

Fair redundancy payments for workers

The Government is removing the lower and upper age limits in the statutory redundancy payments scheme.

Under the new laws, once they have completed the employer's minimum qualifying period, workers under 18 and over 65 will receive the same rights to redundancy payments.

In addition, the taper at the age of 64 is also being removed, so employees aged 64 will no longer see their redundancy entitlement reduced by a 12th every month until they are 65.

New regulations will affect workplaces from 1 October 2006.

What about the current age bands?

When the Government consulted with key stakeholders including the CBI, EEF and TUC on the way forward for the redundancy scheme it became increasingly clear that moving to a single multiplier would leave a substantial number of older workers worse off. We believed this would be unacceptable.

Consequently the Government has decided to retain the current age-banded structure of the statutory redundancy payments scheme, because it fits better with our overall policy aims. We are confident that retaining the age-bands is permitted under the EU Directive.

Are there any exemptions?

If an employer is paying redundant employees under the statutory scheme, or under an enhanced version of the statutory scheme, they will be exempt from challenge on the grounds of age discrimination.

However, if the employer's scheme is significantly different from the statutory scheme, then they will not be exempt from challenge. An employer in these circumstances will need to consider whether their scheme can be 'objectively justified' and, if not, whether to amend it accordingly.

National Minimum Wage

The Government and the Low Pay Commission are concerned that some employers may lay off their young workers, if they have to pay them the same rate as older employees.

It is important to encourage businesses to take on young workers, so employers will be able to use the minimum wage development rates, without fear that this could be illegal.

Understanding the new procedures

Employers will need to ensure that their selection processes for redundancy are free from age discrimination.

For example, practices such as 'last in first out' and using length of service in any selection criteria may be discriminatory, if not 'objectively justified'.

Illustrative example

An accountancy firm from Bristol employs ten people of varying ages, but have to reduce to six employees.

Six of the oldest employees have been in the firm for more than five years and are fully trained and experienced. The remaining four are younger and have less than two years experience.

The firm decide to make the four youngest members of staff redundant, because they had not built up a full range of experience.

Although this effectively amounts to 'last in first out', it is likely to be justifiable because age is not the determining factor for dismissal.

The full regulations can be found at
www.dti.gov.uk/employment/discrimination/age-discrimination/index.html

Further detailed guidance on the laws can be found at www.acas.org.uk

URN 06/1253