

2011 No. 673

PENSIONS

**The Application of Pension Legislation to the National
Employment Savings Trust Corporation Regulations 2011**

<i>Made</i>	- - - -	<i>5th March 2011</i>
<i>Laid before Parliament</i>		<i>10th March 2011</i>
<i>Coming into force</i>	- -	<i>6th April 2011</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 77 and 144(2) and (4) of the Pensions Act 2008(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Application of Pension Legislation to the National Employment Savings Trust Corporation Regulations 2011 and shall come into force on 6th April 2011.

(2) In these Regulations—

“the corporation” means the National Employment Savings Trust Corporation established under section 75(1) of the Pensions Act 2008(b).

The Application of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996

2. The Occupational Pension Schemes (Disclosure of Information) Regulations 1996(c) apply in relation to the corporation as if—

(a) in regulation 1(2) (interpretation) the following words were inserted in the appropriate place—

““the corporation” means the National Employment Savings Trust Corporation established under section 75(1) of the Pensions Act 2008(d);”;

(b) for paragraphs 6 and 7 of Schedule 1 (basic information about the scheme) there was substituted—

“6.—(1) Where a member of the scheme is a member in relation to an employer, a summary of the contributions that the member and the employer are required to pay under Chapter 1 of Part 1 of the Pensions Act 2008(e) and the scheme rules.

(a) 2008 c.30.

(b) The corporation was so named by S.I. 2010/3. Under section 76(1) of the Pensions Act 2008, the corporation has the function of acting as a trustee of a scheme established under section 67 of the Act.

(c) S.I. 1996/1655.

(d) 2008 c.30.

(e) The relevant provisions have not yet been commenced.

(2) Where a member of the scheme is a member otherwise than in relation to an employer, a statement as to the contributions currently payable by, on behalf of or in respect of, the member, as notified by the member to the corporation.

(3) Where applicable, a statement of the maximum amount of contributions that may be paid to the scheme by, or on behalf of or in respect of, a member of the scheme in any tax year.

(4) For the purposes of sub-paragraph (1), “the scheme rules” means the National Employment Savings Trust Order 2010(a) and the rules made under section 67 of the Pensions Act 2008(b).”; and

(c) for paragraph 16 of Schedule 3(c) (information to be included in annual report) there was substituted—

“16.—(1) A statement—

- (a) listing the hundred largest investments by value held by the scheme as at the end of the scheme year and stating what percentage of the resources of the scheme each such investment represents;
- (b) identifying which of the investments referred to in paragraph (a) are employer-related investments; and
- (c) if, as at the end of the scheme year, more than 5% of the resources of the scheme are invested in employer-related investments in contravention of subsection (1) of section 40 of the 1995 Act in relation to a particular employer(d)—
 - (i) listing those employer-related investments and the name of the employer concerned;
 - (ii) as to the steps the corporation has taken or proposes to take to ensure that the percentage is reduced to 5% or less; and
 - (iii) as to the time when any proposed steps will be taken.

(2) In sub-paragraph (1), “employer-related investments” has the same meaning as in subsection (2) of section 40 of the 1995 Act but as if the following words in subsection (2) were omitted—

- (a) in paragraph (a), “or by any person who is connected with, or an associate of, the employer”; and
- (b) “or any such person”, in each place where they occur.”.

Application of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996

3. The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996(e) apply in relation to the corporation as if for paragraph 5 of the Schedule (f) there was substituted—

“5.—(1) A statement—

- (a) listing the hundred largest investments by value held by the scheme as at the end of the scheme year and stating what percentage of the resources of the scheme each such investment represents;

(a) S.I. 2010/917.

(b) A copy of the scheme rules are available from the National Employment Savings Trust website.

(c) Paragraph 16 was substituted by S.I. 1997/786.

(d) Under regulations 12(2) and 16(5) of S.I. 2005/3378 as applied to the corporation by S.I. 2010/8, not more than 5% of the current market value of the resources of the scheme may at any time be invested in investments which are employer-related investments (as defined by section 40 of the Pensions Act 1995 (c.26)) in relation to a particular employer.

