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English summary
of Fafo-report 2019:27

Raising the age limit for employment protection. How have businesses and employees adapted?

Raising the age limit for employment protection. How have businesses and employees adapted?

Many European countries have a clear goal of increasing the age at which employees retire from work. A number of countries have therefore reformed their pension systems and modified or established various labour market initiatives to influence the behaviour of employers and employees. Some countries have also chosen to raise or remove the upper age limit for employment protection.

For many years, the retirement age and the age limit for employment protection in Norway have been high compared to other European countries. Labour force participation beyond the age of 60 is also high, but drops markedly from the age of 67, and very few are in paid employment after the age of 70.

In order to continue working in their older years, employees must have the desire for continued work and be healthy enough to do so. In addition, the employer must still have a need for their labour. The age limit for employment protection is important in this respect, as the employer can terminate the employment after this age without a justifiable basis. In other words, the decision of whether to continue working or not does not solely lie with the employee since the employer needs to grant approval.

In 2015, the decision was made to raise the age limit for employment protection in Norway from 70 to 72 years, while the lowest permitted internal age limit (bedriftsintern aldersgrense) was raised from 67 to 70 years. The goal of the change in legislation was to improve the oldest employees' freedom of choice and, not least, to increase labour force participation among the over 67s.

In this report, we have examined the behavioural effects of the age limit for employment protection in the Working Environment Act and of the increase in the age limit. In summary, we have:

1. Examined how many companies have chosen (and/or are planning) to set an internal age limit and the characteristics of these companies. We have also analysed managers' attitudes to the changes in the upper age limit.

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2. Described differences in employer and employee behaviour between companies with and without internal age limits.

   - Differences in the likelihood of continuing to work after the ages of 67 and 70 depending on whether an employer has an internal age limit or not, including the share of job swaps (mobility)
   - Disparities in the recruitment of younger seniors (55–62 years) and older seniors (62+) between businesses with and without an internal age limit

3. Mapped which categories of employees are primarily in work after the ages of 67 and 70 in various industries, and managers' reporting of the company's reasons for retaining such employees

This report only covers the private sector since this is the only sector that has adopted the new age limit of 72 years and that applies company-determined age limits. The analyses were based on data from a survey from 2015/2016 of 1501 businesses in the private sector with 10 or more employees, which was linked to individual-based registry data from Statistics Norway for all employees in these businesses during the period 2010–2016.

Background

Section 15-13 (a) of the Working Environment Act stipulates an age limit for the cessation of termination protection under the Act, and gives the employer a right to unilaterally terminate the employment of an employee who reaches a certain age. The age limit remained at 70 for many years, having originally been introduced in the Worker Protection and Working Environment Act in 1972 when the age for the right to claim a state pension was reduced from 70 to 67 years.

The age limit for employment protection was raised from 70 to 72 on 1 July 2015. This means that employment cannot be terminated before the age of 72 without a justifiable reason. At the same time, the lower internal age limit of 67 was raised to 70, with certain transitional rules and exceptions.

One of the conditions for having an internal age limit is that the employees concerned are guaranteed a satisfactory occupational pension. However, it is unclear what constitutes a satisfactory pension level. Before occupational pensions became mandatory in 2006, the majority of employees were members of a defined benefit scheme with a right to 66 per cent of their pay at retirement, thus having an occupational pension was in itself considered to be satisfactory financial compensation. The government believes that the introduction of the mandatory occupational pension scheme fulfils this requirement for everyone. However, current occupational pension schemes vary considerably between businesses and therefore also among employees. Many only have the minimum pension and did not start saving for their pension until 2006. Whether the requirement for satisfactory financial compensation will be met for everyone is therefore open to debate.

Another condition is consistent practice. In principle, this means that all employees who reach the age limit must have their employment terminated.

Nevertheless, the Act makes it possible for exceptions to the rule to be applied in certain special cases. This relates to work that is mainly associated with specific and time-limited needs (specified such that up to 10 per cent of the employees who reach the relevant age limit can continue over a 5-year period without necessarily affecting the impression that the age limit is practised consistently). In other words, even the internal age limit gives businesses a degree of leeway to allow certain employees to continue working after reaching the age limit.

In addition, the requirement for knowledge of the company's age limit needs to be assessed specifically in each business. The employer does not need to prove that each individual employee actually knows the age limit, but is responsible for providing information in such a way that the employees have been made aware of the age limit.

Half of private sector employees are subject to an age limit of 70 for employment protection

The survey data show that 21 per cent of private sector businesses with 10 or more employees have an internal age limit. This mainly relates to large companies, so measured by the number of employees, almost half of all employees in the private sector (in companies with 10 or more employees) are still subject to an age limit of 70 years.

