



COMMONWEALTH OF AUSTRALIA

# Proof Committee Hansard

## SENATE

SELECT COMMITTEE ON SUPERANNUATION

**Reference: Superannuation Guarantee Charge Amendment Bill 2002; Taxation  
Laws Amendment (Superannuation) Bill (No. 2) 2002**

THURSDAY, 20 JUNE 2002

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**SENATE**  
**SELECT COMMITTEE ON SUPERANNUATION AND FINANCIAL SERVICES**

**Thursday, 20 June 2002**

**Members:** Senator Watson (*Chair*), Senator Sherry (*Deputy Chair*), Senators Allison, Buckland, Chapman, Hogg and Lightfoot

**Senators in attendance:** Senators Allison, Buckland, Chapman, Hogg, Lightfoot and Watson

**Terms of reference for the inquiry:**

Superannuation Guarantee Charge Amendment Bill 2002

Taxation Laws Amendment (Superannuation) Bill (No.2) 2002

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**Subcommittee met at 3.44 p.m.**

**CHAIR**—I declare open this public hearing of the subcommittee of the Senate Select Committee on Superannuation on the **Taxation Laws Amendment (Superannuation) Bill (No. 2) 2002** and the **Superannuation Guarantee Charge Amendment Bill 2002**. The bills were referred to the committee, yesterday, 19 June, for an inquiry report by 26 June. The bills provide a range of measures designed to enhance the overall attractiveness, accessibility and security of superannuation by requiring employers to make at least quarterly superannuation contributions on behalf of their employees, reducing the superannuation surcharge by one-tenth of their current level each year for the next three years, allowing superannuation contributions to be made on behalf of children who would not otherwise have superannuation, increasing the deduction limit for personal contributions to be made by the self-employed, and increasing from 70 to 75 the age at which working members of superannuation funds can make personal superannuation contributions.

I have today been advised by the Minister for Revenue and Assistant Treasurer, Senator the Hon. Helen Coonan, that the government is proposing to move the amendments reducing the surcharge into the bills implementing the co-contribution, which will be introduced into the parliament next week. We have a letter to that effect tabled for everybody's inspection. I ask the secretary to pass that letter on to subsequent witnesses.

All of the witnesses who appear before the committee are protected by parliamentary privilege with respect to the evidence given by them. This means that the witnesses are given broad protection from action arising from what they say and the Senate has power to protect them from any action which disadvantages them on account of the evidence given before the committee. The committee prefers to conduct its hearing in public. However, if there are any matters which witnesses wish to discuss with the committee in private, we will consider that request. I would like to thank the secretary of our committee and all her able assistants for bringing this hearing on so quickly and providing all the background information. It is a big task, given the number of bills under consideration. Ms Morton and your staff, thank you very much for what you have done in facilitating the deliberations of the committee.

[3.47 p.m.]

**ANDERSON, Dr Michaela, Director, Policy and Research, Association of Superannuation Funds of Australia Ltd**

**HODGE, Mr Robert, Senior Policy Adviser (Tax), Association of Superannuation Funds of Australia Ltd**

**CHAIR**—Welcome.

**Senator HOGG**—Chair, before we proceed: concerning the conduct of the business this afternoon and this evening, I presume the committee will ask questions on all the issues.

**CHAIR**—Absolutely.

**Senator HOGG**—Even though the government have indicated their desire to remove the matter of the surcharge into another bill?

**CHAIR**—I think for the committee's purpose, it will be merged, that is all.

**Senator HOGG**—All right—just so long as that is understood.

**CHAIR**—That is why that letter has been tabled. I included it in my opening statement so that the intention of the government is perfectly clear.

**Senator HOGG**—I am more concerned that we are able to ask questions on those issues as well this afternoon.

**CHAIR**—You can ask any questions you wish, Senator Hogg.

**Senator HOGG**—Thank you, Senator Watson.

**CHAIR**—This is a very open committee.

**Senator HOGG**—I know.

**CHAIR**—Our only problem is the time frame. We are very conscious of that. Dr Anderson, I understand you are basically in support of all the measures of the bill, although there is one measure you will draw to our attention.

**Dr Anderson**—Thanks for the opportunity to be here today. We do appreciate the good efforts of the secretary in getting things moving. We want to talk about only one issue—the quarterly superannuation guarantee contribution. We fully support the quarterly payment, but we are disturbed by the decision to move the threshold to a quarterly measurement rather than a monthly measurement. We have said in our submission, which was quite brief, that we have

concerns that this will remove rights from probably the most vulnerable people in our society—namely, those who are in casual work and often putting together a living wage from a number of jobs.

As soon as this issue was raised, I had emails from funds saying that they were aware of situations where some people may have a number of employers and only work a few hours at a time with each employer. As I said, they are stitching together a wage. We fear that this will take away the rights to superannuation for those people. We are not convinced that it is going to be difficult for employers to assess, on a monthly basis when they are doing their payrolls, how much they are obliged to pay on a quarterly basis—we cannot see that is a huge impost on them. What we can see is that, by moving the threshold to this larger amount over the quarter, it may give some employers—I am not implying that all employers would do this—a chance to manipulate their employees' hours so that they do not reach \$1,350. We would have to say that this is a bad move—to move the threshold to that quarterly basis.

