

# Compulsory Retirement Scrapped



CLIENT ALERT

The Government today confirmed that the default retirement age (“DRA”) will be phased out between 6 April and 1 October 2011. The change gives employees the freedom to continue working past the age of 65 and, according to the Government’s statement, should also provide a boost to the UK economy.

The last day employees can be compulsorily retired under The Equality Act 2010 will be 30 September 2011. This means that the last day to provide the six months’ notice required under the Act will be 30 March 2011.

Employers can still use the DRA between 30 March and 6 April 2011 but will have to use the ‘short notice provisions’. Under these provisions an employee could claim compensation, subject to a maximum of eight weeks’ wages.

Between 6 April and 30 September 2011, only employees who were notified before 6 April, and whose retirement date is before 1 October 2011, can be compulsorily retired. From 1 October 2011, employers will not be able to use The Equality Act 2010 to compulsorily retire employees. However, the key date for employers is 6 April 2011. After that, it will be too late to institute compulsory retirement.

The Government’s press release states that there will be exceptions to the new rules and employers that can justify having a retirement age may continue compulsorily to retire employees. That is the current position in relation to a retirement age under 65 but the defence of justification is difficult to prove. It is likely that the position will be similar under the new rules.

The current compulsory retirement procedure is not straightforward. We **strongly recommend** that advice is sought well before seeking to initiate any compulsory retirement.

For further information please contact:

**James Davies**  
Associate, Employment Group  
T: +44 20 7429 6010  
E: [jdavies@salans.com](mailto:jdavies@salans.com)

**Michael Bronstein**  
Partner, Employment Group  
T: +44 20 7429 6096  
E: [mbronstein@salans.com](mailto:mbronstein@salans.com)

**Salans Office**  
Salans LLP  
Millennium Bridge House  
2 Lambeth Hill  
London EC4V 4AJ

T: +44 20 7429 6000  
E: [London@salans.com](mailto:London@salans.com)

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