

Enterprise-specific age limits

Section 15-13a of the Working Environment Act lays down an age limit for the cessation of the statutory protection against termination. It entitles the employer to end the employment relationship unilaterally once the employee has reached the specified age. On 1 July 2015, this age limit was raised from 70 to 72 years. At the same time, a lower threshold of 70 years was introduced on enterprise-specific age limits, with some transitional regulations and exemptions. Previously, this limit was 67 years.

This project investigates how businesses have adapted to the raised threshold for enterprise-specific age limits. The objective was to map out the current scope of enterprise-specific age limits in the private sector and to see if the scope has changed since 2016.

The survey on which the report is based was undertaken by Respons Analyse AS from 14 November 2023 to 25 January 2024 among private-sector enterprises with ten employees or more. To ensure comparability, the survey was undertaken in the same way as the one described in Fafo report no. 2019:16 (Midtsundstad and Nielsen, 2019).

The scope of enterprise-specific age limits

As of year-end 2023, altogether 20 per cent of the enterprises in the private sector had an enterprise-specific age limit. These account for 31 per cent of the employees in the sample.

Enterprise-specific age limits are used most frequently in large enterprises in professional, scientific and technical service provision, in the finance, insurance and real estate business and in so-called 'other' or remaining services, and least frequently in small enterprises in hotel and catering, construction and business services.

Changes in scope since 2016

The proportion of businesses that report to have an enterprise-specific age limit is approximately unchanged since 2016. There have nevertheless been changes within some industries and between small and large enterprises. The proportion with an enterprise-specific age limit has fallen among the largest enterprises, while it has increased among the smaller ones. Enterprise-specific age limits are also used less frequently in finance, insurance and real estate enterprises, while in retail trade there has been an increase.

Grounds for having enterprise-specific age limits

As grounds for having an enterprise-specific age limit, leaders most often cite that the enterprise's area of activity is unsuitable for older employees. They highlight that the typical job in the enterprise is either too arduous or demanding, that older people are less productive, less skilled and updated than their younger colleagues, or that they may represent an elevated safety risk. Some leaders wanted to have more young people in the enterprise to improve its age composition, while others argued that few, if any, remained in the job for that long anyway. In many cases the decision appeared to be

incidental, since the enterprise had always had a lower age limit. Some leaders referred to the corporate management and stated that the decision was beyond their control.

The assertion that the job content is unsuitable for older workers is highlighted across enterprise size, type of workforce and the age of the enterprise (year of establishment). It is, however, especially noted by the largest enterprises and businesses where the main workforce consists of employees in traditional blue-collar occupations. There is also a slight tendency for recently established businesses to make this argument rather than older businesses, established before 2015.

Who has enterprise-specific age limits?

The likelihood for a private-sector enterprise to have an enterprise-specific age limit increases if it has a contractual pension scheme (implying that it belongs to the organised part of the labour market), if it has a senior/life-stage policy and if the enterprise is large rather than small. In addition, the analyses indicate that enterprises in the professional, scientific and technical services sector tend to be slightly more likely to have an enterprise-specific age limit when compared to other industries (if we allow for a somewhat larger statistical margin of error). On the other hand, demand for labour, recruitment situation and type of work appear to have little effect.

How many have employees older than 67 or 70 years?

Altogether 41 per cent of the leaders reported to have one or more employees who were 67 years old or above, of whom 28 per cent were in the 67–69 year age group and 13 per cent were aged 70 years or above. This is an increase of 11 percentage points since 2016, which is not surprising, given that employees younger than 70 years of age may no longer be terminated.

The highest number of employees older than 67 years are in manufacturing, mining etc., transport and storage, and professional, scientific and technical services, and the lowest number are in culture, information and communication services, as well as in hotel and catering services. Unsurprisingly, employees older than 70 are also more often found in large enterprises, since the likelihood will quite naturally be higher when there are more employees in the enterprise to begin with.

According to HR managers/CEOs, most of those who continue working after the age of 67 are in occupations that require university or university college education, or they are themselves CEOs or owners of the enterprise. This applies to nearly one-half of all cases.

