EXPLANATORY MEMORANDUM TO

THE NATIONAL EMPLOYMENT SAVINGS TRUST (AMENDMENT) ORDER 2026

NO. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Torsten Bell, Minister for Pensions at the Department for Work and Pensions and His Majesty's Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Rob O'Carroll, Deputy Director for Automatic Enrolment and Defined Contribution Private Pensions Policy, at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Mark Stokes at the Department for Work and Pensions can be contacted by email at the following address with any queries regarding the instrument: mark.stokes@dwp.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the National Employment Savings Trust Order 2010[1] ("the NEST Order 2010") to enable the National Employment Savings Trust (NEST) to offer flexi-access drawdown (FAD)[2] to its members. FAD is a retirement income option that allows individuals with a defined contribution pension[3] to withdraw any amount from their pension pot while keeping the remaining funds invested.

4.2 The amendment also enables NEST to offer a scheme pension[4], which is an income payable to a member either directly by the scheme administrator or through an insurance company appointed by the administrator. This provision allows NEST the flexibility to offer the same range of benefits provided by other comparable pension schemes.

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[1] The NEST Order 2010 https://www.legislation.gov.uk/uksi/2010/917/contents
[2] The Money Helper website provides a definition of Flexi Access Drawdown http://www.moneyhelper.org.uk/en/pensions-and-retirement/taking-your-pension/what-is-flexible-retirement-income-pension-drawdown
[3] https://www.gov.uk/pension-types
[4] https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm062310

4.3 The instrument also provides the National Employment Savings Trust (NEST) with the authority, in the event of a member's death, to enable the trustee to offer either a dependent's scheme pension[5] or a drawdown pension to eligible individuals, including dependents, nominees, or successors. This provision ensures flexibility in post-death benefit options and aligns NEST's commercial capabilities with broader industry practice

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England, Scotland, Wales and Northern Ireland.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Scotland, Wales and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 This instrument enables NEST to offer Flexi-Access Drawdown (FAD) to its members. NEST is a workplace pension scheme set up by the UK government to help millions of workers save for retirement. It is a not-for-profit, trust-based scheme that must admit eligible workers enrolled by any employer who wishes to use the scheme to meet their automatic enrolment duties[6]. NEST must also admit self-employed individuals wishing to join the scheme. The provision of FAD will align NEST to the enhanced range of choice introduced by pension freedoms[7] and will support members in exercising greater choice and control over their defined contribution pension savings, consistent with the options available to savers in other workplace pension schemes within the automatic enrolment market.

5.2 The Order also enables NEST to introduce a scheme pension, which may be paid to a member either directly by the scheme administrator or through an insurer appointed for that purpose. This builds on NEST's 2015 Retirement Blueprint[8], which set out a proposed retirement income strategy in response to the introduction of pension freedoms. Allowing NEST to offer a scheme pension ensures that members can access the range of retirement benefits available to those in comparable pension schemes, without the incurring the costs associated with the need to switch to another provider.

5.3 The change also supports NEST to comply with the Guided Retirement measures set out in the Pension Schemes Bill 2025.[9] These measures require qualifying schemes to provide a default pension plan for their members. An element of default retirement plans may include the provision of FAD or a scheme pension, alongside other options that deliver a secure income for life. Following the enactment of the bill and the commencement of provisions, the requirements will impact NEST members approaching retirement. The Government is keen to ensure that any default pension

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[5] https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm072110
[6] https://www.gov.uk/workplace-pensions/joining-a-workplace-pension.gov.uk
[7] https://www.gov.uk/government/news/pension-changes-2015
[8] https://www.nestpensions.org.uk/schemeweb/NestWeb/includes/public/news/NEST-launches-its-retirement-blueprint-in-response-to-pension-freedoms.html
[9] https://bills.parliament.uk/bills/3982

plan developed for NEST members can take advantage of the full range of available products.

5.4 The instrument, in the event of the member's death, allows the payment of a dependents scheme pension, and the payment of a drawdown pension to dependents, successors and nominees. This amendment reflects established market practice across comparable schemes and ensures parity for National Employment Savings Trust (NEST) members.

What was the previous policy, how is this different?

5.5 NEST was established under the Pensions Act 2008[10] to provide a basic workplace pension, with retirement options limited to a lump sum or the purchase of a lifetime annuity. Subsequent reforms, including pension freedoms introduced by the Pension Schemes Act 2015[11] and the Finance Act 2015[12], expanded options across the market; however, the terms of the National Employment Savings Trust Order 2010 (NEST Order 2010) restricted NEST from expanding their range of retirement products. This amendment enables NEST to offer a scheme pension and drawdown pensions to its members and, in the case of a deceased member, payment to dependents, nominees or successors. It supports compliance with future legislative requirements laid out in the Pension Schemes Bill 2025 and aligns NEST's retirement offer with prevailing market practice.

