

EMPLOYERS CONCERNS AT PLANS TO SCRAP RETIREMENT AGE

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At the end of July 2010, the government published proposals to scrap the default retirement age (“DRA”) of 65, which was introduced by the Employment Equality (Age) Regulations 2006. This was not a total surprise as these proposals had formed part of the government’s Coalition Agreement, and were included in both parties’ manifestos, however previously no deadline had been set. The announcement that the change will be felt as soon as 6 April 2011 was the issue because employers must give a minimum of six months’ notice before forcing someone to retire. Under the proposals, no new compulsory retirement notice can be issued after that date and retirements under the DRA will cease completely on 1 October 2011.

The government hopes the change will encourage people to work for longer, against a background of an ageing population. That could ease the strain on public finances as more people continue to pay tax, while at the same time claiming the state pension.

The new plans allow for a six-month transition from the existing regulations as currently employers can make staff retire at 65 regardless of their circumstances. However it will still be permissible for individual employers to operate a compulsory retirement age after 1 October 2011, provided that it can be objectively justified.

John Cridland, CBI deputy director-general raised immediate concerns about the government’s timetable which he said gave employers little time to prepare. “Scrapping the DRA will leave a vacuum and raise a large number of complex legal and employment questions, which the government has not yet addressed”, he added.

The consultation proposes to help employers by removing the administrative burden of complying with statutory retirement procedures. With the DRA removed there is no reason to keep an employee’s ‘right to request’ working beyond retirement or for employers to give employees a minimum of six months’ notice of retirement. However the EEF manufacturers’ group warned there could be more employment tribunal claims from older employees who believe they have been unfairly forced to leave a job.

Scrapping compulsory retirement at 65 is likely to boost the 1.4m people working beyond the state pension age, already the fastest growing section of the workforce – 12.4 per cent of that age group are in jobs, up from 8 per cent in just a decade. However there is no doubt that ending the DRA will mean a challenge for employers. In future, their only way of effecting a retirement dismissal will be if



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it can be objectively justified as a proportionate means of achieving a legitimate aim. It is therefore vital that employers speak to their legal teams when handling these matters in the future.