

Legal expert Parveen Bunglawala at Forshaws Davies Ridgway answers your frequently-asked questions

Why has this been abolished and what does it mean for employers?

The Default Retirement Age introduced in 2006 was due for Government review in 2011.

However this was brought forward to 2010 after the Government bowed down to pressure from age charities and to bring it in line with economic and demographic changes.

From October 2011, the enforced retirement of an employee, or refusing employment to an applicant on the grounds of age, whether this be 65 or any other age will become unlawful.

What changes will employers need to make for older workers?

Employers will now have one of two options: either abandon the fixed retirement age altogether or to retain a fixed retirement age.

If an employer decides to keep a retirement age they must ensure that it can be objectively justified. Objective justification involves

Abolition of Default Retirement Age

Ask the expert



Parveen Bunglawala is an employment law expert at Forshaws Davies Ridgway LLP, a leading full service legal practice in Cheshire. The company prides itself in offering the highest quality solutions across a comprehensive range of legal services to both business and private clients alike

showing that the retirement age is a 'proportionate means of achieving a legitimate aim'.

This broadly means showing a clear commercial reason for the chosen retirement age which will need to be supported by evidence.

Whether the fixed retirement age is retained or abandoned, employers will still need to demonstrate on a case by case basis that they have acted fairly in a dismissal situation and that the dismissal is not tainted by age discrimination. Although

employers can no longer enforce the retirement of an employee at any age, it will still be lawful to dismiss an older employee on the grounds of one of the potentially fair reasons for dismissal as outlined in the Employment Rights Act 1996, on the grounds of conduct, redundancy, capability or some other substantial reason.

Will the new regulations apply immediately or will they be phased in?

The default retirement age was

abolished officially on April 6, 2011 but is subject to transitional provisions.

Any dismissals taking place on or after April 6 will constitute direct age discrimination under the Equality Act 2010 unless it falls within the transitional provisions.

This transitional period will last for six months - until September 30, 2011 - and employers are encouraged to take legal advice to determine the process to be applied for employees reaching the age of 65 on or before September 30, 2011.

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Just how many times should you advertise?

We recently came across an article from 1885 in which London businessman Thomas Smith offered the following advice to advertisers ...

- The **first time** people look at any advert, they don't even see it.
- The **second time**, they don't notice it.
- The **third time**, they are aware that it is there.
- The **fourth time**, they have a fleeting sense that they've seen it somewhere before
- The **fifth time**, they actually read the advert.
- The **sixth time**, they thumb their nose at it.
- The **seventh time**, they start to get a bit irritated by it.
- The **eighth time**, they start to think "Here's that confounded advert again."
- The **ninth time**, they start to wonder if they may be missing out on something.
- The **tenth time**, they ask their friends and neighbours if they've tried it.
- The **eleventh time**, they wonder how the company is paying for all these adverts.
- The **twelfth time**, they start to think that it must be a good product.
- The **thirteenth time**, they start to feel the product has value.
- The **fourteenth time**, they start to remember wanting a product exactly like this for a long time.
- The **fifteenth time**, they start to yearn for it because they can't afford to buy it.
- The **sixteenth time**, they accept the fact that they will buy it some time in the future.
- The **seventeenth time**, they make a note to buy the product.
- The **eighteenth time**, they curse their poverty for not allowing them to buy this terrific product.
- The **nineteenth time**, they count their money very carefully.
- The **twentieth time** prospects see the advert, they buy what is offered.