Sackers

Increasing the NMPA

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Introduction

On 20 July 2021, the Government published a consultation on draft clauses for the Finance Bill 2021-22. Among these are clauses which will increase the normal minimum pension age ("NMPA") for the purposes of pensions tax.

Key points

- NMPA is the earliest age at which a member's pension benefits can be taken under a registered pension scheme without higher tax charges applying. However, when benefits may commence will be dictated by a scheme's rules.
- Pensions may be paid from an earlier age if a member has a "protected pension age" ("PPA") or because of ill-health.
- The NMPA will increase from age 55 to 57 from 6 April 2028. All members of the armed forces, police and fire public service pension schemes will be exempt from this change and a new protection regime will be introduced ("New PPA(s)").
- The draft legislation will introduce a "window of opportunity" for individuals to join a pension scheme by 5 April 2023 where the rules of that scheme on 11 February 2021 conferred an unqualified right to take pension benefits below age 57.
- Current PPAs will not be affected.

Background

In 2014, following the consultation on "Freedom and Choice in Pensions", the Coalition Government announced that it would increase the NMPA to age 57 in 2028 to coincide with the rise of state pension age to 67.

Between February and April 2021, the Government consulted on how to increase the NMPA, including on the protection regime for members of the uniformed public service pension schemes and for those with existing unqualified rights to take their pension below age 57. The response to this consultation was also issued on 20 July 2021.

To help individuals and schemes prepare for the change, the Government has published draft legislation for a protection regime and intends to legislate for this rise to 57 in the Finance Bill 2021-22.

NMPA

The NMPA is the earliest age at which most pension savers can access their private pensions without incurring an unauthorised payments tax charge (unless they take their pension due to ill-health or have a protected pension age). It was introduced in 2006 and increased from age 50 to age 55 in 2010.

Protected pension ages

Transitional provisions under the FA04 allow a member to preserve a right to retire earlier than age 55, known as a PPA, provided the following conditions are met:

- the entitlement condition: on 6 April 2006 the member must have had an unqualified right under the scheme to take their benefits at an age of less than 55. The scheme rules must have contained provisions conferring such a right on some or all of the members on 10 December 2003. Such a right either was then conferred on the member or would have been had the member been a member of the scheme on that date

- the retirement condition: broadly, the member must leave employment and become entitled to all benefits under the registered pension scheme at the same time.

A PPA can be lost on transfer unless certain conditions are met. A member will retain their PPA following a bulk transfer to another registered pension scheme, provided all their accrued rights under the transferring scheme and those of at least one other member are transferred in a single transaction (known as a "block transfer").

New protection regime

The draft clauses will introduce a new protection regime alongside the increase to NMPA.

Anyone who, on or before 5 April 2023, is or becomes a member of a scheme whose rules (as at 11 February 2021) conferred on them an unqualified right to take their benefits earlier than age 57 (but not less than 55) will be eligible for a New PPA. The Government explains that providing individuals with a window of opportunity to join a scheme which offers a New PPA is consistent with the approach that was taken when the NMPA rose from 50 to 55 in April 2010 and gives individuals sufficient time to make arrangements should they wish to do so. The New PPA will also apply to benefits accrued after 5 April 2028.

HMRC will provide further explanation and examples within its guidance for what is an unqualified right.

Conditions

In contrast to current PPAs, individuals with New PPAs will not be required to meet the retirement condition (see above) and will be able to retain their PPA following both block and individual ("relevant") transfers. However, where a transfer is made, the draft legislation aims to ensure that the New PPA only applies to the transferred-in rights. Any benefits the individual already holds in the receiving scheme prior to transfer, or which are accrued or transferred-in on / after that date will not be covered by the New PPA.

Transitional issues

The Government notes that there may be some transitional issues. For example, what is the position where an individual does not have a New PPA and at 5 April 2028 has reached age 55 and started, but not completed, the process of taking their pension savings? It intends to provide “further advice… and provisions in due course”.

Action

The consultation closes on 14 September 2021.

Trustees should liaise with their legal advisers to determine whether their scheme will confer a New PPA on its members when the change to NMPA comes into force, so that members can be informed of the position and, if appropriate, revisions to transfer documentation can be made.

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