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Authors
Nikki Williams
John Dunkley

Increasing NMPA to age 57 in 2028

The government has published a consultation on the proposed protected pension age regime following confirmation that normal minimum pension age (NMPA) will increase to age 57 (from age 55) on 6 April 2028.

Under the proposal, any member of a registered pension scheme who has a right under the scheme rules at 11 February 2021 to take pension benefits before age 57 will be protected from the increase in 2028.

The consultation ends on 22 April 2021 with draft legislation expected to be published in the summer.

Background

NMPA is the minimum age at which most members of registered pension schemes can take their pension benefits (unless they meet the ill-health condition). Originally, NMPA was age 50, but it was increased to age 55 from 6 April 2010 under the provisions of the Finance Act 2004. (The government's consultation confirms there are no plans to change the existing ill-health condition.)

Protections were applied to members who before April 2006 had the unqualified right (i.e. employer or trustee consent was not needed) under a trust-based occupational pension scheme's rules to take benefits before age 55. This 2010 protected pension age regime did not apply to members of contract-based personal pension schemes. Right to early access without consent is more common in defined contribution pension schemes than defined benefit schemes, but the wording in the scheme rules is important.

In 2014, the then coalition government consulted on raising NMPA to age 57 in 2028 to coincide with the rise in State Pension age to 67 (noting that the increase to age 67 is being phased in between April 2026 and April 2028). The change does not affect anyone who was born before 6 April 1971 (as they will already be age 57 by 2028).

Where an individual takes their benefits before NMPA or their protected pension age, all pension benefits paid from the date the benefits are paid until NMPA or protected pension age (whichever is applicable) are treated as unauthorised payments, potentially resulting in substantial tax charges.

2028 protected pension age regime

The government is proposing to legislate for a similar protection regime for any members who have the unqualified right at 11 February 2021 (the date the consultation was published) to take pension benefits before age 57. The protected pension age would only apply to the pension scheme where the right applies and to all the member's benefits under that scheme; it would not apply to other schemes that the individual was a member of.

If a member already has a protected pension age of 55 or less, the 2010 protected pension age regime will continue to apply. Even where a protection pension age does not apply, the government proposes not to apply the increase in NMPA to members of the armed forces, police and fire services.

Where a member does not have a protected pension age, the current NMPA of age 55 will continue to apply until 6 April 2028 when it will switch to age 57 overnight.

Losing protection on an individual transfer

The government is proposing that the rules that currently apply to the 2010 protected pension age regime in relation to transfers continue to apply. If a member with a protected pension age transfers all their pension benefits to another pension scheme as a result of a block (or bulk) transfer, they retain their protected pension age. All the benefits of at least two members must be transferred at the same time and the member must not already have been a member of the receiving scheme in the previous 12 months. This latter point has started to cause issues where the receiving scheme is a master trust as members may have unconnected periods of membership within the master trust.

If a member wants to individually transfer to another pension scheme, they lose the right to take their benefits at the protected pension age.

Different approaches for the 2028 protected pension age regime

Retirement condition

Since 2010, when the protected pension age regime was introduced, a retirement condition applies to those with the right to retire before age 55 – the member has to actually stop working for the employer to whom the pension benefits related. What's more, there are complicated re-employment rules that apply during the next six months. These rules depend on whether the member retires before age 50 or between age 50 and 55.

When the 2028 protected pension age regime is introduced, the government is proposing that the retirement condition will not apply, so members will be able to take benefits under the scheme even if they are still working. The government recognises that individuals now combine work and retirement and this approach provides more flexibility.

Taking scheme benefits

Another condition which applies currently to those under the 2010 protected pension age regime, is that all their benefits under the scheme (including, for example, any benefits resulting from voluntary contributions in a separate arrangement within the scheme) must be taken (or crystallised) on the same date.

Under the 2028 protected pension age regime, the government is proposing that members will be able to choose whether or not to take all their benefits at the same time. They will not lose their protected pension age if they decide to take some benefits at the protected pension age and some later.

Pension schemes that can apply protection

The 2028 protected pension age regime will apply to members of both occupational pension schemes and personal pension schemes (in contrast to the 2010 regime that didn't extend beyond members of occupational pension schemes.)

Actions before 2028

As NMPA is the minimum age at which members may take their pension benefits, the government reminds schemes that they may already have a higher minimum pension age under their scheme rules. If schemes (or those with the power to do so (e.g. employers, trustees or pension providers)) wish to introduce age 57 as the minimum age at which members can take their benefits from their scheme at an earlier date than 6 April 2028, this would be possible.

In any event, trustees and managers of pension schemes, must notify members of the increase in NMPA when it is practicable to do so, and in line with the disclosure of information requirements. If the change is made on 6 April 2028, strictly this would mean advising members by 5 July 2028 at the latest which would not be ideal. Changes to information must be given before, or as soon as possible after (and in any event within three months after) the change.

Comment

April 2028 may seem a long way away, but now we know the change in NMPA to age 57 is definitely happening, it's time to think about how to advise members of this change, albeit the legislation won't be in place until the next Finance Bill.

Another important date for this 2028 protected pension age regime is 11 February 2021. How scheme rules (or contract terms) are worded is relevant. The outcome of the consultation will also confirm how the regime will work, particularly for those members who are transferred from a DC scheme to a master trust.

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