

In short, the *Canadian Human Rights Act* does not affect mandatory retirement in the public sector at all and affects mandatory retirement in the private sector in only a limited way because of an exception to the prohibition on age discrimination in employment that permits forced retirement at the "normal age".

## The Law in Other Jurisdictions

The human rights legislation of most Canadian provinces prohibits mandatory retirement before age 65, subject to a *bona fide* occupational requirement qualification. In Manitoba, Québec and New Brunswick there is no such age limit on the prohibition, although mandatory retirement is permitted in New Brunswick under the terms of a pension plan that establishes a fixed retirement age.

Initiatives have been taken or recommended in a number of other provinces to eliminate the '65 cap' on the prohibition against age discrimination. In Alberta and Prince Edward Island, statutory changes to this end are in process. In Nova Scotia and Saskatchewan, government-sponsored reports have suggested such a change.

There are no systematic studies of the practical effects of the general abolition of mandatory retirement in those provinces that have taken that step. Such a study has begun in Québec, and the results should be available by the end of 1985. The information the Committee received indicates that there have been no serious problems in provinces that have prohibited discrimination with no upper age limit. Indeed, in Québec it appears that there has been a distinct preference for earlier rather than later retirement, a trend that may have been accentuated by the availability, for the last two years, of reduced Québec Pension Plan benefits from as early as age 60, in lieu of full benefits from age 65.

In the United States, a 1978 amendment to the *Age Discrimination in Employment Act of 1967* raised the minimum mandatory retirement age in the private sector from 65 to 70 and introduced a general prohibition on mandatory retirement in the federal public sector, subject in both cases to a *bona fide* occupational qualification exception. In twenty U.S. states, which account for close to half the U.S. workforce, mandatory retirement at any age has been abolished in either or both the public and private sectors.

The 1978 amendment required the Department of Labor to report to the President and Congress on the results of the amendment. That report, which was tabled in 1982, came to the following conclusions, drawn from a survey of employers and employees:

- most workers continued to retire at relatively early ages between 60 and 65;
- the additional costs of performance evaluation systems, to replace mandatory retirement policies, had not proved significant;
- there were very few promotional backlogs or slowdowns as a result of older workers remaining employed; and
- the financial benefits provided under pension plans and, to a lesser extent, under the social security system, remained the important determinants of retirement age choice. Those benefits had changed little and continued to serve as incentives for retirement at or before age 65.