



# **Grey Areas - Age Barriers to Work in Commonwealth Laws**

*Supplementary Submission to the Australian Law Reform*

*Commission Issues Paper*

Prepared by:  
Job Watch Inc's Legal Practice and  
Martin Davis (Volunteer)

Job Watch Inc  
Level 10, 21 Victoria Street, Melbourne 3000  
Ph (03) 9662 9458  
Fax (03) 9663 2024  
[www.JobWatch.org.au](http://www.JobWatch.org.au)  
Email: [admin@JobWatch.org.au](mailto:admin@JobWatch.org.au)

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## Introduction

JobWatch welcomes this opportunity to make a further submission on the Australian Law Reform Commission's (ALRC's) proposals in regards to 'Grey Areas — Age Barriers to Work in Commonwealth Laws (IP41)'.<sup>1</sup> Whilst JobWatch supports any recommendations that improve the lives of older workers, and workers generally, including the ALRC's proposals contained in 'Grey Areas — Age Barriers to Work in Commonwealth Laws (DP78)',<sup>2</sup> JobWatch believes this is a vital opportunity to maximise legislative reform and to implement measures to significantly improve the lives of older workers. To that end, JobWatch proposes to restate its recommendations contained in its previous submission, compare each of its previous recommendations to the relevant ALRC proposals and then comment on those ALRC proposals.

## Summary of Recommendations

### JobWatch Recommendation 1:

There should be a combination of incentive schemes, codes of conduct and education backed by civil penalty provisions

### JobWatch Recommendation 2:

Not only should section 65 be extended to apply to older workers but there should also be some meaningful enforcement mechanisms

### JobWatch Recommendation 3:

There should be some form of enforcement mechanism where an employer unreasonably refuses to negotiate an IFA

### JobWatch Recommendation 4:

Steps should be taken to ameliorate the current deficiencies in the general protections, for example, by requiring employers to make reasonable adjustments to accommodate a worker's mature age

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<sup>1</sup> Australian Law Reform Commission, 'Grey Areas — Age Barriers to Work in Commonwealth Laws (IP41)' (Australian Law Reform Commission, 1 May 2012), <[http://www.alrc.gov.au/sites/default/files/pdfs/publications/whole\\_ip\\_41.pdf](http://www.alrc.gov.au/sites/default/files/pdfs/publications/whole_ip_41.pdf)>.

<sup>2</sup> Australian Law Reform Commission, 'Grey Areas — Age Barriers to Work in Commonwealth Laws (IP78)' (Australian Law Reform Commission, 2 October 2012), <[http://www.alrc.gov.au/sites/default/files/pdfs/publications/whole\\_78\\_0.pdf](http://www.alrc.gov.au/sites/default/files/pdfs/publications/whole_78_0.pdf)>.

#### JobWatch Recommendation 5:

There should be some form of enforcement mechanism where an employer unreasonably refuses to negotiate an IFA

#### JobWatch Recommendation 6:

Compulsory retirement schemes should be abolished

#### JobWatch Recommendation 7:

Education, training and other awareness-raising measures should be enhanced

#### JobWatch Recommendation 8:

Changes should be made to the *Fair Work Act 2009 (Cth)*, the *Equal Opportunity Act 2010 (Vic)* and the *Long Service Leave Act 1992 (Vic)* so as to:

- (i) provide an obligation on employers to make reasonable adjustments for mature age employees; and
- (ii) allow for accrued entitlements to be paid out to mature age employees upon termination of employment on the basis of their average working hours throughout their employment (or at least over the last 10 years)

#### JobWatch Recommendation 9:

Occupational Health and Safety bodies should develop a kit for older workers and employers

## ALRC's questions

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

#### JobWatch Recommendation 1:

*There should be a combination of incentive schemes, codes of conduct and education backed by civil penalty provisions*

**ALRC Proposal 2–1** The Fair Work Ombudsman should undertake a national recruitment industry campaign to educate and assess the compliance of recruitment agencies with workplace laws, specifically with respect to practices affecting mature age job seekers and workers.

