

**Financial penalty order pursuant to section 256D of the Trade Union and  
Labour Relations (Consolidation) Act 1992**

**This document sets out the reasons for the decision to impose a financial  
penalty order on Unite the Union, following the decision in:**

**Moosa v Unite the Union (D/2-3/25-26)**

**23 July 2025**

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## **Decision**

1. I have decided to impose a financial penalty order on Unite the Union (the Union) in the sum of £5,000, pursuant to section 256D of the Trade Union and Labour Relations (Consolidation) Act 1992 (the 1992 Act).
2. The Union will receive separate notice with instructions for making payment, and payment must be received by 22 August 2025.

## **Background**

3. This financial penalty order follows my decision in *Moosa v Unite the Union* (D/2-3/25-26), in which I upheld two complaints made by Mr Moosa, following a hearing on 22 May 2025. In upholding the complaints, I found that the Union had breached Mr Moosa's right to access the accounting records of the Union on two occasions.
4. Having decided that Mr Moosa's complaints were well-founded and therefore having the power to make an enforcement order, I had the power to consider whether I should impose a financial penalty order, pursuant to section 2(1) of Schedule A4 of the 1992 Act. I sought Mr Moosa and the Union's initial views on a financial penalty order at the hearing.
5. Mr Moosa submitted that a financial penalty order would be appropriate and proportionate. He argued that for a union of the size of Unite the Union, the maximum financial penalty would make very little impact on the finances of the Union, but that it was important in terms of recognising the seriousness of the breach committed by the Union. Mr Moosa added that he believed the Union had knowingly not fulfilled its statutory obligations, and that a financial penalty order was a necessary response.
6. The Union submitted that a financial penalty order would not be proportionate, because it had accepted that Mr Moosa's complaints were well-founded, and because it had made two offers to Mr Moosa which the Union believed had the effect of remedying the breach.

7. Having considered the oral submissions made by both parties, I made a provisional decision that a financial penalty order would be an appropriate and proportionate response by the Certification Officer. I reached this decision with regard to the seriousness of the breaches and the aggravating factors I found in relation to the breaches. I had upheld two complaints made by Mr Moosa, finding therefore, that the Union had committed two Level 3 breaches. I proposed to set the penalty at £5,000, which is the maximum for a single Level 3 breach.
8. Schedule A4, paragraph 4 requires me to give the Union an opportunity to make written representations before I impose a financial penalty order. I wrote to the Union on 19 June 2025. My letter set out the provisional reasons I was minded to impose a financial penalty order and invited the Union to provide written representations by 10 July 2025.
9. On 10 July 2025, Stephen Pinder, the Union's Director of Legal and Membership Services submitted written representations by email. I considered those written representations carefully before reaching a decision.
10. What follows are the reasons for my decision to impose a financial penalty order, including consideration of the Union's written representations.

## **Findings and reasons**

### **Aggravating factors**

11. The Certification Officer's guidance on financial penalty orders sets out the following aggravating factors which are considered when reaching a decision:
  - the breach had a significant impact on an individual or the trade union;
  - the trade union has failed to comply in a similar way in the past;
  - the trade union has intentionally failed to comply with legal requirements;
  - evidence of deliberate malpractice or deliberate mal-administration;
  - the trade union has not appropriately handled a member's complaint.

## **The impact of the breach on an individual or the trade union**

12. In his written representations, Mr Pinder argued that I should take no account of any impact on Mr Moosa arising from his position on the Executive Council. He argued that Parliament chose to limit the statutory right under section 30 to members of a trade union, and that any consequences arising from internal roles held by Mr Moosa fell outside the scope of what I may consider. Mr Pinder argued that were I to take account of Mr Moosa's role on the Executive Council, I would be disregarding Parliament's intention to limit section 30 to union members.
13. For the avoidance of any doubt, a distinction must be drawn between two separate stages of the Certification Officer's decision-making. The first is whether there has been a breach of Mr Moosa's statutory right to access the Union's accounting records. For the purposes of the first stage, Mr Moosa's position on the Executive Council is not a relevant consideration. He has no enhanced rights.
14. The second stage of decision-making arises only where the Certification Officer has a power to make an enforcement order, and it concerns the appropriateness and proportionality of a financial penalty order. For the purposes of the second stage, the Certification Officer's guidance is clear that the impact of the breach on an individual is a relevant consideration.
15. Therefore, a role held by an individual within a union may become a relevant consideration, if that role has a material bearing on the impact of a breach on that individual. This is not because the holding of a role alters the nature of an individual's statutory right, but because the holding of a role may influence the impact that the breach has on them. Whether such a role is relevant will depend on the facts and circumstances of each case.
16. In his written representations, Mr Pinder argued in the alternative to his argument summarised at paragraph 12, that even if I were to be able to take account of Mr Moosa's role on the Executive Council, I had no, or insufficient, evidence to

reach a finding about the impact the breach had on Mr Moosa, because Mr Moosa had not given witness evidence.

