

# Phasing out the Default Retirement Age

Consultation document

July 2010

**BIS** | Department for Business  
Innovation & Skills

**DWP** Department for  
Work and Pensions

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## Phasing out the Default Retirement Age

The Coalition's Programme for Government commits the Government to phasing out the Default Retirement Age (DRA). This consultation document sets out the background to the DRA, and explains how the Government is proposing to remove it. This measure is one of the steps that the Government is taking to enable and encourage people to work for longer, alongside raising the State Pension Age to 66 faster than currently scheduled and ensuring there is effective support for helping those out of work to find work.

There are a wide variety of reasons for pursuing these policies, including demographic change; the financial benefits to both the individual and the wider economy; and the health and social benefits many people gain from working later in life.

This consultation asks questions on the specific proposals the Government has for phasing out the DRA and on the support individuals and businesses might need to manage in its absence.

Issued: 29 July 2010

Respond by: 21 October 2010

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This consultation is relevant to: All employers and employees, business representative and other interest groups, trade unions, the general public.

## 1. Foreword



People today are living longer and enjoying healthier, more active lifestyles. For many individuals, that means wanting to extend their working life.

This is good for the UK economy. Older workers offer a wealth of talent and experience – as employees and entrepreneurs – and are making a vital contribution to securing our country's recovery and future prosperity.

The Government is committed to ensuring that older workers, who want to get ahead in their careers, develop new skills and start new businesses have the freedom to do so. We want to make changes so that nobody is deprived of the opportunity to work simply because they have reached an age limit.

Smart businesses already recognise this and are embracing new ways of working to draw on the expertise that older workers bring.

Individuals need to adapt, too, as we move away from linear career progression and early retirement, towards more flexible working practices, regular job moves and even changes in occupation.

We all have to rethink how we manage the transition from working life to retirement. Everyone wants to enjoy a comfortable retirement, so it makes sense to plan for the future. That might involve saving more, working longer, or gradually reducing work commitments over several years.

The Government is committed to reinvigorating retirement, and is taking significant steps so people can plan with confidence. We are re-establishing the link between earnings and the Basic State Pension; and, from April 2011, introducing the 'triple guarantee' so pensions will rise by earnings, prices or 2.5 per cent - whichever is highest. In addition, we are working to create a new framework for private pensions.

But the ability to choose when to stop working must also be at the heart of a new system of fair and sustainable pensions. So this consultation seeks views on our proposals for phasing out the Default Retirement Age from April 2011.

We believe everyone should have the freedom to retire at the time that's right for them.

A handwritten signature in black ink, appearing to read 'Edward Davey'.

Edward Davey MP  
Minister for Employment Relations,  
Consumer & Postal Affairs

A handwritten signature in black ink, appearing to read 'Steve Webb'.

Steve Webb MP  
Minister for Pensions

## **2. Executive summary**

The Employment Equality (Age) Regulations were introduced in 2006 to prohibit discrimination in employment because of age. Among other things, they introduced a national Default Retirement Age (DRA) of 65 and prohibited compulsory retirement below 65 unless objectively justified. In effect, therefore, it is lawful for an employer to discriminate against an employee on the grounds of their age when it comes to retirement.

The Government has decided to phase out the DRA. This consultation document sets out the background to the DRA, and explains the transitional arrangements which the Government is proposing for its removal. Removal of the DRA will begin in April 2011, with transitional arrangements covering the period until 1 October 2011.

Phasing out the DRA is just one of the steps that the Government is taking to enable and encourage people to work for longer, alongside reviewing when the State Pension Age should reach 66 and ensuring there is effective support for those out of work to find work. There are a range of reasons for pursuing these policies, including demographic change; the financial benefits to both the individual and the wider economy; and the health and social benefits many people gain from working later into life.

As well as removing the DRA to enable people to work for longer, the Government is also proposing to help employers by removing the administrative burden of the current DRA-associated retirement procedure – the so-called 'right to request' working beyond retirement, which an employer has a duty to consider.

Although the Government is proposing to remove the DRA, it will still be possible for individual employers to operate a compulsory retirement age, provided that they can objectively justify it.

The consultation document seeks input on whether the Government could provide additional support for individuals and employers in managing without the DRA or a statutory retirement procedure, including the possibility of further guidance or a more formal code of practice on handling retirement discussions.

Finally, the consultation document describes two issues identified in an earlier call for evidence which might have unintended consequences when the DRA is removed: insured benefits and employee share plans. Further views of stakeholders are invited on these issues.

### **3. How to respond**

When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation response form and, where applicable, how the views of members were assembled.

For your ease, you can reply to this consultation online at [www.surveymonkey.com/s/2VWVDND](http://www.surveymonkey.com/s/2VWVDND)

A copy of the consultation response form is enclosed, or available electronically at [www.bis.gov.uk/retirement-age](http://www.bis.gov.uk/retirement-age). If you decide to respond this way, the form can be submitted by letter, fax or email to:

Martin Payne  
Workplace Equality Unit, Employment Relations Directorate  
Department for Business, Innovation and Skills  
1 Victoria Street  
London SW1H 0ET

Tel: 0207 215 6815  
Fax: 0207 215 6414  
Email: [draconsultation@bis.gsi.gov.uk](mailto:draconsultation@bis.gsi.gov.uk)

A list of individuals/organisations consulted is available in Annex C. We welcome suggestions of others who may wish to be involved in this consultation process.

### **4. Additional copies**

You may make copies of this document without seeking permission. Further printed copies of the consultation document can be obtained from:

BIS Publications Orderline  
ADMAIL 528  
London SW1W 8YT

Tel: 0845 015 0010  
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[www.bis.gov.uk/publications](http://www.bis.gov.uk/publications)

An electronic version can be found at [www.bis.gov.uk/retirement-age](http://www.bis.gov.uk/retirement-age).

Other versions of the document in Braille, other languages or audio-cassette are available on request.

### **5. Confidentiality & data protection**

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including

personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

## **6. Help with queries**

Questions about the policy issues raised in the document can be addressed to:

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## **7. The proposals**

### **7.1. Introduction**

7.1.1. The Coalition's Programme for Government commits the Government to phasing out the Default Retirement Age (DRA). This consultation document sets out the background to the DRA, and explains how the Government is proposing to effect the phasing out of the DRA.

7.1.2. This measure is one of the steps that the Government is taking to enable and encourage people to work for longer, alongside raising the State Pension Age (SPA) to 66 faster than currently scheduled and ensuring there is effective support for those out of work to find work. There are a wide variety of reasons for pursuing these policies, including demographic change; the financial benefits to both the individual and the wider economy; and the health and social benefits many people gain from working later in life.

7.1.3. People are living longer and healthier lives; there are currently 4 adults under 65 for every adult over 65. This ratio is projected to drop to 3:1 within 10 years and 2:1 within 30 years. Many people are also under-saving for retirement and risk not having the income they would wish to have if they retire at the 'traditional' retirement age of 65. By working for one year past current SPA (60 for women, 65 for men), people can increase their retirement income by between 3 and 10 per cent. And many people want to stay in work for reasons other than financial ones. For many people, work provides a sense of identity, contributes to their social network, or is simply something they enjoy doing.

7.1.4. The Government believes that those who need or wish to work past 65 and are able to do so should not be denied the opportunity to benefit from working. In removing the DRA, the Government is ensuring that people are not deprived of the opportunity to work simply because they have reached a particular age. Removing the DRA will also benefit employers by removing the administrative burden of the current retirement procedure. It will also contribute to extending working lives, which in turn leads to an increase in Gross Domestic Product (GDP); the National Institute for Economic and Social Research have estimated that extending average working lives by one effective year could increase GDP by around 1 per cent. The Impact Assessment of this policy is attached at E.

7.1.5. Alongside measures to extend working life, it is important that older people are supported to play their full part in society through public and private sector services which are fair and responsive to their needs. This includes engaging older people in the design and delivery of public services. We want to tackle age discrimination while ensuring people can access services which are age-appropriate. The Government announced on 3 July that the first wave of implementation of the Equality Act, which simplifies and strengthens our discrimination law, starts in October. We are now considering how the rest of the Act can be implemented in the best way for business.

### **Background**

7.1.6. The Employment Equality (Age) Regulations<sup>1</sup> ('the Age Regulations') were introduced to prohibit discrimination in employment because of age. They apply to all employers, vocational training providers, trade unions, professional organisations,

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<sup>1</sup> The Employment Equality (Age) Regulations 2006 - SI 2006 No. 1031.



employer organisations and trustees and managers of occupational pension schemes. They cover recruitment, terms and conditions, promotions, transfers, dismissal and training.

7.1.7. One of the key features of the Age Regulations was the introduction of a DRA of 65 and the prohibiting of compulsory retirement below 65 unless objectively justified. The DRA is an exception from the general principle of equal treatment created by the EU Employment Framework Directive<sup>2</sup> (“the Directive”): it means that it is lawful for an employer to discriminate against an employee on the grounds of their age when it comes to retirement. The DRA has been confirmed as objectively justified by the Government<sup>3</sup>, thus removing the need for individual employers to objectively justify a compulsory retirement age of 65 or above. An employer can therefore compulsorily retire an employee at the age of 65 or above without that being deemed to be unfair dismissal or age discrimination, provided they follow a set retirement procedure.

7.1.8. The procedure<sup>4</sup> means that employees have a statutory right to at least six months’ notice of retirement and a right to request working longer, which the employer has a duty to consider. Prior to the introduction of the Regulations, an employee aged over 65 was not protected by the right to claim unfair dismissal or statutory redundancy, and could therefore be summarily dismissed. Use of the DRA is not mandatory for employers: they do not have to retire employees once they reach 65, and are free to continue to employ them as long as they wish.

7.1.9. The Department for Business, Innovation and Skills (BIS) and the Department for Work and Pensions (DWP) issued a joint call for evidence to inform policy on the DRA, with submissions requested by 1 February 2010. In addition, a number of key pieces of research were commissioned, including the Survey of Employers’ Policies, Practices and Preferences Relating to Age (SEPPP). These sources provide an insight into employers’ age-based practices, in particular the use of the DRA. A summary of the evidence<sup>5</sup> and the independent research reports have been published alongside this consultation document. This evidence has helped inform the policy approach to phasing out the DRA as set out in this consultation document.

## **Legal background**

7.1.10. The Age Regulations came into force on 1 October 2006. They implement the age strand of the EU Employment Framework Directive. The Directive prohibits discrimination in employment and occupation on the grounds of disability, sexual orientation, religion or belief and age. The Age Regulations transpose into UK law that part of the Directive concerned with age discrimination. Other Regulations are in place dealing with the other protected characteristics (i.e. sexual orientation, religion and belief, and disability) covered by the Directive<sup>6</sup>. All of these Regulations, including the Age Regulations (with the exception of Schedule 6 and Schedule 8), have been subsumed into the new Equality Act 2010, the relevant parts of which will come into force on 1 October 2010.

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<sup>2</sup> Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

<sup>3</sup> *R (Age UK) v Secretary of State for Business, Innovation and Skills (EHRC intervening)*

<sup>4</sup> Set out in Schedule 6 to the Regulations

<sup>5</sup> The Default Retirement Age Review: Summary of Research, URN 10/1180

<sup>6</sup> The Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003 and the Disability Discrimination Act 1995 (Amendment) Regulations 2003.

## **7.2. Proposed changes**

### **Summary**

7.2.1. The Government proposes to phase out the DRA from 6 April 2011. In removing the DRA, the Government intends also to remove all associated statutory retirement procedures, including the duty on employers to give a minimum of six months' notice of retirement to employees and the right for employees to request to work beyond their retirement age. Given the intention of phasing out the DRA, the Government believes there would be little justification for retaining this administrative burden on employers and that the existing legal framework is sufficient for both employers and employees. If an employer wished to dismiss (or retire) an older worker this would entail following a fair procedure and relying on one of the reasons set out in section 98 of the Employment Rights Act 1996 (capability, conduct, illegality or some other substantial reason). There will be transitional arrangements for retirements that have been notified prior to April 2011 and where the date of retirement falls before 1 October 2011.

7.2.2. The current legal framework allows employers to objectively justify a compulsory retirement age. Removing the DRA will not change this position. Such Employer Justified Retirement Ages (EJRAs) must be objectively justified as a proportionate means of achieving a legitimate aim. Currently, the statutory retirement procedures also apply to EJRAs. As the Government proposes to remove these alongside the DRA, this will no longer apply after 6 April 2011.

7.2.3. This consultation also concerns the support and guidance that employers currently using the DRA may need to manage the transition as it is phased out. Though some employers and their representative bodies believe retirement ages are necessary, the evidence shows a minority of employers use retirement ages, and that the majority of requests to work beyond this are agreed<sup>7</sup>. A majority of employers feel they can operate effectively without retirement ages; we will ensure businesses that currently use retirement ages can benefit from the experience of those who do not by providing case studies and guidance for all businesses on operating without retirement ages. This consultation asks what, if any, additional support would be useful for employers to adapt to the change in regulations.

7.2.4. Evidence also shows that, in many cases, employers and employees have constructive discussions about their retirement plans. These discussions can include consideration of an employee's desire to change working pattern or role in the run-up to retirement. It is argued that the current right to request procedure can provide a useful trigger for these discussions as well as enabling the employer to gain information that helps with workforce planning. We want such dialogue on retirement planning and alternatives to retirement (such as part-retirement), where this is beneficial to employer and employee, to continue. We are therefore seeking input from respondents on what the Government might do to support continued dialogue on retirement.