**ALRC Proposal 2–2** In 2013, the Recruitment and Consulting Services Association of Australia and New Zealand is conducting a review of its Code of Conduct. The review should consider ways in which the Code can emphasise:

- (a) the importance of client diversity, including mature age job seekers;
- (b) constructive engagement with mature age job seekers; and
- (c) obligations under age-related anti-discrimination and industrial relations legislation.

**ALRC Proposal 2–3** In order to assist recruitment agencies and consultants to engage constructively with, and recruit, mature age job seekers, the Australian Human Resources Institute and the Recruitment and Consulting Services Association of Australia and New Zealand should:

- (a) develop and provide regular, consistent and targeted education and training for recruitment consultants; and
- (b) develop a range of guidance material.

**ALRC Proposal 2–4** The Australian Human Resources Institute and the Recruitment and Consulting Services Association of Australia and New Zealand should promote and recognise best practice in the recruitment of mature age workers, for example through their annual workplace awards.

**JobWatch endorses the ALRC recommendations however also adds that in conjunction with Fair Work Ombudsman’s educative and compliance roles that civil penalty provisions should be introduced for private recruiting agencies that discriminate against mature age workers. Please refer to JobWatch’s initial submission in June 2012 where the following was submitted:**

*Existing federal and state anti-discrimination laws prohibit discrimination on the basis of age in certain situations – including recruitment and offers of employment, and against certain classes of people – workers, commission agents and contract workers. However, although it is unlawful for recruitment agencies to discriminate against older workers both through their own practices or by following discriminatory employer requests, many employers and recruitment agencies do not know or understand their legal obligations.*

*One of the main problems with anti-discrimination law is that it is an individual complaints driven system. Therefore, a federal government agency should be*

*empowered to prosecute breaches of anti-discrimination legislation and to seek civil penalties.*

*JobWatch believes that the practices of private recruitment agencies could be further regulated by the implementation of codes of conduct, guidelines or minimum standards which could provide guidance about constructively engaging with and finding older workers employment.*

*For example, a reporting framework similar to that administered by the Equal Opportunity for Women in the Workplace Agency, which would require employers and recruitment agencies to report against equality indicators related to age, or a code of ethics and professional conduct to establish the professional and ethical conduct expected by the private recruitment industry, such as that for members of the Australian Human Resources Institute.*

*Alternatively, another regulatory approach would be to require the recruitment industry to comply with licensing requirements under a federal licensing regime, such is the case in other industries which provide services to the public. One such requirement could be for workers (including those in managerial and supervisory positions) and directors of private recruitment agencies to undertake regular training and education on their statutory obligations regarding age discrimination, which should include addressing stereotypes of older workers and providing education regarding the benefits older workers bring to the workplace. The federal government (via the Department of Education, Employment and Workplace Relations (DEEWR) or the Fair Work Ombudsman (FWO)) could conduct random audits to monitor compliance.*

*Additionally, to promote the employment of older workers, recruitment agencies could be given formal public recognition. Such recognition could be modelled on the annual awards and 'employer of choice' lists compiled by the federal government's Equal Opportunity for Women in the Workplace Agency, or the DEEWR's incentive scheme for 'Corporate Champions' (consisting of a package of tailored support), for employers who make a public commitment to move toward better practice in employing mature age people. The federal*

*government could also give an incentive payment to recruitment agencies who find employment for older workers (a similar scheme for employers has recently been implemented by the federal government from 1 July 2012<sup>3</sup>), with the addition of a new payment being given for each year an older workers remains in that employment.*

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

**JobWatch Recommendation 2:**

***Not only should section 65 be extended to apply to older workers but there should also be some meaningful enforcement mechanisms***

**ALRC Proposal 2–5** The Australian Government should amend s 65 of the *Fair Work Act 2009* (Cth) to extend the right to request flexible working arrangements to all employees who have caring responsibilities.