Eight per cent of all businesses in the private sector introduced the lower age limit in 2015, i.e. almost one-third of all businesses with an internal age limit. Measured in number of employees, about one-fifth of the employees were subjected to an internal age limit as a result of the change in the age limit for employment protection. In addition, just over 4 per cent of the businesses have considered introducing a lower age limit, but have not yet done so.

Systematic differences between businesses with different age limits

Large businesses are more likely to have an internal age limit than small businesses. This age limit is also more common in financial and insurance activities, in professional, scientific and technical activities and in administrative and support service activities than in the wholesale and retail trade and in accommodation and food service activities. Businesses with an internal age limit also have more seniors over the age of 50 than companies with no internal age limit.

When examining several characteristics together, we find that the likelihood of having an internal age limit increases for companies that do not have recruitment problems, that have a senior policy/life phase policy, that are affiliated with a contractual early retirement pension scheme (AFP), and that are established in a large municipality. The likelihood also increases relative to the size of the company in terms of employee numbers and varies between industries. The likelihood of having an internal age limit is significantly higher within financial and insurance activities and professional, scientific and technical activities, but is low in private sector social and care services, education, information and communication, arts and entertainment, and within accommodation and food service activities. There is also a tendency for companies with a defined benefit scheme to have an internal age limit. These are companies who offered a occupational pension before this was made mandatory in 2006, i.e. during a period when the occupational pension was normally linked to an age limit of 67 years.

Age distribution and share of businesses with employees over 70

The age structure in a business and industry is impacted by various factors, with access to labour and relevant competence playing a considerable role. However, the age limit for employment protection can also affect the age distribution to a certain extent, in the same way as the existing age distribution and especially the proportion of seniors in a business can have a bearing on whether or not an internal age limit is introduced.

In terms of the age structure in businesses with and without an internal age limit in 2013, there were relatively fewer employees under the age of 30 and relatively more over the age of 50 in businesses that introduced an internal age limit before 2015 compared to enterprises without an internal age limit.

The age distribution also varied considerably between industries. The proportion of seniors (50+) was highest in financial and insurance activities, where almost half were over 50, and in arts and entertainment, communication and the media, in manufacturing and in transport and storage, where almost 30 per cent were seniors. A large proportion of these industries, especially the first two, also have an internal age limit. The motive may thus have been to limit the proportion of seniors who continue working.

By comparison, just over 10 per cent were seniors over the age of 50 in accommodation and food service activities, and just over 17 per cent were seniors in administrative and support service activities and in the wholesale and retail trade. The need for an internal age limit in these industries will therefore also not be as great. The proportion with an age limit set by the company is thus also relatively low.

Employees aged 67 and over constitutes a very small proportion in all industries. It is particularly low in financial and insurance activities, where many companies had an internal age limit long before the age limit was raised in 2015. However, there is also a very low proportion aged 67 or more in accommodation and food service activities, where very few companies have an internal age limit. This industry also has relatively few employees over the age of 50 and has therefore probably not felt the need to limit the proportion of senior employees who continue working. In addition, the company pension coverage, which has often gone hand in hand with internal age limits, has historically been very low in this industry compared to financial and insurance activities.

The proportion of 50–61-year-olds increased in all industries from 2013 to 2016. There was also an increase in the proportion of 62–66-year-olds in the period, except in financial and insurance activities, where the share saw a sharp decline. The proportion of employees aged 67 and over was also significantly reduced in financial and insurance activities, as well as in arts, entertainment, information and communication, and professional, scientific and technical activities. These are three industry groups in which internal age limits are relatively widespread. It was only within transportation and storage, accommodation and food service activities and health and social care services that the share aged over 67 increased from 2013 to 2016 – albeit from a relatively low level. These are all industries without an internal age limit and with relatively few seniors (aged 50+).

Many 66- and 69-year-olds are still working when they are 67 and 70

A relatively large proportion of employed 66-year-olds are still working one year later. In companies that apply the upper age limit stipulated in the Working Environment Act, this was the case for well over 50 per cent of 66-year-olds in the period 2010–2016. Employees in these companies have thus been able to decide for themselves whether to continue working beyond the age of 67.

However, even in companies that set an internal age limit before 2015, about one-third of the 66-year-olds each year continued as 67-year-olds in the same period, while the proportion increased from 30 to 50 per cent in the period 2010–2014 in companies that introduced an internal age limit in 2015. These figures are relatively high, indicating that not all companies have followed the requirement for consistent practice of the internal age limit.

Among employed 69-year-olds, the proportion who were still working at the age of 70 also remained high throughout the period 2010–2016, varying from one-third to two-thirds of all 69-year-olds in work. Not surprisingly, the proportion has been highest in businesses without an internal age limit and lowest in businesses that introduced the lowest company-determined age limit many years ago.

