

DECISIONS OF THE CERTIFICATION OFFICER ON APPLICATIONS UNDER ARTICLE 90A OF THE TRADE UNION AND LABOUR RELATIONS (NORTHERN IRELAND) ORDER 1995

Mr G Broadbent

v

POA

Date of Decisions:

17 September 2010

DECISIONS

Upon applications by the applicant under Article 90A(1) of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (as amended) (the 1995 Order):

(1) I refuse to make the declaration sought by the applicant, that Rule 24.3(c) was broken due to the fact that the nomination form for a ballot held at HMP Magilligan in June 2009, for a Committee post, did not have the statutory open and close dates for nomination, nor did it have the date on which voting would begin and end.

(2) I refuse to make the declaration sought by the applicant, that Rule 24.5 was broken in the above election as the full statutory minimum seven days of voting opportunity was not available to the membership.

(3) I refuse to make the declaration sought by the applicant, that Rule 24.5 was broken in the above election when non-Committee members were able to and did gain access to the Branch office where the voting papers and ballot were being kept, though the Rule clearly states that only the Committee will issue voting papers.

(4) I declare that Rule 24.3(a) was broken when the nomination forms for an election for one Committee post and the position of Chairman at the HMP Magilligan Branch were taken down at approximately 9 a.m. on 30th December 2009, which was the closing date for nominations. I do not consider it appropriate that I make an enforcement order with regard to that breach.

Notes for clarification: (i) The term "nomination form" is used in the above decisions, as it is the term used in the applicant's complaints. The document in question and referred to in the rules of the Union is in fact the election notice. This matter is discussed under Complaint 1 in the body of this decision.

(ii) The word "statutory" is used in the decisions (1) and (2) above as it is used in the applicant's complaints, i.e. as meaning "required by the Union's rules". It does not refer to any requirement of the statute law relating to trade unions.

REASONS

1. By an application dated 26 October 2009 to the GB Certification Officer, the applicant made five complaints against his union. With his consent, the application was transferred to my office; it was received on 19 November 2009. A second application against his union, dated 12 January 2010, was made to me. It was received on 18 January 2010. It contained one complaint.

2. Following correspondence with my office, the applicant advised that he would pursue four complaints. The complaints he wished to pursue were confirmed by him in the following terms:-

Complaint 1

That Rule 24.3 (c) was broken due to the fact that the nomination form for a ballot held at HMP Magilligan in June 2009, for a committee post, did not have the statutory open and close dates for nomination, nor did it have the date on which voting would begin and end.

Complaint 2

That Rule 24.5 was broken, as when voting for the above election took place it commenced at approximately 11:00 am on the 08/06/2009, through to 11:00 am on the 15/06/2009, which should have been the minimum statutory period of 7 days. But due to some error in the rostering of the committee members, there was no official on duty on the morning of the 14/06/2009 to issue ballot papers. Therefore a full 7 days of voting opportunity was not available to the membership.

Complaint 3

That Rule 24.5 was broken on Sunday 14/06/2009 when during a workplace ballot that was being held for a committee post, non committee members of the association were able to and did gain access to the branch office where the voting papers and ballot box was being kept, and votes were cast. The rule clearly states that it is only the committee that will issue voting papers. So I believe that under those circumstances it leaves it (the process) open to a question of validity, as the ballot may have been tampered with.

Complaint 4

That Rule 24.3 (a) was broken on the 30/12/2009, when the nomination forms for one committee post and the position of chairperson were up for election. The nomination forms clearly stated that nominations would be accepted from the 11th to 30th December 2009. The nomination forms were taken down at approximately 9:00 am on the 30th; even though the nomination forms had exceeded the required 17 days, the Rule does state that the period will include the closing date on the notice.