**JobWatch endorses the ALRC recommendation but adds that s 65 should also contain a civil remedy provision under Part 4(1) so that a worker’s right to request a flexible working arrangement is enforceable. Please refer to JobWatch’s initial submission in June 2012 where the following was submitted:**

*Under section 65 of the Fair Work Act 2009 (FW Act), only workers (with the requisite 12 months service) who are the parent of or have responsibility for the care of a child under school age (or under 18 with a disability) may request a change to their working arrangements.*

*JobWatch believes that this right should be extended to put comparable obligations on employers of older workers, and also workers with caring responsibilities generally. This would enable older workers to request flexible working arrangements in the years leading up to retirement, if they do not want to stop working but need to make some changes to their working arrangements, such as reducing their working hours or converting to part time or casual*

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<sup>3</sup> Under this scheme administered by the Department of Education, Employment and Workplace Relations, a ‘jobs bonus’ of \$1000 will be available to employers who recruit an eligible mature age job seeker, aged 50 years or over.

*employment or changing their place of work due to their carer's responsibilities or because of age related factors.*

*There is also a significant problem with this National Employment Standard (NES) being that there are none or very limited enforcement mechanisms available. As it stands, section 65 merely provides a right to request flexible work arrangements and to receive a written response. Currently, the FWO does not formally investigate an alleged contravention of section 65 of the FW Act, a possible exception being where an employer has not provided a written response within 21 days. However, the reality is that even if a contravention letter or compliance notice is issued, the FWO is not able to escalate the matter further where an employer does not respond or take steps to comply with the FW Act, except possibly to seek a civil penalty (i.e. a fine) for failure to provide written reasons.*

*Further, the worker's right to request flexible working arrangements under section 65 of the FW Act is not a civil remedy provision under Part 4(1), meaning that it is not enforceable. This essentially means that the alleged right has no legal effect because an individual or the FWO is not able to commence proceedings in relation to a contravention or to seek a civil penalty against the employer.*

*Therefore, not only should section 65 be extended to apply to older workers and all workers with carer's responsibilities but there should also be some meaningful enforcement mechanisms and not merely a right to request flexible working arrangements.*

**Question 36. In practice, do mature age workers negotiate individual flexibility arrangements made under s 202 of the Fair Work Act 2009 (Cth)? Are such arrangements a useful and appropriate flexibility mechanism for mature age workers?**

**JobWatch Recommendation 3:**

***There should be some form of enforcement mechanism where an employer unreasonably refuses to negotiate an IFA***



**ALRC Proposal 2–6** The Fair Work Ombudsman should develop a guide to negotiating and implementing flexible working arrangements for mature age workers, in consultation with unions, employer organisations and seniors organisations.

**Question 2–1** In what ways, other than through changes to the *Fair Work Act 2009* (Cth), should the Australian Government develop or encourage flexible working arrangements for mature age workers?

**JobWatch endorses the ALRC recommendation that the Fair Work Ombudsman develop a best practice guide for employers and employees in regard to flexible working arrangements for mature age workers in consultation with unions, employer and seniors organisations. JobWatch recommends that if the employer unreasonably refuses to negotiate an IFA that this should be a breach of civil remedy provision under the *Fair Work Act 2009* (Cth) (FW Act) so that a worker’s right to request a flexible working arrangement is enforceable. Please refer to JobWatch’s initial submission in June 2012 where the following was submitted:**

*JobWatch supports the concept of individual flexibility arrangements (IFAs), as they provide a mechanism for greater flexibility by allowing employers and individual workers to make arrangements which vary the effect of the modern award or enterprise agreement, to meet both of their needs, so long as the worker is better off overall. However, JobWatch is not able to comment on this question as it is not aware of any older workers who have negotiated (or attempted to negotiate) IFAs under an enterprise agreement or modern award.*

