



COMMONWEALTH OF AUSTRALIA

SENATE

Official Committee Hansard

SUPERANNUATION COMMITTEE

Reference: Commonwealth Superannuation Bills

TUESDAY, 24 MARCH 1998

CANBERRA

BY AUTHORITY OF THE SENATE
CANBERRA 1997

INTERNET

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **<http://www.aph.gov.au/hansard>**

SENATE

TUESDAY, 24 MARCH 1998

SELECT COMMITTEE ON SUPERANNUATION

Members: Senator Watson (*Chair*), Senators Allison, Conroy, Chris Evans, Ferguson, McGauran and Sherry

Senators attending the hearing: Senators Allison, Chris Evans, Ferguson, McGauran, Sherry and Watson

Matter referred by the Senate for inquiry into and report on:

Commonwealth superannuation bills

WITNESSES

BARTOS, Mr Stephen Anthony, General Manager, Resource Management Framework, Department of Finance and Administration, 111 Alinga Street, Canberra, Australian Capital Territory 2601	34
BUTLER, Mr Gerard, Director, Australian Capital Territory, Association of Professional Engineers, Scientists and Managers Australia, Unit 4/7, Napier Close, Deakin, Australian Capital Territory	17
DEEVES, Mr Kevin, Acting Australian Government Actuary, Australian Government Actuary, Insurance and Superannuation Commission, GPO Box 9836, Canberra, Aus	
DOWLING, Ms Gillian Arnot, Director CSS/PSS Section, Commonwealth Superannuation Group, Department of Finance and Administration, 111 Alinga Street, Canberra, Australian Capital Territory 2601	34
GOODE, Ms Christine Mary, Commissioner and CEO, ComSuper (Commonwealth Superannuation Administration), Unit 1, Cameron Offices, Belconnen, Australian Capital Territory	34
O'LOUGHLIN, Ms Sally, Assistant National Secretary, Community and Public Sector Union—PSU Group, Level 5, 191 Thomas Street, Haymarket, New South Wales	2
RUBINSTEIN, Ms Linda, Senior Industrial Officer, Australian Council of Trade Unions, 393, Swanston Street, Melbourne, Victoria 3000	2
THORBURN, Mr Craig, Acting Deputy Commissioner—Life Insurance, Australian Government Actuary, GPO Box 9836, Canberra, Australian Capital Territory 2601	25
WILSON, Ms Sandra Kay, Branch Manager, Commonwealth Superannuation	

**Group, Department of Finance and Administration, Newlands Street, Parkes,
Australian Capital Territory 2600 34**

Committee met at 7.03 p.m.

CHAIR—I declare open this public hearing of the Senate Select Committee on Superannuation. The Senate referred the Commonwealth superannuation bills to the committee on 3 March 1998 for inquiry and report by 26 March 1998—which does not give us very much time to report, does it? The committee will make an assessment later this evening about whether it will table its report on that day or seek an extension of time from the Senate.

Before we take evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee and evidence which is given to the committee. Parliamentary privilege means special rights and immunities attached to parliament, its members and others necessary for the discharge of the functions of the parliament without obstruction and without fear of prosecution. Any act by any person which operates to the disadvantage of a witness on account of evidence given by him or her before a Senate committee or any other committee of the Senate is treated as a breach of privilege, and so you are treated accordingly and protected.

O'LOUGHLIN, Ms Sally, Assistant National Secretary, Community and Public Sector Union—PSU Group, Level 5, 191 Thomas Street, Haymarket, New South Wales

RUBINSTEIN, Ms Linda, Senior Industrial Officer, Australian Council of Trade Unions, 393, Swanston Street, Melbourne, Victoria 3000

CHAIR—Welcome. I thank you very much for the information in your submission which you have given to the committee already. I invite each of you to make an opening statement.

Ms Rubinstein—The ACTU welcomes the opportunity to meet with the committee and to give some evidence in relation to the bills affecting Commonwealth superannuation. The ACTU has put in a brief submission which I understand you have all received. I do not intend to read it. I will speak about the major concerns of the ACTU. Ms O'Loughlin from the CPSU will go into the issues in more detail. The ACTU has seen the CPSU's submission and supports it.

I would like to open by saying that the ACTU is particularly concerned at the complete lack of consultation or even notice or advice that was given to Commonwealth employees and to their representatives—the CPSU, other unions and the ACTU—by the government. This is particularly iniquitous, given the commitment that was given to employees by the current Prime Minister prior to the last election, where employees were promised that their superannuation arrangement would not be altered.

The clear practice in the past with governments of both persuasions has been that changes are discussed and negotiated with those employees through their union representatives. It really amounts to treating those employees with contempt to simply announce that these changes were occurring in the way that it was done—with absolutely no prior opportunity for concerns to be raised with the government and, in fact, precious little opportunity subsequent to the introduction of the bill. It is for that reason that the ACTU would strongly urge the committee to recommend that the legislation be deferred to allow for proper consultation to take place with relevant organisations and with employees.

A second important reason that we believe that the legislation should be deferred is that it has been linked by the government to the introduction of choice generally in the community. The choice arrangements are very far from having been finalised—as you are aware, this committee has yet to bring down its report, although that will happen very shortly, and there is then a process of the bills being dealt with by the Senate—and the time line is very short indeed. So, firstly, it is not known how choice will apply and, secondly, there has been no determination about how that will apply particularly to the Commonwealth. It would seem only sensible that first of all we see how choice is going to apply and, secondly, that there be proper consultation, discussion and negotiation to ensure that choice is implemented for public servants in a way that is appropriate to their needs.

To move on from this issue of consultation and the need for deferral, there are a number of key issues that the ACTU's submission addresses. The first is the issue of the closure of the PSS. First of all, that is a breach of the Prime Minister's undertaking that there would be no diminution of benefits for existing or prospective employees. The fact of the matter is, of

course, that new employees will not have the choice of joining the PSS. In fact, that will be a different situation, even on the government's model of choice, than will apply to everyone else, in the sense that the PSS can be characterised either as the industry fund or as the employer fund, if you like—it is analogous to the company fund—and yet it will not be available as a choice for employees, quite differently from how choice will apply generally. That is why we would recommend that the committee should hold that the PSS should be available as a choice to new employees and that it should be the default fund that would apply if the employee does not make another choice.

There is also a concern as to how the government's commitment to fund agencies at the level of 13.1 per cent would actually operate. Will it be available to individual employees, or will it be some sort of global funding where some will get more and some will get less? And we also believe—and Ms O'Loughlin will say more about that—that the current option which is available to employees, which is to contribute more to the PSS and get a consequently higher employer benefit, will not be available to new employees. Again, that is a clear reduction of benefits for new employees.

The second issue that we wish to address is that of lump sums on redundancy. The proposal that all benefits in effect be treated as preserved benefits from 1 July next year is a breach of the agreement that currently exists where that would not occur until 1 July 2000. It also breaches the principle which has always been applied in superannuation that changes are not applied retrospectively, so that the treatment of people's already accrued benefits is altered.

CHAIR—Could you just explain that a little more—tease that one out? People who have accrued benefit, you are suggesting—

Ms Rubinstein—I make the point most clearly in terms of what is happening in the community generally with preservation. In the last budget the government announced that from 1 July next year all superannuation contributions under SIS would be preserved, but that only applies to all future contributions so, for people who have got already accrued superannuation, the existing preservation rules will apply to that accrual—that is, it is applied retrospectively so money that they had accumulated will not be treated any differently from what they had a right to expect. That has been the principle that has been applied by Labor governments and now by this government in terms of the community generally. Yet, in terms of these public servants, what is happening is that the date has been brought forward and it is going to apply to all of their accrued benefits, not simply the benefits that can be attached to future contributions. That is, in our view a very important principle.

I would also make the point that although the government has announced changes to the preservation rules that will apply generally in the community no legislation has as yet been introduced on that. So it can not be known whether or not that will actually apply. It will depend on the attitude that the parliament takes to such legislation when and if it is introduced.

The third point I make is in relation to late preservation of benefits in the CSS, and that is the situation where people resigned from the Public Service and did not understand or were not given information or were actually misled that they had to accept the resignation

benefit, which was basically just their own contributions back. Such people would not have understood that if they preserved those benefits in the fund they would also receive an employer benefit further down the track.

The AAT and the courts have held that in cases where people have suffered hardship as a result of either not being informed of that option or being actively misled they should have the option of in fact repaying the money that they had and then achieving the benefit that they would have received if they had been given the proper information. It is an attempt again by this bill to take away an existing right.

CHAIR—Where did the fault lie with that lack of communication?

Ms Rubinstein—People will only succeed in their legal action if the fault lay with the government, or with the fund, I suppose, is really where it was.

Ms O’Loughlin—It is effectively with the employer, because the employer on behalf of the fund has the responsibility of providing the information to the employee. So it was very common through the whole of the Public Service for many years for people such as personnel officers to be the responsible person when a staff member came and said, ‘I am resigning. What do I do about my super?’ That personnel officer would then give the advice about what was available, and it was consistently believed across the Public Service at that level that the only thing that you could do was to take your own contributions and thus get no employer benefit. It was a very widespread belief, and it was at that level of the employer’s personnel officer providing the information. As Linda says, where that has shown to have been incorrect—

CHAIR—Wouldn’t that sort of information be in a booklet called ‘Know your superannuation’ or something?

Ms Rubinstein—Apparently not. If the information was provided and the employee simply did not read it in a way that was accessible, then they would not succeed and do not succeed in the courts. The courts have found in favour of employees only where they were not given the information or where they were actually misled. For example, one decision that I have read points out that the forms that people were given on resignation just said, ‘Tick the box and you get your own contributions back’ and people believed, and were lead to believe, that that was the only option that was available to them.

But I am not suggesting that we should be sitting here and deciding whether or not these people should get their benefits. That should be a matter for the AAT and the Federal Court to determine. It is not for us to determine it, nor ought it be for the government to legislatively cut off that option. If the courts find that people are unfairly treated, then they get restored to the position they would have been in. If the courts find against them, if they were in fact informed and they did not bother to read it, then they obviously will not win their case.

The fourth and final issue that I will deal with is is consequential on the closure of the PSS, and it is the rights to preservation. At the moment, if somebody resigns from the PSS

they can preserve their benefit and rejoin the PSS if they are re-employed. A consequence of the legislation is that they will not be able to do that. Again that is an example of an existing right of existing employers which will be taken away by this legislation in clear breach of the Prime Minister's undertaking.

In the ACTU submission we have put the recommendations in relation to those four issues, which are essentially that the legislation should be amended so as to rectify that. They are the issues that the ACTU wishes to draw to your attention. Ms O'Loughlin will say more about those and other issues.

Ms O'Loughlin—The points that I want to concentrate on go firstly to issues of broad public policy. One of our concerns is that the intention to close the PSS and effectively force at least new Public Service workers into accumulation schemes will mean that the benefits those people will take in later years will almost certainly be lump sum benefits. It is our understanding and our own view that governments of all persuasions have moved over time to a position that pension outcomes generally speaking are better outcomes as far as the national superannuation and pension system is concerned. We find it quite bizarre that a scheme such as the PSS that offers an extremely good pension entitlement, a fully indexed pension, should be closed down in favour of putting what over future years could be a very large number of employees into accumulation schemes where the outcome will certainly be a lump sum outcome.

Related to that as far as our members are concerned is the loss of entitlement that that entails for people who will not be allowed to join the PSS. The defined benefit scheme arrangement for that fully indexed pension is an extremely good one. It was designed through consultation and discussion between employee representatives and the employer back in 1990 and was designed specifically for public sector workers. It is the case that the way the scheme operates now has certainly provided opportunities for that public policy goal of pension outcomes as opposed to lump sum outcomes.

It is also true that in the last couple of years many of those exiting the PSS have been exiting as lump sum exits, but if you have a look at the figures in the annual report you will see that the vast bulk of people are exiting as retrenchments, not as retirements. So I would say that, although the current figures show a high proportion of people taking lump sums from the PSS, they are very much skewed by the method of exit. Over time that will change back to a more of a reliance on a pension outcome.

The other fact that goes with that, and Ms Rubinstein has already alluded to it, is that the loss of the PSS to new starters will actually entail a very significant loss of additional benefit. I have got some figures here, and I have got copies if people want to have a look at them. It is a simple fact that the PSS has an arrangement that for every percentage that employees contribute above the minimum amount—which is two per cent—the employer contributes additionally. So, at the basic, bottom level of two per cent, the employer contribution is 13 per cent; at the top member contribution level of 10 per cent, the employer contribution is 21 per cent.

So you can see that, if this is to be stopped for new employees and if there is a system whereby only 13.1 per cent, in theory at least, will be paid into accumulation funds for new

employees, their capacity to achieve a further employer contribution will not be available. I think that is a major loss for new beginners in the Public Service compared to those who are currently able to be in the PSS. It is one that has come to our attention in fairly recent days, and not one that we have included in our original submission.

In a way, this highlights the point that Linda was making. The lack of consultation on this whole issue has meant that the ACTU, the CPSU and staff in the Public Service have had no real capacity to examine the legislation properly—to have it discussed with those who are putting it to find out what the legislation is really supposed to be doing. Let us put aside all the theories about why this is really being done and just look at simple things like unintended consequence. It means that we are not in a good position to be absolutely certain we have found all of the concerns, but this one has come out quite recently. There is a very significant difference between a person who happens to join the Public Service on 30 June 1998 and a person who happens to join on 1 July 1998 under the government's current proposals. There has been no good reason put forward that I can see as to why there should be such a significant comparative disbenefit between people.

Just on that topic, and going to some of the issues of differential outcomes that this legislation would create if it is allowed to go ahead, the current PSS arrangement provides excellent insurance options for people for death and disability. New starters will not have access to that because they will not have access to the PSS. If they go into a public offer fund, an RSA or another type of fund, they will probably have to pay quite a significant amount themselves in order to achieve anything like the same level of insurance cover as they enjoy at the moment through the PSS. Again, this is just a simple issue of equity or a comparison between current employees and new employees under what the government proposes.

