

2018

# **LABOUR ADVISORY COMMITTEE (LAC)**

**SUB-COMMITTEE:  
REVIEWING THE RETIREMENT AGE**



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### **SUB-COMMITTEE: REVIEWING THE RETIREMENT AGE**

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#### **COMMITTEE MEMBERS**

Senator Jason P. Hayward – President, Bermuda Trade Union Congress

Claudette Fleming – Executive Director, Age Concern Bermuda

Lindell Foster – Bermuda Employers Council

Donald Lottimore – 1st Vice President, Bermuda Trade Union Congress

Lauren Smith – Labour Relations Officer, Government Labour Relations

Peter Sousa – Chief Executive Officer, Pension Commission

Stephen Todd – Chief Executive Officer, Bermuda Hotel Association

## INTRODUCTION

### What is the problem?

Retirement age discrimination affects many people in Bermuda. Many employees, who would like to remain in the workplace, are prevented from continuing employment after 65 years of age and are also less likely to be granted employment opportunities as they approach retirement age. With the exception of public sector employees, there is no legislation that requires employees to retire at 65. This, however, is the generally accepted practice in Bermuda as most persons agree to retire at the age of 65 when they sign their contracts of employment. Conversely, Bermuda's Human Rights Act, in its current form, provides no protection against discrimination on the grounds of age relating to employment.

Despite the lifespan in Bermuda increasing, the retirement age has remained the same. People now live well past 65 years, and are in good health, resulting in many more becoming dependent on post-retirement benefits. More now find it necessary, as well as personally desirable, to continue to work past the traditional retirement age.

Retirement has become a problem in Bermuda primarily because many persons are not financially prepared to retire. As a result of:

- The lack of access to appropriate pension plans and savings products;
- The lack of opportunity to begin savings at an earlier age; and
- The low levels of financial literacy to make sound financial decisions.

### Why the problem requires a policy response at this time?

The 2016 Census Preliminary Report confirmed the fact that Bermuda's population is ageing and reported that approximately 49 per cent of the population is over the age of 45. This is an increase from the 44 per cent recorded in 2010. Additionally, the population aged 65 and over grew by 23 per cent between 2010 and 2016. This indicates that Bermuda's workforce is also ageing. As a result, the problems facing retirement-aged workers are expected to increase significantly over the next decade.

If the problem is left unaddressed, the financial stress on individuals, pension plans and the Bermuda Government will grow.

Many persons who reach retirement age still have a large number of financial commitments that will remain with them as they enter retirement. An individual's income, however, is drastically cut during retirement leaving the pensioner with high amounts of fiscal stress.

Bermuda has a good history regarding both public and private pension plans which were established to provide employees and their beneficiaries with pension and other benefits during their retirement. Currently, the majority of Bermudians rely primarily on a two-tiered system of pension coverage: social insurance and private occupational.

The ageing population places greater demands on pension funds as employees retire. Due to the rapid ageing of Bermuda's population and increases in life expectancy, Bermuda's public plans, the Contributory Pension Fund (CPF) and Public Service Superannuation Fund (PSSF), are facing significant solvency and sustainability challenges. Other jurisdictions with similar plans have increased their

retirement age as part of their overall strategy to address the long-term funding challenges. Private occupational pension plans in Bermuda would also benefit from increasing the retirement age as it would permit members to have the potential to accumulate pension additional savings.

Additionally, the inadequate income received and lack of financial planning leads to an increase in the amount of persons 65 and over who require Government Financial Assistance. The amount of financial assistance expenditure has continued to increase annually for those persons who are 65 years and older, and it is expected to increase at a higher rate as the population continues to age.

### **Desired outcomes from the policies being proposed**

The development and implementation of recommendations are aimed at:

- Ensuring persons have an option to continue to work after the age of 65;
- Reducing financial stress on Government's pension plans and financial assistance programme;
- Making accommodations for an ageing workforce;
- Reducing dependency on foreign labour;
- Providing legal protection to aging workers.

## EVIDENCE

### 2016 Population and Housing Census Report

#### i. Ageing Population

The 2016 Census supports the claim that Bermuda's population is ageing. The most populated age group remained at 45 to 64 years. Between 2010 and 2016, the number of persons 65 and over increased by 3 per cent, resulting in the median age of the population increasing from 41 to 44 years. Approximately 49 per cent of the population is over the age of 45, an increase from the 44 per cent recorded in 2010.