*Nevertheless, JobWatch cannot envisage any circumstances where it would be beneficial for older workers to use an IFA, which wasn't already covered by the protections that exist under anti-discrimination laws concerning disability and family/carers responsibility discrimination (for example, reasonable adjustments and requests for flexible work arrangements).*

*Additionally, some vulnerable, older workers may not be able to or be in a position to negotiate an IFA, or may be hesitant to attempt to do so for fear of negative consequences. Regardless, if an employer refuses to negotiate an IFA with an older worker, there is no further action the older worker can take under the FW Act.*

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

**JobWatch Recommendation 4:**

***Steps should be taken to ameliorate the current deficiencies in the general protections, for example, by requiring employers to make reasonable adjustments to accommodate a worker's mature age***

**Question 2–2** There is substantial overlap between the general protections provisions under the *Fair Work Act 2009 (Cth)* and Commonwealth anti-discrimination legislation. In what ways, if any, could this legislation be amended to improve or clarify their interaction in circumstances of age discrimination?

**The following was submitted by JobWatch's initial submission in June 2012 which outlines six points where the *Fair Work Act 2009 (Cth)* general protection provisions are not effective:**

***JobWatch is not aware of any Federal Court or Federal Magistrates Court decisions under the general protections provisions regarding age discrimination. This is in contrast to the significant number of Tribunal and Federal Court decisions regarding age discrimination under the state and federal anti-discrimination laws<sup>4</sup>.***

***However JobWatch believes that the general protections provisions are generally effective in protecting workers from age discrimination.***

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<sup>4</sup> For example between 2007 and 2011, there were at least 5 age discrimination matters heard under the Age Discrimination Act 2004 (Cwth) and between 2002 and 2010, there were at least 7 age discrimination matters heard under the Victorian Equal Opportunity Act 1996 (now the Victorian Equal Opportunity Act 2010).

*The provisions are effective for the following reasons:*

- 1. under the FW Act, there is a reverse onus of proof in that it is presumed that the action was taken for the alleged prohibited reason unless the Respondent proves otherwise;<sup>5</sup>*
- 2. the unlawful or discriminatory reason only needs to be part of the reason for the adverse action, that is for the purposes of the provisions, a person takes adverse action for a particular reason if the reasons for the action include that reason;<sup>6</sup>*
- 3. the FWO has enforcement powers in that it is able to take on discrimination matters under the general protections provisions; and*
- 4. the cost implications of using the jurisdiction, in that each party bears their own costs in relation to a matter under the general protections provisions (except in certain circumstances) as opposed to, for example, the regime under federal anti-discrimination legislation where costs generally follow the event.*

*The provisions are not effective for the following reasons:*

- 1. they do not make it clear that it is unlawful to discriminate both directly and indirectly as they do not make a distinction between the two forms of discrimination as opposed to state and federal anti-discrimination laws;*
- 2. exceptions apply as under state and federal anti-discrimination laws as the protection from discrimination does not apply to action that is not unlawful under any other anti-discrimination law;<sup>7</sup>*
- 3. there is an inherent requirements defence for employers, that is, it is not unlawful to take adverse action against a worker where the action was taken because of the inherent requirements of the particular position,<sup>8</sup> but there is no requirement for the employer to first make reasonable adjustments to accommodate a worker's mature age;*
- 4. the procedure for a general protections application is that if settlement is not reached at the Fair Work Australia conference, the Applicant must file an application in the Federal/Federal Magistrates Court. This can be*

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<sup>5</sup> Section 361, Fair Work Act 2009 (Cth)

<sup>6</sup> Section 360, Fair Work Act 2009 (Cth)

<sup>7</sup> Section 351(2)(a), Fair Work Act 2009 (Cwth)

<sup>8</sup> Section 351(2)(b), Fair Work Act 2009 (Cwth)

