

Draft Order laid before Parliament under section 143(4) and (5)(c) of the Pensions Act 2008, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2015 No. 0000

PENSIONS

**The National Employment Savings Trust (Amendment) Order
2015**

Made - - - - *****
Coming into force - - *1st April 2017*

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 67(1) and (8), 70(4) and 144(2) and (4) of the Pensions Act 2008(a).

In accordance with section 71(4) of that Act, the trustees(b) have consulted the members' panel and the employers' panel(c), and in accordance with section 71(2) of that Act, the Secretary of State has obtained the consent of the trustees before making this Order.

In accordance with section 143(4) and (5)(c) of that Act, a draft of this Order was laid before Parliament and approved by resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the National Employment Savings Trust (Amendment) Order 2015 and comes into force on 1st April 2017.

Amendment of the National Employment Savings Trust Order 2010

2.—(1) The National Employment Savings Trust Order 2010(d) is amended as follows.

(2) In article 2 (interpretation), after the definition of “the NI Act” insert—

““the NI Preservation Regulations” means the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(e);

“the Preservation Regulations” means the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(f);”.

(3) In article 18 (duty to admit employers), in each place in which it occurs, for “article 19(6)” substitute “article 19(6A)”.

(a) 2008 c. 30.

(b) The term “trustees” is defined in section 78 of the Pensions Act 2008.

(c) The terms “members' panel” and “employers' panel” are defined in section 78 of the Pensions Act 2008.

(d) S.I. 2010/917, amended by S.I. 2013/597.

(e) S.R. (NI) 1991 No 37.

(f) S.I. 1991/167.

- (4) For the heading to article 19 (duty to admit members) substitute “Admittance of members”.
- (5) In article 19—
- (a) after paragraph (4) insert—
- “(4A) Subject to paragraph (6), the Trustee may admit as a member of the Scheme a person if—
- (a) the conditions set out—
- (i) in relation to Great Britain, in paragraphs (2) and (3) of regulation 12 of the Preservation Regulations^(a) (transfer of member’s accrued rights without consent); or
- (ii) in relation to Northern Ireland, in paragraphs (2) and (3) of regulation 12 of the NI Preservation Regulations^(b) (transfer of member’s accrued rights without consent),
- are satisfied in relation to that person; and
- (b) the employer referred to—
- (i) in relation to Great Britain, in regulation 12(2) of the Preservation Regulations as the employer of persons to which the receiving scheme relates; or
- (ii) in relation to Northern Ireland, in regulation 12(2) of the NI Preservation Regulations as the employer of persons to which the receiving scheme relates, is a participating employer and is making contributions to the Scheme in respect of or on behalf of a jobholder.”; and
- (b) for paragraph (6) substitute—
- “(6) Where a person has already been admitted as a member of the Scheme under this article, the Trustee must not admit the person afresh but instead must comply with paragraph (6A).
- (6A) Where paragraph (6) applies, the Trustee must make arrangements for any amount received by the Trustee from, or in respect or on behalf of, the member in relation to the new employment or a new instance described in paragraph (4) or (4A) to be applied to the member’s pension account.”.
- (6) In article 21 (members’ accounts)—
- (a) in paragraph (2) omit “articles 22 to 26 and”; and
- (b) in paragraph (7) omit “and to articles 24 and 26”.
- (7) Omit articles 22 to 26 (annual contribution limit, timing of contributions, multiple employment).
- (8) In article 28(2)(b) (power to invest the Scheme’s assets), for “articles 30 and 31” substitute “article 31”.
- (9) Omit article 30 (acceptance by trustee of cash transfer sums).
- (10) For the heading to article 32 (benefits) substitute “Payment of benefits by the Trustee”.
- (11) In article 32—
- (a) for paragraph (2)(a) substitute—
- “(a) where a member is alive, the payment to the member of a lump sum or the purchase of a lifetime annuity policy in the name of the member, or both;”; and
- (b) omit paragraph (3).

(a) Regulation 12(2) was substituted by S.I. 1992/1531, regulation 35, and amended by S.I. 1996/2131, regulation 2(7)(a) and S.I. 2013/459, regulation 2(4). Regulation 12(3) was substituted by S.I. 2011/672, regulation 3(2)(a).

(b) Regulation 12(2) was substituted by S.R. (NI) 1992 No 304, regulation 35, and amended by S.R. (NI) 1996 No 620, regulation 2(7)(a) and S.R. (NI) 2013 No 72, regulation 2(4). Regulation 12(3) was substituted by S.R. (NI) 2011 No 89, regulation 3(2)(a).

Repeal of section 70 of the Pensions Act 2008

3. Section 70 of the Pensions Act 2008 (contribution limits) is repealed.

Signed by authority of the Secretary of State for Work and Pensions.

Date _____
Name _____
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the National Employment Savings Trust Order 2010 (S.I. 2010/917) (“the Order”) and the Pensions Act 2008 (c. 30) (“the Act”).

Section 67(1) of the Act and article 3 of the Order established a pension scheme known as the National Employment Savings Trust (“the Scheme”). The National Employment Savings Trust Corporation established under section 75 of the Act was appointed as the trustee of the Scheme (“the Trustee”) under article 4 of the Order.

Paragraph (5) of article 2 amends article 19 of the Order so as to provide that the Trustee may admit a person as a member of the Scheme, unless the person has already been admitted as a member, if certain conditions are satisfied. These conditions are that—

- the conditions set out in regulation 12(2) and (3) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167) (“the Regulations”) or of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991 (S.R. (NI) 1991 No 37) (“the NI Regulations”), which relate to transfers of a member’s accrued rights without consent, are satisfied in relation to that person; and
- the employer referred to in regulation 12(2) of the Regulations or of the NI Regulations as the employer which uses the receiving scheme is a participating employer in the Scheme and is currently making contributions to the Scheme on behalf of or in respect of a jobholder.

Paragraph (7) of article 2 removes articles 22 to 26 from the Order so that there is no annual contribution limit for contributions made in each tax year by, or on behalf or in respect of, a member of the Scheme.

Paragraph (9) of article 2 removes article 30 from the Order, which limited the Trustee to accepting transfers in which were cash transfer sums.

Paragraph (11) of article 2 amends article 32 of the Order so as to lift the restrictions on transfers of a member’s pension account to another pension scheme. The restrictions limited such transfers to situations where the conditions in regulation 2(2) or (3) of the Transfer Values (Disapplication) Regulations 2010 (S.I. 2010/6) or, in Northern Ireland, of the Transfer Values (Disapplication) Regulations (Northern Ireland) 2010 (S.R. (NI) 2010 No 121) were met.

Paragraphs (2), (3), (4), (6), (8) and (10) of article 2 make consequential amendments to the Order.

Article 3 repeals section 70 of the Act to remove the requirement to prescribe the maximum amount of contributions that may be made by or in respect of a member in any tax year.

An assessment of the impact of this Order on private sector and civil society organisations has been made. A copy of this assessment is available in the libraries of both Houses of Parliament and alongside this instrument on www.legislation.gov.uk. Copies may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA.

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