



2008 CHAPTER 13

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 2

COMPLIANCE

Offences and monitoring

Offences of failing to comply

45.—(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.

Offences by bodies corporate

46. For the purposes of an offence under section 45, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, 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 a director of the body corporate.

Offences by partnerships and unincorporated associations

47.—(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) Schedule 4 to the [Magistrates' Courts \(Northern Ireland\) Order 1981 \(NI 26\)](#) applies in relation to the partnership or association as it applies in relation to a body corporate.

(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.

Offences of providing false or misleading information

48. In Article 75(1)(a) of the 2005 Order (offences of providing false or misleading information)—

(a) at the end of head (iv) add "or

(v) regulations under section 11 of the Pensions (No. 2) Act (Northern Ireland) 2008 (information to be given to the Pensions Regulator);”;

(b) omit “or” at the end of head (iii).

Monitoring of employers' payments to personal pension schemes

49. In section 107A of the Pension Schemes Act, at the end add—

“(18) In this section, “employee” includes a jobholder within the meaning of section 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 and “employer” is to be read accordingly.”.