

*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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 1 – Pension Scheme Membership for Jobholders

CHAPTER 2 – Compliance

Section 36: Third party compliance notices

This Act introduces powers for the Pensions Regulator to issue compliance notices. Where the Regulator is of the opinion that a contravention of the employer duties has occurred, a compliance notice will be the formal method of communicating the actions that should be taken to comply, and the consequences of not doing so. Compliance notices will generally be the first step in the graduated compliance regime.

Section 35 gives the Pensions Regulator the power to issue a compliance notice to a person who has breached an employer duty. Employer duties will generally apply to employers, but may also apply to other persons specified in regulations. A compliance notice will direct the recipient to put right their breach of the employer duty.

A compliance notice may require the recipient to take specific steps to place the jobholder in the same position, as nearly as possible, as if the breach had not occurred (*subsections (4) and (5)*).

Section 36 provides that a “third party compliance notice” can be issued to a person (the third party) if the Pensions Regulator is of the opinion that a person has contributed to a breach of the employer duties by someone else who is subject to the duties. A third party compliance notice will direct the recipient to put right the action or inaction that contributed to the breach of the duty.

An example of where a third party compliance notice might be issued is where a scheme or pension provider has failed to process the enrolment information it has received from the employer and this prevents the employer from meeting the enrolment duty.