

2012

Review into Commonwealth Legal Barriers to Older Persons Participating in the Workforce or other Productive Work



Submission to the Australian Law
Reform Commission

Submission by:


Australian Shipowners Association

22 November 2012

Introduction

This submission is made on behalf of the Australian Shipowners Association (**ASA**).

ASA represents Australian companies which own or operate:

- international and domestic trading ships;
- cruise ships;
- domestic towage and salvage tugs;
- scientific research vessels; and
- offshore oil and gas support vessels.

ASA also represents employers of Australian and international maritime labour and operators of vessels under Australian and foreign flags.

ASA provides an important focal point for the companies which choose to base their shipping and seafaring employment operations in Australia. The Association provides a range of support services and advice in the areas of ship operations and safety, environment, human resources, workplace practices, government relations, commercial operations, public relations and international direction.

ASA's purpose is to pursue strategic reforms that provide for a sustainable, vibrant and competitive Australian shipping industry and to promote Australian participation in meeting domestic needs for sea transport services and contribution to Australia's international trade to the benefit of Australian shipowners, their customers and the Nation.

In the context of this submission, ASA represents its Members whose operations fall within the Seacare scheme, that being those ships that:

- a) are registered on the Australian General Register; or
- b) are engaged in coastal trade under a general licence as described in the *Coastal Trading (Revitalising Australian Shipping) Act 2012*; or
- c) sail with a majority Australian crew AND have an Australian operator.

Submission

ASA welcomes the opportunity to make a submission to the Australian Law Reform Commission (ALRC) as part of their Review into Commonwealth legal barriers to older persons participating in the workforce or other productive work (Review).

The ALRC has prepared a discussion paper addressing a number of key areas as part of the Review. ASA has a particular interest in the issues discussed in Chapter 3, Work Health and Safety and will confine its submissions to the issues addressed in that Chapter, as identified specifically below.

Proposal 3-5 - The Australian Government should amend the Safety, Rehabilitation and Compensation Act 1988, Military Rehabilitation and Compensation Act 2004 and Seafarers Rehabilitation and Compensation Act 1992 to ensure that retirement provisions are tied to the qualifying age for the pension.

The *Seafarers Rehabilitation and Compensation Act 1992* (Seacare Act) is currently the subject of a review being chaired by Robin Stewart-Crompton and supported by the Department of Education Employment and Workplace Relations (Seacare Review). In this review the scope and necessity for amendment and updating any legislative inconsistencies in the scheme is to be considered. ASA supports a worker's compensation regime applying to seafarers that is consistent with Australian community standards and will be making appropriate submissions in that regard to the Seacare Review.

The Seacare Act has not been subject to significant amendment since its introduction in 1992, although a review was undertaken in 2003. Currently, employer participants in the Seacare Scheme are subject to high premiums (including very high deductible amounts before insurance will be called upon) comparative to most if not all Australian workers compensation regimes. Any amendment which would result in the further disparity in costs of the Seacare scheme with other regimes would not be supported by industry.

However, it is the ASA's position that as far as practicable entitlements under worker's compensation regimes should be consistent. Given that eligibility for the age pension will be gradually increased from 2017¹, ASA considers that 'retirement provisions' as they currently

¹ <http://www.humanservices.gov.au/customer/enablers/centrelink/age-pension/eligibility-for-age-pension>

exist in the Seacare Act could appropriately be aligned with eligibility for the age pension to ensure there is a level of social 'income protection' for older Australians who may suffer workplace injuries and that no gaps exist between the end of entitlement for workers compensation and the entitlement to the age pension. This is something that will no doubt be considered in the Seacare Review currently underway.

Proposal 3-6 - The Australian Government should amend the Seafarers Rehabilitation and Compensation Act 1992 to ensure that worker who are injured at any age after two years prior to aged pension age may receive incapacity payments for up to 104 weeks

As mentioned earlier in this submission, the Seacare Act is currently the subject of a review at the instigation of the Minister for Education, Employment and Workplace Relations. Amongst the terms of reference, the Seacare Review is tasked with identifying the scope for amending the Seafarers Act to help reduce workers compensation premium costs. By increasing the potential instances of eligibility for compensation and the period for which compensation is payable, the likely result would be an increase rather than decrease in the costs of premiums payable by employers under the Seacare scheme. Accordingly, ASA does not support Proposal 3-6 and considers that further discussion around this issue ought to occur within the confines of the current Seacare Review.

Question 3-1 Should the Australian Government amend the Safety, Rehabilitation and Compensation Act 1988, Military Rehabilitation and Compensation Act 2004 and Seafarers Rehabilitation and Compensation Act 1992 to provide that in certain circumstances where a worker is injured two years prior to aged pension age, he or she should receive incapacity payments for up to 104 weeks

In respect of the Seacare Act, ASA restates the above position and considers that this issue ought to be the subject of the Seacare Review that is currently under way.
