

1 Short title

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1.

This Act may be cited as the Retirement Age Act.

2 Interpretation

Interpretation

2.

—(1) In this Act, unless the context otherwise requires —

"collective agreement" has the same meaning as in the Industrial Relations Act (Cap. 136);

"contract of service" means any agreement, whether in writing or oral, express or implied, whereby one person agrees to employ another as an employee and that other agrees to serve his employer as an employee;

"employee" means a person who has entered into or works under a contract of service with an employer;

"employer" means any person who employs another person under a contract of service and includes —

(a) the Government;

(b) any statutory authority;

(c) any duly authorised agent or manager of any employer; and

(d) any person who owns or is carrying on, or for the time being responsible for the management or control of a profession, business, trade or work in which any employee is engaged;

"investigating officer" means any person appointed as an investigating officer under section 3;

"prescribed retirement age" means such other retirement age as may be prescribed by the Minister under section 4 (1).

(2) For the purposes of this Act, an employee shall be treated as dismissed by his employer if —

(a) the contract under which he is employed by the employer is terminated by the employer, whether it is so terminated by notice or without notice; or

(b) the employer retires the employee, or requires or causes that employee to retire or resign on the ground of age.

3 Appointment of investigating officers

Appointment of investigating officers

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The Minister may appoint such number of investigating officers as he considers necessary for the purposes of this Act.

4 Minimum retirement age

Minimum retirement age

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— (1) Notwithstanding anything in any other written law, contract of service or collective agreement, the retirement age of an employee shall be not less than 60 years or such other age, up to 67 years, as may be prescribed* by the Minister.

*The minimum retirement age for employees is prescribed to be 62 years of age. See Retirement Age (Prescribed Retirement Age) Regulations 1998 (S 591/98 — w. e. f. 1.1.99).

(2) No employer shall dismiss on the ground of age any employee who is below 60 years of age or the prescribed retirement age.

(3) Any employer who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

5 Raising of minimum retirement age and wage reductions

Raising of minimum retirement age and wage reductions

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—(1) This section shall only apply to employees who attain 60 years of age on or after 1st January 1999, and any reference in this section to an older employee shall be a reference to any such employee.

[49/98]

(2) Where a retirement age higher than 60 years is prescribed under section 4 (1), an employer may, from time to time and in accordance with this section, reduce the wages of any of his older employees on or at any time after the employee attains 60 years of age.

[49/98]

(3) An employer who intends to reduce the wages of any of his older employees under this section shall, before the older employee concerned attains 60 years of age or other higher age, as the case may be, give reasonable prior notice in writing to the older employee of his intention to reduce his wages, stating the amount of such reduction and the effective date of such reduction, and giving him a reasonable opportunity of being heard.

[49/98]

(4) If an older employee does not agree with any proposed reduction in his wages, he may either retire or be retired by his employer on or after attaining 60 years of age notwithstanding any of the provisions of this Act.

[49/98]

(5) An employer may reduce under this section the wages of different older employees differently except that —

(a) the reduction shall be based on reasonable factors other than age (including but not limited to the employee's productivity, performance, duties and responsibilities, and the wage system such as the seniority system applicable to the employee) unless age is a bona fide occupational

qualification reasonably necessary to the ordinary performance of the older employee' s job; and

(b) no employer may reduce the wages of any of his older employees by an aggregate amount which exceeds 10% of the wages paid or payable to the employee when that employee attains or attained 60 years of age.

[49/98]

(6) Notwithstanding any law to the contrary, the service of a written notice under subsection (3) by an employer on any of his older employees shall not be regarded as a termination or repudiation of the contract of employment between the employer and the older employee, or as requiring or causing the older employee to retire or resign on the ground of age.

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(7) For the purpose of this section —

(a) “wages” includes salaries; and

(b) a person shall be regarded as attaining the age of 60 or more years on the sixtieth or other anniversary, as the case may be, of the date of his birth.

[4A

[49/98]

6 Invalidity of term of contract of service

Invalidity of term of contract of service

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Any term of a contract of service or collective agreement made before, on or after 1st July 1993 which provides for a retirement age which is less than 60 years or the prescribed retirement age shall be void to the extent that it is so less favourable.

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7 Restriction on contracting out

Restriction on contracting out

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Any term of a contract of service or collective agreement shall be void in so far as it purports —

- (a) to exclude or limit the operation of any provision of this Act; or
- (b) to preclude any person from making a representation, claim or application under this Act.

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8 Remedies for unlawful dismissal on ground of age

Remedies for unlawful dismissal on ground of age

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—(1) Where any employee below 60 years of age or the prescribed retirement age considers that he has been unlawfully dismissed on the ground of age, he may, within one month of the dismissal, make representations in writing to the Minister to be reinstated in his former employment.