- impracticable and unworkable for workers, particularly where they have a disadvantage and/or cannot afford legal advice or representation;*
5. *it is common for unscrupulous employers to refuse to attend a conference as a litigation strategy. Currently, where a worker who is still employed files a general protections application, FWA has no power to make employers attend conferences or to penalise employers if they do not attend. Therefore employers should be required to attend conferences where “non termination” applications have been filed. FWA should be empowered to make an enforceable order against a respondent for refusing to attend a scheduled conference; and*
  6. *currently under the FW Act, it is unclear whether workers of independent contractors are protected from adverse action resulting from a contravention of the general protection provisions. Section 342 currently provides unclear direction regarding remedies available to workers of independent contractors. Therefore workers hired by independent contractors and who work for a principal/host are not adequately protected. Therefore section 342 should be amended to include provisions to protect workers of contractors from unlawful adverse action by principals.*

**Question 38. How does the operation of the modern award system affect mature age workers and in what ways, if any, can modern awards be utilised or amended to account for the needs of mature age workers?**

**JobWatch Recommendation 5:**

***There should be some form of enforcement mechanism where an employer unreasonably refuses to negotiate an IFA***

**ALRC Proposal 2–7** From 2014, Fair Work Australia will conduct the first four-yearly review of modern awards. In the course of the review, the inclusion or modification of terms in the awards to encourage workforce participation of mature age workers should be considered.

**JobWatch endorses the ALRC recommendation. Please also refer to JobWatch’s initial submission in June 2012 where the following was submitted:**

***JobWatch notes that modern awards must include a ‘flexibility term’, enabling a worker and the employer to make an IFA to vary the effect of the enterprise***

*agreement to accommodate the worker's circumstances. Therefore older workers who are covered by modern awards may negotiate IFAs with their employers, for example, to vary their work arrangements.*

*However as stated above, JobWatch is not able to comment as to whether older workers utilise IFAs under modern awards to accommodate their needs as it is not aware of any older workers who have negotiated (or attempted to negotiate) IFAs under a Modern Award.*

*JobWatch repeats its comments and recommendation made under question 36 regarding the usefulness and practicability of IFAs for older workers.*

**Question 39. A number of compulsory retirement ages and licensing or re-qualification requirements exist in particular industries and professions. In what ways, if any, do these create barriers to mature age participation in the workforce or other productive work? If they do create barriers, should they be changed or are they appropriate?**

**JobWatch Recommendation 6:**

***Compulsory retirement schemes should be abolished***

**ALRC Proposal 2–9** A range of professional associations and industry representative groups are responsible for developing or regulating licensing or re-qualification requirements. The Australian Human Rights Commission should develop principles or guidelines to assist these bodies to review such requirements with a view to removing age-based restrictions in favour of capacity-based requirements.

**ALRC Proposal 2–10** The Australian Government should initiate an inquiry to review the compulsory retirement ages of judicial and quasi-judicial appointments.

**ALRC Proposal 2–11** The Australian Government should initiate an inquiry to review the compulsory retirement ages for military personnel.

**JobWatch endorses the ALRC recommendations and adds that all compulsory retirement schemes in all industries should be abolished. Please refer to JobWatch's initial submission in June 2012 where the following was submitted:**

*JobWatch considers that compulsory retirement schemes are inappropriate as they can create barriers to the participation of older workers in the workforce due to the fact that they are inherently discriminatory and do not take account of individual circumstances. They can also create a negative stereotype of older workers being incompetent or incapable of undertaking paid employment.*

*As a result, JobWatch believes that such schemes should be abolished so that it is the individual worker's choice as to whether and when they retire, so long as they can still undertake the genuine and inherent job requirements after the making of any necessary adjustments.*

