



Employer *update*

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The Elimination of Mandatory Retirement

The purpose of this update is to provide a summary of those provisions of the *Ending Mandatory Retirement Statute Law Amendment Act, 2005* (“the Act”), which are relevant to the OPSEU Pension Plan. The Act goes into effect December 12, 2006.

Key Provisions

The purpose of the Act is to amend the definition of “age” in the *Human Rights Code*. The current definition permits discrimination in employment on the basis of age for employees who are under 18 or who are 65 and older. Under the Act, age-based discrimination against employees 65 and older will no longer be permitted. Employers will, in most cases, be prohibited from requiring employees to retire at age 65 or using age 65 in other employment decisions. Mandatory retirement will be allowed only where it can be definitively established that being less than a specified age is a bona fide occupational requirement.

The Act requires the removal of section 17 – the mandatory retirement provision – from the *Public Service Act*. This provision currently requires Ontario civil servants to retire at age 65 and allows for exceptions only where the person’s employment past the age of 65 is requested by the person’s deputy minister and where the person is reappointed by the Lieutenant Governor in Council.

The Act does not amend the *Pension Benefits Act*, the *Workplace Safety and Insurance Act*, or the *Employment Standards Act*. The age-based provisions of these Acts are exempted and will continue to apply, despite the changes to the Code.

General Impacts

The revisions to the *Human Rights Code* are not expected to have a major financial or demographic impact on pension plans. Any increase in the number of active employees over the age of 65 will

likely be insignificant. Other provinces that have eliminated mandatory retirement have not seen a dramatic change in retirement age.

The Act will not affect a member’s eligibility to receive federal Canada Pension Plan (CPP) benefits or Old Age Security (OAS) payments at age 65. However, because OAS payments are subject to a reduction based on income, a member’s continued employment beyond age 65 may cause a reduction to his or her OAS pension.

Impacts on the OPSEU Pension Plan

There is no foreseeable impact on the OPSEU Pension Plan and no change to current procedures and requirements, regarding the administration of the Plan.

As the Act does not amend the *Pension Benefits Act (PBA)*, there is no change to the requirements and obligations that the PBA imposes on pension plans. Consequently, there is no change to the Plan’s normal retirement age of 65. While the employer can no longer *compel* members to retire at age 65, the member will retain the right to retire at that age with an unreduced OPTrust pension, integrated with CPP.

In accordance with the PBA, the Plan will continue to accommodate members who choose to continue their employment and membership in the Plan beyond the age of 65.

When retirement occurs after a vested member has reached age 65, the pension is based on the credit accrued both before and after age 65, and is reduced to reflect CPP integration.

The CPP integration formula is also based on the member’s service before and after age 65, but is subject to a 35-year credit maximum for post-1965 service. It is important to note that the CPP reduction is based solely on the CPP integration

formula under the Plan and does not take into account the actual CPP payments received by the member, nor the timing of those payments (i.e., early or delayed commencement).

For OPTrust members who continue to contribute to the Plan past age 65, membership in the Plan and the accrual of credit may continue until the end of the calendar year in which the member turns 69 years of age. This is the time, under the *Income Tax Act*, when retirement benefits must begin to be paid. Should the member continue to work beyond this point, continued credit accrual and membership in the Plan must stop, and the member will collect both a pension and a salary.

Currently under the Plan, a member may stop making contributions on or after reaching age 65. Members who continue to work past age 65, but who decide not to contribute to the Plan after that age, will not earn any further credit in the Plan. For pension purposes, their employment will be deemed to have been terminated and pension payments will begin.

Regardless of age, once a member starts to receive an OPTrust pension, the pension may be affected by a period of post-retirement employment with an employer who participates in the Plan. Specifically, the pension will be reduced for any employment earnings that exceed the quarterly re-employment earnings maximum that is prescribed by Article 13 of the Plan and that is applied to the members' pension at retirement.

Membership in the Plan will continue to be elective for any individuals who are 65 or older at the time they become employed with a participating employer, regardless of the nature of their employment (i.e., permanent or unclassified).

There is no anticipated change to the requirement that LTIP credit accruals and contribution requirements shall cease at the age of 65.

OPSEU Pension Trust Employer Update

This employer update is intended to provide participating employers with news and information about the OPSEU Pension Plan. It does not create any rights to benefits not provided for in the actual terms of the Plan. In the event of any conflict or omission, the legal documents of the OPSEU Pension Plan will govern in all cases. Members who have questions about their pension benefits should contact OPTrust directly.

For more information, please contact the OPSEU Pension Trust.

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