

Bill 211 – Ending Mandatory Retirement in Ontario -

How mandatory retirement affects workers.

Mandatory retirement involves imposing an employment decision based solely on age, and not a person's ability to do the job. Mandatory retirement embodies a set of assumptions about the worth and abilities of older workers. At the core of human rights is the entitlement to be considered as an individual first, and not simply as a member of a group, and to be judged on one's individual skills and abilities. As a society, we would not find it acceptable if individuals were to be terminated from employment on the basis of any other ground of the Code, such as race, sex, or disability

Mandatory retirement impacts on the dignity of older employees. Being told that one is no longer a valued employee, solely because of one's age, can have a profound psychological and emotional impact.

As well, mandatory retirement may have a particularly serious and disproportionate impact on individuals belonging to vulnerable groups. Women who leave the paid work force to raise children or care for family members do not receive income and cannot contribute to the Canada Pension Plan (CPP) for the years they do not work outside the home. Moreover, when they do return to paid work once they no longer have caregiving responsibilities, they may face retirement just as they reach the peak of their careers or earning capacity.

Women who are part of the paid labour force but who tend to work in sectors where employer pension plans are not available, in part-time or temporary employment and in jobs that earn considerably less than men, face a different challenge. These women are unlikely to be able to accrue a large enough CPP, RRSP or private pension to allow them to retire to a decent standard of living. Women are therefore often at real risk of being forced into poverty as a result of mandatory retirement.

Recent immigrants face many of the same difficulties. They may have a shorter period of employment in Canada upon which to build up a pension and they, along with racialized persons and persons with disabilities, also tend to have more restricted access to the labour market, lower incomes and greater unemployment during their working lives. As a result, these groups also face serious consequences because of mandatory retirement.

It is considered that mandatory retirement is a serious form of age discrimination, and the government should be commended for bringing forward legislation to end this practice.

Employment Standards Act - Not Affected by Bill 211

Bill 211 leaves intact the provisions of **the Employment Standards Act** and Regulations that permit employers to discriminate in the provision of benefits against employees who are age 65 and older. This includes medical and dental benefits, as well as life and disability insurance.

Employers are not prohibited from providing lesser, or no benefits at all, to employees once they reach age 65.

Essentially, the provision of benefits to employees over age 65 will remain at the discretion of employers.

Regulation 286/01 under the **Employment Standards Act** permits life insurance and disability benefit plans to make distinctions on grounds such as age, sex and marital status, when such distinctions are made on an actuarial basis. As of December 12, 2005 it will still be permissible to reduce or terminate group benefits at age 65 or beyond.

- Q. Should employers remind employees of the benefit plan provisions?**
 - A.** Employees should be informed of adjustments to human resources policies and practices, and be reminded of any benefit reductions and terminations at age 65 or beyond.
- Q. Can employers enhance the benefits for employees age 65 or older?**
 - A.** Insurers will likely consider an employer's request to enhance coverage for this group. There are costs related to increasing coverage for employees who continue employment after age 65.
- Q. Other jurisdictions?**
 - A.** Alberta, Manitoba, Quebec, New Brunswick and PEI prohibit mandatory retirement. In all of these jurisdictions most group benefit plans include termination and reduction provisions at age 65 or after. Alberta, Quebec, New Brunswick and PEI



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have statutory exemptions that apply to age; therefore allowing certain discrimination under benefits as it related to age. In Manitoba, it appears to be industry practice to reduce or terminate benefits at age 65.

Q. Will ending mandatory retirement affect a person's access or entitlement to private employer pensions?

- A.** No, ending mandatory retirement will not affect access or entitlement to employer-sponsored pensions in Ontario. Employees can continue membership in pension plans and accrue benefits past age 65 subject to service or contribution caps.

Other Links

FAQ MANDATORY RETIREMENT -

<http://www.labour.gov.on.ca/english/news/2005/05-141faq.html>

ENDING MANDATORY RETIREMENT: WHAT IT MEANS TO YOU – <http://www.labour.gov.on.ca/english/news/2005/05-141b.html>