17. At the hearing, both parties made submissions about the impact of the breach. Mr Moosa argued that the breach left him unable to fulfil the governance and scrutiny role he was elected to. The Union argued that the breach had no impact on either Mr Moosa or the Union itself but submitted no argument to develop this further. Nor did the Union point to any evidence in the bundle to support its argument.
18. Mr Moosa's argument was supported by the documentary evidence available in the bundle. The bundle included, for example, an email from Mr Moosa to the Certification Office, dated 3 February 2025, which states:

“... the Executive Council of Unite the Union are legally responsible for keeping proper accounting records [...] They are also responsible for safeguarding the assets of the Union [...] obstructing myself and the Executive Council for a number of years from fulfilling our legal duties regarding the unions finances.”

19. The Union was aware of the contents of the bundle and therefore had opportunity to challenge Mr Moosa's argument about the impact the breach had on him. It could have submitted witness testimony, brought a witness or witnesses to the hearing, or submitted documentary evidence for inclusion in the bundle. It chose not to do so.
20. Upon reading my provisional reasons for making a financial penalty order, the Union could have chosen to submit further evidence challenging Mr Moosa's argument regarding the impact the breach had had on him. It chose not to do so.
21. Further, I find that it is a reasonably foreseeable consequence that where a union member has been elected to perform duties relating to financial governance and scrutiny, a breach of their right to access accounting records may have a greater impact on them as an individual than it would on a member without such

responsibilities. Again, at this point, for the avoidance I repeat that this does not serve to enhance, or in any way alter, the right of a member to access the accounting records, but becomes a consideration only at the second stage of the Certification Officer's decision making, as discussed at paragraph 14.

22. I am, therefore, satisfied that it is appropriate to treat Mr Moosa's submission as a relevant account of his experience.
23. Applying all of the above reasoning to the facts and circumstances of Mr Moosa's complaints, I find that Mr Moosa felt unable to fulfil the governance and scrutiny responsibilities he had been elected to carry out. Because of this, I find that the impact of the breach was significant. I find this to be an aggravating factor in determining the proportionality of a financial penalty order.

### **The Union's handling of the complaint**

24. In earlier correspondence between the Certification Office and the Union, the Union made various arguments in response to enquiries about the complaint.
25. In an email dated 23 January 2025, the Union addressed the complaint with the following arguments:
- i. As a member of the Executive Council, Mr Moosa already has access to up-to-date financial information every quarter.
  - ii. Mr Moosa's request is exceptionally broad.
  - iii. Mr Moosa's request takes no account of the proportionality associated with it.
  - iv. Mr Moosa's request takes no account of the practical situation relating to the Union's audit and accounts process.
  - v. The Union questions whether a request like Mr Moosa's, is the type of request envisaged by the legislation.

26. In the Union's skeleton argument, Mr Pinder told me that the Union continued to adopt the arguments referred to in the previous paragraph. He also added further arguments:

vi. Mr Moosa's request is a fishing expedition.

vii. The Union's Finance Director has been absent from work due to ill health.

27. As recorded at paragraphs 22 and 23 of my substantive decision relating to Mr Moosa's complaints, the Union maintained that Mr Moosa's complaints were not well-founded until the day before the hearing.

28. At the hearing, Mr Moosa argued that the Union's concession of the breach the previous day, was evidence that it had been deliberately withholding his right to access the accounting records. He characterised the Union's actions as attempting to "make a mockery of the law", and as "playing the system".

29. Madeline Stanley of Counsel, representing the Union, agreed or conceded that the arguments summarised above at paragraphs 25 and 26 were not legitimate reasons to restrict Mr Moosa's access to the requested accounting records.

30. Ms Stanley told me that the reason the Union had conceded the breach the day before the hearing, was that it is always appropriate to continuously review one's position.

31. The Union has access to considerable resources, both through internal legal staff and access to external legal advice. On that basis, I do not find it plausible that the concession made on the day before the hearing could not reasonably have been made at an earlier stage, which may have meant that a hearing was not necessary. I have seen no sustainable argument, or evidence of a material change in circumstances, to explain the Union's altered stance at such a late stage in the process.

