
DRAFT STATUTORY INSTRUMENTS

2022 No.

**The Trade Union (Power of the Certification Officer
to Impose Financial Penalties) Regulations 2022**

PART 2

Financial Penalties for the purposes of Schedule A4 to the 1992 Act

Maximum penalties

3.—(1) The level of maximum penalty that may be specified in a penalty order or conditional penalty order where the person in default⁽¹⁾ is an organisation is—

- (a) Level 1 in relation to enforcement orders⁽²⁾ made, or capable of being made, under—
 - (i) section 45C(5A) of the 1992 Act (order on failure by union to comply with duty to secure positions not held by certain offenders);
 - (ii) section 55(5A) of the 1992 Act (order on failure by union to comply with requirements about elections for certain positions);
 - (iii) section 72A(5) of the 1992 Act (order on failure by union to comply with restriction on applying union's funds in the furtherance of political objects);
 - (iv) section 80(5A) of the 1992 Act (order on failure by union to comply with rules as to ballots on political resolutions);
 - (v) section 82(2A) of the 1992 Act (order on failure by union to comply with rules as to political fund);⁽³⁾
 - (vi) section 84A(5) of the 1992 Act (order on failure by union to provide required information to members about contributing to political fund);
- (b) Level 2 in relation to enforcement orders made, or capable of being made, under section 24B(6) or 25(5A) of the 1992 Act (order on failure by union to comply with duties regarding the register of members);
- (c) Level 3 in relation to enforcement orders made, or capable of being made, under—
 - (i) section 31(2B) of the 1992 Act (order on failure by union to comply with member's request for access to accounting records);
 - (ii) section 32ZC(6) of the 1992 Act (order on failure by union to provide details of industrial action etc., or political expenditure, in annual return);
 - (iii) section 108B(3) of the 1992 Act (order on breach or threatened breach by union of rules on certain matters);

(1) "Person in default" has the meaning given by paragraph 1(2) of Schedule A4 to the 1992 Act.

(2) "Enforcement order" has the meaning given by paragraph 1(1) of Schedule A4 to the 1992 Act.

(3) Section 82(2A), as substituted by section 17(3) of, and paragraph 7(3) of Schedule 2 to, the 2016 Act provides: "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".

(iv) paragraph 5(1) of Schedule A3 to the 1992 Act (order on failure by union or other person to comply with investigatory requirements).

(2) A Level 1 maximum penalty is as follows—

<i>Number of members of organisation</i>	<i>Maximum amount</i>
Less than 100,000	£10,000
100,000 or more	£20,000

(3) A Level 2 maximum penalty is as follows—

<i>Number of members of organisation</i>	<i>Maximum amount</i>
Less than 100,000	£5,000
100,000 or more	£10,000

(4) A Level 3 maximum penalty is as follows—

<i>Number of members of organisation</i>	<i>Maximum amount</i>
Less than 100,000	£2,500
100,000 or more	£5,000

(5) Where a trade union is in whole or part an association or combination of other unions, these Regulations apply to that union as if the individual members of the component unions were members of that union and not of the component unions.

(6) Where an employers' association is in whole or part an association or combination of other associations, these Regulations apply to that association as if the individual members of the component associations were members of that association and not of the component associations.

(7) For the purposes of paragraphs (2) to (4), the number of members of an organisation refers to—

- (a) the number of members identified in the most recent annual return sent by the organisation to the Certification Officer under section 32 of the 1992 Act⁽⁴⁾, if the organisation has sent a return that includes such information; or
- (b) in the absence of such a return, the number of members the Certification Officer reasonably believes the organisation has on the day the Certification Officer makes the penalty order or the conditional penalty order.

(8) The maximum amount that may be specified in a penalty order or conditional penalty order relating to an enforcement order made, or capable of being made, under paragraph 5(1) of Schedule A3 to the 1992 Act, where the person in default is an individual, is £1,000.

(4) Section 32 applies to employers' associations by virtue of section 131 of the 1992 Act.