
BACKGROUND

2007AG0020-000524
April 25, 2007

Ministry of Attorney General
Ministry of Community Services

ELIMINATION OF MANDATORY RETIREMENT

British Columbia is proposing to eliminate mandatory retirement by revising the provincial Human Rights Code. Amendments to the code, which currently prohibits discrimination on the basis of age for people age 19 to 64, would take effect Jan. 1, 2008. The change would extend protection from age discrimination to those 65 and over.

The change supports the December 2006 recommendations of the Premier's Council on Aging and Seniors' Issues. The council examined how B.C. can support seniors' ability to continue as contributing members of society and support their independence and health.

TOP 10 QUESTIONS

1. Will the legislation be retroactive?

No. Former employers will not be required to re-employ staff who retire before the legislation comes into force.

2. Can people be forced to work past the age of 65?

People will be able to choose to retire whenever they wish. The change is about allowing people to continue to work past age 65 if they desire to do so.

3. Will this apply to both public and private sector employees?

Yes, this legislation means both public and private sector employees will now have the choice to work past 65. Like many jurisdictions in the world, there are many more older people in B.C. who would like to continue to work. The proposed amendment will ensure people over 65 have protection from age discrimination and will potentially help employers to retain the corporate memory and experience mature workers possess by enabling them to remain in the workplace past 65.

4. How will this change impact younger workers?

This is about giving mature workers, as well as their younger co-workers, opportunities to contribute to the workplace. While it would be a significant change with respect to protection against discrimination on the basis of age, only a small percentage of employees are likely to continue working beyond 65.

5. How do the amendments affect pension plans?

Existing pension rights are protected. Bona fide retirement, superannuation or pension plans will continue to be able to make distinctions on the basis of age, as they do now. Allowing this exemption is necessary to ensure the ongoing operation of these pension plans. It includes the ability to make distinctions in pension plans, such as specifying early and normal retirement ages, which benefit employees.

6. Does ending mandatory retirement affect a person's access or entitlement to private employer pensions? What about eligibility for Canada Pension Plan benefits?

Access or entitlement to employer-sponsored pensions is unaffected. Provincial changes will not affect entitlement under the Canada Pension Plan, as it is a federal program.

7. How does the legislation affect employee benefits?

The legislation will continue to permit age-based distinctions under bona fide group or employee insurance plans, including those that are self-funded by employers or provided by a third party. As is the case in other jurisdictions, age-based distinctions can be made only under insurance-based benefit plans. Employers continue to have discretion regarding the provision of benefits.

8. Why will this change take eight months?

We are allowing some transition time to allow employers to bring their policies in line with the legislation. The timing also allows parties to review and possibly renegotiate collective agreement provisions to be consistent with the legislation.

9. Does this mean an employer has to accommodate age-related disabilities?

Mature workers will be subject to the same Human Rights Code standard of accommodation as other workers.

10. Are any jobs exempted from this change?

The current exemption for bona fide occupational requirements will remain. B.C.'s Human Rights Code allows certain occupations to make distinctions on certain grounds, including age, because of a job's nature. These are considered bona fide occupational requirements and are related to public safety, such as being fit to be a police officer.

Media contact: Shawn Robins
Communications Director
Ministry of Attorney General
250 387-4965

Anne McKinnon
Communications Director
Ministry of Community Services
250 953-3677

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