Under current arrangements, the administration of the PSS is paid for effectively through the government paying for ComSuper. I know that the government intends to change the payment arrangements for ComSuper so that in future, rather than ComSuper simply being directly funded from consolidated revenue, what will happen is agencies will be funded and they in turn will buy superannuation administration services from ComSuper. This will be a further loss for new people. We had many issues to discuss. I will not go into some of the concerns I have about that. The point I am really trying to make is that those people who will not be allowed to join PSS will go to one of these public offer, RSA or other type of funds and they will pay their administration. Again, that is a further major point of difference for the person who joined on 30 June compared to the person who joins on 1 July.

Another concern that we have is that the liability for provision of a final benefit gets transferred automatically if you move someone from a defined benefits scheme to an accumulation scheme. Effectively, what happens with a defined benefits scheme is that the employer has the liability until the final benefit is paid. With an accumulation scheme, effectively, the employee picks up total liability for that once the payment into the fund for that fortnight, or whatever it may be, is paid. Again, we think that is a loss of a benefit.

It is certainly the case that the final benefit that a person can achieve through using an accumulation scheme, such as will be the norm for people who will not be allowed to choose to be in the PSS, will be a much lesser benefit than if they were in the PSS, particularly if

you do the comparison for someone who wants to achieve a fully indexed pension as their final benefit. Under the PSS arrangements, that is quite achievable at a reasonable level through significant employee contributions and the extra employer contributions that that attracts.

If you have a look at attachment E among the tables at the back of the CPSU's submission, you will see what I admit is a very basic comparison of the difference between what would happen to somebody who has their superannuation paid into an accumulation scheme and the outcomes for people in CSS and PSS. But, most particularly, if you have a look at the bottom figures there, you will see the difference between the amount of savings required to buy an unindexed pension compared to that which is required to buy an indexed pension. The loss of the ability to take an indexed pension—which is available to people through the PSS—compared to what people would be able to achieve through an accumulation scheme is in the order of \$100,000 or more. That is a very significant loss of benefit. I do not see any reason why members of my union or workers in the public sector generally should have to suffer the loss of such a benefit, when very clear-cut promises precisely to the contrary were made by the current Prime Minister.

I also want to touch briefly on a couple of the other issues in the bills which go to the combination of the CSS and PSS boards. Again, there has been no consultation or discussion with the staff of the Public Service, nor their representative organisations. I am not stating that the union is necessarily opposed to such a combination, but it is certainly the case that it is a significant thing to do and that the people whose money is invested by those two boards have not been consulted in any way. That is a quite an unreasonable way for the employer to behave.

Our members, people who work in the Public Service, have a somewhat strange position in relation to superannuation matters. Our superannuation is not in awards; it is under legislation. What that means is that the government of the day has very much the power to unilaterally change superannuation arrangements. That gives them a different level of power than may apply in many other areas. What I think that means for the government as the employer is that it has, if you like, an even more onerous requirement of consultation and discussion with its employees before it goes ahead and makes very significant changes.

We certainly think that, in general, the choice legislation that this closure of the PSS has been attached to by the government has serious concerns in its own right, particularly in the timing. It is our view that there is no way the Public Service is ready to introduce choice on 1 July 1998, even just for new starters. We certainly believe that no arrangements are properly in place—and, indeed, the legislation is not yet in place—that would allow Public Service departments and agencies to be properly prepared. When you consider the date now and the proposed start-up date, we think it is highly unlikely that anything reasonable will be in place in the Public Service for new starters under the choice arrangements.

Finally, can I say that our view is that the PSS must remain open. If the government's choice legislation is carried, then we believe that the PSS should be the default fund. It should remain as one option for people to choose under a choice of fund legislation proposal. We are not saying that public servants have to be separated from the rest of the community and be maintained in a compulsory arrangement in PSS. It is not our view that we are

opposed to choice in that sense. However, as Linda has said earlier, we do believe that it is quite remarkable that the government's proposed legislation for choice generally requires other employers to offer the industry scheme to their employees yet the government intends, by this legislation, to close its scheme the day before the choice legislation is intended to take effect—clearly as a means of getting around its own legislation for the rest of the community.

Senator SHERRY—Regarding the letter you have that was signed personally by the Prime Minister, what is your members' understanding of the words 'prospective Commonwealth Government employees'? Did they believe that that covered future government employees?

Ms O'Loughlin—Yes, that is certainly what our members believed. Really, on any ordinary reading of the phrase, that is what you would expect it to mean.

Senator SHERRY—I was nodding off, but when I woke up I kept seeing core and non-core in the place of existing and prospective. Perhaps that is more to the point. In respect of current, existing employees, there are a number of areas outlined here where you contend that the current employees will suffer a disadvantage even though they may remain in the CSS or the PSS. One area you did not touch on in your opening remarks was the administration costs. Do you have any further information on how administration costs are likely to be applied?

Ms O'Loughlin—Apart from the logic that new employees will have to go to a scheme where they will pay individually the administration costs, the other issue is that, with the changes the government is intending to make, departments will receive—they say—13.1 per cent for superannuation. Then they will have to buy the administration services. I think there will be a real propensity on the part of agencies to see that they are now paying for superannuation for people out of their own accounts in a way that means they will want to use some of that 13.1 per cent to pay for the additional costs of administration. It is very likely that, for departments and agencies, the cost of actually administering the payments of moneys into various funds will go up as a result of the choice legislation. In those circumstances, it is highly likely that the agencies will feel almost honour bound to take that money from the overall amount they are provided with from DoFA to pay for superannuation. We think it will come off the top.

Senator SHERRY—That is a issue we might explore with the department later. Is it clear that the commitment given to fund the agencies up to the 13.1 per cent will be for additional funding to each and every agency?

Ms O'Loughlin—That is the figure that has been given to us when we have spoken to people in the Department of Finance and Administration's Australian Government Superannuation section and been stated by the government in replies to questions in the parliament. What we have been told by Finance is that 13.1 per cent actually represents a slightly higher figure than what they would necessarily have to provide because the cost of superannuation for both PSS and CSS to the employer is dropping over time and the actuary figures show that. So what the Department of Finance and Administration has told us is that, by pegging

the figure at 13.1 per cent for PSS and new starters, they are actually providing the department with a very fair figure to provide superannuation benefits.

If I might go on though, we are really concerned about whether that 13.1 per cent will actually end up in the hands of the members. When questioned in the parliament or when we have written to them, there has been absolutely no willingness on the part of the government to confirm that this 13.1 per cent is for the employees individually, not just for the department. We have had no confirmation of that. They simply say it is there for bargaining.

Senator CHRIS EVANS—The 13.1 per cent is not in the legislation anyway, is it?

Ms O'Loughlin—No, it is not.

Senator CHRIS EVANS—So it is subject to normal budgetary review each year? The allocation of 13.1 per cent for superannuation for each department would be a budget line figure which would be reviewed each year as each department's allocations?

Ms O'Loughlin—That is exactly right.

Senator CHRIS EVANS—So, in a position of budgetary constraint and with the need to cut back, that would be a budget item subject to scrutiny like any other?

Ms O'Loughlin—Yes, that is exactly right. The other point that I was making earlier goes in with that. That is, by saying that they are going to provide the 13.1 per cent funded into accumulation schemes in the future, they are theoretically tying themselves to do that. Yet if they stay with the PSS—as I have pointed out, the cost to the employer of the PSS has been dropping and we believe it will continue to drop over time—and the government keeps its promise about the 13.1 per cent, it is going to cost the taxpayer more than it would have, had they simply left people in the PSS.

Senator SHERRY—But, if the cost is dropping to the government over time, you would not expect them to maintain a level of 13.1 per cent, would you?

Ms O'Loughlin—We cannot expect anything because we did not expect them to close the fund; they promised they would not, and now they have. One of the problems that our members really have about all of this is that they find it very hard to believe these statements that the 13.1 per cent will be paid to agencies because of the other breaches of promise. I am also concerned about real pressure on the government over the cost of superannuation, as there traditionally is for public sector workers. As the question of unfunded liability still comes up every so often, it is easy to see pressure going on both the government to reduce the amount and for departments themselves—because they are allowed under what the government is saying to date—to bargain anything above the superannuation guarantee level. Bargaining does not mean that we are guaranteed that our people will continue to get it.

Senator ALLISON—Could I just clarify something. It is 13.1 per cent for new employees, not for all those currently in the scheme. Is that correct?

Ms O'Loughlin—I have been told by the Department of Finance and Administration that from 1 July it will fund departments depending on their mix of CSS staff, PSS staff and new starters. In this way, they will receive 21.9 per cent for people who are in the CSS, because that is the average cost, and 13.1 for the rest.

Senator SHERRY—Just flowing on from this issue, at the moment it effectively has to be funded because it is a defined benefit fund. The end benefit is enshrined in legislation. I think that in the case of new employees it will effectively become an accumulation fund and anything that is paid over SG—which is currently six, going to nine—will be dependent on the extent to which the agency is funded?

Ms O'Loughlin—That is right.

Senator SHERRY—I put it to you that security of long-term payment will be effectively lessened?

Ms O'Loughlin—That is exactly right. You have just made me realise that point. Because the benefit is effectively defined in the legislation at the moment, it is not possible for the government simply to reduce the benefits other than in a clear-cut way by changing the legislation. But, yes, changing the line in the budget—about whether it is 13.1 per cent going down to 12, six or nine per cent, whatever the superannuation guarantee is, which I think will be the minimum—is much more straightforward.

Senator SHERRY—One other issue I want to touch on is the death and disability insurance. That has been raised with us in the context of the legislation we have been dealing with in respect of choice. I am not aware of the detail of your current death and disability insurance. Can you give us a very quick overview?

Ms O'Loughlin—I do not claim to be an expert on this but, essentially, it provides for a benefit payable to a person who dies while a contributor which reflects their level of salary and their number of years of prospective service on a formula type of model. This gives a benefit, in the main, that is far beyond what the general provision is in things like public offer funds or industry funds.

Senator SHERRY—Is that self-funded within the PSS and the CSS?

Ms O'Loughlin—Yes.

Senator SHERRY—It is not contracted out to a private employer?

Ms O'Loughlin—It is not an insurance policy, to my understanding, no. It is self-funded and obviously, with a fund of this size, it is quite feasible, and it is a significant benefit. It was one over which there was a great deal of discussion at the time the PSS was introduced because the CSS benefit, if you like, was somewhat more significant. There was horse-trading done on what the PSS death and disability benefit is at the time. The unions agreed to a certain arrangement in the PSS and traded certain other things in the scheme to get a final result. Now again, without consultation or notification, it is being changed most

markedly. My knowledge of industry funds is not huge, but I think to buy insurance through them you are paying maybe 30c to 50c a week. I think it is in that order.

Ms Rubinstein—It is generally more than that. It is generally about 80c to \$1. But it is what you are buying for that. To buy the same level of insurance that is provided through the PSS would be far more than \$1.

Ms O’Loughlin—The union’s own staff fund pays far more than that—in the region of \$6 or \$7 a week—to provide insurance to our people.

Senator SHERRY—I could not see any reference in the explanation in the legislation to the military funds, which are also public sector funds.

Ms O’Loughlin—No. Our understanding is that this is not intended to cover them and they are being left out entirely. It is entirely for the civilian sector.

Senator SHERRY—So the last place in the country that it is intended to prevent choice in is the military, which is a little ironic, I suppose. We have got conscription of superannuation in the military and that will be the last place in the country—except for us.

Senator CHRIS EVANS—I want to follow up this 13.1 per cent argument. I am not clear in my own mind if the existing scheme is retained for current employees. The current cost is at 13.1 per cent, and you say it might well reduce over time, but it may well increase over time as well, given that the profile of the membership will change as choice and alternative schemes are offered. I am wondering what your understanding is of what occurs if the current scheme ends up costing an average of 15 per cent.

Ms O’Loughlin—If the government keeps its word on this—let us assume that for a moment—then people will lose some amount of benefit. The benefit regime of the PSS will have to change unless the government provides the additional outcome.

Senator CHRIS EVANS—Will it? Because if they are committed to providing 13.1 per cent inside the department, if they have got to pay 15 per cent to fund those in the existing scheme, does that not mean that that reduces the pool available to fund the remaining employees in the department?

Ms O’Loughlin—It depends, because it is not the department itself that is required to pay the final benefit. It is ComSuper or the Department of Finance. The agency itself is not required to pay the final benefit in the PSS. So I am not sure how that would interact. Really what is going on here, by separating these two arrangements, is that one is going to be at an agency level—that is the funding into accumulation schemes for these new starters. There will be a hybrid where people in the PSS will have their funding given to them from their department, but the outcomes will still have to come out of, I assume for the PSS people, ComSuper. It is a hybrid there, and I do not know how an agency would be able to manage that.

Senator CHRIS EVANS—Have you any details of what range of benefits the government sees as being able to be negotiated that exists between the nine per cent minimum

super guarantee payment and the current 13.1 per cent? Is there any idea what they are talking about? Is this superannuation? Are these benefits for people's retirement or are they cash in hand or are they devoted car leases? What are they?

Ms O'Loughlin—The wording of the statements that have come out of the Department of Finance on this and from the minister also is that the only requirements on departments are that they must pay super guarantee as a minimum and the rest of the amount—and they are saying it is 13.1 per cent—is available for bargaining. So their theory of the world is that each agency will make up its mind under the general choice provisions as to what it wants to do and then a new starter on 1 July 1998 will walk into the department and sit down with somebody who knows what they are doing, theoretically, and bargain about whether they get at that stage seven per cent paid into super and the rest, theoretically, as a pay rise or, as you say, a whole range of other benefits.

