

Summary of advisory report *Removing Barriers to Working beyond the Age of 65*

Background

This advisory report was drawn up in response to the following:

- A request from the Deputy Minister for Social Affairs and Employment (dated 25 May 2005) for advice on removing barriers to working beyond the age of 65. The Deputy Minister asked the SER for its views on this issue in general, as well as on three specific topics: (1) possible positive incentives to encourage people to work beyond the age of 65; (2) demotion and age-related salaries; and (3) the possible role of part-time pensions.
- A request from the Minister for Social Affairs and Employment (dated 3 October 2005) asking the SER to take into account a motion of the House of Representatives in preparing its advisory report on medium-term socio-economic policy (*mlt advies*). This motion concerns a study of the pros and cons of making the pensionable age more flexible.

This advisory report is based on the current pensionable age of 65. The advisory report on medium-term socio-economic policy, due to be published in May 2006, will examine the issue of setting the pensionable age as such.

Removing barriers to working beyond the age of 65

First, the SER believes that policy must aim to remove barriers to working right up to the age of 65. From a long-term or lifelong perspective, it is important for employers and employees to create the right conditions throughout an employee's entire career for continued employment up to and (if so desired) after the age of 65. An age-conscious personnel policy has a key role to play in this.

In the opinion of the SER, it must certainly be possible for people to continue working after they reach pensionable age if both the employer and the employee are in favour. This is in line with the objectives of maximum employment and the need for a gradual transition from employment to retirement.

The advisory report comprises a review of the legislation and regulations that apply to the employment of people over the age of 65. Based on this review, there do not appear to be any legal barriers to working beyond the age of 65. What's more, the gap between gross and net pay is narrower for those over the age of 65 than it is for younger employees. The SER therefore believes that no further positive incentives are necessary to encourage working beyond the age of 65.

Under the Equal Treatment in Employment (Age Discrimination) Act (*Wet gelijke behandeling op grond van leeftijd bij de arbeid*), it is possible to stipulate within individual and collective employment contracts that employment will cease upon the employee reaching pensionable age. The SER believes this possibility must remain.

In fact, potential barriers to working beyond the age of 65 are not found in legislation and regulations, but rather in a lack of knowledge in practice about the possibilities for hiring or continuing to employ people over 65. The SER therefore recommends increasing the availability of information on this subject. It also recommends that local parties should consider whether they can be less reticent in practice with regard to enabling employees whose employment contract has ended to continue working after they have started to receive a pension.

In addition, the SER calls attention to two aspects of the law: (1) the ‘Ragelie rule’ and (2) the obligation for employers to continue paying a proportion of the salary of employees who are absent due to illness for a fixed period.

1. The Ragelie rule stipulates that the employment contract of an employee who has had a permanent contract must officially be terminated before that employee can enter into a temporary contract with the same employer. The SER argues that this rule should not be applicable to temporary employment contracts entered into after an employee’s permanent contract has ended because that employee has reached pensionable age.
2. The SER argues that a study is required to establish whether, for employees over the age of 65, it is appropriate to limit employers’ obligation to continue paying sick employees to a period of up to one year. This study could also take into account the case of sick employees in this age group for whom, within the period of continued payment, it becomes clear that there is no prospect of a return to the workforce.

For answers to the specific questions regarding demotion and part-time pensions, the SER refers to its advisory report on senior citizens policy, entitled *Of All Ages (Van alle leeftijden, 2005)*. Finally, the SER recommends that attention be given to other forms of social participation for senior citizens, such as voluntary work and informal care work.

Making the pensionable age more flexible

In the advisory report, the SER also examines the pros and cons of making the pensionable age for state pensions and the effective date of supplementary pensions more flexible. On balance, the SER is not in favour of introducing the option for individuals to choose a lower or higher pensionable age (with implications for their state pension payments).

A lower pensionable age for state pensions could threaten the socio-economic security of people whose only source of income is their state pension. This would be fundamentally at odds with the concept of the state pension as a minimum income provision. It could also lead to an increased call on the Work and Social Assistance Act (*Wet Werk en Bijstand*). What’s more, a lower pensionable age runs contrary to a policy that aims to increase employment among older employees.

With regard to a higher pensionable age, the SER considers it very important for people who already receive a state pension to be able to continue working. This has far-reaching implications for the way in which state pension rights are accrued. Moreover, there is no guarantee that delaying state pension payments will result in a net profit: financially, it may be more advantageous for those entitled to a state pension to receive it now than to delay it.

In addition, the SER notes that the option to choose a lower or higher pensionable age will result in higher implementation and administration costs, and that there are already ample opportunities for flexibility with regard to the effective date of supplementary pensions. The SER recommends that pension schemes that have not already done so should now offer people the option of a part-time pension once they reach pensionable age, the option to delay the effective date of a supplementary pension, and the option to continue accruing pension rights.