

Employment Law

Legal Update: March 2011

Removal of the Default Retirement Age

What does this mean for employers?

As we mentioned in our January Alert, the default retirement age (65) will be abolished later this year. The draft Regulations have now been published. These confirm the Government's intention to remove the default retirement age on 6 April 2011, leaving employers with the choice of either continuing to employ older employees or seeking to justify a retirement age for their business.

The first key date employers need to bear in mind is 6 April 2011. This is the date the new Regulations come into force. However, there are complicated transitional arrangements. Essentially if you have an employee who is 65 before 1 October 2011 and you want them to retire you must give them notice of retirement (following the default retirement procedure) on or before 5 April 2011 as no new notices can be issued after that date.

An employee who is 65 on or after 1 October 2011, cannot be retired relying on the default retirement age. Unless their employer can objectively justify a particular retirement age for that employee, they will leave themselves open to claims for unfair dismissal and age discrimination.

Employers should consider now whether they can objectively justify a set retirement age. This will require thorough consideration of what business aim would justify imposing a set retirement age and whether that aim could be achieved in a less discriminatory way. The Government literature available suggests that it will be difficult for employers to justify a set retirement age in many cases. The alternative is to have no set retirement age and continue to employ your employees for as long as they perform satisfactorily. Many employers are unhappy with this since managing a person out for poor performance is fraught with difficulties and to dismiss an older employee for such a reason would deny the employee a dignified end to their career. Some commentators believe that far from employees working longer the new Regulations could see employers adopting a much tougher attitude towards people in their late 50's and managing them out sooner rather than later.

We suggest that you should review your contracts of employment, retirement policies and share schemes now to ensure that they reflect these important changes in the law.

The implications of the removal of the default retirement age are full of pitfalls for employers. If you would like more detailed advice about the implications of this important change or if you have a concern about a specific situation please contact either the person you usually deal with in the Employment Team or Vicki Smith at Vicki.Smith@crippslaw.com or call her on 01892 506291 who will be pleased to put you in touch with one of the team.

Time off for Training not extended

The right to request time off for training has been available to employees of organisations with 250 or more employees since April 2010. It was due to be extended to smaller organisations in April 2011. However, following consultation, the Government has announced that it will not extend the right and has delayed implementation so that 'the right balance is struck between support for training and the need to minimise the burden of regulation for smaller companies'. The Government will now undertake 'further, thorough discussion, scrutiny and evaluation' of the extension.

Bribery Act delayed

The Bribery Act was due to come into force in April 2011, but the Ministry of Justice has confirmed that it will now be delayed until three months after the final version of the guidance on adequate procedures is published. We do not yet have a date for publication of the guidance and will update you when we do.

For more information please contact:



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