



Brotherhood
of St Laurence

Working for an Australia free of poverty

Response to
Grey areas
Age Barriers to Work in Commonwealth
Laws
Discussion Paper

Brotherhood of St Laurence

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1. Introduction

In its submission to the *Grey Areas – age barriers to work in Commonwealth laws* Issues Paper, comments made by the Brotherhood of St Laurence were based on the view that chronological age should not be the primary determinant of eligibility for any occupation. Since ability and capacity varies among adults of all ages, age should not be the determinant of ability/capacity to work. We argued that it is important not to make ‘older workers’ a special category with specific regulations and policies and that it is much more effective and equitable to develop flexible, inclusive policies that enable a diverse range of people to be employed, with adequate protections to safeguard their health and wellbeing and rights at work. This includes workplace and work practice adaptation to encourage and support older Australians to continue to be employed in roles that maximise their knowledge, experience and potential.

The Brotherhood of St Laurence welcomes the release of the *Grey Areas – age barriers to work in Commonwealth laws* Discussion Paper and commends the panel on its well considered presentation of its proposals and questions. In its response the Brotherhood of St Laurence indicates the proposals that it endorses as being consistent with its submission to the initial inquiry, discusses issues for consideration in relation to some particular proposals and addresses questions that fall within its sphere of particular interest and expertise.

2. Recruitment and employment law

The Brotherhood of St Laurence endorses the following proposals:

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.

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.

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.

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.

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.

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.

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.

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.

Proposal 2–11

The Australian Government should initiate an inquiry to review the compulsory retirement ages for military personnel.

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.

With regard to the following proposals, the Brotherhood of St Laurence makes the following comments:

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.

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- ❖ The Brotherhood of St Laurence recommends that such principles or guidelines should include matters such as workplace and work practice adaptation to encourage and support older Australians to continue to be employed in roles that maximise their knowledge, experience and potential.

Proposal 2–10

The Australian Government should initiate an inquiry to review the compulsory retirement ages of judicial and quasi-judicial appointments.

- ❖ The Brotherhood of St Laurence supports such an inquiry
- ❖ In line with our overall position, that chronological age should not be a primary determinant of eligibility for any specific occupation, we believe that compulsory retirement ages should be removed.

Answers to selected questions

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?

- ❖ We reiterate our comments made in response to the Issues Paper. The Brotherhood does not support including age as a basis upon which an employee should be able to request flexible working arrangements because:
 - age alone cannot be assumed to be a factor in requiring flexibility from the workplace
 - a possible outcome could be increased discrimination against older workers.
- ❖ Instead of highlighting the types of workers that require additional flexibility, all workers should have the right to request flexibility for a broader range of reasons which could include undertaking additional study or training, caring responsibilities and ill health. These measures will improve workplace flexibility for all workers and older workers will also benefit.
- ❖ It should be noted that employers have the right to refuse flexible working arrangements.

3. Work health and safety and workers' compensation

The Brotherhood of St Laurence endorses the following proposals:

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.

Proposal 3–2

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

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;
- (c) risk assessment; and
- (d) health and wellbeing.

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.

With regard to the following proposals, the Brotherhood of St Laurence makes the following comments:

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.

- ❖ While it is imperative that volunteers are eligible for compensation, it may be problematic to include them as 'workers' as this could raise new barriers for volunteering eligibility and so discourage the voluntary contribution of many older Australians. Volunteers are not a substitute for paid employees and should not be deployed in such positions whether full-time, part-time or casual. A compensation scheme specific to volunteers should be established which includes criteria which encourage voluntary contribution to the community

Proposal 3–5

The Australian Government should amend the Safety, Rehabilitation and Compensation Act 1988 (Cth), Military Rehabilitation and Compensation Act 2004 (Cth) and the Seafarers Rehabilitation and Compensation Act 1992 (Cth) to ensure that retirement provisions are tied to the qualifying age for the Age Pension.

Answers to selected questions

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?

