



# ESPN – Flash report

## 2015/57

**Employment protection age limit extended from  
age 70 to age 72 in Norway**

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<b>Theme(s)</b>	<i>Pensions</i>
<b>Title:</b>	<b>Employment protection age limit extended from age 70 to age 72 in Norway</b>
<b>Category:</b>	<i>Adopted legislation</i>
<b>Abstract:</b>	According to existing legislation, Norwegian employers were free to fire older workers at age 70. In an attempt to foster longer working lives and as an adaptation to the recent pension reform, standard employment protection has from 1 July 2015 been extended from age 70 to age 72. The government has expressed its intention to raise this age limit further.
<b>Description:</b>	<p>In Norway, employees enjoy comparatively high protection against discriminatory and arbitrary dismissal, but according to the existing Employment Protection Act (§ 15-13) this protection is removed at age 70. Hence, employers can routinely and without further justification terminate the employment contract when the employee turns 70. In addition, companies are allowed to apply age limits as low as 67, if these are supported by a sufficiently generous occupational pension scheme, if the rule is applied consistently for all employees and if the existence of the rule has been made known to the staff.</p> <p>As a consequence of this legislation (and the associated juris prudence), Norwegian employers (both in the public and private sector) will normally automatically terminate the employment contract when the employee reaches age 70, or earlier if a company-specific lower age limit exists. There is nothing that prevents the employer from choosing to extend the employment contract beyond the age of 70 for selected individuals, but as a deliberate choice and it very rarely happens in practice.</p> <p>This state of affairs is arguably at odds with the recent pension reform, which is aimed at encouraging longer working lives and entails a mechanism for longevity adjustment of annual benefits and a flexible retirement age. Under the new system, take-up of benefits can be postponed to the age of 75 on actuarially neutral terms and also the accrual of pension rights for labour market participation continues until the age of 75. Therefore, in the wake of the 2011 pension reform, there has been a debate on whether to move the employment protection age limit upwards or perhaps completely abolish the right of employers to fire older workers on the grounds of age (age discrimination).</p> <p>After taking office in 2013, the (Centre-right) Solberg Government announced its intention to raise the age limit for protection against dismissal. A draft proposal was circulated for consultation with stakeholders in 2014, suggesting both 72 and 75 as possible new age limits in the Employment Protection Act. The final proposal, settling for raising the age limit to 72, was presented to Parliament in December 2014, and the new legislation was adopted by Parliament in April 2015, taking effect from 1 July 2015.</p> <p>In addition to raising the upper age limit at which employment protection expires (from 70 to 72), the new legislation strongly limits the possibility for employers to operate with lower, company-specific age limits. Lower company-specific age limits are now only allowed if they are motivated by special concerns for health and safety, or they cannot be fixed lower than age 70.</p>

	<p>The new legislation has been met with harsh criticism from a large majority of the stakeholders involved in the consultation process. Rather interestingly, both the main trade union confederations and the employers' associations have jointly argued in favour of maintaining the status quo. Among the former group, only the Federation of Norwegian Professional Associations (doctors and lawyers) supported changing the existing rules, with a primary preference for a complete abolition of any age limits and the right to dismiss employees on grounds of age. The other trade union branches (including the Norwegian Federation of Trade Unions [LO]) all warned against raising the age limits, arguing that very few people work until the age of 70 anyhow and pointing to a potential danger that employers will be more prone to rid themselves of less productive workers between age 60 and 70 and more reluctant to hire older workers.</p> <p>Similar arguments were presented by the different employers' organisations (including the Confederation of Norwegian Enterprise [NHO]), which also warned about a potential increase in workplace conflicts over the termination of employment contracts for older workers.</p> <p>Probably due to the negative position taken by the social partners, the Government chose in the first instance to only moderately increase the age limit from age 70 to age 72, but it has signalled that a further increase to 75 in line with the age limit for pension accrual and the latest possible take-up of benefits in the reformed pension system will be on the agenda in the coming years.</p>
<p><b>Outlook &amp; Commentary:</b></p>	<p>Raising the age limit for employment protection beyond the current limit at age 70 is logical and consistent with the pension reform, and its underlying concerns for higher labour force participation among the elderly. It is also in line with international tendencies to abandon age discrimination. Yet, the arguments against this move made by the social partners are well-founded. A complete abolition of age limits and a total ban on age discrimination in the labour market appears attractive in principle, but such a move would be more suitable in a context of generally weak employment protection as found in countries like the US and Denmark. In Norway, where both formal and informal (social/conventional) barriers limit the degree of freedom exercised by employers to rid themselves of under-productive older workers, a fixed age limit might be in the joint interest of the social partners.</p> <p>A promising alternative to a complete removal or large ad hoc extensions of the age limit would be to let the age limit on employment protection be gradually adjusted upward in line with changes in life-expectancy. This would make the employment protection legislation more consistent with the pension reform. One would have to also consider adjusting other age limits in the pension system and in the social security system in general: the age at which the right to other social security benefits expires, the age at which disability pensioners are transferred to the old age pension system, etc.</p>
<p><b>Further reading:</b></p>	<p>Government's proposal (12 December 2014): Prop. 48 L (2014-2015): <a href="https://www.regjeringen.no/contentassets/63c60bb8878c4dbd9ae45bea5f0e26e2/no/pdfs/prp201420150048000dddpdfs.pdf">https://www.regjeringen.no/contentassets/63c60bb8878c4dbd9ae45bea5f0e26e2/no/pdfs/prp201420150048000dddpdfs.pdf</a></p> <p>Enacted legislation (7 April 2015): <a href="https://www.stortinget.no/no/Saker-og-publikasjoner/Vedtak/Beslutninger/Lovvedtak/2014-2015/vedtak-201415-053/">https://www.stortinget.no/no/Saker-og-publikasjoner/Vedtak/Beslutninger/Lovvedtak/2014-2015/vedtak-201415-053/</a></p>
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