

EMPLOYMENT EQUALITY (AGE) REGULATIONS (NORTHERN IRELAND) 2006

FACT SHEET No. 3 – TRANSITIONAL ARRANGEMENTS

Employers must be aware of the transitional arrangements that will apply to retirements from 1 October 2006 to 31 March 2007

Procedures are in place for ensuring retirement dismissals are fair for employees who are due to retire on or after 1 October 2006, when the new Regulations come into operation. The procedures will also protect employers from unnecessary or unfair dismissal claims.

If an employer gives an employee notice before 1 October that they are to be retired on or after 1 October 2006, but before 1 April 2007:

- notice given must be at least the period required by the contract of employment; or
- where the contractual period is longer than four weeks, at least four weeks.

On 1 October 2006, or as soon as possible afterwards, employers will have to write to the employee telling them of their right to request working longer. The employee can make a request not to be retired after their contract has been terminated, but not more than four weeks afterwards.

A meeting to discuss the request, and any subsequent appeal meeting, must be held within a reasonable period and the employee can ask to be accompanied by a companion.

Employers should note that under current employment law they already have an obligation to give notice of dismissal, whether on retirement or for some other reason.

If the employee is given notice on or after 1 October 2006 that they are to be retired before 1 April 2007:

- the employer must write to the employee notifying them of the intended retirement date – giving the longer of either contractual or statutory notice; and
- must tell them in writing that they have a right to request not to be retired.

An employee who wants to exercise this right should make a written request:

- where possible, four weeks before the intended retirement date; or
- as soon as reasonably possible after being notified of the 'right to request'.

The request can be made after the employee's contract has been terminated, but not more than four weeks after termination. The same appeal procedures apply as before.

Anyone retiring on or after 1 April 2007 will be subject to the full retirement procedure as stated in the Regulations.

Illustrative example

Jayne Brown is a 59-year-old Occupational Therapist, who is due to retire on 3 October 2006.

So her employer does not fall foul of the new Regulations, they must follow the transitional arrangement procedures.

Jayne must receive her retirement notice before 1 October 2006. The notice period required by her contract is five weeks. Under the transitional arrangements her employer can legally give her up to five weeks, but no less than four weeks notice of retirement.

On 1 October 2006, or as soon as possible afterwards, Jayne's employer will have to write to her informing her of the right to request working beyond her retirement. Duty to consider rules must then be followed, if necessary.

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Fact sheet issued
June 2006