Senator CHRIS EVANS—They could in fact arrange to bargain that money away and take it in other non-cash benefits as part of the tax evasion principles that are being encouraged in the bargaining process at the moment.

Ms O'Loughlin—They could, but our problem is we have no guarantee that the department itself will make available the rest of that money. There is no guarantee that the department will offer anything more than super guarantee to that individual who walks in the door on 1 July 1998. The government has not given that undertaking.

Senator CHRIS EVANS—The only restriction is that they will have to do it within the current funding.

Ms O'Loughlin—They will only be provided with that amount. But there is nothing to stop the department from hanging on to some or all of the differential between super guarantee and the 13.1.

Senator ALLISON—The government would no doubt argue that public service superannuation is now somewhat out of step with the private sector in that it is much more generous. Would you like to comment on that?

Ms O'Loughlin—The government did not argue that when it was running for election to government. What the government ran was a rock solid guarantee not to cut and destroy; a guarantee that all accrued superannuation entitlements would be retained and separate arrangements for public super and a firm—

Senator ALLISON—I understand that commitment. I just wonder if you could just expand on that idea and perhaps just discuss whether or not it is generous, given other conditions.

Ms O'Loughlin—It is like anything. How long is a piece of string? You make a judgment about it depending on what you compare it to. If you compare it purely to superannuation guarantee, it is generous. If you compare it to the parliamentary scheme, it is not all that generous.

The point that we keep making about this is it is the second most important method of remuneration for public sector workers. The government has refused to undertake any bargaining or negotiation with employee representatives about it, yet in the past it has always been the subject of negotiation, even with previous conservative governments, and it is changing it single-handedly. No other employer I think is in a position to do that, and if there is a view on the government's part that the superannuation arrangements are unreasonable for public sector workers then it should do what every other employer has to do, which is to sit down and bargain with the representatives of the employees and have that debate with them. But, unfortunately, that is not what they have chosen to do.

Ms Rubinstein—Perhaps I could just add something to that. While the PSS is generous in comparison to the SGC, it is not uniquely generous, and in the private sector there are corporate defined benefit funds, frequently not applying to blue-collar workers but applying to white-collar workers—that is clerical and supervisory and technical type employees rather than process workers and tradespeople—that would be defined benefits costed at around that 13 per cent or even more. So large companies would not uncommonly have benefits of that scale for those sorts of people.

Senator ALLISON—You say that it is an impossibly short time frame because there has been no consultation and no training and the details are not known as to how this is all going to work. What is an appropriate time frame?

Ms O'Loughlin—If the choice legislation is, say, to begin on 1 July 1999 or 2000—both dates, I believe, have been put forward by many organisations and people in the general discussion about choice—then I think that would be an appropriate time to see provision of the PSS as the default scheme and as a choice scheme and would give plenty of time for Public Service departments and agencies to prepare the way for general choice provision. We do not believe that we should be any further delayed than the general community, but we think the whole community needs the extra time on the choice legislation.

Senator ALLISON—Should the public service scheme be a defaults choice, would your union argue strongly for new employees to pick up that choice? What role do you see for yourselves in this whole choice regime?

Ms O'Loughlin—One of the points that I think needs to be made about choice and also about this is that the education level amongst people is still quite low, including in the public sector. The union has played a far higher role in the education of public sector workers about super in general and about these issues in particular than the employer has. We would continue that educational role.

It is pretty straightforward for us to have two people and show the difference between a defined benefits scheme outcome and an accumulations scheme outcome. We will certainly be providing people, in the circumstance that you talk about, with the difference between the administration arrangements and the whole list of the differences that we see. But our role would be only as a provider of information. Our members, when they have got that information at hand, are very good at making up their own minds about what is best for them. That is why we are not opposed to choice in the public sector.

There are some people for whom a scheme other than the PSS may be a good decision. If they want to make that decision, good, but as long as they make it on the basis of good information and they are certainly not coerced by anyone. In a situation where a person happens to be not particularly interested in super or not able to spend time thinking about it, the default for that person who does not want to make a decision has to be a proper and appropriate default fund, and the PSS is that.

Senator ALLISON—This is an unreasonably hypothetical question to ask you, but what would you expect your members to do if that choice was available to them, given that the government has said that it is its intention to wind back that scheme? This clearly would be an argument against arguing that as a default option.

Ms O’Loughlin—If it is the default option, we would expect it to be made on the basis that the PSS will be a continuing scheme. Clearly, as a default option where the government has some stated intention slightly further down the track to close it, that is just not viable. If it is a default option, it has to be on the basis that it is an open and continuing scheme.

In those circumstances, my thought is that the vast majority of the people, in the region of 90 to 95 per cent, in current circumstances would do nothing. Therefore, they would go to the default scheme. I do not think that is peculiar to the Public Service. I think most people in the current climate do not want to think about superannuation. They want to be confident that what they are being offered is appropriate, safe and secure and will give them a good benefit at the end of the day. They do not want to run around looking at key feature statements or being taken out to lunch by fund managers. They just want someone to fix it for them. In those circumstances, the default fund has to be a proper one.

CHAIR—If the legislation remains unamended, do you see any areas of possible litigation and, if so, where?

Ms O’Loughlin—The thought that this is in breach, at least of the last Public Service-wide agreement that was made, has crossed my mind on several occasions. There is a question in my mind as to what action could be taken either through the industrial route—and by that I mean the Industrial Relations Commission—or legally if this legislation is passed.

When my members talk to me about it, they see it as they joined the Public Service, in their mind, on a certain contract of agreement, an unwritten one, but one where they knew what a pay rate was going to be when they joined up because they were going to be a certain classification and it gets a certain pay rate, and they knew what the superannuation arrangement was going to be. Now that is being changed quite substantially without any discussion. So there is a real feeling on the part of many of my members that this is a unilateral breaching of, if you like, an unspoken contract between them as employees and the government as the employer. We will be under some pressure to look at those possibilities.

Senator FERGUSON—Ms O’Loughlin, you talk about people joining with some sort of security in the knowledge of their pay rates and their superannuation. I understand this legislation only applies to new members.

Ms O'Loughlin—But the disbenefits that I have described for current members are real enough as well. There is a general view amongst current members that the closure of the PSS over time will mean a loss of commitment to it on the part of the employing agencies and that current members may well find themselves in a situation in a few years where the PSS will be closed off to them as well.

Senator FERGUSON—But that is a belief; it is not a fact.

Ms O'Loughlin—At the moment they only have the government saying that they intend to allow people to stay in the PSS. Clearly, on the record of the government, that is not a very reliable undertaking.

Senator FERGUSON—In your opinion.

Ms O'Loughlin—In the opinion of my members.

Senator FERGUSON—I think I heard you say the level of education is very low.

Ms O'Loughlin—General knowledge about superannuation in the community is not high.

Senator FERGUSON—What about amongst the Public Service?

Ms O'Loughlin—Since 1990-91 and the introduction of the PSS that level of education has gone up. I think it is marginally higher than the general community.

Senator FERGUSON—Given that we have had the SG in place for a number of years and this government has only been in place for about two years, why do you think the general level of education was so low during that period of government when it was introduced, which, I would have thought, was the time to start the education program?

Ms O'Loughlin—I think people know that superannuation is taken care of under the award system, if they are in that employment situation, and under the legislation, if they happen to be members of ours, and for that reason tend not to concern themselves too much with it. It is very hard. I do not know about you, but I spend a lot of time talking to people about superannuation. It is very hard to get younger people to take an interest in it, even though you try to explain to them how important it is. Generally, the only people who get interested in super are the ones who hit 40 and are starting to really think about it seriously.

Senator FERGUSON—I used to talk to a lot of people about super once, but let me say that the general impression is that the trouble with younger people is that they do not believe they are mortal until they are 40. With that in mind, they think they are going to work for ever anyway. So that is why it is difficult to get young people interested. Within your public service sector I would have thought that the level of education was high enough that they should not just want someone else to take care of the superannuation, they should be interested enough to want to have some further information themselves.

Ms O'Loughlin—They are always on the lookout for information where they see that it is of significance to them. Under previous circumstances, there was a high level of trust in the superannuation arrangements remaining static—that is, remaining as they had been. In those circumstances, I think people felt that it was fair enough for them to know about their own scheme but not really the need to go much further than that. They were satisfied.

There has been no demand amongst our membership for choice. Our people believe that the scheme that operates at the moment is an extremely good one. Certainly my reading in the general community is that there is a tiny proportion of people in the working population who actually would be keen to see choice and who would take it up.

Senator FERGUSON—How do they know that their scheme is a good one if they are not prepared to get themselves involved and they are prepared to allow someone else do it for them all the time?

Ms O'Loughlin—You do not need to have anything other than the guide of people who have been in the Public Service over a period of time. This is where the discussion takes place. People discussed very heavily in 1990 the difference between the old scheme, the CSS, and the PSS. As I said, from that period on, the level of knowledge and information has improved quite a bit compared with previously. People do now discuss quite knowledgeably the difference in outcome if you take a lump sum versus a pension in retirement and issues relating to the other differences between the CSS and the PSS, so it has come up.

CHAIR—Thank you for your attendance.

[8.00 p.m.]

BUTLER, Mr Gerard, Director, Australian Capital Territory, Association of Professional Engineers, Scientists and Managers Australia, Unit 4/7, Napier Close, Deakin, Australian Capital Territory

CHAIR—Thank you very much for appearing before us. We invite you to speak to your submission and, following that, as you would have seen from the previous witnesses, we will ask you questions. Thank you very much for putting in your submission.

Mr Butler—Thank you, Mr Chairman. I am conscious of the time requirements, but equally conscious of much of the material that has already been covered by ACTU representatives and Ms O'Loughlin from the CPSU. Without going into too great detail, there are a number of issues that really do need to be put into perspective. The first one is the magnitude of the issue that we are dealing with. We are not simply dealing with public servants. We are dealing with people who, in terms of the Commonwealth Superannuation Scheme, are still—albeit there are not a lot of them left any more—employed in statutory authorities like Australia Post, Telecom and other agencies that prior to about 1990 were all members of the Commonwealth Superannuation Scheme. They were given a choice of either exiting the Commonwealth scheme and joining the local or the employer scheme that was made available at the time. Many of them jumped to the new employer scheme but a small group of them did stay in the old Commonwealth scheme.

In relation to the Commonwealth, as I said before, you have got people in the government business enterprises who are still members of that scheme. You have got people in the Northern Territory Public Service who are still members of the Commonwealth Superannuation Scheme. In relation to the PSS, you have got people obviously still in the Public Service—by the Public Service I mean the APS proper—but the Public Sector Superannuation scheme is the main superannuation scheme for the ACT Public Service. In that context, I simply say to you that there has been a very major departure from established practice and that has been the recognition by governments of both persuasions of the need to consult the representatives of the members of those various schemes.

Equally, one of the reasons they have been prepared to consult is that there has been a recognition within government of the complexity of the various schemes that are on offer. I do not think one has to be an Einstein to recognise that the Commonwealth Superannuation Scheme and, for that matter, the Public Sector Superannuation scheme—the PSS is certainly better than the CSS in terms of its explainability and its ease of reference—are still quite complicated superannuation schemes. Very candidly, the majority of people in them really do not know too much about what their ultimate benefits are and what their ultimate rights and entitlements are. They certainly have very little idea of the cost of the schemes.

We have heard some discussion today about the costs of the scheme and the figures bandied around generally are of the PSS costing something like 13.1 per cent and undertakings by the government to meet that level. The actual costs of the PSS per individual employee differ depending on what their years of service are, depending on what their salary levels are and depending what their salary progression is. They also differ in terms of whether the 13.1 per cent figure is the actual funding arrangement for the agency. In some

cases, the agencies have had actuarial reviews done and the actuary has determined a funding rate for the agency, and that is the rate that the agency is funded for the PSS.

In some of the other agencies, they have essentially combined the PSS and CSS funding arrangements and come up with some type of average figure for that particular agency. I think it is one of the first things that we do need to sort out and I would be very interested to hear from the actuary and other people before the committee tonight as to what the magic or the relevance of the figures of 13.1 and 21 per cent actually is.

They may be an average cost, they may be a cost for a new entrant, but they are not the real cost per employer because that real cost varies, as I have said before, depending on age, depending on service and depending on salary progression. That is what makes it so concerning: that we have got these major changes being proposed with nobody having had the opportunity to get down and look at the nuts and bolts of it.

I equally say that, as a person who was involved, albeit in a different life, in the negotiations that led to the PSS and equally in the establishment of some of the government business enterprise schemes, there is a very major concern about what is being proposed. In terms of the complexity that we are adding to these schemes, if you look at the bills even in terms of the existing Commonwealth super scheme, it is actually proposed to add to it a completely new range of preserved benefit options for people who supposedly opt out of the scheme. Those people will have access to a pension entitlement at age 55, but it will be a different pension entitlement to the people who do not opt out but who leave the scheme through resignation. So, all in all, even just using that as an example, what we are doing is further complicating what is generally recognised as an almost excessively technical scheme. The same can be said about the PSS.

The other concern that we have particularly is the time scale in which it has been proposed that all of this occur. As I mentioned before, this scheme applies to the ACT Public Service as well. The ACT Public Service, as I understand it, today received a report from TPF&C on the actuarial ramifications—

CHAIR—What was that union?

Mr Butler—TPF&C—they are a large actuarial company.

CHAIR—I see, yes.

Mr Butler—They were commissioned by the ACT government to undertake a review of its superannuation arrangements and to look at the consequences of the unfunded nature of the PSS and its contingent liabilities. That report, if it has not been received today, will be received some time this week. The ACT government has between now and 1 July to make up its mind as to what it proposes to offer for each new employee. Even in the Commonwealth area, where we have had some knowledge of the closure of the PSS, and having been involved in some of the enterprise bargaining negotiations around the place in terms of the Public Service proper, none of the agreements that we have been involved in have actually specified what the new superannuation arrangements are for new employees.