3. The complaints are matters within my jurisdiction Under Article 90A (2) (a) (c) and (d) of the 1995 Order. They were investigated in correspondence by my office and, as required by Article 90B (2) (b) of the 1995 Order, the parties were offered the opportunity of a hearing, which took place on 20 August 2010. The Union was represented by Mr F Spratt, Area Chairman (Northern Ireland) of the P.O.A. Mr N Lowe, Secretary of the Magilligan Branch, and Mr N Gilmore and Mr S Fleming, members of the Branch, attended and gave evidence for the Union. Mr Broadbent acted in person and gave evidence on his own behalf. A 100-page bundle of documents was prepared by my office for the hearing. The Union provided a skeleton argument, a copy of which was supplied to Mr Broadbent. The rulebook of the Union (2009) was in evidence.

Findings of Fact

4. These complaints concern alleged breaches of Union rules in two elections held by the Magilligan Branch of the POA. Complaints 1, 2 and 3 relate to an election in June 2009 for a Branch Committee post; Complaint 4 relates to elections in January 2010 for Branch Chairman and a Branch Committee post. Mr Broadbent, who is a long-standing member of the POA, stood unsuccessfully in the June 2009 election. He did not stand for either post in the January 2010 election, though he was the proposer of one of the candidates for the post of Chairman. A further election for Committee membership was held in August 2010. Mr Broadbent has made no complaint about this; he was a candidate, but was not elected.

5. Around the end of June 2009 Mr Broadbent wrote to Mr Spratt saying that he believed the recent election for a Committee member at Magilligan had not adhered to the POA's constitution on a number of points, and asking Mr Spratt to investigate. The letter posed ten questions about aspects of the election, including how long the nomination form was displayed, the closure date for nominations, the number and placing of election notices, the arrangements for the issue of ballot papers and for ensuring privacy for voters, the location of the ballot and the arrangements for counting the votes. Mr Spratt sent the letter to the Magilligan Branch and received a reply from the Secretary, Mr Lowe, which addressed the ten questions. Mr Spratt forwarded this to Mr Broadbent on 16 July 2009 under cover of a letter saying that he was satisfied that the Committee at Magilligan had followed the rules and constitution of the POA. He also advised Mr Broadbent that if the reply was not acceptable to him, he could write to the General Secretary, Mr Caton, at HQ in London.

6. Mr Broadbent did so on 7 September 2009. He said that he had not decided lightly to take his complaint further, but had hoped that it would be investigated by a member of the Northern Ireland Area Committee, not by the Branch Committee involved in the election. He then set out his ten questions, together with the replies provided by Mr Lowe and his own comments on these. He queried eight of the replies, on the grounds that they were vague or incomplete or lacked supporting evidence (copies of the election notice and nomination form were not attached); that they contained statements which he considered incorrect (e.g. that the ballot had taken place in 'the normal location'); or that they revealed departures from good practice which might leave the fairness of the election open to question (e.g. that notice of the election was not posted in certain work areas, that some members who voted had not

signed for their ballot paper, that the ballot box was out of view of those supervising the voting).

7. Mr Caton replied on 29 September with brief letter which said simply that he accepted that Mr Spratt was satisfied that the election had been carried out appropriately.

8. On 28 October Mr Broadbent made an application to the Great Britain Certification Office which, with his agreement, was transferred to my Office on 19 November. On 18 January 2010, while my staff was in correspondence with Mr Broadbent on this application, a second application was received from him. In this he alleged that the nomination form for a Branch election held earlier that month was taken off the notice board before the end of the period specified, and that this resulted in his missing the chance to stand for a Committee member post as he had intended.

Submissions and Conclusions

9. Mr Broadbent found quite a number of aspects of the arrangements for the June 2009 election unsatisfactory. The alleged deficiencies include those mentioned in paragraph 6 above. Others are that ó allegedly - scrutineers and tellers were not (as advised by Annex E to the Rules of the Union) identified before voting began, ballot papers were, for a period at least, left available and unattended, the number of votes cast was not checked against the number of ballot papers issued and signed for, and a candidate was present in the voting area during a time when voting was taking place. These alleged deficiencies are, however, not part of the three very specific complaints about this election which Mr Broadbent has asked me to determine and I am not required to take a view on them. The Union was not required to address them, though it did respond to some of them at the hearing; in particular, it strongly denied that there were any grounds for questioning the validity of the election and its results.