**CHAIR**—What is the current figure?

**Dr Anderson**—It is \$450 a month—it is measured on a monthly basis.

**CHAIR**—If it is going to be quarterly, it will be three times \$450. Is that right?

**Mr Hodge**—\$1,350 per quarter.

**CHAIR**—It is still \$1,350, whether by the new method or by the old method?

**Dr Anderson**—No, you can miss out this time. You can miss out altogether if, in fact, you have \$450 in one month, \$450 in the next month and the third month, \$300—you are going to miss out altogether.

**Senator CHAPMAN**—In the example you gave you would not miss out, though. In your submission you give the example of \$600 in one month and \$800 in the following month. That exceeds the threshold.

**CHAIR**—That is \$1,400.

**Mr Hodge**—That would be a typographical error.

**Dr Anderson**—We apologise for that.

**CHAIR**—Can you correct that for the record?

**Mr Hodge**—The figure of \$800 should read \$600. It is on the second page, in the paragraph headed 'Adjust the SG salary or wages exclusion threshold, in line with a quarterly regime, from \$450 per month to \$1,350 per quarter.'

**Senator HOGG**—You are saying two lots of \$600 and then no work for the next month?

**Mr Hodge**—Yes.

**Senator HOGG**—Therefore you fall out of the loop?

**Dr Anderson**—Yes, completely out. I have had an accountant say to me straight out that they would feel obliged to say to their client, the employer, that if they employed on this basis it will be cheaper for them. I am concerned that it will give an opportunity to manipulate the employees' hours for people who are already very vulnerable in their employment situation. That is our only real concern.

**CHAIR**—You are happy with the surcharge reduction?

**Dr Anderson**—We are happy with anything that removes taxes from the front end.

**Senator HOGG**—I take you to your major concern. Working on, say, a ballpark figure of \$15 an hour—which I do not think many low income workers would be on—you are looking at 30 hours work per month or 7½ hours per week, in effect, to reach the current threshold. It is not a great amount of work but, by the same token, it is not a minimal amount of work by today's standards and that is how many people piece their work together. Do you have any statistics that you can make available to the committee—I am quite happy for you to take it on notice—as to the impact in terms of numbers?

**Dr Anderson**—We have tried to look at this and it is almost impossible. As far as we can determine, there is no breakdown in labour market statistics that would help us to get a feel for this. It is anecdotal from funds who have a lot of casual workers in them. The problem particularly is where somebody may, in fact, have a number of small pieces of work for a number of employers. That is where those people would just miss out across the lot. You may, in fact, be working particularly in retail or hospitality where it is the same industry but you have a number of employers in the same week.

**Senator HOGG**—We are looking potentially at a substantial number of employers in industries which are real sources of casual employment and seasonal labour?

**Dr Anderson**—They are the ones that have been identified by the ATO as the ones that put their employees most at risk. When they have done their reports on compliance with the super guarantee, there are a number of areas which stand out as not being fully compliant. They are the same ones that have lots of casual employees working small numbers of hours.

**Senator HOGG**—You have expressed one problem in relation to the amount being stretched out over the three-month period to the \$1,350. I put to you that there may well be another problem, that is, the fact that many of the major employers who employ a large number of casual employees already remit to superannuation funds on a monthly basis and the imposition of the \$1,350 over a three-month period would be an added complexity for those employers?

**Dr Anderson**—They would probably continue to pay on a monthly basis.

**Senator HOGG**—Yes, but the complexity comes in that the threshold is no longer a monthly threshold. It then becomes a quarterly threshold, and an employer is not going to remit on the

monthly basis only to find out that the person has fallen below the threshold at the end of the three months.

**Dr Anderson**—This relates to the changes in employment practices. One of the changes is that they may change their practice of when they make the measurement.

**Senator HOGG**—My point is that it imposes other complexities for the employer that need not otherwise be there.

**Dr Anderson**—Yes.

**Senator HOGG**—The employer then has to make the decision, at the end of the three months, whether the person is within the threshold. If they have paid for two months, using your case of \$600 and \$600, they have well and truly qualified to pay on the \$450 basis and there would be an expectation that there might be another payment but, then again, in your instance there is none. How does the employer retrieve the money? One gets into all those sorts of problems, which add administrative costs to the system.

**Dr Anderson**—There are some employers who, even now, ignore the threshold and pay out below the threshold anyway. Employers in that situation will now have to reassess whether they are going to pay, in a sense, above the super guarantee or look at it on a quarterly basis.

**Senator HOGG**—Could you take on notice an estimate of how many employers do that? Could you also give us an estimate on the number of employers or funds that receive monthly remittances already from employers and the size of those funds? I have come out of the retail industry, and the SDA, being a retail union, so I have some idea of REST. There are a lot of employees who would be getting money remitted on a monthly basis. Could you give us some idea of the size of the funds and the number of people involved in those funds? If you could somehow best guesstimate the number of people who are currently receiving monthly remittances and who would be affected, that would be helpful. Our problem is that we have to report on this by next Wednesday, so you do not have a great deal of time.

**CHAIR**—That is one of the problems.

**Senator HOGG**—I can see that, Chair. Nonetheless, it is a question that I would ask to be taken on notice. Were you consulted on this issue in any way before it appeared in the budget?