32. I find this to be a further aggravating factor in determining the appropriateness and proportionality of a financial penalty order.



33. In its written representations, the Union submitted no argument or evidence to challenge this finding.

### **The Union's past compliance**

34. Mr Moosa made two separate requests to access the Union's accounting records, and subsequently made two separate complaints to the Certification Officer in respect of each request. While the complaints were considered together at the hearing, I am mindful that I have found two separate breaches, occurring in close proximity to each other.

35. At the time of Mr Moosa's second request to access the Union's accounting records, the Union had already been notified by the Certification Office that a complaint had been received.

36. I find the occurrence of a second breach to be evidence of a pattern of conduct, rather than an isolated error. I find this to be a further aggravating factor in determining the appropriateness and proportionality of imposing a financial penalty order.

37. In its written representations, the Union submitted no argument or evidence to challenge this finding.

### **Mitigating factors**

38. The Certification Officer's guidance lists the following examples of mitigating factors:

- the trade union promptly acknowledges that there has been a genuine administrative error or oversight
- the trade union promptly admits it has breached a requirement and tries to rectify it
- there is evidence that this is the first time the trade union has breached a requirement
- the trade union has taken steps to reduce the impact of the breach and to reduce the likelihood of a breach occurring again

- the trade union has promptly and effectively addressed a member's complaint

### **Prompt acknowledgement of a genuine administrative error or oversight**

39. The Union has conceded that Mr Moosa's complaints were well-founded. However, since I have found that the steps proposed by the Union are insufficient in securing Mr Moosa's rights under the 1992 Act, I find that the Union's concession does not amount to a prompt acknowledgement of a genuine administrative error or oversight.
40. I included my finding in this regard in the reasons I gave the Union for my provisional decision to impose a financial penalty order. In its written representations, the Union submitted no argument or evidence to challenge my finding.

### **Prompt admission of a breached requirement**

41. Mr Moosa has a right of access to the accounting records within 28 days of making a request. After the expiry of that deadline, the Union failed to acknowledge that it was in breach of its obligations for 140 days and 85 days respectively in relation to complaints 1 and 2. I therefore find that the Union's concession on the day before the hearing cannot be characterised as a prompt admission of a breached requirement.
42. I included my finding in this regard in the reasons I gave the Union for my provisional decision to impose a financial penalty order. In its written representations, the Union submitted no argument or evidence to challenge my finding.

### **Evidence that this is the first time the Union has breached a requirement**

43. In my provisional reasons for making a financial penalty order, I noted that the Union had not submitted any evidence or made any argument about its typical practice when it receives requests from members for access to accounting records, or whether its practices comply with the 1992 Act.

44. In its written representations, the Union submitted no argument or evidence regarding its typical practice when it receives a request for access to accounting records.

**Steps taken to reduce the impact of the breach or to reduce the likelihood of recurrence**

45. In my provisional reasons for making a financial penalty order, I noted that the Union had provided no evidence, either in advance of, or at, the hearing, that it had taken steps to reduce the impact of the breach, or to reduce the likelihood of a similar breach occurring again.
46. In its written representations, the Union submitted no argument or evidence regarding any steps the Union has taken or proposes to take.

**Conclusions**

47. In its written representations, the Union set out why it believes it is not appropriate or proportionate for me to impose a financial penalty order, or in the alternate, for the financial penalty order to be set below the maximum. However, having carefully considered its arguments, I am not persuaded that the imposition of a financial penalty order is inappropriate or disproportionate.
48. The aggravating factors recorded in this decision are extremely serious, and I have not seen any evidence of mitigating factors or been given any adequate explanation for the Union's failure to comply with its statutory obligations. I have therefore concluded that imposing a financial penalty order is appropriate and proportionate.
49. I upheld two complaints from Mr Moosa, finding that his right to access the accounting records had been breached on more than one occasion. At paragraph 36, I found the occurrence of two breaches in close proximity to be evidence of a pattern of conduct rather than an isolated error. Both requests from Mr Moosa received the same response, and no hearing or decision from the Certification Officer was held or issued in the interim. While a pattern of conduct is more serious than a single, isolated error, both breaches nevertheless

stemmed from a single failure, which arose before my involvement. I have therefore concluded that it is appropriate and proportionate to impose the maximum financial penalty for a single Level 3 breach.

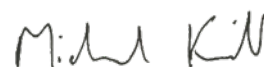
50. The maximum financial penalty available to the Certification Officer in respect of a single Level 3 breach is £5,000. I hope this financial penalty order will ensure that the Union understands the importance of ensuring greater compliance with members' rights to access its accounting records in future.

