CARTWRIGHT

Increase to the Normal Minimum Pension Age
From age 55 to age 57 – effective from 6 April 2028

What is the Normal Minimum Pension Age (NMPA)?

The NMPA is the earliest age at which members of registered occupational pension schemes and personal pension schemes, who are not in ill health or serious ill health, can access their pensions without incurring an unauthorised payments tax charge.

The NMPA was introduced by the Finance Act 2004 effective from 6 April 2006 as age 50, as part of the pension tax simplification regime. It was subsequently increased with effect from 6 April 2010 to the current NMPA age of 55.

What has now changed?

The Finance Act 2022, has modified the provisions of the Finance Act 2004 again to increase the NMPA from age 55 to age 57, effective from 6 April 2028.

This change to NMPA does not apply to fire fighters, police and armed forces public services pension schemes (named as 'uniformed services pension schemes' in the legislation).

How does this affect scheme members?

Members of a pension scheme on or after 6 April 2010, but before 6 April 2028:

The Normal Minimum Pension Age (NMPA) for a member is age 55.

The NMPA will remain as age 55 for those who attain age 55 during this period and decide to draw their benefits from age 55, or transfer their benefits to an alternative registered pension arrangement, before 6 April 2028.

If members do not attain age 55 by 6 April 2028 and do not therefore draw their benefits before 6 April 2028, their NMPA will change to age 57, unless the rules of the scheme of which they are a member, provides them with a 'Protected Pension Age' (PPA) and the conditions for a PPA are met.

Members of a pension scheme on or after 6 April 2028:

The Normal Minimum Pension Age (NMPA) for a member from 6 April 2028 will be age 57.

Conditions that must be met for members to have a Protected Pension Age (PPA)

Members may have an entitlement to take pension benefits before the new NMPA Age of age 57, if:

- they became members of a scheme after 11 February 2021 and before *4 November 2021, and
- immediately before *4 November 2021 the member had an *actual or prospective right* under the rules of the pension scheme to a benefit from any age of less than 57, but not less than age 55, and

- the rules of the pension scheme on 11 February 2021 included provision conferring such a right on some or all of the individuals who were then members of the pension scheme, and
- the member either had such a right under the scheme on 11 February 2021, or would have had such a right had the member been a member of the scheme on 11 February 2021.

*4 November 2021 (is the date on which the legislation was first published).

Actual or Prospective Right to take benefits

The majority of scheme rules require the consent of the employer or both the employer and trustees, for members to take their benefits at the NMPA. This means that generally, members would not have an ***actual or prospective right***, (an 'unqualified right'), to a lower NMPA, as they would not have a right to take their benefits without obtaining employer/trustee consent.

Furthermore, most scheme rules are drafted to include reference to the NMPA, or its underlying legislation, that is, permitting benefits to be taken at the lowest age consistent with the Finance Act 2004, (i.e. the youngest age as prescribed by legislation from time-to-time), rather than a scheme specific minimum retirement age being hard-coded into the rules.

Therefore, the new NMPA legislation will likely automatically override the existing provisions in most scheme rules.

If employers or trustees wish to protect their members against any further future changes to the NMPA above age 57, they should seek legal advice regarding any potential rule changes that may be necessary for their scheme.

Transfers out

Block Transfers out

If a member has a Protected Pension Age (PPA) it will be preserved in relation to all benefits, that is, those already built up and future benefits in the receiving scheme.

Individual Transfers out

Under the previous regulations, (which changed NMPA from age 50 to age 55 in 6 April 2010) if a member had a right to take benefits before age 55, this right was lost on transfer.

However, following this change, if a member has a Protected Pension Age (PPA) between age 55 and 57 it will be preserved, but only in relation to benefits built up before the transfer and not rights subsequently created under the scheme by additional contributions or transfers in, and therefore the assets in respect of any PPA will have to be ring-fenced in the receiving scheme.

Individual Transfers in

Very few Defined Benefit schemes accept transfers-in, therefore members transferring-in with a PPA may not ever occur. However, for the few Defined Benefit schemes and Defined Contribution schemes that do accept transfers-in, if a member has a PPA in a previous scheme and they wish to transfer into a scheme after 4 November 2021, the NMPA will only be preserved, if the trustees of the receiving scheme decide to accept it and ring-fence those rights.

What should employers/trustees do?

- If they have any doubt about the NMPA provisions in their scheme rules and whether or not any members have a PPA, we strongly recommend they obtain legal advice.

- If they wish to protect their members against further changes to the NMPA above age 57, in the future, they should consider seeking legal advice regarding executing any rule changes that may be necessary.

- If they wish to accept transfers-in to their scheme with PPAs they should obtain legal advice and consider how the benefits would be ring-fenced in the scheme and what rule changes will be necessary.

- They should consider communicating this change to their scheme members by:

  - Issuing a specific notice to affected members, i.e. those who are 55 at 6 April 2028 and who will then not be able to retire until 57.

  - Issuing a notice to any "unaffected" members.

We suggest this can be achieved via a member newsletter or announcement, or the annual Summary Funding Statement.

- Consider updating any member booklets and other relevant scheme and member documents.

What is Cartwright doing?

We are:

- Amending all the member communications we have in place regarding early retirement, transfers out and those that cover flexible benefits.

- Providing training and guidance to the administrators regarding this change.

- Considering what, if any, changes will need to be made to our IT administration systems to record any member PPAs and any ring-fenced transferred in benefits.

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If you would like to discuss any of these matters further, please get in touch with your usual contact at Cartwright.

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