### **Legal changes**

7.2.5. The Government will use the powers conferred by Section 2(2) of the European Communities Act 1972 to phase out the DRA from April 2011. This means that from April 2011, employers will no longer be able to use the DRA to maintain a compulsory retirement policy for their workforce at age 65 or above. Transitional

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<sup>7</sup>Metcalf H and Meadows P, Second Survey of Employers Policies Practices and Preferences Relating to Age, BIS, URN 10/1008, DWP Research Report 682.

arrangements will apply for the period until 1 October 2011 where retirements have already been initiated. These are set out in detail, starting at paragraph 7.3.5 below.

7.2.6. The DRA applies only to employees within the meaning of section 230(1) of the Employment Rights Act 1996, those in Crown employment, House of Lords and House of Commons staff. This means that a number of important groups will be unaffected by the removal of the national DRA, e.g. office holders (including the police and the judiciary), partnerships, and where there is a statutory age limit (e.g. commercial pilots).

7.2.7. From April 2011, employers wishing to have a compulsory retirement age for their workforce will only be able to do so if they can objectively justify it. Article 6.1 of the Employment Framework Directive provides for differences of treatment on the grounds of age “if they are objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary”. In essence, age discrimination can be justified under the Directive if it is a proportionate means of achieving a legitimate aim. This rule is incorporated in GB law by regulation 3 of the Age Regulations, whereby employers are permitted to discriminate on grounds of age if they can fulfil this test.

7.2.8. An objective justification allows employers to discriminate both directly and indirectly on the basis of age. They must, however, show that this discrimination is ‘proportionate’ and contributes to a ‘legitimate’ aim. Guidance on objective justification published by the Equality and Human Rights Commission<sup>8</sup>, reflecting the current state of the law on objective justification, states:

“Proportionate means that:

- what the employer is doing is actually achieving its aim
- the discriminatory effect should be significantly outweighed by the importance and benefits of the legitimate aim
- the employer should have no reasonable alternative to the action they are taking. If the legitimate aim can be achieved by another or less discriminatory means, they must then opt for that route.

Legitimate means:

- economic factors such as the needs of and the efficiency of running a business
- the health, welfare and safety of the individual (including protection of young people or older workers)
- the particular training requirements of the job.

A legitimate aim must correspond with a legitimate need of the employer. For example, economic efficiency may be a real aim but saving money because discrimination is cheaper than non-discrimination is not a legitimate need. It is not

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<sup>8</sup> [www.equalityhumanrights.com/your-rights/age/when-is-age-discrimination-lawful/](http://www.equalityhumanrights.com/your-rights/age/when-is-age-discrimination-lawful/)

easy to prove objective justification, and employers have to provide valid evidence if they are challenged.”

7.2.9. Alongside removing the DRA, the Government is proposing to remove the procedural requirements set out in Schedule 6<sup>9</sup>, including the statutory right to request process that currently applies to retirements under the DRA and EJRA. Following the Schedule 6 procedure currently ensures that the employer has followed a fair procedure in retiring an employee. It is, however, an inflexible and administratively burdensome set of rules. Removing these rules would not detrimentally affect employees’ rights as any dismissal, including retirement, would need to be conducted in accordance with the ordinary unfair dismissal rules. Under the Employment Rights Act 1996, dismissal of an employee requires an employer to follow a fair procedure and rely on one of the reasons set out in section 98 (capability, conduct, redundancy, illegality or some other substantial reason). An employee would still be able to request to stay on after the objectively justified retirement age and an employer in following a fair procedure would need to properly consider it.

Employers using retirement ages under the DRA process have two choices:

They can stop using retirement ages, though they can complete any retirements where the employee has been notified before 6 April, 2011 and where the retirement will be complete before 1 October 2011. The Government will provide guidance on managing without retirement ages.

They can choose to continue using a retirement age. However, when the DRA is removed, employers using retirement ages can be challenged in the courts to show that their retirement age is objectively justified. It is not easy to demonstrate that a retirement age is objectively justified, so the employer should be confident that it can be objectively justified before deciding to use a retirement age.

**Questions:**

A. The Government intends to remove the Default Retirement Age. Do you agree that Schedule 6 of the Age Regulations (which deals with notifications of retirement and the ‘right to request’ to work past retirement age) should also be removed?

B. If Schedule 6 is removed, the laws on unfair dismissal and age discrimination will still apply. Do you have any concerns about how these laws would operate in the absence of Schedule 6?

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<sup>9</sup> This would involve repealing sections 98ZA to 98ZH of the Employment Rights Act 1996

### **7.3. Further support for employers**

7.3.1. Research has shown that employers and employees often value being able to have a discussion about retirement plans, but both parties can be nervous that such conversations might be interpreted as discriminatory or adversely affect an individuals' future prospects. In some cases, the statutory retirement procedure (under Schedule 6) has provided a focal point for such discussions<sup>10</sup>. With the removal of both the DRA and Schedule 6, the Government wants to explore whether there is action it could take, such as providing additional guidance or a code of practice (for example, similar to current Acas codes of practice) that would encourage mutually beneficial dialogue to continue.

7.3.2. The purpose of such guidance or code of practice would be to ensure that employers and employees are able to discuss their plans and reach mutually beneficial agreements while minimising the risk of disputes arising. Providing support of this kind could meet the concerns of some employers that, in the absence of a national DRA, they would be reluctant to discuss future plans with an employee in case they became subject to a claim of age discrimination, and individuals' concerns that, by discussing retirement plans, they might jeopardise their future in the organisation.

7.3.3. A further consideration for possible Government action is how employers and employees might be encouraged to discuss potential flexible retirement arrangements and options for flexible working, with the aim of extending working lives. Depending on scheme rules, the employee may also be able to draw part of his or her pension while continuing to work part-time and these options could also form part of the discussion.

7.3.4. Age Positive is the DWP's initiative to provide information, guidance and case studies on the business benefits many employers have found from employing older workers as part of a mixed age workforce. It works in partnership with business lead organisations to share good practice and address questions some employers have on managing an ageing workforce, covering performance, recruitment, skills, health, flexible working, retention, and operating without compulsory retirement ages. Information on Age Positive can be found at [www.businesslink.gov.uk/agepositive](http://www.businesslink.gov.uk/agepositive). We will look at what further support Age Positive can offer employers in the light of responses to the consultation.

#### **Question:**

C. Thinking about retirement discussions between an employer and an employee, do you think it would be useful to have:

1. Formal guidance on how to discuss retirement in a mutually beneficial way
2. A statutory code of practice, including guidance, which covers retirement discussions
3. None of the above
4. Something else

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<sup>10</sup> Thomas A and Pascall-Calitz J (2010) Default Retirement Age: Employer Qualitative Research: DWP Research Report 672, London: Department for Work and Pensions

If you believe that additional guidance or a code of practice would be helpful, what topics do you think should be addressed? For example flexible retirement options, changes to duties and working hours, etc.

### **Transitional arrangements**

7.3.5. The transitional arrangements that would be contained in the new Regulations to come into force on 6 April 2011 would have the following effects:

- The DRA and associated regulations (including Schedule 6) would be removed from the statute on 6 April 2011.
- Employers would be unable to issue new notifications of retirement using the DRA on or after 6 April 2011.
- There will be a six month transitional period (6 April 2011 to 1 October 2011), so that retirements that were already in train could continue through to completion, provided that:
  - a notification of retirement is issued by the employer prior to 6 April 2011;
  - the date of retirement falls before 1 October 2011;
  - All requirements of the default retirement age procedure are met.
- Retirements using the DRA would therefore cease completely on 1 October 2011.
- For EJRA's, all notifications made prior to 6 April 2011 would continue to be valid, including those relating to retirements between 1 October 2011 and 6 April 2012. As EJRA's will remain there is no reason to curtail any notifications given under Schedule 6 prior to 6 April 2011.

7.3.6. The Government is of the view that the basic six months' minimum notification period is the time period that is appropriate to ensure fairly balanced transitional arrangements. Thus paragraph 4 of Schedule 6 to the Age Regulations, which allows short (two weeks') notice of retirement, would be repealed on 6 April 2011, and such short notice notifications would not be permitted during the transitional period. This would prevent retirements using the DRA being effected where these had not already been set in train before 6 April 2011. Furthermore, notifications given before 6 April 2011 which relate to a retirement date after 1 October 2011 will no longer be valid from 6 April 2011.

7.3.7. Any cut off date for removing the DRA will inevitably create difficult cases. The Government recognises that some retirements due to fall after 1 October 2011 could already have been notified prior to 6 April 2011 if the employer has chosen to give more than the minimum six months' notice provided for in the current Age Regulations. Under these transitional arrangements, these notifications will no longer be valid and post-1 October 2011 retirements based on the DRA would not be able to take place. Instead, an employer will need to objectively justify any compulsory retirement made after 1 October 2011. The Government is of the view that any potential unfairness is balanced by the need for legal certainty and an appropriate transitional period. The Government believes that a clear handover date for removal of the DRA is essential and does not believe that a longer transitional period to deal with these cases would be appropriate.

### **How will the changes affect people?**

Person A: Is given notification of their retirement date in February 2011. Their retirement date is their 65th birthday, 30 September 2011. As they were notified before 6 April 2011, and their retirement will be completed before 1 October 2011, person A can be compulsorily retired using the DRA subject to the correct procedure being followed.

Person B: Is given notification of their retirement date in February 2011. Their retirement date is their 65th birthday, 5 October 2011. Although they were notified before 6 April 2011, because they do not reach their retirement date (which must not be before their 65th birthday using the DRA process) before 1 October 2011 they cannot be compulsorily retired.

Person C: Is not notified of their retirement date before 6 April 2011. Their 65th birthday is on 30 September 2011. They cannot be compulsorily retired because they were not notified before 6 April 2011, and the short notice provisions which allow less than 6 months' notice to be given are removed in April 2011.

### **Question:**

D. Do the proposed transitional arrangements strike the right balance between the policy aim of quickly phasing out the Default Retirement Age (and realising the benefits of doing so) and respecting the position of employers who have already made plans based on its use?

## **7.4. Unintended consequences**

7.4.1. The earlier joint call for evidence identified two specific legal issues that might be unintended consequences of removing the DRA. The Government would welcome further input from stakeholders on these issues in light of the position set out below.

### **Insured benefits**

7.4.2. During the call for evidence, a number of stakeholders highlighted the interrelation between insured benefits and age. Their primary concern is that the removal of the default retirement age could impact negatively on the current and future provision of group insured benefits: life assurance; medical cover; income protection schemes and critical illness cover.

7.4.3. With the introduction of the Age Regulations in 2006, employers had to address any benefits not provided equally to all ages. Historically, many employers have and continue to place age limits or age-related conditions on entitlement to insured benefit schemes. These are largely determined by providers' requirements for medical underwriting beyond a particular age or through the charging of higher premiums to insure older workers.

7.4.4. Employers remain uncertain as to the extent that imposing such limits on benefits for their employees remains lawful. Although the Equality Act partly addresses these issues, it was suggested that thought be given to extending the exceptions within the Age Regulations to clarify when employers could stop cover, require medical underwriting or pass the cost on to the employee.

7.4.5. Additional concern was raised about income protection (or 'permanent health insurance') policies, as they create age-related issues in that they traditionally pay a proportion of salary until retirement. There is already a growing trend towards policies which pay out for a maximum period of time (e.g. 3 or 5 years). It was suggested this is a result of employers' concerns that they may be breaking age laws. No definitive evidence was provided to support this view, and it could be that levels of cover are being reduced as a direct consequence of the current economic climate. It was however suggested that adding the Age Regulation's exemptions to cover this would be helpful.

### **Good and Bad Leavers – Employee Share Schemes**

7.4.6. Many employees in the UK benefit from their participation in employee share schemes, under which they are awarded shares or granted options over shares. On leaving their employment, employees may be classed as either a "Good Leaver" or a "Bad Leaver". In general, Good leavers are allowed to retain some or all of the shares / share options they have been awarded / granted, and Bad Leavers lose shares / share options. Good Leavers are typically employees who leave employment because of: ill health; death; redundancy; sale of the business or subsidiary for which they work; and retirement. However, employees who are dismissed or resign voluntarily (although not at "fault") are typically treated as Bad Leavers and lose their shares / share options.

7.4.7. Under UK tax rules, a tax advantaged employee share scheme must include a provision covering Good Leavers. In broad terms schemes must generally allow those who leave employment on retirement at or after an age laid down in the scheme rules to be treated as Good Leavers.



7.4.8. Concerns have been raised that if the DRA is removed altogether, it will be much more difficult to distinguish between employees who are retiring and those who are voluntary leavers.

**Questions**

E. Responses to an earlier call for evidence on the Default Retirement Age raised possible impacts on insured benefits and Employee Share Schemes if the DRA is removed. If relevant, please describe any concerns you have.

Is any action, such as additional guidance, needed to address either of these issues?

## **8. What happens next?**

In this consultation, we have set out our proposals for phasing out the Default Retirement Age. From 6 April 2011, employers will not be able to issue any notifications for compulsory retirement using the DRA procedure. Between 6 April 2011 and 1 October 2011, only people who were notified before 6 April, and whose retirement date is before 1 October can be compulsorily retired using the DRA. After 1 October, employers will not be able to use the DRA to compulsorily retire employees; if they wish to use retirement ages they will have to be able to demonstrate these are objectively justified.

This is an important step in ensuring those who want to continue working past 65, and are capable of working, are able to do so. We are committed to ensuring employers are given help and support in adapting to the change in regulations, and this consultation asks what kinds of support are required. The consultation also asks about potential unintended consequences of the phasing out of the DRA, and how these can be overcome.

The consultation sets out how to respond to the questions by 21 October 2010. The Government intends publishing a response to the contributions in November 2010.