10. Complaint 1 is that

“Rule 24.3(c) was broken due to the fact that the nomination form for a ballot held at HMP Magilligan in June 2009, for a committee post, did not have the statutory open and close dates for nomination, nor did it have the date on which voting would begin and end.”

Mr Broadbent said that the nomination form posted on the Branch notice board did not have these details, which in his view were required by the rules. Before making his complaint, he had asked the Union for a copy of the form as posted, but this had not been supplied. He said that a copy of the form which the Union had now provided in the bundle for the hearing was not an authentic contemporaneous document. It was a later production, based on the form used for the January 2010 election which had been developed after, and because of, his complaint about the June 2009 election. He suggested that if the Union produced the computer record of the document this would show that it had first been created after June 2009. He said he was not asserting that the Union was deliberately attempting to mislead the Certification Officer, but the fact was that this was not the form that was posted. Because the

form that was actually posted did not contain all the information necessary, many members had been denied the opportunity to vote.

11. For the Union, Mr Spratt said that, contrary to the terms of Mr Broadbent's complaint, the rules did not require the opening date for nominations or the closing date for voting to be stated. He pointed out that Mr Broadbent had brought no witnesses to support his assertion that they or any other members had been denied the opportunity to vote. He accepted that the notice now provided by the Union was not the original or a copy of the original which had been posted on the notice board at the June election; that had been taken down and disposed of before it was known that there was a complaint about the election. But the document now provided was an exact reproduction of the notice that was posted. It had been re-created for the benefit of the hearing from a template - developed before the June election, not after, as alleged - which the Branch held on computer and used routinely for Branch elections. It provided all the information necessary to enable members to exercise their right to vote, and indeed more than was strictly required by the rules. Mr Gilmore, giving evidence, said that he recalled clearly that there had been two A4 documents about the election on the notice board: one was the document now provided by the Union, the other, posted next to it (and also now provided by the Union in the bundle), was a nomination form, on which he had entered his name as seconder of Mr Broadbent.

12. Conclusion. The disputed document is as follows:

“POA ELECTION

Committee Member

A nomination form will be posted at the main gate staff search for the above election on Tuesday 19th May. Closing date Friday 5th June.

The election will run from Monday 8th June to Sunday 14th 2009.

Nominations must be made in writing on the notice board identifying the candidate with a proposer and seconder.”

13. Mr Broadbent's complaint is that certain details were missing from the nomination form. But the first thing to say about the document above is that it clearly is not a nomination form. It is an election notice such as is provided for in rule 24.3 of the Union's rules. A nomination form is mentioned within it as a separate document that will be posted in a specified place (notices were posted in several places, but the nomination form in one place only - main gate staff search). The nomination form that the Branch uses is an A4 sheet with four columns, one each for the names of the candidate, the proposer and the seconder and one for the signature of the candidate (to verify that he accepts nomination). However, Rule 24 has nothing to say about a "nomination form": it does not use the expression, but speaks exclusively of the "election notice", which among other things is to "invite nominations to be made in writing on the notice board...." (Rule 24.3(d)). As far as Rule 24 goes, there is no need for a nomination form to be posted at all. Branch Committees no doubt choose, very

sensibly, to provide one nevertheless, for their own and their members' convenience - and to protect the legitimacy of the process, for although a slip of paper put on the notice board with the requisite details on it would be enough to satisfy the rule, it could easily be removed by someone of ill-will. However, since a nomination form is not a document recognised by the rules, the rules cannot lay down any requirements as to what it must contain.

