

The Employment Equality (Age) Regulations (2006)

1. INTRODUCTION

The Employment Equality (Age) Regulations came into force in October 2006. All discrimination on the grounds of age is covered within the regulations, not just discrimination against older workers.

One of the drivers behind the regulations is demographic change and the economic needs of the country, recognising the role of older people / workers can play in the workforce.

For Northern Ireland the relevant legislation is the Employment Equality (Age) Regulations (NI) 2006. For further details please refer to the following website: <http://www.opsi.gov.uk/sr/sr2006/20060261.htm>

You can also refer to the Equality Commission for Northern Ireland website for further information: <http://www.equalityni.org>

2. WHAT DO THE REGULATIONS COVER?

The regulations apply to all employers, private and public sector vocational training providers, trade unions, professional organisations, employer organisations and trustees and managers of occupational pension schemes.

The regulations cover:

- recruitment;
- terms of employment;
- promotions;
- transfers;
- dismissals; and
- training.

They do NOT cover the provision of goods and services, unlike, for example, the race and sex discrimination provisions.

More detailed guidance can be found at:

- The Equality Challenge Unit: www.ecu.ac.uk; and
- ACAS: www.acas.org.uk.

3. WHAT DOES THE REGULATION SAY?

The regulation makes it unlawful on the grounds of age to:

- discriminate directly against anyone others because of their age;
- discriminate indirectly against anyone because of their age, unless it can be objectively justified;
- subject someone to harassment; and
- victimise someone because they have made or intend to make a complaint or allegation.

4. WHAT IS MEANT BY DIRECT AND INDIRECT AGE DISCRIMINATION?

Direct discrimination is defined in the Regulations as less favourable treatment on grounds of age in employment and vocational training, including education courses provided by further and higher education institutions and the activities of trade unions.

Examples of direct discrimination are: not recruiting someone because of their age, dismissing them, turning them down for promotion, refusing to give them training, giving them lesser terms and conditions on age-related grounds.

Indirect age discrimination means where a provision, criterion or practice is applied which puts people of one age group at a particular disadvantage when compared with people of a different age group.

5. WHAT IS MEANT BY HARASSMENT AND VICTIMISATION?

Harassment is unlawful, and is defined as unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them, having regard to all the circumstances including the perception of the victim.

It is also unlawful to **victimise** someone because they have made / intend to make, a complaint or allegation or have given / intend to give, evidence in relation to a complaint on the grounds of age.

6. RETIREMENT

There will be a national default retirement age of 65, making compulsory retirement below 65 unlawful unless it can be objectively justified.

All employees will have the 'right to request' to work beyond the default retirement age of 65 or any other retirement age set by the company/organisation. All employers will have a 'duty to consider' requests from employees to work beyond 65.

If an employee makes such a request, the employer must discuss this. If the request is then refused, the employee has the right to an appeal meeting. However, the employer **is not obliged** to give a reason for refusing any such request.

There are circumstances when discrimination may be lawful, such as genuine occupational requirements, objectives justifications, exceptions and exemptions.

7. WHAT DO I DO IF I FEEL DISCRIMINATED AGAINST?

If your manager is unable/unwilling to help you, you must use your organisation's grievance procedure to proceed with your complaint.

If you are not satisfied with the result of a grievance procedure, you may be able to bring a complaint to an employment tribunal. You do not have to hand in your notice to bring such a complaint.

Complaints to an employment tribunal must normally be brought within three months of the act you are complaining about. Care should be taken to ensure that the three month point is not exceeded during any internal grievance/appeals process.

8. HOW DOES THIS AFFECT MY WORK IN THE SECTOR?

When carrying out your work, you should be asking yourself some of the following questions:

- Do older employees have different needs (e.g. carer facilities or flexible working hours), and is the work I am doing recognising and meeting these different needs?
- How do we recruit staff into the sector and do any of our policies or criterion put people of one age group at a particular disadvantage?
- Are older or younger teachers over/under-represented in certain curriculum areas? If so, how can I rectify occupational segregation?
- How can I use the marketing material I produce to promote positive attitudes towards older teachers and learners and challenge negative stereotypes?