## **Annex A The Consultation Code of Practice Criteria**

1. Formal consultation should take place at a stage when there is scope to influence policy outcome.
2. Consultation should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Consultation exercise should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

### **Comments or complaints**

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Tunde Idowu  
Department for Business, Innovation and Skills Consultation Co-ordinator  
1 Victoria Street  
London  
SW1H 0ET  
Telephone: 020 7215 0412  
[Babatunde.Idowu@bis.gsi.gov.uk](mailto:Babatunde.Idowu@bis.gsi.gov.uk)

## **Annex B List of individuals/organisations consulted**

### **DRA Stakeholder Engagement Group**

British Chambers of Commerce; Age UK; Association of British Insurers; BUPA; The Age and Employment Network; Engineering Employers' Federation; Employers Forum on Age; Chartered Institute for Personnel Development; Local Government Employers; FDA; Trades Union Congress; Federation of Small Businesses; Aegon; MPHR; Confederation of British Industry; Chartered Management Institute; Age Cymru; Equality and Human Rights Commission; Public Sector People Managers' Association.

### **Contributors to the call for evidence on the review of the DRA**

SAGA; Independent Age; British Psychological Society; GRID; Engineering Employers' Federation Northern Ireland; Equality Commission for Northern Ireland; Northern Ireland Public Service Alliance; Centre for Ageing Research and Development in Ireland (CARDI); Chartered Institute for Personnel Development; Eversheds LLP; Swiss Re.

In addition to the organisations detailed above, all businesses and private individuals that responded to the call for evidence will be notified of this consultation.

## **Annex C Research publications**

Review of the Default Retirement Age: Summary of Research Evidence, BIS URN 10/1080

[www.bis.gov.uk/assets/biscore/employment-matters/docs/r/10-1080-retirement-age-summary-research](http://www.bis.gov.uk/assets/biscore/employment-matters/docs/r/10-1080-retirement-age-summary-research)

Metcalf H and Meadows P (2010) Second Survey of Employers Policies, Practices and Preferences Relating to Age, BIS URN 1008, DWP Research Report No 682

[www.bis.gov.uk/assets/biscore/employment-matters/docs/s/10-1008-second-survey-employers-age](http://www.bis.gov.uk/assets/biscore/employment-matters/docs/s/10-1008-second-survey-employers-age)

Barratt C (2010) The Fair Treatment at Work Age Report: Findings from the 2008 Survey, BIS URN 10/813

[www.bis.gov.uk/assets/biscore/employment-matters/docs/10-813-fair-treatment-work-age](http://www.bis.gov.uk/assets/biscore/employment-matters/docs/10-813-fair-treatment-work-age)

Thomas A and Pascall-Calitz, J (2010) Default Retirement Age - Employers Qualitative Research , DWP Research Report No 672, London: Department for Work and Pensions

<http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep672.pdf>

Wood, A; Robertson, M and Wintergill, D (2010) *A comparative review of International approaches to Mandatory retirement* DWP Research Report No.674, London: Department for Work and Pensions

<http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep674.pdf>

Sykes W; Coleman N and Groom C (2010) Review of the Default Retirement Age: Summary and Evaluation of the External Evidence. Independent Social Research, 2010, BIS URN 1018, DWP Research Report No 675, London: Department for Work and Pensions

<http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep675.pdf>

[www.bis.gov.uk/assets/biscore/employment-matters/docs/r/10-1018-retirement-age-summary-stakeholder](http://www.bis.gov.uk/assets/biscore/employment-matters/docs/r/10-1018-retirement-age-summary-stakeholder)

Morrell, G and Tennant R (2010) *Employer Practices and Retirement Decision Making*, DWP Research Report No.673, London: Department for Work and Pensions

<http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep673.pdf>

## Annex D Response form and consultation questions

The closing date for this consultation is 21 October 2010.

You can complete this response form online through Survey Monkey:  
[www.surveymonkey.com/s/2VWVDND](http://www.surveymonkey.com/s/2VWVDND)

Alternatively, you can email, post or fax completed response forms to Martin Payne at the Department for Business, Innovation and Skills (BIS):

Email: [draconsultation@bis.gsi.gov.uk](mailto:draconsultation@bis.gsi.gov.uk)

Postal address:

Workplace Equality Unit, Employment Relations Directorate  
Department for Business, Innovation and Skills  
1 Victoria Street  
London SW1H 0ET

Fax: 0207 215 6414

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

Name:

Organisation (if applicable):

Address:

Please state if you are responding as an individual or representing the views of an organisation, by selecting the appropriate group. If responding on behalf of a company or an organisation, please make it clear who the organisation represents and, where applicable, how the views of the members were assembled. Please tick the box below that best describes you as a respondent to this consultation:

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business ( over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe):

**Consultation questions**

**A1.** The Government intends to remove the Default Retirement Age. Do you agree that Schedule 6 of the Age Regulations (which deals with notifications of retirement and the 'right to request' to work past retirement age) should also be removed?

Yes [ ] No [ ]

**A2.** If you disagree, please explain why:

**B1.** If Schedule 6 is removed, the laws on unfair dismissal and age discrimination will still apply. Do you have any concerns about how these laws would operate in the absence of Schedule 6?

Yes [ ] No [ ]

**B2.** If you have concerns, please describe them:

**C1.** Thinking about retirement discussions between an employer and an employee, do you think it would be useful to have:

[ ] Formal guidance on how to discuss retirement in a mutually beneficial way

[ ] A statutory code of practice, including guidance, which covers retirement discussions

[ ] None of the above

[ ] Something else (please state below)

**C2.** Please explain your answer:

**C3.** If you believe that additional guidance or a code of practice would be helpful, what topics do you think should be addressed? For example flexible retirement options, changes to duties and working hours, etc.

**D1.** Do the proposed transitional arrangements strike the right balance between the policy aim of quickly phasing out the Default Retirement Age (and realising the benefits of doing so) and respecting the position of employers who have already made plans based on its use?

Yes [     ]                      No [     ]

**D2.** If no, please explain your answer:



**E1.** Responses to an earlier call for evidence on the Default Retirement Age raised possible impacts on insured benefits and Employee Share Schemes if the DRA is removed. If relevant, please describe any concerns you have below:

**E2.** Is any action, such as additional guidance, needed to address either of these issues?

Yes – insured benefits

Yes – share schemes

Yes – both

No

Please explain your answer below:

## Annex E Impact Assessment

<b>Title:</b> Phasing out the Default Retirement Age (DRA) <b>Lead department or agency:</b> Department for Business Innovation and Skills <b>Other departments or agencies:</b> Department for Work and Pensions	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> BIS0119
	<b>Date:</b> 21/7/2010
	<b>Stage:</b> Consultation
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Other
	<b>Contact for enquiries:</b> Tim Harrison/Jane Carr/Simon Rowley

### Summary: Intervention and Options

**What is the problem under consideration? Why is government intervention necessary?**  
 The Employment Equality (Age) Regulations came into force on 1 October 2006 to prohibit discrimination in employment on the grounds of age and included the introduction of a national Default Retirement Age (DRA) of 65 and the prohibiting of compulsory retirement below 65 unless objectively justified. A review of the DRA carried out in 2009-10 has shown a minority of employers using a compulsory retirement age and most requests by employees to stay on in work are accepted. For the majority of employers the right to request procedure is an unnecessary cost and represents a regulatory failure. Intervention is also justified on equity grounds to reduce the number of older employees forced to retire against their will. The Government's recent Coalition Agreement also states that "the parties agree to phase out the Default Retirement Age (DRA)". The reasons for the Government's policy intervention are demographic change and the economic and other benefits of extending working lives. People are living longer and healthier lives, and increasing numbers want to stay in the workforce beyond the traditional retirement age of 65. The Government wants to both facilitate this and correct the regulatory failure.

**What are the policy objectives and the intended effects?**  
 The Government proposes to remove the Default Retirement Age from 6 April 2011. This aims to provide greater opportunities for people to participate in the labour market at age 65 and beyond. Not only does this increase productive potential in the economy but there are issues of equity and fairness for those older employees who would otherwise be forced to retire. At the same time by removing the administrative burden of the current DRA right to request retirement procedure employers will avoid the unnecessary costs associated with this. As a minority of employers use a compulsory retirement age and as the majority of requests to remain in work are accepted this represents a regulatory failure that would be corrected by phasing out the DRA and its associated retirement procedure.

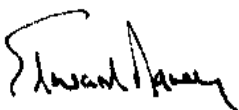
**What policy options have been considered? Please justify preferred option (further details in Evidence Base)**  
 The options considered in this impact assessment are:  
  
 Option 1: do nothing  
 Option 2: phase out the default retirement age  
 This would also remove all associated statutory retirement procedures, including the duty on employers to give a minimum of six months' notice of retirement to employees and the right for employees to request to work beyond the DRA.

<b>When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?</b>	It will be reviewed 2016
<b>Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?</b>	Yes

#### Ministerial Sign-off

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:



Edward Davey  
Date: 21 July 2010

## Summary: Analysis and Evidence Policy Option 1

Description: To phase out the Default Retirement Age of 65 from April 2011

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 1,990	High: 4,009	Best Estimate: 2,996

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	38.2	0	38.2

### Description and scale of key monetised costs by 'main affected groups'

The only costs identified are transitional costs incurred by the employer through a) familiarisation with the change in legislation (estimated at £18.1m) and b) the introduction of a performance and appraisal system in some of those firms that don't currently have them (estimated at £20.1m).

### Other key non-monetised costs by 'main affected groups'

None identified

BENEFITS (£m)	Total Transition (Constant Price)	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	236.8	2,022
High	0	473.2	4,041
Best Estimate	0	354.5	3,027

### Description and scale of key monetised benefits by 'main affected groups'

Total benefits in year 1 are estimated at £229m, of which individuals benefit by £105m through increased earnings, employers benefit by £45m (including almost £4m in admin burden savings as well as almost £2m in policy cost savings resulting from the removal of the right to request procedure) and the Exchequer by almost £79m (mainly from increased tax receipts). By year 10 total benefits are estimated to rise to around £380m, with the following breakdown: individuals (£177m), employers (£71m) and the Exchequer (£132m).

### Other key non-monetised benefits by 'main affected groups'

Increased savings by older employees and later draw down of their retirement savings.  
Health and social benefits older employees can gain from working later in life.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	3.5
--	--------------------------	-----

Benefits derived from assumed growth in labour supply, itself based on population projections, estimated increase in employee rate for older workers and estimated range of proportions of older workers who choose to stay in work. This has been modelled using three broad scenarios and further sensitivity analysis to allow for variations in outcomes. Main cost-benefit estimates presented in this IA are based on central scenario, though estimates from baseline and high growth scenarios also available in annex 2. The benefit range figures given above reflect the estimates from these 3 modelling scenarios.

<b>Impact on admin burden (AB) (£m):</b>			<b>Impact on policy cost savings (£m):</b>		<b>In scope</b>
New AB: 0	AB savings: 3.8	Net: - 3.8	Policy cost savings: 1.9		Yes

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	UK				
From what date will the policy be implemented?	6/04/2011				
Which organisation(s) will enforce the policy?	Tribunals Service				
What is the annual change in enforcement cost (£m)?	0				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)	Traded: N/A		Non-traded: N/A		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: 0%		Benefits:		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	No	No	No

### Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>11</sup>	No	
<b>Economic impacts</b>		
Competition	No	
Small firms	No	
<b>Environmental impacts</b>		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	N/A	
Wider environmental issues	N/A	
<b>Social impacts</b>		
Health and well-being	No	
Human rights	No	
Justice system	No	
Rural proofing	No	
<b>Sustainable development</b>	No	

<sup>11</sup> Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base

	Legislation or publication
	BIS Consultation Phasing Out the Default Retirement Age – July 2010
	Employment Equality (Age) Regulations 2006 - Retirement Ages IA; <a href="http://www.bis.gov.uk/files/file38874.pdf">www.bis.gov.uk/files/file38874.pdf</a>

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

### Annual profile of monetised costs and benefits\* - (£m) constant 2010 prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	38.2	0	0	0	0	0	0	0	0	0
<b>Annual recurring cost</b>	0	0	0	0	0	0	0	0	0	0
<b>Total annual costs</b>	38.2	0	0	0	0	0	0	0	0	0
<b>Transition benefits</b>	0	0	0	0	0	0	0	0	0	0
<b>Annual recurring benefits</b>	229.1	334.0	376.1	378.5	367.3	366.4	371.4	370.1	371.9	380.5
<b>Total annual benefits</b>	229.1	334.0	376.1	378.5	367.3	366.4	371.4	370.1	371.9	380.5

\* For non-monetised benefits please see summary pages and main evidence base section

## **Evidence Base (for summary sheets)**

### **A. Background and problem under consideration**

The Employment Equality (Age) Regulations came into force on 1 October 2006 and were introduced in order to prohibit discrimination in employment on the grounds of age and, in doing so, implement the age strand of the EU employment framework Directive. The Directive prohibits discrimination in employment and occupation on the grounds of disability, sexual orientation, religion or belief and age. The Age Regulations transpose into UK law that part of the Directive concerned with age discrimination: other Regulations are in place dealing with the other protected characteristics covered by the Directive. All these Regulations, including the Age Regulations, have been subsumed into the new Equality Act 2010, the relevant parts of which will come into force in October.

The Age Regulations apply to all employers, vocational training providers, trade unions, professional organisations, employer organisations and trustees and managers of occupational pension schemes. They cover recruitment, terms and conditions, promotions, transfers, dismissal and training.