In various agencies there have been attempts to get some certainty about the funding levels written into the various agreements, but in terms of saying in a very clear form in some type of binding agreement, contract or whatever, or even legislation, there is nothing that says, 'These are the superannuation arrangements that will apply to new employees come 1 July 1998.' What you are doing is asking agencies which, in the past, like a lot of people in the Commonwealth sector, have not had a great interest in superannuation, because superannuation was something that was administered and run by the Department of Finance and ComSuper. It was something that the agencies very rarely had to look after in both the administration and operation of it.

Certainly, in terms of the capacity to explain it to their employees, they will now be responsible for doing all of those things. We are expecting them, if the legislation goes through, to be in a position to do that come 1 July this year. Quite candidly, I doubt that it is possible. If it does get up, we will certainly be involved for some time thereafter in correcting the mistakes or correcting misinterpretations, or in fact with people instituting proceedings, saying that they have been improperly or inadequately advised. That is more on the general issue. As I have said before, I do not think it is physically possible to get something up and working by 1 July this year.

In relation to some of the other matters that are dealt with in the bill, the first one is the issue of late preservation of superannuation benefits. What is being proposed there is essentially to curtail an existing right that people have to overcome mistakes, errors or poor decisions that were made based on incorrect advice. These are the people that Ms O'Loughlin was talking about who left the Commonwealth Superannuation Scheme and opted to take a refund of their contributions, thereby forgoing the employer benefit. Those matters really started to come to attention in about 1990 and 1991 with this increased awareness of superannuation. There have been a number of cases run through the AAT and also through the Federal Court.

Both the AAT and the Federal Court have given clear indications of the types of issues that they think should be considered in determining whether a request for late preservation should be accepted or not. The request for late consideration has actually been administered by ComSuper and, again, being very candid about it, ComSuper has not been terribly sympathetic towards individual applicants who have approached them saying, 'I have just realised, having been a public servant between 1976 and 1983, that I made a decision based on poor or inadequate advice and I would now like to apply for late preservation of my superannuation benefits.' The essential approach has been to push the proceedings out, to push the consideration out, and to make it difficult for would-be claimants to establish their claims.

CHAIR—Who funds these test cases?

Mr Butler—They have not been so much test cases; they have been individuals becoming aware that they had an option and exercising that option. What they have got to do is apply to, as it then was, the Commissioner for Superannuation, for a decision. The commissioner would then—I would say very candidly to you again—in most cases reject it

or the Commissioner's delegate would reject it. The individual would seek a reconsideration which, again, in most cases would have been rejected.

CHAIR—On what grounds?

Mr Butler—On the grounds that there was no evidence of incorrect advice. There may have been insufficient advice, but there was no evidence of incorrect advice.

CHAIR—What about lack of advice?

Mr Butler—Same grounds. Essentially, the employee has to show incorrect advice was the approach that was taken by the scheme administrators. Ultimately, those cases have got on into the AAT, and the AAT and the Federal Court have taken a somewhat more generous view of the interpretation of the legislation. It is a case of the overall thrust of ComSuper's approach and, for that matter, the Department of Finance and Administration. Essentially, it has not been a terribly facilitative one. It has been designed to make it difficult for applicants for late preservation to succeed. It is only the ones who have gone into the AAT and had access to inadequate advice who have been able to justify their claims.

That difficulty has been exacerbated even further by a recent approach that the scheme administrators are taking, which is to suggest that decisions about late preservation are no longer reviewable by the AAT because, rather than being made by the Commissioner for Superannuation, the decisions are now made by the board. ComSuper is arguing that board decisions are not reviewable under the AAT. I am aware of at least one case that another colleague—a former superannuation adviser—is aware of where that has happened: the request for late preservation has been rejected and the employee or the applicant is now in a position of trying to work out—

CHAIR—It is the board acting as trustees, is it?

Mr Butler—Apparently there has been a legislative change already which removes the responsibility for the decision from the Commissioner for Superannuation and allocates it to the board.

CHAIR—That board's decision is reviewable by the Superannuation Complaints Tribunal, if it had jurisdiction?

Mr Butler—If it had jurisdiction it would be. You now have a part of it. It is a pretty clear pattern of delay and difficulty. It has now been added to by the change in legislation and the change in practice which says the board will make the decision. There is equally now the difficulty of—once the board has made its decision—where the requests for review of that decision go. Are they AAT based? If they are AAT based, there is obviously a cost involved in lodging an AAT matter. Or do they go to the Super Complaints Tribunal which, as we all know, suffers from the difficulty of jurisdiction? Is it enforceable or isn't it? Is it judicial?

CHAIR—Don't you have some of your members on that board?

Mr Butler—On the super board?

CHAIR—Yes, that did the review.

Mr Butler—The ACTU nominated a number of people to that board. Given our relative numbers in the Public Service and public sector generally, there are no APESMA representatives on that board, and I think the difficulty is that the nominees on the board see themselves as board members primarily rather than representatives of trade unions. That has been the approach that has been taken with most trustee and board type arrangements.

CHAIR—Shouldn't it be primary interests of the members rather than trade unions?

Mr Butler—One would hope that their primary interest is members. They are there as the board to administer the scheme. In doing that, they have obviously got to have regard to the interests of the scheme, not necessarily the interests of individual members. They have had some difficulty in necessarily influencing some of the board guidelines, as I understand it.

CHAIR—It is a bit disturbing to hear that.

Mr Butler—That is one of the concerns, certainly, about the proposals to remove and to change the jurisdiction in relation to late preservations. In relation to the proposed sunset provision on access to the redundancy benefits, again one needs to consider how those arrangements currently apply and where they came from. In both the PSS and the CSS, as part of the negotiated outcome back in 1990, it was agreed that both of those schemes would allow access to redundancy benefits in lump sum form up until 30 June 2000. After that there was to be a complete sunset or complete closure provision inasmuch as lump sum benefits would not have been made available after 30 June 2000.

That was, as I said before, part of the settlement or the agreed outcome of the review of the Commonwealth super scheme. At that stage the existing legislation for the private sector generally essentially said that all new employer contributions, particularly the three per cent productivity benefit, would have to be preserved, unless the scheme had obtained approval from I think it was then the Insurance and Superannuation Commissioner to waive that requirement, and some schemes did. But since that time the government approach changed and it said, as it has done to the private sector, that benefits will be preserved except in the cases of redundancy. Now what they are saying is that what benefits you are entitled to now in the case of redundancy you can carry over, if you like, and have that amount adjusted, but future contributions from 1 July 1999 for all contributors will be preserved.

The government's proposal for the removal of the access to lump sum redundancy benefits for the Commonwealth scheme and the PSS effectively does two things. One, it brings forward the agreed date, which was 30 June 2000, and that date was agreed bearing in mind certain community standards. It now seeks to apply a harder standard in relation to preservation to the public sector schemes than what applies to schemes generally. That is one of the reasons why we have some difficulty with it.

As I said before, in relation to the costing arrangements I think there does need to be some very careful examination given to the costing and what the maintenance of the funding arrangements really means. Again, as I am aware—and it is perhaps something that some of the other more actuarial experts around the place can comment on—even in terms of the figures that are currently being produced for the superannuation surcharge, some of the contribution rates for Commonwealth Superannuation Scheme participants, the actuarial cost for a particular year, are not up around the 21, 22 or 23 per cent figure. They are actually down around three and four per cent. Because of the design of the schemes, the bulk of the benefit has been accumulated in earlier years of service, so that the notional employer cost in a given year can vary considerably, and it can vary from the three to four per cent figure up to the 21, 23 or even higher figure.

CHAIR—In terms of the superannuation surcharge, that would benefit your members though, would it not?

Mr Butler—It certainly made some of them considerably more comfortable once they realised how it was working. Just to go to one of the other issues that was raised earlier by one of the other members, it certainly reduced the interest some of them had in remuneration packaging arrangements, simply because the surcharge had been portrayed as something that was going to essentially catch most public servants earning in excess of, in round figures, \$55,000 or \$56,000. If you apply the so-called notional costing of either 13.1 per cent or 21 or 23 per cent, most of them would be in the surcharge arrangement.

CHAIR—You are suggesting that for the current year most of them are not in it?

Mr Butler—Anybody who has substantial years of service is probably not in it. The other area that does need further study, as I have said before, is the costing figures, but equally the costing arrangements need study, because it is not as if the money that the various departments are given in their running costs actually gets put into a super fund. The money, the 13.1 per cent or the 15 per cent, as I understand it, goes back into consolidated revenue. So it is not as if we are setting up funded arrangements, or it is not as if funded arrangements apply to the totality of the public sector.

What we will have to do and what will have to happen if the proposal to close the PSS comes in is that for those new starters, rather than going back into consolidated revenue, the money will actually have to go into a fund. Again, I do not think there has been any consideration of what that does to the departments in terms of their administrative processes. There certainly has not been any consideration given to offsetting that figure, if you like, in relation to the unfunded nature of the funds.

CHAIR—It has some cash flow issues.

Mr Butler—It has cash flow issues but, equally, a notional 13.1 per cent into a defined benefits scheme does not equate to 13.1 per cent into an accumulation fund, less the 15 per cent contributions tax and less some administrative costs and possibly some years of poor return. They are the types of issues that, because of the departure from the previous process, nobody has had the opportunity to ventilate, to consider or to understand what is really being proposed and how the system will really work. Unfortunately, because of the way it has been

done and because of the speed at which it has been done, it is not as if we are relying on the previous experts in the Department of Finance and Administration to do it or the previous experts in ComSuper to do it.

We will be relying on people in the various agencies who have never had to deal with superannuation, other than as possibly a delegate of the Commissioner for Superannuation, to actually act as the employer, to make sure that the individuals know what their options are, to make sure that they sign and complete all the necessary paperwork and get it back and that they are happy with their arrangements. As we said in our letter to the committee, quite frankly, what we see is that if the current timetable is continued there will be substantial litigation, not necessarily in the next five years but certainly within the next 10 when people will say, 'Look, I've made the wrong choice. And the reason I have made the wrong choice is that nobody really told me what my choices were.'

That is why, to a certain extent, our position is somewhat different from the ACTU and the other union inasmuch as what we are saying is that there should be two positions. Firstly, we have a view that the PSS should be continued as the employer scheme; but, secondly, even as a fallback position, if you like, or as an interim position, until this committee has considered its deliberations on freedom of choice and how that is going to be applied and until there has been an opportunity for some very serious negotiations on superannuation—talking, meeting of minds, whatever you want to call it—the PSS should continue at least for another 12 months.

CHAIR—You said some of your members are in other agencies. I think you mentioned Telstra and Australia Post?

Mr Butler—Some are in Telstra. Some are in Australia Post.

CHAIR—What is the reaction of those agencies and employees in those agencies in relation to the change? What sort of feedback have you got as a result of these changes? Are those agencies looking at setting up their own funds as a result of these changes?

Mr Butler—As I understand it, Telstra, in particular, which has a very small minority of people left in the CSS, in 1990 moved to its own scheme, which is a lump sum defined benefit scheme. There is a need to do something about freedom of choice and there is some pressure within Telstra—and, again, this is only anecdotal because I must say that in a previous role I worked for Telstra as their manager of superannuation—to do something about superannuation and some interest. Depending on who you talk to—there are different stories—one story is that they would like to run a similar approach to what is being proposed in the Public Service proper, which is to close off the Telecom superannuation scheme and replace it with an accumulation scheme. Other stories are that there is no real proposal for change. My information is that if the changes are not on the table they soon will be.

CHAIR—Australia Post?

Mr Butler—Australia Post, again, is somewhat difficult. I think they are reasonably happy with their existing arrangement. The Telstra scheme is a fully defined benefit scheme,

whereas the Australia Post scheme is not. It is a combination defined benefit and employee accumulation fund.

CHAIR—Mr Butler, you have given us a very comprehensive oversight of the issues. Thank you very much for the amount of detail and the manner in which you delivered it.

[8.31 p.m.]

DEEVES, Mr Kevin, Acting Australian Government Actuary, Australian Government Actuary, Insurance and Superannuation Commission, GPO Box 9836, Canberra, Australian Capital Territory 2601

THORBURN, Mr Craig, Acting Deputy Commissioner—Life Insurance, Australian Government Actuary, GPO Box 9836, Canberra, Australian Capital Territory 2601

CHAIR—Welcome, Mr Thorburn and Mr Deeves. In your presentation you might like to comment on issues raised by some of the earlier witnesses. That may help the committee. You know the rules, so the session is yours.

Mr Thorburn—Thank you. I would like to make a couple of opening comments for the benefit of the committee. You would be familiar with my appearances before you as the Australian Government Actuary. Mr Deeves was the Deputy Australian Government Actuary at the time when we did the work involving these particular bills. Mr Deeves is now Acting Australian Government Actuary, as I am Acting Deputy Commissioner for Life Insurance.

On the matters of specific actuarial interest in this bill, there is a new benefit proposed for the CSS when members exercise their choice to depart from the scheme other than by one of the existing means, for example, by resignation. The explanatory memorandum refers to a series of factors which are incorporated in the bill not to increase the unfunded liability for the scheme for those members. The second matter which we had some involvement in is that there are a number of miscellaneous amendments, as I would describe them, although they are probably quite important to the members involved, which relate to things such as capacity for spouses to qualify for benefits after having married an existing pensioner or something along those lines.

The third matter, which has had some discussion in evidence before you this evening, is the costings of the schemes. As part of our usual practice, we have calculated a long-term cost into the schemes. The last report was tabled in the parliament in both houses just prior to June 1997 and relates to data as at June 1996. That is the source of these numbers such as the 13.1 per cent and the 21.9 per cent as it is for the CSS. I would be happy to answer questions on any of those subjects.