14. The election notice is the document which under rule 24.3 must provide members with information about the election. The information is specified in 24.3(c) as "*the closing date for nominations and the date of the first day of the election.*" The notice transcribed above provides both these dates. It also gives useful additional information not required by the rule, as Mr Spratt pointed out - the date from which a nomination form will be posted and the date of the last day of the election. It therefore complies fully with rule 24.3(c).

15. The question that remains is: was this notice in fact posted in May/June 2009, as the Union maintains? Mr Broadbent never asserted that *no* notice had been posted. In his letter of 7 September 2009 to Mr Caton, he queried whether an election notice had been posted in four of the eight places where Mr Lowe claimed it had been posted, accepting therefore that some notice had been placed in the other four. His claim then must be that this was a different notice from that given in evidence by the Union, and that it was defective as to nomination and voting dates; and he appeared to suggest also that the Branch may have disposed of it on receiving his complaint because it knew that it proved his case. Mr Broadbent did not, however, offer any description of this other notice or bring any witness to testify that it had existed and was what had been posted. I note that when he wrote to Mr Spratt around the end of June 2009 with his 10 questions about the election (which included questions about the opening and closing dates for nominations and voting), he said that he was *already aware of most of these details* but felt it proper to allow Mr Spratt to conduct his own examination of the procedures used. It seems reasonable to assume that his awareness of the details came from whatever notice was posted, which must therefore have contained considerable information about the election: though it remains possible that it lacked information on nomination and voting dates (Mr Broadbent only said he knew *most* of the details). What we seem to be left with, in sum, is a contention that a document about which nothing is definitely known and whose very existence is not testified did not contain certain information. On the other side, Mr Gilmore provided credible evidence that the notice the Union gave in evidence was what was posted, and although it would have been more satisfactory to have the original election notice, I accept the Union's account of its re-creation of the document. The Union did not supply the computer record which Mr Broadbent claimed would provide evidence that the notice was first created after June 2009, but I am satisfied that such evidence as the Union has given is true evidence and a sufficient basis for my conclusion that the Union fulfilled the requirements of rule 24.3(c).

16. I therefore refuse to make the declaration sought that rule 24.3(c) was broken due to the fact that the nomination form did not have the statutory open and close dates for nomination nor the date on which voting would begin and end.

17. I mention here by way of an observation that in response to Mr Broadbent's criticisms of the election notice and nomination form, the Magilligan Committee has now combined the notice and the form into a single A4 document, though it believes that the result is a "squashed-up" document that is harder to read and less helpful to members. As will be apparent from the discussion above, I consider this completely unnecessary. Nothing in the rules prevents the Branch from following its previous practice of having the notice and the nomination form as two separate documents posted one below the other.

18. Complaint 2 and Complaint 3 both allege that rule 24.5 of the Union's rules was breached in the June 2009 election. The two complaints are closely associated and were dealt with together at the hearing. Rule 24.5 states

"The Committee will issue voting papers to all available members. The ballot will extend from Monday to Sunday inclusive of the week in which the ballot is held, or such longer period as the Committee or the National Executive Committee area representative considers necessary in order to facilitate the members' right to vote."

19. Mr Broadbent said that voting began at about 11 a.m. on Monday 8 June 2009 and should have run continuously until 11 a.m. on Monday 15 June. However, on the morning of Sunday 14 June 2009, because of some rostering error, no member of the Magilligan Committee was on duty at the voting area to issue ballot papers to Branch members wishing to vote. That period therefore was not part of voting time and so the full seven days of voting opportunity was not available to the membership, in breach of rule 24.5 (Complaint 2). In Complaint 3, however, Mr Broadbent accepted that ballot papers were in fact issued and Branch members did vote during that period; but he said that, in breach of rule 24.5, the person who issued the papers was not a Committee member. Consequently the votes were not legally cast; and the fact that non-Committee members had access to the papers and the ballot box raised the possibility that the ballot may have been tampered with, and brought the process into question.