#### *Introduction of a national Default Retirement Age (DRA) of 65*

One of the key features of the Age Regulations was the introduction of a national Default Retirement Age (DRA) of 65 and the prohibiting of compulsory retirement below 65 unless objectively justified. The DRA is an exception from the general principle of equal treatment created by the Directive: it means that it is lawful for an employer to discriminate against an employee on the grounds of their age when it comes to retirement. The exception relating to the DRA has in effect been objectively justified by the Government, thus removing the need for individual employers to objectively justify a DRA of 65 or higher. The employer can therefore compulsorily retire an employee at the age of 65 or above without that being deemed to be unfair dismissal or age discrimination, provided they follow a set retirement procedure.

The procedure means that employees have a statutory right to six months' notice of retirement and a right to request working longer, which the employer has a duty to consider. Prior to the introduction of the Regulations, an employee aged over 65 was not protected by the right to claim unfair dismissal or statutory redundancy, and could therefore be summarily dismissed. Use of the DRA is not mandatory for employers: they do not have to retire employees once they reach 65, and are free to continue to employ them as long as they wish.

## **B. Rationale for intervention**

### *Age Review*

At the time of introduction of the Age Regulations the Government was committed to a review of the DRA five years after implementation. The Department for Business, Innovation and Skills (BIS) and the Department for Work and Pensions (DWP) issued a joint call for evidence to inform policy on the DRA, with submissions requested by 1 February 2010. In addition, a number of key pieces of research were commissioned, including the Second Survey of Employers' Policies, Practices and Preferences Relating to Age (hereafter referred to as SEPPP2)<sup>12</sup>. These sources provide an insight into employers' age-based practices, in particular the use of the DRA.

### *Use of a compulsory retirement age*

What the SEPPP2 research suggested was that only a minority - less than a third - of firms use a compulsory retirement age and in most cases this was set at age 65. Furthermore of those requests from older employees to stay in work the vast majority – over 80 per cent – were accepted. If in the majority of cases employers are happy for older employees to stay on in work, then this suggests that the costs of the right to request procedure for all these firms is inefficient and unjustified. Removal of this procedure would result in savings in administrative burden costs for these firms and enable more older employees to remain in work if they wish to. This would help boost labour supply and lead to increases in GDP, tax revenue and firms' profits.

### *Employer-justified retirement ages*

There may be a minority of employers who may want to set an employer justified retirement age (EJRA) for some or all staff on health or safety grounds or other objectively justified grounds. The numbers of employers who decide to have their own EJRA may depend on a number of factors:

- Concerns over health and safety, or work performance, for some workers may persuade employers to set an EJRA for some or all staff.
- Survey data shows that the ability to be able to retire individuals may be regarded as desirable to some businesses or sectors more than others, e.g. larger establishments, public administration/defence and health and social work.<sup>2</sup>
- The cost and uncertainty of being taken to an Employment Tribunal – justifying objective criteria for an EJRA could be costly and have an uncertain outcome.

It is difficult to estimate how many firms are likely to set an EJRA on the basis of health and safety or concerns over performance. We have not quantified this in this consultation stage impact assessment, but based on responses to the consultation we will consider whether it is appropriate to factor this into our calculations for the final impact assessment.

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<sup>12</sup> Metcalf H and Meadows P (2010) Second Survey of Employers Policies, Practices and Preferences Relating to Age, BIS URN 10/1008, DWP Research Report 682. This was a follow-up to the first Survey of Employers' Policies, Practices and Preferences Relating to Age conducted in 2006.

Therefore the main focus of the policy change is the phasing out of a Default Retirement Age and the impact this will have on those firms (and their employees) that currently operate a compulsory retirement age. This intervention is based both on equity grounds - to allow those who would otherwise have been forced to retire against their will to remain in work – and to correct a regulatory failure as the cost burden of the right to request procedure seems unnecessary in light of the evidence that compulsory retirement ages affect only a minority of employers and employees and that the vast majority of requests to stay on are accepted anyway.

#### *Other dismissal*

In the absence of a DRA employers will still be able to dismiss employees under existing legislation. Under the Employment Rights Act 1996, dismissal of an employee requires an employer to follow a fair procedure and rely on one of the reasons set out in section 98 (capability, conduct, redundancy, illegality or some other substantial reason).

#### *Coalition agreement on phasing out DRA*

In addition to this the Government's Coalition Agreement states that "the parties agree to phase out the Default Retirement Age (DRA)". The reasons for the Government's policy intervention are demographic change and the economic and other benefits of extending working lives. People are living longer and healthier lives, and increasing numbers want to stay in the workforce beyond the traditional retirement age of 65. The Government wants to facilitate this.

#### *Wider aims of Government policy*

This measure is one of the steps that the Government is taking to enable and encourage people to work for longer, alongside raising the State Pension Age (SPA) to 66 faster than currently scheduled and ensuring there is effective support for those out of work to find work. There are a wide variety of reasons for pursuing these policies, including demographic change; the financial benefits to both the individual and the wider economy; and the health and social benefits many gain from working later in life.

### **C. Policy objective**

The Government proposes to remove the Default Retirement Age from 6 April 2011. This aims to provide greater opportunities for people to participate in the labour market at age 65 and beyond. Not only does this increase productive potential in the economy but there are issues of equity and fairness for those older employees who would otherwise be forced to retire. At the same time by removing the administrative burden of the current DRA right to request retirement procedure employers will avoid the unnecessary costs associated with this. As a minority of employers use a compulsory retirement age and as the majority of requests to remain in work are accepted this represents a regulatory failure that would be corrected by phasing out the DRA and its associated retirement procedure.

### **D. Description of options considered**

The Government is conducting a public consultation entitled *Phasing out the Default Retirement Age* from 29 July 2010 to 21 October 2010. This impact assessment accompanies the consultation and considers two policy options:

- Option 1: Do nothing – retain the Default Retirement Age of 65
- Option 2: Phase out the DRA from April 2011 with transitional arrangements for retirements that have been notified prior to April 2011 and where the date of retirement falls before 1 October 2011.



The Government's preferred option is option 2 for the reasons outlined in section B above. As stated above phasing out the DRA would also remove all associated statutory retirement procedures, including the duty on employers to give a minimum of six months' notice of retirement to employees and the right for employees to request to work beyond the DRA.

## E. Costs and benefits

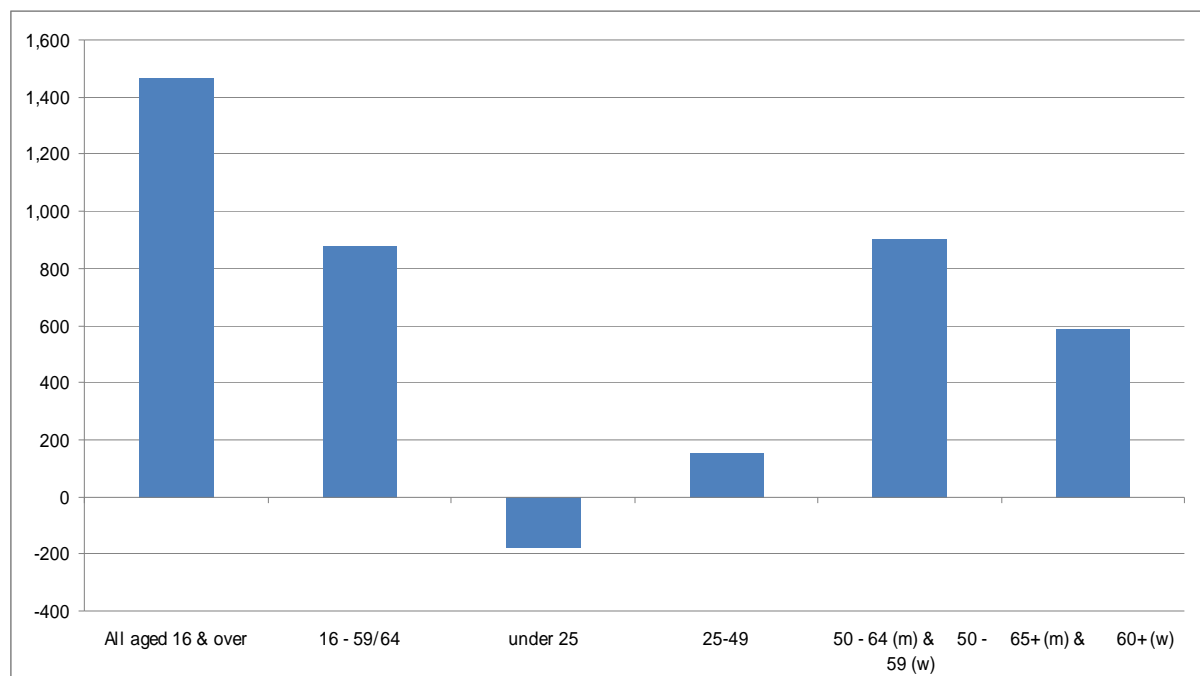
### *Economic context*

The UK labour market has enjoyed relatively high employment rates in recent decades. Working age<sup>13</sup> employment rates have been above 70 per cent since the early 1990s and exceeded 74 per cent between mid-1999 and early 2009. Although employment rates have fallen back since then, due to the recession, they were still at 72 per cent by Q1 2010.

In the last decade total employment rose from 27.3 million in Q1 2000 to 28.8 million by Q1 2010, an increase of just over 1.4 million persons in work<sup>14</sup>. As Chart 1 demonstrates around 60 per cent of this increase in total employment was among working-age adults, with practically all of this among those aged between 50 and State Pension Age.

A key source of additional labour supply though came from those of state pension age (SPA) or above, which added almost 600 thousand to total employment.

**Chart 1 – Absolute change in employment by broad age group, Q1 2000 – Q1 2010**



Source: BIS analysis based on Labour Force Survey

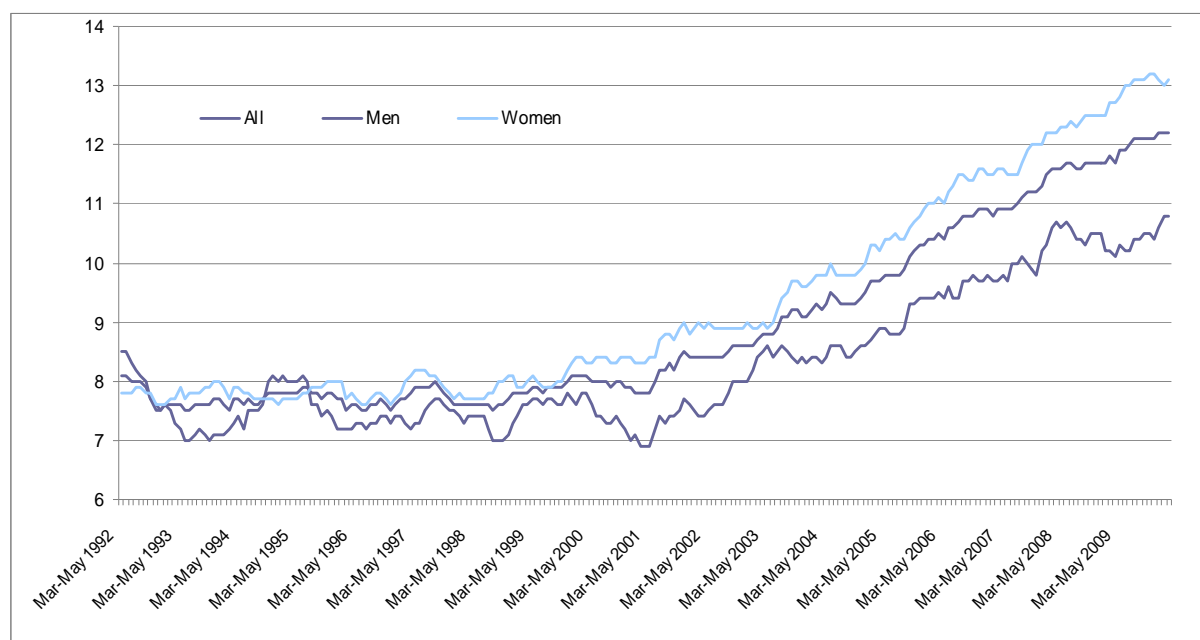
<sup>13</sup> Those aged over 16 but under State Pension Age. For men this is 16-64, for women 16-59.

<sup>14</sup> Total employment peaked at just over 29.5 million in spring 2008.

As a result employment rates among those aged SPA+ have risen by over half in the last decade, from around 8 per cent at the start of the period to over 12% by Q1 2010. This compares with 1990s when the rate was stable at around 7.5 per cent (Chart 2).

The DRA would affect employees rather than all those in employment<sup>15</sup>, but here again employee rates<sup>16</sup> have risen for older male and female employees alike since 1999 (Chart 3). Employee rates for both men and women aged 59 averaged above 50 per cent in 2009, but then decline markedly with each successive age such that by their late 60s male and female employee rates are around 10 per cent or less. By the time they reach their early 70s employee rates are around 5 per cent or less. As we might expect employee rates fall fastest for women around the age of 60 – the current State Pension Age for women – and for men between 64 and 65. Although employee rates have increased for most single older ages over the decade, most of this has happened before the age of 70. Thereafter changes are marginal.

