



Human Rights Commission

Mandatory Retirement

Timeline Summary

For complainants who were forced to retire prior to July 18, 2008:

- there was an exemption in the Act for mandatory retirement policies and *bona fide* pension plans
- the test for “*bona fide*” plan was based on the *Zurich* decision. There are three parts to this test. The discriminatory practice must be:
 - a. adopted honestly
 - b. in the interests of sound and accepted business practice
 - c. not for the purposes of defeating human rights (in this situation, the rights of persons not to be discriminated against on the basis of age)

For complainants who were forced to retire between July 18, 2008 and July 1, 2009:

- On July 18, 2008, the Supreme Court of Canada in the *Potash* decision gave a new test for determining if a pension plan is *bona fide*. The new test also has three parts. It must be:
 - a. a legitimate plan
 - b. adopted in good faith
 - c. not for the purpose of defeating rights in the human rights act
- It went on to say that a legitimate plan is one that is not a “sham.”

For complainants who were forced to retire after July 1, 2009:

- On July 1, 2009, the *Human Rights Act* was amended to delete all references to mandatory retirement. There is a clear legislative intent to end mandatory retirement in the province and so, it is no longer exempt as a rationale for discriminating against persons on the basis of their age
- There is still, however, an exemption in the *Act* for “*bona fide* pension plans.”