

PENSIONS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Pension scheme membership for jobholders

Chapter 2: Compliance

Section 45: Offences of failing to comply

Section 46: Offences by bodies corporate

Section 47: Offences by partnerships and unincorporated associations

118. *Sections 45 to 47* make it a criminal offence for employers wilfully to fail to comply with specified duties.
119. These duties are automatic enrolment (section 3(2)), re-enrolment of eligible jobholders into an automatic enrolment scheme (section 5(2)) and the requirement to enrol jobholders into an automatic enrolment scheme at the jobholders' request (section 7(3)).
120. *Section 45* provides that a person who commits such an offence could face imprisonment for up to two years and/or a fine. If convicted in a magistrates' court, the maximum penalty is a fine not exceeding the statutory maximum.
121. *Sections 46* and *47* enable the following to be prosecuted for the section 45 offence:
 - specified individuals within a body corporate, as well as the body corporate itself (section 46);
 - partnerships and individual partners (section 47); and
 - unincorporated associations and officers within these (section 47).