

Bermuda Employment Frequently Asked Questions (International Employment Lawyer)

Briefing Summary: Carey Olsen is pleased to have authored the Bermuda section of International Employment Lawyer's (IEL) FAQs guide. IEL's International Employment FAQs provide concise answers to commonly asked employment law questions.

Service Area: Employment, Pensions and Incentives, Employment Law

Location: Bermuda

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Does your country have a statutory retirement age, if so, what is it?

There is no mandatory retirement age for private sectors workers. For public sector workers there is currently a mandatory retirement age of 68. The Bermuda Government has proposed increasing the mandatory retirement age to 70.

Are employers permitted to specify a contractual retirement age within an employee's contract of employment?

Yes, employers can provide a contractual retirement age. However, whilst age is not a "protected characteristic" for the purposes of the Bermuda Human Rights Act 1981 (i.e. less favourable treatment on the grounds of age would not give rise to a discrimination claim), it is not a valid reason for dismissal under the Bermuda Employment Act 2000 unless pursuant to a retirement policy contained within a collective agreement between the employer and a recognised trade union. Therefore, in the absence of such a policy or collective agreement, a dismissal because of age can give rise to a claim for unfair dismissal.

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What are the legal implications for employers that enforce a mandatory retirement age?

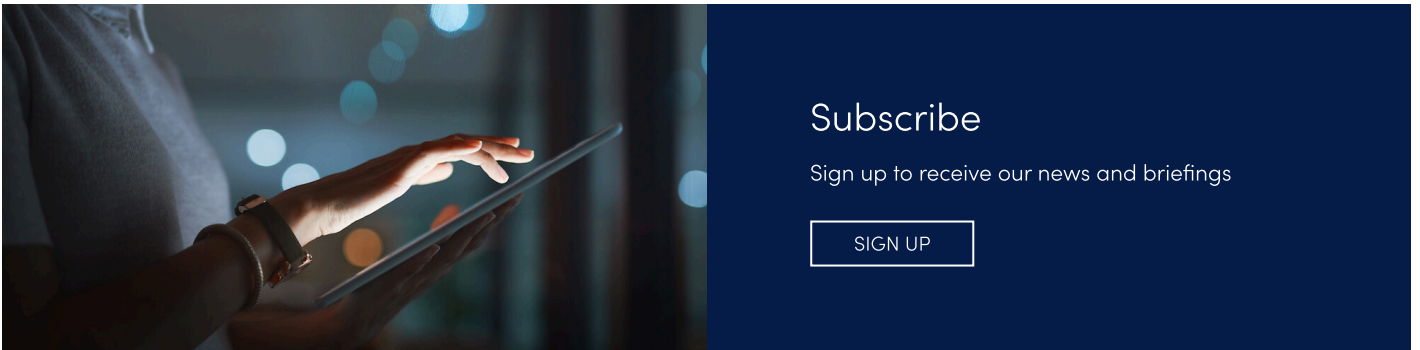
For private sector employers, a dismissal on the grounds of age may amount to an unfair dismissal unless the employer has an agreed retirement policy pursuant to a collective agreement with a recognised trade union. However, enforcing a mandatory retirement age will not give rise to a claim for discrimination under the Bermuda Human Rights Act 1981. Public sector employers can retire workers upon attaining the mandatory retirement age of 68.

Are 'early retirement incentive packages' allowed? If yes, are taxes imposed on them?

Yes. Early retirement incentive packages would still likely be considered "remuneration" for the purposes of the Bermuda Payroll Tax Act 1995.

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