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STATUTORY INSTRUMENTS

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**2010 No. 8**

**PENSIONS**

**The Application of Pension Legislation to the National  
Employment Savings Trust Corporation Regulations 2010**

<i>Made</i>	- - - -	<i>5th January 2010</i>
<i>Laid before Parliament</i>		<i>12th January 2010</i>
<i>Coming into force</i>	- -	<i>5th July 2010</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<sup>(1)</sup>.

**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 2010.

(2) Regulation 5 shall come into force on the 5th of July 2010 and shall cease to have effect on 23rd September 2010.

(3) The remaining provisions of the Regulations shall come into force on 5th July 2010.

(4) In these Regulations, “the corporation” means the National Employment Savings Trust Corporation established under section 75(1) of the Pensions Act 2008<sup>(2)</sup>.

**Application of section 248 of the Pensions Act 2004**

**2.**—(1) Section 248 of the Pensions Act 2004<sup>(3)</sup> applies in relation to the corporation as it applies in relation to a company that is a trustee of an occupational pension scheme, with the modification specified in paragraph (2).

(2) For subsection (4)(a), substitute—

“(a) any order and rules made under section 67 of the Pensions Act 2008.”.

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(1) 2008 c.30.

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

(3) 2004 c.35. Section 248 was amended by S.I. 2009/1941.

### **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(4) apply in relation to the corporation as if—

- (a) in regulation 2(1), after “Subject to paragraphs” there were inserted “(1A),”; and
- (b) after regulation 2(1), there were inserted—

“(1A) Paragraph (1)(b) does not apply to a pension scheme established under section 67 of the Pensions Act 2008.”.

### **Application of the Occupational Pension Schemes (Investment) Regulations 2005**

4. The Occupational Pension Schemes (Investment) Regulations 2005(5) apply in relation to the corporation as if—

- (a) in regulation 3—
  - (i) in paragraph (1), at the beginning, there were inserted “Subject to paragraph (3),”; and
  - (ii) after paragraph (2), there were added—

“(3) In the application of regulation 2 to a pension scheme established under section 67 of the Pensions Act 2008, the requirement imposed by paragraph (2)(b) of that regulation—

- (a) where the employers’ panel referred to in section 69(2)(b) of that Act has been established, is to consult that panel; and
- (b) where that panel has not been established, does not apply.”; and

- (b) in regulation 16—
  - (i) in paragraph (5), at the beginning, there were inserted “Subject to paragraph (6),”; and
  - (ii) after paragraph (5), there were added—

“(6) In relation to a pension scheme established under section 67 of the Pensions Act 2008, paragraph (5)(a) shall apply with the omission of “and in any event must not exceed 20 per cent. of the current market value of the scheme”.

(7) In relation to a pension scheme established under section 67 of the Pensions Act 2008, government bonds are not to be regarded as employer-related investments for the purposes of regulation 12(2) as modified by paragraphs (5)(a) and (6).

(8) In paragraph (7), “government bonds” means bonds creating or acknowledging indebtedness issued by Her Majesty’s Government in the United Kingdom.”.

### **Transitional provision – application of the Occupational Pension Schemes (Investment) Regulations 2005**

5. In regulation 4(b)(ii), in the new paragraph (7) of regulation 16 that is to be treated as added, for “for regulation 12(2)” substitute “regulation 12(2)(a)”(6).

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(4) S.I. 1996/1975. Regulation 2 was amended by S.I. 2005 / 2426.

(5) S.I. 2005/3378. Regulation 16 was amended, with effect from 23rd September 2010, by S.I. 2009/615.

(6) S.I. 2009/615 amends the Occupational Pension Schemes (Investment) Regulations 2005 and substitutes regulation 12(2) for regulation 12(2)(a) with effect from 23rd September 2010.

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

5th January 2010

*Angela Eagle*  
Minister of State,  
Department of Work and Pensions

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

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

Regulation 2 provides that section 248 of the Pensions Act 2004 (c.35) (which prescribes knowledge requirements for individuals who exercise functions of the trustee, in respect of pension law and other matters) applies in relation to the corporation as if it were a company that is a trustee of an occupational pension scheme.

Regulation 3 modifies the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (S.I. 1996/1975). The regulation exempts the corporation from the requirement, under regulation 2(1)(b) of those Regulations, to obtain an auditor’s statement prepared in accordance with regulation 4 of those Regulations about contributions made under an occupational pension scheme.

Regulation 4(a) modifies regulation 3 of the Occupational Pension Schemes (Investment) Regulations 2005 (S.I. 2005/3378). It provides that the obligation imposed by regulation 2 of those Regulations on trustees of an occupational pension scheme to consult participating employers with respect to a proposed statement of investment principles is replaced by an obligation to consult the employers’ panel referred to in section 69 of the Pensions Act 2008.

Regulation 4(b) modifies regulation 16 of the Occupational Pension Schemes (Investment) Regulations 2005, by inserting new paragraphs (6) to (8) into that regulation. It disapplies the rule that employer-related investments made by trustees of a scheme must not exceed 20 per cent. of the current market value of the scheme. It also provides that government bonds are not to be regarded as employer-related investments for the purpose of the requirements that employer-related investments must not exceed a prudent level and that not more than 5% of the current market value of the scheme may be invested in investments which are employer-related investments in relation to a particular employer.

Regulation 5 contains a transitional provision with respect to the new regulation 16(7) inserted by regulation 4(b).

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