

Question 14. What effect, if any, does the increased concessional contributions cap for persons aged 50 years and over have on mature age participation in the workforce?

Answer: Persons aged over 50 often have more disposable income than younger people because their children will soon be entering the workforce. Most people do not really start thinking about superannuation until they have given their children a start in life, and usually they suddenly realise that their superannuation is going to be quite inadequate.

The increased concessional contributions cap encourages them to work longer and put more money into superannuation because it reduces their income tax liability when their earning power is at its peak. The continuing uncertainty about the \$50,000 concessional contributions cap for people over 50 acts as a disincentive to further contributions to superannuation. The Government has not yet explained just how the superannuation balance is to be calculated for the purpose of deciding when the \$500,000 limit has been reached. In addition, it would be desirable to index the limit.

The cost of foregone tax revenue due to the increased concessional contributions cap would be somewhat offset by the reduction in Age Pension expenditure once the mature age worker reaches Age Pension age, due to their additional income/assets.

Question 15. What effect, if any does the "bring forward rule" (in relation to the non-concessional contributions cap) have on mature age participation in the work force? What changes should be made to this rule to address barriers to such participation?

Answer: Employees over age 65 cannot bring forward non-concessional contributions. This is a disincentive to remain in the workforce past age 65 as many employees like to make additional non-concessional contributions to a superannuation fund at the time they cease employment. This allows them to set up an adequate account based pension to fund their retirement. Allowing employees to bring forward non-concessional contributions over the age of 65 and whilst in employment would encourage those employees to stay longer in the workforce.

Question 16. The age settings for access to superannuation benefits are:

- (a) 55 years increasing to 60 years for 'preservation age' – when persons may access superannuation if retired; and
- (b) 65 years for unrestricted access to superannuation.

The Australia's Future Tax System Review recommended that the preservation age be raised to 67 years. In what ways, if any, do existing age settings provide incentives for retirement for mature age persons, rather than continued workforce participation? What changes should be made to address these incentives?

Answer: If an unemployed person has not yet reached preservation age, their superannuation assets are not included in the assets test for Newstart. However, once they have reached preservation age, their assets are counted in the Newstart assets test and usually that makes them ineligible for Newstart. What usually happens is that when people over preservation age lose their jobs, they start accessing their superannuation because they cannot get Newstart.

While increasing the preservation age to 67 would in theory encourage longer workforce participation, it would lead to a greatly increased expenditure on Newstart (assuming that the age limit for Newstart also increased to 67), and would provide a further reason for delaying the long overdue introduction of wage-based indexation for Newstart.

Question 17. In practice, how do the 'transition to retirement' rules encourage continued mature age participation in the workforce? What changes, if any, should be made to these rules to encourage continued workforce participation?

Answer: There is no provision for 'transition to retirement' with the Public Sector Superannuation Scheme (PSS). PSS members would like to have that option. Commonwealth Superannuation Scheme (CSS) rules do provide for transition to retirement, and in the ACT about 8% of CSS pensioners have taken advantage of that option (based on a 2006 survey of SCOA members).

Question 18. In practice, do persons of preservation age have sufficient access to the 'transition to retirement' rules? If not, what measures could improve such access?

Answer: See answer to previous question.

Question 19. What changes, if any, should be made to the taxation of superannuation benefits to remove barriers to work for mature age persons?

Answer: Treat Commonwealth superannuation pensions as a separate head of taxation and allow them access to Pre-1988 Funding Credits. CSS and PSS pensioners are being double taxed on their accrued pension benefits prior to July 1988 due to the failure to allow Pre-1988 Funding Credits to be applied to CSS and PSS pension benefits.

Question 20. What changes, if any, should be made to superannuation laws, including tax laws, to remove barriers to mature age participation in the workforce?

Answer: Treat Commonwealth superannuation pensions as a separate head of taxation.

Question 27. Do the rules concerning the retention of concession cards act as a barrier to mature age participation in the workforce or other productive work? In what ways, if any, could these rules be improved?

Answer: The inclusion of salary sacrificed superannuation contributions in the adjusted taxable income test for the Commonwealth Seniors Health Card acts a barrier to workforce participation by people who have to take prescription medication for a chronic condition, such as high blood pressure or arthritis. This particularly affects Commonwealth superannuation pensioners, since their pensions are also included in adjusted taxable income test. There are presently more than 200,000 Commonwealth superannuants.

Persons over 60 who have been on the Newstart allowance for 9 months or more can get a concession card. If they find work, they lose their concession card. This is a disincentive to employment. However, if all workers aged over 60 were given a concession card that they could keep until they stopped working or reached Age Pension age, it would be a powerful incentive for mature age employment.

Recent changes to the income test rules for the Age Pension have caused inconvenience and confusion to part Age Pensioners, particularly the requirement to report income every fortnight and the (fortunately temporary) removal of pensioners' ability to average income over the whole year. In some cases, the changes were not adequately explained and people lost their concession cards because they had taken contracts for longer than 3 months. That should not be allowed to happen again.

Question 34. In what ways, if any, can the practices of private recruitment agencies be regulated to remove barriers to mature age employees entering or re-entering the workforce?

Answer: Detailed reasons for rejection should be provided in writing.

Question 35. Should S 65 of the *Fair Work Act 2009* (Cth) be amended to include age as a basis upon which an employee may request flexible working hours?

