

Update - Abolition of the Default Retirement Age

The Government has now published the draft Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011.

The Regulations, which will come into force on 6 April 2011, will abolish the default retirement age of 65 and the statutory retirement procedures. This means that employers will no longer be able to force an employee to retire at the age of 65 by following the statutory procedures.

There are, however, transitional provisions, which now appear to give employers a 12 month window (rather than the 6 months previously suggested by the Government) to retire an employee, provided:

- The employer gives at least 6 months' (and not more than 12 months') notice of the employee's intended retirement date.
- The notice is issued by 5 April 2011 at the latest.
- The notice must relate to an employee who is or will be 65 on or before 30 September 2011.

Practically, therefore, an employer who gives the full 12 months' notice could retire an employee at the latest on 5 April 2012.

The Regulations also clarify the rules on the employee's right to request to continue working beyond retirement. The latest date for an employee to make such a request will be 5 January 2012. If the employer agrees to postpone the employee's retirement date by up to 6 months, this would extend the last possible date for the employee's retirement to 5 October 2012.

Employers should therefore act now to ensure any retirement notices are served by 5 April 2011.

Time Table

Regulations come into force
6 April 2011

Last date notice can be issued
5 April 2011

Employee must be 65 on or before
30 September 2011

Last day employee can request to
continue working
5 January 2012

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