- ❖ The Brotherhood of St Laurence believes that the current treatment of superannuation payments in the calculation of incapacity payments under the Safety, Rehabilitation and Compensation Act 1988 (Cth) is inequitable and discriminatory on the basis of age and that superannuation entitlements should be treated in the same way both pre- and post-preservation or age pension age.

4. Insurance

The Brotherhood of St Laurence endorses the following proposals:

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.

Proposal 4–4

The Australian Human Rights Commission, in consultation with the Insurance Council of Australia and the Financial Services Council, should develop guidance material about the application of any

insurance exemption under the Age Discrimination Act 2004 (Cth) or consolidated anti-discrimination legislation.

Answers to selected questions

Question 4–2

In the course of the consolidation of federal anti-discrimination legislation, the Australian Government is considering the operation of the insurance exemption under the Age Discrimination Act 2004 (Cth). If the specific exemption is retained, what changes, if any, should be made? For example, should:

- (a) the application of the exemption be limited in some way;
- (b) there be provision for an individual to request and receive the actuarial or statistical data on which the action or decision was based; or
- (c) clarification be provided as to what are ‘other relevant factors’?

❖ The Brotherhood of St Laurence believes the exemption should be removed

Question 4–3

Is the power of the Australian Human Rights Commission under s 54 of the Age Discrimination Act 2004 (Cth) sufficient, or should there be some other mechanism for requesting or requiring the actuarial or statistical information relied upon by insurers seeking to invoke the insurance exemption?

❖ The Age Discrimination Act 2004 (Cth) should include the power to mandate access to the actuarial or statistical information relied upon by insurers seeking to invoke the insurance exemption.

5. Social Security

The Brotherhood of St Laurence endorses the following proposals:

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.

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.

Proposal 5–3

The Guide to Social Security Law should provide that a temporary cessation of constant care due to participation in employment, voluntary work, education or training that exceeds 25 hours per week:

- (a) does not result in automatic cancellation of Carer Payment; and
- (b) may, in some circumstances, be compatible with the constant care requirement for qualification for Carer Payment.

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.

With regard to the following proposals, the Brotherhood of St Laurence makes the following comments:

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.

- ❖ It is important to state that people in receipt of Carer Payment are engaged in productive, albeit unpaid, work. They are another group at risk from inflexibility in the social security system. Most carers are aged over 45 and a disproportionate number are women who are at high risk of losing attachment to the workforce through caring responsibilities and consequently at higher risk of poverty and social exclusion as they age. The Brotherhood's view is that the current 25 hour limit relating to volunteering, study and training is likely to act as a disincentive to work for carers. It is inflexible and may have the effect of unnecessarily reducing the opportunities for carers to remain attached to the paid workforce. There are several reasons why government should consider more flexibility around combining work and the Carer Payment:
 - The capacity to work can change for carers. Some weeks they may be able to get respite care or help from relatives or their charge might be in relatively good health.
 - The availability of work can change, particularly in the current labour market.
 - More flexibility has been introduced into the system for people on Disability Support Pensions. Arguably carers should be entitled to the same flexibility.
 - Some beneficial changes might include:
 - lifting the 25 hour rule to up to 30 hours to bring it into line with the DSP
 - calculating the hours of work, study or training on a quarterly rather than a fortnightly basis to allow for variations in work patterns
 - consider allowing some hours not worked to be banked, as with the Work Bonus
 - extending the period that carers can remain on the Carer Payment after their relative enters care (or dies) to a maximum of 26 weeks. This is particularly important for carers who are older and/or have been on a Carer Payment for an extended period.
- ❖ It is important that carers are not obliged to engage in paid employment or related activities, as this may place undue pressure on them, and that they are provided with more adequate support to enable transitions into employment after long periods of care provision.

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).

- ❖ The Work Bonus is likely to provide incentives for older persons who are able to work to continue to do so. However one important incentive workers in this age group have to continue to work is to build private savings for a time when they are no longer able to work. This is particularly important for older people who have few assets and/or are not home owners. The Brotherhood recommends that the Work Bonus scheme should have more generous fortnightly and annual income caps for people who have few other assets, particularly those who are not home owners. The Brotherhood recommends that the Work Bonus be raised to equivalent value of the previous Pension Bonus Scheme.

