

*These notes refer to the Pensions (No. 2) Act (Northern Ireland) 2008 (c.13) which received Royal Assent on 15 December 2008*

# Pensions (No. 2) Act (Northern Ireland) 2008

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **PART 1 – Pension Scheme Membership for Jobholders**

#### **CHAPTER 2 – Compliance**

#### **Section 42: Penalty notices: recovery**

*Sections 40 to 42* provide the Pensions Regulator with powers to issue penalty notices where the Regulator is of the opinion that there has been a failure to comply with a compliance notice, a third party compliance notice, an unpaid contributions notice, a notice requiring certain information (Article 67 of the Pensions (Northern Ireland) Order 2005) or any of the provisions listed in *section 40(2)*.

A fixed penalty notice (*section 40*) will require the person to whom it is issued to pay a penalty of up to £50,000 within a specified timeframe. Regulations will set out the actual penalty rate.

An escalating penalty notice (*section 41*) can be issued in cases where there is continuing failure to comply – such as where a fixed penalty notice has been ignored. The penalty will escalate at a rate prescribed in regulations but will not exceed £10,000 per day.

An escalating penalty notice cannot be issued if the Regulator is in the process of undertaking a review of a compliance notice, a third party compliance notice or an unpaid contributions notice, following an application for review by the person to whom such a notice was issued. The Regulator may not issue an escalating penalty notice if the person has exercised his right to make a referral (appeal) to the Pensions Regulator Tribunal against a fixed penalty notice and the referral has not yet been determined (*subsection (2)*).

The Regulator can recover any penalty payable under *sections 40* or *41*. Any such penalties recovered by the Regulator must be paid into the Consolidated Fund (*section 42*).