

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

Applicant: K R JARRETT

Trade Union: UNION OF COMMUNICATION WORKERS

DATE OF DECISION

26 November 1986

DECLARATION

Under section 5 of the Trade Union Act 1984 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 May 1986, of 22 lay members to serve for one year on the Executive Council of the Union of Communication Workers the Union 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 the Union.

The application

1. This decision concerns an application made by Mr K R Jarrett under section 5 of the Trade Union Act 1984 ("the Act"). On 7 October 1986 I received a letter of complaint from Mr Jarrett to the effect that the Union of Communication Workers ("the Union" had followed a system of balloting in the annual election in

May 1986 for lay members of their Executive Council which was not in accordance with statutory requirements. The applicant was a member of the Union at the time of the election and at the time of making the application.

The facts

2. The Executive Council of the Union consists of thirteen General Officers elected for periods not exceeding five years and twenty two lay members elected annually. All have the right to vote at meetings of the Council. The election of lay members took place at the Annual Conference of the Union in May. It was a conference of Branch Delegates and the election involved the leader of each delegation depositing, in a sealed box, a single Branch ballot paper. On that paper were recorded the Branch name, its voting strength (based on membership) and one set of votes representing the choices of the Branch as a whole. The Union did tell me, however, that before the conference all Branches had been given details of the candidates seeking election and would have decided by various means, according to their custom and practice, which candidates their delegation should support.

Reasons for making the declaration

3. There is no doubt that the 1986 election for the lay members of the Executive Council should have complied with Part I of the Act which came into force on 1 October 1985. It was an election for voting members of the Union's principal executive committee as defined in the Act (section 1(5)).

4. Section 2(1) of the Act says that subject to certain exceptions none of which applies in this case -

"Entitlement to vote at the election must be accorded equally to all members of the trade union in question ..."

Remedial steps by the Union

5. The Union told me that at a Special Conference of the Union held on 17 May 1986 it was agreed to adopt rule changes intended to secure that elections to their Executive Council would conform to the requirements of Part I of the Act. I was further told that these arrangements had already been applied in two cases where posts of Officers of the Union had fallen vacant since the Annual Conference in May 1986. They had not yet been applied to the annual election of the 22 lay members of the Council mainly for, I was told, reasons of cost and administrative resources.

6. The National Chairman and General Secretary of the Union have now given me an undertaking that they will set in train the process of new elections for the 22 lay positions on the Executive Council as soon as practicable, with a view to holding those elections in full conformity with the statutory requirements in the early part of the New Year.

Observations

7. The Union representatives felt that the steps they had so far taken to meet the Union's obligations under the Act were not unreasonable in the light of the Union's constitutional procedures as well as of the significant cost and administrative considerations involved. Nevertheless they accepted that they had not yet fully complied with the Act, and they agreed to expedite the further steps indicated above. I think it is fair to add that throughout my enquiries they gave me their full co-operation.