Figure 2  
Population Pyramid by Five-Year Age Group and Sex, 2016

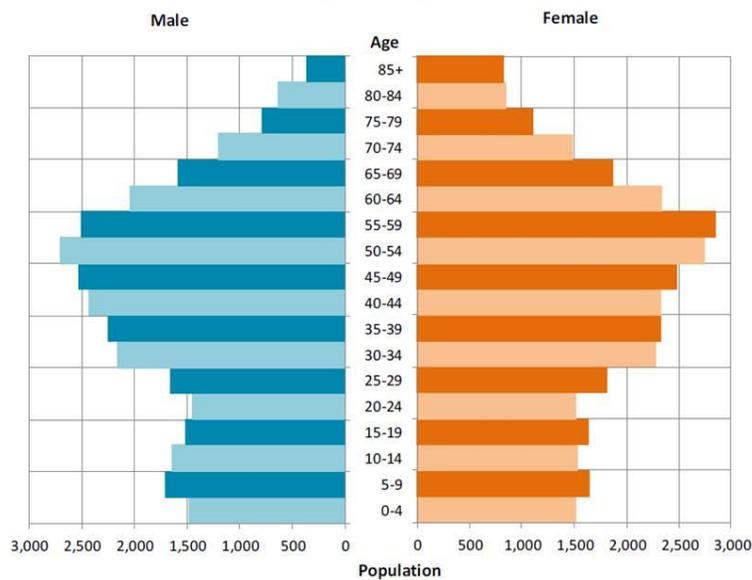
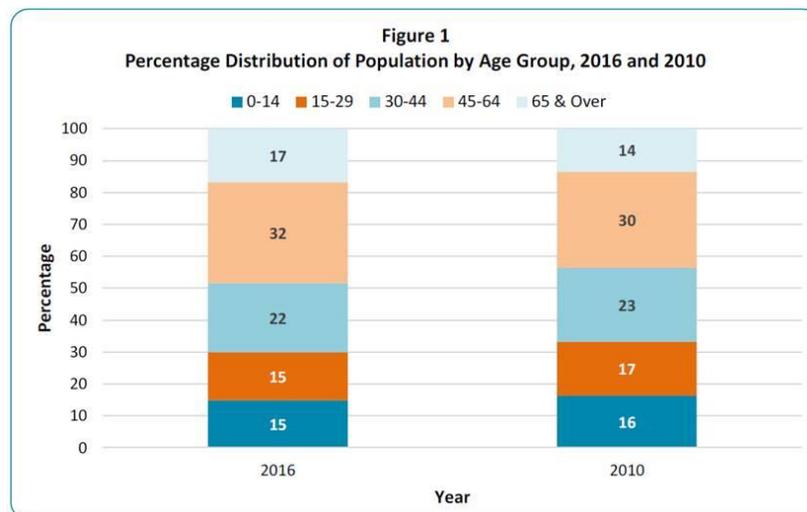


Figure 1  
Percentage Distribution of Population by Age Group, 2016 and 2010



#### ii. Dependency

Dependency ratios can be used as an indicator of the economic impact that population ageing has on potential workers aged 15 to 64 years to support potential non-workers (under 15 years and 65 years and

over). The total dependency ratio increased from 43 to 46 dependents per hundred persons 15 to 64 years, due primarily to the rise in the proportion of seniors. The old-age dependency ratio increased from 19 to 25.

### iii. Health Insurance

The category of persons most commonly without health insurance coverage are 45 – 64 years of aged. This category represented 1,541 persons. The portion of the population without health insurance 65 years and over increased by 354 members to total 564 persons.

### iv. Unemployment

Unemployed persons are those individuals in the population that are actively looking for employment and are currently not working. The unemployed population 65 and over increased from 36 persons in 2010 to 95 persons in 2016.

### v. Working Population

In 2016, the working population aged 65 and over increased to 2,530 persons, up from the 2,382 persons recorded in 2010.

## **Financial Assistance**

In 2017, an average of 993 senior were receiving Financial Assistance (FA). The total annual payout for seniors on FA in 2017 was approximately \$24 million.

