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25 September 2026

By email to policypensions@hmrc.gov.uk

Dear Sir or Madam

Normal Minimum Pension Age Transitional Provisions Regulations

I am writing on behalf of the Association of Consulting Actuaries (ACA) in response to the consultation on Normal Minimum Pension Age Transitional Provisions Regulations[1].

The ACA welcomes the opportunity to provide input. We are responding in the capacity of a representative body for professional advisors who provide advice to a range of occupational pension schemes.

We have three main points. We would like:

- A clear statement that the legislation requires that the first pension payment only is, rather than all pensions payments are, made when a member has reached their normal minimum pension age (**NMPA**).
- Further consideration of the treatment of annuity purchase and uncrystallised funds pension lump sums (**UFPLS**s) for those aged 55 or 56 on 6 April 2028 to address inconsistences between their treatment and that for scheme pension/drawdown and associated PCLS. As a minimum, that will be enhanced communications, but, as discussed below, we hope that the transitional provisions can be extended to provide that payments are not unauthorised where they are made shortly after 5 April 2028 because of reasons beyond the member's control. Legislative change might be further extended to cover the scenario where members intend to fund their retirement by taking a continuous series of UFPLSs.
- Transitional measures for small lump sums and authorised member surplus payments (**AMSP**s) agreed before 5 April 2028.

1 Timing of test

Our reading of FA2004 S165(1)[2] would be that Pension rule 1 would apply to each and every payment of pension, not just the first payment. However, we are not lawyers. Further,

[1] https://www.gov.uk/government/consultations/normal-minimum-pension-age-transitional-provisions-regulations
[2] https://www.legislation.gov.uk/ukpga/2004/12/section/165 Pension rule 1 No payment of pension may be made before the day on which the member reaches normal minimum pension age, unless the ill-health condition was met immediately before the member became entitled to a pension under the pension scheme.

we can see that these regulations are consistent with the approach adopted for the 2010 changes, which again focussed on the first payment of pension only, and the statement in HMRC newsletter 44 that “The Government also wants to clarify that the date on which the normal minimum pension age (NMPA) test should apply is the date of the first payment of pension.” We also note the first example in Newsletter 180[3] is consistent with this approach. Therefore, we have considered the regulations on the assumption that Pension rule 1 only applies to the first payment of pension. However, It would be reassuring if HMRC could include something similar to the newsletter 44 statement in the Pensions Tax Manual or explanatory notes.

2 Payments requested shortly before 6 April 2028

The transitional regulations address (most – see 4 below) situations where “entitlement”[4] to a benefit arises before 6 April 2028, but a payment has not been made by that date.

For a scheme pension or an annuity, entitlement arises when the member has an “actual right” to the benefits, for drawdown entitlement arises when sums are designated as such and for an UFPLS entitlement arises immediately before it is paid.

In practice, this generally means that where a member has returned correct and complete paperwork (and reached their NMPA) they will have an entitlement to a DB scheme pension or drawdown even if the administrators have yet to process the application. Because entitlement to a pension commencement lump sum (PCLS) and/or a pension commencement excess lump sum (PCELS), arises immediately before entitlement to the connected pension, it follows that the member will also have entitlement to the PCLS or PCELS.

However, for annuity purchase[5] (and any connected PCLS/PCELS) or an UFPLS, a delay in dealing with the paperwork or the time taken to process an annuity purchase/UFPLS payment, will mean that entitlement does not arise until after 5 April 2028. The pressure to meet this deadline is likely to lead to mistakes by members and schemes. Further, it is very likely that some payments will not be made in time which is likely to lead to complaints and potentially adverse press comment.

We note that for the increase in the NMPA from 50 to 55 on 6 April 2010, HMRC responded[6] to requests for easements by suggesting that scheme administrators should “have plans and processes in place, for example, to provide contribution cut-off dates, sell assets, undertake member arrangement valuations, etc., sufficiently early that they can meet the need to pay lump sums and contract for the lifetime annuity”. However, there are likely to be many more requests this time, because of the growth in money purchase schemes and the introduction of UFPLSs. Consequently, we hope that HMRC could extend the transitional requirements to cover more benefits this time, removing the

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[3] https://www.gov.uk/government/publications/pension-schemes-newsletter-180-april-2026/newsletter-180-april-2026#normal-minimum-pension-age

[4] As defined in Finance Act 2004 S165(3) and S166(2) and expanded on by HMRC in the Pensions Tax Manual https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm061310

[5] Example 4 of PTM061310 states that “actual entitlement is delayed until an insurance company does accept that payment”

[6] HMRC newsletter 38 December 2009.

inconsistencies between different types of benefit, which will be very difficult for members to understand.

If this change is not made, HMRC needs to reconfirm there will be no such transitional provisions for annuity purchase or UFPLS as a matter of urgency, as any scheme that pays these benefits will need to put controls and processes in place to ensure payments are made before 6 April 2028, and provide clear communications so that members understand what they need to do and by when.

3 Multiple uncrystallised funds pension lump sums

We note that the Money and Pensions Service ("**MaPS**") guidance[7] under the heading "Compare all the ways to take money from your pension" states:

> *Buying an annuity is one way to take money from your defined contribution pension.*
>
> *You can also choose to:*
>
> - *take your pension in one or more lump sums, with up to 25% of each amount paid tax-free*
> - *take some tax-free cash (up to 25%), and:*
>   - *leave the rest invested in a flexible pension drawdown plan until you need it*
>   - *set up a flexible income that you can stop or change at any time*
>   - *take the rest as one or more lump sums.*

An individual reading this guidance might well conclude that if they elect to take some of their accumulated DC pot before 6 April 2028, they would be able to continue to do so regardless of which method they had chosen.

