

**SUBMISSION TO THE  
AUSTRALIAN LAW REFORM  
COMMISSION**



**Submission in response to the ALRC Discussion Paper 78  
*Grey Areas – Barriers to Work in Commonwealth Laws***



**AUSTRALIAN INDUSTRY GROUP**

**3 December 2012**

# ALRC Discussion Paper 78

## ***Grey Areas – Barriers to Work in Commonwealth Laws***

### **1. Introduction**

The Australian Industry Group (**Ai Group**) welcomes the opportunity to comment on the *Grey Areas – Age Barriers to Work in Commonwealth Laws* Discussion Paper (**Discussion Paper**) released by the Australian Law Reform Commission (**ALRC**) in September 2012.

In June 2012 Ai Group provided a submission to the ALRC in response to the Issues Paper released by the Commission in April 2012 on the same subject matter (**June Submission**). The views reflected by Ai Group in the June Submission remain unchanged and we intend for this submission to supplement those views.

### **2. About Ai Group**

Ai Group represents industries with around 440,000 businesses employing around 2.4 million people. Ai Group and its affiliates have approximately 60,000 members and employ in excess of 1.25 million employees in an expanding range of sectors including: manufacturing; engineering; construction; automotive; food; transport; information technology; telecommunications; call centres; labour hire; printing; defence; mining equipment and supplies; airlines; and other industries.

Ai Group and its members are acutely aware of the need to increase mature age employment in the workplace and has worked with the Government on the '[\*Investing in Experience\*](#)' toolkit to encourage employers to engage and retain mature age workers and implement positive age management practices in their organisation.

Ai Group is also an industry leader in the Corporate Champions program run by DEEWR, which invites employers to become Corporate Champions in the recruitment and retention of mature age workers in their workplace, and is an industry member on the Consultative Forum on Mature Age Participation, chaired by

Mr Everald Compton AM.

In this submission we have responded to the proposals and questions in the Discussion Paper that have direct relevance to our membership.

### **3. General observations**

The Australian population is undergoing a dramatic shift and is becoming increasingly older.<sup>1</sup> As Australia ages, the case for the breaking down of barriers to mature age employment in the workplace becomes more and more prevalent. It is critical that businesses are encouraged to engage and maintain mature age workers. This cannot be done by imposing additional barriers on businesses, such as creating additional workplace rights for mature aged workers which may inadvertently create a disincentive for employers to employ them.

Flipping the coin, it is also critical that employees are encouraged to remain in, or re-enter, the workforce. This is best done by breaking down the barriers which exist in areas such as the aged pension, taxation and superannuation.

The Discussion Paper sets out a range of proposals and questions, which will inform its recommendations to the Government in its final report. While we maintain the view that the framing principles of participation, independence, self agency, system stability, system coherence, and fairness, are valid considerations to be taken into account in the ALRC's recommendations, we urge the Commission to ensure that any recommendation which may have significant cost impacts on employers be subjected to rigorous evaluation and cost-benefit analysis.

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<sup>1</sup> The median age of people in Australia is 37 (see *2011 Census QuickStats*, Australian Bureau of Statistics).  
<[http://www.censusdata.abs.gov.au/census\\_services/getproduct/census/2011/quickstat/0](http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/quickstat/0)>

## 4. Recruitment and employment law

In our June Submission Ai Group indicated that the *Fair Work Act 2009 (Cth)* and the industrial framework more broadly do not generally discourage the participation of mature aged workers in the workforce. It is our strong view that attempts to further regulate Australia's industrial framework will be a backward step. We are pleased that the ALRC recognises that additional regulation is not the right approach to increase mature age participation<sup>2</sup>, but rather the focus must be on education, awareness and training.

**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.

Ai Group supports an education campaign but is not convinced that a compliance campaign is necessary. Ai Group has seen no evidence that recruitment companies are breaking workplace laws.

**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.

Ai Group has not identified any problems with Proposal 2-2, but this proposal should be discussed with the RCSA.