Why keep the seniors?

An important reason why seniors continue to work after turning 67, in addition to doing so by their own choice, is that they possess skills and expertise that are crucial for the enterprise. A total of 56 per cent of the leaders highlight this factor. According to 22 per cent of the leaders, it would be difficult for the enterprise to find skilled personnel to replace the senior(s) in question. The raising of the threshold for enterprise-specific age limits to 70 years is also in itself an explanation.

The proportion that highlight the special skills and expertise held by the seniors is clearly highest in professional, scientific and technical service industries (65 per cent), among enterprises in the area of culture, information and communication (63 per cent), and partly in the construction industry (61 per cent) and retail trade (60 per cent). In these industries, there are also many who report problems in finding skilled replacements; this applies to 23–30 per cent. The raising of the threshold to termination on account of age was given as a reason primarily by leaders in the manufacturing industry.

Characteristics of enterprises that have employees older than 67 years

The likelihood for a private enterprise to have employees older than 67 years increases if the enterprise is in the transport and storage industry and decreases if it is in business services. The likelihood also increases if the enterprise primarily employs persons in traditional blue-collar occupations, such as craftspeople, operators, drivers and unskilled labour, rather than persons in clerical occupations and sales, services and caring professions. Large enterprises are also more likely than small ones to have at least one employee older than 67 years.

The fact that neither the enterprise's demand for labour over the coming year, nor its experience of recruitment problems have any effect, could be associated with the raised age limit, since employees aged 67–70 no longer need their employer's approval in order to continue. Issues that employers tend to emphasise, such as demand for labour and the recruitment situation, will thereby count for less.

Characteristics of enterprises that have employees older than 70 years

Correspondingly, the analysis showed that the likelihood for a private-sector enterprise to have one or more employees older than 70 years increases in accordance with enterprise size (in terms of its number of employees), when the workforce consists mainly of traditional blue-collar occupations (craftspeople, operators, drivers or unskilled persons) rather than clerical, sales, services and caring professions, and when the enterprise is in the transport and storage industry. The same applies when the enterprise has a senior/life-stage policy and no enterprise-specific age limit. However, the demand for labour and recruitment issues had no effect on whether the enterprise had older seniors among its employees.

Leaders' opinions about the age limits

Among the leaders interviewed, altogether 52 per cent were opposed to a statutory upper age limit for the protection against termination, 39 per cent were in favour, and 9 per cent had no opinion.

As in 2016, the uncertainty about or opposition to an upper age limit was most widespread in small enterprises (10–36 employees) and least so in large ones, although the proportion who were against the policy had increased also in the latter group since 2016.

The figures indicate that 52 per cent of the employees in the sample work in enterprises where the leader is in favour of an upper age limit. This is 19 percentage points less than in 2016, when this proportion was 71 per cent.

In terms of their number of employees, the call for an upper age limit is strongest among leaders in professional, scientific and technical service provision, in finance, insurance and real estate, and in retail trade, where 76 per cent, 66 per cent and 63 per cent of the leaders respectively approve of having an upper age limit. Those who called for an age limit would primarily like to set it at 70 years.

HR issues associated with the age limits

One argument that has been voiced against having an excessively high age limit or in favour of removing it altogether is the risk of an increase in the number of difficult HR issues that occur when leaders need to terminate someone against their will. However, such cases appear to occur only rarely in enterprises that relate to the upper age limit specified in the Working Environment Act. Only 4 per cent of the employees in enterprises with no enterprise-specific age limit have leaders who report to have dealt with such cases over the last five years.

Among enterprises that have an enterprise-specific age limit, this applies to 7 per cent. The likely reason is that more employees will reach the upper age limit when it is set at 70, rather than 72 years. As a result, more situations will arise when individual employees want to continue working, but are not allowed to do so. The difference must also be seen in light of the need to practise this consistently, which results in less flexibility, since all those who reach the specified age limit in principle will need to retire.

However, fewer such cases are reported now, compared to 2016. Admittedly the age limit was three years lower at the time, meaning that more employees reached the age ceiling.