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## **DEFAULT RETIREMENT AGE TO BE RETIRED**

The Department for Business Innovation and Skills and the Department for Work and Pensions have recently launched a consultation document which proposes that an employer's current ability to compulsorily retire employees at age 65 be phased out.

Whilst a raising of the compulsory retirement age has been on the cards for some time, a total abolition is the new coalition government's plan for "re-invigorating retirement."

The Consultation Document highlights a number of reasons in support of removing a compulsory retirement or default retirement age (DRA) including: demographic change; financial benefits; and the health and social benefits people could gain from elongating their working life.

The main proposals are:

- The Government will use the powers set out in Section 2(2) of the European Communities Act 1972 to phase out the DRA from 6 April 2011.
- The current statutory retirement procedures will also be phased out, including the provision that requires employers to give a minimum of six months' notice of retirement to employees and the provision which allows employees to request that their retirement is postponed.
- From April 2011, employers will no longer be able to use the DRA to maintain a compulsory retirement policy for their workforce at age 65 or above.
- There will be transitional arrangements for retirements between April and October 2011.
- From April 2011, employers will only be able to have a compulsory retirement age (CRA) for their employees if they can objectively justify that having a particular CRA is a proportionate means of achieving a legitimate aim.

The consultation document seeks contributions on whether the Government could provide support for employers in advising them how to manage without the DRA. It also calls for comments regarding the possibility of introducing a formal code which employers could follow. Responses to the Consultation will be accepted until 21 October 2010. For more details or to respond to the consultation document follow this link: <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/p/10-1047-default-retirement-age-consultation.pdf>

If this proposal goes ahead, it means that no more notices of compulsory retirement at age 65 can be validly served after 6 April 2011 and only people who were notified before 6 April,

For further information please contact:



**Katy Wedderburn**  
Tel: 0141 303 1100  
[katy.wedderburn@macroberts.com](mailto:katy.wedderburn@macroberts.com)

or



**Karen McGill**  
Tel: 0131 229 5046  
[karen.mcgill@macroberts.com](mailto:karen.mcgill@macroberts.com)

or reply to the e-mail address above.

and whose retirement date is before 1 October 2011, can be compulsorily retired using the DRA. After October 2011 there would be no distinction between dismissals of employees under or over the age of 65 and the only potentially fair reasons for dismissal would be conduct, capability, redundancy, illegality or some other substantial reason. The government's view is that "the evidence shows a minority of employers use retirement ages, and that the majority of requests to work beyond this are agreed. A majority of employers feel they can operate effectively without retirement ages".

Given that the aim is to remove compulsory retirements in just over 12 months, now is the time to review existing procedures.

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