



Australian  
Human Rights  
Commission

# Working past our 60s

REFORMING LAWS AND POLICIES  
FOR THE OLDER WORKER • 2012



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**Design and layout** JAG Designs

**Photographs** Thinkstock



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**The Hon Susan Ryan AO**

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*Age Discrimination Commissioner*

At the Australian Human Rights Commission, we are tackling the fundamental societal attitudes that underlie age discrimination. We also want to shine a light on policies and laws that prevent older people working, even when they can find jobs.

# Time to act...

As a society, we have been slow to recognise that millions of older Australians are locked out of the workforce by age discrimination. We are only now starting to understand what a terrible waste of human capital this situation represents; a loss to the national economy and to businesses large and small, and a loss to the individual who is pushed out of the workforce prematurely.

At the Australian Human Rights Commission, we are tackling the fundamental societal attitudes that underlie age discrimination. We also want to shine a light on policies and laws that prevent older people working, even when they can find jobs.

The age thresholds that apply to workers compensation, income insurance and to essential professional licenses, limit the access that older people have to the workforce. All of these age bars can, and should, be dismantled.

My hope, in publishing this paper, is to spread awareness of these forms of age discrimination and thus encourage decision makers to devise and implement positive reforms.

Most of us want to work past our 60's, but we need to be able to do this in safety and security.

A handwritten signature of Susan Ryan in black ink on a white background. The signature is written in a cursive, flowing style.

**The Hon Susan Ryan AO**  
Age Discrimination Commissioner  
Australian Human Rights Commission

June 2012



# 1. Why the workplace will depend on older workers

## 1.1 Introduction

A significant age shift is occurring in Australia's population profile. Australian Bureau of Statistics (ABS) data indicate that Australian society is ageing, and over the next decades, large numbers of people will be approaching retirement age while fewer younger people will be entering the labour market.

In 1901, only 4 per cent of Australians were aged 65 years or older. By June 2010, this proportion had risen to 13.5 per cent, and is projected to increase to between 21 per cent and 23 per cent by 2041.<sup>1</sup>

In order to meet the skill demands of the workforce, Australian workers will be in demand for longer periods throughout the life cycle. In recent years the average retirement age for men and women has hovered around 50 for women and 60 for men.<sup>2</sup> These ages will have to shift upwards if we are to maintain a functioning workplace and economy. Data also indicate that as Australians live longer and healthier lives, we are more inclined to remain in the workforce for longer to meet both financial and personal objectives.<sup>3</sup>

Older workers have always been an important part of the Australian workforce, contributing knowledge and skill based on years of experience and expertise. Nonetheless as expected, labour force participation declines as people age; dropping sharply once people reach their 60s.

In the year to June 2010, 71 per cent of Australians aged 55–59 years were participating in the labour market. These rates drop to 51 per cent for people in the 60 to 64 age group and to 24 per cent for people aged 65 to 69.

## 1. Why the workplace will depend on older workers

The number of people who continue to work beyond the age of 70 is comparatively low, ranging between 2.7 per cent and 4.5 per cent since the 1980s.<sup>4</sup>

Trend data show that Australians intend to work for longer and retire later in life than in previous decades. In 2011, the average age at which people intended to retire was 62.9 years (63.5 years for men and 62.0 years for women).<sup>5</sup> However, the data also show that we leave the workforce earlier than we estimate or intend.<sup>6</sup> In other words, certain factors prevent us from working as long as we would like, or for as long as we imagine we will work.

There are good reasons for Australia's decision-makers and law-makers to remove any impediments to the workforce participation of older workers. One motivating factor for governments is the projected costs of ageing to the economy. The Treasury's *Intergenerational Report*, estimates that approximately \$60 billion will be added to government spending by 2049–50. Two thirds of this amount is attributed to an ageing population, with predicted increases in Age Pension costs, health care and aged care.<sup>7</sup>

Given the costs to the economy alone, it is clear that encouraging people to stay in the workforce for longer periods is now an important national priority.

There is also a compelling human rights argument for governments to ensure that older people have access to employment without discrimination. Research points to the fact that older Australians are particularly vulnerable to poverty.<sup>8</sup> The 2006 Australian Census shows increases in the number of older people who were homeless. Over 18,000 people aged 55 or over were homeless on Census night in 2006; 4,000 more than on Census night in 2001.<sup>9</sup>

The ABS also reports that government pensions and allowances are by far the most common source of personal retirement income for both men and women. Two-thirds of retirees rely on the Age Pension as their main source of income.<sup>10</sup> Fifty-eight per cent of female age pensioners and 54 per cent of male pensioners are paid at the full pension rate, meaning that these retirees have limited or no other source of income.<sup>11</sup>

Governments and employers have a responsibility to ensure that older people are protected from poverty by providing social security income and by ensuring there are employment and training options for older workers.

Article 25 (1) of The Universal Declaration of Human Rights makes specific reference to the right of older people to an adequate standard of living and security in old age.<sup>12</sup>

A number of employment-specific conventions also contain provisions relating to the rights of older people to career guidance and training without discrimination.<sup>13</sup>

Remaining in the workforce for longer periods is the most effective way for older Australians to improve their standard of living. Employment provides an income stream that is above and beyond the pension income and, in most instances, employment also means contributions to superannuation for retirement. However, working for longer is subject to some barriers for older Australians.