20. Mr Spratt said that in Branch elections the Union ideally sought to have voting open from 8 a.m. to 5 p.m. each day, to coincide with the main shift at prisons. Often Committee members would open voting earlier and keep it open later to facilitate officers as they came off or went on night duty. It could also happen, however, that voting might have to be closed for a period or periods during the day, if that was necessary due to operational conditions or constraints on the "facility time" available to Committee members. Mr Spratt drew attention to the fact that rule 24.5 (possibly in recognition of these facts) said nothing about time of day, but merely that the ballot must run from Monday to Sunday. On this occasion voting had begun at 9:30 a.m. on Monday 8 June, after the end of a scheduled Committee meeting, and closed on Sunday night, 14 June. The votes were counted the next day. A member of the Committee had been assigned to oversee the ballot on Sunday 14 June, but then became unavailable when the prison management allocated him a place on a training course. Mr Lowe, the Secretary, gave evidence that he realised on Thursday 11 June that this meant that Sunday was not covered. He contacted the Chairman and the other Committee members and

it was established that none of them was available on Sunday. The Committee therefore decided to co-opt a member to supervise the election on that day and agreed that Mr Fleming, a Branch member who was on administrative duties on returning to work after an industrial injury, should be asked if he was willing to take on the responsibility. Mr Fleming agreed and was then co-opted on to the Committee for the purpose. Mr Fleming, a member of Union of 19 years standing, gave evidence that Mr Lowe had instructed him on Saturday 13 June in the procedures to be followed for the voting and gave him the keys of the office where the voting was to take place. He said he opened the office at about 7:30 a.m. on Sunday 15 and closed it around 4:30 p.m. He issued voting papers according to the procedures and members who came to vote were able to do so. There was no question that anyone could have tampered with the papers or the ballot box without his knowing it. He locked the office and returned the keys to Mr Lowe on Monday morning.

21. Conclusion. Complaint 2 and Complaint 3 are inter-connected. Central to both is the status of Mr Fleming vis-a-vis the Committee when he oversaw the voting on Sunday 14 June 2009. Mr Broadbent rightly pointed out that rule 24.5 states that *“the Committee will issue voting papers”*, and the natural reading of this is that only a member of the Committee is authorised to do so. Mr Fleming was not an elected member of the Committee. But he was co-opted on to the Committee for a specific purpose and by what was, on the evidence given, a reasonable and deliberate process. In my judgment, he thereby became a member of the Committee for that specific purpose and was authorised to do what was required to fulfil it. I find nothing in the Union’s rulebook (2009 version) about co-option of members on to a Branch Committee. Mr Spratt said that there was a rule mentioning co-option, but this turned out to be not relevant on two counts; it was introduced at the May 2010 Annual Conference, and therefore post-dates the events with which we are concerned; and it deals specifically with co-option of *“operational support grades”*, a grade to which Mr Fleming does not belong. In general, however, it seems to me that co-option is a normal facility that committees of all kinds can and regularly do avail themselves of, whether for urgent, immediate needs as in the present case, or for other reasons, e.g. to get the benefit of some particular expertise that is not available among their own members. That being so, and given that there is nothing in the rulebook to forbid co-option, the presumption must be that co-option, properly agreed by its members, is a legitimate practice for a Branch Committee of the Union.

22. I therefore conclude that it was in order for the Magilligan Committee to co-opt Mr Fleming, that they did so in a proper manner, and that Mr Fleming was, consequently, a member of the Committee for the purpose for which he was co-opted. His co-option facilitated members by enabling them to vote on Sunday 14 June, which they would not otherwise have been able to do.

23. Applying these conclusions to Complaint 2, I find that the voting papers issued by Mr Fleming on Sunday 14 June 2009 were properly issued, that the votes cast were valid and that that day is not to be disregarded in reckoning the time that was made available for voting in the election. I therefore refuse to make the declaration sought by Mr Broadbent in Complaint

2, that Rule 24.5 was broken because the full seven days of voting opportunity was not available to the membership.

