



Superannuated
Commonwealth
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Professor Rosalyn Croucher
Australian Law Reform Commission
Level 40, 19 Martin Place
SYDNEY NSW 2000

Dear Professor Croucher

INQUIRY INTO AGE BARRIERS TO WORK IN COMMONWEALTH LAWS

I attach the Superannuated Commonwealth Officers' Association's submission into the Australian Law Reform Commission's inquiry into age barriers to work in Commonwealth Law for the Commission's consideration.

Yours sincerely


Anne Willenborg
FEDERAL SECRETARY



Superannuated Commonwealth Officers' Association
Building a secure retirement

Submission to Australian Law Reform Commission Inquiry

Grey Areas – Age Barriers
to Work in Commonwealth Laws (IP 41)

13 June 2012

About The Superannuated Commonwealth Officers' Association (SCOA)

For over 85 years SCOA has represented the interests of:

- Retired Australian and Territory Government employees and Government business enterprise employees;
- People in the public service who will receive a Commonwealth superannuation benefit or lump sum on retirement;
- Former employees who have deferred (preserved) their pension entitlement; and
- The dependants of all of the above.

SCOA participates in Government reviews and committees and makes submissions regarding legislative reform on retirement income, compensation, taxation, concessions, health and ageing. SCOA assists individual ComSuper and Comcare clients to receive their correct entitlements.

SCOA has made a number of submissions to Government inquiries notably to:

- The Matthews Review of Pension Indexation Arrangements in Australian Government Civilian and Military Superannuation Schemes;
- the Harmer Pension Review;
- the Henry Tax Review; and
- The Cooper Review of Superannuation.

All SCOA submissions have pointed out the need for the Government to develop a comprehensive and coherent retirement incomes policy which simplifies current arrangements and which ensures that those receiving the Age Pension and public sector pensions are able to maintain their purchasing power.

Response to the Questions in the Discussion Paper

Question 3. In what ways, if any, should the means test for the Age Pension be changed to remove barriers to mature age participation in the workforce or other productive work?

Answer: The present income test taper rate of 50c in the dollar acts as a disincentive to workforce participation because it represents an effective marginal tax rate of at least 50% on any income earned from working. SCOA suggests that an income test taper rate of 40% would be less of a disincentive, and would also enable those unable to work who have CPI-indexed defined benefit pensions (such as the CSS and the PSS) to obtain more of the benefit of wage-based indexation enjoyed by those receiving the Age Pension. SCOA does not see any need to change the assets test for the Age Pension.

SCOA also suggests that it would be very desirable to raise and index the income limits for the Commonwealth Seniors Health Card (CSHC). Those limits, \$50,000 for singles and \$80,000 for couples, have remained the same for the past ten years. Now if people subject to the income test lose their Age Pension as a result of working, they can apply for the CSHC, which provides some of the same benefits, such as cheaper prescriptions that are particularly valuable for those with expensive chronic health conditions such as arthritis, enabling them to keep working. But it will not be long before the income limits for the Age Pension reach the limits for the CSHC, and then such people will have to pay full price for their prescriptions when they lose access to the Age Pension.

Question 4. In what ways, if any, should the Pension Bonus Scheme be changed to remove barriers to mature age participation in the workforce?

Answer: The main drawback of the scheme is that it involves keeping lots of records for a long time to end up with a comparatively small bonus. It also makes extra work for Centrelink staff. In addition, if a person in this position cannot obtain full-time work, but only part-time work, they might well be better off getting a part Age Pension, particularly if they have health problems, because then they can get a health card.

We suspect that the Pension Bonus Scheme was discontinued when the income test taper rate was raised to 50c in the dollar because the attractiveness of the part Age Pension would have decreased and more people would have chosen to take part in the scheme, which would have cancelled out some of the savings from increasing the taper rate.

Question 5. How effective has the Work Bonus been in removing barriers to work for mature age persons? In what ways, if any, could it be improved?

Answer: The Work Bonus is a simpler, more appealing scheme than the Pension Bonus scheme and should be left more or less as it is, but with wage-based indexation of the maximum amount to maintain its real value.

Question 6. In what ways, if any, can the complexity of the tax-transfer system be minimised to remove barriers to mature age participation in the workforce?

Answer: The earnings of Commonwealth superannuation pensioners, paid out of an untaxed fund, are taxed at their marginal tax rate. Account-based pensions are not taxed because they are paid from taxed funds, so the earnings of people with account-based pensions are already taxed 'starting from zero', as Peter Costello said in his Budget speech.

The most effective method of minimising barriers to mature age participation in the workforce would be to make Commonwealth superannuation pensions a separate head of taxation as was unanimously recommended by a Senate Committee in 2006. That would allow the earnings of Commonwealth superannuants to be taxed 'starting from zero'. There would be a small loss of income tax revenue, but many Commonwealth superannuation pensioners would no longer have to submit an income tax return, so there would be administrative savings, and, since it would encourage people to do part-time work and save more, future savings in Age Pension payments.

In addition, making Commonwealth superannuation pensions a separate head of taxation would mean that they would not be included in the taxable income, like account-based pensions, so that all older Australians would have equal access to the Commonwealth Seniors Health Card. Note that it would not affect eligibility for the Age Pension.