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<sup>2</sup> Discussion Paper, paragraphs [2.20-2.22]

**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.

Ai Group has not identified any problems with Proposal 2-3, but this proposal should be discussed with AHRI and the RCSA.

**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.

Ai Group has not identified any problems with Proposal 2-4, but this proposal should be discussed with AHRI and the RCSA.

**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.

Ai Group does not support proposal 2-5. Ai Group’s position is succinctly outlined in its response to question 35 of the Issues Paper:

*“Ai Group opposes any expansion of the right to request provisions in the Fair Work Act. The existing provisions were the subject of a lengthy consultation process during the development of the National Employment Standards and the Fair Work Act and are intended to be a facilitative provision to prompt employers and employees to discuss matters of workplace flexibility more broadly.”*

*For example clause 258 of the explanatory memorandum for the Fair Work Bill 2008 explained that “the intention of these provisions is to promote discussion between employers and employees about the issue of flexible working arrangements”.*

*Employees who do not have a formal entitlement under s 65 of the Fair Work Act (including mature age workers) may, and often do, make a request for flexible working arrangements. This is acknowledged in the explanatory memorandum:*

*“270. An employee who is not eligible to request flexible working arrangements under this Division (e.g. because they do not have the requisite service) is not prevented from requesting flexible working arrangements, However, such a request would not be subject to the procedures in this Division”.*

*In practice, many mature age workers request and are granted flexible work arrangements without using the right to request provisions. This is the result of open dialogue between employees and their employers about achieving meaningful flexibility in the workplace. This, in our view, is a more effective means of promoting working arrangements that balance the needs of mature age employees with the operational requirements of their employers.”*

**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.

Ai Group supports proposal 2-6. Ai Group is well placed to participate in such an initiative. In 2011, Ai Group, in conjunction with the Australian Government, published ‘*Investing in Experience*’ a guide designed to build employer confidence in recruiting and retaining mature age employees.

**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?

Education has a central role in this area.

Also, modern awards should be more flexible, including the Flexibility Clause which enables individual flexibility arrangements (IFAs) to be reached between individual employees and their employer. At present, the clause is too restrictive and it imposes barriers to IFAs, including those reached by mature age workers.

**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.

Section 156 of the Act sets out the power for Fair Work Australia to conduct a 4 yearly review of modern awards. Part 2-3 of Chapter 3 of the Fair Work Act sets out what terms may and may not be included in modern awards. For example, modern awards cannot include discriminatory terms, save for the exceptions listed in section 153. Mature age employment is not listed as an exception.

Similar to the two year review which is currently underway, the process for the four year review should revolve around applications made by particular parties. Where a party identifies a worthwhile change to encourage workforce participation of mature age workers and the party applies for a variation, such variation should be addressed during the four year review. For example, during the two year review, Ai Group has applied to vary the Flexibility Clause in modern awards. At present, the clause is too restrictive and it imposes barriers to IFAs, including those reached by mature age workers. Ai Group's application is being dealt with by a Full Bench of Fair Work Australia.

**Proposal 2–8** Section 117(3)(b) of the Fair Work Act 2009 (Cth) provides that if an employee is over 45 years of age and has completed at least two years of continuous service with the employer, then the minimum period of notice for termination is increased by one week. The Australian Government should consider amending this section to increase this period from one week to four weeks.

Ai Group strongly opposes proposal 2-8. The provision of an additional one week for employees over 45 years of age is a long-standing workplace standard, deriving from the 1984 decision of the Australian Conciliation and Arbitration Commission in the Termination, Change and Redundancy Test Case. In that case, the Commission determined that employees over the age of 45 would be entitled to an additional week's notice of termination. They also acknowledged, in respect of redundancy payments, that older employees benefit from a scale of payments based on years of service, as older workers tend to have accumulated a longer period of service with an employer when compared with a younger worker. We believe the same principle is applicable to notice on termination.

See: <http://www.airc.gov.au/kirbyarchives/decisions/1984tcrase.pdf>

**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?

Ai Group is concerned that the overlap between the 'General Protections' and Commonwealth anti-discrimination legislation encourages 'forum shopping', while at the same time, requiring employers to understand multiple laws on the same subject matter.

