
STATUTORY INSTRUMENTS

2010 No. 917

The National Employment Savings Trust Order 2010

PART 4

Scheme membership and employer participation

[^{F1}Admittance of members]

- 19.**—(1) Subject to paragraph (6), the Trustee must admit as a member of the Scheme—
- (a) a jobholder employed by a participating employer, where the employer 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;
 - (b) a jobholder employed by a participating employer, where the employer wishes to make arrangements for the jobholder to become a member of the Scheme for the purposes of—
 - (i) in relation to Great Britain, section 2(3) of the Act (in connection with the duty in 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 in section 2(1) of the NI Act); and
 - (c) a worker employed by a participating employer, where the employer wishes to comply with its duty in relation to the worker under—
 - (i) in relation to Great Britain, section 9(2) of the Act;
 - (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.
- (2) Subject to paragraph (6), 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 a participating employer, the Trustee may admit as a member of the Scheme a worker employed by the employer in the circumstances specified in paragraph (3).

[^{F2}(2A) Subject to paragraph (6), 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 as a member of the Scheme a worker employed by the employer in the circumstances specified in paragraph (3).]

- (3) The specified circumstances are where—

- (a) the worker is a worker who—
 - (i) is working 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 and the worker wish the worker to become a member of the Scheme.
- [^{F3}(4) Subject to paragraph (6), the Trustee must admit as a member a person who wishes to join the Scheme and who is—
- (a) a self-employed person aged at least 16 and under 75, who is working or ordinarily works in the United Kingdom and who is not a qualifying self-employed person;
 - (b) a single person director aged at least 16 and under 75, who is working or ordinarily works in the United Kingdom and who is not a qualifying person; or
 - (c) a person entitled to a pension credit as referred to in article 31(1)(a)(i).]
- [^{F4}(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 (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 (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.]
- [^{F5}(4B) Subject to paragraph (6), the Trustee may admit as a member of the Scheme a person if—
- (a) in relation to Great Britain, a scheme provides for a transfer of accrued rights in accordance with section 73(2)(a) of the Pension Schemes Act 1993; or
 - (b) in relation to Northern Ireland, a scheme provides for a transfer of accrued rights in accordance with section 69(2)(a) of the Pension Schemes (Northern Ireland) Act 1993,
- in relation to that person, and 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.]
- (5) In this article—
- (a) a person is self-employed if the person is in employment but is not employed [^{F6}in relation to that employment] by someone else;
 - (b) in sub-paragraph (a), “employment” includes any trade, business, profession, office or vocation;
 - (c) a “single person director” means a person who is—
 - (i) a director of a company; and
 - (ii) employed by the company under a contract of employment,
 where the company does not employ any other persons under a contract of employment;

(d) in sub-paragraph (c), a company includes any body corporate.

[^{F7}(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.]

^{F8}(7)

Textual Amendments

- F1** Art. 19 heading substituted (1.4.2017) by [The National Employment Savings Trust \(Amendment\) Order 2015 \(S.I. 2015/178\)](#), arts. 1, **2(4)**
- F2** Art. 19(2A) inserted (6.4.2018) by [The National Employment Savings Trust \(Amendment\) Order 2018 \(S.I. 2018/368\)](#), arts. 1, **2(4)(a)**
- F3** Art. 19(4) substituted (1.4.2013) by [The National Employment Savings Trust \(Amendment\) Order 2013 \(S.I. 2013/597\)](#), arts. 1, **2(6)(a)**
- F4** Art. 19(4A) inserted (1.4.2017) by [The National Employment Savings Trust \(Amendment\) Order 2015 \(S.I. 2015/178\)](#), arts. 1, **2(5)(a)**
- F5** Art. 19(4B) inserted (6.4.2018) by [The National Employment Savings Trust \(Amendment\) Order 2018 \(S.I. 2018/368\)](#), arts. 1, **2(4)(b)**
- F6** Words in art. 19(5)(a) inserted (1.4.2013) by [The National Employment Savings Trust \(Amendment\) Order 2013 \(S.I. 2013/597\)](#), arts. 1, **2(6)(b)**
- F7** Art. 19(6)(6A) substituted for art. 19(6) (1.4.2017) by [The National Employment Savings Trust \(Amendment\) Order 2015 \(S.I. 2015/178\)](#), arts. 1, **2(5)(b)**
- F8** Art. 19(7) omitted (1.4.2013) by virtue of [The National Employment Savings Trust \(Amendment\) Order 2013 \(S.I. 2013/597\)](#), arts. 1, **2(6)(c)**

Commencement Information

- I1** Art. 19 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 19.