**Dr Anderson**—We did see, on a confidential basis, early drafts of this legislation, but that was quite early on. At that meeting, I raised this issue straightaway, but it was a policy issue and we were at an implementation meeting. We only asked that it be taken back and dealt with in an appropriate manner.

**Senator HOGG**—So you did express concern then.

**Dr Anderson**—We did express concern there. We could not say anything publicly about it because we had all signed documents which said we had confidentiality arrangements for having seen the draft legislation. So we said nothing, of course.

**Senator HOGG**—I accept that.

**Senator CHAPMAN**—Isn't the issue here the relatively small amount that is being put away in superannuation for these people? If you have a threshold of \$450 a week versus the \$1,350—using your example of the two lots of \$600 in two months and nothing in the third—effectively, in each of those two months, you would be putting away \$50. For the year, you are putting away about \$400. By the time you take administration expenses out, what is left in contrast to the difficulties it causes, particularly for small employers having to keep track of those small contributions? Isn't that why the change has been made?

**Dr Anderson**—No, I do not think that is the basis of the change. The stated reason was for administration ease of the employer.

**Senator CHAPMAN**—Yes, that is the point, particularly small businesses.

**Dr Anderson**—Yes. I think it is very easy for us who are well paid to just dismiss small amounts. Those people miss out on something which, in some debates, is called deferred pay, deferred wage or salary. They do not get it in hand instead of in their superannuation funds, so they miss out altogether. We looked at one example where, if the SG is now going up to nine per cent, then somebody who earns \$1,000 misses out on \$90. If you talked about that in terms of taking that away from their wage, think what would happen then—you would have an outcry. So this is somehow or other reducing wages by yet another means, if you take on board that you have just deferred your salary until you retire.

**Senator CHAPMAN**—Except they could negotiate to have that in their wage, take it in hand, under an enterprise agreement.

**Dr Anderson**—I do not know whether that is able to be done by most of the workers we are talking about here who are in a very casual relationship with their employers.

**Senator CHAPMAN**—The more casual, the more scope for them to do that, I would have thought. They can say, 'You're not going to pay me superannuation; I want an extra nine per cent on my wage', an extra dollar an hour or whatever.

**Dr Anderson**—My experience and understanding of casual work is that they do not have that sort of opportunity.

**CHAIR**—Before the next question, Senator Sherry has family illness problems and is our deputy. Perhaps we should appoint a deputy chair. I nominate Senator Hogg. Is that agreed? That is so agreed.

**Senator ALLISON**—Before moving to another area, I would like you to flesh out the question of this administrative burden on small business and whether you think it is real and whether this measure would alleviate it at all or is it simply reducing the amount of superannuation that small casual employers would be making. Can you see any administrative value for small business in this measure?

**Dr Anderson**—Personally I cannot, because you actually have to deal with people's wages on a more regular basis anyway. I cannot see how it becomes so onerous to identify what you have to pay on a monthly basis. I would struggle with that as a problem.

**Mr Hodge**—On a regular basis—either weekly, fortnightly or monthly—the employer is going to have to look at the wage they are paying the employee and determine what tax has to be remitted to the Australian Taxation Office. That to us is an appropriate time to also reflect on the superannuation entitlement. When the superannuation guarantee was first introduced, the minimum payment required by an employer was \$13.50 in respect of any employee. With the maturing of the system, when it goes to nine per cent the minimum requirement will be \$40.50. If you move to a quarterly test, the minimum requirement will be \$121.50. That then raises the whole issue—and this partly answers Senator Hogg's question—of whether this will induce change in employer behaviour in a situation where a person exceeds \$450 in a month whether they automatically pay the superannuation guarantee or whether there is a financial consideration that maybe they should wait until the quarter is completed before doing that test. That is a major concern that we have. Where an account balance is less than \$1,000, there is protection of the member against fees and charges by the fund. This was implemented by the government in response to problems about the erosion of small amounts.

**Senator CHAPMAN**—Is that \$1,000 per year or \$1,000 in total?

**Mr Hodge**—An account balance total of \$1,000.

**Senator CHAPMAN**—Most people would be up above that.

**Mr Hodge**—Yes.

**Senator CHAPMAN**—What would be the annual fee?

**Mr Hodge**—Depending on the type of fund, it would vary. If they are an active member in an industry fund, the fee would generally be around \$50 a year. If they are an inactive member, which means no more money is going in, the fee is typically around \$15 a year.

**Senator ALLISON**—If a decision is made under this arrangement to not pay superannuation and instead \$1 an hour is added to weekly wages—which you suggest is unlikely—how would that work in terms of a quarterly arrangement? To take your example of two months at \$600 and it not being until the third month that everyone understands it is less than \$1,350, how do you renegotiate the hourly rate for the earlier time?

**Dr Anderson**—I do not see that as—

**Senator ALLISON**—Unless, of course, it is deliberative.

**Dr Anderson**—That would be very difficult to do administratively. The simplest way is to keep the superannuation threshold as it is. Unless you remove the threshold altogether or do something drastic like that, it is probably still the simplest way to proceed. Even with an annual payment, people must have kept records for each month, so we are still saying, 'Keep your monthly records, but just deal with it every quarter.'