This paper outlines some of the areas where action needs to be taken to remove the limits and provide the appropriate protections for people in the workforce as they age.

### 1.2 Government action to increase the workforce participation of older Australians since the 1980s

Since the 1980s, successive governments have developed incentives and removed barriers to keep older people in work. Government policy has focussed on increasing the workforce participation rates of all Australians, including older people and women. This has led to increases in the workforce participation of both these groups.<sup>14</sup>

The overall labour force participation rate of people aged 45–64 years has increased steadily over the last twenty years, from 56 per cent in 1983 to 69 per cent in 2003. This increase in participation has been driven largely by the increased participation of women... In 2003, the participation rate for women aged 45–64 was 60 per cent, well above the proportion participating in the labour force in 1983 (35 per cent).<sup>15</sup>

The current Australian Government is continuing to develop policies to encourage older people to stay in work. Recent moves to increase the eligibility age for the Age Pension is likely to have a significant impact on work participation rates of older people who do not have retirement savings. In fact, lifting the eligibility age will create an imperative rather than an incentive for some people to remain in the labour market.



The qualifying age for the Age Pension is set to rise to 67 years for both men and women by 2023 and the pension age for women has been rising from 60 years to 65 years since 1995.<sup>16</sup> While increasing the pension age will offset some of the costs of an ageing population, the costs to Government are continuing to rise.

Despite the higher Age Pension qualifying age, Australian government spending on age-related pensions is projected to rise from 2.7 per cent of gross domestic product (GDP) in 2009–10 to 3.9 per cent in 2049–50.<sup>17</sup>

In addition to lifting the Age Pension, the Australian Government has introduced various tax policies aimed at keeping older people in the workforce. These include, the *Mature Age Worker Tax Offset* that reduces the amount of payable tax for Australians who are 55 years and older and the *Senior Australians Tax Offset* which increases the amount of money that workers can earn before tax is payable once they have reached pension age.<sup>18 19</sup>

The Australian Government has also developed a number of superannuation contribution schemes aimed at workers aged 50 years and older. The various transition-to-retirement schemes and concessional contribution schemes have allowed older Australians to make contributions to their superannuation at considerable tax advantage while they are still working.<sup>20</sup> These measures potentially assist employees and people who are self-employed. (Note however, the 2012–2013 budget deferred the increased concessional contributions cap for over 50 year olds until 2014. The \$25,000 concessional cap will apply to everyone until July 2014 when the cap is expected to increase to \$50,000 for over 50 year olds).

In September 2011, the Australian Government delivered a long overdue equity measure by introducing a Bill into Parliament that will abolish the age limit on the payment of the superannuation guarantee to working Australians. This measure will come into effect on 1st July 2013.<sup>21</sup>



### 1.3 Other factors keeping older people in the workforce

In addition to various policy levers, there is some indication that the Global Financial Crisis is keeping older people in work so that they can recoup their lost superannuation savings.<sup>22</sup> This includes people over the age of 50 who made concessional contributions to boost their superannuation funds only to see their savings diminish with the decline of global share markets. Those people who took advantage of the \$1 million transitional non-concessional contribution cap in 2007–08 did so just before the Global Financial Crisis.

According to research undertaken by The Australian newspaper, older people nearing retirement age are currently revising their retirement timelines and working for longer periods to recoup their superannuation savings. The consequence has been an expanded mature age labour market and a workforce participation spike in the over 55 age group since 2009.<sup>23</sup>

### 1.4 The benefits of an older workforce

There are economic benefits for individuals and governments when older people remain in the workforce. People who work longer accrue more superannuation savings and are less reliant on the pension during retirement. Workers also provide an increase to tax revenue.

There are also strong correlations between workforce participation and health status. Data indicates that working is a protective factor against physical ill-health and poor mental health. The data show that people staying in the workforce past retirement age tend to have better health status compared with those not working. Poor health can also impact on a person's ability to participate in paid work.

Labour force participation rates are consistently lower for people with chronic conditions and as people age; they are more likely to have a chronic National Health Priority Areas (NHPA) condition or injury... arthritis or osteoporosis, asthma, cancer, cardiovascular disease, diabetes, injury, mental health and obesity.<sup>24</sup>

A healthy older generation has positive economic implications for governments. Over the next 40 years approximately two-thirds of all projected increases in government spending is expected to be on health. This reflects pressures from an ageing population and increases in demands on health services and new technologies.<sup>25</sup>

### 1.5 An under-employed older workforce

There is room to increase the workforce participation rates of older people. ABS data tell us that in the year to June 2010, there were on average 58,100 people aged 55 years and over who were unemployed.<sup>26</sup> During this period, 46 per cent of unemployed older people had been looking for work for six months or more, compared with 32 per cent of those aged less than 55 years.<sup>27</sup>

In the June quarter of 2010, 97,100 Australians aged 55 years were under-employed.<sup>28</sup> Data indicate that older people are under-employed for longer periods than younger workers. Older women are also more likely to be under-employed than men.

