
STATUTORY INSTRUMENTS

2010 No. 917

The National Employment Savings Trust Order 2010

PART 4

Scheme membership and employer participation

Duty to admit employers

18.—(1) Subject to paragraph (2), the Trustee must admit to participation in the Scheme, on condition that the employer agrees to employer terms and conditions—

- (a) an employer of a jobholder that wishes to comply with its duty in relation to the jobholder under—
 - (i) in relation to Great Britain, section 3(2), 5(2) or 7(3) of the Act; or
 - (ii) in relation to Northern Ireland, section 3(2), 5(2) or 7(3) of the NI Act,by arranging for the jobholder to become a member of the Scheme or by making arrangements in relation to the jobholder as referred to in [^{F1}article 19(6A)];
- (b) an employer of a jobholder that wishes to arrange for the jobholder to become a member of the Scheme or to make arrangements in relation to the jobholder as referred to in [^{F1}article 19(6A)], for the purposes of—
 - (i) in relation to Great Britain, section 2(3) of the Act (in connection with the duty under section 2(1) of the Act); or
 - (ii) in relation to Northern Ireland, section 2(3) of the NI Act (in connection with the duty under section 2(1) of the NI Act); and
- (c) an employer of a worker⁽¹⁾ that wishes to comply with its duty in relation to the worker under—
 - (i) in relation to Great Britain, section 9(2) of the Act; or
 - (ii) in relation to Northern Ireland, section 9(2) of the NI Act,by arranging for the worker to become a member of the Scheme or by making arrangements in relation to the worker as referred to in [^{F1}article 19(6A)].

(2) Where paragraph (1)(a), (b) or (c) applies and the relevant duty arises by virtue of the employer satisfying the conditions in [^{F2}regulation 3(3) and (4)] of the Employers' Duties (Implementation) Regulations 2010⁽²⁾ (or, in Northern Ireland, the conditions in [^{F2}regulation 3(3) and (4)] of the Employers' Duties (Implementation) Regulations (Northern Ireland) 2010⁽³⁾), then paragraph (1) applies as if—

- (a) for “must admit” there were substituted “may admit”; and
- (b) “on condition that the employer agrees to employer terms and conditions” were omitted.

(1) “Worker” is defined in section 88 of the Act and section 70 of the NI Act.
(2) S.I. 2010/4.
(3) S.R. 2010 No. 123.

(3) Where—

- (a) in relation to Great Britain, sections 2 to 9 of the Act; or
- (b) in relation to Northern Ireland, sections 2 to 9 of the NI Act,

do not yet apply in relation to an employer, the Trustee may admit the employer to participation in the Scheme in the circumstances specified in paragraph (4).

[^{F3}(3A) Where an employer wishes to arrange for a worker to become a member of the Scheme other than in accordance with—

- (a) in relation to Great Britain, sections 2 to 9 of the Act; or
- (b) in relation to Northern Ireland, sections 2 to 9 of the NI Act,

the Trustee may admit the employer to participation in the Scheme in the circumstances specified in paragraph (4).]

(4) The specified circumstances are where—

- (a) the employer is an employer of a worker who—
 - (i) works or ordinarily works in the United Kingdom under the worker’s contract; and
 - (ii) is aged at least 16 and under 75; and
- (b) the employer wishes to arrange for the worker to become a member of the Scheme or wishes to make arrangements in relation to the worker as referred to in [^{F1}article 19(6A)].

(5) Where an employer is admitted to participation in the Scheme under this article, it is admitted with respect to any jobholder or worker of the employer who may at any time be admitted as a member of the Scheme, or with respect to whom arrangements may at any time be made as referred to in [^{F1}article 19(6A)].

[^{F4}(5A) A participating employer may, by giving notice to the Trustee, terminate its participation in the Scheme in accordance with rules.]

(6) In this article, “employer terms and conditions” means terms and conditions, provided for by rules, for admittance of employers to participation in the Scheme.

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| F1 | Words in art. 18 substituted (1.4.2017) by The National Employment Savings Trust (Amendment) Order 2015 (S.I. 2015/178) , arts. 1, 2(3) |
| F2 | Words in art. 18(2) substituted (1.4.2013) by The National Employment Savings Trust (Amendment) Order 2013 (S.I. 2013/597) , arts. 1, 2(5)(a) |
| F3 | Art. 18(3A) inserted (6.4.2018) by The National Employment Savings Trust (Amendment) Order 2018 (S.I. 2018/368) , arts. 1, 2(3) |
| F4 | Art. 18(5A) inserted (1.4.2013) by The National Employment Savings Trust (Amendment) Order 2013 (S.I. 2013/597) , arts. 1, 2(5)(b) |

Commencement Information

- I1** [Art. 18](#) in force at 5.7.2010, see [art. 1\(3\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The National Employment Savings Trust Order 2010, Section 18.