**Senator ALLISON**—Could I go to the question of increasing the amount of personal superannuation contributions that are fully deductible. I have read the submission and the table that you have provided us—thank you—but I do not understand that. Could you explain how, with an increase in that deductible amount for eligible persons, there is a reduction in the contribution? I am not sure I understand the mechanism.

**Dr Anderson**—I shall leave this to Robert. It is his table.

**Mr Hodge**—If we take the column for a person aged under 35, the maximum their employer can contribute, or they can contribute themselves and claim a tax deduction for, is \$12,651. Under the current arrangements, where the first \$3,000 is fully deductible but only 75 per cent of any contribution beyond \$3,000 is deductible, to have a tax deductible contribution of \$12,651 in the fund they must contribute \$15,868. By allowing the first \$5,000 instead of the first \$3,000 to be fully tax deductible, then to achieve the same tax deductible contribution of \$12,651 they only have to contribute \$15,201. So what would happen is that in their account they would have \$12,651 recorded as a taxable contribution and the remainder would be recorded by the fund as an undeducted personal contribution.

**Senator ALLISON**—Why, then, would you support this measure, if it results in a reduction in the contribution required?

**Dr Anderson**—What we are saying is that this is an improvement, but it is no big deal.

**Mr Hodge**—And it still does not have equity between an employee and a self-employed person.

**Senator ALLISON**—How would we achieve that equity? What is the right figure if \$5,000 is the wrong one?

**Dr Anderson**—You just have the cap, in the same way as employees have, which is the age based cap.

**Mr Hodge**—The full amount up to the age based limit would be tax deductible for the individual.

**Senator ALLISON**—Is that something you recommend the committee considers?

**Dr Anderson**—We cannot see why it does not happen. It is one of those mysteries of life.

**Senator HOGG**—How many people would be affected by this?

**Dr Anderson**—I am afraid I would have to get back to you on the number of self-employed.

**Mr Hodge**—You mean people who actually claim superannuation contributions as a tax deduction?

**Senator HOGG**—Yes.

**CHAIR**—Can I go through the arithmetic with you, based on the monthly \$450. Assuming, as from 1 July, nine per cent, that would give us \$40.50 contribution per month.

**Mr Hodge**—Yes.

**CHAIR**—After we deduct the contributions tax, 15 per cent, that leaves us with \$34.40. Because most superannuation funds charge ingoing fees and administration fees based on the number of contributions, that amount is going to be reduced quite considerably. Whereas if you are looking at it on a quarterly basis, there are some savings in terms of those add-on type costs. So in effect, when you look at the total picture, deducting taxes, fees, charges, commissions and all that sort of thing substantially reduces your monthly figure much more significantly than it would your quarterly. True, on the quarterly you have 15 per cent taken off.

We are going to look at some of these fees and charges because as a committee we are very concerned about the industry siphoning off a whole lot of costs which we would like to see the member add to the member's benefit. On the present basis, there is so much siphoning off. True, there will be some employers who might muck around. But if employers are employing one person a day a week every week to, say, come in and write up the books or something like that, are they suddenly going to say, 'We do not want you at all next month,' or 'We only want you two days next month rather than the four days'? It is possible to get to your scenario, but I am talking about it from a practical reality. If you look at these sorts of calculations that I have just told you about, there might not be very much in it. That is why I am very worried about what is in this whole scheme.

**Dr Anderson**—Currently, the threshold is \$450, and that seems to be working well.

**CHAIR**—What about when we look at the sorts of figures that I am talking about?

**Senator HOGG**—The real issue, if I could put this to you—and you might answer it in conjunction—is that people could contrive to avoid the payment.

**CHAIR**—Some may.

**Dr Anderson**—Yes. Some currently do. In my own family, when my children were teenagers, I watched the rostering system of a local retail outlet and I can tell you that the retail outlet was rostering so that they did not pay anything to these workers. That was just me sitting at home watching the rostering of my children and their friends. It is one example, but I suspect that there were many retail outlets doing that.

**Senator ALLISON**—Was that a McDonald's or the like?

**Dr Anderson**—No, it was not. It was not food; it was a petrol station chain and they were the people who—

**Senator HOGG**—I think I know who it is supposed to be. You have made the point.

**Mr Hodge**—It is interesting that the large national employers such as McDonald's and Woolworths are the very organisations who just automatically pay SG for everyone because of the administration cost of sitting down and doing the individual calculations.

**CHAIR**—That is the point that I was getting to. At the end of the day, how many people would bother to muck around with it?

**Mr Hodge**—It brings it back to the issue that Dr Anderson raised earlier, which is that the people who are most likely to be affected by employers who may have the notion to make these changes are the very people that the Australian Taxation Office statistics are showing are most likely to not be paying their superannuation guarantee at the moment.

**Senator HOGG**—Of course, if you take them out of the equation, you are lessening their end benefit. Even though it might be seen as a small contribution at this stage of their working career, whether they are starting as a youngster or whether they are an older person returning to the work force, it is lessening their superannuation benefit at the end and thereby putting the impost back on the broader taxation system.

