

**Ms Sabina Wynn**  
Executive Director  
Australian Law Reform Commission  
GPO Box 3708  
SYDNEY NSW 2001

Dear Ms Wynn

**Submission to Australian Law Reform Commission's Issues paper on  
Grey Areas – Age barriers to work in Commonwealth Laws**

I am writing to inform the Australian Law Reform Commission (ALRC) of Safe Work Australia projects addressing barriers to work for older people. This information may be useful to the ALRC's inquiry into how Commonwealth legislation and related legal frameworks directly or indirectly impose limitations or barriers to discourage older persons from participating or continuing to participate in the workforce or other productive work.

The ALRC's issues paper notes many of the relevant activities being undertaken by Safe Work Australia in relation to older workers. I would like to provide additional information on activities underway in relation to the *Australian Work Health and Safety Strategy 2012-2022* (the Australian Strategy), work health and safety policy and workers' compensation.

***Australian Work Health and Safety Strategy 2012-2022***

Public comment on the draft Australian Strategy has now closed and a final draft of the Australian Strategy was approved by Safe Work Australia Members on 6 June 2012. The Australian Strategy is scheduled to be considered by the Select Council on Workplace Relations in July 2012 for endorsement.

The Australian Strategy is underpinned by two key principles. Firstly that all workers regardless of their occupation or how they are engaged have the right to a healthy and safe working environment and secondly that well designed, healthy and safe work will allow workers in Australia to have more productive working lives.

National activities will be developed in consultation with key stakeholders to address specific issues for a range of vulnerable workers including mature age workers. These activities will aim to eliminate or minimise hazards by improving the design of structures, plant, substances, work and work systems. Activities to improve work health and safety capabilities will help managers and others understand and design work and work systems to accommodate the abilities, diversity and vulnerabilities of all Australian workers.

Research undertaken by Safe Work Australia typically includes age as an analysis variable. This information informs the development of related national policy, practice and programs. Through its emerging issues surveillance program Safe Work Australia also monitors relevant national and international research including those relating to changing workforce demographics.

## **Work health and safety policy**

In 2008 the Council of Australian Governments agreed to the development of new Work Health and Safety (WHS) laws to be adopted by all Australian jurisdictions.

The model WHS Act and Regulations were developed by Safe Work Australia in consultation with the Commonwealth, state and territory governments, unions, employer and business representatives. The new WHS laws have been implemented by five Australian jurisdictions to date—the Commonwealth, Queensland, New South Wales, the Northern Territory and the Australian Capital Territory. The laws will commence in Tasmania on 1 January 2013 and are anticipated to commence in South Australia and Western Australia in 2013. Victoria has announced that it will not enact the model WHS laws in their current form.

The main duty of a person conducting a business or undertaking (PCBU) in the model WHS laws is to ensure, so far as is reasonably practicable, the health and safety of workers when carrying out work. Part of this duty requires PCBUs to manage health and safety risks which includes assessing whether workers are fit to carry out their work and putting in place controls to ensure work can be carried out safely.

## **Workers' compensation**

Section 6 of the *Safe Work Australia Act 2008* (C'th) requires Safe Work Australia to develop proposals relating to harmonising workers' compensation arrangements across the Commonwealth, states and territories and workers' compensation arrangements for employers with workers in more than one of those jurisdictions.

In December 2010, Safe Work Australia released its National Workers' Compensation Action Plan 2010-13 (Action Plan) that is available on our website. Action Area 6 of the Action Plan is concerned with investigating and reporting on options for nationally consistent definitions for the purposes of workers' compensation.

A response to recommendation 42 of the 2007 Older People and Law report has also been included in the Action Plan. It recommends the Australian Government in cooperation with state and territory governments review the application of workers' compensation legislation to ensure older workers are not disadvantaged.

Safe Work Australia is currently developing policy options to address retirement age in workers' compensation laws to reflect the increasing age pension eligibility age and to remove barriers that stop older people working.

Changes to the aged pension age have the potential to increase disparities between jurisdictional workers' compensation arrangements. Safe Work Australia views addressing age issues in workers' compensation as a priority and is developing policy options to balance reducing barriers for older workers with ensuring that entitlements for the wider work force are not reduced.

Safe Work Australia is currently developing an options paper for alignment or removal of the age limit to address age discrimination and avoid income gaps for older workers. This will be considered in late 2012. The options paper will take into consideration the views of governments, employers and workers through representation at the working group level.

Further information about Safe Work Australia and its projects on work health and safety and workers' compensation can be found on our website at: [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. J. Hoy', written in a cursive style.

Rex Hoy  
Chief Executive Officer  
Safe Work Australia

14 June 2012