6. Legislative and Legal Context

How has the law changed?

6.1 The NEST Order 2010 was made under section 67 (1) of the Pensions Act 2008[13] ("the Act"). Article 3 of the NEST Order 2010 established the National Employment Savings Trust scheme, and article 4 appointed the National Employment Savings Trust Corporation, established under section 75 of the Act, as the trustee of the scheme ("the Trustee"). Article 32 lists the benefits that are payable by the Trustee.

6.2 Article 2(2)(b) of this instrument amends article 32 of the NEST Order 2010 to enable the Trustee to offer drawdown pensions and scheme pensions, alongside the benefits it is already permitted to pay. These changes support the delivery of enhanced retirement options for NEST members. Article 2(c) amends article 32 of the NEST Order 2010 and enables the Trustee, in the case of a deceased member, to pay benefits to dependents, nominees or successors.

Why was this approach taken to change the law?

6.3 This approach was identified as the most proportionate and effective means of delivering the policy objective within the existing legislative framework. The benefits

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[10] Pension Act 2008 https://www.legislation.gov.uk/ukpga/2008/30/section/67
[11] Pension Schemes Act 2015 https://www.legislation.gov.uk/ukpga/2015/8
[12]Finance Act 2015 https://www.legislation.gov.uk/ukpga/2015/11/contents
[13] https://www.legislation.gov.uk/ukpga/2008/30/section/67

that NEST is permitted to pay to its members are listed in the NEST Order 2010. To deliver the policy intent of adding to this list, it is necessary to make amendments.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Department for Work and Pensions published the consultation Helping Savers Understand Their Pension Choices[14], which included a question on proposed amendments to the National Employment Savings Trust Order (NEST Order). The consultation ran from 14 June to 25 July 2022 and invited responses from key stakeholders, including employers, industry bodies, and member representatives. A total of 46 responses were received to this chapter. Overall, respondents expressed broad support for the proposed amendments, recognising the importance of ensuring equity for National Employment Savings Trust (NEST) members in line with other pension schemes, as long as the change does not present NEST with a commercial advantage over other providers in the market. In response, government pledged to work with NEST and the wider industry to ensure that the changes benefit the interests of NEST members, and that the commercial proposition considers wider market impacts.

8. Applicable Guidance

8.1 Official guidance is not considered necessary in respect of this instrument, . NEST will provide appropriate communications to its members regarding these changes.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the anticipated impact on businesses and individuals is minimal. The amendments relate primarily to the maintenance of the existing regulatory provisions governing NEST and to the extension of its retirement offer to align with other workplace pension providers. These changes support the development of NEST's retirement income offer, in line with the guided retirement principles set out in the Pension Schemes Bill 2025 and help deliver a number of the benefits outlined in the Bill's Impact Assessment[15].

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the amendment does not introduce new obligations, costs, or administrative burdens for industry or regulators. Instead, it simply ensures consistency for NEST's provision of retirement products, relative to other schemes operating under similar regulatory frameworks. For employers using NEST to support their automatic

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[14] https://www.gov.uk/government/consultations/helping-savers-understand-their-pension-choices
[15] https://publications.parliament.uk/pa/bills/cbill/59-01/0255/impact_assessment.pdf

enrolment duties, the amendment offers a benefit by ensuring employees are enrolled into a pension scheme that delivers appropriate retirement options.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the change does not impose new duties, financial costs, or operational requirements on public sector bodies. It is a targeted adjustment intended to ensure consistency in The National Employment Savings Trust (NEST) provision of retirement products, in line with established industry norms. As such, it does not affect the delivery of public services or the functioning of government departments.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through established governance and oversight mechanisms. Quarterly engagement will continue between government and NEST to ensure the amendment operates as intended while maintaining alignment with broader industry standards. Where necessary, future changes may be considered to uphold the principles of fairness, transparency, and proportionality.

10.2 The instrument does not include a statutory review clause and in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Minister for Pensions and His Majesty's Treasury has made the following statement: "Having regard to the statement made under section 29(4) of the Small Business, Enterprise and Employment Act 2015, DWP does not consider that the National Employment Savings Trust (NEST) carries out "qualifying activity" for the purposes of section 28 of that Act."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None

12. European Convention on Human Rights

12.1 The Minister for Pensions and His Majesty's Treasury has made the following statement regarding Human Rights: "In my view the provisions of the National Employment Savings Trust Order (Amendment) 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").