**Chart 2 – Employment rates by gender among population aged SPA+, Q2 1992 – Q1 2010**

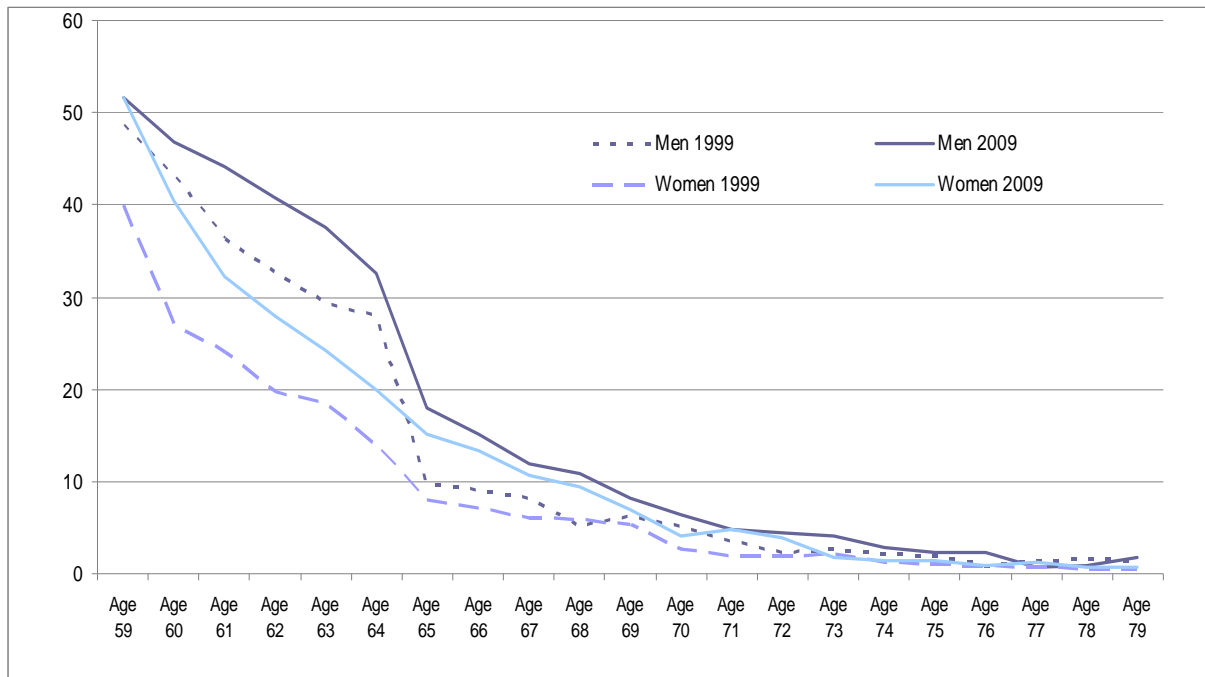


Source: BIS analysis based on Labour Force Survey; NB SPA+ denotes those aged above State Pension Age (60 for women; 65 for men)

<sup>15</sup> Total employment is comprised mainly of employees and the self-employed. In Q1 2010 total employment was 28.8 million of which 24.8 million were employees.

<sup>16</sup> An employee rate is simply total employees by age divided by total population by age.

**Chart 3 – Employee rates by gender, 1999 and 2009 (% by single year of age)**



Source: BIS analysis based on Labour Force Survey

### *The Retirement decision*

Many employees will not choose to make a request to stay on. Data on retirement shows that the average age of withdrawal, whilst having increased over the last decade remains below 65 at 64.5 for men and 62.4 for women. Similarly attitude surveys show that the average expected retirement age, again having risen over recent years remains below age 65 (63 for men and 62 for women)<sup>17</sup>.

Expected retirement age rises with age such that older employees, if they remain in work at age 60 and over have a higher likelihood of expecting to remain post 65 and a higher likelihood of saying they want to remain in work. Attitude data<sup>18</sup> show that 3 per cent of employees aged 50-59 expect to retire between age 66 and 70 (with 89 per cent expecting to retire at or before age 65). This rises to 21 per cent of employees aged 60+, with 60 per cent expecting to retire at 65 or before. A very small proportion of both age groups expect to retire above the age of 70.<sup>19</sup>

Attitudinal data on desire to stay on may provide a better estimate of intentions to remain in work. Fifty seven per cent of those aged 60+ agree they would want to work past the age of 65. This compares with 26 per cent of those aged 50-60 and 35 per cent overall of those aged 50+.<sup>20</sup>

### *Reasons for retiring*

Recent survey findings show that the reasons employees currently aged 50+ are planning to retire later are mostly financial in nature. Fifty one per cent say that they cannot afford to retire. Others mention savings and pensions not being high enough or still supporting children financially.<sup>21</sup>

In the same way that financial necessity is the main reason for wishing to retire later, financial reasons are the most commonly mentioned explanation for retiring at or before 65.<sup>22</sup>

Despite the high demand for working on it is unlikely that all who intend or would like to continue working will do so. Research shows that for some it may be blocked by ill-health. Studies show that this is the primary reason for leaving the labour market before State Pension Age<sup>23, 24</sup>.

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<sup>17</sup> McKay S (2010) Never too old? Attitudes towards longer working lives in Park et al (Eds) British Social Attitudes 26<sup>th</sup> Report, Sage, London; Smeaton D, Vegeris S & Sahin-Dikmen M (2010) Older workers: employment preferences, barriers and solutions, Equality and Human Rights Report 43. Manchester: EHRC

<sup>18</sup> British Social Attitudes Survey 2008 data

<sup>19</sup> Caution is needed as these estimates are based on a small sample (n=115)

<sup>20</sup> British Social Attitudes Survey 2008 data

<sup>21</sup> Smeaton D, Vegeris S & Sahin-Dikmen M (2010) Older workers: employment preferences, barriers and solutions, Equality and Human Rights Report 43. Manchester: EHRC

<sup>22</sup> McKay S (2010) Never too old? Attitudes towards longer working lives in Park et al (Eds) British Social Attitudes 26<sup>th</sup> Report, Sage, London

<sup>23</sup> Meadows P (2003) Retirement ages in the UK: a review of the literature on key issues, DTI Employment Relations Research series No 18.

<sup>24</sup> Smeaton D, Vegeris S & Sahin-Dikmen M (2010) *ibid*

In addition, given the choice between having a period of good health in retirement, even with a smaller pension, or remain in work with a higher pension but with poor health in retirement the vast majority of people would opt for the former (85 per cent) rather than the latter (13 per cent).<sup>25</sup>

Finally it should be noted that most people who can no longer cope with the job they are doing will self-select to leave.

### **Modelling approach**

The cost-benefit analysis presented below builds on the methodology used in the 2006 Retirement Ages regulatory impact assessment<sup>26</sup>. The premise for the 2006 analysis was that participation and employment rates for older workers were far lower than for younger age groups and that some of this was due to older workers being forced to retire by their employer. Enabling them to continue in work would therefore add to effective labour supply in the economy, resulting in increased earnings for the individuals involved, increased profits for business and tax revenue for the Exchequer.

A more detailed description of the underlying methodology is given in Annex 2, but can be summarised as follows:

Using Office for National Statistics population projections we estimate the population changes over a 10-year period 2011 to 2020 (with 2011 being the first year of implementation of the proposed phasing out of the DRA).

We develop 3 scenarios for employee participation to estimate employment levels over this 10-year period, ranging from current employee participation rates (baseline case) to rates experiencing similar growth to that of the preceding decade (high growth case)<sup>27</sup>. An intermediate central case scenario<sup>28</sup> is the one used in the analysis below though overall results from the baseline and high growth scenarios are included in Annex 2.

We then focus on those establishments that currently use a compulsory retirement age (CRA) and estimate the effect on increased labour supply if their CRA were removed<sup>29</sup>. Evidence from SEPPP2 showed that even in these organisations it is still the case that the vast majority of requests to remain in work were accepted. The potential labour supply effect is then derived from those requests that are rejected.

### **Further assumptions**

Further specific modelling assumptions are then used to reflect:

- *The proportion of employers with a CRA and the ages at which these operate*

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<sup>25</sup> McKay S (2010) Never too old? Attitudes towards longer working lives in Park et al (Eds) British Social Attitudes 26<sup>th</sup> Report, Sage, London

<sup>26</sup> Employment Equality (Age) Regulations 2006 - Retirement Ages IA; [www.bis.gov.uk/files/file38874.pdf](http://www.bis.gov.uk/files/file38874.pdf)

<sup>27</sup> As the Default Retirement Age applies to employees we calculate an employee rather than overall employment rate. Both have risen over the past decade and have continued to do so even during the downturn.

<sup>28</sup> This assumes an increase in employee rates among older employees equivalent to half that experienced during the preceding decade.

<sup>29</sup> Specifically this relates to those employees approaching their 60<sup>th</sup>, 65<sup>th</sup> or 70<sup>th</sup> birthday. See Table 1 below.

- *Proportion of employees who wish to stay on and who submit a request to the employer*
- *Proportion of requests otherwise rejected*
- *Proportion of these requests that would otherwise result in dismissal*

#### *Compulsory retirement and the right to request*

All employers will be affected by changes to the legislation but those who have a compulsory retirement age (CRA) will be affected most. This is currently estimated to be 32 per cent of all establishments. Most of these (25 per cent of all establishments) have a CRA of 65, 2 per cent of which have a CRA below age 65 and 2 per cent of which have a CRA over the age of 65<sup>30</sup>. Retirement ages below 65 are clustered at age 60 and retirement ages above 65 are clustered at 70 and 75.<sup>31</sup> See table 1 below.

The direct effect on workers will be to allow those who have reached the default retirement age of 65 to continue working. Overall forty five per cent of employees are currently affected by employers' compulsory retirement age.

**Table 1. Establishments and employees affected by compulsory retirement age**

Employers' Compulsory Retirement Age	Establishments affected (%)	Employees affected (%)
Age 65	25	34
Under age 65	2	2
Over age 65	2	7
Age unknown or not specified	2	2**
Total	32	45

Source: SEPPP2 Table 8.3. NB: \*Clustered at age 70 and 75 \*\*Assumed to be not less than 65 in view of EE(Age) Regulations that sets a Default Retirement Age at no less than 65 unless objectively justified.

For modelling purposes we simplify<sup>32</sup> the information from table 1 above to focus on 3 age groups of employees who would potentially be affected by removal of the DRA. Specifically this relates to those approaching their 60th, 65th and 70th birthdays and who would otherwise be contacted by employers with a CRA about their retirement plans in the year leading up to their birthday. Therefore we focus on 59, 64 and 69 year olds.

<sup>30</sup> 3 per cent were unspecified ages or unknown.

<sup>31</sup> Metcalf H and Meadows P (2010) Second Survey of Employers Policies, Practices and Preferences Relating to Age, BIS URN 10/1008, DWP Research Report 682

<sup>32</sup> For the 2 per cent of employees affected by a DRA but where the CRA age is unknown we group these with the mode, i.e. those facing a CRA of 65.

Table 2 below illustrates the potential volumes of employees from 2009 who would be affected under this approach. Of the approximately 600 thousand employees in the relevant age cohorts, around 73,000 might be affected by a compulsory retirement age.

**Table 2: Older employees potentially affected by compulsory retirement age, 2009**

Compulsory Retirement Age	Employee age cohort affected	Total employees in age cohort*	Share of cohort affected by CRA (%)	Total Employees affected by CRA*
60	59	388,400	2	7,800
65	64	174,300	36	62,800
70	69	35,700	7	2,500
Total		598,400	45	73,000

Source: BIS analysis using Labour Force Survey; SEPPP2; \* NB rounded to nearest hundred

### *Employees who wish to stay on*

Although there are older employees potentially affected by a firm's compulsory retirement age, not all employees will wish to work or will be able to work beyond an employers' compulsory retirement age. On the basis of information from the retirement decision section above we assume for modelling purposes 3 levels of sensitivity for the proportion of older employees who would wish to stay on with a range of 25 per cent to 50 per cent, but assume a central estimate may be closer to 33 per cent<sup>33</sup>.

Furthermore we assume that where older employees do wish to stay on, then all of them will submit a right to request. However, this may be an overestimate as some employees may be put off from making a request to work longer because they think they may be turned down or indeed lack of awareness of their right to request.

### *Employees who are allowed to stay on*

Whilst a large proportion of employees reaching retirement age are working for employers with a compulsory retirement age analysis of employer data shows that most requests to stay on are being accepted where these have been received. According to the latest employer data 83 per cent of employers said they granted all requests received, 12 per cent had granted some and 3 per cent had not granted any<sup>34</sup>. Similarly employee survey data show that individuals reported that their requests were accepted in 85 per cent of cases<sup>35</sup>.

These data relate to accepted requests across all establishments. Evidence from SEPPP2 shows that employers who operate with a compulsory retirement age accept fewer requests to stay on in work compared with all employers. Sixty nine per

<sup>33</sup> Source: British Social Attitudes Survey data 2008.

<sup>34</sup> Source: SEPPP2, Table 8.11. NB: Just under 2% did not know if the request had been granted.

<sup>35</sup> Smeaton D, Vegeris S & Sahin-Dikmen M (2010) Older workers: employment preferences, barriers and solutions, Equality and Human Rights Report 43. Manchester: EHRC.

cent of employers with a CRA accepted all requests, 23 per cent accepted some and 6 per cent accepted none<sup>36</sup>.

#### *Proportion of requests rejected*

While this data is very useful, it is not possible to determine precisely the degree of acceptance in those cases where some requests were accepted. For the modelling we have made a simplifying assumption that the proportion of requests that are accepted ranges between 80 per cent and 90 per cent. Hence the assumption is that 10 per cent to 20 per cent of requests are ultimately rejected.

#### *Proportion of employees who would otherwise be dismissed by other means*

It will not necessarily be the case that all those older employees whose requests are currently rejected will remain in work after removal of the DRA. Data from SEPPP2<sup>37</sup> suggests that of those firms operating a CRA nine per cent viewed the CRA as important as it was easier than dismissal. Therefore for the model we have assumed that this proportion of previously rejected requests will instead result in dismissal by other means, such as on the grounds of performance appraisal.

