

Employment Equality (Age) Regulations 2006

The TAEN Guides to the Age Regulations are primarily for individual employees, jobseekers and learners and aim to give a simple, clear explanation. They are neither a legal opinion nor a statement of Government views.

Introduction to TAEN's Guides

The Age Regulations – or to give them their official title - the Employment Equality (Age) Regulations 2006, come into effect on 1st October 2006. The Regulations cover many aspects of working life from recruitment through to retirement and pensions.

TAEN, along with other non-governmental organisations, participated in over five years of discussions and preparations with the UK Government and others on the transposition of the EU's *Equal Treatment Directive 2000* (on which the Age Regulations are based) into UK law.

TAEN's Guides to the Regulations divide them into a series of manageable, separate chunks. There is overlap between the topics. In some cases this is dealt with by repetition in more than one Guide. In other cases there is cross reference from one Guide to another.

The topics covered by our Guides are:

1. **The scope of the legislation** – to whom the law applies.
2. **Exemptions** – potentially allowable age-based actions.
3. **Recruitment**
4. **The Workplace** – terms and conditions, promotion and career management.
5. **Training**

6. **Redundancy**

7. **Retirement**

8. **Pensions**

9. **Comparators** - in discrimination cases.

10. **Redress** – dealing with a case of discrimination.

The Guides will be updated at regular intervals as evidence becomes available about how the law is working in practice.

The Regulations and Exemptions to them

The essentials of the Regulations are simple – it has become unlawful to base decisions on work and training on your age, just as it is unlawful to base decisions on your gender or ethnicity. However, there are important exemptions to the basic principle and these are explained in the Guides.

The exemptions are more extensive than in other discrimination legislation. The Regulations allow justification of direct as well as indirect age discrimination. Other

discrimination law does not allow direct discrimination except in the case of what are known as 'genuine occupational requirements'. Some of the exemptions relate to the business objectives of employers, others relate to the public policies of Government which then have an impact on employers, employees and training activity.

In summary, the main exemptions are:

- Justifiable and legitimate employer actions based on age;
- Positive action to correct for under-representation of an age group;
- Length of service pay and benefits;
- Minimum wages;
- Genuine occupational requirements;
- Redundancy pay;
- Government funding of adult training;
- Retirement procedures and fixed retirement ages;
- Occupational pensions;
- Social security systems;
- Statutory exemptions for existing UK laws;
- National security and Armed Forces.

These are all summarised in the Guide 2 *Exemptions*, but influence all the topics covered in the Guides.

Effectiveness of the Age Regulations

The effectiveness of the age legislation will depend on:

- Awareness and action by individuals who believe they have been adversely affected;
- Awareness and response of employers to the law;
- Strong support, promotion and enforcement by Government and its new agency, the Commission on Equality and Human Rights (CEHR), which will come into operation during 2007 and with responsibility for all discrimination law, including age.

In all discrimination law it is those who are most vulnerable to the risk of adverse action who are least likely to know of their rights and be able to take action to enforce them - hence the importance of promoting knowledge to a wide audience and to many regional and local public, private and community organisations who help achieve this.

TAEN works closely with all the relevant Government agencies, work and training providers, employer bodies, recruitment agencies, Help the Aged and Age Concern, Citizens Advice, adviceUK, Community Law Centres, Trades Unions, and many others.

We hope that TAEN's Guides will contribute to making the Age Regulations an effective agent of change and to the removal of age as a barrier to opportunity in work and learning.

TAEN
September 2006

This Guide has been produced by The Age and Employment Network with funding from the Department of Trade and Industry.

© TAEN The Age and Employment Network
2006

Charity No. 1002770