24. For the same reasons I refuse to make the declaration sought in Complaint 3, that Rule 24.5 was broken when non-Committee members were able to and did gain access to the Branch office where the voting papers and ballot box were being kept. I add for clarification that Mr Broadbent made clear in the course of the hearing that although Complaint 3 spoke of "non-Committee members" in the plural, it was intended to refer to Mr Fleming only. He also stated that he was not in any way calling Mr Fleming's integrity into question.

25. Complaint 4 relates to the election held in January 2010 for the position of Chairman and one Committee post. It is that Rule 24.3(a) was broken because:

"The nomination forms clearly stated that nominations would be accepted from the 11th – 30th December 2009. The nomination forms were taken down at approximately 9:00 a.m. on the 30th; even though the nomination forms had exceeded the required 17 days, the Rule does state that the period will include the closing date on the notice."

Rule 24.3 (a) says that the Committee will ensure that

"an election notice is posted in the relevant Branch(es) continuously for at least 17 days up to (and including) the closing date for nominations"

The notice for the January 2010 election was identical to the one for the June 2009 election set out in paragraph 12 above, except, of course, for the dates.

26. Mr Broadbent said that he had been intending to stand for the Committee post (though he also said he "would probably have stood"). He said that it was only on the 30th that there were people willing to propose and second him and that they had agreed to go to the notice board at break time and enter his nomination on the nomination form. But Mr Lowe rang him around 9 a.m. on the 30th to confirm that he had proposed a candidate for the Chairmanship and in the course of the conversation it emerged that the nomination form had been taken down. The form should have been left up for the whole of the closing date. Because it was taken down prematurely he had lost the opportunity to stand.

27. Mr Spratt said that the notice had been posted for 19 days, two days longer than the minimum required by the Rule. It was not taken down earlier to give as many members as possible the chance to see it, since many were on leave over the Christmas period. Normally notices were taken down on the morning following the closing date for nominations. It was not denied that the notice had been taken down sometime after 9 a.m. on 30 December, or that the 30th was the stated closing date. But Mr Spratt said that there was no proof that Mr Broadbent had been intending to stand, as he had not brought his alleged proposer and seconder to the hearing to give evidence.

28. Conclusion. The facts around Complaint 4 are not in dispute, though the same confusion as noted under Complaint 1, between the election notice and the nomination form, is evident

in its wording. To recall, Rule 24.3 refers exclusively to the election notice. Under Rule 24.3 (a) the election notice is to come down and nominations are to close on the same day, and this appears to me to mean that the taking down of the notice is, in effect, the closing of nominations. In any case it is clear that Mr Broadbent and the Union are agreed that both the election notice and the two nomination forms were taken down together around 9 a.m. on 30 January and that nominations closed at that time.

29. Rule 24.3(a) says that the notice is to be posted continuously for at least 17 days up to and including the closing date for nominations. The notice therefore had to be on the notice board on the closing date. It was indeed on the notice board on that day, but only until 9 a.m. Does this satisfy Rule 24.3(a)? If it does, the implication would seem to be (since the Union offered no rationale for the 9 a.m. timing) that the Rule is preserved so long as the notice is posted for any part, however short or random, of the day on which nominations close. The Union's rules do not define "day", but it seems to me that in this context the most obvious meaning is "a period of 24 hours". That the notice is to be posted "*continuously*" for 17 days means that it is to stay in place from one day to the next without interruption, that is to say, for whole days, consecutive periods of 24 hours. It would seem that the Union's actual practice recognises this, since Mr Spratt said at the hearing that it was normal for the notice to be taken down on the morning after the closing date, i.e. sometime after midnight on the closing date. In my judgment, the notice should have been posted for the whole of the closing day for nominations

