



## Mandatory retirement ends in Ontario

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Ontario law will soon protect employees aged 65 or more from age discrimination.

As of December 12, 2006, provincially regulated employers in Ontario can no longer force employees to retire solely because they have reached age 65 or more.

Ontario joins Alberta, Manitoba, Quebec, Prince Edward Island, Northwest Territories, Nunavut and the Yukon in generally banning age-based mandatory retirement.

### Retirement date and employee's right to choose

Ontario's *Human Rights Code* prohibits discrimination on the basis of age. The code currently defines age for employment purposes as being 18 years or older but younger than 65. This has the effect of permitting age discrimination in employment, including mandatory retirement, in situations where an employee is 65 or older.

Bill 211 (*Ending Mandatory Retirement Statute Law Amendment Act, 2005*) removes this age 65 upper limit from the code effective December 12, 2006.

As a result, the code will now also protect employees aged 65 and older from age discrimination. Employees will have the right to choose when they want to retire, in most situations.

### Exception

Mandatory retirement based on age will still be permitted in cases where the age of the employee is a reasonable and bona fide occupational requirement.

For an occupational requirement to be reasonable and bona fide, the situation must be that the employer cannot accommodate the employee without undue hardship, taking into consideration such factors as cost and health and safety issues. The employer will also need to establish that the requirement was adopted in good faith and that the requirement is necessary and rationally connected to the performance of the job. Other factors may also apply.

Employers who believe they have a reasonable and bona fide occupational requirement for age-based mandatory retirement should review the specifics of their situation with their legal advisors.

### Effect on employee benefit plans

The elimination of mandatory retirement does not affect any age 65 restrictions in employee benefit plans. The Ontario Ministry of Labour's fact sheet states: "The status quo with respect to disability plans, life insurance plans, and health benefit plans will be maintained. The provision of benefits to workers aged 65 and older will continue to be at the employer's discretion."

Similarly, this change in legislation does not affect access or entitlement to employer-sponsored pension plans and will not affect age-based provisions in the *Workplace Safety and Insurance Act, 1997*.

The full effect of this change on benefit plan costs is unclear, since the impact will be somewhat dependent on the number of plan members who opt to work past age 65. However, a ban on mandatory retirement in other jurisdictions has not resulted in major cost stresses.

## **For more information**

For information about your benefit plan's provisions, please contact your benefits advisor or your Great-West group representative.

For more information about the end of mandatory retirement in Ontario, please contact the Ontario Ministry of Labour or visit its website at:

[http://www.labour.gov.on.ca/english/news/m\\_mr.html](http://www.labour.gov.on.ca/english/news/m_mr.html)

[http://www.labour.gov.on.ca/french/news/m\\_mr.html](http://www.labour.gov.on.ca/french/news/m_mr.html)

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