

SCHEDULES

SCHEDULE 2

Section 17

CERTIFICATION OFFICER: EXERCISE OF POWERS WITHOUT APPLICATION ETC

Duty to secure positions not held by certain offenders

- 1 (1) Section 45C of the 1992 Act (remedies and enforcement) is amended as follows.
 - (2) In subsection (1), for “effect.” substitute “effect; but the Certification Officer may also exercise the powers under this section where no application is made under this section.”
 - (3) After that subsection insert—
 - “(1A) Where an application is made to the Certification Officer under this section, the Officer must ensure that, so far as is reasonably practicable, it is determined within six months of being made.”
 - (4) For subsection (2) substitute—
 - “(2) Where the Certification Officer is satisfied that a trade union has failed to comply with the requirement of section 45B, the Officer may make a declaration to that effect.
 - (2A) Before deciding the matter the Certification Officer—
 - (a) may make such enquiries as the Officer thinks fit,
 - (b) must give the union and the applicant (if any) an opportunity to make written representations, and
 - (c) may give the union and the applicant (if any) an opportunity to make oral representations.
 - (2B) The Certification Officer must give reasons for the Officer’s decision in writing.”
 - (5) In subsection (6), for “the application on which the order was made” substitute “an application under this section”.
 - (6) In subsection (7) omit “of the application”.

Elections for certain positions

- 2 (1) Section 54 of the 1992 Act (remedy for failure to comply with requirements: general) is amended as follows.
 - (2) For subsection (1) substitute—
 - “(1) A person alleging a failure on the part of a trade union to comply with any of the requirements of this Chapter may apply for—
 - (a) a declaration under section 55 (by the Certification Officer), or

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- (b) a declaration under section 56 (by the court);
but the Certification Officer may also exercise the powers under section 55 where no application is made.”
- (3) In subsection (2), for the words before paragraph (a) substitute “An application for a declaration under section 55 or 56 may be made only—”.
- 3 (1) Section 55 of the 1992 Act (application to Certification Officer) is amended as follows.
 - (2) In the heading, for “Application to” substitute “Powers of”.
 - (3) For subsections (1) and (2) substitute—
 - “(1) Where the Certification Officer is satisfied that a trade union has failed to comply with any of the requirements of this Chapter, either—
 - (a) on an application by a person having a sufficient interest (see section 54(2)), or
 - (b) without any such application having been made,
 the Officer may make a declaration to that effect.
 - (2) Before deciding the matter the Certification Officer—
 - (a) may make such enquiries as the Officer thinks fit,
 - (b) must give the union and the applicant (if any) an opportunity to make written representations, and
 - (c) may give the union and the applicant (if any) an opportunity to make oral representations.”
 - (4) In subsection (5C), for “the application on which the order was made” substitute “an application under this section”.
 - (5) In subsection (7) omit “of the application”.

Application of a trade union’s funds in the furtherance of political objects

- 4 (1) Section 72A of the 1992 Act (application of funds in breach of section 71) is amended as follows.
 - (2) In subsection (1), for “so.” substitute “so; but the Certification Officer may also exercise the powers under this section where no application is made.”
 - (3) After that subsection insert—
 - “(1A) Where an application is made under subsection (1), the Certification Officer must ensure that, so far as is reasonably practicable, it is determined within six months of being made.”
 - (4) For subsection (2) substitute—
 - “(2) Where the Certification Officer is satisfied that a trade union has applied its funds in breach of section 71, the Officer may make a declaration to that effect.
 - (2A) Before deciding the matter the Certification Officer—
 - (a) may make such enquiries as the Officer thinks fit,

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- (b) must give the union and the applicant (if any) an opportunity to make written representations, and
- (c) may give the union and the applicant (if any) an opportunity to make oral representations.

(2B) The Certification Officer—

- (a) must give reasons for the Officer’s decision in writing, and
- (b) may make written observations on any matter arising from, or connected with, the proceedings.”

(5) In subsection (6) omit “of the application”.

(6) In subsection (8), for “the application on which the order was made” substitute “an application under this section”.

Compliance with political ballot rules

5 (1) Section 79 of the 1992 Act (remedy for failure to comply with ballot rules: general) is amended as follows.

(2) For subsection (1) substitute—

“(1) A person alleging that a trade union—

- (a) has held a ballot on a political resolution otherwise than in accordance with political ballot rules approved by the Certification Officer, or
- (b) has failed in relation to a proposed ballot on a political resolution to comply with political ballot rules so approved,

may apply for a declaration under section 80 (by the Certification Officer) or section 81 (by the court); but the Certification Officer may also exercise the powers under section 80 where no application is made.”

(3) In subsection (2), for “those sections” substitute “section 80 or 81”.

6 (1) Section 80 of the 1992 Act (application to Certification Officer) is amended as follows.

(2) In the heading, for “Application to” substitute “Powers of”.

(3) For subsections (1) and (2) substitute—

“(1) Where the Certification Officer is satisfied, either on an application by a person having a sufficient interest (see section 79(2)) or without any such application having been made, that a trade union—

- (a) has held a ballot on a political resolution otherwise than in accordance with political ballot rules approved by the Certification Officer, or
- (b) has failed in relation to a proposed ballot on a political resolution to comply with political ballot rules so approved,

the Officer may make a declaration to that effect.

(2) Before deciding the matter the Certification Officer—

- (a) may make such enquiries as the Officer thinks fit,

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- (b) must give the union and the applicant (if any) an opportunity to make written representations, and
 - (c) may give the union and the applicant (if any) an opportunity to make oral representations.”
- (4) In subsection (5C), for “the application on which the order was made” substitute “an application under this section”.
- (5) In subsection (7) omit “of the application”.

Rules as to political fund

- 7 (1) Section 82 of the 1992 Act (rules as to political fund) is amended as follows.
- (2) In subsection (2), for “Officer.” substitute “Officer; but the Officer may also exercise the powers under this section where no complaint under this section is made.”
- (3) For subsections (2A) and (3) substitute—
- “(2A) Where the Certification Officer is satisfied that a breach has been committed, the Officer may make such order for remedying the breach as he thinks just under the circumstances.
- (3) Before deciding the matter the Certification Officer—
- (a) may make such enquiries as the Officer thinks fit,
 - (b) must give a representative of the union and the complainant (if any) an opportunity to make written representations, and
 - (c) may give a representative of the union and the complainant (if any) an opportunity to make oral representations.”
- (4) In subsection (3A) omit “of the application”.
- (5) In subsection (4A), for “the complaint on which it was made” substitute “a complaint under this section”.

Ballots on amalgamations or transfers

- 8 (1) Section 103 of the 1992 Act (complaints as to passing of resolution) is amended as follows.
- (2) In the heading, for “Complaints” substitute “Powers of Certification Officer”.
- (3) In subsection (1), for “Officer.” substitute “Officer; but the Officer may also exercise the powers under this section where no complaint under this section is made.”
- (4) Omit subsection (2A).
- (5) In subsection (3), for the words before paragraph (a) substitute “Where the Certification Officer is satisfied that there has been a failure such as is mentioned in paragraph (a) or (b) of subsection (1)—”.
- (6) After that subsection insert—
- “(3A) Before deciding the matter the Certification Officer—
- (a) may make such enquiries as the Officer thinks fit,

- (b) must give the union and the complainant (if any) an opportunity to make written representations, and
 - (c) may give the union and the complainant (if any) an opportunity to make oral representations.”
- (7) In subsection (4) omit “on a complaint”.
- (8) In subsection (6) omit “of the application”.
- (9) In subsection (8), for “the complaint on which the order was made” substitute “a complaint under this section”.