



Pensions Act 2008

2008 CHAPTER 30

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 2

COMPLIANCE

Offences and monitoring

45 Offences of failing to comply

- (1) An offence is committed by an employer who wilfully fails to comply with—
 - (a) the duty under section 3(2) (automatic enrolment),
 - (b) the duty under section 5(2) (automatic re-enrolment), or
 - (c) the duty under section 7(3) (jobholder's right to opt in).
- (2) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both;
 - (b) on summary conviction to a fine not exceeding the statutory maximum.

46 Offences by bodies corporate

- (1) Subsection (2) applies where an offence under section 45 committed by a body corporate is proved—
 - (a) to have been committed with the consent or connivance of an officer of the body corporate, or
 - (b) to be attributable to any neglect on the part of an officer of the body corporate.

Changes to legislation: Pensions Act 2008, Cross Heading: Offences and monitoring is up to date with all changes known to be in force on or before 01 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (2) The officer, as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (3) “Officer” in this section means—
 - (a) a director, manager, secretary or other similar officer, or
 - (b) a person purporting to act in such a capacity.
- (4) Where the affairs of a body corporate are managed by its members, this section applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were an officer of the body corporate.

47 Offences by partnerships and unincorporated associations

- (1) Proceedings for an offence under section 45 alleged to have been committed by a partnership or an unincorporated association may be brought in the name of the partnership or association.
- (2) For the purposes of such proceedings—
 - (a) rules of court relating to the service of documents are to have effect as if the partnership or association were a body corporate;
 - (b) the following provisions apply in relation to the partnership or association as they apply in relation to a body corporate—
 - (i) section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43);
 - (ii) section 70 of the Criminal Procedure (Scotland) Act 1995 (c. 46).
- (3) A fine imposed on a partnership or association on its conviction of an offence under section 45 is to be paid out of the funds of the partnership or association.
- (4) Subsection (5) applies where an offence under section 45 committed by a partnership is proved—
 - (a) to have been committed with the consent or connivance of a partner, or
 - (b) to be attributable to any neglect on the part of a partner.
- (5) The partner, as well as the partnership, is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (6) Subsection (7) applies where an offence under section 45 committed by an unincorporated association is proved—
 - (a) to have been committed with the consent or connivance of an officer of the association, or
 - (b) to be attributable to any neglect on the part of an officer of the association.
- (7) The officer, as well as the association, is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (8) “Officer” in this section means—
 - (a) an officer of the association or a member of its governing body, or
 - (b) a person purporting to act in such capacity.
- (9) “Partner” in this section includes a person purporting to act as a partner.

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48 Offences of providing false or misleading information

In section 80(1)(a) of the Pensions Act 2004 (c. 35) (offences of providing false or misleading information)—

- (a) at the end of sub-paragraph (iv) insert “or
 (“) regulations under section 11 of the Pensions Act
 2008,”;
- (b) omit “or” at the end of sub-paragraph (iii).

49 Monitoring of employers' payments to personal pension schemes

In section 111A of the Pension Schemes Act 1993 (c. 48) (monitoring of employers' payments to personal pension schemes), at the end insert—

- “(18) In this section, “employee” includes a jobholder within the meaning of section 1 of the Pensions Act 2008 and “employer” is to be read accordingly.”

Commencement Information

- II** S. 49 wholly in force at 30.6.2012; s. 49 not in force at Royal Assent see s. 149(1); s. 49 in force for specified purposes at 3.1.2012 by [S.I. 2011/3033](#), [art. 2\(a\)](#); s. 49 in force so far as not already in force at 30.6.2012 by [S.I. 2012/1682](#), [art. 2\(1\)\(2\)\(a\)](#), [Sch. 1](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(1A) inserted by [2023 c. 44 s. 1\(2\)](#)
- s. 5(1C) inserted by [2023 c. 44 s. 1\(3\)](#)
- s. 13(3)(ec) inserted by [2023 c. 20 Sch. para. 56](#)
- s. 13A inserted by [2023 c. 44 s. 1\(4\)](#)
- s. 24(1)(c) inserted by [2015 c. 8 Sch. 2 para. 43\(2\)\(d\)](#)
- s. 143(6)(7) inserted by [2023 c. 44 s. 1\(5\)\(b\)](#)