

Guide

The Employment Equality (Age) Regulations 2006

The TAEN Guides to the Age Regulations are primarily for employees, jobseekers and learners and aim to give a simple, clear explanation.

Age Discrimination: Who is Covered by the Age Regulations?

Who has the right?

1. In employment

- Employees
- Self employed
- Office holders (for example company directors)
- Contract and agency workers
- Job applicants
- Former employees

2. In education

- Applicants of adult education and training
- Students of adult education and training
- Former students of adult education and training

3. Other areas

- People using career guidance services
- People applying for professional qualifications
- Members of Trade Unions or other professional bodies
- Members of occupational pension funds

What is covered?

1. Recruitment

Under the Regulations employers are generally not allowed to refuse to hire someone because of their age, except if the applicant has six months or less until they reach the age of 65, or the employer's normal retirement age – whichever is higher.

2. Redundancy

It is unlawful for employers to use age as a factor when selecting redundancies, unless the employer can justify this. (See below)

3. Unfair dismissal

The Regulations removed the upper limit for unfair dismissal claims, which now means that people over the age of 65 can make claims for unfair dismissal.

4. Retirement

If your employer tries to force you to retire before 65 or before the normal retirement age of the employer you may bring a claim for age discrimination.

5. Training

If you are completing work-related training whether you are employed or not you may make a claim for age discrimination if someone discriminates against you.

6. Education

If you are enrolled in higher education or any other education which provides you with relevant skills for work, you are covered by this legislation.

When can age discrimination be justified?

There are some situations where an employer may be permitted to discriminate on the grounds of age. To do this they must show, with evidence, that the discrimination is a proportionate means of achieving a legitimate aim. Put simply, this means that the aim that they are trying to achieve could not be achieved in any less discriminatory way and that the benefits of achieving the aim outweigh the harmful effects of the discrimination.

It is up to the tribunal to decide what they consider to be proportionate in the circumstances.

There are some limited exceptions to this, which allow employers to discriminate on the grounds of age without the need for justification. These include:

- Benefits linked to length of service.
- Where there is a genuine requirement for a person of a certain age, for example in an acting job.
- Where the law stipulates an age requirement. For example in an establishment which serves alcohol and therefore requires staff of 18 years and over.
- Where the employer relies on the National Minimum Wage, and therefore is allowed to pay different aged workers different pay based on the legal framework.

If you are concerned you may have experienced discrimination fill in the online questionnaire (EqualityXpress) at www.rjw.co.uk/equalityxpress. Russell Jones & Walker Solicitors will then contact you with their opinion on your claim. The service is free and 100 per cent confidential.

The information in this guide was prepared by the award winning employment department at Russell Jones & Walker Solicitors

Care has been taken to ensure that the information provided in this Guide is accurate up to the date of publication (1 June 2009). However, we do not accept responsibility for mistakes or omissions. In particular, the information provided is for general educational purposes only and is not intended to be legal advice, taking into account your particular circumstances. Please do not use this information to disregard any legal advice, nor to delay in seeking legal advice or representation because of any material contained in it.

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