While older workers are less likely to be under-employed than younger workers, on average older workers tend to remain underemployed for longer. In September 2009, 41 per cent of older underemployed workers had been underemployed for more than a year, compared with 30 per cent of younger underemployed workers.

Among older underemployed workers, women were more likely to have been underemployed for more than a year (50 per cent) than men (33 per cent).<sup>29</sup>

The unemployment of older Australians has both social and economic implications. National Seniors Australia estimates the loss in these terms:

An economic loss of \$10.8 billion a year to the Australian economy for not utilising the skills and experience of older Australians. This comprises:

- A loss of \$8.7 billion a year for not utilising the skills and experience of older Australians who want to work but were not looking for work as at September 2008 (161,800 in total).
- A loss of \$2.1 billion a year for not utilising the skills and experience of 39,331 who were unemployed and looking for full-time work as at March 2009; which doesn't include the loss for not utilising the skills and experience of 17,073 unemployed older Australians looking for part-time work.<sup>30</sup>

According to the ABS, ill health, disability, or caring responsibilities mean that some older people are unable to participate in the labour force even though they would like to remain in work.<sup>31</sup>

Older workers also report the need for flexibility in their working hours or part-time arrangements so that they can fit in caring responsibilities or manage sickness or disability.<sup>32</sup>

A recent measure to increase the hours that people can work on the Disability Support Pension will create greater workforce fluidity and may have specific benefits for older Australians who are affected by disability or ill-health.

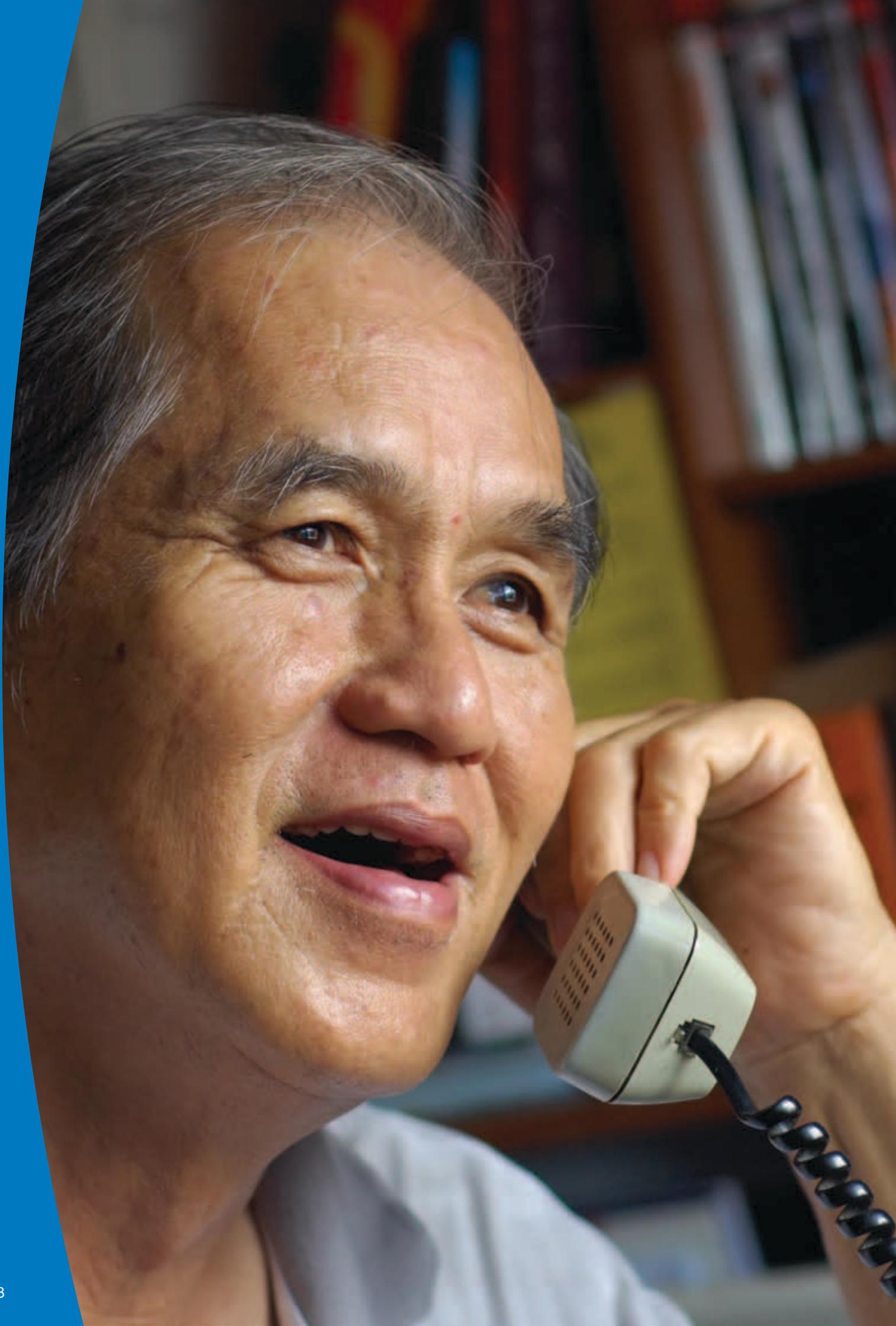
From 1 July 2012, the Government will also provide greater incentives to work by allowing all DSP recipients to work up to 30 hours a week without their payment being cancelled or suspended. DSP recipients will also be able to receive a part pension while they work, subject to income testing arrangements. Currently, DSP recipients granted after 11 May 2005 can only work up to 15 hours a week before their payment is suspended or cancelled.<sup>33</sup>

