

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: General and Miscellaneous

Schedule 9: Work: exceptions

Part 2: Exceptions relating to age

Retirement: [paragraph 8](#)

Effect

804. This paragraph allows employers to dismiss on the grounds of retirement employees at the age of 65 or over without this being regarded as age discrimination and/or unfair dismissal. However, where an employee has a normal retirement age which is applicable to him or her which exceeds the age of 65, if the employee is dismissed on the grounds of retirement before he or she has reached that normal retirement age, this is capable of amounting to age discrimination and/or unfair dismissal.
805. This exception applies only to employees within the meaning of section 230(1) of the Employment Rights Act 1996, those in Crown employment, and House of Lords and House of Commons staff. This paragraph needs to be read closely with the amendments to the unfair dismissals provisions of Part 10 of the Employment Rights Act 1996, which were amended by Schedule 8 to the [Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#) (“the 2006 Regulations”) and which amendments remain in place when this paragraph is commenced.
806. Under paragraph 8(3) retirement is a reason for dismissal only if it is a reason for dismissal by virtue of Part 10 of the Employment Rights Act 1996. Schedule 6 to the 2006 Regulations (which remains in place) sets out the procedures that need to be followed by an employer in order for the reason for the dismissal to be retirement under the sections inserted into Part 10 of the Employment Rights Act 1996 by Schedule 8 to the 2006 Regulations, and in order for the dismissal to be fair.