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# Protected pension age

## Introduction

Most people can take pension benefits from the normal minimum pension age (NMPA). That is currently age 55 but will rise to age 57 from 6 April 2028. Authorised pension benefits can generally only be taken earlier than the NMPA where a member meets the ill-health or serious ill-health conditions or has a protected pension age.

However, scheme rules may impose more stringent conditions around when and how benefits can be taken so it's sensible to check these, especially for occupational workplace pension schemes.

The rules surrounding protected pension ages are complex and vary depending on the circumstances. Care needs to be taken especially around transfers.

When the increase in the minimum pension age took place in 2010, those who had a special retirement age due to their occupation before 6 April 2006 retained that specific early retirement age, while others are allowed to take benefits before age 55.

When the NMPA increases to 57 from 2028 some people will retain the right to take benefits from age 55 or 56. We cover each of these and the relevant conditions on the following pages.

## 2006/2010 protections

### Taking benefits before age 50 in a personal pension or retirement annuity contract

Before 6 April 2006 there were special occupations which generally had lower retirement ages such as athletes, boxers, dancers and professional footballers.

If a member of a personal pension or retirement annuity contract had a right to take benefits before age 50 on 5 April 2006, then this right can be protected subject to certain conditions:

- the member had an unqualified contractual right to take benefits at this earlier age (not dependent on agreement from the employer or trustees);
- the member's occupation was one prescribed by HMRC regulations; and
- to use their protected pension age, the member must become entitled to all their benefits under the pension scheme on the same date.
- Any benefits that the member had already become entitled to before 6 April 2006 are disregarded.

### Taking benefits before age 55 in a retirement benefit scheme

Some members of a pension scheme or section 32 policy had a right on 5 April 2006 to take their pension benefits before age 55 and this right could be protected after 6 April 2010.

This right can be protected subject to certain conditions:

- the right was set out in scheme rules on 10 December 2003;
- the member had an unqualified contractual right (not dependent on agreement from the employer or trustees) to take benefits at this earlier age at 10 December 2003, or when they joined the scheme if later; and

- to use their protected pension age, the member must become entitled to all their benefits under the pension scheme on the same date. There is no requirement for benefits to be taken at the protected pension age, but if they are taken before NMPA they must all be taken on the same date.
- Any benefits that the member had already become entitled to before 6 April 2006 are disregarded.

If these criteria are met, the individual's retirement age at 5 April 2006 will be their protected pension age, and benefits won't be treated as unauthorised if they are taken at or after the protected pension age.

### Measuring benefits against the lump sum allowance (LSA) and lump sum and death benefit allowance (LSDBA) if protected pension age is below age 50

Where an individual has a protected pension age lower than 50 and a relevant benefit crystallisation event (RBCE) occurs, the individual's LSA and LSDBA are reduced by 2.5% for each complete year between the age at which benefits are taken and the NMPA in force at the time.

Legislation suggests that the reduction in the allowances is specific to the time of the designation, meaning if the client chooses to take further benefits from another scheme once they've reached the NMPA, they can take PCLS based on their full allowance, minus any amounts previously taken.

Normally, there will be a corresponding reduction in the maximum pension commencement lump sum (PCLS) available to the individual.

Benefits from certain pension schemes – for example, the Armed Forces Pension Scheme and Firefighters Pension Scheme - may be paid without the member being subject to a reduction in the LSA/LSDBA.

## Loss of 2006/2010 Protection

As well as meeting the conditions outlined above for a protected pension age to apply, individuals with a protected pension age can lose this protection if certain actions are taken – which can potentially lead to tax charges. There are three main areas where this can occur:

### 1. Partial crystallisation

An individual with a protected pension age taking benefits before NMPA must become entitled to all benefits, within the relevant scheme, on the same date. If they only take part of their benefits, those benefits would be subject to unauthorised payment charges (potentially up to 70% tax).

### 2. Employment or re-employment

A member with a protected pension age below 50 can take their benefits before reaching age 50 and stay in employment or be re-employed by their employer or another sponsoring employer in the scheme, as long as the member is not connected with their employer.

A member with a protected pension age between 50 and 55 may lose their protected pension age if they take benefits and are then employed by certain employers (e.g. any sponsoring employer of the pension scheme within the six months before the individual took benefits). However, even if the member is re-employed by such an employer, there are some exceptions, for example for a compulsory recall by the Armed Forces, or when there is at least a six-month break between retirement and re-employment.

### 3. Transfers

The right to a protected pension age is lost on transfer unless:

- a. It's a block transfer
- b. It's related to the wind-up of a scheme in certain circumstances
- c. It's to a scheme under which the individual already has a protected pension age.

## Connected person

A person can be connected to a member, a former member, a sponsoring employer or a former sponsoring employer if they fall within the definition in section 993 Income Tax Act 2007.