Similarly, the Age Pension Work Bonus scheme assists pensioners to take up part-time or casual work while still retaining the pension. A person who is eligible for the pension and under the age of 75 can earn up to \$250 a fortnight (capped at \$6,500), without the additional income being assessed under the pension income test.<sup>34</sup>



In the main, these are welcome initiatives. However, the age limit of 75 years on the Pension Work Bonus Scheme sets an arbitrary impediment for people who want to continue working beyond their mid-70s.

Governments must continue to take a leadership role in all policy portfolios that impact upon older Australians. This means developing incentives and removing age barriers within their own jurisdictions while encouraging employers and commercial insurers to make equal provisions for all workers, without discrimination in relation to age.



# 2. Age limits on workforce participation

Action to support and resource a changing demography must come from both the public and the private sectors.

A number of important areas of government and industry policy contain age limits or age caps that limit the entitlements of older workers. Given the policy levers that currently encourage, and in some cases, *require* people to remain in the workforce well into their 60s, there is a strong argument to remove any barriers to the full benefits of workforce participation for all workers, regardless of age.

Workers compensation, income insurance, superannuation, and some licensing requirements are subject to age caps or age cut-off points that provide restrictions and reduced benefits for older workers.

## 2.1 Workers compensation age limits

Australia has 11 different workers compensation schemes, one operating in each State and Territory and three Commonwealth schemes. Most of Australia's workers compensation schemes contain an age limit at which workers are no longer covered by the income replacement component of the scheme. In most jurisdictions, the age at which income replacement is cut off or limited is 65. While workers are covered for medical expenses if they are over 65, without income replacement most people lacking independent income would be forced to retire.

Workers compensation is funded by a compulsory levy that is imposed by governments on employers. In Australia, workers compensation currently covers about 90 per cent of the workforce; approximately 9.88 million workers.<sup>35</sup> Workers compensation schemes do not cover the self-employed, sole traders and independent contractors who need to take out personal injury insurance through private sector insurance.

In Queensland and Western Australia, the workers compensation schemes do not impose an age limit on income replacement. Instead they impose capped limits on the period of payment or on the amount that the schemes will pay.

## 2. Age limits on workforce participation

For example, WorkCover Queensland has a five year limit on payments or a capped amount of up to \$265,485. Western Australia imposes a capped limit of \$190,701 or a capped weekly amount of up to \$2,156 for the period until the prescribed limit is reached. While there are limits to the Queensland and Western Australia schemes, the workers compensation provisions do not discriminate on the basis of age.

The workers compensation age limits of the different jurisdictions are contained in Table 1.

It is difficult to know whether the workers compensation age limits set by many of the State and Territory governments are predicated on information that older people are more prone to workplace accidents or illness. In fact, there is little conclusive evidence to suggest older workers are a greater accident or injury risk in the workplace. The ABS *Work Related Injuries* report found that people aged 65 years and over recorded the lowest rate of work-related injuries and illnesses of all age groups with 30 per 1,000 people (28 per 1,000 men and 34 per 1,000 women).<sup>36</sup> The highest rates of work-related injury or illness were experienced in the 45 to 49 year age group (74 per 1,000 men and 70 per 1,000 women).<sup>37</sup>

The Australian Public Service Commission posits some theories as to why workers aged 65 years and older have lower rates of injuries and illness.

... older workers are more likely to be aware of safety in the workplace and, therefore, less likely to have an accident

... older workers tend to develop their own coping strategies (such as pacing, anticipation, planning and organisation) as they age, and these strategies may help them to reduce their injury risk

... selection factors may be important. That is, older employees may seek to move out of occupations or industries where their risk of injury or illness would otherwise tend to increase with age and into other forms of employment, phased retirement or early retirement. Older workers may also withdraw from the workforce prematurely and involuntarily due to ill health or disability.<sup>39</sup>

WorkCover SA finds that there are lower injury rates amongst older workers. In keeping with the ABS *Work Related Injuries* report, it finds that in South Australia:

**Table 1: Age limits for workers compensation incapacity payments**

Jurisdiction	Age limit for workers compensation incapacity payments (2012)
<b>NSW</b>	The age at which a person is entitled to receive the Age Pension + 12 months
<b>VIC</b>	65 unless lower industry retirement age. If injured within 130 weeks of retirement, max 130 weeks
<b>QLD</b>	No age cap. Payment period up to five years or up to a limit of \$265,485
<b>WA</b>	No age cap. Eligibility for full-time, part-time, casual, commission and piece workers up to a prescribed amount of \$190,701
<b>SA</b>	65 unless lower industry requirement age. If injured within two years of retirement then max two years
<b>TAS</b>	65 unless worker is over 64 at time of injury, then max one year
<b>NT</b>	65 unless worker is over 64.5 at the time of the injury and then max six months
<b>ACT</b>	65 unless worker is over 63 years at the time of injury and then max two years
<b>CTH 3 Schemes</b>	65 unless worker is over 63 years at the time of the injury, in which case max two years

Source: Safe Work Australia: Key Workers Compensation Information Australia, 2011.<sup>38</sup>



It is not necessarily the person's chronological age that predisposes them to injury at work but their prolonged exposure to health and safety risk factors over time...

