnish information or to produce documents to comply with that requirement.

(2E) A tribunal may, on the application of a party, if in the circumstances of the case, having regard to the considerations expressed in paragraph (1), it considers that it is appropriate so to proceed, hear evidence upon and permit the parties to address it upon the issue contained in section 1(3) of the Act of 1970 before determining whether to require an expert to prepare a report under rule 8A.

(3) If a party fails to attend or to be represented at the time and place fixed for the hearing, the tribunal may, if that party is an applicant, dismiss or, in any case, dispose of the application in the absence of that party or may adjourn the hearing to a later date: provided that before dismissing or disposing of any application in the absence of a party the tribunal shall consider his originating

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application or notice of appearance, any representations in writing presented by him in pursuance of rule 8(4) in Schedule 1 and any written answer furnished to the tribunal pursuant to rule 4(3).

(4) A tribunal may require any witness to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.