In general terms, an individual is connected with a company if that person has control of it, or if that person and persons connected with them (e.g. spouse, civil partner, relative) together have control of it. Two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another, and with any person acting on the directions of any of them to secure or exercise control of the company.

## Block transfer

A transfer is a block transfer if:

- It's a transfer of the pension rights relating to the member and at least one other pension scheme member
- the transfer is made as a single transaction
- the transfer represents all the pension rights under the scheme for all the members transferring, and
- before the transfer, the member had not been a member of the receiving scheme for more than 12 months.

It's not necessary that all of the sums and assets are physically passed from the transferring scheme to the receiving scheme on the same day. However, they should all be transferred within a reasonable timescale. There's no restriction on the type of registered pension scheme receiving the transfer. So, a personal pension or SIPP can receive a block transfer as long as the other block transfer conditions are met.

If the member keeps protection because the transfer is a block transfer, their protected pension age under the transferring scheme becomes the protected age under the receiving scheme. The receiving scheme also 'inherits' the payment condition from the transferring scheme.

## 2028 Protections

The normal minimum pension age rises to age 57 from 6 April 2028. Some people will retain the right to take benefits at age 55 or 56, however the rules surrounding these protections are different in several ways from the rules surrounding the increase in NMPA in 2010.

### How people are affected

When born	What's the impact?
Born on or before 6 April 1971	No impact, as turn 57 before 6 April 2028
Born after 6 April 1971 but before 6 April 1973	Period between reaching age 55 to 5 April 2028 when rules operate as now. If individual doesn't take pension savings before then, may have to wait until reach age 57 (unless retain protected age)
Born after 5 April 1973	Have to wait until age 57 before able to access pension savings – unless protected age

### Taking benefits at age 55 or 56

Some members will retain the right to take benefits at age 55 or 56. To have this the following would need to apply:

- They had money invested in an occupational or personal pension on 3 November 2021
- The rules of that pension scheme gave an unqualified right to take the pension from an earlier age than 57
- Those rules were in place on 11 February 2021

If members meet these conditions the right to take benefits at age 55 or 56 will apply to all money paid into the scheme, including ongoing contributions.

Many scheme rules were written with a generic 'NMPA' definition as opposed to a specific 'age 55'. That would likely mean there was no right to take benefits at age 55. Some other schemes (especially occupational ones) wouldn't have an unqualified right – so it would depend on trustee/scheme administrator approval to take benefits at an earlier age. So, while some clients will have the ability to take benefits before 57 many won't.

## Retaining NMPA on transfer

Unlike the 2010 provisions, there are two ways to protect a right to take benefits at age 55 or 56 if a transfer to another scheme takes place. One is a block transfer, however this has different rules to 2010 block transfers. The second is following an individual transfer. For both cases it's worth noting that it will, to some degree, depend on the receiving scheme's position so worth checking with them if they will support PPA, ringfencing etc, as some may not.

## Block transfer

From 4 November 2021 onwards, a block transfer for the purposes of retaining a 55 or 56 protected age is set out below.

### Block transfer

A transfer is a block transfer if:

- It's a transfer of the pension rights relating to the member and at least one other pension scheme member
- the transfer is made as a single transaction
- the transfer represents all the pension rights under the scheme for all the members transferring.

The PPA will cover all benefits within the receiving scheme – the transferred benefits, any money already within the scheme and any future contributions.

There's no requirement for all benefits to come into payment at the same time, there's no restriction on the membership period in the receiving scheme, and there are no restrictions on re-employment, as there are for older variants of block transfers.

## Individual transfer

Any individual transfer (or block transfer which doesn't meet the specific conditions above) could retain a PPA – but in respect of the transferred rights only. Any existing benefits in the receiving scheme or any future contributions to the scheme would have an NMPA of 57.

Whole arrangements need to be transferred but there isn't a requirement to transfer all the arrangements in the scheme (i.e. a partial transfer can be made). The receiving scheme would need to ringfence the transfer which has a PPA of 55/56 from other benefits which would have an NMPA of 57.

## Transitional rules

Some people will reach age 55 before 6 April 2028 but will not yet be age 57. Currently the rules mean these individuals wouldn't be able to crystallise benefits during the period between 6 April 2028 and their 57th birthday. If they had crystallised any benefits before 6 April 2028 (e.g. into drawdown or an annuity) then they could continue to take an income from those funds. But they wouldn't be able to crystallise any further benefits until age 57.

However, the Government has suggested it's considering this position and may consult further or issue new guidance.

## Reporting and record-keeping

There's no registration with HMRC for protected pension ages – as there was, for example, with lifetime allowance protection. A scheme administrator will be able to inform a member if they have a right to a protected pension age. In certain circumstances, the scheme administrator will have to report the early payment of pension benefits to HMRC via an event report. Generally, this is if the member is a Director of the sponsoring employer or is connected to a Director or the sponsoring employer.

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