This is exacerbated by the 'General Protections' reverse onus of proof and uncapped damages. Even with the proposed consolidation of Commonwealth anti-discrimination laws, the 'General Protections' are likely to be a more favourable



option, in terms of possible monetary outcomes, for complainants.

In our February 2012 submission to the Fair Work Act Review , Ai Group proposed that the most effective way for the overlap to be overcome is for the discrimination provisions in the 'General Protections', i.e. section 350, to be removed. We do not believe that this will reduce the level of protection for workers, but rather simplify the process of making and resolving a complaint. **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.

Ai Group supports such reviews, but in some cases there may be valid reasons for age-based requirements so any principles or guidelines would need to be flexible.

**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?

Ai Group opposes the establishment of a reporting framework with respect to mature age workers. This proposal is unnecessary and would impose a significant red-tape burden upon employers.

**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.

Ai Group supports Proposal 2-12. Ai Group's is well placed to participate in a national education and awareness campaign coordinated by the Australian Human Rights Commission on workforce participation of mature age workers. In 2011, Ai Group, in conjunction with the Australian Government, published '*Investing in Experience*' a

guide designed to build employer confidence in recruiting and retaining mature age employees.

## **5. Work health and safety and workers' compensation**

Work health and safety and workers' compensation are primarily regulated by State and Territory Governments. Given the separation of Commonwealth, State and Territory powers and the scope of the ALRC's inquiry, it is understandable that the Discussion Paper approaches work health and safety and workers' compensation from the Commonwealth perspective.

Ai Group's membership mainly comprises of businesses that are covered by State and Territory work health and safety and workers' compensation laws. Therefore, our responses to this part of the Discussion Paper are reflective of this.

Ai Group's position is also informed by its role on Safe Work Australia and its work with the harmonisation of work health and safety laws and now workers' compensation laws.

**Proposal 3–1** Safe Work Australia and state and territory work health and safety regulators should consider health and safety issues that may affect mature age workers in implementing the Australian Work Health and Safety Strategy 2012–2022.

Ai Group supports Proposal 3-1.

**Proposal 3–2** Safe Work Australia should include work health and safety issues that may affect mature age workers in its research agenda.

Ai Group supports Proposal 3-2.

**Proposal 3–3** Safe Work Australia and state and territory work health and safety regulators should develop guidance material to assist persons conducting a business or enterprise, workers, and the representatives of each to respond to health and safety issues that may affect mature age workers. Such material should contain information about:

- (a) legislative responsibilities and duties;
- (b) best practice work design and processes; Discussion Paper Summary 17
- (c) risk assessment; and
- (d) health and wellbeing.

Ai Group supports the proposal that Safe Work Australia develop educative material for employers about health and safety issues that may affect mature age workers, but would not support this type of material being transformed into ‘guidelines’ and/or ‘code of practice’ that import an element of legislative significance. Ai Group is concerned if educative material is ‘formalised’ in this way, and becomes ‘mandatory’, it will add an additional, unnecessary layer of prescriptive regulation on employers.

**Proposal 3–4** Safe Work Australia should recognise best practice approaches in work health and safety with respect to mature age workers in its Safe Work Australia Awards.

Ai Group supports Proposal 3-4.

**Question 3–2** Should the Australian Government introduce a supplementary payment for mature age workers similar to the one provided for under the Workers’ Rehabilitation and Compensation Act 1988 (Tas)?

Ai Group does not support the introduction of a supplementary payment for mature age workers similar to the one provided under the Workers’ Rehabilitation and Compensation Act 1988 (Tas). Supplementary payments of this nature do not feature in the workers’ compensation schemes of the other States. Under section 87 of the

Tasmanian Act, any worker who is not precluded from working beyond 65, is able to make an application to the Tribunal to extend his/her weekly payments for a period to be determined by the Tribunal. The only terms and conditions of employment that would preclude a worker from working beyond 65 are legislative or licensed based age restrictions, which would not be the case for the vast majority of the working population. Given its potential to apply to a wide segment of injured workers, if supplementary payments were adopted at the Commonwealth level and extended to the workers' compensation schemes in the other States, it may significantly affect the feasibility of the schemes and their ability to function effectively and efficiently.

