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STATUTORY INSTRUMENTS

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**2010 No. 917**

**The National Employment Savings Trust Order 2010**

**PART 5**

**The Scheme Fund**

**Deductions from members' accounts**

**27.**—(1) The Trustee must make deductions from members' pension accounts to contribute to the general costs of the setting up, administration and management of the Scheme.

(2) The Secretary of State must determine the method of calculating how to make deductions during an initial period and for how long that initial period applies.

(3) After the initial period, the Trustee may determine subsequent methods of calculating how to make deductions.

(4) The Trustee must determine the level of deductions to be made from members' pension accounts, using the method of calculation determined by the Secretary of State or the Trustee thereafter.

(5) Subject to paragraph (6), the Trustee must set the deductions at a level that—

- (a) meets the general costs of the setting up, administration and management of the Scheme; and
- (b) allows it to maintain such reserve as it reasonably considers is needed in order to ensure that the Trustee is able to meet its costs where there are unexpected changes in income to, or costs payable by, the Scheme.

(6) In determining the level, the Trustee must have regard to any other sources of income to, and costs payable from, the Scheme.

(7) The Trustee may make further deductions from members' pension accounts to meet the costs of providing a service with respect to members' pension accounts in a particular case or class of case.

(8) In determining a method of calculating how to make deductions, determining the level of deductions under paragraph (4) and making deductions under paragraph (7), the Secretary of State or the Trustee, as the case may be, must ensure that—

- (a) deductions will be applied on a consistent basis between members' pension accounts; and
- (b) a pension account of a member of the Scheme (A) will not be subject to a different level or amount of deduction to another member's pension account solely on the basis of—
  - (i) where A is a worker, the number of persons who are or may in the future become members of the Scheme and workers in relation to A's employer;
  - (ii) the amount of time during which contributions may be made by, or on behalf or in respect of, A;
  - (iii) where A is a worker, the amount of time during which contributions may be made by, or on behalf or in respect of, other persons who are or may in the future become members of the Scheme and workers in relation to A's employer;

- (iv) the income that is, or may in the future be, earned by A; or
  - (v) where A is a worker, the income that is or may be earned by other persons, as referred to in paragraph (9),
- or solely on the basis of more than one of paragraphs (i) to (v) above, in any combination.
- (9) The income referred to is income that —
- (a) is, or may in the future be, earned by other members of the Scheme who are workers in relation to A's employer; or
  - (b) may in the future be earned by other persons who may become members of the Scheme and workers in relation to A's employer,
- (10) Where the Secretary of State—
- (a) has given financial assistance in the form of a loan to the Trustee pursuant to paragraph 18 of Schedule 1 to the Act for the purposes of setting up, administering and managing the Scheme and such assistance is still ongoing; and
  - (b) is of the opinion that the level of deductions under paragraph (4) is, or the deductions under paragraph (7) are, unreasonably high in the circumstances, having regard in particular to the principle that the cost of participation in the Scheme to members should be minimised,
- the Secretary of State may determine an upper limit to the level of deductions under paragraph (4) or deductions under paragraph (7) that may be made from members' pension accounts.
- (11) Where the Secretary of State—
- (a) has given financial assistance in the form of a loan to the Trustee pursuant to paragraph 18 of Schedule 1 to the Act for the purposes of setting up, administering and managing the scheme and such assistance is still ongoing; and
  - (b) is of the opinion that the trustee is in breach of any condition of the loan,
- the Secretary of State may determine a lower limit to the level of deductions under paragraph (4) or deductions under paragraph (7) that may be made from members' pension accounts.
- (12) Where the Secretary of State determines an upper limit, the Trustee may not exceed that limit in the level of deductions it determines or the deductions which it makes.
- (13) Where the Secretary of State determines a lower limit, the Trustee must determine a level of deductions, or make deductions, at or above that limit.
- (14) Where the Secretary of State determines an upper or lower limit—
- (a) the Secretary of State may make a further determination removing that limit; and
  - (b) on the date any financial assistance given or ongoing for the purposes of paragraphs (10) and (11) is repaid to the Secretary of State, such a further determination shall be deemed to have been made removing that limit.
- (15) The Trustee must consult with the members' panel before—
- (a) determining subsequent methods of calculating how to make deductions, as referred to in paragraph (3); or
  - (b) making changes to the level of deductions from members' pension accounts under paragraph (4) or to deductions under paragraph (7).
- (16) The Trustee must make available the information specified in paragraph (17) by placing it on the internet.
- (17) The specified information is information about—

- (a) the method of calculating how to make deductions, determined under paragraph (2), and any subsequent method of calculating how to make deductions, determined under paragraph (3); and
- (b) the level of deductions determined under paragraph (4) and any deductions made or to be made under paragraph (7), as they have effect from time to time.