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Flexible state pension drawdown options

Impact on integration provisions

21 November 2024

Since 1 January 2024, following the enactment of the Social Welfare (Miscellaneous Provisions) Act 2023 (‘the Act’), an employee may choose to start claiming their State Pension (Contributory) entitlements any time between age 66 and 70.

While the State “pensionable age”, per the Social Welfare Acts remains at 66, by claiming the State pension later, an employee may be entitled to a higher rate of payment (or to make up contribution shortfalls). This new flexibility requires employers and trustees of pension schemes to review and, in some cases, amend, their scheme’s trust deed and rules.

A significant number of occupational pension schemes make an allowance for the State pension when providing a pension from the scheme. In the private sector, this is known as integration. Traditionally, trust deeds would have set the value of the State pension to that payable at age 65 (amended to age 66 more recently to reflect the increase to the State pensionable age).

Now, with the option to defer claiming the State pension, the Act introduces five different rates for the value of the State pension payable between age 66 and 70. These rates increase with each year that the State pension age is deferred. As a result, trust deeds which refer to a maximum State pension rate when calculating the value of the integration offset could cause a member’s scheme pension to be reduced by the maximum available rate of State pension. This is not what the scheme rules could reasonably have intended.

Looking briefly at the main types of off-setting clauses in trust deeds.

No Amendment Required

Trust documentation which specifically refers to the State pension payable at the age of 66 will in many cases be compatible with the intention of the Act. For example, the following definition sets the value of the State pension to that payable at age 66 regardless of when the benefit is actually drawn down. Therefore, the value of the member’s pension entitlements under the scheme does not decrease as their State entitlement increases on deferral.

“Pensionable Salary” at any time means a Member’s Salary at the Review Date coincident with, or if not coincident with immediately prior to that time, less a deduction equal to one and a half times the Social Welfare Retirement Pension at the annual rate payable to a fully qualified single person aged 66 at that time.

Position Not Clear

Definitions such as the following, whereby the rate of State pension referred to is that which is payable at ‘pensionable age’, are more problematic. There is a lack of clarity as to which age is meant, and, therefore, as to what the value of the State pension deduction is. An amendment would clarify the intention of the provision.

“Pensionable Salary” means Salary less a deduction in respect of Social Welfare benefits equal to …… the current annual State pension payable to a single person of pensionable age under the Social Welfare Acts (regardless of whether the Member is eligible to receive such
pension at the relevant date).

Amendment Required

Definitions such as the following whereby an employee’s pension is reduced by the ‘maximum’ State contribution do not account for the State’s new varying payment rates. As a result, the member’s scheme pension could be interpretated as being reduced by the maximum amount of the State pension which a member can apply for, at age 70.

“Pensionable Salary” means, in relation to a Member at any date, his Salary …… less
the State Pension Deduction at that date.

“State Pension Deduction” means an amount equal to the maximum annual amount of the contributory pension payable under the Social Welfare Acts on retirement to a single person without dependants.

If your pension scheme trust deed contains a similar provision, we would recommend amending it to reflect the new position.

The Pensions Team are available to assist in carrying out a review of trust documentation to ensure that any uncertainty or unintended impact created by the introduction of this Act is avoided.