International research findings indicate that older workers may take longer to recover from their injuries but WorkCover SA claims data do not show any increased duration times for older injured workers.<sup>40</sup>

In most States and Territories, the workers compensation age limits are inconsistent with the Australian Government's intention to encourage older workers to remain in the workforce. It is of serious concern that eligibility for the Age Pension is set to rise to 67, while the workers compensation schemes in the majority of Australia's States and Territories have limited coverage for people over the age of 65.

There is a need for a nationally consistent workers compensation framework that provides coherence and fairness in the income insurance provisions for people who work beyond pension age.

The Australian Government has indicated an intention to harmonise some aspects of Australia's workers compensation schemes. Under its *National Workers Compensation Action Plan*, Safe Work Australia commenced a project in 2012 to investigate and report on options for nationally consistent arrangements for:

- the assessment of permanent impairment, and
- definitions of retirement age and the definition of a worker.<sup>41</sup>

State and Territory governments should now review the age limits on their workers compensation schemes with the view to removing them. When the age limits were removed from the WA workers compensation scheme in October 2011, the Minister for Finance, Commerce and Small Business announced that the changes were to have 'a positive economic and social impact' for Western Australia where there is 'record low unemployment and a need to maintain experienced and skilled people'.<sup>42</sup>

## 2. Age limits on workforce participation

The current workers compensation age caps in the remaining seven Australian jurisdictions are an anachronism that should be addressed as soon as possible.

The age limits in the workers compensation schemes do not amount to discrimination under The *Age Discrimination Act 2004* (Cth) (ADA). Section 39(4) of the ADA provides that anything done in direct compliance with the legislation of a State or Territory is not unlawful. Section 39(4) states,

This Part does not make unlawful anything done by a person in direct compliance with:

- (a) an Act of a State or Territory; or
- (b) a regulation or any other instrument made under an Act of a State or Territory.<sup>43</sup>

### 2.2 Income protection insurance age limits

Income protection insurance can be taken out by workers to ensure that regular payments of up to 85 per cent of income can be paid during a period of illness or incapacity. Income protection insurance provides cover for the self-employed, sole traders and independent contractors who are not covered under workers compensation schemes. It is also available to workers who are covered by workers compensation, but want the added security of protection in case of non-work related illness or injury.

While there have been some notable changes in recent times, most income protection insurance is only available to people up until the age of 65 years, and income protection premiums generally increase with age.

In a welcome announcement in 2012, the Workplace Relations Minister indicated that the Australian Government ‘will push for workers aged 65 years to be able to get income protection insurance, as part of a broader drive to end overt discrimination against older workers’.<sup>44</sup>

Some insurers and superannuation funds have already lifted their age limits. In 2012, Australian Super raised its income protection insurance to age 70 with up to two years of coverage.<sup>45</sup> In 2011 the health and community services industry fund HESTA, lifted its income protection age limit to 67.<sup>46</sup>

While the age increases are encouraging, the continuing limits on income protection insurance send a message to people in their mid-60s that they are too old to be in the workforce. They also act against policies that are aimed at keeping older people in work. Financial insecurity may encourage some people to retire rather than live with the uncertainty that they may be forced to retire if they have an accident or a period of illness.

Older people working in trades industries are particularly vulnerable to the lack of income protection insurance. While there is no upper age limit to hold an Australian Registered Trade Certificate (ARTC), most income insurance for the trades industry cuts out at 60.<sup>47</sup>

As Table 3 shows, there are some exceptions to the 60 age limit; some union organisations provide insurance up until the age of 70 years.

A lack of accident and illness insurance seriously limits the working life of mature-age workers in this field. There are risks in the trade industry, so insurance is a necessary consideration for anyone considering work beyond the age of 60.

**Table 2: Age limits on income protection insurance from superannuation funds – four examples**

Super Fund	Age expiry
First State Super	Age 65 expiry
REST	Age 65 expiry
HESTA	Age 67 expiry
Australian Super	Age 70 expiry

**Table 3: Trade insurance age limits for accident and illness protection – five examples**

Insurance company	Personal accident and illness
<p><b>NRMA</b></p>	<p>No illness insurance for people over the age of 60 years.<sup>48</sup> No accident insurance over the age of 65.</p>
<p><b>GIO</b></p>	<p>No coverage for people over the age of 60 years.<sup>49</sup></p>
<p><b>PROTECT</b></p> <p>The insurance policy is held by the Electrical Trades Union Victorian Branch and is issued by ATC Insurance Solutions.</p>	<p>Cover entitlements for Protect union members up to 70 years of age including:</p> <ul style="list-style-type: none"> <li>• income protection benefits (for illnesses)</li> <li>• death and serious trauma benefits</li> <li>• broken bones and accidental dental injury benefits.<sup>50</sup></li> </ul>
<p><b>Tradesensurance</b></p>	<p>Choice of either one or two years benefit period until the age of 65.<sup>51</sup></p>



## 2. Age limits on workforce participation

Insurance companies should be encouraged to extend their coverage of workers based on health and well-being measures, and not on age limits. The Australian Government should consider providing incentives such as generous tax rebates for people over 60 with accident and illness insurance coverage. This may offset any increases in insurance premiums and increase the uptake of trade insurance policies.