The development from 2015 to 2016 shows a particular increase in the proportion of 66-year-olds who are still working at the age of 67 in businesses with an internal age limit. The bivariate relationships thus indicate that raising the lowest permitted age limit for employment protection from 67 to 70 years has impacted on the employment of 67-year-olds.

Similarly, we find that the proportion of 69-year-olds who continued to work at age 70 increased by 20 percentage points from 2015 to 2016 in businesses without an internal age limit. The bivariate relationships thus indicate that raising the age limit from 70 to 72 had a significant effect.

More surprisingly, the proportion remaining in work also increased in businesses that introduced an internal age limit many years ago, whilst declining significantly in companies that first adopted a lower company-determined age limit in 2015. This may indicate that consistent practice has a certain effect, even if the figures could imply that the practice is more relaxed after a period of time.

Likelihood of continued work at the age of 67

However, the proportion that continues working in businesses that apply different age limits only shows the bivariate, or total, relationships. We have therefore conducted a multivariate analysis for the outcome years 2011–2016 for employees who were aged 66 in the period 2010–2015, with controls for gender, occupation (group), industry, level of education, company size and year. The results show that 66-year-olds in work were quite likely to continue working for another year. The probability was higher for 66-years-olds working in companies without an internal age limit than in companies with an age limit set before 2015, all other things being equal.

However, the introduction of new rules for the age limit for employment protection in the Working Environment Act in 2015 does not seem to have affected the likelihood of 66-year-olds remaining in employment in businesses without an internal age limit, and the likelihood decreased in businesses that introduced a lower company-determined age limit many years ago.

All other things being equal, 66-year-old working women were less likely than men to continue working as 67-year-olds. There is also a reduced likelihood of continuing to work for another year among 66-year-olds in arts and entertainment, and information and communication than among 66-year-old employees in financial and insurance activities, all other things being equal. The relationship between company size and the likelihood of continuing to work also disappears when controlled for other variables. In principle, 66-year-olds in large companies were more likely to continue working than employees in the smallest businesses.

Conversely, occupational group affiliation had little bearing on the likelihood of continuing to work when controlled for other variables. In the bivariate analyses, 66-year-olds employed in university colleges were somewhat less likely to continue working at the age of 67 than employees in other occupational categories. According to the bivariate analyses, employees in the group with the lowest education and especially the group with the highest education were most likely to continue working at the age of 67. This is supported by earlier studies (Midtsundstad 2002, 2005). However, when controlling for occupation and industry etc. in the regression analysis, the level of education is not significant.

Likelihood of continued work at age 70

Similarly, a multivariate analysis was conducted for the probability of continued work at the age of 70 in order to see if the bivariate relationship is maintained when we control for certain characteristics of the individual and the company, such as gender, level of education, occupation, industry and company size.

The results show that many of those who are still working at the age of 69 continue to work when they are 70. As was the case for the 66-year-olds, there was also a much lower likelihood of the 69-year-olds continuing to work if they were employed in a company that had an internal age limit prior to 2015. The introduction of new rules for age limits does not seem to have had any significance for the likelihood of 69-year-olds continuing to work.

Women who were in work at the age of 69 were less likely than men of the same age to continue working at 70, as was the case at the age of 67. Furthermore, the likelihood of continuing to work at the age of 70 was far higher for academics than for unskilled workers and other occupational categories, all other things being equal.

In the bivariate analyses, 69-year-olds in financial and insurance activities were less likely to continue working after 70 compared to 69-year-olds in most other industries. In the multivariate analysis, however, only 69-year-olds in the construction industry showed a significantly higher likelihood of continuing to work compared to other 69-year-olds. It was also more likely for 69-year-olds to continue working at age 70 if they worked in small companies (fewer than 50 employees).

Age limits increase mobility

Some employees who are asked to retire due to the internal age limit continue to work either in a different company or in their own business. However, this applies to relatively few; less than 10 per cent of 67-year-olds.

The probability of continuing to work at the age of 67 in another company is lowest among 66-year-old employees in businesses without an internal age limit. Thus, employees who wanted to remain in these companies have been able to do so. For this group, other circumstances than the internal age limit lead to change of jobs.

The share that change employer at the age of 67 increased from 2015 to 2016. This was particularly the case for employees in companies that did not introduce an internal age limit until 2015. This is somewhat surprising, since raising the lowest permitted age limit from 67 to 70 years in 2015 would indicate that such a shift was no longer necessary.

At the transition from 69 to 70 years, the share of employees who changed employer ranges from a few per cent up to 15 per cent. Changing employer at the age of 70 is least widespread among 69-year-old employees in companies without an internal age limit and most widespread among employees in companies with such an age limit.

Raising the age limit seems to have contributed to an increase in the proportion of 69-year-olds who changed employer in companies that first introduced an internal age limit in 2015. In these companies, the proportion of 69-year-olds who changed job increased by as much as 10 percentage points from 2015 to 2016. By comparison, the increase among employees in companies that had introduced an internal age limit before 2015 was only a few percentage points.

