



Department
for Work &
Pensions

Government response to the consultation on the draft National Employment Savings Trust (Amendment) Order 2018

January 2018

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Government response to the consultation on the draft National Employment Savings Trust (Amendment) Order 2018.

Introduction

1. In its response to the Call for Evidence on the policy framework underpinning the National Employment Saving Trust (NEST): *NEST: Evolving for the future*¹, the Government signalled its intention to amend the NEST Order to allow participating employers to contractually enrol their workers into the NEST Pension scheme.
2. Between 7 November 2017 and 27 November 2017, the Department for Work and Pensions sought views on whether the following draft statutory instrument relating to NEST achieved the policy aim of facilitating the effective operation of the NEST pension scheme:
 - National Employment Savings Trust (Amendment) Order 2018
3. The consultation document was made available at:
<http://www.dwp.gov.uk/consultations>
4. The draft Order contains four separate provisions which will provide clarity to employers and members who use the NEST pension scheme and will facilitate the effective operation of the scheme. Specifically, the changes will improve the way the scheme can operate for participating employers and members and will:
 - allow participating employers to contractually enrol their workers into the NEST pension scheme. Contractual enrolment will enable employers to consolidate their pension provision at the outset with one scheme;
 - require NEST Corporation to carry out research with scheme members and participating employers or their representatives, in connection with the operation, development or amendment of the NEST pension scheme. The introduction of this duty is designed to align this operation to changes in data protection law (as a result of implementing the General Data Protection Regulation);
 - give NEST Corporation the ability to close members' pension accounts that have zero funds if certain conditions are met. This is because the number of empty accounts is creating inefficiencies and long run costs for the NEST pension scheme; and
 - clarify that individuals may join the scheme in the event of a bulk transfer with consent and will require that any amount must be applied to a NEST member's account as a result of a bulk transfer.

¹ <https://www.gov.uk/government/consultations/nest-evolving-for-the-future> published 2 March 2017

5. This document sets out the main points made by respondents and provides the Government's response. A list of organisations that responded is included at **Annex A**.

Summary of responses to the consultation

6. Five responses were received to the consultation from pension providers and pension professionals. There were no comments on the drafting of the statutory instrument and the majority of respondents agreed that the proposals achieved the policy aim of facilitating the effective operation of the NEST pension scheme.
7. One respondent suggested that it would be helpful to require NEST Corporation to inform the associated employer before closing the empty NEST pension accounts. Another suggested that there was no market failure in relation to contractual enrolment or 'bulk transfers with consent' and that the proposed changes were at odds with the specificity of a Service of General Economic Interest (SGEI) and the financial aid granted to NEST.
8. The Government is grateful to all those who responded.

Government response

9. The proposed amendments to the NEST Order achieve the policy aim of facilitating the effective operation of the NEST pension scheme. The measures will help employers when selecting a suitable automatic enrolment pension scheme. The changes provide clarification and will have a limited and proportionate effect on how NEST can operate in the market.
10. The Government welcomed the suggestion that NEST should inform the associated employer before closing empty NEST pension accounts. The Government's view is that prescribing this process in the NEST legislation would be unduly restrictive. However, NEST Corporation has agreed to address this point when designing the processes nearer the time of implementation, consulting with their members and employers panels on the best approach.
11. The Government makes the following observations on other issues raised. The Government's view is that the NEST pension scheme continues to focus on its target market of low to moderate earners and smaller employers during the roll out of automatic enrolment. There was broad support for the proposal that NEST should be open to employers that wish to use contractual enrolment from stakeholders when the Department for Work and Pensions held a Call for Evidence on this and other questions in 2016². Contractual enrolment is simply a different mechanism of joining the scheme. Offering it is in line with what employers expect from a basic pension scheme and this facility is already offered by other providers.
12. The bulk transfers 'with consent' joining event, is a clarification as the primary transfer restrictions were removed from the NEST pension scheme on 1 April

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2017. This change complements the right for NEST to accept bulk transfers without consent and facilitates the scope for NEST members to consolidate their pension savings into NEST.

13. The Government considers that all the changes in the Order support the delivery of the policy intent of providing a suitable low cost pension scheme to all employers meeting their automatic enrolment duties.

Annex A

Respondents to the consultation

Institute and Faculty of Actuaries
NOW: Pensions
Pensions Management Institute
Smart Pension
Society of Pension Professionals