Answers to selected questions

Question 5–1

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?

- ❖ The JSCI (Job Seeker Classification Instrument) loading for those aged over 50 should increase, particularly for job seekers classified as disadvantaged.
- ❖ Different activity tests for mature-age jobseekers are reasonable in light of the longer periods these people spend out of the workforce. Mature-age jobseekers should be able to 'opt in' and to have an Employment Pathway Plan with a mix of voluntary and work experience activities designed to lead to employment developed for them by their JSA, should they choose.
- ❖ As stated in the Brotherhood's response to the ALRC Issues Paper, the imposition of the Liquid Assets Waiting Period (LAWP) as an eligibility requirement for access to Government funded employment assistance programs forms a particular barrier for older people who find themselves without work. For example, in order to qualify for government-funded employment assistance a person first needs to qualify for a form of eligible income support such as Newstart which requires that liquid assets do not exceed \$10,000 for couples and \$5,000 for single people. Until assets have been run down to this relatively low level, this group of job seekers are reliant on their own resources to find employment and may also suffer a loss of skills, confidence and employability over this time. Given the dire problems with discrimination that this group of job seekers face within the labour market and from recruiters, it would make sense to consider changing the eligibility requirements for at least some groups of older job seekers to gain access to Government funded employment services.
- ❖ The Brotherhood recommends that job seekers aged over 45 who also fulfil at least one other criterion that may increase their vulnerability to becoming disengaged from the workforce (e.g. Low skill levels, low education levels, poor language or literacy skills,

some incapacity or disability) should not have to meet the Liquid Assets Waiting Period before qualifying for government funded employment assistance.

- ❖ It is likely that this measure will increase the numbers of people who become eligible for government funded employment services and may, in the short term, put some pressure on Government outlays in this area. However, over the longer term, this measure should be offset by increased workforce engagement for this disadvantaged group of job seekers – and consequently lead to savings.

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?

- ❖ Rather than increasing participation requirements for older job seekers, the Brotherhood recommends increasing the flexibility of the social security system to provide incentives to this group of workers to participate in part-time and casual work without losing access to benefits. This is important given the deregulation of the labour market and the need of some people to combine income from paid work with income support.
- ❖ Some flexibility has been provided to Disability Support Pensioners and to sole parents on Newstart. This flexibility should be extended to mature-age people on Newstart and should include all or at least some of the following measures:
 - Rules around having to serve waiting periods to get access to Newstart after leaving a job should be reviewed.
 - Job seekers who find work should be able to retain access to their Health Care Concession Card for a period after obtaining employment. Those people who have been classified as long-term unemployed should retain the Health Care Card for at least 6 months.
 - Rules around the liquid assets waiting period should be reviewed, particularly for older workers attempting to build savings for retirement.
 - For recipients of payments that require some workforce participation, e.g. some types of DSP, there should be flexibility around how hours of work are calculated. This should be done quarterly, with capacity to ‘bank’ hours.
 - For older people on Newstart who undertake some paid work, the taper rates (i.e. the rate at which the Newstart Allowance is reduced) should at least be the same as those for sole parents on Newstart.
 - Working Credits should be available to older people moving from Newstart to paid work.
- ❖ The ALRC Discussion paper asks specifically about what effect, if any, changing the income test withdrawal rate would have on incentives to work for people in receipt of

Newstart, noting that DEEWR, FaHCSIA, DHS and DIISRTE argued that ‘if people in receipt of payments are encouraged to take part-time employment there is an inherent risk that they will substitute this for full-time permanent work.’ This is based on a number of assumptions that the Brotherhood would challenge:

- Firstly, it is assumed that this group of job seekers have a choice between full-time work and part-time work. The evidence resulting from recent BSL research indicates that this is not the case. In December 2011 more than 50 per cent of jobseekers gaining employment did so in casual, temporary or seasonal jobs; and more than one third found part-time work but wanted more hours (DEEWR 2011). The Brotherhood’s evaluation of the Centre for Work and Learning Yarra found that of the 200 disadvantaged job seeking clients who obtained employment, 93% found employment as a casual or on a short-term contract (Brotherhood of St Laurence 2012). Other Brotherhood research with single Newstart recipients without carer responsibilities indicated that most want full-time work but have difficulty finding it (Bodsworth 2010; Bowman & Kimberley 2011). However harsh taper rates result in little financial benefit from part-time work and many people are wary of the risks of taking up casual or short-term employment, namely the job coming to an end and having to reapply for income support. Facilitating and supporting the transition into part-time employment may have benefits for longer-term and more highly disadvantaged jobseekers in relation to confidence and work experience, and with assistance, may lead to full-time employment.

Our experience is that it is much easier to find part-time, casual or short-term work than it is to find permanent work. Many employers see people in receipt of benefits as a potential risk and are not willing to offer them full-time and/or permanent work, at least initially. The increased casualisation of the workforce, noted in a number of submissions to the ALRC has exacerbated this trend.

- Secondly, the choice is not between part-time and full-time employment as portrayed by DEEWR, FaHCSIA, DHS and DIIRSTE, but between part-time employment and no employment. For many in this group of disadvantaged job seekers, part-time or short term work is the only work that is offered to them and the existing restrictions of Newstart provide a disincentive to taking it up. Part-time work may be a stepping stone to more permanent full-time work or it may not but it is still a form of workforce participation that may have a number of benefits for both the job seeker and the broader community.

If the Government wants to encourage workforce participation by this group, and if it believes that some participation in the paid workforce is better than none, then reducing the taper rates is one way to do this. Denying these job seekers a more generous taper rate on the basis of an incorrect assumption about their access to full-time employment would seem somewhat short-sighted.

Question 5–3

In what ways, if any, does the review process for qualification for the Disability Support Pension create barriers to mature age participation in the workforce or other productive work? For example,

does the lack of information about how Disability Support Pensioners are selected for review act as a disincentive to work?

- ❖ According to a recent report, there has been a low rate of cancellations of DSP with 135 of the 12,000 Disability Support Pension medical reviews last financial year resulting in cancellation of the pension (see *The Australian* ‘Macklin defends low Disability Support Pension cancellation rate’ 2/8/12 Patricia Karvelas). Review may be made at any time and this could lead to a sense of insecurity and fear. For this reason, we agree that lack of clarity about the review process for qualification for the Disability Support Pension may act as a disincentive to mature age DSP recipients seeking to engage in the labour force. Therefore we would recommend greater transparency about the processes of review.

6. Income tax

The Brotherhood of St Laurence notes that while personal income tax laws may affect workforce participation, addressing this issue requires consideration of the tax system – a task beyond the scope of the current inquiry – and thus the ALRC makes no proposals about this matter, nevertheless there are a number of comments we would like to make.

- ❖ An investigation of the Effective Marginal Tax Rate system should be conducted to minimise any discouragement they create to mature age workforce participation.
- ❖ Reduction of tax system complexity.
- ❖ Provision of information that is clear, concise, easy to understand and available from a wide range of sources in different formats including a free face-to-face service to provide accurate information based on individual circumstances.

7. Superannuation

The Brotherhood of St Laurence endorses the following proposals:

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.

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.

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.

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.

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.

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.

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;

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- (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

Answers to selected questions

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?
- ❖ The Brotherhood of St Laurence believes that the preservation age should be increased to 62 years—maintaining the five-year gap between the Age Pension age and the preservation age but that this should be done over a long period of time, say to 2030

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?
- ❖ The Brotherhood of St Laurence believes that age for tax-free access to superannuation benefits should be increased to 62 years—maintaining the five-year gap between the Age Pension age and the preservation age.

How fair is our retirement income system for the poorest Australians?