As demand grows and people seek insurers with age caps beyond 60 years, insurance companies may be encouraged to extend their age coverage.

The age limits on income protection insurance schemes may not amount to unlawful discrimination under the *Age Discrimination Act 2004* (Cth) (ADA).

Section 37 of the ADA provides an exemption in relation to age-based discrimination in the terms and conditions on which the insurance policy is offered or refused, where the discrimination:

is based upon actuarial or statistical data on which it is reasonable for the discriminator to rely; and

is reasonable having regard to the matter of the data and other relevant factors; or

in a case where no such actuarial or statistical data is available, and cannot reasonably be obtained – the discrimination is reasonable having regard to any other relevant factors.<sup>52</sup>

### 2.3 Licensing requirements for professional drivers

State and Territory motor registration authorities place certain licensing requirements on drivers of heavy vehicles and drivers of public passenger vehicles. In many jurisdictions there are standards and tests for professional drivers as they reach age milestones.

The National Transport Commission and Austroads have produced a publication that describes the medical assessment requirements for drivers across Australia's States and Territories.<sup>53</sup> Table 4 contains information about the ages at which drivers are required to be tested.



**Table 4: Regulatory requirements for driver testing**

State/Territory	Vision test	Medical assessment	Road test
<b>ACT</b>	<b>Heavy vehicle drivers (class MR and above)</b> Vision test on initial application; when upgrading to Multi-Rigid (class MR); on renewal at ages 50, 60, 65, 70 and 75; thereafter annually.	<b>Heavy vehicle drivers (class MR and above)</b> Medical assessment at 75 years and annually thereafter.	<b>Heavy vehicle drivers (class MR and above)</b> Road test on initial application; when upgrading to MR class or above. No prescribed period or age thereafter, unless declared or reported.
<b>ACT</b>	<b>Public passenger vehicle drivers (H, M, O, T, W)*</b> Vision test on initial application and annually thereafter.	<b>Public passenger vehicle drivers (H, M, O, T, W)*</b> Medical assessment on initial application and annually thereafter.	<b>Public passenger vehicle drivers (H, M, O, T, W)*</b> Road test on application; at 70 and thereafter annually.
<b>NSW</b>	<b>Multiple combination vehicle (road train) drivers (class MC)</b> Vision test with medical assessment on initial application, then at age 21 and every 10 years up to age 40, then every five years until age 60, then every two years until age 70, annually thereafter.	<b>Multiple combination vehicle (road train) drivers (class MC)</b> Medical assessment on initial application then at age 21 and every 10 yrs up to age 40; then every five years until age 60; then every two years until age 70; annually thereafter.	<b>Multiple combination vehicle (road train) drivers (class MC)</b> Road test at 70 years and annually thereafter.
<b>NSW</b>	<b>Public passenger vehicle drivers (buses)</b> Vision test on initial application then every three years until the age of 60 years; annually thereafter.	<b>Public passenger vehicle drivers (buses)</b> Medical assessment on initial application then every three years until the age of 60 years; annually thereafter.	<b>Public passenger vehicle drivers (buses)</b> Road test at 80 years.
<b>NT</b>	<b>Heavy vehicle drivers</b> Vision test on initial application, then five yearly.	<b>Heavy vehicle drivers</b> Medical assessment only when a condition is reported by health professional or driver.	<b>Heavy vehicle drivers</b> Only if recommended by health professional.
<b>NT</b>	<b>Public passenger vehicle drivers</b> As above.	<b>Public passenger vehicle drivers</b> Medical assessment on initial application, then five yearly, or sooner if a condition is reported.	<b>Public passenger vehicle drivers</b> Road test only if recommended by health professional.