## **Pension Plan Statistics**

### i. Contributory Pension Fund (CPF)

Each worker in Bermuda contributes to the CPF scheme on the basis of his or her employment record and the scheme provides retirement benefits to persons over 65.

The number of beneficiaries in receipt of monthly benefits totals 11,568, with an average monthly benefit of \$931.56.

The present value of future pension payments for the next 10 years for existing beneficiaries is estimated to be \$885 million.

The present value of benefits accrued up to 31 July 2014 is estimated to be \$2.3 billion and is 78.6 per cent funded.

### ii. National Pension Scheme

The National Pension Scheme requires employers to have private pension plans that meet the minimum standards under the National Pension Scheme Act and Regulations. The legislation contains provisions to ensure that all savings in such pension plans are reasonably protected. At the end of December 2017, there were approximately 21,457 employees in private NPS plans with some in \$3.2 billion in total assets.

### iii. Public Service Superannuation Fund (PSSF)

The PSSF is the public sector employee pension plan. The plan is governed by the Public Service Superannuation Act 1981 (as amended) and the Pensions Act 1970. The Plan provides contributory defined benefit pensions to Bermuda's public service employees, and quasi-autonomous non-governmental organisations (QUANGO) employees.

## Financial Position as at March 31, 2017

The PSSF is not fully funded on the going-concern basis. The actuarial liabilities exceed the actuarial value of the assets by \$848,332,000.

<b>Assets</b> (smoothed value)	\$ 595,713,000
<b>Liabilities</b>	
• Active members	\$ 719,220,000
• Deferred vested members	\$ 52,526,000
• Retirees and beneficiaries	<u>\$ 672,299,000</u>
<b>Total liabilities</b>	\$1,444,045,000
<b>Actuarial unfunded liability</b>	<b>(\$848,332,000)</b>

## Age Discrimination

A review of the Human Rights Act prepared for the Ministry of Community and Cultural Affairs by John Hucker and Michelle Hunt revealed that:

*“Age is currently not included as a protected ground under the HRA. However, there has been increasing acknowledgement of the unfairness of penalizing one of the fastest growing groups in society, on the basis of a characteristic which they can do nothing to alter. Studies have shown that age discrimination occurs in many areas. In employment, older workers are frequently the first to face a risk of layoff at a time of staff reductions. They are also likely to meet resistance when seeking employment. Employers too often assume that older people are lacking in enthusiasm and drive, inflexible and resistant to change, as well as possessing deteriorating physical or mental capacities. Discrimination is not restricted to situations involving older people: ageism can be suffered by young people seeking to enter or advance in the workforce if they are confronted by age restrictions or experience requirements that are not warranted by the nature of the work involved.*

*In a submission, the Bermuda Council on Ageing cites figures showing that the percentage of persons aged 65-plus on the island is poised to double from 11% in 2000 to 22% in 2030. During the same period, the old age dependency ratio – i.e. the number of seniors to those of working age – will rise from 15.5% to 36%. This trend line further underlines the importance of retaining older, qualified workers in the workforce and moving away from age-based stereotypes.*

*An important issue related to age discrimination is that of mandatory retirement. A number of jurisdictions that prohibit such discrimination, nonetheless permit policies under which workers can be forced to retire at a defined age, usually 65 years. Various justifications are offered for this practice, including the need to introduce fresh blood into a workforce, to provide openings for younger workers and to permit older men and women to escape the travails of the workplace. But mandatory retirement is clearly a form of stereotyping which is coming under increased scrutiny. Human rights principles strongly suggest that the choice to retire should rest with the individual worker, who should not be forced to quit work as long as he or she retains the capacity to do their job in a fully satisfactory manner. Some form of testing for older*

*workers is legitimate, provided it is tailored to the need of the job involved and more stringent standards may need to be applied in the case of safety-sensitive occupations, such as operators of heavy equipment.*

*In addition to employment, the Council notes that older people can face prejudice and unfair treatment in the areas of health and social care, housing, financial services, insurance, education and training. In all these fields, those applying for or receiving such services should be treated on an individual basis in a way that respects their innate dignity. They should also have access to appropriate remedies under human rights legislation.*

*A growing number of countries now prohibit discrimination on the ground of age. These include the United Kingdom, the United States, the European Union, Canada and Australia.”*

