

whether they fit within the *bona fide* occupational requirement exception. We believe that the maximum term of service and rank-related retirement criteria, of the kind used in the RCMP, do not meet the test of *bona fide* occupational requirement. Retirement is dictated by these criteria at different ages. Therefore it is difficult to relate any effects of the aging process on job safety and efficiency to the particular retirement rules in any precise way.

The retirement rules of the Canadian Armed Forces also bear close examination, especially because of the possibility of very early retirement by those who aren't given the opportunity to proceed as far as the final career pattern, which ends at age 55. The Armed Forces treats a military engagement as a series of term commitments. However, as a general principle, that kind of employment arrangement is not likely to avoid the effect of a prohibition on age discrimination in the absence of a special exception.

These and other mandatory retirement provisions in the federal public sector should be reviewed in anticipation of challenges under the *Canadian Human Rights Act* and amended, where necessary.

We expect that the general abolition of mandatory retirement at the federal level will have to be accompanied by some transitional rules, for example, to preserve the effect of a compulsory retirement provision in an outstanding collective agreement until the expiry of that agreement. Such a rule could take the form of a permissive guideline issued by the Canadian Human Rights Commission (pursuant to section 14(c) of the *Canadian Human Rights Act*).

There may also be some relatively narrow classes of exceptions, in addition to that for *bona fide* occupational requirements, that may be necessary to avoid undue hardship as a result of the general prohibition of mandatory retirement. Any such situation could also be dealt with in guidelines issued by the Canadian Human Rights Commission. If there are to be any such additional exceptions, they should be clearly justified and carefully defined. They must not exceed the reasonable limits on freedom from discrimination on the basis of age allowable under section 1 of the *Charter*.

Consequential Changes

There are a number of changes that Parliament and the government of Canada should consider, to accompany the abolition of mandatory retirement, in order to promote a greater degree of choice in the matter of retirement:

1. extending unemployment insurance coverage to those 65 or over who continue in the labour market;
2. making available the full range of employment and training programs provided by the Canada Employment and Immigration Commission without reference to age;
3. providing for commencement of receipt of Canada Pension Plan benefits, on an actuarially adjusted basis, before or after age 65, at a time to be determined, within appropriate limits, by the contributor;
4. reviewing and revising the Canadian Human Rights Benefit Regulations to assure continued participation in benefit plans by all employees, as far as reasonably possible, notwithstanding the age of the participant;