**Dr Anderson**—That is right. The first point that I made was that in fact we know that a number of people work for a number of employers, and that is becoming probably more common. The case that was put to me was that of a woman who was not a teenager or somebody like that but someone in her late 40s who was having difficulty getting back into the work force and she was working for a number of retail outlets, for a number of employers.

**Senator HOGG**—It is also possible that she could be working for one and the same company under a different number of brand names.

**Senator BUCKLAND**—Taking that a step further, if you were doing that, either in one company under a number of brand names or a number of companies running under their own banner, is there any way of judging how many superannuation schemes an individual could be in? Not all companies have their employees in the one scheme. I can foresee the difficulties that that alone creates. Has there been any data collected to try to establish numbers and costs involved in that?

**Dr Anderson**—We know that most employees have—

**Mr Hodge**—An average approaching three accounts.

**Dr Anderson**—Yes. That is an indication there.

**Mr Hodge**—It is growing every day.

**Dr Anderson**—There is also some evidence that people are consolidating as well.

**Senator BUCKLAND**—If they are not consolidating, is that a deliberate choice by the contributor or is it a difficulty that exists to prevent it happening?

**Dr Anderson**—It is a bit of both. Some people do not care until, in fact, the penny drops that they are paying perhaps more administrative fees than they could be and then they quickly move things together. I know that there were some difficulties where, for example, you were working in some jobs where there were both a public sector and a private sector part. You could be working in a nursing home or a hospital that was public sector and also have a job in a private sector one. There would be difficulties there because you could not put your private sector contributions into a public sector fund. I know there were issues like that where people ended up with more than one fund.

**Senator BUCKLAND**—Could we change the subject a little bit. In relation to benefits for children under the age of 18 who are not actually employed, you go through in your own document an assessment of the difficulties. You say there is a complex list that individuals can make. There seem to be a lot of barriers to the easy establishment and maintenance of superannuation funds because you start going away from the notion of superannuation funds to a savings account for children who are not earning money. What are the real implications of that? For instance, I have a son that we give money to and that he does not have access to—we are a bit old-fashioned in that way; he will get it at a predetermined age—but what if it was to be a superannuation fund? He has no employment, apart from washing a car once a week. I see a lot of difficulties in trying to implement a superannuation fund for non-employee people.

**Dr Anderson**—Some funds will make available an option to accept that money. I am not quite sure that there will be very many people who will take up the option to use this super for kids.

**Senator HOGG**—Why would they take it up? Why wouldn't they put it into something like an education bond? What is the attraction of superannuation for this person? Is it going to be a cost burden on a fund that sets it up that will be borne by those who just have no access to it at all? There is an equity issue there. Are people who are single contributors to the fund going to be bearing the cost of setting up something that might be quite expensive for those who want to contribute on behalf of children, when there may be other investment vehicles that could be used?

**CHAIR**—Is it a tax advantage?

**Senator BUCKLAND**—There are tax advantages. I certainly looked at the options, and the earnings have got to be better. For instance, if he were putting it in the rollover fund that I have from my previous employment, he would be better off. But there are difficulties, are there not? If they are not an employee who is taxed, would we call it contributing to a super fund?

**Dr Anderson**—I cannot identify difficulties.

**Mr Hodge**—There would be no difficulty. The proposal is to change the SIS legislation to permit these types of accounts so that would remove the difficulty.

**Senator HOGG**—That removes the difficulty but what about the costs of the administration of it? I would imagine that we are dealing with a very small sector of the market.

**Mr Hodge**—Without seeing the legislation, it is not clear whether these contributions, because they are not mandated, will be afforded the protection of the small balance accounts measures. It could very well be that, if it is not considered as part of the legislation, they could just be eroded by fees.

**Dr Anderson**—It would be difficult to—

**CHAIR**—They would be mandated, wouldn't they?

**Senator HOGG**—We are getting a shake of the head, from someone who is not a witness at the table, to say that they are not.

**CHAIR**—We will ask that question later on.

**Senator HOGG**—It is a fair question to put to ASPA.

**Dr Anderson**—Is the question: are they to be protected?

**Senator HOGG**—We have the view that they will not be subject to member protection.

**Dr Anderson**—We would not think they should be.

**Senator HOGG**—You think they should be?

**Dr Anderson**—No, they should not be. I cannot see why they would be subjected to member protection which is for compulsory superannuation.

**CHAIR**—Disadvantage all the other members.

**Senator HOGG**—What about the cost of administration in setting up and continuing to operate these funds, given that they will probably remain within the umbrella of an existing fund?

**Dr Anderson**—If it is an after-tax contribution that is made to a fund, I think it would fit reasonably well into the normal structure. There are some issues about who is actually the owner and how you communicate those sorts of things, which I think have been examined by the Treasury as they posed some problems. As far as we are concerned, as long as it is not mandatory that funds accept these contributions, then those funds who want to and feel that they are able to would.

**Senator HOGG**—The cost should not be one that is attributed across the fund?

**Dr Anderson**—No.

**CHAIR**—It will not be if it is not mandated.

**Senator HOGG**—It should be dedicated; that is fine.

**Senator BUCKLAND**—Are the earnings of the contributions of non-workers, under 18s, the same as other fund members? How do the benefits work?