51. The latest membership figures submitted by the Union to the Certification Officer record that it has 1,177,292 members and considerable resources. I am satisfied, therefore, that setting the financial penalty order at the maximum for a Level 3 breach will not have a detrimental impact on the Union's ability to continue to meet its principal purposes.

## **Observations**

52. Much of the Union's written representations relate to its concerns that my decision to uphold Mr Moosa's complaints or to impose a financial penalty order, may be read by some as touching on other wider disputes ongoing within the Union.

53. As should be clear from the reasons given here, and in the reasons given in my substantive decision relating to Mr Moosa's complaints, I have reached findings only where necessary to resolve the specific issues I needed to resolve. No findings should be inferred beyond those required for that purpose, and no wider conclusions about any other disputes that may be ongoing within the Union should be drawn from either my substantive decision relating to Mr Moosa's complaints, or these written reasons for my decision to impose a financial penalty order.



Michael Kidd  
The Certification Officer

## **Appendix 1 - Schedule A4 - Certification Officer: power to impose financial penalties**

- 1(1) In this Schedule “enforcement order” means an order made by the Certification Officer under any of the following provisions of this Act—
- (a) section 24B(6) or 25(5A) (order on failure by union to comply with duties regarding the register of members);
  - (b) section 31(2B) (order on failure by union to comply with member's request for access to accounting records);
  - (c) section 32ZC(6) (order on failure by union to provide details of industrial action etc, or political expenditure, in annual return);
  - (d) section 45C(5A) (order on failure by union to comply with duty to secure positions not held by certain offenders);
  - (e) section 55(5A) (order on failure by union to comply with requirements about elections for certain positions);
  - (f) section 72A(5) (order on failure by union to comply with restriction on applying union's funds in the furtherance of political objects);
  - (g) section 80(5A) (order on failure by union to comply with rules as to ballots on political resolutions);
  - (h) section 82(2A) (order on failure by union to comply with rules as to political fund);
  - (i) section 84A(5) (order on failure by union to provide required information to members about contributing to political fund);
  - (j) section 108B(3) (order on breach or threatened breach by union of rules on certain matters);
  - (k) paragraph 5(1) of Schedule A3 (order on failure by union or other person to comply with investigatory requirements).
- (2) In this Schedule “the person in default” means the trade union against which, or other person against whom, an enforcement order is or could be made.
- (3) A reference in this Schedule to taking steps includes a reference to abstaining from acts.

Power to impose financial penalties

2 (1) Where the Certification Officer—

(a) makes an enforcement order, or

(b) has power to make an enforcement order but does not do so,

the Officer may make a penalty order or a conditional penalty order against the person in default.

(2) A “penalty order” is an order requiring the person in default to pay a penalty of a specified amount to the Certification Officer by a specified date.

(3) A “conditional penalty order” is an order requiring the person in default to pay a penalty of a specified amount to the Certification Officer by a specified date unless the person takes specified steps by a specified date or within a specified period.

(4) Where the Certification Office makes both an enforcement order and a conditional penalty order, the steps specified in the conditional penalty order may, but need not, be the same as those that the enforcement order requires the person in default to take.

(5) In this paragraph “specified” means specified in the penalty order or conditional penalty order.

Enforcement of conditional penalty order

3 (1) This paragraph applies where the Certification Officer has made a conditional penalty order.

(2) If the Certification Officer is satisfied that the steps specified in the order have been taken by the date or within the period specified, the Officer must notify the person in default that the penalty is not payable.

(3) If the Certification Officer is not so satisfied, and the penalty has not been paid by the required date, the Officer must make a further order requiring payment of—

(a) the amount originally ordered, or

(b) where sub-paragraph (4) applies, a lesser amount specified in the further order.

(4) This sub-paragraph applies where it appears to the Certification Officer that—

(a) steps specified in the conditional penalty order have to some extent been taken, or have been taken (to any extent) but not by the date or within the period specified, and

(b) it would be just to reduce the amount of the penalty for that reason.

- (5) An order under this paragraph may require payment immediately or by a specified date.

### Representations

- 4 Before making a penalty order or a conditional penalty order, or an order under paragraph 3, the Certification Officer—
- (a) must inform the person in default of the grounds on which the Officer proposes to make the order,
  - (b) must give that person an opportunity to make written representations, and
  - (c) may give that person an opportunity to make oral representations.

