

ENDING MANDATORY RETIREMENT: WHAT IT MEANS TO YOU

Ending mandatory retirement would affect Ontarians in a variety of ways. Here are some of the key elements proposed.

Protection Against Age Discrimination:

- The Ontario Human Rights Code would be amended to prohibit mandatory retirement, protecting employees aged 65 or more from being forced to retire, except in those cases where it could be justified on “*bona fide* occupational requirement” grounds determined under the code.

Transition Period:

- A transition period of one year is proposed to allow workplaces time to adjust to the elimination of mandatory retirement. Some employers may need to reconfigure their employment policies and programs. Mandatory retirement would be eliminated exactly one year after the legislation received Royal assent.

Collective Agreements:

- Collective agreements would no longer be permitted to include provisions requiring mandatory retirement, except in those cases where mandatory retirement would be allowed under the Human Rights Code as a “*bona fide* occupational requirement”.
- Unions and employers would still be able to negotiate voluntary retirement incentives (i.e. early retirement packages).
- Mandatory retirement provisions in existing collective agreements would no longer be enforceable once the proposed legislation comes into effect, one year after Royal Assent.

Pensions:

- Ending mandatory retirement would not have an impact on pension benefits already earned.
- Employees could continue membership in pension plans and accrue benefits past age 65 subject to service or contribution caps.

Canada Pension Plan:

- The legislation would not affect Ontarians’ eligibility to receive Canada Pension Plan (CPP) at age 65.

- CPP, Old Age Security and Guaranteed Income Supplement are administered by the federal government. Any changes in eligibility criteria would be a matter for the federal government.
- Information about these programs can be obtained directly from the federal government by calling Social Development Canada. By telephone: English: 1-800-277-9914; French: 1-800-277-9915; 1-800-255-4786 (if you use a TYY machine) all are toll-free.

Benefits & Insurance Plans:

- Currently, under the Employment Standards Act, 2000, employers are prohibited from discriminating on the basis of age in providing benefits to employees aged 18 to 64. This provision would remain in place following the coming-into-force of legislation to end mandatory retirement.
- Nothing in the proposed legislation would prevent employers from providing benefits to employees aged 65 or more.
- Individuals aged 65 and more would continue to be eligible for government benefits such as the Ontario Drug Benefit Plan.

Employment Termination After Age 65:

- An employee dismissed at age 65 or more for a reason unrelated to age would have the same entitlement as a younger employee to notice of termination or pay-in-lieu, unless the employee was forced to retire under a mandatory retirement policy that could be justified on “*bona fide* occupational requirement” grounds.

Bona Fide Occupational Requirement:

- A “*bona fide* occupational requirement” is an employment requirement or qualification that is necessary because of the nature of the employment. These would continue to be permitted under the Human Rights Code.

Workplace Insurance:

- Entitlements under the Workplace Safety and Insurance Act, 1997, would not change.
- Injured workers aged 63 or more at the time of injury would continue to be able to receive loss of earning benefits for up to two years.

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