However, in newsletter 180[8] HMRC confirmed that, unless a member has a protected minimum pension age, they will not be able to draw an UFPLS until age 57 where the payment is made on or after 6 April 2028. This means that an individual that had chosen to take their "pension" before 6 April 2028 in accordance with the first bullet point above, which in reality is a series of UFPLS, would be unable to draw further payments of their "pension" for a period from 6 April 2028 (without them being unauthorised). Clear communication will be essential to avoid this situation. As such, we suggest it would be helpful if the implications of taking "your pension in one or more lump sums, with up to 25% of each amount paid tax-free" was explicitly covered in a future newsletter – especially as material setting out this option might not explain that in tax jargon it is a series of UFPLS.

Similarly to the point made in 2 above, some of our Pensions Taxation Committee hoped that HMRC could go further and extend the transitional requirements to cover this situation. UFPLSs were introduced since the previous increase in the NMPA, so there is no risk of inconsistency with the treatment for the NMPA increase from 50 to 55. As demonstrated by the MaPS guidance, taking a series of UFPLS is a recognised method of drawing an income and there is an argument that conceptually it is difficult to justify why

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[7] For example https://www.moneyhelper.org.uk/en/pensions-and-retirement/taking-your-pension/guaranteed-retirement-income-annuities-explained

[8] https://www.gov.uk/government/publications/pension-schemes-newsletter-180-april-2026/newsletter-180-april-2026

this should be treated differently to a member who has opted for a single PCLS and drawdown approach. There is also clearly a risk of adverse press comment if individuals encounter hardship by being unable to continue to draw a "pension" in this way.

In tax terms, of course, we understand that entitlement arises differently for UFPLS and drawdown – with entitlement to each and every UFPLS arising separately. As such, we acknowledge that it will be harder to pinpoint the UFPLSs that should be protected. The underlying idea would be to protect further payments of UFPLS where at least one UFPLS had been paid from that uncrystallised fund prior to 6 April 2028.

If HMRC does not extend the transitional requirements to cover this situation, we again urge HMRC to highlight this issue as a matter of urgency, as this will require schemes that currently allow this option to amend their retirement/payment processes and member communication, which will be complex and time-consuming.

4 Small lump sums

Entitlement to a "**small lump sum**"[9] arises when a person acquires an actual (rather than a prospective) right to receive the lump sum[10]. However, the member needs to have reached normal minimum pension age (or the ill-health condition is met) for a payment to be made. Although they are treated as trivial commutation lump sums under Part 9 of ITEPA03[11] for taxation purposes it seems unlikely to us that the transitional protection for trivial commutation lump sums set out in the draft article 43D would apply to these sums. We believe an additional clause is needed as part of these transitional provisions.

5 Authorised Member Surplus Payments

The DWP's consultation on surplus flexibilities[12] effectively assumes that a deferred AMSP would be payable from NMPA with revaluation[13] to that date. The ACA response on the DWP consultation comments on that provision. Our comments below apply to DWP's draft legislation as published in June 2026.

- Our understanding is that where a member has a protected pension age ("**PPA**") this would flow through into the DWP legislation, so that the authorised member surplus payment would be payable from the PPA. It would be helpful if this could be confirmed in an appropriate response.
- The intention is for the surplus flexibilities legislation to come into force on 6 April 2027. This means that an authorised member surplus payment could, in theory, be agreed before 6 April 2028. For members without a PPA, under the DWP draft legislation that payment would be due from age 55. However, HMRC draft

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[9] As set out in Regulations 11, 11A and 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009.
https://www.legislation.gov.uk/uksi/2009/1171/contents/made
[10] SI2009/1171 Regulation 2(2)(b) and Finance Act 2004 Section 166(2)(b).
[11] SI2009/1171 Regulation 3(b)
[12] https://www.gov.uk/government/consultations/surplus-flexibilities-for-defined-benefit-pension-schemes-unlocking-value-for-employers-and-scheme-members
[13] Regulation 17 of
https://assets.publishing.service.gov.uk/media/6a26e02856e988a798b387f4/the-occupational-pension-schemes-payments-to-employer-regulations-2027.pdf

legislation[14] specifies that the payment cannot be made before the member reaches NMPA. Members reaching age 55 after 6 April 2028 would not have been able to draw their benefit by that date. Further, members aged 55 or 56 might not yet have been paid their AMSP, for example, if the scheme had not managed to obtain their bank details. Such members would then need to wait until age 57 to receive the AMSP. Could HMRC legislation be amended to allow AMSPs where entitlement arose before 6 April 2028 to be payable from age 55?

We would be happy to discuss this response further and would welcome the opportunity to review any draft guidance, if that would be helpful. Please contact Kirsty Cotton on 01737 274496 or Kirsty.cotton@wtwco.com.

Yours sincerely

Kirsty Cotton FIA C.Act

Chair of the Pensions Taxation Committee

On behalf of the Association of Consulting Actuaries Limited

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[14] https://www.gov.uk/government/publications/defined-benefit-pension-scheme-surplus-payments-to-members