

Mandatory Retirement

“ Flexible or phased retirement is the trend of the future. This business of putting people out to pasture at 65 may be an administrative convenience but there is no doubt that it causes a lot of human grief.

...It is a hard thing to turn some people loose at an arbitrary age and expose them to the chill winds of poverty in their declining years. ”

—Senator David Croll, who served as
Chairman of the Special Senate
Committee on Retirement Age
Policies (1979)

Introduction

The term ‘mandatory retirement’ refers to an employer’s policy of terminating employees when they reach a given age or complete a fixed term of service. In fact some combination of these two factors may trigger retirement. In any case, mandatory retirement takes the form of an across-the-board rule. It does not allow for individual assessments of the capacities of particular employees, capacities that might justify continuation in employment beyond a usual retirement date. Mandatory retirement requires examination under the *Charter* because the criterion for termination is related to age, one of the prohibited grounds of discrimination in section 15.

The severity of the mandatory retirement rule is sometimes tempered by provisions for occasional extensions of employment after normal retirement. However any such extension is ultimately at the discretion of the employer and is usually limited in time. From the point of view of the employee retirement remains, in essence, compulsory — but with the opportunity to try to make a special case for a temporary reprieve.

Mandatory retirement is implemented in different ways. It may be an element of an employer’s personnel policy, a written employment contract, a pension or superannuation plan or a collective agreement. In the case of public sector employment it is usually formalized in a statute, regulation or order.