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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set the minimum and maximum amounts of financial penalties the Certification Officer may specify in a penalty order or conditional penalty order.

Section 256D of, and Schedule A4 to, the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) give the Certification Officer the power to impose financial penalties where the Certification Officer makes an enforcement order or has the power to make an enforcement order but does not do so. Such enforcement orders are available in relation to certain statutory obligations breached by trade unions or employers’ associations.

These Regulations set out the minimum and maximum financial penalty amounts that may be specified by the Certification Officer in any penalty order, or conditional penalty order, by reference both to the statutory obligation that has been breached and, in the case of an organisation, the number of members it has.

The minimum amount that may be specified by the Certification Officer in a penalty order, or conditional penalty order, is £200 (regulation 2).

Regulation 3 sets out the maximum amount that the Certification Officer may specify in a penalty order or conditional penalty order. Where an order is made against an organisation, the maximum is set by reference to three different levels, according to the nature of the statutory obligation that has been breached. For each level, there is one maximum penalty for organisations with less than 100,000 members, and another for organisations with 100,000 members or more. The maximum penalties set in these provisions range from £2,500 to £20,000.

Where an order is made against an individual for failure to comply with the Certification Officer’s investigatory requirements, the maximum amount that may be specified for a penalty is £1,000 (regulation 3(8)).

Section 256D of, and Schedule A4 to, the 1992 Act are inserted by virtue of section 19(1) and (2) of the Trade Union Act 2016. Section 19(3) of the Trade Union Act 2016 provides that subsections 19(1) and (2) do not apply in relation to any acts or omissions of a trade union or other person occurring before the section comes into force. Accordingly, the Certification Officer’s powers to impose financial penalties under Schedule A4 to the 1992 Act and these Regulations only apply to acts or omissions of a trade union or other person occurring on or after 1st April 2022.

A final impact assessment has been published alongside these Regulations. The annual impact on costs to the business and voluntary sectors is expected to be very low, well below £1 million.