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Andrew Billen

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From Times Online

February 26, 2008

## Jack Straw forced to back down on early retirement for judges

**The retirement age for part-time judges will be raised from 65 after one successfully sued under age-discrimination laws**

Frances Gibb, Legal Editor of The Times

Hundreds of judges will be allowed to stay in their jobs until the age of 70 after the Lord Chancellor was today forced to back down over making them retire at 65.

Jack Straw has agreed to raise the retirement age for a wide range of part-time judges after one of them successfully brought a claim of age discrimination earlier this year.

The decision affects recorders, deputy district judges, deputy High Court judges and deputy masters and registrars and reverses the Lord Chancellor's previous policy that they should retire at 65.

The move brings the retirement age for part-time posts into line with the statutory retirement age for most other judicial posts.

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The climb-down comes after a recorder, Paul Hampton, 66, won a tribunal ruling in January that the Lord Chancellor had fallen foul of the age discrimination rules that came into force in October 2006.

These make it unlawful to discriminate on grounds of age, except as "a proportionate means of achieving a legitimate aim".

The Ministry of Justice could have appealed. But yesterday it said: "In the light of the employment tribunal's decision, it was necessary to review the policy.

"The tribunal found that this policy of recorders retiring at 65 was not lawful and the Lord Chancellor has taken account of this ruling in reviewing the policy and making his decision."

Mr Hampton is now to be offered renewed terms of appointment as a recorder, along with two other recorders who were forced to retire at the same time.

Had he been forced to retire he could have claimed up to £200,000 in compensation after the tribunal ruling, lawyers predicted.

The Ministry of Justice had argued that it needed to retire recorders at 65 to make room for a "reasonable flow" of new appointments.

But the London South Employment Tribunal Office held that the ministry had failed to show that its policy was a proportionate means of meeting that aim.

A provision in the age discrimination rules that allows employees to be retired against their will at 65, which is currently under challenge at the European Court of Justice in Luxembourg, does not apply to recorders, who are holders of office rather than employees.

Britain's 1372 recorders (who are paid £560 a day) are senior barristers and solicitors who spend at least 15 days a year sitting as judges in the crown courts or county courts.

It was Lord Irvine of Lairg, then Lord Chancellor, who in 2000 decided recorders should retire at the end of the March after their 65th birthday, to ensure "an input of talent into the judiciary".

After the age discrimination rules took effect, Ministry of Justice officials advised that the retirement age be increased to 70. But Lord Falconer of Thoroton, then Lord Chancellor, insisted on 65.

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reasoning, and there were other less discriminatory methods that could have been used instead."

CARS JOBS  
The case was a warning, she added, to organisations that they could not rely on the "objective justification" defence, if there were other less "aggressive" means to achieve the same aim.

JOBS

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I thought that Judges 'retired' when they were called to the bench.

10 to 4 with 2 hours for lunch?

Austin Tassletine, South West, UK

If Lord Denning could serve till the age of 83 in that era... I wonder how long he could have served today!

Mohammad Iftexhar Bin Salam, Newcastle Upon Tyne, United Kingdom

One law for the wigs and another for the rest of us - sounds about right - an extension of the MPs expenses con.

Marty, London, England

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