**Dr Anderson**—You would have to have equity across the fund in crediting rates and tax. For them even to be taken up by a fund, they would have to be very similar or the same in their operation otherwise you would be creating categories that would be difficult.

**Senator HOGG**—I understand that you have supported the reduction in the rate of the surcharge. My party has floated a proposition which would not reduce the rate of the surcharge but would cut contribution tax to all Australians. Given that the proposal that has been put forward will assist only a select number of Australians, our proposal would select a broader group. What is your view?

**Dr Anderson**—We would support that, too.

**Senator HOGG**—You would support both?

**Dr Anderson**—Yes.

**Senator HOGG**—So you want the best of both worlds?

**Dr Anderson**—Definitely.

**Senator HOGG**—Which provides the greater equity, the greater fairness?

**Dr Anderson**—It would be reasonable to argue that, if you took it from the base, everybody would get a reduction. When you take it from the top, only some will. That is a fair observation.

**Senator CHAPMAN**—Have you looked at the respective cost to revenue of both matters?

**Dr Anderson**—That has been examined fairly significantly by Treasury.

**Senator HOGG**—We will wait to hear from Treasury later.

**CHAIR**—Are there further questions?

**Senator CHAPMAN**—Chair, given that we have ASFA before us, might I have some indulgence to ask a couple of questions about another piece of legislation that is before the Senate?

**CHAIR**—No, questions have to be on this bill because we have a time frame problem, sorry. Thank you, Dr Anderson and Mr Hodge.

[4.31 p.m.]

**WOLTHUIZEN, Ms Catherine Nicole, Senior Policy Officer, Financial Services, Australian Consumers Association**

**CHAIR**—Welcome. Thank you for your submission and for meeting the tight deadline.

**Ms Wolthuizen**—I am aware that you have only just received the submission from ACA and I apologise for that late submission. I wish to speak on a few of the measures proposed in these bills that have raised some concerns for ACA with respect to some of the equity implications, particularly the surcharge proposals. While we are not opposed necessarily to the reduction in the surcharge, we believe there are alternative measures which could also be implemented which might better meet the concerns of improving adequacy and incentives for superannuation fund members to make voluntary contributions and thereby enhance the growth of their funds in preparation for retirement. In the submission I have given you, there is some analysis of member expectations of what their payments will be upon reaching retirement, what they would like to receive and the gap between expectations and reality. I know that is something this committee has addressed before.

Beyond that, I raise some concerns about the child accounts measure. There are some anomalies with respect to the rights of minors over their accounts once they reach a certain age; whereas, at the moment minors in employment have the right to make decisions about their superannuation funds along the lines of consolidation and choice of investment where it applies. My understanding is that under these measures they will not have the same powers, that that will remain vested in their guardian or parent until they turn 18. Another issue is the threshold for quarterly payments. We certainly welcome the implementation of the move to quarterly payments, but are concerned that it has the potential to exclude a whole range of very vulnerable workers from entitlements that they currently receive. I am happy to take questions on those points.

**CHAIR**—Thank you very much. This is your first appearance, so feel quite relaxed. The purpose of this committee is to try and get information from your perspective, which is very important. We understand you will be putting in a submission to our main inquiry on the adequacy of superannuation and we look forward to that. So basically you are in agreement with the thrust of the legislation but you have concerns about the question of the surcharge and the \$1,350?

**Ms Wolthuizen**—That is correct. When it comes to the surcharge, as I said, we are concerned that, if there is going to be a measure designed ostensibly to promote growth of funds, remove disincentives to contribution and improve the tax effectiveness of superannuation, it should not just apply to a small proportion of the population but, in line with the views of this government that superannuation be a universal retirement savings scheme, measures should be implemented that most effectively promote that.

**CHAIR**—Don't you think it is not a good tax, that it costs a lot of money for the funds to implement? In a sense those costs have got to be borne right across everybody, and any

measures that are going to get it down and hopefully wipe it out must be good measures for everybody long term. Looking at the short term, say a first tranche, don't you think it is a good idea to send a good signal to everybody that perhaps this could be the beginning of something bigger and then we can move on to other things?

**Ms Wolthuizen**—That is a valid position, but our response to that would be that, if you are going to have staged improvements to superannuation, then better to start with a cut to the contributions tax, which we would see as a worse tax in that sort of terminology and as a greater disincentive to voluntary contributions than the superannuation surcharge which, although it is a disincentive and is an unpopular tax which is costly, and we would be happy to see that reduced as well—

**CHAIR**—Your members are really suffering the consequence of that as well, because they are having to pay the higher fees of administration, aren't they?

**Ms Wolthuizen**—But they are also paying the contributions tax. If it is a question of one or the other, I think it would be better to start with the contributions tax and then move to the surcharge. Those people paying the surcharge, being on higher incomes, are in a better position to provide for income security retirement and adequate retirement income. It is the people who are not affected by the surcharge but who are still paying the contributions tax policy who I think are in greater need of more immediate relief.

**Senator BUCKLAND**—I have one area I wish to cover briefly. It is in relation to the quarterly contributions. I think most of us agree that the reporting quarterly is a wonderful idea and long overdue. But you do hold that concern regarding moving from \$450 a month to \$1,350 a quarter, and it is \$450 you are basically dropping off the end of it. Do you have any statistics on the number of people who could be caught up in this, part-time and casual workers?

