Retirement Age for Airline Pilots

Australia • Austria • Belgium • Germany • Denmark
Finland • Greece • Republic of Ireland • Italy
Japan • Luxembourg • Netherlands • Portugal
Sweden • Spain • United Kingdom

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The laws of 12 European Union member countries, Japan and Australia were surveyed to ascertain the prescribed obligatory age for mandatory retirement of the airline pilots or the age at which they are stopped from flying the aircraft. Each country's laws and the European Union Directives on the subject were researched for the stated purpose.

It appears, currently, legal provisions of none of the countries specifically discuss the "mandatory retirement age" of their pilots. However, in almost all cases, they describe the age when they can no longer be licensed to fly an aircraft, whereby the flying career is brought to an end. The survey indicates that the following licensing/retirement provisions exist in each country or a group of them:

Australia: There are separate retirement ages for domestic and international air services. A pilot is not licensed for international air service upon his attaining the age of 60 years. For domestic flying, however, a pilot may be licensed only subject to his passing the proficiency check, provided the aircraft is also fitted with fully functioning dual controls, which must be manned by another qualified pilot.

Austria: Upon reaching the age of 60, a pilot may fly only if he/she is a member of a several cockpit crew when other/s are below the age of 60. In no case, he will be licensed to fly when he is 65 years of age.

Belgium: No one can exercise the function of civil aviation pilot or co-pilot when he attains 65 years of age. In following the 1991 European Directive, now the maximum age of 60 has been prescribed for a pilot.

Denmark, Finland, Sweden, Italy, Luxembourg and Netherlands: The general retirement age in Denmark is 67, but 65 in Finland and Sweden. For airline pilots, however, in complying with the European Union Directive a civil aviation pilot cannot be licensed as a cockpit personnel in commercial air transportation after reaching the age of 60 in any of these countries.

Germany: Without prescribing a statutory age for retirement of pilots, an industry-wide collective labor agreement provides for their automatic retirement at the age of 55. If a pilot meets with the prescribed physical requirements, he may be annually licensed to fly up to the age of 60.

Greece: The Greek Royal Decree provides that no one who flies a civil aircraft may do so beyond the age of 65.

Ireland: Irish law permits international commercial air pilots to be licensed for flying until the age of 60. After the age of 60, he may operate only as a member of a multi-pilot crew provided he is the only one who had attained 60 years of age and provided also that he had obtained permission from each state into whose air space he wishes to fly. He will no longer be licensed when he reaches 65
years of age.

United Kingdom: The Civil Aviation Authority does not license a pilot to fly after the age 60 unless the aircraft is fitted with dual controls and carries a second pilot below the age of 60.

Attachments are the country reports for the above jurisdictions.

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AUSTRALIAN COMMONWEALTH (FEDERAL) REGULATIONS MAKE SPECIAL PROVISIONS FOR AIRCRAFT PILOTS OVER THE AGE OF 60. THE CIVIL AVIATION REGULATIONS, PART 5, CONCERNING THE QUALIFICATIONS OF CREW, RULE 5.110, PROVIDES THAT A COMMERCIAL PILOT WHO IS OVER THE AGE OF 60 MAY FLY PASSENGER PLANES FITTED WITH FULLY FUNCTIONING DUAL CONTROLS MANNED BY ANOTHER QUALIFIED PILOT. THE PILOTS MUST ALSO PASS AN ANNUAL "OVER 60" MEDICAL EXAMINATION IN ADDITION TO A PROFICIENCY CHECK WHICH HAS BEEN COMPLETED WITHIN THE LAST 6 TO 12 MONTHS.

AUSTRALIA IS A SIGNATORY OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION, WHICH IN ANNEX 1 CONTAINS A STANDARD 2.1.10.1 WHICH PROVIDES A GENERAL RESTRICTION THAT PILOTS OVER 60 YEARS SHOULD NOT BE LICENSED FOR INTERNATIONAL AIR SERVICES. THE PROVISION, HOWEVER, DOES NOT REQUIRE COMPULSORY RETIREMENT OF DOMESTIC PILOTS AT AGE 60.

AT ONE TIME AUSTRALIAN AIRLINES ENFORCED A POLICY OF COMPULSORY RETIRING PILOTS AT AGE 60. IN ALLMAN V. AUSTRALIAN AIRLINES AND CHRISTIE V. QANTAS, THE INDUSTRIAL RELATIONS COURT FOUND IN ONE OF THE CASES THAT THE POLICY INFRINGED THE PRINCIPLE OF NON-DISCRIMINATION ON THE GROUND OF AGE. FOLLOWING FURTHER COMPLAINTS, THE AUSTRALIAN HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION HELD AN INQUIRY WHICH CONCLUDED THAT THE COMPULSORY RETIREMENT CONSTITUTED DISCRIMINATION IN EMPLOYMENT BASED ON AGE. IN RESPONSE, QANTAS AIRWAYS ADVISED THE COMMISSION THAT IT HAS SINCE GENERALLY DISCONTINUED THE PRACTICE OF COMPULSORY RETIRING EMPLOYEES ON THE BASIS SOLELY OF AGE. QANTAS MAKES AN EXCEPTION IN THE CASE OF LONG-HAUL PILOTS, WHERE OPERATIONAL CIRCUMSTANCES ARE SUCH THAT EMPLOYMENT BEYOND THE AGE OF 59 IS INCONSISTENT WITH THE REQUIREMENTS OF THE JOB.