No clear correlation between age limit and recruitment of seniors

One key argument against raising the age limit for employment protection is that it can lead to a reduction in the recruitment of seniors. However, the proportion of newly recruited seniors aged 55+ indicates no such correlation. The analyses also showed that there has been no reduction in the proportion of newly recruited younger seniors (aged 55–61 years) when comparing 2015 and 2016, i.e. after the age limit was raised in 2015.

Newly employed seniors aged 55–61 made up between 11 and 19 per cent of all new employees in the private sector during the period 2010–2016. Companies that introduced an internal age limit before 2015 are most likely to recruit younger seniors, while companies with no internal age limit seem more cautious.

However, we do not see any decrease in the recruitment of younger seniors as a result of the increase in the age limit between 2015 and 2016. On the contrary, we find that the proportion of newly recruited younger seniors (aged 55–61) as a share of all new employees increased slightly from 2015 to 2016. This particularly applies to companies that introduced an internal age limit before 2015.

Companies' interest in employing seniors aged 62 and over is more complex. Overall, seniors in this age range constitute between 4 and 5.4 per cent of all new employees annually, and the proportion increased steadily from 2010 to 2013/2014, both in businesses with and without an internal age limit. Since 2014, the proportion of seniors aged 62+ among new employees has declined, except for companies that do not have an internal age limit. In other words, there has been an increase in the recruitment of the oldest seniors in companies with the highest age limit for employment protection. In 2016, the proportion of new employees aged 62+ was also highest in these businesses.

Thus, the higher age limit for employment protection introduced in 2015 did not seem to have any effect on the recruitment of seniors. However, adjusting to new regulations can take time; therefore, analyses of data from 2017 onwards may be helpful before drawing a conclusion.

Characteristics of companies with employees aged 67 and over

One-third of the companies in the survey had one or more employees over the age of 67, and one-tenth had one or more employees aged 70 or over. We have examined what characterises such businesses and their main reasons for allowing some older employees to continue.

The analyses show that the probability of having one or more employees aged 67 or over is higher in businesses within the wholesale and retail trade or professional, scientific or technical activities, or the residual category of other industries. The likelihood also increases if the business primarily employs traditional occupational groups, such as operators, drivers and unskilled workers, as opposed to office workers or those within sales, service and care. The likelihood of having seniors aged 67 or over also increases if the company has a large demand for more employees in the short term, even if recruitment problems generally do not seem to have any significance. Having an active ageing policy and initiatives to delay retirement also increases the likelihood. This also applies to businesses that located in a small municipality. The likelihood of having employees aged 67 or over is otherwise reduced for businesses in the fields of arts and entertainment, and information and communication, and whether the company has few employees, all other things being equal. The pension scheme in a company does not seem to have any significance. Neither do having an internal age limit or the business's finances and competitive situation.

The managers' main reasons for allowing some employees to continue working after the ages of 67 and 70, respectively, is that they themselves would like to continue working, that the employees hold particular expertise that the business needs and/or that it is difficult to find a competent replacement for the senior employee. The desire to retain particular expertise is most strongly emphasised by managers in professional, scientific and technical activities and in businesses in health and social care services in the private sector, while recruitment problems are most often emphasised by managers in transportation and storage.

Other reasons given are that the employee in question has a low pension entitlement, that the age limit has increased or that the senior is the founder or owner/head of the company. The increase in the age limit as a particular reason is most often emphasised by manufacturing companies, and is the most common reason given in the construction industry and in the wholesale and retail trade. The businesses in question are therefore likely to be small companies where the owner still wants to take part in the daily operations.

The majority are employed in businesses that want an age limit of 70

Experiences with and attitudes to age limits can be important in terms of their legitimacy and how they are practised. Therefore, we have also examined the managers' attitudes to an upper age limit for employment protection and to the change in legislation in 2015.

According to the survey, most managers in the private sector do not want an upper age limit for employment protection. However, this view is most common among managers in small businesses. Measured by the number of employees, 71 per cent of employees in the private sector work in companies that favour an age limit for employment protection. The share of employees was highest in financial and insurance activities, arts and entertainment, communication and information, and in manufacturing.

Those who prefer an age limit would like it to be set at 70 years of age. Very few want an age limit higher than 72.

We also asked the managers if they supported the increase in the age limit from 70 to 72 years in 2015. A narrow majority expressed that they had been in favour. However, this largely concerns small businesses, which employed about one-third of employees in the private sector. By comparison, managers in businesses that employed 63 per cent of private sector employees stated that they only supported the change to a small extent or did not support it at all. Correspondingly, about 50 percent of private sector employees worked in companies that did not support or only to a small extent supported raising the lowest permitted internal age limit from 67 to 70.

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