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STATUTORY INSTRUMENTS

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**2013 No. 597**

**The National Employment Savings  
Trust (Amendment) Order 2013**

**Amendment of the National Employment Savings Trust Order 2010**

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

(2) In article 1(2) (citation and commencement) for “1st October 2016” substitute “1st March 2018”.

(3) In article 2 (interpretation)—

(a) for the definition of “participating employer” substitute—

““participating employer” means an employer that has been admitted to participation in the Scheme and, except in articles 8 and 19, may include an employer that was formerly participating in the Scheme;”;

(b) after the definition of “qualifying arrangement” insert—

““qualifying person” and “qualifying self-employed person” have the same meanings as—

(a) in Great Britain, in regulation 2(1) of the Occupational Pension Schemes (Cross-border Activities) Regulations 2005(2); or

(b) in Northern Ireland, in regulation 2(1) of the Occupational Pension Schemes (Cross-border Activities) Regulations (Northern Ireland) 2005(3);

“quality requirement” means the quality requirement under—

(a) in relation to Great Britain, Part 1 of the Act; or

(b) in relation to Northern Ireland, Part 1 of the NI Act;”.

(4) In article 13(5) (protection) for “paragraph (6)” substitute “paragraph (7)”.

(5) In article 18 (duty to admit employers)—

(a) in paragraph (2), in both places where the words occur, for “regulation 3(4) or (5)” substitute “regulation 3(3) and (4)(4)”; and

(b) after paragraph (5) insert—

“(5A) A participating employer may, by giving notice to the Trustee, terminate its participation in the Scheme in accordance with rules.”.

(6) In article 19 (duty to admit members)—

(a) for paragraph (4) substitute—

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(1) [S.I. 2010/917](#).

(2) [S.I. 2005/3381](#). Relevant amendments were made to regulation 2(1) by [S.I. 2007/3014](#).

(3) [S.R. 2005 No. 581](#). Relevant amendments were made to regulation 2(1) by [S.R. 2007 No. 457](#).

(4) Regulation 3 of the Employers’ Duties (Implementation) Regulations 2010 ([S.I. 2010/4](#)) was amended by [S.I. 2012/215](#) and [S.I. 2012/1813](#). Regulation 3 of the Employers’ Duties (Implementation) Regulations (Northern Ireland) 2010 ([S.R. 2010 No. 123](#)) was amended by [S.R. 2012 No. 232](#) and [S.R. 2012 No. 332](#).

- “(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).”;
- (b) in paragraph (5)(a) after “is not employed” insert “in relation to that employment”; and
- (c) omit paragraph (7).
- (7) In article 20 (transitory provision) omit sub-paragraph (a) and the word “and” preceding sub-paragraph (b).
- (8) In article 21 (members’ accounts)—
- (a) in paragraph (2)—
    - (i) for “paragraph (3)” substitute “paragraphs (2A) and (3)”;
    - (ii) for sub-paragraph (c) substitute—
      - “(c) any other person in respect of the member.”; and
  - (b) after paragraph (2) insert—
    - “(2A) The Trustee may refuse to accept contributions which relate to the employment of a member of the Scheme in which the member is—
      - (a) a qualifying person; or
      - (b) a qualifying self-employed person.”;
  - (c) in paragraph (4) omit the second “under” and sub-paragraphs (a) and (b);
  - (d) for paragraph (7)(a), substitute—
    - “(a) to the member, where the contributions were made by the member.”;
  - (e) in paragraph (7)(b) for “in respect of the member” substitute “on behalf of or in respect of the member; or”;
  - (f) after paragraph (7)(b) insert—
    - “(c) to the person who made the contributions, where the contributions have been made in respect of the member by a person other than the member or a participating employer.”; and
  - (g) for paragraph (8) substitute—
    - “(8) In the case specified in paragraph (9)(a), the Trustee must provide a refund of contributions—
      - (a) where the contributions were made by a participating employer in respect of or on behalf of the member, to the participating employer with respect to which the notice was given;
      - (b) where the member has made contributions to the Scheme on the member’s own behalf, to the member; or
      - (c) where the contributions have been made by a person other than the member or a participating employer, to the person who made the contributions.”.
- (9) In article 22(4)(a) (annual contribution limit) for “paragraph (2)” substitute “paragraph (3)”.

(10) In article 23(1) (annual contribution limit: meaning of contributions) omit “and in particular” to the end.

(11) In article 24 (annual contribution limit: refund of excess contributions)—

(a) in paragraph (2) for sub-paragraph (c) substitute—

“(c) any other person in respect of a member.”;

(b) at the end of paragraph (2) insert “or, where the contributions were made in respect of a member by a person other than the member or a participating employer, to the person who made the contributions.”; and

(c) in paragraph (3) for sub-paragraph (c) substitute—

“(c) any other person in respect of the member.”.

(d) In paragraph (5)—

(i) at the end of sub-paragraph (b) omit “or”;

(ii) in sub-paragraph (c) after “employer” insert “; or”; and

(iii) after sub-paragraph (c) insert—

“(d) refunded to the person who made the contributions in respect of the member.”

(12) In article 26 (multiple employment)—

(a) omit paragraph (4); and

(b) for paragraph (5) substitute—

“(5) In this article, “minimum contributions” means contributions made to the Scheme by a participating employer on behalf or in respect of a member of the Scheme which enable the Scheme to satisfy the quality requirement.”.

(13) In article 32 (benefits)—

(a) in paragraph (2)(b) for “of the next of kin of the member” substitute “persons to be determined by the Trustee in accordance with rules”; and

(b) in paragraph (4)—

(i) at the end of the definition of “charity lump sum death benefit” insert “and”;

(ii) at the end of the definition of “lifetime annuity” omit “and”; and

(iii) omit the definition of “next of kin”.