**Proposal 3–7** Safe Work Australia's Strategic Issues Group on Workers'

Compensation should consider the definition of 'worker' under Commonwealth, state and territory workers' compensation legislation to ensure consistency of coverage of volunteers.

Ai Group is a member of Safe Work Australia which is considering this issue in the context of broader workers' compensation reform and harmonisation. Ai Group intends to develop its position following Safety Work Australia's consideration into the issue.

**Question 3–3** Does the treatment of superannuation payments in the calculation of incapacity payments under the Safety, Rehabilitation and Compensation Act 1988 (Cth) create a barrier to workforce participation for mature age workers? If so what, if any, changes should be made?

Ai Group is of the view that superannuation payments should not impact workers' compensation entitlements of mature aged workers.

## 6. Insurance

It is not uncommon for income protection insurance to be provided by the employer as a term of an enterprise agreement. In such cases the employer is liable to pay a premium to the insurance company on behalf of the employee for the employee's benefit.

In our June Submission, Ai Group stated that we would not support changes to the insurance system which would significantly increase the cost of premiums for employers who provide income protection benefits to their workers. This includes compulsorily increasing the age limit at which income protection insurance is no longer available. Any change of this nature would decrease the capacity for employers to provide income protection insurance and/or other benefits to their employees under enterprise agreements.

With this in mind, we support an examination of the Australian insurance system and a review of Australian insurance practices as set out in Proposals 4-1 and 4-2.

**Proposal 4–1** In April 2011, the Australian Government established an Insurance Reform Advisory Group. The group should examine:

- (a) options for the development of a central information portal or source in order to provide mature age persons with clear and simple information about available insurance products;
- (b) the design and redesign of comprehensive and affordable insurance products tailored to the needs and circumstances of mature age persons;
- (c) mechanisms for reviewing age-based insurance pricing and underwriting across the industry;
- (d) mechanisms for ensuring that the insurance industry utilises relevant and appropriate actuarial and statistical data upon which to make decisions about insurance offerings, based on age; and

(e) training of insurance distributors in order to facilitate the provision of clear and simple information about available insurance products.

**Proposal 4–2** The Insurance Reform Advisory Group should keep a watching brief on developments in the insurance industry in relation to age, both in Australia and overseas, with a view to reviewing Australian insurance practices as the need arises.

See paragraphs above.

## 7. Age Pension

**Proposal 5–1** The Department of Human Services should evaluate the effectiveness of its methods for communicating information to mature age persons about social security. In its evaluation, it should consider the communication of information about:

- (a) eligibility for income support payments;
- (b) participation obligations for activity-tested payments, including information about the circumstances in which exemptions from the activity test may be available;
- (c) how to calculate the effect of taking up paid work on income support payments, for example through online rate calculators; and
- (d) incentives to take up paid work, for example through Working Credit, Work Bonus, the employment income nil rate period and retention of concession cards.

Ai Group supports Proposal 5-1.

**Proposal 5–2** To enhance the capacity of Job Services Australia, Disability Employment Services and Indigenous Employment Program staff to respond to the needs and circumstances of mature age job seekers, the Department of Education, Employment and Workplace Relations should ensure they are provided with information about:

- (a) age discrimination, including what constitutes ageist behaviour;

(b) the effect that illness, disability and caring responsibilities may have on mature age persons' capacity to work;

(c) the ways in which barriers to work for mature age persons may be affected by gender, cultural and linguistic diversity, Aboriginal and Torres Strait Islander status, and sexual orientation; and

(d) Australian government programs targeted at increasing mature age workforce participation.

Ai Group supports proposal 5-2.

**Question 5–2** The 'withdrawal' or 'taper' rate for an income support payment operates to reduce gradually the rate at which a payment is made as income or assets increase. What effect, if any, would changing the income test withdrawal rate for Newstart Allowance recipients aged 55 years and over have on their incentives for workforce participation?