**Ms Wolthuizen**—I am afraid we do not. I think it would have the potential to affect a large proportion of workers in that situation, because they simply would move from a position where they currently qualify for superannuation contributions to a situation where they would not qualify. I am thinking of seasonal workers and casual retail workers in end of year sales who might now work for two months rather than three and who would not necessarily make it over the threshold.

**Senator BUCKLAND**—Would that take into account workers who do not work a full 38-hour week or 35-hour week, permanent part-time workers who are not casual? Are you taking that into account as well?

**Ms Wolthuizen**—We would be very concerned if it was shown that those people would also be substantially affected by this move to quarterly threshold rather than monthly.

**Senator BUCKLAND**—Before this was introduced, was your organisation consulted?

**Ms Wolthuizen**—We were shown the measures in draft form.

**Senator BUCKLAND**—You were shown the measures; were you asked to comment?

**Ms Wolthuisen**—Yes, we were.

**Senator BUCKLAND**—Did you comment on those?

**Ms Wolthuisen**—I think these concerns were broadly raised by a number of organisations, including ourselves, at that consultation.

**Senator HOGG**—So in spite of your concerns, we have still got effects in the form we have got today.

**Ms Wolthuisen**—It has not been something where we made a follow-up submission—this is the submission we have made on this—but the concern had been raised.

**Senator HOGG**—Is it your view that the reduction in the rate of the surcharge affects the administration costs in any way?

**Ms Wolthuisen**—Not having done a detailed analysis of how much it currently affects those costs, I will probably have to take that on notice and get back to you. I am happy to try and do so within the tight time frame.

**Senator HOGG**—I understand. It would be interesting to get your view because one would suspect that it is not going to reduce the rate of the cost of the collection of the tax. It is probably the most expensive tax in Australia to collect, the surcharge, so if you could express a view to us on that.

**Ms Wolthuisen**—There is an additional point to be made with respect to that point of cost for funds. There are a number of proposals in this package of reforms that industry have said are likely to increase compliance costs, and yet that has not been barrier to the proposal of some of those measures either. So while the cost to fund may be presented as a concern and a reason for a reduction in the surcharge rate for this measure it does not appear to have the same weight for some other measures.

**Senator HOGG**—Does your organisation have a view about increasing the contribution age to 75?

**Ms Wolthuisen**—We do not have any particular problems with it. It is not included in the submission. If the committee is particularly interested in a comment from us, I am happy to provide one at a later date.

**Senator HOGG**—Again, if you do not have a particular view you might take this on notice: do you have a view as to how widely that will be used and what sorts of abuses could creep in as a result of the implementation of that initiative?

**Ms Wolthuisen**—I would have to take that on notice.

**Senator HOGG**—I accept that; and given the very short time frame that we are operating in, I understand that you would need to give us a fairly simple answer on that. I did understand you

to say that you have got no real statistical analysis of the effect of going from quarterly at a \$450 limit to \$1,350 over three months—the number of people that would be affected. Do you have any statistics on whether they are going to be young people, women, in what industries?

**Ms Wolthuizen**—I have not had a close look at whether the ABS would collect statistics on the ongoing number. I suppose one of the problems would be with seasonal workers and intermittent workers—

**Senator HOGG**—You would be relying on their statistics?

**Ms Wolthuizen**—Yes.

**Senator HOGG**—But you have no evidence collected by your organisation?

**Ms Wolthuizen**—I imagine that once the measure comes in and people are excluded from receiving entitlements which they currently receive, we would hear about, certainly on an anecdotal basis. Unfortunately, by that stage, it would be too late for a lot of those people.

**Senator HOGG**—It is too late, yes.

**Senator ALLISON**—Can I clarify the ACA's position on the surcharge reduction: if no contributions tax reduction was on offer, would you be opposed to the surcharge reduction?

**Ms Wolthuizen**—As an organisation, we are broadly in favour of measures which promote the growth of individual superannuation funds. So I suppose, no, we would not be expressly seeking the disallowance of this particular measure, but we would be concerned that there will be revenue spent on it that could be better directed to improving the funds of a larger number of our members, of consumers.

**Senator ALLISON**—Can you suggest how the matching commitment to reducing the contribution tax should be? Should this be confined to low-income earners and therefore have a cap on it? What do you think the complications, administratively, would be with such an arrangement? Or should we look at a flat reduction in contribution tax for all income groups?

**Ms Wolthuizen**—The second option would be our preference, both in that it is administratively simpler and because our general philosophical view is promoting growth of superannuation fund for all superannuation fund members. We are particularly concerned to see low-income earners have adequate superannuation and ensure they are not left out in any measures that are proposed. That would be our concern at the moment, with the focus on the surcharge reduction and concern that the cocontribution measure is not really an adequate balancing of the equity concerns. But preference would be for a flat reduction across the contributions tax.

**Senator ALLISON**—Do you see any dangers in the children's contributions provisions of very high income earners contributing to 10 or 20 grandchildren? Do you think there is scope for abuse in this area? Should there therefore be a cap applied?

