

Bill ending mandatory retirement in Ontario to take effect December 12, 2006

Bill 211, the *Ending Mandatory Retirement Statute Law Amendment Act, 2005*, received royal assent on December 12, 2005, triggering the one-year "countdown" until the new legislation takes effect. On December 12, 2006, Ontario employers will no longer be able to maintain blanket mandatory retirement policies.

The core element of Bill 211 is the re-definition of "age" in the Ontario *Human Rights Code*. Currently age, for the purposes of discrimination in employment, is defined as more than 18 years and less than 65 years. This definition has made it possible for employers to require that employees retire at age 65 without running afoul of the Code. Bill 211 revises this provision by removing the ceiling of 65 years.

Since we reported on Bill 211 (see "[Bill 211 would end mandatory retirement in Ontario](#)" on our What's New page), it has been clarified to provide that, if an employee benefit, pension, superannuation or group insurance plan complies with the *Employment Standards Act, 2000 (ESA)*, that plan will not breach the prohibition on age-based discrimination in the Code. Currently, under the *ESA*, employers are prohibited from discriminating on the basis of age when they provide benefits to employees aged 18 to 64. Bill 211 permits employers to retain their discretion as to whether to offer such plans to employees age 65 and over. This amendment ensures that employees will be prevented from filing human rights complaints against plans that are consistent with the *ESA*.

For further information on Bill 211, see the Ministry of Labour's [web site](#) or contact [Jennifer Birrell](#) at (613) 940-2740.

For more news about recent developments in Employment and Labour Law, and for information about how our firm can assist you, please visit <http://www.emondharnden.com/>