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*Status: Point in time view as at 25/10/1999.*

*Changes to legislation: There are currently no known outstanding effects for the Employment Relations Act 1999, Cross Heading: Political ballot rules. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 6

#### THE CERTIFICATION OFFICER

##### *Political ballot rules*

- 14 In section 79 (remedy for failure to comply with political ballot rules) the second sentence of subsection (1) (application to Certification Officer does not prevent application to court) shall be omitted.
- 15 (1) Section 80 (application to Certification Officer for declaration of failure to comply with political ballot rules) shall be amended as follows.
- (2) In subsection (2)(b) (duty to give opportunity to be heard where Certification Officer considers it appropriate) omit “where he considers it appropriate.”.
- (3) After subsection (5) insert—
- “(5A) Where the Certification Officer makes a declaration he shall also, unless he considers that to do so would be inappropriate, make an enforcement order, that is, an order imposing on the union one or more of the following requirements—
- (a) to secure the holding of a ballot in accordance with the order;
  - (b) to take such other steps to remedy the declared failure as may be specified in the order;
  - (c) to abstain from such acts as may be so specified with a view to securing that a failure of the same or a similar kind does not occur in future.
- The Certification Officer shall in an order imposing any such requirement as is mentioned in paragraph (a) or (b) specify the period within which the union must comply with the requirements of the order.
- (5B) Where the Certification Officer makes an order requiring the union to hold a fresh ballot, he shall (unless he considers that it would be inappropriate to do so in the particular circumstances of the case) require the ballot to be conducted in accordance with the union’s political ballot rules and such other provisions as may be made by the order.
- (5C) Where an enforcement order has been made, any person who is a member of the union and was a member at the time the order was made is entitled to enforce obedience to the order as if he had made the application on which the order was made.”
- (4) After subsection (7) insert—
- “(8) A declaration made by the Certification Officer under this section may be relied on as if it were a declaration made by the court.

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- (9) An enforcement order made by the Certification Officer under this section may be enforced in the same way as an order of the court.
- (10) The following paragraphs have effect if a person applies under section 81 in relation to a matter—
- (a) that person may not apply under this section in relation to that matter;
  - (b) on an application by a different person under this section in relation to that matter, the Certification Officer shall have due regard to any declaration, order, observations, or reasons made or given by the court regarding that matter and brought to the Certification Officer’s notice.”
- 16 (1) Section 81 (application to court for declaration of failure to comply with political ballot rules) shall be amended as follows.
- (2) Omit subsection (2) (position where application in respect of the same matter has been made to Certification Officer).
- (3) After subsection (7) insert—
- “(8) The following paragraphs have effect if a person applies under section 80 in relation to a matter—
- (a) that person may not apply under this section in relation to that matter;
  - (b) on an application by a different person under this section in relation to that matter, the court shall have due regard to any declaration, order, observations or reasons made or given by the Certification Officer regarding that matter and brought to the court’s notice.”

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