#### *The effect on labour supply*

The estimated effects of all of these factors on increased labour supply – using the central case scenario – are given in table 3 below. Thus, in 2011 employment is estimated to increase by around 6,200. This is equivalent to 0.02 per cent of total employment in Q1 2010, and less than 0.1 per cent of all those aged 50+ currently in work. The economic context section above describes the scale of the increase in employment during the past decade – an overall rise of over 1.4 million, of which almost 600 thousand was among those aged SPA+. As the additional labour supply resulting from removal of the DRA is a small proportion of this we assume this will be absorbed by the UK labour market.

Some of these will then choose to remain in work into the second year (in 2012) but will be supplemented by another cohort of older workers who would otherwise have been forced to retire, together amounting to just under 9,200 extra employees in work. By 2013 this is estimated to have risen to around 10,400 and so on.

**Table 3: Estimated impact of removing DRA on labour supply (central scenario)**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Men	3,700	5,500	6,200	6,300	6,100	6,000	6,100	6,100	6,100	6,200
Women	2,400	3,600	4,100	4,200	4,100	4,100	4,200	4,200	4,200	4,300
Total	6,200	9,200	10,400	10,500	10,100	10,100	10,300	10,300	10,300	10,600

Source: BIS analysis based on Labour Force Survey and ONS Population Projections; \* NB: rounded to nearest hundred

The estimates for labour supply growth will be affected by underlying variations in population projections<sup>38</sup> as well as assumptions about how long those older workers who choose to stay on actually do remain in work.

<sup>36</sup> Source: SEPPP2, Table 8.11. NB: Just under 2% did not know if the request had been granted.

<sup>37</sup> See table 8.5 of SEPPP2.

<sup>38</sup> Population estimates for these age groups are projected to fall mid-way through this period before rising again later.



It is not certain how long after the retirement age employees are continuing in work, although recent qualitative work with employers shows that employees stay on average no more than a further two years, with a few exceptions.<sup>39</sup>

Current survey data shows that for those for which this was applicable (i.e. firms with an experience or a clear policy on what happens post retirement age) 42 per cent said employees continued on an indefinite contract, 26 per cent moved them to a fixed term contract and 7 per cent said it depends, varies or reviewed at the time. Twenty-five per cent didn't know<sup>40</sup>.

Therefore for the purposes of estimating labour supply effects we have assumed that 50 per cent of those who choose to remain in work in the first year will still be in work in the second year, that a further quarter will still be working after two years, 15 per cent after three years and 10 per cent after 4 years.

### *Productivity assumptions*

The evidence on the productivity of older workers shows that they are no less productive than younger workers, except in a limited range of jobs. The findings from a review of the literature<sup>41</sup> were:

- The evidence suggests that, except in a very limited range of jobs, work performance does not deteriorate with age, at least up to the age of 70. Since few people are employed beyond that age, there is virtually no evidence about work performance after the age of 70.
- The positive effects on performance of experience, interpersonal skills, and motivation, generally offset the adverse effects of loss of speed, strength and memory.
- Where performance does decline with age, the falling average scores for older people seem to be driven by the marked deterioration of a small number of individuals rather than by a decline across the whole cohort.
- Older workers have the same ability as younger workers to master new skills but they learn more slowly and can be helped by different training methods.
- The effect on our national productive potential of any changes in mandatory retirement arrangements is likely to be very small.

There is also further evidence that those who stay on in full-time work suffer no productivity loss as they become older<sup>42</sup>.

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<sup>39</sup> Thomas A and Pascall-Calitz J (2010) Default Retirement Age: Employer qualitative study, DWP Research Report 672, Department for Work and Pensions London.

<sup>40</sup> BIS analysis of SEPPP2.

<sup>41</sup> Meadows P (2003) Retirement ages in the UK: a review of the literature, DTI, URN 03/820

<sup>42</sup> Barrel B, Hurst I, Kirby S (2009) How to Pay for the Crisis or Macroeconomic implications for pension reform, National Institute of Economic and Social Research Discussion Paper No. 333. [www.niesr.ac.uk/pdf/EWLfin.pdf](http://www.niesr.ac.uk/pdf/EWLfin.pdf); Robinson, H (2003) Are you experienced? Recent British Evidence on Age-Earnings Profiles, *Applied Economics*, Vol 35, No.9

## Cost-Benefit Analysis

### Costs

#### *Business*

Costs involved in removal of the Default Retirement Age are assumed to be transitional, one off, costs and arise from two sources, namely:

- Familiarisation costs as firms read and absorb the legislative changes
- The introduction of performance and appraisal systems in some of those organisations that do not currently have them.

These are discussed in turn below.

#### *(i) Familiarisation costs*

We assume that firms will be able to familiarise themselves relatively quickly with the change in legislation and estimate that on average it will take half an hour of a senior manager's time in a small company or an hour of a human resource manager's time in a medium or large organisation<sup>43</sup>. Aggregated across the 1.3m businesses with employees this amounts to £18.1m.

#### *(ii) Introducing performance and appraisal systems*

Under the option of removal of the retirement age employers will only be able to dismiss workers on fair grounds such as incompetence or misconduct. This may necessitate a review of performance management systems. Currently 85 per cent of employers with a compulsory retirement age have performance appraisal management for all or some staff. This compares with 76 per cent of those without a compulsory retirement age. In the absence of a DRA some of those operating with compulsory retirement may introduce a formal appraisal system.

**Table 4: Establishments with a performance appraisal system**

% by type of retirement policy	Performance appraisal for some or all staff	All	With 5-9 employees	With 10-49 employees	With 50-199 employees	With 200+ employees
With CRA	Yes	85	81	83	89	98
	No	15	19	17	11	2
Without CRA	Yes	76	65	79	91	97
	No	24	34	21	8	3

Source: Second Survey of Employers Policies Practices and Preferences relating to Age (SEPPP2), 2010

Only those organisations currently with a CRA but without a formal appraisal system would be affected, but we believe it is unlikely that all those 15 per cent with a CRA but no performance management (representing 5 per cent of all firms with employees across the economy) will introduce one. This is because the data from SEPPP2 suggests that there is actually a larger proportion of those organisations without a CRA which do not have an appraisal system in place. Therefore, for illustrative costs

<sup>43</sup> The hourly wage rate (including 21 per cent mark-up for non-wage labour costs) is £26.87 for senior managers and £29.62 for human resource managers. Source: Annual Survey on Hours and Earnings (ASHE) 2009, ONS

it is assumed that only half of the CRA firms affected - 2.5 per cent of establishments - will put in place a performance management system where one was not already in existence. This would amount to just under 32,500 firms of which around 31,500 would be small firms<sup>44</sup>.

Any introduction or strengthening of performance management would have to apply to the whole of the workforce irrespective of age in order to avoid age discrimination claims. This may result in other indirect benefits to employers, though these are not quantified here.

We assume that small firms spend three days (22.5 hours) developing a performance and appraisal system and that for larger firms this is 5 days (37.5 hours). Using an hourly wage cost of £26.87 (including non-wage labour costs) for senior managers in small firms and £29.62 for human resources managers in medium and large firms the aggregate cost of setting up performance appraisal systems is estimated at £20.1m.

## Benefits

### *Benefits to individuals*

The clearest direct financial benefit to individuals will be an increase in earnings as older workers stay on in work. Table 5 below sets out illustrative estimates of these extra earnings (net of tax and National Insurance contributions). Average gross earnings estimates are based on ASHE data on mean earnings of men and women aged 60-64<sup>45</sup>.

We estimate that individuals will benefit from around £105m in increased earnings in year 1 to £177m in year 10.

Sensitivity	Year 1	Year 5	Year 10
High	140.4	228.3	236.5
Medium	105.3	171.2	177.4
Low	70.2	114.2	118.3

Source: BIS analysis

<sup>44</sup> This is in line with the distribution of all firms with employees where those with up to 49 employees account for 97 per cent of the total. There is also uncertainty as to how many small firms in particular might actually introduce a performance appraisal system directly as a result of abolishing the DRA, especially if such systems were already not required for younger employees.

<sup>45</sup> Calculated using increases in labour supply by gender from table 3 above and then multiplying by annual earnings. For male employees annual gross earnings averaged £26,505 in 2009. For female employees the equivalent figure was £13,662. Applying standard income tax and national insurance rates for 2011 the effective tax rate for male employees is 23 per cent, while for women it is 15 per cent.

## **1. Benefits to firms**

The abolition of the DRA is likely to benefit employers in two main areas:

- *Cost savings following removal of right to request procedure*
- *Increased profits resulting from increase in labour supply*

These benefits are discussed and quantified in further detail below.

### *(i) Savings from abolition of right to request procedure*

Under the current DRA legislation employers incur costs when they retire an individual and when they receive a right to request to stay beyond the retirement date. The employer is obliged to take requests seriously, although no reason need be given to the employee if the request is turned down. The number of requests received is calculated on the basis of the assumptions discussed above. Where requests are not accepted there is provision for an appeal stage and ultimately recourse to an external dispute resolution mechanism which could be an Employment Tribunal.

We only include here savings in those organisations with a compulsory retirement age. Although there is evidence from SEPPP2 that firms without a CRA have chosen to use the right to request procedure our focus here is on those firms that are likely to be directly affected by the abolition of the DRA. In the absence of a DRA and the statutory procedure for retirement there will be administration cost reductions for employers. In summary the procedure is as follows:

- Employer writes to employee at least 6 months before they reach compulsory retirement age and informs them that they have a right to request to work beyond this age
- For employees wishing to stay on a meeting is held between the employer and the employee
- Following this meeting the employer writes to the employee stating the outcome of their request
- If the request is turned down the employee can appeal and another meeting is held between employee and employer
- Following the appeal meeting the employer again writes to the employee stating the outcome
- If the request is still unsuccessful the employee may pursue the matter with an application to an Employment Tribunal

Table 6 below sets out the estimated cost savings to employers in the first year from the removal of the right to request procedure. This is based on the estimated number of employees who would otherwise be able to remain in work in the absence of a DRA. Furthermore we distinguish between the savings in terms of administrative burdens (the time and cost associated with the employer's obligations to write letters and hold meetings) and Employment Tribunal costs.

Employer time is costed on the basis of the average hourly wage of a manager/senior manager of £28.25<sup>46</sup> and employee time on an average hourly wage of an employee aged 60+<sup>47</sup>. A proportion of rejected requests will go to internal appeal but no data is available on this. We assume for this purpose that 33 per cent of rejected requests are appealed against by the employee. Finally of those who lost an appeal it is assumed that 5 per cent took the matter to an Employment Tribunal (ET).<sup>48</sup> The average cost of an ET application for discrimination jurisdictions for employers is taken at £6,000.<sup>49</sup> From the model we anticipate that there might be between 230 and 450 ET cases resulting from rejected requests. Table 6 shows the costs to firms of internal appeals and tribunal applications under the current national Default Retirement Age.

**Table 6: First year cost savings for employers following removal of right to request procedure (£m)**

	Low sensitivity	Medium sensitivity	High sensitivity
Procedural cost savings (Admin burdens)	3.0	3.8	5.6
Savings from fewer Employment Tribunals	1.2	1.9	2.5
Total savings to employers	4.2	5.7	8.1

Source: BIS analysis

**Table 7: Best estimate cost savings for employers following removal of right to request procedure**

	Year 1	Year 5	Year 10
Procedural cost savings (Admin burdens)	3.8	3.3	3.6
Savings from fewer Employment Tribunals	1.9	1.6	1.7
Total savings to employers	5.7	5.0	5.4

Source: BIS analysis

<sup>46</sup> To simplify we have averaged the hourly wage rate (including non-wage labour costs for senior managers in small firms and human resource managers in medium and larger firms.

<sup>47</sup> These rates take account of non-wage costs.

<sup>48</sup> This is a BIS estimate based on the estimated number of stayed tribunal cases and the known small proportion of retirement related cases on the Survey of Employment Tribunal Applications.

<sup>49</sup> Findings from the Survey of Employment Tribunal Applications 2008. Mark Peters, Ken Seeds, Carrie Harding and Erica Garnett. BIS Employment Relations Research Series No 107, March 2010.

*(ii) Increased profits*

The increase in labour supply will not only impact on increased earnings for individuals but will also affect overall GDP. Earnings - or the compensation of employees – accounts for around 60 per cent of overall gross value added (GVA)<sup>50</sup>. Assuming a constant capital-labour ratio<sup>51</sup> this implies a mark-up factor of 1.67. Contributing to this increase in GDP are an increase in profits as well as an increase in incomes and taxes. Estimates of the increase in post-tax profits are given in table 8 below. This does not necessarily represent a change in profit margins nor a change in total factor productivity<sup>52</sup>.

**Table 8: Estimates of increases in profits resulting from increase in labour supply (£m)**

Sensitivity	Year 1	Year 5	Year 10
High	52.5	85.2	88.0
Medium	39.4	63.9	66.0
Low	26.3	42.6	44.0

Source: BIS analysis

*Non-monetised benefits to employers*

Employers will benefit from lower recruitment costs from more people staying on in work, particularly if there are special skills involved. For each worker the recruitment effort will be deferred until they eventually decide to retire. In each year there will be those who will be staying on from previous years, plus a new cohort who will be benefiting from the legislation. However, the benefit to employers is to postpone these recruitment costs, but, as stated above, workers generally do not seem to stay for more than around 1 or 2 years (with a few exceptions)<sup>11</sup>. This benefit has not been quantified.

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<sup>50</sup> See ONS Blue Book, Section 2

<sup>51</sup> See productivity assumptions discussed further above

<sup>52</sup> This assumes that for each unit of increased labour there is a corresponding increase in capital and that there are constant returns to scale.

