

Submission to the

**Australian Law Reform  
Commission**

in response to the

*Grey Areas – Age Barriers to  
Work in Commonwealth Laws  
Discussion Paper*

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## Overview

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The Queensland Tourism Industry Council (QTIC) welcomes the opportunity to provide feedback to the Australian Law Reform Commission (ALRC) on the Discussion Paper titled *Grey Areas – Age Barriers to Work in Commonwealth Laws* which was released on September 2012.

The submission aims to provide the ALRC with industry intelligence that will maximise opportunities for tourism through the regulatory and policy environment. The submission seeks to address industry concerns and support the federal government's *Tourism 2020* strategy to enhance growth and competitiveness in the tourism industry.

QTIC supports the vision of the ALRC for a balanced approach to participation and incentive mechanisms for mature aged persons to continue employment or re-enter the workforce. With leading tourism operators in Australia identifying the skills and labour shortage as their 'single biggest issue', QTIC recognises the critical need to increase and diversify the employment pool. Mature age workforce participation provides an opportunity to address deficiencies, particularly in light of Australia's ageing population, while also delivering other benefits such as increasing social and financial wellbeing, retaining skills and experience, and reducing Government expenditure on pensions and health care.

Through a pilot study undertaken in 2011 that involved a partnership between QTIC, Kedron Wavell Services Club and Griffith University, the two main factors that emerged as barriers to mature age employment in the hospitality industry were *perception* and *awareness*. As such, strong support is given to education and training in age-friendly recruitment practices, and to opposing new but well-meaning regulation for mature age workers that may unintentionally endorse further discrimination, e.g. create a disincentive for employers to engage mature age workers. The recommendations in this submission are thus more likely to be comments by exception and not as legislative feedback.

## Queensland Tourism Industry Council

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QTIC is the State peak body for tourism in Queensland and represents the interests of business operators, 20 sector associations, 3,000 regional members and all of Queensland's 13 Regional Tourism Organisations (RTOs).

QTIC works in partnership with government agencies and industry bodies at a local, state and national level to strengthen the voice of tourism in all relevant policy forums. QTIC's partnerships with the industry and government enable a greater level of responsiveness to increasingly diverse industry skills, training and business development needs of the tourism industry in regions.

## Key Recommendations

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### Title of the Discussion Paper: "Grey Areas – Age Barriers to Work in Commonwealth Laws"

- The Discussion Paper should consider a title that does not contain a term ("grey areas") that endorses the specific type of discrimination that is the subject of the inquiry.

### Page 3 Terms of Reference

- It is stated that the definition of ‘older persons’ (as used throughout the document) as “anyone over the age of 45 years is consistent with the definition of ‘mature age worker’ as used by the Australian Bureau of Statistics (ABS)”.

It is recommended that where ‘older persons’ is used in the Discussion Paper, this is replaced by the equivalent terminology of ‘mature age worker’ given that the ABS definition for ‘older persons’ is often an arbitrary classification that differs between each of their publications.

*“In this article the term **older people** refers to those aged 65 years and over, while working-age refers to people aged 15 to 64 years.” – ABS. (2009). *Future Population Growth and Ageing.*, page 2.*

*“**Older people** in this article refers to people aged 55 years and over.” – ABS. (2010). *Older People and the Labour Market.*, page 1.*

### RECRUITMENT AND EMPLOYMENT LAW

#### Proposal 2-1 and 2-3

- QTIC support targeted education and training for recruitment consultants and the development of a range of guidance material as opposed to increased regulation. Recruitment practices should essentially be centralised around a selection process that focuses on skills and experience, not age. This is particularly important within the tourism and hospitality industry where there is a clear predisposition in recruiting young staff members even for positions that could suit an older person (e.g. back of house operation).

#### Question 2-1

- Encouraging flexible working arrangements for mature age workers can be achievable through appropriate performance management, monitoring and evaluation mechanisms that look at targets and objectives of their particular plan, as well as record-keeping of workplace initiatives and applications received (both approved and declines) to assist with monitoring and evaluation processes.
- Reward managers for recruitment and retention: Managers and supervisors recruiting and retaining older workers who can contribute to achieving organisational goals is valued, and furthermore used as a key consideration in evaluating the professional performance of managers.

#### Question 2-3

- Question 2-3 asks whether the Australian Government should establish a body or reporting framework with respect to mature age workers. Rather than imposing a reporting framework for mature age workers (such as that of the Equal Opportunities for Women in the Workplace), a more suitable approach would be to establish a model employment charter, to be promoted by the Australian Human Rights Commission, that businesses can adopt in an effort to ensure all forms of discrimination (i.e. gender, race, age, culture, etc.) are minimised in the workplace.

### **Proposal 2-5**

- Support is given to Proposal 2-5 for an amendment to 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. Imposing further regulation specific to mature age workers may contribute to discrimination and further entrench negative stereotypes.

### **Proposal 2-6**

- Proposal 2-6 to develop a guide to negotiating and implementing flexible working arrangements for mature age workers should be developed for *all* employees – and include clauses for mature age workers if necessary.

### **Proposal 2-12**

- Support is given to Proposal 2-12 for the Australian Human Rights Commission to coordinate a national education and awareness campaign in support of the workforce participation of mature age persons. Training and guidelines provided to employers in the industry – such as that of the Queensland Government’s “Experience Pays” initiative - should have a strong focus on the advantages employment of mature age workers can bring in particularly to back of the house operations that may not usually be considered.
- Furthermore, urgent consideration needs to be given to the quality of the skills and training that can best meet current and future tourism industry needs. This may include the development of a customised non-accredited skills model that caters to the diverse range of tourism industry needs.

### **Social Security**

- QTIC supports proposals to improve existing efforts to communicate information on qualification for income support payments and the effect of employment income upon these payments. In particular, awareness of social security incentives to take up paid work (e.g. Working Credit, Work Bonus, and retention of concession cards) would largely encourage mature age workers to enter or continue participation in the workforce.

### **Question 5-1**

- Question 5-1 asks in what other ways, if any, could the Australian Government’s employment services system be improved to provide better assistance to mature age job seekers:
  - Reclassification of worker categories (i.e. not use the term “mature age workers”) to “early career”, “mid-career” and “advanced career” to make it achievements-based and not focused on length of service.
  - Uniform definitions relating to ‘older workers’ (e.g. ABS use the term inconsistently).
  - Non-mandatory age disclosure in the recruitment process.

## **Further Enquiries**

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We welcome the opportunity for further discussion regarding the inquiry and the content of this submission. For all enquiries, please contact Daniel Gschwind (07) 3236 1445 or email [policy@qtic.com.au](mailto:policy@qtic.com.au).