

Age Discrimination 2006

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Age discrimination in employment became unlawful in the UK from 1 October 2006 when the Employment Equality (Age) Regulations 2006 and their Northern Ireland equivalent, the Employment Equality (Age) Regulations (Northern Ireland) 2006 (“the Regulations”) came into force.¹

The Regulations represent one of the most significant developments in employment law in many years. In a poll carried out in February 2006 by the Employers Forum on Age, 40% of employers surveyed expect the age legislation to have a greater impact than sex and race discrimination. Age discrimination legislation has been in force in the Republic of Ireland since 1998 and age claims now account for 11% of all employment claims in that jurisdiction.

Key Provisions

- Direct and Indirect discrimination, victimisation and harassment are unlawful.
- Both direct and indirect discrimination may be objectively justified on limited grounds.
- Default retirement age (“DRA”) is set at 65 meaning that compulsory retirement below 65 will be unlawful unless it can be objectively justified.
- Employees can request to work beyond the DRA and employers must follow a “duty to consider” procedure when retiring staff.
- Lower (age 18) and upper (age 65) age limits in relation to redundancy payments have been removed.
- Upper age for claims of unfair dismissal have been removed.
- Service related benefits are lawful in certain circumstances.
- The Regulations do not apply to the provision of goods and services.

Recommended Action

Employers are advised to identify any potential discriminatory provisions which can be changed where no exemption or objective justification will apply and to consider taking the following steps:-

- Prepare an equality policy or update an existing Policy to include the age provisions.
- Introduce a retirement policy.
- Provide training to managers and staff on age discrimination.
- Undertake an audit of terms and conditions and policies to remove any age bias.
- Introduce monitoring of new recruits and departing staff.
- Review redundancy policies. Use of “last in/first out” is potentially discriminatory against younger workers and employers should consider the use of more objective job related criteria.

¹ The Regulations implement the UK’s obligations in relation to age under EU Directive 2000/78/EC.

Please note: The content of this article is for information purposes only and further advice should be sought from a professional advisor before any action is taken.