A number of aspects of the retirement income system do not meet the needs of disadvantaged people and fail to assist them build savings for retirement. While many disadvantaged people will be largely dependent on the Age Pension in their retirement, some personal savings can make the difference between a comfortable retirement and one beset by deprivation, particularly for older people who do not own their own home, a group that appears to be growing.

Importantly, the ability to save for retirement in a meaningful way is also a powerful incentive to continue to work. Yet the interaction of the age pension system and the superannuation system acts against the ability of poorer people who are not home owners to save for their retirement.

By excluding owner-occupied housing from the assets test for the Age Pension, the government provides a significant subsidy to home owners. The value of owner occupied housing is significant; imputed rents which could be worth up to several hundred dollars a week are not included in the means test. Historically, this has been part of the package of support offered to age pensioners, most of whom have been home owners.

The system does not work as well for non-home owners, who are growing in number. Other assets, such as superannuation and savings are not treated as favourably by the pension means test, particularly once the asset is converted to income. Non-home owners approaching retirement who know they will be reliant on the pension have little incentive to save in any other form apart from owner occupied housing. Thus this group also lose a significant incentive to continue to work for there is little point in them saving for their retirement as any savings can jeopardise their access to the pension, particularly if they try to convert them to income. As was detailed at length in the Brotherhood's response to the discussion paper, non-home owning age pensioners are the most vulnerable group of pensioners, particularly those who must meet the often very high costs of renting privately.

There is little that the existing retirement income system does to protect this group of pensioners, or even to give people who know that they might be in this group the incentive to save for their retirement. Even if this group have some savings in superannuation, the existing system does not allow them to convert these savings to an income while still receiving the age pension, even though they face much higher housing costs than pensioners who already own their own home.

Loosening the pension means test to allow some savings (such as superannuation) to be converted to an income stream for non-home owning retirees who are eligible for the full rate of the age pension would be beneficial for a number of reasons. Such a measure would:

- ❖ Improve fairness between home owners and non-home owners, a fact that will become increasingly important as the numbers of non-home owning retirees increases.
- ❖ Provide some protection for this group who are currently vulnerable to very high rental costs.
- ❖ Provide incentives to continue to work for this group, who would know that their savings could be used to support them in retirement.

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- ❖ Income tests for access to the full Age Pension should be more generous for non-home owners who are not in public housing in recognition of the additional financial burdens they face in the private rental market.
 - ❖ The government should investigate allowing non-home owning retirees to combine superannuation and other savings to invest in a 'housing annuity'. The housing annuity could provide a small supplement to the Age Pension without affecting pension rates in order to assist this group of pensioners to meet the costs of private rents.

8. Migration

While the ALRC does not propose reforms in this area, the Brotherhood of St Laurence believes there are strong arguments for abolishing the age restrictions imposed by Australia's skilled migration policy.

Whilst under Australian law age discrimination is unlawful, an exception is made in the case of immigration. The second report of the ALRC maintains that there is no reason to change. However the argument presented only cites countries that also have age criteria (Canada and New Zealand) while ignoring much more significant economic rivals, such as the United States and the European Union, where there are no such restrictions.

Given demographic shifts, global competition for workers of all ages means that Australia may be left behind if it puts unnecessary restrictions on older workers. A number of respondents to the first consultation indicated that age ranges should be modified or abolished. However, the ALRC states that 'it is difficult for barriers based on age to be removed altogether, given the valid public policy function that they serve' (p.201). This is equivalent to saying we support age discrimination in this area because we already have it. The supportive argument to this case, that older migrants do not reach a 'base case' of contribution, is unsupported by evidence as it is based on a 'typical Australian male' (p.199). The point that older migrants actually bring accrued skills and assets from the donor country, which Australia does not have the expense of creating, is not addressed.

Initial analysis of Census data by the Brotherhood indicates that older workers born abroad are actually more productive than those born in Australia. The reasons for this trend are complex, but appear to indicate that the advantages of targeting skills is working, and has little to do with migrants age per se. The relative absence of critical study in this area means that data is inadequate to come to a firm conclusion on economic contribution. However it would be wrong for this data vacuum to be filled by age-prejudice.

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