

# **PENSIONS ACT 2008**

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## **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).