CHAIR—Mr Thorburn, it was raised by some of the witnesses that the transfer of superannuation responsibilities to departments and agencies will come at a time when perhaps there is not a lot of knowledge, not a lot of education, about superannuation. Do you see any problems in terms of the timetable for people who will have to administer superannuation for the first time?

Mr Thorburn—Within the departments and agencies, the structures vary fairly significantly, as I am sure all senators would be aware. Some departments have a quite extensive what you would consider in the private sector to be a human resource personnel function and have spent considerable time considering issues of choice. I am aware that a number of private sector consultancies have approached any number of departments with a view to

providing them with their services. So I do not think there is any shortage of awareness. A couple of departments have spoken to us about the implications of choice for them.

CHAIR—Thank you. There were some questions about what the 13 per cent actually covered. Is it net, gross? Does it pick up admin. costs et cetera? Could you just explain the ramifications of this and the application of this 13 per cent and the 21.9, is it?

Mr Thorburn—Yes, 13.1, Senator, which includes the three per cent productivity benefit which is provided as well. That represents the cost that an employer would have to contribute to a scheme to provide similar benefits on a similar basis—both our estimate of those costs and also a cost that would be prepared by a private sector actuary considering such issues as funding rates or the solvency of the scheme. Importantly, we consider the viability of the scheme in terms of the capacity to handle unfunded liabilities in the context of the Australian economy and therefore express those and project them as a percentage of GDP.

The 13.1 per cent itself is a function of the assumptions made, which are based on a fairly extensive analysis of the experience of the schemes. There was some reference, I think, to the cost of insured benefits in earlier evidence. That cost is included. The cost of management of the scheme, expenses, is not included in the 13.1 per cent, as that is borne by the employer. There was also reference to contributions tax.

CHAIR—Would they be borne by the new employer under the new arrangements, the agency?

Mr Thorburn—I think that would be a matter you would have to ask the department. The other matter relates to contributions tax. Under the arrangements for taxing the schemes and the benefits that emerge, there is a different tax arrangement that reflects contributions tax payable during, I suppose, the accumulation phase, as against the benefit phase. So if the scheme were funded and paid contributions tax, then the benefits would also be adjusted for the members.

CHAIR—Can we just go back to that previous answer? You said that I should ask the agencies.

Mr Thorburn—No, the department.

CHAIR—So some agencies could take a different view from other agencies?

Mr Thorburn—My response, Senator, was that you might like to take that up with the department. We have not—

CHAIR—Which department?

Mr Thorburn—The Department of Finance and Administration, who are, I think, are next on your list. We have not had a great deal to do with the interaction of funding arrangements between agencies and that sort of thing. We cannot really comment on that.

CHAIR—Thank you.

Senator SHERRY—On this issue of the 13.1 per cent, is it your understanding that it is possible for some employees to receive a benefit greater than 13.1 per cent, if that is what is negotiated between them and the department, and others less than 13.1 per cent in terms of superannuation contribution?

Mr Thorburn—Post the application of this?

Senator SHERRY—Post the change.

Mr Thorburn—I do not have any particular understanding about what departments may or may not do.

Senator SHERRY—Post the change, the existing schemes are shut down for new employees—they are not able to access them. The department has allocated the 13.1 per cent to cover the cost. There would be some departments where there would be a greater proportion of new employees than other departments, I assume? There will be some departments therefore for which the cost for new employees would be a greater pressure on their departmental budget?

Mr Thorburn—That would depend on the post arrangements for whatever provision they were making. For the existing schemes the cost would vary depending on experience—higher levels or lower levels of turnover, higher levels or lower levels of salary growth and higher levels or lower levels of mortality experience, for example. Some services provided by the Commonwealth are essentially of a clerical nature others may involve higher risk.

Senator SHERRY—Maybe we should pursue that with the department and the Commonwealth superannuation administration, ComSuper. Do the changes that are proposed to the allocation of the moneys to the department in any way bring forward the cost of superannuation on the budget for public servants?

Mr Thorburn—On a cash flow basis?

Senator SHERRY—Yes.

Mr Thorburn—If we envisage a situation where the PSS was not closed, for example, then the contribution is made on a cash flow basis once the benefit falls due. But if that member alternatively, with the closing of the scheme, went off to a bank for an RSA or something like that, then that contribution would be payable straight away.

Senator SHERRY—You surely would not recommend that, would you?

Mr Thorburn—Everybody's circumstances are different, Senator.

Senator SHERRY—You are very diplomatic. We do not want headlines saying, 'The Australian Government Actuary bags RSAs'. We have the new arrangements operating and new employees cannot go into the old CSS-PSS. The gate is shut. They have to go to

whatever RSA is prescribed or allowable by the employer within the choice options. That money is paid by the department into that particular fund the new employee has chosen. Is that not bringing forward a cost to the department? If they were in the old PSS-CSS, that cost would not be funded by the budget until such time as the person retires or leaves the Public Service?

Mr Thorburn—I think that, on a Commonwealth as a whole basis, that is correct. With the existing arrangements within departments where effectively the money is paid to them and then they contribute it back into consolidated revenue, you could say that the cost is being borne by the department straightaway.

Senator SHERRY—Yes. The payment of that additional cost there and then into whatever option the new employee opts for would vary depending on the number of new employees in each department?

Mr Thorburn—It is essentially, perhaps, either rates of growth of new employees or rates of turnover and therefore the proportion of employees that are under the new arrangements compared to the previous arrangements.

Senator SHERRY—What do you understand the word ‘enhancement’ to mean?

Mr Thorburn—I am not sure in what context that would be.

CHAIR—Probably the minister’s use of the term.

Senator SHERRY—Do you know what it means?

Mr Thorburn—I think it is probably a bit like equity actually. It is one of those terms that everybody has a different understanding of.

Senator SHERRY—What is your understanding of it? You are an actuary; a recognised expert with great professional experience.

Mr Thorburn—I would consider that it means things like improvement and, in an economic sense, increased utility.

Senator SHERRY—Can you indicate to me where there is an improvement in the bottom line financial benefit for public servants as a result of this legislation?

Mr Thorburn—Once again, I think that individual circumstances will probably be the driver of that. I think some of the drivers of those circumstances, particularly financial benefit, would depend on what people’s other circumstances were, what they wished to do with their finances and that sort of thing.

Senator SHERRY—I put it to you that I would be hard pressed, frankly, to find anyone who would be better off as a consequence of this legislation. How would an existing public servant be better off financially? You are an actuary. You are aware of the changes. Where would they be better off?

Mr Thorburn—I think, with existing public servants, they have the opportunity to make a decision which they do not have at the moment.

Senator SHERRY—How does that make them better off?

Mr Thorburn—It may actually suit them better to be in a different situation to the one that they are currently in. An example of that would be someone who is, say, my age and who had a view that they were only going to serve for a short period.

Senator SHERRY—So we can take it you will be leaving the PSS and exercising this thrilling new world of choice?

Mr Thorburn—I have not considered my options.

Senator SHERRY—I bet there will not be too many current public servants leaving the fund.

CHAIR—You cannot ask him those personal questions.

Senator SHERRY—He is an expert witness. Is there a definition of ‘actuary’ in the bills? I had a look through and I could not find it. Is it defined anywhere?

Mr Thorburn—I have not looked at that closely.

Senator SHERRY—The department may know.

CHAIR—Mr Thorburn, what do you believe are the good characteristics for a default fund for employees? What characteristics would you believe should be present in any default fund?

Mr Thorburn—I think that is a very difficult question to answer. I would think that that would vary substantially depending on the nature of the work force in the particular enterprise and the availability of funds to provide benefits.

CHAIR—For example, what would be the characteristics of a good default fund for Mr Gerard Butler’s members?

Mr Thorburn—I am not sufficiently familiar with his membership to—

CHAIR—They are professional engineers, scientists and managers.

Mr Thorburn—That would depend also on their demographics, I would suggest. If the Commonwealth has had a habit of employing professional engineers, scientists and managers, to a greater or lesser extent, they will either be younger or older.

CHAIR—Are there not any basic criteria that you would be looking for in a default fund?

Mr Thorburn—I believe that a secure fund to provide retirement benefits would be good for everyone. So security would be an important factor to my mind.

Senator SHERRY—On that issue, do you consider a defined benefit fund more secure for a member than an accumulation fund?

Mr Thorburn—In the general sense?

Senator SHERRY—Yes.

Mr Thorburn—No, I would say they are under the same prudential regime. The one difference I think with defined benefit funds and accumulation schemes is that defined benefit schemes effectively have the future economic conditions underwritten by the employer. Therefore, the security of the defined benefit scheme is tied to a greater extent to the security of the employer.

Senator SHERRY—And the employer must meet the liability?

Mr Thorburn—Provided they are still there.

Senator SHERRY—I do not think there is any threat to the Australian government.

Mr Thorburn—We hope not.

Senator SHERRY—With an accumulation fund, the risk shifts to the contributors much more, does it not?

Mr Thorburn—With an accumulation fund, the future investment returns are the main driver, but variable future investment returns are not underwritten by the employer.

Senator SHERRY—So the member carries a greater level of uncertainty?

Mr Thorburn—Yes.

CHAIR—An earlier witness, Ms Rubinstein, said that preservation is to apply to all approved benefits, not just prospectively. Can you give us the rationale for that?

Mr Thorburn—I am not actually fully across that issue. I did not necessarily understand the point when it was made. I can undertake to have a close look at the *Hansard* and provide any further comment I can.

Senator ALLISON—I want to ask some questions about the time frame. The APESMA says in their submission that the ACT government is awaiting a detailed actuarial report, which is not likely to be completed before March or April of this year, and that there will be considerable administrative difficulties involved in establishing alternative arrangements by 1 July 1998. Leaving aside questions of negotiation, in your view, is that sufficient time, given that the legislation is not yet through, for the sort of training for the actuarial reporting that

needs to be done? Can you comment on whether that is realistic or whether, in your view, the committee ought to recommend a further 12 months?

Mr Thorburn—We do not act for the ACT government.

Senator ALLISON—I understand that.

Mr Thorburn—They have engaged, for some time, a private sector consultant who has been working with them. I cannot really comment on how far that may have progressed. I would anticipate that if they wished to apply their minds to introducing an alternative scheme or adopting a similar approach to the Commonwealth or adopting some other choice regime—there are a number of options as I am sure you are aware—then they would be able to do that in the time frame.

Senator ALLISON—So in your view there is not a problem with a 1 July start-up date?

Mr Thorburn—None of these things just pop out of a hat with no work being done. There is a substantial amount of work that is required. Nevertheless, it is possible. I think the important distinction is that the requirement on 1 July, in respect of the ACT, would be to have somewhere to put their new entrants. In that sense, the requirement to deal with existing employees is a different one.

Senator ALLISON—I am just a little cautious on this question. Can I just ask you again: do you think that it is possible?

Mr Thorburn—I suppose I am just hesitating because I do not want to understate it to give you the impression that there is no work required. There is a substantial amount of work that is required to achieve anything in the superannuation environment, as I am sure you have been told many times, but it would be possible, yes. The intellectual challenges are not substantial.

Senator ALLISON—What about the resourcing challenges to do the work?

Mr Thorburn—I have no idea what resources the ACT government has to do this. I cannot really comment on that.

Senator SHERRY—But it would be a lot harder if this legislation was not passed by the Easter break, for example? If this is not passed prior to when we finish in 2½ weeks time we come back then on 12 May.

Mr Thorburn—I think that is a matter of whether or not people choose to plan against a contingency or whether they await for absolute certainty. There is a certain amount of preliminary work that can be done for any number of reasons. One would imagine that the ACT government considers the terms and conditions of employing its people and the superannuation arrangements for them on an ongoing basis.

CHAIR—Is the figure of 13.1 per cent, which was based on the 1996 evaluation, going to be set in concrete or could that be subject to change from year to year?

Mr Thorburn—The provision of funds to agencies is a matter that you should ask the Department of Finance and Administration about. In terms of the determination of the actuarial long-term cost of the schemes, there was some comment made about the cost of the schemes historically. In our previous report we showed not only that figure as our current estimate but also the figure from the report prior to that and the report that was prepared prior to the introduction of the PSS. I will make this report available to the secretariat.

The June 1988 work, which was prior to the opening of the scheme, had costed it at 15.4 per cent. In June 1993, we costed it at 14 per cent and, in 1996, 13.1 per cent. There was a view that was suggested to you that you could extrapolate that into the future and say that the cost will continue to decrease.

The major reason for those changes was actually emerging experience being different to what was assumed between 1988 when the people who actually chose to join the scheme from the CSS and now. Essentially, the types of members who did transfer led to a lower cost than was otherwise expected. Between 1993 and 1996 the rate quoted went from 14 to 13.1 per cent. The main reason for that was a change in the actuarial basis, which was essentially a different view that I took about the future direction of the economy, and perhaps to bring those costings into line more so with the levels of economic assumptions used by private sector actuaries.

Senator SHERRY—In what way did your view of the economy change to bring about the figure?

Mr Thorburn—The main driver of costing defined benefit schemes is the assumed gap between salary inflation and, in the case of these schemes, also the increase in the consumer price index, which some of the benefits are related to, and the rate at which you discount those future payments or what would be termed investment returns. Previously that gap rate had been half a per cent less than the rate that I chose to use. The report explains the reason for that change in assumptions and my view that it is still a satisfactory basis for determining the cost of the schemes.

CHAIR—What effect has that change in expectation caused in terms of the outcome of 13 per cent?

Mr Thorburn—The impact to change to 13 per cent was fairly marginal. I cannot just pick the figure out of here at the moment, but I will be able to highlight it for you. I think it is of the order of one per cent. So it essentially explains the difference. There has been no difference in the underlying benefits provided to members. The difference is purely an expression of one's view of the long-term real interest rates.

