

**Fourth Study Commission
Public and Social Law**

QUESTIONNAIRE 2009

AGE DISCRIMINATION

ICELAND

Introductory remarks:

The following Questionnaire deals with different topics of labour law, with a special focus on age discrimination. One of the main objectives of this questionnaire is, to obtain some impressions of the approach of national labour law systems regarding age discrimination. It is also important to keep in mind that there may be different provisions for different groups of employees for example civil servants and other persons working for government or public authorities under ordinary contracts of employment or farm laborers, persons working on board of ships or for religious communities or teachers. Exceptions or specific provisions regarding these groups should be mentioned. Statutory or other differences in treatment of men and women concerning age discrimination should also be mentioned

- 1.a. General, are there rules against age discrimination which have constitutional status? What do these rules say precisely, and how do they work at lower levels of law making?

Yes, according to Article 65 of the Constitution of the Republic of Iceland everyone shall be equal before the law and enjoy human rights irrespective of sex, religion, opinion, national origin, race, colour, property, birth or other status. Men and women shall enjoy equal rights in all respects. Those rules are the only one which have constitutional status in this respect.

- 1.b. Which international agreements and conventions dealing with age discrimination has your country ratified ?

The directive on anti-discrimination 2000/43/EC and the Employment equality directive 2000/78/EC, have not yet been incorporated in Icelandic legislation.

1. c. What are the main sources of law against age discrimination ?

According to the Act on Working Environment, Health and Safety in the Workplace, No. 46/1980 young persons are specially protected. For the purposes of this Act, young person means an individual under the age of 18 years, child means an individual who is under the age of 15 years, or who is in compulsory education, teenager means an individual who is aged at least 15 years, but has not yet attained the age of 18 years, and is no longer in compulsory education. According to Article 60 of this Act children may not be engaged in employment. Exemptions from the general rule of paragraph 1 may be made in the following cases:

a. Children may be engaged to participate in cultural or artistic events and sporting or advertising activities. A party who engages children who have not attained the age of 13 years shall obtain a licence from the Administration of Occupational Safety and Health before the engagement takes place.

b. Children aged 14 years and older may be engaged in work that constitutes part of theoretical or practical studies.

c. Children who have attained the age of 14 years may be engaged in light employment. Children who have attained the age of 13 years may be engaged for a limited number of hours per week in light employment such as light gardening or service jobs and other comparable jobs.

1. d. Are collective agreements bound by this provisions ?

Yes.

1. e Which groups are protected by these provisions, young employees, older employees or is it just forbidden to consider age as a decisive factor for working conditions ?

See previous answer 1c.

2 Please specify, what are the criteria according to which it is determined that it is an unlawful age discrimination (i.e. relevancy of the age to the nature of the job) ?

See previous answer 1c.

3. Do you have provisions stating minimum or maximum age for hiring employees ?

Employers are generally free to choose which workers they hire. They must however respect certain requirements provided for in law and collective agreements. These requirements include rules prohibiting discrimination based on gender, rules protecting young workers, requirements for professional qualifications in a number of occupations and restrictions on the employment of foreign workers.

According to rules regarding health and safety of young workers, limitations are set to the type of work, working environment and working

time of people under the age of 18. Children may for example only be employed after reaching the age of 14 years and then only for light work, ref. 1c.

For employees in the public-sector. according to The Government Employees Act, No. 70/1996, the general conditions for qualifying for an appointment to a post or for an employment contract are being eighteen years of age. Exceptions from this minimum age may be made for employment under a study contract, for cleaning jobs, messenger jobs or similar jobs. Provisions in other laws where other age limits are specified shall remain in force. A civil servant shall be relieved of his post as of the end of the month following his seventieth birthday.

4. Do you have provisions stating minimum or maximum age for entering pension funds systems ?

Yes, according to The Government Employees Pension Fund Act, No. 1/1997 fund members shall be all government employees having reached 16 years of age. Each Fund member who has paid a premium to the Fund has the right to a pension from the beginning of the next month following his/her 65th birthday. Maximum age for joining pension is the age of 70.

Occupational pension funds are also based on the Pension Act No. 129/1997, which requires a mandatory occupational pension fund membership of all workers between the ages of 16 and 70, and a supplementary pension fund contribution based on agreement between employer and worker.

5. Have you got collective regulations or statutory provisions, which give certain protections or certain allowances only if the employee has achieved a certain age ? Describe them.

Yes, there are provisions in some collective agreements concerning employees that have reached 55 years of age which entitle them to a reduction in working hours.

6. Does the computation of wages depend on the age of the employee ? Describe this.

The computation of wages does mainly depend on seniority.

7. Does the duration of holiday or the pay during sickness depend on the age of the employee or on seniority or both ?

All those who are in the paid employment of others, have the right to holidays, and a holiday allowance, according to the rules contained in the Holiday Allowance Act. No. 30/1987. The Act sets minimum rights in this field but collective agreements provide for further rights depending on various factors such as length of service with and age.

A worker, who is unable to perform his normal duties at work due to sickness or accidents occurring in the worker's free time, is entitled to wages from his employer for a limited period of time. Minimum rights of workers are regulated in the Act Respecting Labourers' Right (...) to Wages on Account of Absence through Sickness and Accidents No. 19/1979, and further improved upon in collective agreements.

The duration of holiday or sick leave pay depends mainly on seniority.

8. Are there any provisions for elder employees, which entitle them to a reduction of working hours ? Describe them.

Yes, such provisions exist for certain companies in collective agreements and for some groups of employees, such as pilots, stewardesses. And also for some public servants working in the health sector.

- 9.a. Is it allowed to terminate an employment relationship (dismiss), due to the employees age ? If Yes –which age ?

Yes, at the age of 70 according to The Government Employees Act, No. 70/1996, see answer to 3. Such provisions can also be found in some collective agreements.

- b. Is it allowed to terminate an employment relationship (dismiss), because the employee is entitled to get an old-age pension ? If Yes –at which age ?

No.

10. Have you got provisions in your labour law system, which have the purpose to promote the vocational integration of unemployed older employees or young employees and in order to do so weaken their statutory protection ?
For instance are there provisions which authorises the conclusion of fixed-term contracts of employment once the worker has reached a certain age? Do such provision exist for certain groups of employees ?

No, not as known of.

11. Have you got provisions which give special statutory protection in order to prevent the termination of employment contracts of older or young employees ?

No.

12. What are the rules governing the burden of proof ?

The usual one, the plaintiff must prove the claim.

13. Are there any administrative or criminal penalties ? Please give details.

Yes, violations of a collective agreement or the Act on Trade Unions and Industrial Disputes No. 80/1938 are, in addition to damages, subject to fines.

14. What are the most common cases at court regarding age discrimination?

Final remarks : At the conference we also want to discuss the practical impact of age discrimination (How prevalent is age discrimination in your country? Are there any studies on this subject? Can you estimate the economic loss - if any - following age discrimination in your country, especially following the employment or non-employment (termination) of experienced elder workers?