

## **Default Retirement Age to be Abolished**

Under current law, businesses can force employees to retire when they reach the age of 65, providing they discuss the plans with the employee six months before their 65<sup>th</sup> birthday. However, from October 2011 this will no longer be the case and from 6 April 2011 employers will not be able to issue retirement notices and employees can work long beyond their 65<sup>th</sup> birthday.

The Default Retirement Age (DRA) only applies to 'employees' currently and therefore those professions where there is a statutory age limit such as commercial pilots or partnerships will not be affected.

The following dates have been confirmed:

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| <b>6 April 2011</b>   | No further new notices of compulsory retirement using the DRA  |
| <b>1 October 2011</b> | No further default retirements. (Except in exceptional circumstances, where compulsory retirement may be objectively justified). |

Continuing with compulsory retirement without objective justification will be considered age discrimination which carries an unlimited compensation payment including potential injury to feelings.

Here are some practical examples:-

- Person A is given notification of their retirement date in February 2011 and their 65<sup>th</sup> birthday is 30 September 2011. The notification precedes 6 April 2011 and the retirement will be completed before 1 October 2011. A can be compulsorily retired using the DRA subject to the statutory retirement procedure being followed.
- Person B is given notification of their retirement date in February 2011 but their 65<sup>th</sup> birthday is 5 October 2011. Although the notification precedes 6 April 2011 because they do not reach their 65<sup>th</sup> birthday until after 1 October 2011 they cannot be compulsorily retired using the DRA process.
- Person C is not notified of their retirement date before 6 April 2011 and although their 65<sup>th</sup> birthday is on 30 September 2011 they cannot be compulsorily retired because the notification does not precede 6 April 2011.

### **What could this mean for employers?**

- Employees will be around for longer
- An increase in tribunal claims for age discrimination (already one of the fastest growing areas)
- Valuable skills and knowledge are retained

- Recruitment time and costs reduced
- Performance management or ill health capability will be required to dismiss older employee's who may otherwise have retired with 'grace and dignity'
- Possible increase in sickness absence
- More flexible working requests
- Higher costs to business for life assurance, medical cover and pensions as employees stay working indefinitely
- The potential for an employee to remain on permanent health insurance or income protection for life

### **What should you consider?**

- Review terms and budget for benefits such as pensions, life assurance, permanent health insurance, private medical insurance and training costs with employees working past 65.
- Ensure you have clear performance management and absence policies in place.
- Review your workforce and determine who can be retired prior to the 1 October 2011 and if you do wish to retire anyone you ensure that you send notice to the employee before 6 April 2011.

Critchleys HR and Payroll has compiled a comprehensive Retirement Pack with all the documentation and guidelines to ensure your business remains legally compliant throughout the process of retiring an employee.

Please call us on 01865 261145 if you are considering the compulsory retirement of an employee and we can support you throughout the process.