In Ai Group's opinion, changing withdrawal rates under income tests to lift participation incentives is something of a zero-sum game. Reducing the rate of withdrawal necessarily extends the income range over which withdrawal occurs and therefore reduces effective marginal tax rates for some, while raising them for others.

**Proposal 5–4** The Guide to Social Security Law should provide examples of situations where participation in employment, voluntary work, education or training that exceeds 25 hours per week may be compatible with the constant care requirement for Carer Payment. These examples should include:

(a) employment, voluntary work, education or training undertaken at home, for example online, provided it is consistent with the care receiver's need for frequent personal care or constant supervision; and

(b) short term increases in excess of 25 hours per week of employment, voluntary work, education or training undertaken outside the home.

Ai Group supports Proposal 5-4.

**Proposal 5–5** The objective of Work Bonus is to provide incentives for recipients of Age Pension and Veterans’ Age Service Pension to continue in employment. To ensure that Work Bonus continues to achieve its objective, the following amounts should be indexed to the Pensioner and Beneficiary Living Cost Index:

(a) the income concession amount under s 1073AA of the Social Security Act 1991 (Cth) and s 46AA of the Veterans’ Entitlements Act 1986 (Cth); and

(b) the maximum unused concession balance under s 1073AB of the Social Security Act 1991 (Cth) and s 46AC of the Veterans’ Entitlements Act 1986 (Cth).

While indexing the Work Bonus would have benefits, it would also have costs. Any move to increase the amount of the Work Bonus income concession and the maximum unused concession should be preceded by a thorough cost-benefit analysis.

**Proposal 5–6** Pensioner Education Supplement is a payment to assist in meeting the costs of study in eligible secondary or tertiary courses. Section 1061PJ of the Social Security Act 1991 (Cth) should be amended to provide that Age Pension and Veterans’ Age Service Pension are payments attracting Pensioner Education Supplement.

While on the surface Proposal 5-6 is attractive, the cost-effectiveness of the existing Pensioner Education Supplement to support extending it to Age and Veteran Pensions should be considered before extending it to other payments.



## 8. Superannuation

Superannuation, comprising of both compulsory contributions to superannuation and voluntary contributions to superannuation and retirement savings, is a key and necessary feature of Australia's retirement income system. It is critical that superannuation arrangements should not discourage people from remaining in or re-entering the workforce and they should not discourage employers from employing mature aged workers.

**Proposal 8–1** Regulation 7.04(1) of the Superannuation Industry (Supervision) Regulations 1994 (Cth) restricts superannuation funds from accepting voluntary contributions for members of superannuation funds:

(a) aged 75 years and over; and

(b) aged 65 years until 75 years, unless they meet a work test, that is, where they are gainfully employed on at least a part-time basis during the financial year.

The Australian Government should amend reg 7.04(1) to remove the restriction on voluntary contributions for members aged 75 years and over, and to extend the work test to these members.

Ai Group supports the removal of restrictions on voluntary contributions from people aged over 75 and the extension of a work test to these members.

**Question 8–1** Regulations 7.04(1) and 7.01(3) of the Superannuation Industry (Supervision) Regulations 1994 (Cth) stipulate a work test for members of superannuation funds aged 65 years and over who wish to make voluntary superannuation contributions. Members must be gainfully employed on at least a part-time basis during the financial year, that is, for a minimum of 40 hours over a consecutive 30-day period. What changes, if any, should be made to the work test? For example, should the minimum hours of work be increased and, if so, over what period?

Ai Group supports further investigation of the case to make the work test more demanding than is presently.

**Proposal 8–2** Section 290-80 of the Income Tax Assessment Act 1997 (Cth) provides that voluntary superannuation contributions made by employers for employees aged under 75 years are tax deductible. The Australian Government should amend s 290-80 to enable employers to claim deductions for voluntary contributions made for employees aged 75 years and over.

Ai Group supports Proposals 8-2 and 8-3 as reforms that are consequential to Proposal 8-1.

