SCHEDULES

SCHEDULE 6

THE CERTIFICATION OFFICER

Offenders

2.—(1) Article 13C (application to Certification Officer or court for declaration of breach of duty to secure positions not held by certain offenders) shall be amended as follows.

(2) In paragraph (2) (Certification Officer's powers and duties) insert before sub-paragraph (a)—

"(aa) shall make such enquiries as he thinks fit,".

(3) In paragraph (2)(a) (duty to give opportunity to be heard where Certification Officer considers it appropriate) omit ", where he considers it appropriate,".

(4) Omit paragraphs (3) and (4) (different applications in respect of the same matter).

(5) After paragraph (5) insert—

"(5A) Where the Certification Officer makes a declaration he shall also, unless he considers that it would be inappropriate, make an order imposing on the trade union a requirement to take within such period as maybe specified in the order such steps to remedy the declared failure as may be so specified.

(5B) The following provisions have effect if a person applies to the Certification Officer under this Article in relation to an alleged failure—

(a) that person may not apply to the High Court under this Article in relation to that failure;

(b) on an application by a different person to the High Court under this Article 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.

(5C) The following provisions have effect if a person applies to the High Court under this Article in relation to an alleged failure—

(a) that person may not apply to the Certification Officer under this Article in relation to that failure;

(b) on an application by a different person to the Certification Officer under this Article in relation to that failure, the Certification Officer shall have 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.".

(6) In paragraph (6) (entitlement to enforce order) after "been made" insert "under paragraph (5) or (5A)".

(7) After paragraph (6) insert—

"(7) Where the Certification Officer requests a person to furnish information to him in connection with enquiries made by him under this Article, he shall specify the date by which that information is to be furnished and, unless he considers that it would be inappropriate

to do so, shall proceed with his determination of the application notwithstanding that the information has not been furnished to him by the specified date.

(8) A declaration made by the Certification Officer under this Article may be relied on as if it were a declaration made by the High Court.

(9) An order made by the Certification Officer under this Article may be enforced in the same way as an order of the High Court.”.