30. If there were doubt about that, I would still not accept that taking down the notice and closing nominations in an unpredictable way at some point on the closing date conformed to Rule 24.3(a). The purpose of the rule is to ensure that members are aware of the coming election and are able to arrange for candidates to be put forward for the vacant positions by a given date. This purpose cannot be served if members are unsure when nominations will close and can be surprised, and have their intentions frustrated, by an unannounced closure early on the last day. It might be argued that the rule means that the notice should remain in place for the normal working day, but in a work situation where there are staff on duty 24 hours a day, that would seem, if anything, to confirm the interpretation given above. If "normal working day" were taken to mean "the main shift", 8 a.m. to 5 p.m., then in my judgment the purpose of Rule 24.3(a) would not be achieved unless this was made clear to members on the notice. But in any event, this is unconvincing, since it requires that "day" has a different meaning on the closing date than it does in the preceding 16 or more days when the notice is to be posted. And it would not help the Union in the present case, since the notice was taken down at 9 a.m.

31. The Union pointed out that the notice had been in place for more than the minimum 17 day period laid down by Rule 24.3 (a). This does not change the situation. The Rule requires the notice to be in place for the whole of the announced closing date, whether that falls 17 or any greater number of days after it was first posted.

32. For the above reasons, I declare that Rule 24.3 (a) was breached when the notice for the election of a Committee member at the Magilligan Branch was taken down at approximately 9.a.m on 30th December 2009.

33. When I make a declaration, I am required by Article 90B(3) of the 1995 Order to make an enforcement order to remedy the breach and/or to ensure that it does not occur in future, unless I consider that it would be inappropriate to do so. In the light of his statements at the hearing, I am not persuaded that Mr Broadbent did actually have a firm and settled intention to stand in the January 2010 election for Committee membership. Since then, there has been another election for Committee membership, in August 2010, in which Mr Broadbent did stand, though he was not elected. In these circumstances, I do not consider that it would be appropriate to make an order to remedy the breach. As to the future, I am confident that the Union will have due regard to my interpretation of rule 24.3(a), to which, in fact, its normal practice, as noted above, already seems to conform.



Roy Gamble
Certification Officer for Northern Ireland

1. *Statutory Provisions: Trade Union and Labour Relations (N.I) Order 1995*

Article 90A(1) A person who claims that there has been a breach or threatened breach of the rules of a trade union relating to any of the matters mentioned in paragraph (2) may apply to the Certification Officer for a declaration to that effect, subject to paragraphs (3) to (7).

(2) The matters are –

- (a) the appointment or election of a person to, or the removal of a person from, any office;*
- (c) the balloting of members on any issue other than industrial action;*
- (d) the constitution or proceedings of any executive committee or any decision-making meeting;*

Article 90B (3) Where the Certification Officer makes a declaration he shall also, unless he considers that to do so would be inappropriate, make an enforcement order, that is, an order imposing on the union one or both of the following requirements –

- (a) to take such steps to remedy the breach, or withdraw the threat of a breach, as may be specified in the order;*
- (b) to abstain from such acts as may be so specified with a view to securing that a breach or threat of the same or a similar kind does not occur in future.*

2. *Relevant rules of the POA*

RULE 24 SECRET WORKPLACE BALLOTS

Procedure

Rule 24.3 The Committee will ensure that:

- (a) an election notice is posed in the relevant Branch(es) continuously for at least 17 days up to (and including) the closing date nominations;*
- (b) the notice is posted in a prominent place accessible to, and where it is likely to be seen by the members;*
- (c) the notice states the closing date for nominations and the date of the first day of the election: and*
- (d) the notice invites nominations to be made in writing on the notice board, identifying the nominated candidate with a proposer and seconder.*

Rule 24.5 The Committee will issue voting papers to all available members. The ballot will extend from Monday to Sunday inclusive of the week in which the ballot is held, or such longer period as the Committee or the National executive Committee area representative considers necessary in order to facilitate the members' right to vote.