

Questions and Answers

The Saskatchewan Human Rights Code Amendment Act, 2006 **(Eliminating Mandatory Retirement)**

Q. Why is the Government eliminating mandatory retirement?

- A. Some people reaching retirement age feel strongly that they should be able to continue to work, that their age alone should not prevent them from continuing in the labour market and that they can still contribute in the work place. The Government agrees that a person's choice to continue to work should not be denied just because the person has reached a certain retirement age. Rather, older people will be able to choose for themselves, based on their own personal situations, to continue to work as long as they are capable of performing their jobs.

Q. How will it affect employers' mandatory retirement policies?

- A. Currently, policies which require employees to retire at age 65 are permitted by *The Saskatchewan Human Rights Code*. This Bill removes from the *Code* that exemption. Employers will no longer be able to require employees to quit solely because they have reached 65 years of age. These amendments also recognize that senior, experienced employees are a valuable resource, especially in work environments where labour shortages are a current or future concern.

Q. How will it affect collective agreements?

- A. Currently, collective agreements that require employees to retire at age 65 are permitted by the *Code*. This amendment to the *Code* removes that exemption. As a result, collective agreements that specify a retirement age may be subject to a human rights complaint.

Q. When will these changes come into force?

- A. The changes will come into force on November 17, 2007. This will allow time to phase-in the necessary changes, whether that is renegotiation of collective agreements that have a mandatory retirement clause or revision of human resource policies that require retirement at 65.

Q. What if I turn 65 before November 17, 2007 and want to continue to work?

- A. Those who are made to retire before November 17, 2007, are in the same position as the people who are made to retire today. They are governed by the existing law.

Q. What if I want to retire at or before age 65?

- A. The legislative changes will prohibit employers from requiring employees to retire solely because they have reached a certain age. However, it does not prevent employees who want to retire at or before the age of 65 from doing so.

Q. Would an employer be able to terminate older employees?

- A. An employer could not terminate an employee just because the employee has reached a certain age. An exception to this general rule is where age can be shown to be a “bona fide occupational requirement”, that is, where advancing age relates to the ability to perform the duties required by the job.

In addition, as with other employees, an employer would continue to be able to terminate an older employee for cause.

Q. What happens in other provinces?

- A. In Manitoba, Alberta, Quebec, Prince Edward Island, New Brunswick and all territories, the human rights legislation does not expressly permit mandatory retirement. Ontario’s legislation to eliminate mandatory retirement came into force on December 12, 2006. Newfoundland’s comparable legislation will come into force on May 26, 2007.

Nova Scotia introduced a Bill to eliminate mandatory retirement on March 29, 2007. It includes a provision for the changes to come into force one year from assent.

British Columbia introduced similar legislation on April 25, 2007. If passed, it will come into force on January 1, 2008.

Q. Will this change employee benefit plans?

- A. In Saskatchewan, as in other provinces, the *Code* currently allows distinctions based on age for the operation of a bona fide group or employee insurance plan. This exception allows pension and disability plans to include actuarial based criteria in their operation. This aspect of the *Code* is not being changed.

Q. Can I be forced to work past the age of 65?

A. No, the purpose of the legislation is to give you a choice as to when to retire.

Q. How do I make a complaint if I have been terminated because of my age?

A. If an employee thinks he or she has been terminated on the basis of age, the employee can contact the Saskatchewan Human Rights Commission to get more information or to file a complaint. There are commission offices in Regina and Saskatoon. The Commission can be contacted as follows:

Saskatoon Office

Phone: (306) 933-5952
Fax: (306) 933-7863
Telewriter: (306) 373-2119
Toll Free: 1-800-667-9249
Email: shrc@shrc.gov.sk.ca

Regina Office

Phone: (306) 787-2530
Fax: (306) 787-0454
Telewriter: (306) 787-8550
Toll Free: 1-800-667-8577
Email: shrc@shrc.gov.sk.ca