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*Status: Point in time view as at 25/10/1999.*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: Elections. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 6

#### THE CERTIFICATION OFFICER

##### *Elections*

- 9 In section 54 (remedy for failure to comply with the duty regarding elections) the second sentence of subsection (1) (application to Certification Officer does not prevent application to court) shall be omitted.
- 10 (1) Section 55 (application to Certification Officer for declaration of breach of duty regarding elections) 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 an election 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 is to comply with the requirements of the order.
- (5B) Where the Certification Officer makes an order requiring the union to hold a fresh election, he shall (unless he considers that it would be inappropriate to do so in the particular circumstances of the case) require the election to be conducted in accordance with the requirements of this Chapter and such other provisions as may be made by the order.
- (5C) Where an enforcement order has been made—
- (a) any person who is a member of the union and was a member at the time the order was made, or
  - (b) any person who is or was a candidate in the election in question, 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—

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- “(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.
- (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 56 in relation to an alleged failure—
- (a) that person may not apply under this section in relation to that failure;
  - (b) on an application by a different person under this section in relation to that failure, the Certification Officer shall have due regard to any declaration, order, observations or reasons made or given by the court regarding that failure and brought to the Certification Officer’s notice.”
- 11 (1) Section 56 (application to court for declaration of failure to comply with requirements regarding elections) shall be amended as follows.
- (2) Omit subsection (2) (position where application in respect of the same matter has been made to the Certification Officer).
- (3) After subsection (7) insert—
- “(8) The following paragraphs have effect if a person applies under section 55 in relation to an alleged failure—
- (a) that person may not apply under this section in relation to that failure;
  - (b) on an application by a different person under this section in relation to that failure, the court shall have due regard to any declaration, order, observations or reasons made or given by the Certification Officer regarding that failure and brought to the court’s notice.”
- 12 After section 56 there shall be inserted—

**“56A Appeals from Certification Officer.**

An appeal lies to the Employment Appeal Tribunal on any question of law arising in proceedings before or arising from any decision of the Certification Officer under section 55.”

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