

Guidance Notes - Pensions

Protected rights and self-investment

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It is estimated that around ten million pension savers have accrued an element of 'protected rights' following a decision to contract out, or forfeit their entitlement to, the State Earnings Related Pension Scheme (SERPS) – or, from 6 April 2002, the State Second Pension (S2P).

Since the introduction of contracting out in 1978, protected rights have been governed by the Department for Work and Pensions (DWP). While the rules have been relaxed recently, they limit the investment of National Insurance rebates to insurancebased funds and restrict the timing and form of pension they can provide. Until 5 April 2005, retirees could not draw their protected rights before the age of 60 and had to purchase an escalating annuity using unisex annuity rates, with a 50% survivor pension built-in for married members.

Disappointment at rule changes

On 6 April 2005, the requirement to purchase an escalating annuity was removed, and 12 months later the minimum pension age was reduced to age 50 (55 from 6 April 2010), under the pensions simplification reforms. Furthermore, retiring members can now take up to 25% of their protected rights funds as a tax-free lump sum for the first time.

Despite this gradual relaxation and significant lobbying by the pensions industry, the DWP has not permitted protected rights the same investment flexibility given to all other pension funds under the simplified regime. This has forced investors to remain in closed or poorly-performing insurancebased funds. This has been particularly disappointing for the many savers who consolidated their pension funds into a Self-Invested Personal Pension (SIPP), as they had to retain a satellite protected rights fund, over which they have little investment control.

Better news

It was widely anticipated within the pensions industry that the investment rules would be relaxed from 6 April 2007, but the necessary amendments failed to materialise. Nevertheless, in June 2007, the House of Lords voted in favour of the DWP's plan to remove the existing restrictions. As a result, draft regulations are expected by the end of 2007, and self investment of protected rights is expected to be available from the end of 2008.

If you would like to arrange a free no obligation meeting to discuss your Protected rights and self-investment opportunities, please contact John Lang - Director, Tower Hill Associates Limited on 020 8891 6375.

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