A very effective method of reducing the complexity of the tax-transfer system would be to give the Age Pension to all persons above Age Pension age (or some higher age, say 5 years later) without a means test. That is done in New Zealand, the Netherlands, and other countries, and was the case in Australia in the second half of the 1970s. Some people may still give up work once they can receive the Age Pension (they would mostly be manual workers with health problems), but most people would prefer to keep on working if they were given favourable income tax treatment such as the Senior Australians and Pensioners Tax Offset (SAPTO),

It should be noted that when the Commonwealth Superannuation Scheme (CSS) was introduced in 1976, retirees could access the Age Pension with a means test at 65, but there was no means test once they reached 70. That was, no doubt, one of the reasons why the CSS was indexed by the Consumer Price Index (CPI). Another reason was because at that time the Age Pension was also indexed by the CPI.

With the changes to the income tax system introduced in 2012-13, single Age Pensioners with no other income will not have to pay income tax in future. That is a valuable step in the right direction.

Question 7. In what ways, if any, do the tax exemptions for social security payments affect mature age participation in the work force?

Answer: These exemptions could affect mature age participation in the work force, particularly of carers. In many cases, it is desirable for carers to maintain some attachment to the work force so that they can maintain their contacts and their skills, in case it becomes necessary for the care receiver to go into a nursing home, at which point the carer will no longer be eligible for the carer payment and may need to return to full-time work.

Question 8. A number of tax offsets are available to encourage mature age participation in the workforce including the Senior Australians Tax Offset, Pensioner Tax Offset, Low Income Tax Offset, and the Mature Age Worker Tax Offset.

(a) In what ways, if any, might these offsets be improved to encourage participation?

Answer: The ATO has failed to provide adequate information about these offsets and over the years has increased the complexity of the adjusted taxable income test. The ATO should provide information written in simple language in timely fashion, with worked examples. Some of the information is available only on websites, which does not help those older people who do not have access to a computer or a smart phone.

(b) The Australia's Future Tax System Review recommended that these tax offsets be removed. What disincentives would this create for mature age participation in the workforce?

Answer: If these tax offsets were removed, CSS and Public Sector Superannuation Scheme (PSS) pensioners returning to part-time work would be more disadvantaged than those with account-based pensions, because CSS and PSS pensions are taxed so they have to pay tax on any earned income at their marginal tax rate. That would be a disincentive to workforce participation.

Question 9. What changes, if any, should be made to income tax laws to remove barriers to mature age participation in the workforce and other productive work?

Answer:

- Make Commonwealth superannuation pensions a separate head of taxation. The average Commonwealth superannuation pension was only \$28,800 in 2010-11.
- Make the 10% tax offset on Commonwealth superannuation pensions into a rebate, like the rebate for imputed tax credits. That would benefit only those with low incomes, and would allow Commonwealth superannuation pensioners in the income range \$30,000 to \$38,000 to receive compensation for the price on carbon (they do not receive any now).

Question 10. What changes, if any, should be made to the Superannuation Guarantee scheme, to remove barriers to work for mature age persons?

A number of employers regard salary for superannuation guarantee purposes as the cash salary paid to the employee after deducting any amount for salary sacrifice. This reduces the amount of the superannuation guarantee paid by the employer if the employees elects to salary sacrifice part of their salary to superannuation in addition to the superannuation guarantee. Salary for superannuation guarantee purposes should be based on total remuneration, not the cash component of the salary.

Question 11. The *Superannuation Industry (Supervision) Regulations 1994* (Cth) prescribe age-based restrictions on voluntary contributions. Members cannot:

- (a) make voluntary contributions from age 65 until age 75 unless they meet a work test; or
- (b) make voluntary contributions from age 75.

What effect do these restrictions have on mature age participation in the workforce? What changes, if any, should be made to these regulations to remove barriers to work for mature age persons?

Answer: The work test encourages workforce participation between the ages of 65 and 75. The absence of a work test at younger ages (say between 55 and 64) means that people between those ages can make contributions to superannuation without a work test, so have less incentive to keep working. If Australia had a severe labour shortage, a work test could also be introduced for people aged between 55 and 64.

Often people feel that they are ready to retire when they reach 55, when all they need is a good holiday. Many of those who take early retirement soon discover that they miss working, but it is often hard for them to get back into the workforce if they have not already made plans. A work test for people between 55 and 64 would encourage people to maintain some attachment with the workforce.

Note that some defined benefit superannuation schemes were designed to encourage workers to retire at age 55 to maximise their benefits. This means that those retiring between the ages of 55 and 65, as many do, are disadvantaged if they wish to work and contribute further toward their ultimate retirement income. It is contrary to successive Government's wishes for work participation by senior Australians.

Question 12. The *Superannuation Industry (Supervision) Regulations 1994* (Cth) prescribe age-based restrictions in relation to members splitting contributions with a spouse and making contributions to a spouse's fund. Members cannot:

- (a) split contributions for a spouse aged 65 and over;
- (b) split contributions for a retired spouse of preservation age and over;
- (c) make spouse contributions for a spouse age 70 and over; or
- (d) make contributions for a spouse aged 65 but under 70 unless the spouse meets a work test

Answer: Members of the CSS and PSS cannot split contributions with their spouse except as part of divorce proceedings. However, members of those funds can make spouse contributions to other funds. Age-based restrictions in relation to splitting should be amended to bring them into line with any changes in the preservation age or Age Pension age that may occur.

Question 13. In what ways, if any, does the age restriction for government co-contributions in the Superannuation (Government Co-contribution for Low Income Earners) Act 2003 (Cth) create barriers for mature age persons? What changes should be made to the Act to remove such barriers?

Answer: The proposal to lift the age entitlement for the government co-contribution to age 75 would provide an incentive for people to stay in the workforce. However, the removal of the upper age limit for entitlement to co-contributions would be a further incentive for older Australians to remain in the workforce.

In addition, the freezing of the threshold and reduction in the amount of co-contributions for 2012-13 are disincentives for Australians to remain in the workforce.