(e) S.I. 1996/1975.

(f) Paragraph 5 was substituted by S.I. 1997/3038 and the substituted paragraph was amended by S.I. 2006/778.

- (b) identifying which of the investments referred to in paragraph (a) are employer-related investments; and
- (c) if, as at the end of the scheme year, more than 5% of the resources of the scheme are invested in employer-related investments in contravention of subsection (1) of section 40 of the Pensions Act 1995, listing the employer-related investments and the name of the employer concerned.

(2) In sub-paragraph (1), “employer-related investments” has the same meaning as in subsection (2) of section 40 of the 1995 Act but as if the following words in subsection (2) were omitted—

- (i) in paragraph (a), “or by any person who is connected with, or an associate of, the employer”; and
- (ii) “or any such person”, in each place where they occur.”.

Application of the Occupational Pension Schemes (Investment) Regulations 2005

4. The Occupational Pension Schemes (Investment) Regulations 2005(a) apply in relation to the corporation as if for paragraph (2) of regulation 5 there was substituted—

“(2) Paragraph (1) does not preclude borrowing made by the National Employment Savings Trust Corporation for the purpose of—

- (a) providing liquidity for a pension scheme established under section 67 of the Pensions Act 2008 and on a temporary basis; or
- (b) meeting costs of establishing, administering or managing that pension scheme, or for both of those purposes.”.

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

5th March 2011

Steve Webb
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide that certain legislation that applies in relation to a person as a trustee of an occupational pension scheme applies in relation to the National Employment Savings Trust Corporation (“the corporation”), with prescribed modifications. The corporation has the function of acting as trustee of the National Employment Savings Trust pension scheme established under section 67 of the Pensions Act 2008 (c.30), (“NEST pension scheme”).

Regulation 2(a) modifies the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (S.I. 1996/1655) such that paragraphs 6 and 7 of Schedule 1 (information about contributions) are treated as replaced by a new paragraph. The new paragraph 6 provides that the corporation must provide—

- (a) in the case of a member who works for an employer that participates in the NEST pension scheme, a summary of the contributions that the employer and the member are required to pay under the Pensions Act 2008 and the scheme rules;
- (b) in the case of a member who does not work for an employer that participates in the NEST pension scheme, a statement of the contributions currently payable by, or on behalf of or in respect of, the member; and

(a) S.I. 2005/3378.

- (c) where applicable, a statement of the maximum contributions that may be paid to the scheme by, or on behalf of or in respect of, a member of the scheme in any tax year.

Regulation 2(b) modifies the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 such that a substituted paragraph 16 of Schedule 3 (information about employer-related investments) is treated as applying. The substituted paragraph 16 provides that the annual report must identify—

- (a) the largest one hundred investments by value;
- (b) the percentage of the resources of the scheme each such investment represents;
- (c) which of the investments are employer-related investments (as defined in the substituted paragraph) in relation to employers that participate in the NEST pension scheme; and
- (d) where such employer-related investments represent more than 5% of the resources of the scheme, and the investment contravenes section 40(1) of the Pensions Act 1995, what steps are proposed to be, or have been, taken to reduce the percentage to 5% or less.

Regulation 3 modifies the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (S.I.1996/1975) (information that is to be provided in the scheme's annual accounts) in a similar way to regulation 2.

Regulation 4 modifies the Occupational Pension Schemes (Investment) Regulations 2005 (S.I. 2005/3378) such that a substituted regulation 5(2) (borrowing by trustees) is treated as applying. The substituted paragraph provides that the corporation may borrow for the purposes of—

- (a) providing liquidity for the NEST pension scheme and on a temporary basis; or
- (b) meeting costs of establishing, administering or managing that scheme,

or for both of these purposes.

A full impact assessment has not been produced for these Regulations as they have no impact on the private or voluntary sector.

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