Answer: Yes. A survey quoted in an article on page 9 of the *Australian Financial Review* of 8 June said that 40% of women aged between 45 and 54 are quite happy to do part-time work and do not want full-time work. This is often because of family responsibilities (childcare, care of aged parents, etc). Some men in the same age group might also prefer flexible working hours for similar reasons.

Question 37. In practice, how effective are the general protections provisions under the *Fair Work Act 2009* (Cth) where a mature age employee, or prospective employee, has been discriminated against on the basis of age?

Answer: Section 351 of the *Fair Work Act* (2009) says that:

"(1) An employer must not take adverse action against a person who is an employee, or prospective employee, of the employer because of the person's race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin. Note: This subsection is a civil remedy provision.

(2) However, subsection (1) does not apply to action that is:

(a) not unlawful under any anti-discrimination legislation law in force in the place where the action is taken; or

(b) taken because of the inherent requirements of the particular position concerned;

or..."

It appears that this provision is not particularly effective in practice, because many members of our association have complained of age discrimination. No doubt an employer can frame the inherent requirements of a particular position in such a way as to make it appear that older prospective employees would not be able to satisfy those requirements.

Question 43. What measures involving regulation and monitoring, if any, should be introduced to ensure:

- (a) employers are responsive to the needs of mature age employees; and
- (b) mature age employees are actively involved in developing and implementing such measures?

Answer: Employers should be obliged to provide a working environment that is safe for mature age workers. There should be minimum requirements for lighting, ease of access, size of computer screens (would depend on type of work to be done), heating (and cooling) and air quality. Also, as many are part-time carers, hours of work compatible with their carer responsibilities need to be recognised and provided.

In addition, where possible, employers should provide facilities suitable for workers with some degree of physical incapacity, such as handicapped parking places, doorways wide enough for wheelchairs, etc.

Question 47. Should volunteers be eligible for workers' compensation at a Commonwealth level or is current state and territory coverage sufficient?

Answer: Yes. See answer to next question.

Question 48. In what ways, if any, should retirement provisions in Commonwealth workers' compensation legislation be amended? For example, are any of the following approaches appropriate:

- (a) removing all age based restrictions;
- (b) removing all age based restrictions, but imposing benefit period or amount restrictions; or
- (c) increasing the age at which compensation is no longer payable to age 67, except in certain circumstances?

Answers:

- (a) No, it would cost too much
- (b) & (c) See below.

People aged over 65 are less likely to suffer injuries than younger people. However, when they do get injured, they take longer to recover so they cost more. Queensland and Western Australia provide workers' compensation coverage for those aged 65 and over, but pay them compensation for only 12 months if they are injured after the age of 65. People will be more prepared to volunteer if they know that they are covered by workers' compensation. However, their employer might have to pay higher workers' compensation premiums if they take on older workers, which might make them less likely to do so.

The Commonwealth, the other states and the territories all provide workers' compensation only to those under 65, and the age for cessation of payments is 65 years, a limit originally set because it was the male Age Pension age.

SCOA believes that the Commonwealth should provide workers' compensation on the same basis as in Queensland and W.A., but replace age 65 with age 67. The schemes in the other states and territories are inadequate.

Question 49. What changes, if any, should be made to the Commonwealth workers' compensation scheme to remove barriers to mature age participation in the workforce or other productive work?

Answers:

1. The Commonwealth workers' compensation scheme should be amended to provide for contributions to a real superannuation fund. At present, 5% is deducted from the workers' compensation payment for a notional superannuation contribution that is not paid into any fund. It borders on fraud and would be treated as such by any Government if a private sector employer did it.

2. If an injured worker takes a lump sum, then interest is calculated at the long-term bond rate on the full value of the lump sum (including any tax deducted) and deducted from the workers' compensation payment. It would be fairer to institute annual income and assets tests like those for the Age Pension so that people are no longer being penalised for notional interest on money that they have already spent.

3. At present, income from COMCARE payments is deducted from Centrelink payments on a dollar for dollar basis, unlike other income. This can adversely affect those with dependent children. Income from COMCARE payments should be treated in the same way as other income for Centrelink purposes.

Question 50. In what ways, if any, do age-based limitations and higher premiums for insurance policies for mature age persons act as a barrier in the workforce and other productive work?

Answer: Some volunteer organisations (such as pony clubs) have insurance policies that only cover volunteers up to a certain age, so they turn away older would-be volunteers who are quite fit enough to do the work. Other organisations accept older volunteers, but if the volunteer work involves overseas travel (for example providing aid to refugees), older volunteers may have problems obtaining travel insurance or have to pay higher premiums, which can be a disincentive. It is illegal for health funds to refuse membership due to age and that principle should apply universally to all insurance policies.

Question 51. In what ways, if any, should the insurance industry be regulated to address barriers to mature age participation in the workforce or other productive work? For example:

- (a) Should insurance industry Codes of Practice be amended to encourage or mandate the removal or extensions of age-based limitations on insurance policies?
- (b) Should a regulatory framework be introduced to ensure that age-based limitations on insurance policies are appropriate?

Answers:

- (a) Don't know.
- (b) Yes.

Question 52. What other changes, if any, should be made to insurance laws to remove barriers to mature age participation in the workforce or other productive work?

Answer: Not all insurance is provided by the insurance industry. Some large businesses may self-insure and some small businesses such as caravan parks may use insurance trusts that do not appear to be subject to regulation at present. Is there some way that these other forms of insurance can be regulated?