

Govt and Labour clash over Nest restrictions

Pensions minister warns hasty action could lead to a legal challenge from the insurance industry

STEVE TOLLEY AND TOM SELBY

The Government has clashed with the Labour Party over plans to scrap Nest's restrictions after pensions minister Steve Webb warned removing the constraints immediately could result in a legal challenge from the insurance industry.

The Government previously said it would be unlawful to scrap Nest's £4,600 annual contribution limit and ban on transfers before a review of the state-backed scheme in 2017. The Department for Work & Pensions has also said the restrictions "are part of the definition" of Nest's public service obligation.

However, an EU Commission document, published by the DWP this week alongside confirmation of plans to remove the restrictions in April 2017, says the changes to Nest "do not affect the actual substance of the aid measure", which comes in the form of a Government loan.

The document says: "The proposed modifications to Nest do not affect the aid measure itself but concern only the technical design of Nest, which is necessary to enable Nest to fulfil the obligation [to accept



any worker automatically enrolled by their employer]. Therefore, the removal of these two restrictions does not alter the terms and conditions of the aid measure approved in the original decision."

Shadow pensions minister Gregg McClymont says Labour will place an amendment to the Pension Schemes Bill for Nest's restrictions to be lifted immediately.

However, Webb told *Money Marketing* this could leave the Government exposed to the risk of a lengthy and expensive judicial review.

He said: "If you crash in with these things, you leave yourself open to a judicial review.

"Can you imagine if we had been

cavalier about this and ended up in the courts? It would have been an absolute shambles.

"If Labour win the election and stand up in spring next year and say 'We will remove Nest's restrictions tomorrow,' there is a risk the whole thing will unravel... for the sake of political posturing. It is nonsense."

McClymont claims the risk of a judicial review can be eliminated if the Government uses primary rather than secondary legislation to remove Nest's restrictions.

However, legal experts say primary legislation could also be challenged in the courts.

Silverman Sherliker partner Jenie Kreser says: "[A judicial review] can be used by commercial parties to challenge all sorts of public law decisions, including primary legislation and even EU directives and decisions of regulatory authorities, such as The Pensions Regulator, the FCA Prudential Regulatory Authority and HM Revenue & Customs."

Webb also confirmed proposals to introduce automatic transfers for small pension pots will not be implemented until after next year's general election.

ADVISER VIEWS



Colin Low
Managing director
Kingsfleet Wealth

Because Nest targets the less well off, even when the contribution rates rise in 2017 a lot of people will already be putting away as much as they can afford. So I don't think removing the limits will make much of a difference.



Susan Hill
Chartered financial
planner
Susan Hill Financial
Planning

Government departments take a lot of time and energy to do something different. It doesn't surprise me it is going to take this long and, on the flip side, the risk is that if they do it immediately it could cause problems.