**Proposal 8–3** Section 290-165(2) of the Income Tax Assessment Act 1997 (Cth) provides that superannuation contributions made by self-employed, and substantially self-employed, workers aged under 75 years are tax deductible. The Australian Government should amend s 290-165(2) to enable these workers to claim deductions for contributions made at age 75 years and over.

Ai Group supports Proposals 8-2 and 8-3 as reforms that are consequential to Proposal 8-1.

**Proposal 8–4** Regulation 7.04(1) of the Superannuation Industry (Supervision) Regulations 1994 (Cth) restricts superannuation funds from accepting spouse contributions when the spouse is:

- (a) aged 70 years or over; and
- (b) aged from 65 years until 70 years, unless he or she meets a work test, that is, being gainfully employed on at least a part-time basis during the financial year.

The Australian Government should amend reg 7.04(1) to enable a member of a superannuation fund to make contributions for a spouse aged 70 years or over, when the spouse meets the work test.

Ai Group supports Proposal 8-4 but this should be preceded by a thorough

assessment of whether a more demanding work test should apply.

**Proposal 8–5** Regulation 6.44(2) of the Superannuation Industry (Supervision) Regulations 1994 (Cth) provides that an application for spouse contribution splitting is invalid if the member’s spouse is aged 65 years or over, or has reached superannuation preservation age and retired. The Australian Government should amend reg 6.44(2) to remove the age restriction from age 65 years when the spouse meets a work test, that is, being gainfully employed on at least a part-time basis during the financial year.

Ai Group supports Proposal 8-5 but this should be preceded by a thorough assessment of whether a more demanding work test should apply.

**Proposal 8–6** Section 6(1)(e) of the Superannuation (Government Co-contribution for Low Income Earners) Act 2003 (Cth) provides that government co-contributions are payable only for persons aged under 71 years. The Australian Government should repeal this restriction.

Ai Group supports a more thorough assessment of Proposal 8-6.

**Proposal 8–7** The ‘Transition to Retirement’ rules were introduced into the Superannuation Industry (Supervision) Regulations 1994 (Cth) to encourage continued mature age workforce participation. Research has suggested that the rules may not meet this policy objective in practice. The Australian Government should initiate a review of the Transition to Retirement rules to determine what changes, if any, are required to ensure that the rules meet their policy objective. The review should consider matters including:

- (a) the use of the rules in practice;
- (b) whether there is sufficient and widespread access to the scheme;
- (c) the relationship to the setting of the concessional superannuation contributions cap;

- (d) eligibility criteria; and
- (e) comparable international schemes.

Ai Group supports Proposal 8-7 for a Review of the 'Transition to Retirement' rules.

**Question 8–2** The Australian Government has legislated two key changes to the retirement income system: the superannuation preservation age will increase from 55 to 60 years between 2015 and 2025; and the Age Pension age will increase from 65 to 67 years between 2017 and 2023.

Should the preservation age be increased beyond 60 years? For example, to:

- (a) 62 years—maintaining the five-year gap between the Age Pension age and the preservation age; or
- (b) 67 years—aligning the preservation age with the Age Pension age?

Any increase to the preservation age is likely to be very strongly opposed by a large proportion of older workers, many of whom have commenced planning and preparing for retirement. Therefore, before any change is contemplated there should be a thorough public consultation process.

**Question 8–3** The age for tax-free access to superannuation benefits is set at 60 years. Should this age setting be increased:

- (a) to align with any further increase to superannuation preservation age (that is, beyond 60 years); or
- (b) instead of any further increase to preservation age—for example, to:
  - (i) 62 years—maintaining the five-year gap between the Age Pension age and the tax-free superannuation access age;
  - (ii) 65 years—aligning the tax-free superannuation access age with the unrestricted superannuation access age; or

(iii) 67 years—aligning the tax-free superannuation access age with the Age Pension age?

Any increase in the age for tax-free access to superannuation is likely to be very strongly opposed by a large proportion of older workers, many of whom have commenced planning and preparing for retirement. Therefore, before any change is contemplated there should be a thorough public consultation. We suggest that the issues raised in Question 8-3 be included as part of the review of the 'Transition to Retirement' rules recommended by Proposal 8-7.