

D/3/87

DECISION OF THE CERTIFICATION OFFICER ON AN APPLICATION MADE  
UNDER SECTION 5 OF THE TRADE UNION ACT 1984

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APPLICANT: D WAGLAND

TRADE UNION: CONFEDERATION OF HEALTH SERVICE EMPLOYEES

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DATE OF DECISION

17 March 1987

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DECLARATION

Under section 5 of the Trade Union Act 1984 (the Act) I am empowered to make a declaration applied for by any person who claims that a trade union has failed to comply with one or more of the provisions of Part I of the Act. In making the declaration I am required to specify the provisions with which the trade union has failed to comply.

For the reasons which follow I declare that, in relation to the election held in January 1987 in their No.12 Region to elect 2 Regional Representatives to serve for 3 years on the National Executive Committee of the Confederation of Health Service Employees, the Confederation failed to comply with section 2(1) of the Act, in that they did not accord entitlement to vote at the election equally to all members of Region No.12.

The application

1. This decision concerns an application made by Mr D Wagland under section 5 of the Act. On 2 February 1987 Mr Wagland wrote to me complaining that the Confederation of Health Service Employees

(the Confederation) had in effect used a branch block voting system at an election in Region No.12 in January 1987 for members to represent that Region on the Confederation's National Executive Committee. The applicant was a member of the Confederation at the time of the election and at the time of making the application.

#### The facts

2. My enquiries of the Confederation established the following facts. The National Executive Committee, which the Confederation acknowledge to be their principal executive committee, consists of the President, Vice-President and General Secretary and 26 voting members representing the established regions of the Confederation. Approximately one-third of the voting members are elected in January of each year, and they serve for 3 years. In January 1987, elections were held for 8 vacancies for Regional Representatives, 2 from each of 4 Regions. The Regions in question were Numbers 1, 3, and 12, all covering the North of England, and Number 11, which covers Northern Ireland. Voting took place at the annual meetings of the appropriate Regional Councils, and the only people entitled to vote were Branch Delegates to the Regional Councils.

#### Reasons for making the declaration

3. There is no doubt that the elections held in January 1987 for the Confederation's NEC members should have complied with Part I of the Act, which came into force on 1 October 1985. These were elections for voting members of the Confederation's principal executive committee as defined in the Act (section 1(5)).

4. Section 2(3) of the Act permits a trade union to restrict entitlement to vote at an election to members of the union who fall within a class determined by reference to any geographical area. I am therefore satisfied that the Confederation could properly restrict entitlement to vote to members who fell within the appropriate regions. Subject to this, however, section 2(1) of the Act provides that entitlement to vote at the election must be accorded equally to all members of the trade union in question.

In other words, all members within a Regional constituency must be entitled to an individual direct vote for the candidate they wish to represent their Region. What happened in fact was that voting was restricted to delegates at meetings of Regional Councils, the votes being cast and tallied by a branch block voting system. It is evident that these arrangements did not comply with the requirements of section 2(1) of the Act.

not with section 2 (2)

#### Remedial steps

5. Mr Wagland's complaint specifically concerned his own Region, Region No.12. Formally, therefore, this declaration relates only to Region No.12. However, the Confederation readily acknowledged that the elections held in other Regions at about the same time similarly failed to comply with the Act.

6. As already indicated, the Confederation did not seek to dispute their failure to comply with the Act, nor the need for remedial steps which would apply not only to Region No.12 but generally. The General Secretary produced minutes which showed that the NEC had reached a decision to comply with the Act at a meeting in November 1986. Subsequently, in February 1987 the NEC had approved rule changes designed to bring the Confederation's election procedures into full compliance with the Act. In discussion I was told that work had already commenced on the preparation of new administrative arrangements with a view to re-running the 1987 elections immediately after the Confederation's Annual Conference in June this year.

#### Observations

7. As regards compliance with Part I of the 1984 Act, it is clear that the Confederation had in effect been following a line of "wait and see"; and eventually had very belatedly begun to move towards compliance. I trust that the remedial steps recorded above will now proceed with due despatch.

NEC members elected in 1986 as well as those

DRAFT PRESS NOTICE 12/3/87

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CONCERNING THE CONFEDERATION OF HEALTH SERVICE EMPLOYEES

The Certification Officer today issued a decision (D/3/87) on a complaint made under section 5 of Part I of the Trade Union Act 1984 concerning the Confederation of Health Service Employees (COHSE).

The decision contains a declaration to the effect that the Confederation <sup>had failed to comply with</sup> ~~were in breach~~ of Part I of the Trade Union Act 1984 because, for the election in January 1987 of two representatives of Region No.12 to the Confederation's National Executive Committee, voting was by the Branch Delegates at the annual meeting of the Regional Council and not by individual members of the Region.

The decision notes that the Confederation <sup>are now preparing</sup> ~~now propose~~ to re-run the Region No.12 elections (and similar elections in ~~the~~ other Regions) in conformity with the Act, ~~as soon as possible~~.

Copies of the decision are available free of charge from the Certification Office at the above address.

# Certification Office

for Trade Unions and Employers' Associations

15-17 ORMOND YARD  
DUKE OF YORK STREET  
LONDON SW1Y 6JT

Press enquiries  
01-210 3733/4

3/87

## Press Notice

18 March 1987

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The decision notes that the Confederation are now preparing to re-run the Region No.12 elections (and similar elections in other Regions) in conformity with the Act.

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### NOTES TO EDITORS

- (i) The Certification Officer (Mr Matthew Wake) is an independent statutory authority appointed by the Secretary of State for Employment under the Employment Protection Act 1975. Under that and other legislation he has certain functions in relation to Trade Unions and Employers' Associations.
- (ii) Part I of the Trade Union Act 1984, which came into operation on 1 October 1985, requires trade unions to ensure that no voting member of their principal executive committee remains such a member for more than five years without being re-elected by secret ballot of the members, and sets out standards which a trade union must meet in its arrangements for such elections. Section 5 of the Act gives an individual trade union member the right to apply to the Certification Officer, or to the High Court, for a declaration that their trade union has failed to comply with one or more provisions of Part I of the Act.