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3 ID. AT 6.
According to Austrian law, airline pilots must be retired by age 60. In addition, the airline has the right to retire pilots between the ages of 55 and 60, and, likewise, pilots of such an age have the right to retire. Even though these provisions are contained in an industry-wide collective agreement, they are deemed to have the force of law. According to the Austrian Labor Relations Act, provisions in collective labor agreements that affect individual employees have the force of law. Moreover, such provisions apply to all employers within the particular industry, and to all employees within the relevant job categories, irrespective of the union membership of employees and the affiliation of the employer.

It is expected that the Austrian civil aviation agency will work toward the enactment of specific statutory age limits for licensed commercial pilots. The Austrian agency has adopted the Joint Aviation Requirements on the Licensing of Pilots. This agreement among the European aviation agencies is expected to become effective on July 1, 1999 and it obligates the participating agencies to work toward the implementation of the joint requirements through national legislation. In its current form, these age-related restrictions for pilots are as follows:

**JAR-FCL 1.060 Restrictions for License Holders Above the Age of 60.**

(a) Age 60 - 64

After reaching age 60, the holder of a pilot’s license may not be used as the pilot of an aircraft in the course of commercial transportation, except if:

(1) he is a member of a crew that consists of several pilots, and

(2) the other pilots are below the age of 60.

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1. Information obtained by telephone from the management of Austrian Airlines.


4. Information obtained by telephone from Austro Control, GmbH, Wien, the privatized Austrian aviation agency.

5. This provision has been re-translated into English from the German text.
(b) Age 65

The holder of a pilot's license above the age of 65 may no longer be used as a pilot of an aircraft in the course of a commercial transportation.

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BELGIUM

Aerial navigation in Belgium is regulated by Royal Decree of March 15, 1954, on the Regulation of Aerial Navigation, as amended.\(^1\) It provides that no one can exercise the function of civil aviation pilot or co-pilot when he has attained the age of 65 years.\(^2\)

However, according to the Annex attached to the EC Council Directive on Mutual Acceptance of Personnel Licenses for the Exercise of Functions in Civil Aviation,\(^3\) under the heading "Special Validation Requirements," the minimum age of 21 and the maximum age of 60 have been established for civil aviation pilots.

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\(^2\) Id., art. 30bis.
Germany does not have a statutory retirement age for pilots. Instead, an industry-wide collective labor agreement for cockpit personnel\(^1\) provides that airline pilots are automatically retired at age 55, unless special arrangements are made to let them serve until the age of 60. Under this agreement, the airline and the pilot may contractually extend the employment of the pilot on an annual basis, if the pilot meets the physical requirements.

These provisions of the collective labor agreement are at times modified by works council resolutions of individual airlines. One such modification provides that pilots have the option of working part time between the ages of 55 and 60, if they are fit to serve and if there are no statutory impediments to their service.

The age limits of the collective agreement on cockpit personnel have been challenged in the court on several occasions. One of the latest decisions on this question was issued by the Federal Labor Court in 1998.\(^2\) The plaintiff, a pilot, challenged the age limit on constitutional grounds, for allegedly violating his freedom of practicing a profession.\(^3\) The Court upheld the collective agreements as being medically justified and as being in the best interest of the safety of crew and passengers.

The only statutory provision on an age limit for pilots appears to be section 41 of the Ordinance on the Operation of Aircraft.\(^4\) It provides that the crew of a flight should not include members above the age of 60. This provision is interpreted by the courts so as to permit the use of older crew members only in exceptional cases.\(^5\)

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1. Manteltarifvertrag Nr. 4 der DLH, § 19, ¶ 1, as cited in decision of Bundesarbeitsgericht, Mar. 11, 1988, Docket No. 7 AZR 700/96.
2. Id.
5. Supra note 1.
The pension age in Denmark is 67. However, the Annex attached to the EC Council Directive on Mutual Acceptance of Personnel Licences for the Exercise of Functions in Civil Aviation,¹ which is already in force under the heading "special validation requirement," establishes age 60 as the maximum age for licensing cockpit personnel in commercial air transportation.

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FINLAND

The pension age in Finland is 65. However, the Annex to the EC Council Directive on Mutual Acceptance of Personnel Licences for the Exercise of Functions in Civil Aviation, which is already in force, under the heading "special validation requirement" establishes, inter alia, the age of 60 as the maximum age for licensing cockpit personnel in commercial air transportation.

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Royal Decree 636/1972 on Certificates and Licenses of Civil Aviation Personnel, as amended, contains a specific provision regarding the maximum age airline pilots are allowed to fly. Article 2 of this Decree, entitled General Restrictions, explicitly provides that "no one who flies a civil aircraft may do so beyond the age of 65".