## 2. Benefits to the Exchequer

### (i) Increase in tax revenues

Increased output should also benefit the public finances as those older workers who stay on in work will pay more in taxes. Tax receipts should also increase from the wider impact on GDP growth. Using the ratio of tax receipts to GDP of 0.35<sup>53</sup> the effect on tax receipts is estimated and presented in table 9 below.

**Table 9: Estimates of increases in tax revenues resulting from increase in labour supply (£m)**

Sensitivity	Year 1	Year 5	Year 10
High	103.9	168.8	174.8
Medium	77.9	126.6	131.1
Low	52.0	84.4	87.4

Source: BIS analysis

### (ii) Savings from fewer Employment Tribunal applications

It was set out above how the removal of the right to request procedure should result in fewer applications to an Employment Tribunal. It was estimated this could be between 200 and 400 ET applications in 2011. As well as cost savings for employers, the Exchequer will also benefit as the Tribunals Service should experience a reduction in the costs of administration as well as the operational costs of tribunal hearings. The average cost of an ET application for the Government is estimated at £2,400 for discrimination cases. For the first year the overall saving for Government is estimated to range between £0.5m and £1.0m, with a best estimate of £0.7m.

## **Impact on benefits and state pensions**

### (i) Income-related benefits

We assume there would no substantial savings to the state through paying less income-related benefits. DWP analysis mainly around benefit receipt in the 60-64 age group indicated that a large proportion of those are already receiving disability benefits prior to claiming pension credit, which suggests they would be getting pension credit irrespective of the change in DRA.

### (ii) Impact on state pension

The impact of changes to the DRA on State Pension expenditure is broadly cost neutral as although working longer may mean fewer people claim State Pension at State Pension age, State Pension deferral rules mean that these people will receive either a lump sum payment or extra State Pension payment when they do eventually claim State Pension. There is no clear evidence to suggest that people who work beyond State Pension age are more likely to defer their State Pension.

<sup>53</sup> See chapter 1 of HM Treasury Annual Report 2008-09, [www.hm-treasury.gov.uk/d/ara\\_chapter\\_1.pdf](http://www.hm-treasury.gov.uk/d/ara_chapter_1.pdf)

**Table 10: Estimated quantifiable costs and benefits of abolishing DRA under central case scenario (£m)**

Sensitivity	Year 1			Year 5			Year 10		
	Low	Medium	High	Low	Medium	High	Low	Medium	High
<b>COSTS (one-off)</b>	38.2	38.2	38.2	na	na	na	na	na	na
<i>Employers</i>	38.2	38.2	38.2	na	na	na	na	na	na
Familiarisation	18.1	18.1	18.1	na	na	na	na	na	na
Appraisal systems	20.1	20.1	20.1	na	na	na	na	na	na
<b>BENEFITS (ongoing)</b>	153.2	229.1	306.0	245.3	367.3	490.2	254.1	380.6	507.9
<i>Individuals</i>	70.2	105.3	140.4	114.2	171.2	228.3	118.3	177.4	236.5
<i>Higher earnings</i>	70.2	105.3	140.4	114.2	171.2	228.3	118.3	177.4	236.5
<i>Employers</i>	30.5	45.1	60.7	46.3	68.8	92.2	48.0	71.4	95.7
<i>Right to request</i>	4.2	5.7	8.1	3.7	5.0	7.0	4.0	5.4	7.6
<i>Increased profits</i>	26.3	39.4	52.5	42.6	63.9	85.2	44.0	66.0	88.0
<i>Government</i>	52.7	78.6	104.9	84.8	127.2	169.7	87.9	131.8	175.7
<i>Fewer ET cases</i>	0.5	0.7	1.0	0.4	0.6	0.9	0.5	0.7	0.9
<i>Increased tax revenue</i>	52.0	77.9	103.9	84.4	126.6	168.8	87.4	131.1	174.8
<b>NET BENEFITS</b>	115.0	190.9	267.8	245.3	367.3	490.2	254.1	380.6	507.9
<i>..of which admin burden savings</i>	3.0	3.8	5.6	2.6	3.3	4.9	2.8	3.6	5.3

Source: BIS analysis

## F. Risks and assumptions

The Age Review research has provided key insights into the impact of the Default Retirement Age since its introduction in 2006 and this information has played an integral part in constructing a model to estimate the effect of removal of the DRA.

Inevitably, though, there will be risks and uncertainty surrounding the modelling as it looks ahead to 2020, not least due to differing outcomes relating to population projections, labour market participation of older employees and the rate of economic growth. We have attempted to deal with this to some extent in the model by employing three main scenarios: baseline, central and high growth. The results presented in this IA relate to the central case scenario, although the estimated broad cost-benefit impacts from the baseline and high growth scenarios can be found in Annex 2.

In addition to this sensitivity analysis has been used to provide further variation in the possible behavioural responses of employers and employees. Aspirations to work longer may also change independently over time, as may the duration of stay for those who decide to remain in work.

Furthermore the retirement decision can be affected by a number of factors, in particular in relation to access to a pension, and this will have consequences for when older employees choose to exit the labour market. The model used for this



impact assessment does not factor in the effects of changes in State Pension Age or equalisation of State Pension Age for men and women<sup>54</sup>.

Although this impact assessment shows that the numbers affected are relatively low, little is known about the performance and productivity of those employees aged over 70. At the same time the model focuses only on those older employees approaching the milestone compulsory retirement ages of 60, 65 and 70 and it is possible there may be further dynamic effects in other age groups leading up to these ages with consequent effects on labour supply and hence output.

There is the possibility of unintended consequences of removing the right to request procedure in terms of increased Employment Tribunal claims for unfair dismissal. International evidence<sup>55</sup> though suggests that, despite fears beforehand, there were not any increase in costs in relation to tribunal cases in those countries where a DRA was removed. In this impact assessment we have not assumed any additional costs, though this issue may well be informed further during the consultation process.

### **G. Administrative burden and policy savings**

Abolition of the DRA will mean that there will no longer be any requirement for employers to offer the right to request to continue working. This will result in a simplification of employment law and a reduction in administrative burdens to employers. Estimates of these cost savings were discussed in the benefits to employers section above (see table 6 above). In the first year of the change in policy we estimate a reduction in administrative burdens for employers of between £3m and £5.6m, with a best estimate of £3.8m.

### **H. Wider impacts**

As set out in section E above the impact of phasing out the DRA is estimated to increase labour supply among older employees initially by around 6,200 rising to around 10,600 in year 10. This represents 0.02 per cent of current total employment and less than 0.1 per cent of those aged 50+ currently in work. We therefore assume that overall the wider impacts will be minimal. However specific assessments have been made relating to competition, the effect on small firms and on equalities and these are presented below. These will be developed further for the final impact assessment subject to consultation responses and the availability of additional data.

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<sup>54</sup> The Government announced on 24 June 2010 a review into the timing of the increase in State Pension Age to 66 and published a Call for evidence to inform this. This is available at: [www.dwp.gov.uk/docs/spa-inc-to-66-call-for-evidence.pdf](http://www.dwp.gov.uk/docs/spa-inc-to-66-call-for-evidence.pdf)

<sup>55</sup> Wood, A; Robertson, M and Wintergill, D (2010) A comparative Review of International Approaches to Mandatory Retirement: DWP Research Report 674.

**(i) Competition Assessment**

The initial analysis of the competition filter is that a detailed competition assessment is not considered necessary (see table 11 below). The proposed legislation will apply to all firms and is unlikely to affect the competitiveness of any particular sector.

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**Table 11. Competition assessment.**

Question: <i>In any affected market, would the proposal..</i>	Answer
..directly limit the number or range of suppliers?	No
..indirectly limit the number or range of suppliers?	No
..limit the ability of suppliers to compete?	No
..reduce suppliers' incentives to compete vigorously?	No

Source: BIS

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Considering the distribution of employees by age across industrial sectors (table 12), there are no major differences comparing between employees aged 60 to 64 or 65+ to those aged below 60. The main differences appear to be in the public sector (*education* and *health*), where the share of older employees is likely to be higher and in *information and communication* and *finance and insurance*, where the shares are lower.

% employees by age	Aged under 60	Aged 60-64	Aged 65+
Agriculture, forestry and fishing	0.5	0.6	1.1
Mining and quarrying	0.4	0.6	0.4
Manufacturing	10.5	11.3	9.1
Electricity, gas, air cond supply	0.6	0.7	0.2
Water supply, sewerage, waste	0.8	1.1	0.7
Construction	6.0	7.0	5.1
Wholesale, retail, repair of vehicles	14.6	14.3	15.8
Transport and storage	4.8	6.8	5.8
Accommodation and food services	5.1	3.2	3.9
Information and communication	3.6	1.6	1.9
Financial and insurance activities	4.9	1.9	1.2
Real estate activities	0.8	1.1	1.9
Prof, scientific, technical activities	5.7	4.8	5.3
Admin and support services	4.2	4.8	6.9
Public admin and defence	7.9	6.9	5.9
Education	10.9	12.4	12.0
Health and social work	13.9	15.8	15.1
Arts, entertainment and recreation	2.4	2.2	3.7
Other service activities	2.1	2.7	3.2
Households as employers	0.1	0.2	0.6
Extraterritorial organisations	0.2	0.1	0.2
Total	100	100	100

Source: Labour Force Survey, average of quarters 1-4, 2009

There are differences overall between industry groups who operate with a compulsory retirement age. Compulsory retirement age was highest in establishments in manufacturing, public administration and defence, education and financial intermediation and lowest in construction, wholesale and retail trade, hotels and restaurants.

### **(ii) Small Firms Impact Test**

Although there is clearly a higher proportion of older employees working in smaller establishments (table 13), data from SEPPP2 suggests that larger establishments are more likely to have a CRA compared with smaller ones (5-9 employees: 22 per cent, 200+ employees 54 per cent).<sup>56</sup>, <sup>57</sup> In addition the private sector is less likely to have a CRA (30 per cent) compared with the public sector (46 per cent of public sector employers operate with a CRA).

In addition there were differences in perceived importance of compulsory retirement age. Larger establishments were more likely say it was important to be able to compulsorily retire employees compared with smaller establishments (rising from 35 per cent of small establishments (with 5-9 employees) to 56 per cent of establishments (with 200+ employees).

**Table 13: Share of employees by age and by number of employees at workplace, 2009**

% employees by age	Aged under 60	Aged 60-64	Aged 65+
1-10 employees	18.3	24.8	34.1
11-19 employees	8.5	8.3	10.1
20-24 employees	4.5	4.6	4.9
Don't know but under 25 employees	2.2	2.1	3.0
<b>Total under 25 employees</b>	<b>33.5</b>	<b>39.8</b>	<b>52.0</b>
25-49 employees	13.5	13.6	13.5
50-249 employees	23.6	22.7	17.9
250-499 employees	7.6	6.8	4.9
Don't know but between 50 and 499 employees	3.3	2.8	2.4
<b>Total 50-499 employees</b>	<b>48.0</b>	<b>46.0</b>	<b>38.7</b>
500 employees or more	18.5	14.2	9.3
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>

Source: Labour Force Survey, average of quarters 1-4, 2009

### **(iii) Equality Impact Assessment**

The data presented below are an initial assessment of the distribution of employees by gender, disability and ethnicity comparing those under the age of 60 with those aged 60 to 64 and those aged 65+. In addition phasing out the DRA is a positive step itself in combating age discrimination.

In the absence of relevant data from the Age Review research – due to the fact that some of this was employer-based as well as due to small sample sizes, this data is taken from the Labour Force Survey. Removal of the DRA is likely to affect older employees as follows:

- Older male employees are slightly more likely to be affected than female employees. The proportion of male employees rises especially in the 60 to 64

<sup>56</sup> BIS analysis of SEPPP2 data.

<sup>57</sup> Although in very largest of establishments, i.e. those with 10,000+ employees, this falls to 33 per cent.

age group, though this probably is mostly a reflection of the effect of the State Pension Age of 60 for women, as the male share declines among those aged 65+ (i.e. at the State Pension Age for men)

- There is a higher proportion of disability among older employees and especially so in terms of disability as defined under the Disability Discrimination Act (DDA), but also for those with both a DDA disability and a work-limiting disability.
- There are differences in the ethnic distribution of older employees by age group, where from age 60 onwards there is a lower proportion of employees from non-White ethnic groups.

**Table 14: Distribution of employees by age by gender, 2009**

% employees by age	Aged under 60	Aged 60-64	Aged 65+
Male	50.4	56.9	53.2
Female	49.6	43.1	46.8
Total	100	100	100

Source: Labour Force Survey, average of quarters 1-4, 2009

**Table 15: Distribution of employees by age by disability, 2009**

% employees by age	Aged under 60	Aged 60-64	Aged 65+
DDA disabled and work-limiting disability	4.6	9.0	7.5
DDA disabled	5.0	11.4	12.6
Work-limiting disabled only	2.5	3.9	4.8
Not disabled	87.9	75.6	75.2
Total	100	100	100

Source: Labour Force Survey, average of quarters 1-4, 2009

**Table 16: Distribution of employees by age and by ethnicity, 2009**

% employees by age	Aged under 60	Aged 60-64	Aged 65+
White	90.3	98.2	96.9
Mixed	0.8	0.2	0.2
Asian or Asian British	4.7	0.9	1.5
Black or Black British	2.3	0.7	1.2
Chinese	0.5	0.0	0.0
Other ethnic group	1.5	0.0	0.1
Total	100	100	100
White	90.3	98.2	96.9

Source: Labour Force Survey, average of quarters 1-4, 2009

## I. Summary and implementation plan

### (i) Summary of quantifiable costs and benefits

Table 17 below summarises the quantifiable costs and benefits

- Costs are assumed to be transitional and are estimated at £38.2m for employers for year 1 only.
- Total benefits are estimated at £229.1m in year 1, rising to £367.3m by year 5 and £380.6m in year 10.
- Total benefits to employers are estimated at £45.1m in year 1, rising to £68.8 in year 5 and £71.4m in year 10.

