

Australia

Response to

United Nations Open-ended Working Group on Ageing request

12th Session – Focus area - Contribution of older persons to sustainable development

Legislation

At the federal level, under the *Human Rights (Parliamentary Scrutiny) Act 2011*, all new Bills and disallowable legislative instruments must be accompanied by a Statement of Compatibility with Human Rights. This assesses the compatibility of the legislation with the rights and freedoms recognised in the seven core international human rights treaties that Australia has ratified.

Under the Human Rights (Parliamentary Scrutiny) Act, a Parliamentary Joint Committee on Human Rights was established. This committee has functions to:

- examine Bills, Acts and legislative instruments for compatibility with human rights
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- inquire into any matter relating to human rights that the Attorney-General refers to it.

These human rights scrutiny processes are designed to encourage early and ongoing consideration of human rights issues in policy and legislative development. They also aim to improve parliamentary scrutiny of new laws for consistency with rights and freedoms in the seven core international human rights treaties to which Australia is a party.

Discrimination

The *Age Discrimination Act 2004* protects individuals across Australia from discrimination on the basis of age in many areas of public life, including employment, education, accommodation and the provision of goods and services. The Act recognises the need for appropriate benefits and assistance to be given to people of particular ages or age groups, particularly young and older persons. The *Fair Work Act 2009* (Cth) also contains provisions protecting employees against discrimination in the workplace, including in relation to age.

The Australian Government is committed to supporting measures to reduce the prevalence, severity and impact of elder abuse. The Australian Government is driving a national response to keep older Australians safe, and recognise and promote the rights of older Australians through a range of interconnected initiatives involving national co-ordination; expansion of front-line services; improving access to information and enhancing our knowledge base.

In March 2019, the Australian Government launched the National Plan to Respond to the Abuse of Older Australians (2019-2023). The Plan provides a framework for coordinated action across all Australian jurisdictions, focusing on five priority areas: building our understanding of abuse of older people, so we can better target our responses; building community awareness to create the momentum for change; strengthening our service responses; helping older Australians better plan for their future; and strengthening safeguards for vulnerable older people.

In support of this goal the Australian Government has established 1800 ELDERHelp (in collaboration with states and territories) - a free call phone number that automatically redirects callers seeking information, referrals or advice on elder abuse to end point services in their jurisdiction. The Government is also working to establish an online elder abuse Knowledge Hub to consolidate a wide range of information and resources on elder abuse into one easy to find location.

In addition, a range of new front-line services for older people experiencing elder abuse have been funded by the government. This trial program includes a range of wrap-around legal/social; legal/health; and family counselling services, and will operate until 30 June 2022. A key component of these service trials includes, health-justice partnerships that will place specially trained staff and social workers within the health care system to identify and refer older people at risk of or potentially subject to abuse, to specialised legal support services. The health-justice partnership model is intended to reach very vulnerable people who are not otherwise identified, such as older Australians experiencing neglect and/or isolation. These services will strengthen social protection, including access to justice measures for older people and their families seeking help with abuse.

Remedies and redress

The Australian Human Rights Commission is an independent statutory authority that promotes Australian's rights and freedoms and has the power to investigate and conciliate complaints of age discrimination. Individuals who believe that a breach of their human rights has occurred or that they have been unlawfully discriminated against may lodge a complaint with the Commission. In some cases, if a complaint is not resolved or is discontinued for other reasons, individuals may institute proceedings in the Federal Court of Australia or the Federal Circuit Court.

In Australia, it is unlawful to discriminate on the basis of a number of protected attributes including age, disability, race, sex, intersex status, gender identity and sexual orientation in certain areas of public life, including education and employment. Australia's federal anti-discrimination laws are contained in the following legislation:

- *Age Discrimination Act 2004*
- *Disability Discrimination Act 1992*
- *Racial Discrimination Act 197*
- *Sex Discrimination Act 1984.*

Right to an adequate standard of living

Australia's social security system is a non-contributory, means tested, residence based system, designed to provide income support to people who, for reasons such as age, unemployment or ill health, are unable to support themselves. The Age Pension is funded by taxpayers, and targeted through the means test to those who need it most.

