



## 2008 CHAPTER 13

### PART 1

#### PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

##### CHAPTER 2

##### COMPLIANCE

##### *Penalty notices*

##### **Fixed penalty notices**

**40.—**(1) The Regulator may issue a fixed penalty notice to a person if it is of the opinion that the person has failed to comply with—

- (a) a compliance notice under section 35,
- (b) a third party compliance notice under section 36,
- (c) an unpaid contributions notice under section 37, or
- (d) a notice issued under Article 67 of the 2005 Order (provision of information).

(2) The Regulator may issue a fixed penalty notice to a person if it is of the opinion that the person has contravened—

- (a) any provision of regulations under section 3(2) or 5(2) (prescribed arrangements for automatic enrolment or re-enrolment),
- (b) any provision of regulations under section 7(4) (prescribed arrangements: jobholder's right to opt in),
- (c) section 8(2)(b) (refund of contributions if jobholder opts out of scheme membership), and any provision of regulations under that provision,

- (d) section 10 (requirement to give information to workers) and any provision of regulations under that section, or
  - (e) any provision of regulations under section 59 (requirement to keep records).
- (3) A fixed penalty notice is a notice requiring the person to whom it is issued to pay a penalty within the period specified in the notice.
- (4) The penalty—
- (a) is to be determined in accordance with regulations, and
  - (b) must not exceed £50,000.
- (5) A fixed penalty notice must—
- (a) state the amount of the penalty;
  - (b) state the date, which must be at least four weeks after the date on which the notice is issued, by which the penalty must be paid;
  - (c) state the period to which the penalty relates;
  - (d) if the notice is issued under subsection (1), specify the failure to which the notice relates;
  - (e) if the notice is issued under subsection (2), specify the provision or provisions that have been contravened;
  - (f) if the notice is issued under subsection (1), state that, if the failure to comply continues, the Regulator may issue an escalating penalty notice under section 41;
  - (g) notify the person to whom the notice is issued of the review process under section 43 and the right of referral to the Pensions Regulator Tribunal under section 44.