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1 EPHMERES TES KYVERNESIOS TES HELLENIKES DEMOKRATIAS (Official Gazette of Greece), Part A, No. 182 (1972).

2 This article was amended as above, pursuant to Presidential Decree 67/28-29, 1992, id., No. 34.
The Air Navigation (Personnel Licensing) (Amendment) Order, 1996, Part IV, reg. 2(2) places the following age limitations on an airline transport pilot license:

(a) The holder of an airline transport pilot licence (aeroplane) shall not act as pilot of an aeroplane engaged in international commercial air transport operation if the licence holder has attained his 60th birthday except:

(i) as a member of a multi-pilot crew; and provided that

(ii) such pilot is the only pilot in the flight crew who has attained the age of 60 years; and

(iii) such holder has obtained permission from each State into whose airspace the holder wishes to fly.

(b) The holder of an airline transport pilot licence (aeroplane) who has attained the age of 65 years shall not act as a pilot of an aeroplane engaged in a commercial air transport operation.

The Irish provision is apparently based on a European Council Directive on Mutual Acceptance of Personnel Licences for the Exercise of Functions in Civil Aviation. The European Union is presently developing Joint Aviation Regulations which are expected to be in effect in July 1999 and which contain similar age limitations on the age of airline pilots.

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1 S.I. No. 50 of 1996.


3 As per conversation on February 11, 1999, with an official at the Irish Aviation Authority in Dublin, Ireland.
ITALY

Legislation enacted in 1988\(^1\) established that airline pilots’ professional activity may continue until they reach the age of sixty. In 1992 Italy implemented the European Community Council Directive on mutual acceptance of personnel licences for the exercise of functions in civil aviation which sets the same age limit.\(^2\)

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Article 4 of the Law Concerning the Stabilization of Employment of the Elderly requires that the mandatory retirement age for private-sector employees be 60 years of age, with certain exceptions.¹

There are five Japanese airlines engaged in passenger and cargo transport; they handle both domestic and overseas operations. The mandatory retirement age for employees of these companies is 60. However, two companies (Japan Airlines and Japan Air System) have recently adopted karei seido (aging system), which allows the re-hiring of airline pilots over the age of 60 as part-time employees under a new contract until they become 63 years old.²

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¹ Law No. 68, May 25, 1971, as last amended by Law No. 90, June 19, 1996.

² This information was provided by Ms. Taeko Kato of the Tokyo Office of the Japan Documentation Center, Library of Congress, by e-mail on Feb. 16, 1999.
According to the Annex attached to the EC Council Directive on Mutual Acceptance of Personnel Licences for the Exercise of Functions in Civil Aviation,¹ which has been implemented in Luxembourg by Grand-Ducal Regulation of August 17, 1994,² the minimum age of 21 and the maximum age of 60 have been established for civil aviation pilots.

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The holder of a flying certificate who has reached the age of 60 years is not authorized to act as a pilot of an airplane during commercial flights. A notice about this is made in his flying certificate.

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Regulatory Decree 46 of July 4, 1977 fixes the age limit for the practice of the profession of airline pilot at 60 years of age.

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The pension age in Sweden is 65. However, the Annex attached to the EC Council Directive on Mutual Acceptance of Personnel Licences for the Exercise of Functions in Civil Aviation,\textsuperscript{*} which is already in force under the heading "special validation requirement," establishes, \textit{inter alia}, age 60 as the maximum age for licensing cockpit personnel in commercial air transportation.

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ROYAL Decree 959/1990 of June 8, 1990, fixes the age limit for the practice of the profession of airline pilot at 60 years.

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UNITED KINGDOM

The age of airline pilots is regulated under licensing terms issued by the Civil Aviation Authority (CAA). Under the Air Navigation (No. 2) Order 1995, article 22, the CAA can grant a license, subject to such conditions as it thinks fit, authorizing the holder to act as a member of the flight crew of an aircraft registered in the United Kingdom. Schedule 8 of the Order makes provisions concerning minimum age, period of validity, and privileges attaching to licenses.

One of the privileges granted in Schedule 8 to the holder of a Basic Commercial Pilot’s License or a Commercial Pilot’s License is that:

He shall not fly such an aeroplane on a flight for the purpose of public transport after he attains the age of 60 years unless the aeroplane is fitted with dual controls and carries a second pilot who has not attained the age of 60 years...

Earlier, in 1994, the CAA had exempted pilots over 60 years of age from the restriction on flying aircraft over 20,000 kg MTWA, but the exemption did not apply to pilots whose license was endorsed with a limitation restricting them to flying as or with a qualified co-pilot. In 1998 the CAA issued Aeronautical Information Circular 118 which revised the exemption to remove the weight restriction for pilots whose licenses had been so endorsed.

The 1998 Circular states that the relaxation is a further United Kingdom difference filed against Annex 1 to the Convention on International Civil Aviation, done in Chicago in 1944.

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2 118 of 1998. A copy is appended.