## Retirement Age Comparison

### Countries where mandatory retirement is not permitted at any age:

- **USA:** In 1986, the US became one of the first countries to outlaw mandatory retirement. Previously, the minimum permitted mandatory retirement age was 70.
- **Canada:** Canada has had a complex legal history of abolishing mandatory retirement province by province between 1973 and 2009, reflecting the involvement of federal and provincial governments and courts.
- **New Zealand:** Mandatory retirement was made illegal between 1993 and 1999, and the State Pension Age (SPA) was increased from 60 to 65 over the same period. New Zealand also implemented the *New Zealand Positive Ageing Strategy*, which in part was designed to improve opportunities for older people in the workplace.
- **Australia:** Commencing in the 1990s, several laws were enacted to abolish age discrimination, and finally cemented in 2004 when mandatory retirement was made illegal. Since 1989, a number of initiatives have been enacted to encourage working later.

### Countries where mandatory retirement is permitted, with a minimum permitted mandatory retirement age set by legislation:

- **Japan:** In Japan, it was predicted that by 2050 there would be almost one inactive elderly person to each person of working age. Use of mandatory retirement was always lawful and almost universal in Japan. The minimum permitted retirement age increased from 55 to 60 in 1994 and to 65 in 2013.
- **France:** Mandatory retirement is permitted, and the minimum permitted mandatory retirement age in the private sector was increased from 60 to 65 in 2003. At 60, the French SPA is lower than that of most European countries and post-retirement income as a proportion of pre-retirement income is the highest of all the case study countries. In fact, there are several state schemes that allow early (rather than late) withdrawal from the labour market, although these are not being restricted and phased out.
- **Sweden:** In 2001, a law was passed making mandatory retirement before the age of 67 illegal. In addition, a major reform of the public pension system was made in 1999.

### **Countries in which mandatory retirement is legal, with no minimum age set by legislation:**

- **Ireland:** Ireland has not changed its mandatory retirement policy, and has always permitted mandatory retirement as a clause in the employment contract.

### **Cost of Living for Seniors**

Data from the latest Household Expenditure Report suggests that the average senior spends \$647.45 per week or \$33,667.35 per year on housing and healthcare, representing 44% per cent of seniors expenditure. The expenditure figures exceed the average pension benefits received by our seniors. In contrast, working seniors have a median annual income of \$39,227 which will allow them to cover the cost of average expenditures.

### **Conclusion**

The evidence featured in this report confirms that Bermuda's population is ageing and is creating additional stress to public pension plans and public sector finances. In addition, many persons who reach the retirement age are financially unprepared for retirement. The evidence clearly shows that there is a willingness from persons 65 and over to continue to work. Financial assistance outlays to seniors is extremely high and reinforces the point that a growing portion of our seniors are in direr need of additional financial resources. The evidence also supports the fact that currently there are no protections for older workers in the workforce against age-based discrimination. The evidence reinforces the need for intervention. The reality is that if the problem is left unaddressed, the financial stress on individuals, pension plans, and the Bermuda Government will grow.

## OPTIONS

### Option 1 – Status Quo

**Cost Impact on Government** – increase in FA costs as well as an increase in payable pension liability.

**Legislative and Policy Support Required** – None

**Implementation Considerations** – Not applicable

### Option 2 – Increase Retirement Age Beyond 65

This option will entail increasing the age of retirement between 66 and 70 years of age. The increase in retirement can also be gradual over a defined period of time.

**Cost Impact on Government** – Increasing the retirement age will translate into a larger group of individuals over the age of 65 participating in the workforce. This will ultimately reduce the number of persons 65 and over on financial assistance. It will also help elevate some of the fiscal stress on the CPF and PSSF. This option will potentially increase payroll tax revenue.

**Legislative and Policy Support Required** – Legislation will need to be drafted or amended to make provision for this policy decision.

**Implementation Considerations** – Government must consider the effects a change will have on the overall labour market regarding employment opportunities for young workers. It should be noted that some employers do not have a retirement age and therefore, this legislation should be seen as a minimum benefit and not prohibit employers from continuing their practices.