*JobWatch believes that adequate safeguards should exist within licensing or re-qualification requirements, as well as standard testing, to discern whether workers are able to perform the inherent requirements of their jobs, so that any potential occupational health and safety or performance issues will be identified and addressed at an early stage. However, JobWatch is of the view that re-qualification requirements and assessments should only relate to a worker's ability to perform the genuine tasks of their particular job after the making of reasonable adjustments to accommodate any disability, regardless of their age.*

**Question 44. What are some examples of employment management best practice aimed at attracting or retaining mature age workers?**

**Please refer to JobWatch's initial submission in June 2012 where the following was submitted:**

*JobWatch believes that employers can attract and retain older workers by providing flexible workplaces including, for example by:*

- a) providing opportunities for part time employment;*
- b) implementing job sharing;*
- c) accommodating flexible work hours (for example, variable start and finish times);*
- d) permitting older workers to work from home; and*

- e) *providing flexible leave options.*

*JobWatch also believes that employers can attract and retain older workers by implementing successful recruitment and management strategies including, for example, by:*

- a) *employing age-friendly job selection processes and staff;*
- b) *carrying out an induction process for older workers when they begin work;*
- c) *encouraging older workers to maintain and develop their skills, knowledge, qualifications and training ;*
- d) *valuing older workers and showing that you appreciate their skills and experience;*
- e) *ensuring occupation health and safety, providing suitable equipment;*
- f) *allowing mature age workers to return to work after retirement;*
- g) *providing alternative, interesting and exciting job opportunities;*
- h) *designing age-friendly job advertisements and making these accessible to older people; and*
- i) *considering the physical and mental needs of older workers.*

**Question 45. What are the most effective ways of raising awareness and providing education and training to remove barriers to mature age participation in the workforce and other productive work?**

***JobWatch Recommendation 7:***

***Education, training and other awareness-raising measures should be enhanced***

**ALRC Proposal 2–12** The Australian Human Rights Commission should coordinate a national education and awareness campaign in support of the workforce participation of mature age persons.

**Question 2–3** Should the Australian Government establish a body or reporting framework with respect to mature age workers similar to that of the Equal Opportunity for Women in the Workplace Agency or its reporting framework? If so, how should such a body or framework operate?

**JobWatch endorses the ALRC recommendation and the creation of an Equal Opportunity for Mature Age Workers in the Workplace Agency. In JobWatch's initial submission on June 2012 the following was submitted which outlines four points to educate and train key stakeholders in raising awareness and to inform of their obligations to assist mature aged workforce participation:**

*JobWatch believes that education, training and awareness-raising measures are important mechanisms that enhance the community's knowledge and understanding of workers' rights and employer's obligations under the law.*

*JobWatch submits that the following measures should be adopted to raise awareness and provide education and training to remove barriers to older workers' participation in the workforce:*

- a) *the federal and state governments across Australia should launch a joint media campaign promoting the benefits of older workers and obligations of employers and workers under discrimination laws and to inform older workers about their rights and recourses they have open to them under legislation;*
- b) *the FWO and the state and federal equal opportunity agencies should increase their educative role to assist employers, recruitment agencies and workers to understand their rights and obligations under federal and state anti-discrimination laws, specifically regarding age discrimination. These agencies and community legal centres should be adequately funded to provide free, on-going community education and training programs;*
- c) *there should be a requirement for all directors and workers of employers and recruitment agencies to attend ongoing education and training programs, specifically targeting age discrimination (as discussed under question 34);*
- d) *educative material should continue to be developed and published to raise awareness of different types of age discrimination amongst older workers and job seekers. For example, the Australian Chamber of Commerce and Industry's publication and campaign, Employ Outside the Box, the educative material released by FWO aimed at assisting older*



*workers to avoid age discrimination at work, and the Victorian Equal Opportunity and Human Rights Commission's recent publication, 'Mature-age workers and the Equal Opportunity Act – know your rights'.*

**Question 46. What other changes, if any, should be made to the employment law framework to remove barriers to mature age participation in the workforce or other productive work?**

