

## Pensions rules largely unaffected

The new age discrimination laws aim to disrupt occupational pension arrangements as little as possible, and to avoid the risk of pension provisions being reduced.

The regulations apply to occupational pension schemes and employer contributions to personal pensions. They do not apply to state pensions, which will be completely unaffected.

In addition, pension rights accrued before 1 October 2006 will not be affected.

## Key exemptions

The regulations exempt a wide range of age-related rules, which typically exist in occupational pension schemes. This means that pension schemes can continue to operate, by and large, as they do now.

Where an age-based rule is being used as part of an existing pension scheme, and there is no exemption for it in the regulations, employers will have the option of objectively justifying it. If the rule cannot be justified, the employer can change it, or if they cannot do so –get rid of it.

An exemption in the regulations allows pension schemes to be closed to new employees. This means different pension arrangements can be offered to existing employees and new joiners. For example, a firm may offer a *defined contribution scheme* for new employees while existing

staff remain in a *defined benefit scheme*. Nothing in the Regulations will undermine the way that defined benefit schemes operate.

Age-based contributions to pension schemes can continue if they are aimed at producing an equal outcome in pension benefits.

Employers can also continue to apply minimum and maximum age limits for membership to pension schemes.

Employers will not be able to set a maximum age for contributions to a pension scheme, but will be able to set a maximum number of years of pensionable service.

### **Illustrative example**

*An electronics company in the South West of England provides a defined benefit scheme for all its workers. Employee John Smith is 64 and has requested to continue working after the default retirement age of 65, which his employer has agreed to.*

*John wants to know whether he can remain in his pension scheme and continue building up pension until he retires.*

*His employer can't stop contributing to John's pension scheme, unless he has already built up his maximum number of years service under the scheme, which is set at 40 years by his employer.*

*As John has built up 39 years pensionable service, he can carry on being a member of the scheme and receiving contributions from his employer for a further year.*

*As he has successfully exercised his right to continue working past his intended retirement date, his employer won't have to keep contributing to his pension scheme or provide him with an alternative pension*

*scheme, unless they want to. This is because he will have reached the maximum number of years service. John can also draw his pension while continuing to work, if he wishes.*

The full regulations and guidance on occupational pensions can be found at [www.dti.gov.uk/employment/discrimination/age-discrimination/index.html](http://www.dti.gov.uk/employment/discrimination/age-discrimination/index.html)

Detailed guidance on the laws can be found at [www.acas.org.uk](http://www.acas.org.uk) from late April

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