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MANDATORY RETIREMENT FOR FEDERALLY REGULATED EMPLOYERS ENDS

Last week the section of the Canadian *Human Rights Act* (the “Act”) that permitted federally regulated employers to require employees to retire at the typically mandated ages 60 or 65 was officially repealed by the Budget Implementation Bill receiving royal assent.

The Act will now protect employees from discrimination on the basis of age. What this means is that all mandatory retirement policies are no longer lawful. The exception is where mandatory retirement can be justified because it is a bona fide occupational requirement - a necessary requirement in performing the essential job functions, or because it falls under an explicit exception in the Act.

One of the consequences of the elimination of mandatory retirement is that where previously the employer would rely on the mandatory retirement policy to discontinue its relationship with the employee at age 60 or 65 (or older), the employer will now be required to terminate the employee, without considering age as a factor, and give consideration to providing the appropriate reasonable notice.

Every jurisdiction in Canada, except New Brunswick, has now abolished mandatory retirement.

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