**Table 17: Estimated quantifiable costs and benefits of abolishing the DRA (central scenario)**

£m (Constant 2010 prices)	Year 1	Year 5	Year 10
<b>Costs (one-off)</b>	<b>38.2</b>	<b>0</b>	<b>0</b>
Employers	38.2	0	0
<b>Benefits (ongoing)</b>	<b>229.1</b>	<b>367.3</b>	<b>380.6</b>
Employers	45.1	68.8	71.4
<i>Of which admin burdens</i>	<i>3.8</i>	<i>3.3</i>	<i>3.6</i>
Individuals	105.3	171.2	177.4
Government	78.6	127.2	131.8
<b>Total Net Benefit</b>	<b>190.9</b>	<b>367.3</b>	<b>380.6</b>

Source: BIS analysis

### (ii) Implementation plan

The Government is proposing to remove the DRA from 6 April 2011. This also covers removal of all associated statutory retirement procedures including the duty on employers to give a minimum of six month's notice of retirement to employees and the right for employees to request to work beyond the DRA.

There will also be transitional arrangements for retirements that have been notified prior to April 2011 and where the date for retirement falls before 1 October 2011.

## Annex 1: Post Implementation Review (PIR) Plan

### **Basis of the review:**

The phasing out of the Default Retirement Age will be reviewed in 5 year's time in the context of the broader aims of the Employment Equality (Age) Regulations prohibiting discrimination on the grounds of age. We will also undertake interim monitoring and, where appropriate, evaluation as the policy is implemented to ensure timely feedback to policymakers.

### **Review objective:**

The overriding objective is to provide greater opportunities for people to participate in the labour market at 65 and beyond and to remove unnecessary costs, and especially the administrative burden on employers of the current retirement procedure. It will be difficult to isolate the effects of removing the DRA on labour market participation of older workers given the wider economic factors and the increase in State Pension Age. The review will examine specific impacts on employers and employees and any unintended consequences arising from the policy objective. This will include the impact on performance management systems and levels of dismissal disputes (via Employment Tribunal claims), use of employer justified retirement age and other barriers restricting individuals working longer. Other consequential effects, both positive and negative for employers and employees will be examined including the positive benefits of retaining skilled staff and changes in attitudes and perceived discrimination levels in the workplace and in the labour market.

### **Review approach and rationale:**

We will develop the methods that are most appropriate to the evaluation questions noted above. In terms of data collection methods, we will seek to a) provide comparable data to the baseline data where possible and appropriate b) use existing sources of data where possible (e.g. Labour Force Survey and Employment Tribunal data) and c) reflect both the employer and employee perspective. We should look not only at whether impacts were achieved but why they were (or not).

### **Baseline:**

The 2<sup>nd</sup> Survey of Employers Policies Practices and Preferences Relating to Age (SEPPP2) provided a baseline of employers operating with a compulsory retirement age in 2009/10 and other age-based practices. The Fair Treatment at Work Survey 2008 measured perceived discrimination in the workplace and age groups affected. Data on aspirations to work beyond the age of 65 were measured by the British Social Attitudes Survey 2008/09.

### **Success criteria:**

We will measure if the policy objectives noted have been achieved, although any increase in labour market participation of those post 65 is likely to be a part of but not entirely attributable to the phasing out of the DRA.

### **Monitoring information arrangements:**

Monitoring will be an on-going process using available resources such as the Labour Force Survey, particularly for data on employment rates and participation of older workers in the labour market. Other resources will be sought for the purposes of measuring impacts on employers and employees.

## Annex 2 – Modelling assumptions and alternative scenarios

### Methodology

#### *Introduction*

As described in the main impact assessment the analytical approach used to estimate the impact of removing the DRA is based on that developed in the 2006 Retirement Ages Regulatory Impact Assessment (RIA). This involved estimating the number of employees who were forced to retire against their will by their employer when they are still capable and willing to do a good job. Allowing these – or some of these – employees to remain in work would result in an increase in labour supply which in turn would lead to increased earnings for the individuals involved and increases in GDP, company profits and tax revenues for the Exchequer.

The preferred option in the 2006 RIA was to introduce a Default Retirement Age of 65, while also allowing employers to set an employer-justified retirement age and also giving employees a right to request to work beyond their employers' retirement age (if they had one) or 65 (if the employer chose to make use of the DRA).

Estimates of the impact were made for those employees reaching their employer's compulsory retirement age and then further assumptions were made as to how many would wish to stay in work and whose requests to stay on would be accepted.

The data from SEPPP2 and other sources now allow us to test to some extent those assumptions and estimates such that it is possible to arrive at revised figures for assessing impact of the 2006 changes.

#### *The Model*

##### *Employment and population growth*

Phasing out the DRA will affect older employees (rather than the self-employed) and as this would be implemented from 2011 the model estimates the effect over a 10-year period to 2020<sup>58</sup>. To derive projections of employees by gender over this period we need to consider changes to both population and the number of employees.

In the case of population change ONS produces projections of population based on gender and single year of age<sup>59</sup>.

For employees we have made assumptions about growth in the number of employees based on trends over the decade 1999-2009. Using data from the Labour Force Survey we have calculated employee rates by gender and single age for 2009 as well as the percentage point change in employee rates between 1999 and 2009. From this we construct three scenarios for the number of employees by age and gender for 2011 to 2020:

- Baseline case: this assumes no increase in employee rates for 2011-2020, i.e. they are the same as they were in 2009.
- High Growth case: this assumes the increase in the employee rate is the same as that experienced during the period 1999-2009. The total percentage

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<sup>58</sup> 10 years is the standard period used for impact assessments

<sup>59</sup> [www.statistics.gov.uk/statbase/Product.asp?vlnk=8519](http://www.statistics.gov.uk/statbase/Product.asp?vlnk=8519)



point change averaged over 10 years is then applied incrementally each year to 2020.

- Central case: this assumes a mid-way point between the baseline and high growth cases.

The cost-benefit analysis used in this impact assessment is then based on the estimates from the central case scenario.

These derived employee rates are then applied to the population projection data to produce estimates of the volumes of male and female employees for each year to 2020.

#### *Further assumptions*

In order to derive the labour supply effect resulting from the phasing out of the DRA we focus on those establishments that currently use a compulsory retirement age (CRA) and estimate the effect on increased labour supply if their CRA were removed. Evidence from SEPPP2 showed that even in these organisations it is still the case that the vast majority of requests to remain in work were accepted. The potential labour supply effect is then derived from those requests that are rejected. More specifically the steps are as follows:

- The proportion of employers with a CRA and the ages at which these operate
- Proportion of employees who wish to stay on and who submit a request to the employer
- Proportion of requests otherwise rejected
- Proportion of these requests that would otherwise result in dismissal
- The assumptions for the first of these are presented in tables 1 and 2 of this impact assessment.
- For the second and third steps sensitivity analysis has been used to estimate a range of possible outcomes and these are summarised in the table below.

#### **Results from baseline and high growth scenarios**

##### *Impact on labour supply*

Table A1 below summarises the estimated effect on increased labour supply of the three scenarios described above for the period 2011 to 2020.

**Table A1: Estimated impact of removing DRA on labour supply – Baseline, central and high growth scenarios**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Baseline	6,000	8,800	9,800	10,000	9,700	9,600	9,500	9,600	9,600	9,700
Central	6,200	9,200	10,400	10,500	10,100	10,100	10,300	10,300	10,300	10,600
High	6,300	9,300	10,500	10,900	10,700	10,800	11,000	11,200	11,400	11,800

Source: BIS analysis based on Labour Force Survey and ONS Population Projections: \* NB: rounded to nearest hundred

##### *Impact on costs and benefits*

Using these estimates of labour supply it is possible to re-estimate the impact on costs and benefits under both the baseline and high employment growth scenarios: Transitional costs are unaffected by scenario as these are based on numbers of firms, not employees. Therefore as with the central scenario we estimate costs to be £38.2m in the first year.

As the benefits are sensitive to the number of employees affected, these vary by scenario. The overall benefit range in year 1 is £224m to £231m, which compares with the central case estimate of £229m. By year 5 the range is £353m to £386m. Benefits to employers are estimated to range from just over £44m to around £46m in year 1, rising to £66m to just over £72m by year 5.

Estimates for the effect on administrative burdens ranges from £3.7m to £3.9m in year 1, falling to £3.2m to £3.6m in year 5.

**Table A2: Estimated quantifiable costs and benefits of abolishing DRA under baseline case scenario (£m)**

Sensitivity	Year 1			Year 5			Year 10		
	Low	Medium	High	Low	Medium	High	Low	Medium	High
<b>COSTS (one-off)</b>	38.2	38.2	38.2	na	na	na	na	na	na
<i>Employers</i>	38.2	38.2	38.2	na	na	na	na	na	na
Familiarisation	18.1	18.1	18.1	na	na	na	na	na	na
Appraisal systems	20.1	20.1	20.1	na	na	na	na	na	na
<b>BENEFITS (ongoing)</b>	149.6	223.8	298.9	235.8	353.2	471.4	237.6	355.9	474.9
<i>Individuals</i>	68.5	102.8	137.1	109.7	164.5	219.3	110.4	165.7	220.9
<i>Higher earnings</i>	68.5	102.8	137.1	109.7	164.5	219.3	110.4	165.7	220.9
<i>Employers</i>	29.8	44.1	59.3	44.6	66.4	88.9	45.0	67.0	89.7
<i>Right to request</i>	4.1	5.5	7.9	3.5	4.7	6.7	3.6	4.9	7.0
<i>Increased profits</i>	25.7	38.6	51.5	41.1	61.7	82.2	41.4	62.1	82.8
<i>Government</i>	51.3	76.8	102.5	81.6	122.4	163.2	82.1	123.2	164.4
<i>Fewer ET cases</i>	0.5	0.7	1.0	0.4	0.6	0.8	0.4	0.6	0.9
<i>Increased tax revenue</i>	50.8	76.1	101.5	81.2	121.8	162.4	81.7	122.6	163.5
<b>NET BENEFITS</b>	111.4	185.6	260.7	235.8	353.2	471.4	237.6	355.9	474.9
<i>..of which admin burden savings</i>	2.9	3.7	5.5	2.5	3.2	4.6	2.6	3.3	4.8

Source: BIS analysis

**Table A3: Estimated quantifiable costs and benefits of abolishing DRA under high growth case scenario (£m)**

Sensitivity	Year 1			Year 5			Year 10		
	Low	Medium	High	Low	Medium	High	Low	Medium	High
<b>COSTS (one-off)</b>	38.2	38.2	38.2	na	na	na	na	na	na
<i>Employers</i>	<i>38.2</i>	<i>38.2</i>	<i>38.2</i>	<i>na</i>	<i>na</i>	<i>na</i>	<i>na</i>	<i>na</i>	<i>na</i>
Familiarisation	18.1	18.1	18.1	na	na	na	na	na	na
Appraisal systems	20.1	20.1	20.1	na	na	na	na	na	na
<b>BENEFITS (ongoing)</b>	154.6	231.2	308.8	257.5	385.6	514.6	280.6	420.2	560.8
<i>Individuals</i>	<i>70.9</i>	<i>106.3</i>	<i>141.7</i>	<i>119.9</i>	<i>179.8</i>	<i>239.8</i>	<i>130.7</i>	<i>196.1</i>	<i>261.5</i>
<i>Higher earnings</i>	<i>70.9</i>	<i>106.3</i>	<i>141.7</i>	<i>119.9</i>	<i>179.8</i>	<i>239.8</i>	<i>130.7</i>	<i>196.1</i>	<i>261.5</i>
<i>Employers</i>	<i>30.8</i>	<i>45.5</i>	<i>61.2</i>	<i>48.5</i>	<i>72.2</i>	<i>96.7</i>	<i>52.9</i>	<i>78.6</i>	<i>105.3</i>
<i>Right to request</i>	<i>4.3</i>	<i>5.8</i>	<i>8.2</i>	<i>3.9</i>	<i>5.3</i>	<i>7.5</i>	<i>4.4</i>	<i>6.0</i>	<i>8.5</i>
<i>Increased profits</i>	<i>26.5</i>	<i>39.7</i>	<i>53.0</i>	<i>44.6</i>	<i>66.9</i>	<i>89.2</i>	<i>48.4</i>	<i>72.6</i>	<i>96.8</i>
<i>Government</i>	<i>52.9</i>	<i>79.4</i>	<i>105.9</i>	<i>89.1</i>	<i>133.6</i>	<i>178.1</i>	<i>97.0</i>	<i>145.5</i>	<i>193.9</i>
<i>Fewer ET cases</i>	<i>0.5</i>	<i>0.8</i>	<i>1.0</i>	<i>0.5</i>	<i>0.7</i>	<i>0.9</i>	<i>0.5</i>	<i>0.8</i>	<i>1.0</i>
<i>Increased tax revenue</i>	<i>52.4</i>	<i>78.6</i>	<i>104.9</i>	<i>88.6</i>	<i>132.9</i>	<i>177.2</i>	<i>96.5</i>	<i>144.7</i>	<i>192.9</i>
<b>NET BENEFITS</b>	116.4	193.0	270.6	257.5	385.6	514.6	280.6	420.2	560.8
<i>..of which admin burden savings</i>	<i>3.0</i>	<i>3.9</i>	<i>5.7</i>	<i>2.8</i>	<i>3.6</i>	<i>5.2</i>	<i>3.1</i>	<i>4.0</i>	<i>5.9</i>

Source: BIS analysis