CHAIR—So, on the philosophy that it will cost extra to the employer to have the employee in the PSS, rather than an accumulation scheme, what do you see is the rationale for closing the PSS to new employees?

Mr Thorburn—I think the provision of choice is a difficult thing to do in that context of open defined benefit schemes, and the provision of choice is seen as a substantially important option for employees to have.

Senator SHERRY—But why can't they have a choice option involving a defined benefit fund?

Mr Thorburn—These defined benefit schemes in particular tend to have uneven benefit entitlements throughout a person's service. At the moment, to qualify for a benefit you have to do something which is a fairly significant personal upheaval, be it leave the Public Service, retire, die or become disabled. They are significant personal upheavals, on anyone's estimation. To be able to leave just because you feel like it on the day—which is effectively what would be offered for choice where schemes have uneven benefit accruals—does place financial difficulties on those schemes.

Senator SHERRY—But if we are all about choice in a brave new world, why shouldn't people have that option if that is what they desire?

Mr Thorburn—If they were to have that option at equivalent cost, the scheme would have to be redesigned.

CHAIR—To make a more even contribution rate?

Mr Thorburn—Substantially, to make it look like an accumulation scheme.

Senator SHERRY—Do you think that same problem will apply in the private sector with the application of choice?

Mr Thorburn—The extent to which it does apply in the private sector varies again, on a sort of work force to work force basis. The private sector tends to have far less substantially uneven scheme designs than the public sector. So, to that extent, they are somewhat more alleviated. A large number of defined benefit schemes in the private sector, whilst still in existence, are already closed, so they are not confronting this issue either. But it is a valid consideration in their response. There are other alternatives to private sector employers which would enable them to keep their defined benefit scheme open, if they so choose to do that.

CHAIR—Have you anything to offer the committee in terms of portability?

Mr Thorburn—I am not sure that I do have anything in particular to offer the committee on portability. Perhaps if you could elaborate on your question.

CHAIR—My understanding is that, over time, we will be moving to greater portability of superannuation—the superannuation protocol which helps with transfer, et cetera.

Mr Thorburn—Yes. The proposals in this bill would certainly enhance portability for members. I will elaborate on that. There is also a proposal to accept lump sum contributions to the CSS in this bill, so the portability is both ways.

CHAIR—Thank you very much, Mr Thorburn and Mr Deeves.

Mr Thorburn—Thank you.

[9.04 p.m.]

BARTOS, Mr Stephen Anthony, General Manager, Resource Management Framework, Department of Finance and Administration, 111 Alinga Street, Canberra, Australian Capital Territory 2601

DOWLING, Ms Gillian Arnot, Director CSS/PSS Section, Commonwealth Superannuation Group, Department of Finance and Administration, 111 Alinga Street, Canberra, Australian Capital Territory 2601

GOODE, Ms Christine Mary, Commissioner and CEO, ComSuper (Commonwealth Superannuation Administration), Unit 1, Cameron Offices, Belconnen, Australian Capital Territory

WILSON, Ms Sandra Kay, Branch Manager, Commonwealth Superannuation Group, Department of Finance and Administration, Newlands Street, Parkes, Australian Capital Territory 2600

CHAIR—Welcome. I invite you to address issues that have been raised or any other matters that you think might be helpful to the committee.

Mr Bartos—I will start, if I may. One of the comments made earlier was in relation to the time frame. The bills currently before the parliament are designed to give effect to changes that were announced by the Minister for Finance and Administration on 23 September, which was followed up with a statement about the details of implementation arrangements that the minister made on 20 November 1997. In a nutshell, the arrangements are designed to provide for new employees, from 1 July 1998, to be given a choice of superannuation funds. This is in accordance with the choice of funds policy, of which this committee is well aware.

The second key element is the closing of the PSS from 1 July 1998, and the third is choice of fund arrangements for existing CSS and PSS members from 1 July 2000. But there are a number of other elements of the bills which have not been canvassed in very much detail to date in this committee: rationalisation of administration arrangements, including the establishment of a new board with election of members and appointment of an equal number of members by the minister on behalf of the Commonwealth, and a chairman of the board appointed by the minister after consultation with other members of the board; some enhancements to the existing scheme; simplification of administration; repealing a number of Commonwealth acts; and some fairly minor changes to the Parliamentary Contributory Superannuation Act 1948.

We have provided the committee with a submission that provides a little more explanation on each of those elements, and hopefully that submission will prove useful to the committee in its consideration of these bills.

The one element that I might touch on, because I know it has been a focus of concern in the hearing tonight, is this question of supplementation of departments for the cost of superannuation. At the moment, Commonwealth departments and agencies pay for their

superannuation costs. The proposition that the government has committed itself to and which has been referred to by a number of witnesses earlier tonight has, I suppose, not necessarily been fully explained or understood.

What is being proposed is not some additional supplementation to agencies for the cost of superannuation—at the moment, the costs of superannuation are included in their running costs—but no reduction in agencies' running costs. What has been happening over the past several years as superannuation has been paid by agencies is that adjustments have been made to their running costs to reflect the reducing costs of superannuation. The costs of superannuation to Commonwealth agencies have been reducing over the years, and actuarial calculations have indicated that those costs have been coming down. In particular, as the proportion of CSS members decreases and the proportion of PSS members increases, those costs are being reflected in what agencies are supplemented for for superannuation.

After implementation of choice, it will become, in practical terms, very difficult to work out an exact supplementation figure for agencies for their superannuation costs. So the government has decided that, with the introduction of choice, the existing amounts of money that agencies have will no longer be readjusted every year; what they currently have in their running costs bucket will be maintained. What that means in effect is that, if superannuation costs continue to reduce over time, agencies will have a greater level of supplementation than they might otherwise have had under current arrangements, but that is something that is unavoidable. In practical terms, it would be impossible to make a calculation in respect of each and every employee and the particular superannuation costs that those employees incur. That would be both a highly detailed and a highly costly way of calculating supplementation for running costs.

CHAIR—Will this 13 per cent that you are indicating be set in concrete? What sort of period will it cover? Will it go in perpetuity?

Mr Bartos—It will just be part of agencies' running costs base.

CHAIR—It is not in the legislation?

Mr Bartos—But the overall amount of an agency's running costs is legislated each year by the parliament as part of the appropriations that agencies have.

Senator SHERRY—And subject to change each year if the budget which is finally passed through parliament is—

Mr Bartos—But any figure in the budget could be subject to change each year—the amount of money an agency has for any element of running costs, whether it be for superannuation, accommodation or salaries. The whole point about running costs is that it is one consolidated bucket of money that an agency has out of which it pays all the costs of employing its staff and any other running cost type functions that it undertakes.

Senator SHERRY—I want to go back and get clear on the issue of what happens at the moment. If a person retires, resigns or leaves a particular department, they are obviously

paid out money; it might be a lump sum or a pension or a combination. Is the cost of that specifically allocated on an ongoing basis against the particular department they leave?

Mr Bartos—Not at the moment. At the moment, a rough average calculation is done based on the number of PSS and the number of CSS members within a particular department or agency.

Senator SHERRY—Are people who leave the public sector—whether they retire or go somewhere else—and are paid a sum of money paid out each year as it becomes payable?

Mr Bartos—By the Commonwealth, yes.

Senator SHERRY—Okay. Pay as you go?

Mr Bartos—In respect of people who retire, become eligible for a pension or whatever it might happen to be.

Senator SHERRY—Who have left the Public Service?

Mr Bartos—Yes.

Senator SHERRY—And the total amount of money, you are saying, is decreasing over time? So the amount of money next year will be less than the amount of money for this financial year, for example?

Mr Bartos—With the proposition that is currently in place, the notion is that next year the amount of money would be the same as this year; the adjustments that we have been making in the past in respect of costs of superannuation would cease. The adjustment to agencies' running costs for superannuation that has been made each time—the costs of superannuation which are recalculated—would no longer apply.

Senator SHERRY—I am not sure I am following this. You have got people who next year will be in the current CSS-PSS—put aside the new employees for the moment. Next year there will inevitably be some who leave and who are in the CSS or the PSS. There will be those people for the next goodness knows how many years—10, 20, 30 years—but it is probably a declining number. The cost of funding that must go up, surely? The cost of meeting that raw figure on the budget each year must go up.

Ms Wilson—The costs that are reflected in the budget papers each year for benefit payments are not necessarily directly related to the amount of supplementation received by agencies each year. Those costs relate to ongoing benefits that accrue over a number of years and to new grants or benefits in that particular year. Some of those may even relate to periods before agencies were actually funded for their individual superannuation costs. So it is a bit hard to relate the two concepts. I do not think we could say that, because the general cost of the scheme on an average basis is not really increasing, that does not mean that the outlays on benefits each year or next year will necessarily be lower. That will really depend upon the experience of people leaving the schemes in that time.

Senator SHERRY—But in special circumstances, such as the level of redundancies that have occurred in the public sector over the last two years, hasn't the amount of money come forward? A number of people have been made redundant—I do not know what the total number is—who normally would have continued working. You have got a hump. Effectively, some payments have come forward because they have been made earlier than was otherwise expected. That is generally true, isn't it?

Mr Bartos—As Ms Wilson has indicated, I think we are talking about two very distinct and separate issues here. Firstly, the outlays costs to the budget of superannuation payments and, secondly, things such as the amount of retirements in any particular year, which will affect the outlays. Patterns in public sector employment will affect the estimates of outlays on superannuation. That is a completely separate issue from the issue of the supplementation which any particular department or agency gets and the payment that it makes in respect of its employees for superannuation. These are not related.

Senator SHERRY—That was going to be my next question. X number of public servants have retired or left the department: that is paid as an outlay. That is not at the moment effectively funded by the department that they come from, is it?

Ms Wilson—At the moment, the departments pay back to consolidated revenue the average long-term cost of the scheme. So it is not related to particular costs. Even if you are looking at those costs, a person works in a number of different agencies, generally. The end benefit does not tend to relate to the actual amount being paid. If you look at the whole scheme over its whole history, at the end of the day, when everybody retires, you would like to think that that would be picked up.

Senator SHERRY—The departments are paying the average cost of the scheme?

Ms Wilson—At the moment—the new entrant rate that the actuary calculates.

Senator SHERRY—How would there be any change to that with 'choice' and new employees? How would that affect the amount that the department would be required to pay? New employees who will not go into the PSS or the CSS would go off into something different, would they?

Mr Bartos—At the moment, the money that is paid by agencies is returned to consolidated revenue. That would be paid into whatever fund an employee chose to join. The employer contribution would be paid into that fund.

Senator SHERRY—Why can't an employee choose the fund that they want the money paid into?

Mr Bartos—Sorry, Senator?

Senator SHERRY—Why can't the new employees choose the fund that the money is to go into? The legislation is about choice, but as I read it they cannot choose. Departments and agencies will have to choose one of two arrangements for providing at least a minimum superannuation contribution for each employee. The two arrangements are offer of limited

choice for more specified funds or unlimited choice. Why is the department or the agency going to determine whether it is limited choice or unlimited choice?

Ms Wilson—As I understand the arrangements that are in the Taxation Laws Amendment Bill (No. 7), that is the system of choice that is being put forward in that bill: that it will be the employers' responsibility to decide on what choice option to go for, and from that option the employee chooses.

Senator SHERRY—Say a new employee starts with a particular department or agency—they have come from a private sector job where they were in an RSA product. Goodness knows why they would be in it, but let us assume they are in it. It is a fair bet that the department or agency, under this limited choice, would not be offering the same product, isn't it? So they would have to change, presumably?

Ms Wilson—Not necessarily. I suppose it depends on what the employer is prepared to do. The employee can ask the employer to agree that his or her contributions continue to be paid into that RSA.

Senator SHERRY—Even under limited choice?

Ms Wilson—Yes. It is still an option that is available. The agency or department might choose limited choice as a general policy but can also agree with individual employees that contributions are paid into another fund.

Senator SHERRY—I do not know what the level of movement is from department to department within the Commonwealth Public Service. Do you have any idea of that?

Ms Wilson—Not really.

Ms Goode—There is a recent publication by the Public Service and Merit Protection Commission on mobility, which gives the latest figures on movements between agencies. We can just make sure one comes over tomorrow, if you like. I do not recall what the figures are.

Senator SHERRY—Departments and agencies can choose different arrangements if they are offering limited choice—there might be four products. How is that going to be determined? We have already heard from the Commonwealth actuary that you are being approached by representatives of companies, presumably lobbying to have their particular product put on the shelf. How is it going to be determined within the department?

Mr Bartos—It will be determined by each employer.

CHAIR—By each agency.

Mr Bartos—By each employing agency. What this is doing is putting public sector employers in the same position as any other employer, following the passage of choice legislation.

Senator SHERRY—I understand that.

Mr Bartos—They will undertake the same sorts of procedures that any other employer in the community would be doing.

Senator SHERRY—What are you going to do in the case of the Department of Finance and Administration?

Mr Bartos—In our case?

Senator SHERRY—Yes—1 July is coming pretty close.

Mr Bartos—It is coming pretty close. This is being considered within the department by our management board. We have not made a final decision on the basis that, in my view, it is inappropriate to actually make a decision on this prior to the passage of the legislation through the parliament. But we are well aware of the options available to us in relation to provision of choice to new employees, as are other departments.

The superannuation group has been providing information to enable agencies to prepare themselves for the prospect of choice. So we have considered the fact that we will have to be making a choice, but we have not gone ahead and made information available to our staff or selected any particular providers or in fact made a decision on whether we are going to have a limited or unlimited number of providers on the basis that the legislation has not yet been carried.

Senator SHERRY—Are you aware of any department that has decided to offer limited or unlimited choice at this stage?

Ms Wilson—We are aware of a few departments and agencies who are considering their options, but we are not aware of anyone who has decided.

