Employment Relations Act 2004

2004 CHAPTER 24

PART 5 E+W+S

THE CERTIFICATION OFFICER

48 Striking out by Certification Officer of applications or complaints E+W+S

After section 256 of the 1992 Act, insert—

"**256ZA Striking out**

(1) At any stage of proceedings on an application or complaint made to the Certification Officer, he may—

(a) order the application or complaint, or any response, to be struck out on the grounds that it is scandalous, vexatious, has no reasonable prospect of success or is otherwise misconceived,

(b) order anything in the application or complaint, or in any response, to be amended or struck out on those grounds, or

(c) order the application or complaint, or any response, to be struck out on the grounds that the manner in which the proceedings have been conducted by or on behalf of the applicant or complainant or (as the case may be) respondent has been scandalous, vexatious, or unreasonable.

(2) The Certification Officer may order an application or complaint made to him to be struck out for excessive delay in proceeding with it.

(3) An order under this section may be made on the Certification Officer's own initiative and may also be made—

(a) if the order sought is to strike out an application or complaint, or to amend or strike out anything in an application or complaint, on an application by the respondent, or

(b) if the order sought is to strike out any response, or to amend or strike out anything in any response, on an application by the person who made the application or complaint mentioned in subsection (1).

(4) Before making an order under this section, the Certification Officer shall send notice to the party against whom it is proposed that the order should be made giving him an opportunity to show cause why the order should not be made.

(5) Subsection (4) shall not be taken to require the Certification Officer to send a notice under that subsection if the party against whom it is proposed that the order under this section should be made has been given an opportunity to show cause orally why the order should not be made.

(6) Nothing in this section prevents the Certification Officer from making further provision under section 256(1) about the striking out of proceedings on any application or complaint made to him.

(7) An appeal lies to the Employment Appeal Tribunal on any question of law arising from a decision of the Certification Officer under this section.

(8) In this section—

"response" means any response made by a trade union or other body in the exercise of a right to be heard, or to make representations, in response to the application or complaint;

"respondent" means any trade union, or other body, that has such a right."

Commencement Information

I1 S. 48 in force at 6.4.2005 by S.I. 2005/872, art. 4, **Sch.** (with art. 16)

Changes to legislation:
There are currently no known outstanding effects for the Employment Relations Act 2004, Section 48.