## 2. Age limits on workforce participation

State/Territory	Vision test	Medical assessment	Road test
<b>QLD</b>	<p><b>Heavy vehicle drivers</b></p> <p>Vision test required if applicant declares a vision or eye disorder and if requested by the chief executive. Test to be performed by a health professional and a medical certificate is required verifying the outcome.</p>	<p><b>Heavy vehicle drivers</b></p> <p>A person must obtain, carry and drive with a current medical certificate if they have a medical or physical incapacity that may affect their driving; OR are 75 years of age or older. Currency of certificate is determined by the doctor.</p>	<p><b>Heavy vehicle drivers</b></p> <p>Road test required on application.</p>
<b>QLD</b>	<p><b>Public passenger vehicle drivers</b></p> <p>Vision test every five years and with prescribed medical assessment until age 75; annually thereafter.</p>	<p><b>Public passenger vehicle drivers</b></p> <p>Medical assessment every five years, or less if required by a doctor, until age 75; annually thereafter.</p>	<p><b>Public passenger vehicle drivers</b></p> <p>No prescribed period or age, unless declared or reported.</p>
<b>SA</b>	<p><b>Heavy vehicle drivers</b></p> <p>Vision test annually from 70 years of age or with prescribed medical examinations.</p>	<p><b>Heavy vehicle drivers</b></p> <p>Medical assessment annually from 70 years of age for all licence holders unless prescribed otherwise (see below).</p> <p><b>Multiple combination vehicle drivers (class MC)</b></p> <p>Operating south of Port Augusta – medical assessment every three years up to 49 years of age, then annually.</p>	<p><b>Heavy vehicle drivers</b></p> <p>Road test annually from age 85.</p>
<b>SA</b>	<p><b>Public passenger vehicle drivers</b></p> <p>Vision test with medical assessment every five years up to age 70 years, then annually thereafter.</p>	<p><b>Public passenger vehicle drivers</b></p> <p>Medical assessment every five years up to age 70 years, then annually thereafter.</p>	<p><b>Public passenger vehicle drivers</b></p> <p>No prescribed period or age, unless declared or reported.</p>
<b>TAS</b>	<p><b>Multiple combination vehicle drivers (class MC)</b></p> <p>Vision test required on initial application (as part of medical assessment).</p>	<p><b>Multiple combination vehicle drivers (class MC)</b></p> <p>Medical assessment on initial application.</p>	<p><b>Heavy vehicle drivers</b></p> <p>Road test on initial application; no tests are required thereafter.</p>

State/Territory	Vision test	Medical assessment	Road test
<b>TAS</b>	<p><b>Public passenger vehicle drivers</b></p> <p>Vision test on initial application and then as part of required medical assessments (see next column).</p>	<p><b>Public passenger vehicle drivers (Ancillary Certificate Public Passenger Vehicles)</b></p> <p>Medical assessment on initial application then every three years up to age 65, then annually.</p> <p>ACPPVs are further categorised – taxi or other.</p>	<p><b>Public passenger vehicle drivers (ACPPV )</b></p> <p>Road test at age 65, 70, and then annually after 75 years.</p>
<b>VIC</b>	<p><b>Heavy vehicle drivers</b></p> <p>Vision test on initial application. Otherwise no specified period, unless declared or reported.</p>	<p><b>Heavy vehicle drivers</b></p> <p>No prescribed period or age, unless declared or reported.</p>	<p><b>Heavy vehicle drivers</b></p> <p>No prescribed period or age, unless declared or reported.</p>
<b>VIC</b>	<p><b>Public passenger vehicle drivers (taxis, bus)</b></p> <p>Vision test with medical assessment every three years unless medical practitioner advises shorter review periods.</p>	<p><b>Public passenger vehicle drivers (taxis, bus)</b></p> <p>Medical assessment every three years unless medical practitioner advises shorter review periods.</p>	<p><b>Public passenger vehicle drivers (taxis, bus)</b></p> <p>No prescribed period or age, unless declared or reported.</p>
<b>WA</b>	<p><b>Heavy vehicle drivers (class MR and above)</b></p> <p>Vision test on initial application, and when applying for an additional class; then at 75, 78 and annually from 80 years of age.</p>	<p><b>Heavy vehicle drivers (class MR and above)</b></p> <p>Medical assessment at 75, 78 and annually from 80 years of age.</p>	<p><b>Heavy vehicle drivers (class MR and above)</b></p> <p>Road test at 85 years of age then annually.</p>
<b>WA</b>	<p><b>Public passenger vehicle drivers</b></p> <p>Vision test on initial application, and when applying for an additional class; then every five years until age 45 years; then every two years until age 65; then annually from age 65.</p>	<p><b>Public passenger vehicle drivers</b></p> <p>Medical assessment on initial application then every five years until age 45 years; then every two years until age 65; then annually from age 65.</p>	<p><b>Public passenger vehicle drivers</b></p> <p>Road test at age 65, 70 and then annually.</p>

\*H, M, O, T, W: 'H' (Private Hire Car), 'M' (Hire Car Motorcycle) 'O' (Public Bus), 'T' (Taxi), 'W' (Restricted Hire Car).

Source: National Transport Commission, *Assessing Fitness to Drive for Commercial and Private Vehicle Drivers* March 2012.

## 2. Age limits on workforce participation



The licensing standards for professional drivers are intended to regulate safety within each jurisdiction. However, the different regimes create no real assurance of heavy vehicle compliance, given that drivers routinely cross State and Territory borders. Nationally consistent standards would create greater coherence across the licensing system.

In the case of drivers of public passenger vehicles, the States and Territories have varying medical testing regimes; some of them quite onerous. For example, in New South Wales, public passenger vehicle drivers over the age of 60 must have an annual medical test. In Queensland, the annual test commences at 75 and in South Australia at 70 years. In Western Australia, bus and taxi drivers are required to have a five-yearly medical test under the age of 45. At 45 the test becomes two-yearly, and at 65 the test is annual.