(2) The Minister may, before making a decision on any such representations, direct an investigating officer in writing to investigate and report whether in his opinion the employee has been unlawfully dismissed on the ground of age.

(3) If, after considering any report made by an investigating officer under subsection (2), the Minister is satisfied that the employee has been unlawfully dismissed by his employer on the ground of age, the Minister may, notwithstanding any rule of law or agreement to the contrary —

(a) direct the employer to reinstate the employee in his former employment and to pay the employee an amount that is equivalent to the wages that the employee would have earned had he not been unlawfully dismissed by the employer; or

(b) direct the employer to pay such amount of wages as compensation as the Minister may consider just and equitable having regard to all the circumstances of the case,

and the employer shall comply with the direction of the Minister.

(4) In determining the amount of compensation to be awarded under subsection (3), the Minister shall, in particular, have regard to —

(a) the loss sustained by the employee in consequence of the unlawful dismissal;

(b) the prospects of the employee in obtaining alternative employment;

(c) the steps taken by the employee to mitigate his loss;

(d) the period the employee has served with the employer; and

(e) the age of the employee.

(5) The decision of the Minister on any representation made under this section shall be final and shall not be called in question in any court.

(6) Any direction of the Minister under subsection (3) shall operate as a bar to any action for damages by the employee in any court in respect of the unlawful dismissal on the ground of age.

(7) Any employer who fails to comply with the direction of the Minister under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

(8) Where any amount to be paid by an employer under subsection (3) is not paid in accordance with the direction of the Minister and the employer has been convicted of an offence under subsection (7), the amount or so much thereof as remains unpaid shall be recoverable by the court as if it were a fine and the amount so recovered shall be paid to the employee entitled to payment under the direction of the Minister.

(9) The Minister may, by writing under his hand, delegate all or any of his powers under this section (except this power of delegation) to any public officer.

(10) A delegation under subsection (9) is revocable at will and no delegation shall prevent the exercise of any power by the Minister.

(11) A power so delegated, when exercised by the delegate, shall for the purposes of this section be deemed to have been exercised by the Minister.

9 Powers of investigating officers

Powers of investigating officers

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— (1) An investigating officer may enter without previous notice at any reasonable time any place of employment and make such enquiry into the terms and conditions of employment of any employee as he may think fit.

(2) In the course of an investigation under section 8 (2), an investigating officer may —

(a) put questions concerning the dismissal of an employee (including the particulars of reasons for the dismissal) to the employee, his employer or to any person who may be in charge of the employee, or to any other employee and the employee, employer, person in charge of the employee, or other employee shall be bound to answer those questions truthfully to the best of his knowledge and ability;

(b) require the employer to produce before him any other employee employed by the employer together with any contract of service or other document concerning the employment;

(c) make copies of any document required to be produced under paragraph (b); and

(d) take or remove for purposes of investigations any document.

(3) Any person who hinders or obstructs an investigating officer in the exercise of the power under this section or makes to an investigating officer exercising the power under this section a statement either orally or in writing which is false in any material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

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10 Composition of offences

Composition of offences

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— (1) An investigating officer may, in his discretion, compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed the offence a sum not exceeding \$500.

(2) The Minister may make regulations to prescribe the offences which may be compounded.

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11 Exemption

Exemption

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— (1) The Minister may, by notification in the *Gazette*, exempt with or without conditions any person or class of persons from all or any of the provisions of this Act.

(2) The Minister may at any time revoke any such exemption, vary or revoke any existing conditions or impose new conditions.

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12 Regulations

Regulations

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— (1) The Minister may make regulations for any purpose for which regulations may be made under this Act and for prescribing anything which may be prescribed and generally for the purpose of carrying this Act into effect.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations with respect to any of the following matters or for any of the following purposes:

(a) for prescribing the procedure in respect of any proceedings under this Act; and

(b) for any incidental matters for which the Minister thinks it expedient to provide with a view to securing compliance of this Act.

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13 Savings

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Nothing in this Act shall operate to relieve any employer of any duty or liability imposed upon him by the provisions of any other written law for the time being in force.

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LEGISLATION HISTORY

1. Act 14 of 1993 — Retirement Age Act 1993

Date of First Reading : 26.2.93 (Bill No. 8/93 published on 27.2.93)

Date of Second and Third Readings : 12.4.93

Date of commencement : 1.7.93

2. Act 49 of 1998 — Retirement Age (Amendment) Act 1998

Date of First Reading : 12.10.98 (Bill No. 47/98 published on 13.10.98)

Date of Second and Third Readings : 26.11.98

Date of commencement : 1.1.99

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(a) the Government;

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(a) the contract under which he is employed by the employer is terminated by the employer, whether it is so terminated by notice or without notice; or

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Appointment of investigating officers

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The Minister may appoint such number of investigating officers as he considers necessary for the purposes of this Act.

