

Retirement? Now it's your call

Progressive legislation means a 65th birthday doesn't have to end a career | by Linda Silver Dranoff



Your employer can no longer force you to retire at age 65 or indeed at any age. It is your choice whether and when to retire, health and finances permitting. Everywhere in Canada, a human rights law has been passed – or is promised – to prohibit age-based discrimination and harassment.

Some provinces permit exceptions for safety reasons. Pilots, bus drivers, soldiers, police and firefighters may be legally forced to retire at 60 regardless of individual physical or mental capabilities. In these cases, age may be considered a bona fide occupational requirement. This means the rule was adopted to enforce a legitimate policy. Elsewhere, a person employed in a safety-sensitive occupation may have to prove he or she is physically and intellectually able to continue performing the job.

Any workers who feel victimized by age discrimination can complain to the human rights commission in their province or territory or to the federal commission if they are under its jurisdiction.

What are the implications of the abolition of mandatory retirement?

Terms of employment

Employers cannot decide to hire, fire or pay workers based on their age. Older workers will have the same rights as younger ones with equal access to transfers, promotions and training, work allocation and performance evaluation, measured only by individual merit.

Human rights laws require an employer to accommodate an employee's special needs, as long as doing so would not impose undue hardship. An employer might be required to accommodate an older worker's need for part-time

hours or flexible scheduling or handicapped access. Labour laws may require review to integrate the new law into customary practice.

Unionized employment

Most of the laws abolishing mandatory retirement stipulate that existing and future collective agreements may not specify a retirement age. The government may have to provide legislative direction to protect existing rights.

Benefits

Many benefit plans and most long-term disability contracts discontinue coverage at age 65. Provincial health plans pay for

Plan payments at age 65 and still continue to work. She can even get a (reduced) CPP benefit at age 60 and continue to earn an income. Once the monthly CPP benefit is being paid, an employee cannot continue to contribute to the CPP.

Old Age Supplement (OAS)

A person entitled to receive OAS at age 65 may continue to earn an income. However, if a person's income (2007 rate) exceeds \$63,511, she will receive less OAS. Once an individual's total income is \$102,865, OAS payments will end.

Private pension plans

Most private defined pension plans pay

The March 2007 federal budget changed the RRSP rules to permit contributions to an RRSP until age 71

most drug costs for seniors over age 65. Employers may have to find a way to extend coverage to older workers. The government may have to intervene.

Dismissal

Decisions to terminate a worker cannot be based on age. A 75-year-old worker who is fired will be entitled to the same notice as anyone else. This means he will be entitled to a severance package based on years of employment. Employers will continue to have the right to terminate employees immediately for just cause or by providing reasonable notice or paying severance in lieu of notice.

Canada Pension Plan (CPP)

A worker can receive Canada Pension

the pensioner only on termination of employment. A working pensioner may still earn employer-paid RRSP benefits.

RRSP/RRIF rules

The March 2007 federal budget changed the rules requiring individuals to commence drawing their pension in the year they turned 69 and added two years, so it is now age 71. At the same time, the RRSP rules were changed to also permit contributions to an RRSP until age 71. This seems to be a policy to encourage workers to be employed past age 65. ●

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