CHAIR—In the future it is possible that moving from one department to another could be a bit of an impediment from the point of view of superannuation because an agency could be offering a different range of products from what another agency is offering. For example, some funds do not readily allow you to pull your benefit out if you are in the same industry. What sorts of problems is that going to cause in terms of human relations or reluctance of employees to move from one department to another?

Mr Bartos—I think it would only cause problems if an agency were to take the position that it was offering four and only four funds to its employees and was not prepared to be flexible enough to make payments to another fund for a new employee who might happen to come in from another agency. My expectation is that that will not happen. I do not see employers being that inflexible. I think it is not a very likely scenario.

Senator SHERRY—I do not see how this is more efficient. If the departments have different funds and different arrangements and their payroll sections are paying into different funds, how is that more efficient in terms of administration? We could end up with 1,000 different funds having money paid into them by the public sector.

Mr Bartos—Making payments into different funds is not administratively costly. At the moment, for most public sector employees a range of payments is made by their department for a range of purposes.

Senator SHERRY—Electronically.

Mr Bartos—Yes, electronically—to their bank accounts, to union subscriptions, to health funds and so on.

Senator SHERRY—I understand that, but how are you going to check to make sure it is a bona fide super fund to start with? You are going to have to check that, aren't you? You cannot pay the money into a non-super product, so that is going to be an additional check, isn't it?

Mr Bartos—Yes.

Senator SHERRY—Potentially, you could have thousands of different funds that money could be paid into after a period of time, so there is an additional cost. Presumably, there will be an extra administrative workload in checking that out, and that is an additional cost, isn't it?

Mr Bartos—But, in the same way, at the moment funds are paid into members' bank accounts, and they have to have a legitimate bank account for their money to be paid into. It is not a very large cost. The point of this legislation is based around choice rather than necessarily around administrative costs.

Senator SHERRY—I understand. The word 'choice' has been used over and over again. But do you have any idea of how many different bank accounts you pay into?

Mr Bartos—I would not know.

Senator SHERRY—Would it be more than 20 or 30 credit unions or banks?

Mr Bartos—I honestly do not know.

Senator SHERRY—Potentially, you face paying superannuation moneys for individuals into perhaps thousands of different types of products over a period of time.

Senator ALLISON—Just to pursue that point, you are saying that it is possible and that most agencies would be comfortable with carrying on with a transferred employee's superannuation. Should that be in the legislation? Should that flexibility and capacity to do that be in here?

Mr Bartos—The aim of this legislation is to put public sector employers on the same footing as private sector employers and therefore give them the same flexibility as do the amendments to implement choice more generally for the community.

Senator ALLISON—But you are saying that it should be possible and easy and most will do it. Why not put it in the legislation and insist that it is a provision available to public servants?

Ms Wilson—Are you referring to the unlimited choice? I was not quite certain what you were referring to.

Senator ALLISON—I am referring to the situation where somebody leaves an agency and goes to another and the former agency does not have available the same choices as the agency that person has gone into. You are saying, as I understand it, Mr Bartos, that you do not think that would be a problem, that most agencies would be able to accommodate that. I am asking: if most agencies can accommodate that, why not have it in the legislation as an obligation on the agencies to provide whatever fund people want to bring with them?

Mr Bartos—Ms Wilson might have some comments on that in relation to superannuation. But the more general point is that my observations were about what I would consider to be good management practice. Experience has shown, in relation to the public sector in Australia and elsewhere, that it is not a productive exercise to try to legislate for good management.

Senator ALLISON—But we are talking here about people's rights and conditions, not about management, aren't we?

Mr Bartos—We are talking here about whether an agency would adopt a flexible approach in relation to taking on a new employee. There is no obligation on an agency at the moment to employ someone. But if it were an employee that they thought was desirable for their agency, I would suggest that it would be good management practice for them to be flexible in their approach to that prospective employee's superannuation. But it is not something that you would necessarily want to legislate for.

Senator SHERRY—Why are we going to have departments or agencies being allowed to offer limited choice—that is, the four specified funds that the department management board determines. Why?

Ms Wilson—These are the same arrangements that apply generally across the work force under the taxation bill.

Senator SHERRY—But it is restricted choice as determined by the employment board of the department or agency in this case, isn't it, as the board determines the employee must do?

Ms Wilson—It is the same for other Australian employees too under the arrangements.

Senator SHERRY—Yes, that is right.

CHAIR—I refer to the mix between the members within the CSS and the PSS. The 13 per cent coincides with the actuary's estimate of the cost of the PSS. However, many departments will still have CSS members, and the CSS member cost is considerably higher than

the PSS member. Does this really mean that agencies who have a large proportion of members within the CSS will have to find the necessary funding elsewhere in their budgets?

Mr Bartos—No. At the moment, agencies' running costs cover the costs of their CSS and PSS members. The amount of supplementation in their running costs is based on the relative proportions of CSS or PSS members. So an agency with a high proportion of CSS members actually has greater supplementation in its running costs already for superannuation than an agency with a relatively higher proportion of PSS members.

CHAIR—What is the significance of the 13.1 per cent?

Mr Bartos—The 13.1 per cent is the rate that applies in respect of PSS members. That is why I was indicating earlier that I was concerned that it suggested that the supplementation for superannuation was 13.1 per cent. It was a bit misleading for the committee. The supplementation is supplementation in respect of both PSS and CSS schemes.

Senator SHERRY—In your discussions obviously in the department over the implementation of this, do you think it is likely in the expert knowledge of any of you here that any current public servants are going to opt for this choice model, leave the PSS and the CSS?

Ms Wilson—It is difficult to say what individuals will do. As the actuary said, individual circumstances can lead people to make decisions that might seem on the surface not to be the decisions we would take. I suppose, for example, someone who did not have a big investment in the PSS who was a permanent employee and had to join the PSS under the current arrangements might seek an arrangement where they did not have to make personal contributions to a scheme.

Senator SHERRY—Do you know of anyone who will leave the funds?

Ms Wilson—I have not discussed it with anyone.

Senator SHERRY—Has anyone indicated to you that they are likely to leave the PSS or the CSS?

Ms Wilson—No.

Senator SHERRY—And the rest of you? Has anyone indicated to you they are likely to leave the PSS or the CSS given this great choice regime?

Mr Bartos—This is really speculative. The point of choice is that people are free to exercise it or not, depending on their particular circumstances. That is the intention of this legislation. There is not an intention to either encourage or discourage people from their current superannuation schemes if they are an existing Commonwealth employee. We have not speculated as to what the likely behaviour of people after implementation of this legislation is going to be. It will be a matter of choice, depending on their circumstances.

CHAIR—What is likely to be the default fund?

Mr Bartos—The default fund would be a fund chosen by each public sector employer. Each department or agency would choose a default fund.

Senator SHERRY—How will it do that? What criteria will it apply?

Ms Wilson—If you were talking about people who are in the CSS or the PSS, then the default fund is the CSS or the PSS.

Senator SHERRY—Yes, but for new employees. How will this be chosen? Obviously the board of management must have some idea about the criteria for choosing the default fund.

CHAIR—It would be up to each agency.

Mr Bartos—It would be up to each agency.

Senator SHERRY—What are you going to do?

CHAIR—Are you going to issue any guidelines to these agencies who have not had a lot of experience in superannuation? What sort of assistance are you going to give them?

Mr Bartos—We have already indicated to the departments and agencies that we will make our own processes for choosing what funds we offer, including the default fund, very transparent, so that they can copy our practice if they wish. We have issued a number of bulletins to departments and agencies explaining what is in the bills, allowing them to become prepared for this. In respect of choosing a default fund, my preferred approach is to do that by way of a competitive selection on a tender basis, but I believe that the choice of a default fund will, for almost all employers, be a fairly conservative one. The aim would be to choose—

CHAIR—Will you make it a requirement that the default fund at least offers death and disability, so that when people transfer from one to another they do not lose that sort of cover?

Ms Wilson—There is not a requirement in the tax legislation that the default fund should provide it, but an employer should consider—

CHAIR—No, I know. But, in terms of good human relations, what sort of advice are you going to give to these people in terms of the characteristics of the default fund?

Ms Wilson—We would advise them that death and disability cover is something that they should consider seriously in a default fund.

CHAIR—We presume that will be built into the specifications of the tender process that will go out.

Ms Wilson—That would be up to the individual department to decide, yes.

CHAIR—Do you think it is possible that the default fund could be an RSA for some agencies?

Ms Wilson—I do not know.

Mr Bartos—The whole point of this is that it is presumably a possibility. I think it is, again, highly unlikely.

Senator ALLISON—Are there to be guidelines or protocols developed by anybody, by your department for other agencies?

Mr Bartos—There has been guidance provided already by our department to other agencies. On passage of this legislation, there will be much more extensive guidance provided. So, yes, there will be.

Senator ALLISON—That guidance will presumably guard against RSAs as a default?

Ms Wilson—We will not be taking a particular position one way or the other. We will be just pointing out to agencies the sorts of issues they should take into account in making a sensible decision on the default funds.

CHAIR—Can you provide us with that correspondence?

Mr Bartos—Yes, we can provide some of the briefings that we have been giving to agencies, yes. Some of the material is available already on the department's Internet site. The committee could pull down the materials from that or we can provide hard copy.

Senator ALLISON—Mr Bartos, what was the tendering process you referred to earlier in relation to default?

Mr Bartos—I was just referring to what I see as being a useful model for how to choose a default fund. Rather than simply either picking a name out of a hat or relying on representations that you might receive from providers, I think an open and competitive tendering process is a better model for choosing a provider of something like a default fund.

Senator ALLISON—I do not understand how that would work. You would not presumably know how many people would default into that scheme, so how does a tendering process work? How do you make a judgment about who is successful in the tender for one thing?

Mr Bartos—The offer that the provider is making available to your department in terms of what it is that they are prepared to provide in terms of the fund, the scheme that is available. I am just suggesting that that is a possible model. In relation to all of this, the intention is that agencies would be free to adopt the approach that best suited their circumstances.

Senator SHERRY—Do you believe it is desirable that all agencies should tender in an open and transparent way?

Mr Bartos—I think it is desirable that there be some elements of that and that, as far as possible, agencies that have similar needs should learn from the experience of others and/or join together to make the processes simpler for themselves.

Senator ALLISON—I want to come back to the point of how you make judgments about who would be the most successful tenderer. On what basis? Presumably, it is not the lowest cost. Can you expand on that? Can you elaborate on how you actually make those judgments?

Ms Wilson—I suppose there will be specifications and I suppose each agency will decide depending on its interest in death and disability costs, the level of charges and the levels of extra services. They will then take into account performance and security of investment. It really depends on what the agency decides to take into account. It is the same issue that faces Australian employers under the choice arrangements; they have to make a choice about what is a secure fund to have for a default fund.

Senator ALLISON—So how do you weigh up the relative merits of an RSA compared with another fund? I keep coming back to this RSA question. How does the tendering process assist you to make that decision?

Mr Bartos—In relation to a default fund in particular, I think some of the more important choices have to do with the issue of how secure the employee's funds would be in the fund that is chosen. As this committee well knows, there is generally a relationship between that and immediate returns. Often a fund offering apparently attractive, very high returns in the short term may not be the most secure. In relation to a default fund, my belief—and certainly what I think is going to be adopted by most agencies—is that security will be the major consideration in choosing a default fund.

CHAIR—The majority of employees will in terms of past history probably go into the default fund. If, by what you said earlier, it is going to be a conservative fund and if they enter that at an early age, then they can be some hundreds of thousands of dollars worse off by the time of their retirement unless they exercise choice to get out of it. A few moments ago when you termed a conservative fund as a default fund, what category would it be—a cash fund or a balance fund? It certainly would not be a growth fund.

Ms Wilson—It would depend upon the agency's idea of what is appropriate for its work force. Some agencies may have a high turnover of work force.

Senator SHERRY—What expertise do people in the agencies have to make these decisions for employees?

Ms Wilson—At this point in time they do not have a lot of expertise, but they will be given guidance by the tax office—the same guidance as is given to other Australian employers.

Senator SHERRY—But your board of management—and I include yourselves in this—and other boards of management of each of the departments and agencies will have to sit down and weigh up the sorts of factors you have been referring to. What expertise do they

as individuals have to make these decisions? Have they gone off and done the ASFA training courses? Have they got any particular superannuation investment advice, knowledge or expertise? What if you make a mistake and you get sued later on?

CHAIR—Will you be offering only one default fund. For example, if somebody goes in at age 55 or 60, will you be putting them in the same sort of default fund as you would put somebody in at age 24?

Mr Bartos—We have not actually taken a decision on that specific point, Mr Chairman. In relation to what expertise employers have, every department or agency has the same sorts of obligations as other employers in the community to exercise good judgment in relation to all of the conditions of employment offered to staff—superannuation being one of them. There is a range of other issues in terms of all of the terms and conditions of employment on which we do take professional advice. Certainly on superannuation we will be taking professional advice and at the end of the day making a good management judgment.

Senator SHERRY—But it is a little different. Firstly, this is a new area in which you will be expected to make very significant decisions that have a very significant impact long term on where the money goes, the returns, its safety, et cetera. It is big brave new world, isn't it?

Mr Bartos—As will other employers in the Australian community generally.

CHAIR—So each department and each agency will be issuing each of their employees with a book of rules about their own agency's superannuation fund arrangements? Are you confident that you will have all the necessary information out not only to the agencies but also to their employees by 1 July 1998 to enable them to make a complete choice?

Mr Bartos—Yes, Senator, we are. They have been given notice that it is going to happen. They have been offered information.

CHAIR—Obviously, the components of the key features statement have not yet been finally determined. The regulations are obviously not in place. When do you think you will be issuing that information to your people in relation to key features statements so that booklet can be printed prior to 1 July? What is your timetable?