### Option 3- Introduce Re-employment Contracts

Re-employment contracts can be utilised as a viable option to help older/ageing employees remain economically productive. Re-employment contracts will be used to enable people to continue to work using agreed flexible employment contracts up to 5 years after statutory retirement.

**Cost Impact on Government** – No new cost.

**Legislative and Policy Support Required** – it is proposed that new legislation be created to address retirement and re-employment.

**Implementation Considerations** – The LAC should be the forum used for the development of re-employment guidelines. It should be as noted that some employers do not have a retirement age so this legislation should be seen as a floor i.e. minimum benefit and not prohibit employers from continuing their practices.

### Option 4 – Include Age Discrimination in the Human Rights Act

**Cost Impact on Government** – No new cost.

**Legislative and Policy Support Required** – the current Human Rights Act will have to be amended to address the issue of age discrimination.

**Implementation Considerations** – Government will have to ensure that the amendment to the Human Rights Act does not have the unintended consequence of prohibiting a retirement age from being set. The legislation should be designed to provide ageing workers with the same access to employment as well as training, development and promotion opportunities as all other categories of employees.

#### **Option 5 – Increase The Population’s Financial Literacy Level**

**Cost Impact on Government** – resources will have to be dedicated to develop and implement programs designed at increasing the populations financial literacy and promote retirement planning at the beginning of a worker’s career.

**Legislative and Policy Support Required** – None.

**Implementation Considerations** – Not applicable

## LOGIC

There has been a significant level of dialogue centred on the need for adjusting the retirement age in Bermuda over the past year. Public Pension Fund actuaries, the Auditor General and the Premier Hon. David Burt had mentioned possible changes in the retirement age as a solution to challenges experienced as a result of an ageing population. The Bermuda Trade Union Congress and other community organisations have long championed for an increase in the retirement age and called on the Government to address age discrimination in the workplace.

The evidence featured in this report confirms that Bermuda's aging population is creating additional stress to public pension plans and public finances. In addition, many persons who reach the retirement age are financially unprepared for retirement. As a result of the problems identified, the Committee concludes that **Option 1, Status Quo**, is not a viable option. Option 1 fails to address the identified effects of Bermuda's ageing population and the challenges associated with it.

The second consideration which was made by the Committee was to decide whether Bermuda should move forward with increasing the retirement age. The Committee must determine if an adjustment in the retirement age is an appropriate measure to address the problem identified. It must also be noted that the retirement age and the age when an individual qualifies to receive an old age pension from the Government Contributory Pension Fund may differ.

The research supports that a shift in the retirement age upward alone will not have the desired result in the continued participation of older workers. An adjustment in the retirement age is more likely to increase the participation rates of older workers when enacted in conjunction with an increase to the State Pension Age (CPF in Bermuda) and other policies to support older workers. The structure of state retirement benefits has a significant role to play in individuals' decisions to retire or continue to work.

The concern is also often raised about the impact that shifts in the retirement age will have on young workers. Most economists agree that the job market does not work on an one-in, one-out basis, and there is very little evidence to support the notion that increasing the retirement age will impact employment opportunities for young workers. In Bermuda, declining birth rates of the past few decades reduce the impact of young worker displacement.

The concern is also raised regarding the productivity of older workers. Research, however, indicates that little evidence was found to suggest that older workers' productivity declines with age. Employers realise they continue to need the expertise of some long-serving employees, as they understand the organisation, and the organisation has confidence in their abilities, knowledge and judgement. However, physical strength does diminish with age. Where physical strength is a key component of job performance, a slight decline in productivity may occur.

It should be noted that a shift in the retirement age should not prohibit workers from retiring prior to the prescribed retirement age or compel an employer to retire an employee that they wish to retain full time. In addition, transitional implementation of any adjustment in the retirement age should be utilised to reduce adverse effects on workers deriving from the shift in age eligibility of benefits.

The next consideration that the Committee must make is to what extent can flexible re-employment contracts be used to retain employment for older workers. Research shows that age legislation can act as

a catalyst for employers to provide more opportunities and flexible conditions for older workers, particularly when led by Government initiatives. One approach to consider is phase retirement after the adjusted retirement age through re-employment contracts for current employees of an organisation.

Phased retirement allows an employee to continue to be employed with a company after the official retirement age through various forms including but not limited to:

- Reduction of duties;
- Reduction of working hours;
- Part-time work;
- Project-based assignments; and/or
- Job sharing.