In contrast, the Northern Territory does not impose age-specific medical testing. It requires a medical assessment on initial application and then every five years or sooner if a condition is reported. In Victoria, the test is every three years regardless of age.

The Northern Territory and Victorian licensing systems do not discriminate on the basis of age. They set a good standard in terms of equity and fairness for older drivers. They balance a focus on health and safety, with testing requirements that do not discriminate on the basis of age.

In the interests of national consistency and to avoid discrimination against older drivers, the Australian Government should consider action to encourage all jurisdictions to implement a standard of periodic testing that does not discriminate on the basis of age.

## 2.4 Superannuation age limits

The removal of the age limit on the superannuation guarantee will have positive benefits for those working into their 70s and beyond. In addition it will send a message that people are valued in the workforce, no matter what their age. However, some age-specific limits to superannuation will continue to disadvantage people who are working past the age of 75.

Workers over the age of 75 are not eligible to make concessional contributions into their superannuation funds.<sup>54</sup> The concessional contribution scheme allows all other workers to make salary sacrifice contributions of up to \$25,000. From July 2009 to July 2012, people aged between 50 and 75 could make increased contributions of up to \$50,000. The increased contributions cap for over 50 year olds is expected to be reintroduced in July 2014. These contributions are taxed at the concessional rate of 15 per cent.<sup>55</sup>

Workers over 75 years will miss out on this tax advantage which provides significant benefit to other working Australians.

A further limit on the superannuation scheme affects over 75 year olds who want to make after-tax contributions to their superannuation fund. There is currently no scheduled reform to superannuation law to allow people over 75 to make non-concessional (after tax) contributions to their superannuation fund, even if they meet the work test.<sup>56</sup> The work test allows people aged 65 to 74 to contribute \$150,000 per annum to their super fund. People under 65 years have the added advantage of being able to contribute a lump sum of \$450,000 to their super if they comply with the 'bring forward' rule.<sup>57</sup>

Precluding working people over 75 from making concessional and non-concessional superannuation contributions is at odds with the removal of the age limit on the superannuation guarantee. On the face of it, this is policy at cross-purposes. Removing the age limit on the superannuation guarantee needs to be followed with accompanying tax concessions that do not cut out once working people reach age 75.

The Australian Government has a role to ensure that provisions for people transitioning to retirement are appropriate to the stage of life and to the individual's financial status.



However, an arbitrary cut-off point to superannuation concessional and non-concessional contributions at age 75 can send a message to employers and employees that workers at this stage of life are of lesser value. It may also act as a disincentive for people to remain in the workforce.

In making its reforms to the superannuation scheme, the Australian Government needs to consider ways in which the scheme can be nuanced to provide fairness and equity for all older workers, including those aged 75 and older.



# 3. Conclusion

The limits to workers compensation, income protection insurance, superannuation and professional licensing, act as structural barriers to the workforce participation of older workers. The structural barriers not only create financial and security difficulties for people who work into their 60s and beyond, they also send a message to older workers that they should not be in the workforce. This messaging to older people must change if Australia is to meet the significant challenges of an ageing demographic. As a first step, there is work to be done to remove structural barriers and provide equal rights for workers as they age. Along with these changes it is hoped that any adverse or damaging perceptions about older workers will be reversed and eliminated. Changing the perceptions of the public and employers towards older workers may be part of a separate campaign, but the cause of older workers will be significantly progressed by changes to laws and policies in the public and private spheres.

Of those older underemployed workers who had actively looked for work with more hours in September 2009, 20 per cent cited 'being considered too old by employers' as their main difficulty.<sup>58</sup>

The relatively recent *Age Discrimination Act 2004* (Cth) is an instrument that can be used to assist in providing protection against ageism and unlawful age discrimination in the workplace.<sup>59</sup> One of the stated objectives of the Act is to respond to 'demographic change by removing barriers to older people participating in society, particularly in the workforce; and changing negative stereotypes about older people'.<sup>60</sup> Since the implementation of the Act, the majority of complaints received by the Australian Human Rights Commission relate to employment (69.2 per cent). Most of these complaints were made by people over the age of 45 years.

Extending workers compensation, income protection and superannuation provisions to all people who remain productive in the workforce will go some way towards ensuring that older Australians enjoy the same rights as the rest of the working population. Ensuring that the licensing and regulatory requirements do not discriminate on the basis of age will also provide opportunities for people to work for as long as they are fit and productive. Older workers have always been, and will continue to be, an important part of the Australian workforce. We are on the cusp of a vastly changing demographic, and it is now necessary for older workers to remain in the workforce to support Australia's society and economy. Though perhaps more importantly, Australian society should pursue and embrace equal rights for older workers because in doing so we respect human dignity and fundamental human rights.

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- Further Information

**Australian Human Rights Commission**

Level 3, 175 Pitt Street  
SYDNEY NSW 2000

GPO Box 5218  
SYDNEY NSW 2001  
Telephone: (02) 9284 9600

Complaints Infoline: 1300 656 419  
General enquiries and publications: 1300 369 711  
TTY: 1800 620 241  
Fax: (02) 9284 9611  
Website: [www.humanrights.gov.au](http://www.humanrights.gov.au)

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