Mr Bartos—There is a sense in which we are actually in the hands of the Senate here in that our timetable is very much driven by the timetable for passage of the legislation. Our intention is that, immediately following the passage of the legislation, there will be extensive information provided to employers.

Senator SHERRY—Let us say it goes through before Easter, the regs then will be issued and you cannot do anything until the regs have sat there for 14 or 15 sitting days, I think.

CHAIR—The actuaries are actually having trouble getting a common denominator for comparing returns, costs, et cetera for all the different options.

Senator SHERRY—You will get the regs at the end of May, if you are lucky, I suspect. So you have got a month to get all this up and running. Do you think that is long enough? You have to pick your funds—the default funds—get them in place and get the information to new employees who are starting.

Mr Bartos—I think I should echo the Actuary's words by saying we do not want to mislead the committee by suggesting that this will be a task that involves no effort. It will involve a lot of effort, but it will be possible.

Senator ALLISON—How long will the tendering process last?

Mr Bartos—We will want to go that route.

Ms Wilson—That is an issue that each department would decide upon.

Senator ALLISON—It will add to the time is what I am trying to get at.

Ms Wilson—It can usually be as long or as short as you decide.

Senator ALLISON—If I can come back to the tendering process, presumably you get a better deal from a superannuation organisation offering a product for them being the default scheme. Is that fair to say? Is that why you are going to tender?

Mr Bartos—I may be creating the wrong impression here in that we are not talking about the same sort of tender for provision of a good or service, for example, in relation to a major outsourcing or the purchase of a major item of equipment. What I was really trying to get at is that I think it is important that agencies not take a decision on the basis of which fund manager has been through their door last.

Senator ALLISON—So a tender might just be the brochures of that particular product or something; is it?

Mr Bartos—What they really need to do is have a very rigorous comparison of a fair range of potential alternatives before making a decision and to do so against objective criteria. I think that is absolutely critical in order to make a decent decision.

Senator ALLISON—Wouldn't you do that anyway to establish which one of the four, if it were a limited choice? Wouldn't you do that in any case?

Mr Bartos—Yes.

Senator ALLISON—I am trying to understand why you would do that and what the difference is in choosing the range from choosing that which is to be the default. This is the key question.

Mr Bartos—You would absolutely have to do that if you were going for only four. If you were going for an unlimited number of offerings to your employees, an employer would still have to offer a default fund and, therefore, would still have to make a very careful

choice as to what that default fund would be because not every employee will elect to choose a fund. The employer would have to still provide superannuation in the case of those employees who decide for whatever reason to make no choice whatsoever. So there will have to be, even in the case of those agencies that decide to offer unlimited choice, selection of a default fund.

But your point about the need for the same rigour were a limited number of choices to be offered is absolutely correct. There would have to be a very careful selection of that limited number.

Senator ALLISON—But not a tendering process, as you described the default scheme?

Mr Bartos—As I just indicated, I am not trying to suggest the full tendering paraphernalia; I am suggesting a rigorous and objective selection amongst competing alternatives.

Senator SHERRY—So you will not necessarily advertise for these tenders? Will there be a public ad put in? Would you advise that?

Mr Bartos—Not necessarily.

Senator SHERRY—Why not?

Mr Bartos—It is up to each agency to make a determination on the basis of its own particular circumstances.

Senator SHERRY—These are going to be potentially multi-million dollar contracts that will involve the accumulation of perhaps \$10 million, \$20 million, \$100 million when we look at the growth of super. They will be potentially the most lucrative financial arrangements that agencies will be entering into. Why shouldn't they be tendered?

Mr Bartos—It will be highly variable. Some agencies are very small. For very large agencies, you are quite right: these are going to be very big deals. It will be different depending on the size of the agency. So it would not be appropriate to prescribe a rule across the entire Public Service. The circumstances of different agencies are very different depending on the number of employees.

Senator SHERRY—What is the smallest agency we have got?

Mr Bartos—When I last looked, there was one with only 12 employees. But, again, there are statistics prepared regularly by the Public Service and Merit Protection Commission.

Senator SHERRY—Wouldn't it be reasonable practice to say that any agency with more than, say, 1,000 employees should follow this due process of tender? I have been a trustee of two superannuation funds—one that had only 500 members, it was relatively small. We tendered for the administration and the investment. There was no law that said we had to. Certainly, we considered it highly undesirable not to tender. I am perhaps saving you a bit of grief at estimates because this will be a very major area of scrutiny, I would suggest to you.

Mr Bartos—Absolutely. While we are not intending to prescribe a uniform rule across the entire Public Service—

Senator SHERRY—Why not?

Mr Bartos—Because there will be agencies where it may well be inappropriate. We are looking in the current public sector management environment at responsibility that has been devolved to the CEOs of each individual agency. They have a responsibility, for example, under the Financial Management and Accountability Act, to manage their agency efficiently, effectively and ethically. That is a responsibility that sits with the CEOs of those organisations and that is where the responsibility should be.

Senator SHERRY—A CEO could be approached by a bank or a financial institution and quite readily agree that that is the particular product without any tender. It is all very well to talk about efficiency, the operation, et cetera, but we are dealing here with a retirement income of employees' money, not the money of the government or the agency. It would seem to me that there should be a totally open tendering process across the board. I am just surprised that you do not think that should apply across all the departments.

Mr Bartos—Again, all I can do is reiterate the fact that our public sector management environment gives the responsibility for management to the CEOs of agencies and it is up to them to put in place the right practices.

Senator SHERRY—When these new practices were put in place did you ever envisage that you would be picking investment vehicles or superannuation funds for employees as part of the option for their retirement income? Did you ever envisage that?

Mr Bartos—I am not entirely sure what that question is getting at. When the Financial Management and Accountability Act was first drafted and introduced to the parliament, it was under a different government and a whole range of aspects of the management of agencies were not envisaged then, but the basic principle that CEOs are to be responsible for the management of their agencies is one that has been adopted by both the previous and the current government as being very much part of good management practice.

Senator SHERRY—This choice is a new policy. It involves significant decision making—I do not think there is any argument about that; it is a fact. What new training processes have been put in place for the people who will be making these decisions?

Mr Bartos—There has been a great deal of training and advice offered. We have already indicated some of that. Maybe Ms Wilson can indicate some of the efforts that her superannuation group has already undertaken to advise agencies.

Ms Wilson—We have conducted one seminar where we have coordinated the activities of a number of government agencies involved, particularly the tax office and Workplace Relations and Small Business. The tax office actually has major responsibility for these choice arrangements. We have merely been facilitating the distribution of information from them to Commonwealth agencies. We have met with a number of agencies where they have

requested assistance from us. We have put some material out on the Internet and have a series of more bulletins to come.

Once the legislation is passed, then we will conduct more seminars for agencies. Again, it is an issue of not wanting to pre-empt the parliament. We are really saying to agencies there are plenty of things you can do to be prepared for choice, but it is up to you to decide how far you go in doing it but you can be thinking about your options and the sorts of schemes that would suit your employees.

Senator ALLISON—Does part of this training encourage agencies to consult with public servants within their agencies? What role do employees have in all of this training and decision making about whether it is limited or not, which four are chosen and what is the default scheme? Are you telling agencies they should consult?

Ms Wilson—We are really saying it is up to them. It is possible for agencies to enter into a certified agreement or AWA arrangement to specify what superannuation will be in that agency, which would involve direct consultation and negotiation with their employees. I suppose most of the people who will be affected by choice in the first instance will be people who are not already employed. I think it is up to each agency to decide whether they will consult with their work force or not.

Senator ALLISON—Ms Wilson, you keep saying it is up to each agency to decide. We are trying to grasp here how much advice you are actually giving. If the advice is it is up to you to decide, it would seem to be a bit inadequate.

Ms Wilson—I think we should say that we are giving information and guidance rather than advice. We are trying to give agencies an idea of the sorts of issues they should be addressing rather than telling them what they should be doing.

Senator ALLISON—So does your advice suggest to agencies that they consult in regard to—let us narrow it down—the question of the default fund?

Ms Wilson—The information we have given to them indicates that that is one thing they could talk to employees about, but it is up to them to decide.

Mr Bartos—We definitely have advised agencies that they have to make sure that there is full information provided to their employees about all of this. The whole point of this is that employees, if they are going to be making a choice, need to be able to make an informed choice. That is one of the reasons why, in respect of existing CSS and PSS members who might look to leave the schemes, there are two years in which there is going to be very extensive provision of information before that choice is exercised. Certainly for new employees there will have to be very extensive information on superannuation provided to all those new employees.

Senator ALLISON—You speak about provision of information, but there has been a lot of criticism tonight about the lack of consultation, that is, real negotiation and talking with people before any of this happens. Can you comment about the accusation that there has been virtually no consultation?

Mr Bartos—Other than to say that the extent of consultation is really a judgment, there have been discussions with the ACTU. Whether or not those are adequate is very much in the perspective of the people who have made that comment earlier today.

Senator SHERRY—Did those discussions occur prior to the announcement of the choice regime?

Mr Bartos—No, they occurred afterwards.

CHAIR—Can I just refer to the proposed new superannuation arrangements, *Circular No. 1, Proposed New Arrangements for Commonwealth Employees*. At the bottom it says, under choice of fund:

... employers must choose one of four arrangements for providing at least minimum superannuation contributions for each employee.

In relation to maintaining the level of superannuation contributions to each agency, does this mean that it would be possible in future for an agency to pay only the superannuation guarantee for new employees and then, for example, allocate the rest of the supplementation to other issues, human relations costs or even just global running costs? Would that be at the discretion of the agency?

Mr Bartos—It would be possible, yes, but the supplementation will be in agency's running cost budgets and it is difficult to see what they would actually use the money for other than paying employees.

CHAIR—As I said, it could be human relations costs.

Mr Bartos—The Australian Public Service is not a very capital intensive business. Almost all of the running costs of the Commonwealth public sector are in the staffing of the public sector. Therefore, if the money is in an agency's running costs, what they are generally spending it on, the vast majority of running costs, is going towards employees' salaries or salary related costs or other costs associated with the employment of staff.

CHAIR—Yes, that is precisely what I am saying. With some of these costs in relation to super—the supplementation—what is to stop an agency from allocating just the minimum superannuation guarantee to super—

Mr Bartos—For new employees?

CHAIR—For new employees—and allocating some of that other money, say, for other human relations costs related to the welfare of the people, rather than to super, or even going out to the next extreme of just meeting global running costs including printing, stationery, travel, and all those sorts of things?

Mr Bartos—There is nothing to stop them doing that, were they to wish to do that, but any agency that did that would pretty soon find itself highly disadvantaged in attracting

employees. The money is in the agency's running cost budgets and that money is there to be spent on the running cost purposes of that agency.

Senator SHERRY—What if a new employee starts, they receive SG only and there is a negotiated agreement for a higher wage or salary? That is possible, is it not?

Mr Bartos—That is possible, yes.

Senator SHERRY—How does that advance the retirement income of the country?

Mr Bartos—What that negotiated arrangement is doing is reflecting the circumstances of the individual with whom it is negotiated. I think, again, it is a matter of judgment as to how best overall retirement income policies are advanced. Certainly, it has been the intention in relation to the public sector, by putting the public sector on the same footing as any other employer and allowing the sorts of choice and flexibility that this does, that this in fact is to the overall benefit of the economy.

CHAIR—Including salary packaging?

Mr Bartos—That is a rather different issue that really is not encompassed by these bills.

CHAIR—No. We are saying that it is possible that some of this supplementation money—13 per cent—could go into salary and I am saying including salary packaging.

Mr Bartos—It could go into any number of things within the running cost budget of the agency.

CHAIR—Yes.

Senator SHERRY—That is right. Going back to that previous answer, it seems to me that we could take the view that we should get rid of your scheme, shut it down for all current public servants. I am not suggesting that I personally agree with that, but why should we not take that approach on the argument that you just put? Why should you have a protected scheme, a defined benefit? Why should you have a scheme like that and new employees will not?

Mr Bartos—That is a political point. Our role is to explain to the committee what is in the legislation. Really political points like that are probably best canvassed elsewhere.

CHAIR—Yes, I think you had better not press that issue.

Senator SHERRY—I always like to ask.

CHAIR—Are there any other questions?

Senator SHERRY—I have one other point on a totally different issue, you will be relieved to know. I could not help but notice, on page 21 of your submission, in relation to the Parliamentary Contributions Superannuation Scheme, at the bottom of the page under

‘Reversionary Benefit Post Retirement Marriages’—it is not because I am getting married at the weekend that I am asking this, I rush to say—where it says:

Changes are proposed to be made to the PCSS to improve the access to spouse benefits where a retiring member entitled to a pension commenced a post-retirement marital relationship after age 60.

That certainly does not apply to me yet. What does that mean?

Ms Wilson—There is a bit more detail about this earlier in the paper—I am not too sure where it is. Similar changes are being made to the CSS by these bills. It is a bit hard to explain simply. At the moment, in most of the Commonwealth schemes—the CSS, PSS, PCSS—if a pensioner marries after retirement and after age 60, there is a rule which says that the marriage or de facto relationship has to have been in existence for five years at the time the pensioner dies before a spouse or child will be entitled to reversionary benefits. It is a sudden death sort of arrangement, so to speak.

The changes ensure that anyone who is an eligible spouse or eligible child will be entitled to a reversionary benefit under the legislation. However, where the marriage or relationship commenced after the pensioner’s retirement or after age 60 and has been in existence for less than three years, there will be a pro rata amount paid rather than the full amount—you have to have been married for three years. That is basically what it is.

Senator SHERRY—So that is an improvement, is it?

Ms Wilson—Yes, that is an enhancement.

CHAIR—Thank you very much for the manner in which you have responded to our questions. I declare the session adjourned.

Committee adjourned at 10.09 p.m.