These options tend to be win-win as they allow employers to reduce employment cost while retaining skilled employees.

The Committee supports an adjustment to both the mandatory retirement age and state pensionable age. The Committee further supports the usage of post-retirement re-employment contracts. The Committee believes that one piece of legislation can be drafted that covers statutory retirement and re-employment provisions.

The Committee had to also consider to what extent legislative provisions are needed to address the manifestations of ageism and age discrimination in the world of work. Older workers should, without discrimination by reason of their age, enjoy equality of opportunity and treatment with other workers as regarding: recruitment, hiring, compensation, benefits, training, working conditions and career development.

The Committee concluded that age discrimination provisions in either labour law or Human Rights law should be limited to those who are looking for work and those in employment relationships, and should not be used to enforce a removal of set retirement ages.

The last consideration that the Committee had to make was to what extent is there a need for improvements in financial literacy and retirement planning. There was a lack of evidence to suggest that there were any effective programs in place to help workers with financial and retirement planning. To that end, the Committee concluded that additional resources should be dedicated to support increasing the population's financial literacy and promote retirement planning throughout a worker's career.

## **RECOMMENDATIONS FOR THE GOVERNMENT:**

1. Create a single piece of legislation that sets a retirement age, a pensionable age and allows for re-employment provisions. The aims of the legislation will:

- Gradually increase the retirement and pensionable age simultaneously from 65 to 70 over a 10 year period, with the retirement age moving to 68 within a 5-year period.
- Allow for annual re-employment contracts to be utilised for 5 years after the prescribed retirement age.
- Ensure early retirement provisions are in place for workplace pensions and CPF payments.
- Ensure employers are not prevented from retaining older employees for as long as is desired by the employer after the retirement and re-employment periods.

2. Create new legislation or utilise existing legislation to prohibit age discrimination in the world of work pertaining to older workers, ensuring equality in:

- recruitment;
- hiring;
- compensation;
- benefits;
- training;
- working conditions; and
- career development.

3. Create a financial and retirement planning toolkit which can be utilised by employers, workers and community stakeholders to increase financial levels of the workforce.

## REFERENCES

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- Bermuda Laws. 2000. *The Bermuda Employment Act 2000 (as amended)*. Retrieved from <http://www.bermulaws.bm/Laws/Consolidated%20Laws/Employment%20Act%202000.pdf>
- Bermuda Laws. 1981. *The Bermuda Public Service Superannuation Act 1981 (as amended)*. Retrieved from <http://www.bermulaws.bm/Laws/Consolidated%20Laws/Public%20Service%20Superannuation%20Act%201981.pdf>
- Human Resources and Skills Development Canada. 2012. *Age-Friendly Workplaces; Promoting Older Worker Participation*. Quebec, Canada.
- Government of Bermuda - Accountant General's Department. *Pension Handbook for Government of Bermuda Employees*. Hamilton, Bermuda: Ministry of Finance.
- Government of Bermuda - Department of Statistics. 2013. *Bermuda 2013 Household Expenditure Survey Report*. Retrieved from <https://www.gov.bm/sites/default/files/2013-HES-Report.pdf>
- Government of Bermuda - Department of Statistics. 2016. *Population and Housing Census Report*. Retrieved from <https://www.gov.bm/bermuda-census>
- Morneau Shepell. 2016. *Actuarial Review of the Contributory Pension Fund of Bermuda as of August 1, 2014 – Final Report*. Hamilton, Bermuda.
- Singapore Government - Singapore Statutes Online. 2012. *Retirement and Re-employment Act (Original Enactment: Act 14 of 1993)*. Retrieved from <https://sso.agc.gov.sg/>
- Tucker, J. and Hunt, M. 2008. *Review of the Bermuda Human Rights Act*. Hamilton, Bermuda: Government of Bermuda - The Ministry of Community and Cultural Affairs, Department of Human Affairs.
- Wood, A., Robertson, M., and Wintersgill, D. 2010. A Comparative Review of International Approaches to mandatory retirement. Retrieved from <https://www.gov.uk/government/publications/rr-674-a-comparative-review-of-international-approaches-to-mandatory-retirement>

