
STATUTORY INSTRUMENTS

2010 No. 917

The National Employment Savings Trust Order 2010

PART 5

The Scheme Fund

Investment and default investment funds

29.—(1) The Trustee may establish any number of notional funds, by reference to such investment principles and criteria as the Trustee determines (“investment funds”).

(2) Subject to the following paragraphs, investment funds may be arranged by the Trustee in such number, combination or type as the Trustee determines.

(3) From time to time, the Trustee may make different arrangements (including closing, withdrawing or terminating the availability of any investment funds).

(4) The Trustee must, subject to the provisions in the following paragraphs, direct assets of the Scheme to at least one investment fund.

(5) Where a member of the Scheme does not express a choice as to where assets of the Scheme attributable to their pension account are to be directed, the investment funds to which those assets of the Scheme are directed shall be known as default investment funds.

(6) Any assets of the Scheme which the Trustee has the power to invest are to be invested by the Trustee in at least one default investment fund, except where—

- (a) the member of the Scheme expresses a choice that assets of the Scheme attributable to their pension account be directed to an investment fund other than a default investment fund, in which case paragraph (7) applies;
- (b) contributions are made to the member’s pension account during the period prescribed in regulations—
 - (i) in Great Britain, made by virtue of section 8(5)(b) of the Act; or
 - (ii) in Northern Ireland, made by virtue of section 8(5)(b) of the NI Act;
- (c) assets of the Scheme are not attributable to a member’s pension account; or
- (d) the Trustee decides to invest the assets of the Scheme in cash or on deposit in circumstances where liquid reserves are required for the purposes of the Scheme,

and where sub-paragraph (b), (c) or (d) applies, assets of the Scheme are to be invested as the Trustee determines.

(7) Where a member of the Scheme expresses a choice as to where assets of the Scheme attributable to their pension account are to be directed—

- (a) the Trustee may determine—
 - (i) the form in, and method by, which a member expresses that choice;
 - (ii) any limits on the number of occasions on which a member may express that choice;
- and

- (iii) the number of investment funds to which assets of the Scheme may be directed, having regard to the value of the assets of the Scheme attributable to a member's pension account; and
- (b) subject to the member's choice complying with any determination made by the Trustee for the purposes of sub-paragraph (a), the Trustee must accept that choice unless the Trustee is of the opinion that in doing so it would breach any of its legal obligations, including those imposed—
 - (i) in Great Britain, by regulation 4 of the Occupational Pension Schemes (Investment) Regulations 2005; or
 - (ii) in Northern Ireland, by regulation 4 of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005.