### Appeals

- 5 A person in default may appeal to the Employment Appeal Tribunal against a decision of the Certification Officer under this Schedule on the ground that—
- (a) it was based on an error of fact,
  - (b) it was wrong in law, or
  - (c) it was unreasonable,
- or on such other grounds as may be prescribed.

### Amount of penalty

- 6 (1) The amount specified in a penalty order or a conditional penalty order—
- (a) may not be less than the minimum amount set by regulations, and
  - (b) may not be more than the maximum amount set by regulations.
- (2) Different amounts may be set by regulations—
- (a) in relation to different enforcement orders,
  - (b) by reference to whether the person in default is an individual or an organisation, and
  - (c) in the case of an organisation, by reference to the number of members that it has.
- (3) But—

- (a) no minimum amount set by regulations may be less than £200, and
  - (b) no maximum amount set by regulations may be more than £20,000.
- (4) Regulations may amend sub-paragraph (3)(a) or (b) by substituting a different amount.

#### Early or late payment, and enforcement

- 7 (1) In relation to orders under this Schedule requiring payment of penalties, regulations may make provision for—
- (a) early payment discounts;
  - (b) the payment of interest or other financial penalties for late payment;
  - (c) enforcement.
- (2) Provision made by virtue of sub-paragraph (1)(b) must secure that the interest or other financial penalties for late payment do not in total exceed the amount of the penalty itself.
- (3) Provision made by virtue of sub-paragraph (1)(c) may include—
- (a) provision for the Certification Officer to recover the penalty, and any interest or other financial penalty for late payment, as a debt;
  - (b) provision for the penalty, and any interest or other financial penalty for late payment, to be recoverable, on the order of a court, as if payable under a court order.

#### Regulations

- 8 (1) Regulations may make provision that is incidental or supplementary to that made by this Schedule.
- (2) Regulations under this Schedule may include transitional or consequential provision.
- (3) Regulations under this Schedule shall be made by the Secretary of State by statutory instrument.
- (4) No regulations under paragraph 6 or 7 or this paragraph shall be made unless a draft of them has been laid before Parliament and approved by a resolution of each House of Parliament.

#### Payment of penalties etc into Consolidated Fund

- 9 The Certification Officer shall pay into the Consolidated Fund amounts received—



- (a) under penalty orders and conditional penalty orders (including orders under paragraph 3), and
- (b) by way of interest and other financial penalties for late payment in relation to such orders.]

## **Appendix 2 - Statutory Instruments**

2022 No. 264

Trade Unions

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

*Made 8th March 2022*

*Coming into force*

*1st April 2022*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 256D of, and paragraphs 6, 7 and 8 of Schedule A4 to, the Trade Union and Labour Relations (Consolidation) Act 1992<sup>(1)</sup>.

A draft of this instrument was laid before Parliament in accordance with paragraph 8(4) of Schedule A4 to that Act and approved by resolution of each House of Parliament.

PART 1 Preliminary

### **Citation, commencement, extent and interpretation**

**1.**—(1) These Regulations may be cited as the Trade Union (Power of the Certification Officer to Impose Financial Penalties) Regulations 2022.

(2) These Regulations come into force on 1st April 2022.

(3) These Regulations extend to England and Wales and Scotland.

(4) In these Regulations “the 1992 Act” means the Trade Union and Labour Relations (Consolidation) Act 1992.

PART 2 Financial Penalties for the purposes of Schedule A4 to the 1992 Act

### **Minimum penalties**

**2.** The minimum amount that may be specified in a penalty order<sup>(2)</sup> or conditional penalty order<sup>(3)</sup> is £200.

## 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(4) is an organisation is—

(a) Level 1 in relation to enforcement orders(5) 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)(6);

(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);

(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               |

| <i>Number of members of organisation</i>     | <i>Maximum amount</i> |
|--|-----------------------|
| 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<sup>(7)</sup>, 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.

## **Recovery of financial penalties**

**4.—**(1) This regulation applies if all or part of a penalty is unpaid by the relevant payment date.

(2) In this regulation, the relevant payment date is—

(a) if there is no appeal under paragraph 5 of Schedule A4 to the 1992 Act then—

(i) the date specified in the penalty order; or

(ii) in the case of a conditional penalty order, the date specified in a further order the Certification Officer makes in accordance with paragraph 3(3) of Schedule A4 to the 1992 Act;

(b) if there is an appeal then the date when the appeal is withdrawn or finally determined.

(3) Where any amount of a penalty is unpaid by the relevant payment date, that unpaid amount is recoverable as a civil debt due to the Certification Officer.