

*These notes refer to the Employment Relations Act 2004
(c.24) which received Royal Assent on 16 September 2004*

EMPLOYMENT RELATIONS ACT 2004

EXPLANATORY NOTES

COMMENTARY

Part 5: the Certification Officer

Sections 48 and 49

Restriction of grounds of appeal from Certification Officer

349. *Section 51* amends sections 9 and 126 of the 1992 Act.
350. *Section 9* provides that where an organisation of workers is aggrieved by the refusal of the Certification Officer to enter its name on the list of trade unions (or a decision to remove it), or to issue it with a certificate of independence, it may appeal to the Employment Appeal Tribunal. *Section 126* similarly provides for an appeal by an organisation of employers against the CO's decision not to enter its name on the list of employers' associations (or a decision to remove it).
351. As the sections stood before amendment there was a right of appeal on questions of both fact and law. In both cases, therefore, the EAT was effectively permitted to substitute its decision for that of the CO.
352. *Section 51(1) and (2)* amend sections 9 and 126 respectively, to limit appeals to points of law only, thereby bringing the sections in line with other parts of the Act providing for appeals from the CO. These amendments mean that it is no longer necessary to require the EAT to direct the CO to issue or withdraw a certificate or list a union or employers' association or remove it from the list. Therefore, sections 9(3) and 126(2) are repealed (by section 51(1)(b) and (2)(b)).