Under social security law, base pension rates are indexed twice a year to ensure they keep pace with increases in the cost of living. These rates are calculated according to provisions in legislation and are not a decision of Government. The cost of living is measured by the Consumer Price Index (CPI) and the Pensioner and Beneficiary Living Cost Index (PBLCI), with pensions being increased by the higher of the growth in these two indexes. CPI and PBLCI measure changes in prices on a range of goods and services such as food, health care, postage, fuel, housing costs and utilities costs (including the availability of rebates offered by some state and territory governments). Base pension rates are also benchmarked to a proportion of Male Total Average Weekly Earnings (MTAWE) to align them with community living standards. Base pension rates are currently above the MTAWE benchmark.

Pensions are paid at the highest legislated rate of income support in the social security system because recipients are not expected to work to support themselves. On 20 September 2021, the maximum total pension rate for single pensioners increased by \$14.80 to \$967.50 a fortnight or \$25,155 a year. The maximum rate for pensioner couples combined increased by \$22.40 to \$1,458.60 a fortnight or \$37,923.60 a year. Pension rates will next be indexed on 20 March 2022 (Note: as payment rates will be indexed on 20 March 2022, these figures will need to be updated ahead of the meeting).

In addition to their main payment, pensioners can receive a range of benefits and concessions that increase their economic security, including:

- the exemption of the principal home from the assets test for homeowners;
- assistance for people who rent in the private rental market, through Commonwealth Rent Assistance;
- subsidised prescription medicines under the Pharmaceutical Benefits Scheme;
- subsidised health care and related products;
- subsidised aged care; and
- concessions provided by state and territory governments, which could include subsidised rates for homeowners, utilities such as electricity, gas and water, and public transport and vehicle registration fees. Concessions offered vary between states.

The income and assets tests aim to ensure that income support is directed to those most in need with support reducing as the capacity of recipients to provide for themselves increases. The pension income test is designed to encourage people to supplement their income support payments with other income, if they are able to. Pensioners can have a certain level of income without it affecting their pension. A pensioner and their partner can receive an amount of income before their pension starts to be reduced. This amount may comprise income from investments, earnings, or a combination of income from various sources and is known as the income free area. The pension income test free area from 1 July 2021 is \$180 a fortnight for singles and \$320 a fortnight for couples combined. The pension income test free area is adjusted each year in July for increases in the cost of living using CPI.

For each dollar of income over the income test free area, the single pension is reduced by 50 cents (the taper rate). For couples, their individual pensions are reduced by 25 cents a fortnight for each dollar of income that the couple has over the income test free area. This means that a part pension is payable up to an assessable income of \$2,115.00 a fortnight for a single pensioner or \$3,237.20 a fortnight for a pensioner couple. These figures may be higher if Rent Assistance is paid with the pension.

Pensioners aged over pension age may also access the Work Bonus, which operates in addition to the income test free area. Under the Work Bonus the first \$300 of work income a fortnight is not counted in the pension income test. This would allow, for example, a single Age pensioner with no other income to earn up to \$480 a fortnight from work and still receive the maximum rate of pension.

Pensioners are able to build up any unused amount of the \$300 fortnightly exemption in a Work Bonus income bank up to a total of \$7,800. This amount can be used to exempt future earnings from the pension income test, so a pensioner could earn up to \$7,800 a year without it affecting their pension. The income bank amount is not time-limited – if unused it carries forward, even across years.

The operation of the pension income test free area and taper rate means that pensioners are better off while they (or their partner) are earning income in addition to their pension payments. The design of the Work Bonus in particular recognises that continued working for older Australians is substantially beneficial for both individuals and the broader community.

Income support recipients, including nominees, have the right to ask for an explanation of any decision they don't understand or agree with, or apply for a formal review using the appeals process. If a person disagrees with the outcome of a formal review, they can ask the Administrative Appeals Tribunal (AAT) to conduct an independent merits review of administrative decisions made under Commonwealth Laws, including decisions made by agencies such as Services Australia (Centrelink).