Please refer to JobWatch's initial submission in June 2012 where the following was submitted:

*JobWatch believes that the following changes should be made to the employment law framework to remove barriers to older workers' participation in the workforce or other productive work:*

**Recommendation 8:**

**Fair Work Act 2009 (Cth):**

- 8.1** *Section 65 of the FW Act should be extended to mirror section 20 of the EO Act (Vic), which requires employers to make reasonable adjustments for persons with a disability who are offered employment or workers with a disability (which would assist many older workers with health issues in the workplace). This protection should also be extended to older or mature workers generally, who may require adjustments to be made in order to perform the genuine job requirements or who may want flexible working practices, for example, working from home.*
- 8.2** *Additionally, the entitlement to redundancy pay under the NES could be amended so that a worker's ordinary hours of work are averaged over their period of continuous service with the employer on termination of employment. This is so that an older worker who has converted from full-time to part-time will not be disadvantaged if their part-time role is made redundant. It will also encourage older workers to stay in employment.*

Equal Opportunity Act 2010 (Vic):

*Sections 17 and 19 of the EO Act require employers to "accommodate" the parental or carer needs of their workers (including people to whom employment has been offered). Similarly, section 20 of the EO Act requires employers to make "reasonable adjustments" for workers (including people to whom employment has been offered) with a disability.*

*8.3 JobWatch submits that the Victorian Government should consider extending comparable obligations under the Act to employers of older workers. Such obligations would enable older workers to take time off work for the purposes of necessary health checks or to request flexible working arrangements in the years approaching retirement.*

Long Service Leave Act 1992 (Vic):

*Older workers are often encouraged to reduce their working hours rather than give up working altogether. This can mean that older workers lose significant entitlements such as long service leave and severance pay. To address this, the Long Service Leave Act 1992 (and the other State Acts regulating long service leave) could be amended, to preserve the entitlements of older workers who shift from full time to part time work in the years immediately prior to retirement.*

*At present, section 64 of the Act provides that if workers reduce their hours in the 12 months before taking (or being paid out) their long service leave entitlements, then their entitlements will be based on their average hours worked over the preceding five year period. This fails to protect workers who significantly reduce their hours more than 12 months before they retire.*

*8.4 To protect the entitlements of older workers, section 64 could be amended to include workers who reduce their hours within the five years immediately prior to retirement. In these circumstances, their entitlements could be based on their average working hours over the last 10 years of their working lives.<sup>9</sup>*

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<sup>9</sup> This recommendation was made by JobWatch in the Federation of Community Legal Centre's submissions regarding the Inquiry into the Opportunities for Participation of Victorian Seniors (p.9)

## Occupational Health and Safety bodies:

**8.5 Occupational Health and Safety bodies should develop an older workers' occupational health and safety kit for both older workers and employers. The kit would address misconceptions about older persons, ageing and occupational health and safety risks. It could also deal with issues such as work task and job design, work organization and work environment.<sup>10</sup>**

## Conclusion

It is well documented that Australia has an ageing population and, with it, an ageing workforce. In order to maximise productivity and workforce participation, law reform must continue in the areas of employment, age discrimination and related workplace laws so as to maximise opportunities for older workers for the benefit of older workers and the nation as a whole. JobWatch commends the ALRC for its proposals in 'Grey Areas — Age Barriers to Work in Commonwealth Laws (DP78)'. We trust that the recommendations made in this submission will be considered and, where possible, implemented so that legislative change which is of practical and significant benefit to older workers may be achieved.

Please contact Ian Scott of JobWatch's Legal Practice on (03) 9662 9458 if you have any queries about this submission.

Yours sincerely,



Per:  
Job Watch Inc  
Authorised by Zana Bytheway, Executive Director

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<sup>10</sup> S. Bielen 2008, Workplace health and safety and the ageing population, Presentation, *Civil Contractors Federation QLD conference building the workforce of our future 08*, Brisbane. p.21-7