Minimum retirement age

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— (1) Notwithstanding anything in any other written law, contract of service or collective agreement, the retirement age of an employee shall be not less than 60 years or such other age, up to 67 years, as may be prescribed* by the Minister.

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(2) No employer shall dismiss on the ground of age any employee who is below 60 years of age or the prescribed retirement age.

(3) Any employer who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Raising of minimum retirement age and wage reductions

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—(1) This section shall only apply to employees who attain 60 years of age on or after 1st January 1999, and any reference in this section to an older employee shall be a reference to any such employee.

[49/98]

(2) Where a retirement age higher than 60 years is prescribed under section 4 (1), an employer may, from time to time and in accordance with this section, reduce the wages of any of his older employees on or at any time after the employee attains 60 years of age.

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(3) An employer who intends to reduce the wages of any of his older employees under this section shall, before the older employee concerned attains 60 years of age or other higher age, as the case may be, give reasonable prior notice in writing to the older employee of his intention to reduce his wages, stating the amount of such reduction and the effective date of such reduction, and giving him a reasonable opportunity of being heard.

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(4) If an older employee does not agree with any proposed reduction in his wages, he may either retire or be retired by his employer on or after attaining 60 years of age notwithstanding any of the provisions of this Act.

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(5) An employer may reduce under this section the wages of different older employees differently except that —

(a) the reduction shall be based on reasonable factors other than age (including but not limited to the employee's productivity, performance, duties and responsibilities, and the wage system such as the seniority system applicable to the employee) unless age is a bona fide occupational qualification reasonably necessary to the ordinary performance of the older employee's job; and

(b) no employer may reduce the wages of any of his older employees by an

aggregate amount which exceeds 10% of the wages paid or payable to the employee when that employee attains or attained 60 years of age.

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(6) Notwithstanding any law to the contrary, the service of a written notice under subsection (3) by an employer on any of his older employees shall not be regarded as a termination or repudiation of the contract of employment between the employer and the older employee, or as requiring or causing the older employee to retire or resign on the ground of age.

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— (1) An investigating officer may enter without previous notice at any reasonable time any place of employment and make such enquiry into the terms and conditions of employment of any employee as he may think fit.

(2) In the course of an investigation under section 8 (2), an investigating officer may —

(a) put questions concerning the dismissal of an employee (including the particulars of reasons for the dismissal) to the employee, his employer or to any person who may be in charge of the employee, or to any other employee and the employee, employer, person in charge of the employee, or other employee shall be bound to answer those questions truthfully to the best of his knowledge and ability;

(b) require the employer to produce before him any other employee employed by the employer together with any contract of service or other document concerning the employment;

(c) make copies of any document required to be produced under paragraph (b); and

(d) take or remove for purposes of investigations any document.

(3) Any person who hinders or obstructs an investigating officer in the exercise of the power under this section or makes to an investigating officer exercising the power under this section a statement either orally or in writing which is false in any material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

[8

Composition of offences

10.

— (1) An investigating officer may, in his discretion, compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed the offence a sum not exceeding \$500.

(2) The Minister may make regulations to prescribe the offences which may be compounded.

Exemption

11.

— (1) The Minister may, by notification in the *Gazette*, exempt with or without conditions any person or class of persons from all or any of the provisions of this Act.

(2) The Minister may at any time revoke any such exemption, vary or revoke any existing conditions or impose new conditions.

[10]

Regulations

12.

— (1) The Minister may make regulations for any purpose for which regulations may be made under this Act and for prescribing anything which may be prescribed and generally for the purpose of carrying this Act into effect.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations with respect to any of the following matters or for any of the following purposes:

(a) for prescribing the procedure in respect of any proceedings under this Act; and

(b) for any incidental matters for which the Minister thinks it expedient to provide with a view to securing compliance of this Act.

[11]

Savings

13.

Nothing in this Act shall operate to relieve any employer of any duty or liability imposed upon him by the provisions of any other written law for the time being in force.

[12]

LEGISLATION HISTORY

1. Act 14 of 1993 — Retirement Age Act 1993

Date of First Reading : 26.2.93 (Bill No. 8/93 published on 27.2.93)
Date of Second and Third Readings : 12.4.93
Date of commencement : 1.7.93

2. Act 49 of 1998 — Retirement Age (Amendment) Act 1998

Date of First Reading : 12.10.98 (Bill No. 47/98 published on 13.10.98)
Date of Second and Third Readings : 26.11.98
Date of commencement : 1.1.99

COMPARATIVE TABLE

The following provisions in the 1994 Revised Edition of the Retirement Age Act have been renumbered by the Law Revision Commissioners in this 2000 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Retirement Age Act.

2000 Ed.	1994 Ed.
5	4A
6	5
7	6
8	7
9	8
10	9
11	10
12	11
13	12