**Ms Wolthuizen**—There may well be potential for high income earners or others to take advantage of it in that way. Looking at the detail of that proposal, if individuals wanted to provide for their grandchildren in that way they might choose other vehicles, given that the money is locked away for such a long period of time. There are other investment vehicles that they would prefer—those in existence at present.

**Senator HOGG**—Could you get to the stage where a child turns 18, is no longer a child, is now an adult, find themselves just out of school, unemployed, and they are asking for access to that money on the grounds that they have been unemployed for the last 12 months, they are penniless, in all sorts of poverty stricken conditions?

**Ms Wolthuizen**—That would certainly be a concern. The structure of this proposal is likely to put further pressure on early access to superannuation. You can envisage the situation of funds having been deposited in a child's account having grown to quite a substantial sum by the time they reach 18. There are already financial planners and financial advisers seeking to build practices, advertising their services purely on the basis of inducing individuals to access their superannuation. The concern would be that once you start creating large funds in this way you are inevitably going to get that pressure placed on them. From our perspective that would be a compliance issue. I know ASIC is already involved in looking at financial planners and the like who are seeking to do that, and checking their compliance.

**CHAIR**—That can happen in any age group, though. These financial planners do it with any age group.

**Ms Wolthuizen**—It is not something that we would say should defeat the measure, but I do think it is going to place that pressure a bit: the child becomes an adult, there is a large pool of money there, and it is very attractive for someone to say, 'I'll charge you a fee. I'll charge you a percentage to get you access to it.'

**Senator HOGG**—The fact is, though, that this particular provision is not going to be accessed by the average worker on \$25,000 a year. It is going to be accessed by those who have.

**Ms Wolthuizen**—I do not think it is going to be accessed by very many people. Certainly I can imagine the children for whom these funds were deposited would probably prefer that the money was invested in other vehicles that they would have access to at a much earlier stage of their life. But to the extent that is taken up I think you are correct: people who have that money lying around to deposit in a superannuation account for their child will be the ones who might take it up.

**CHAIR**—Sometimes on account of separation or even, say in a will, they might like to feel that if they die early they can lock some money away securely. It would be a vehicle. You would not have to be all that wealthy, if you were worried your kids might spend money too quickly. Here is another good alternative of locking it away.

**Ms Wolthuizen**—They certainly will not be able to spend it quickly. It might present as attractive in that respect.

**CHAIR**—It is not a cure-all for a lot of people but I can envisage divorce situations, I can envisage people putting it in their wills, in the case of the benefactor dying earlier or something like that, to secure some money for their children later on in life.

**Ms Wolthuizen**—It is an option some people may take up.

**CHAIR**—Why would you want to take those options away is what I am saying.

**Ms Wolthuizen**—I suppose the argument is that the compliance costs might put on an additional cost burden. If they can be quarantined to those people who take up that option, then we do not have any great concerns with it. Again, if there are going to be measures put in place to improve superannuation, there are possibly better places to start.

**Senator BUCKLAND**—You could have young people who would be attractive to financial planners that you referred to, and not all financial planners are really scrupulous.

**Ms Wolthuizen**—No, they are not.

**Senator BUCKLAND**—These financial planners could try to get young people to take loans out against that superannuation at an early age for the wrong things, couldn't they? The idea that there might be a pot of money there, 'I can get a loan against that for one of these you beautiful motor cars,' isn't what it is all about, surely?

**Ms Wolthuizen**—That is an issue then for compliance.

**Senator BUCKLAND**—There are dangers in that because young people, despite what we often say, do not always have the skills to understand how money works.

**Ms Wolthuizen**—That is correct. There is the additional concern as well that there are measures in place for young people who might be in precarious financial circumstances. You would want them to have access to other means of income support rather than necessarily drawing on funds set aside for their retirement in these sorts of funds. Going back to your point about unscrupulous financial planners, it is probably more an issue for compliance. Again, it would not be something we could—

**Senator BUCKLAND**—I understand that but I am all for people getting their money in and saving it from a young age. Borrowing against superannuation worries me, but it is more about compliance; you are right.

**Ms Wolthuizen**—And an issue for education as well, to educate people about their superannuation.

**CHAIR**—Who would lend money against superannuation?

**Senator BUCKLAND**—I think you will find you can.

**Senator HOGG**—No, you can't.

**Senator BUCKLAND**—Surely you could get a loan if you had a good superannuation scheme.

**CHAIR**—I wouldn't think so, if they cannot access it.

**Senator BUCKLAND**—You might be right, but I am pretty certain there are cases where people could take a loan against what they had in a fund.

**CHAIR**—It would be very small in relation to the amount that you had there. Even if you go into business, you cannot borrow against super.

**Senator BUCKLAND**—I may be thinking too far down the track.

**CHAIR**—It is a possibility.

**Senator BUCKLAND**—It is not something that will be long in coming. Perhaps I am too early in asking questions.

**CHAIR**—Thank you very much.

[4.54 p.m.]

**RUBINSTEIN, Ms Linda, Senior Industrial Officer, Australian Council of Trade Unions**

**ACTING CHAIR (Senator Hogg)**—Welcome. We have received a submission from the ACTU. Would you like to make some brief comments, and then we will ask questions. There is one thing we should make you aware of, because you were not here at the start. The issue of the surcharge has been removed from the current bills that were referred to this committee. It is going to be put in with the co-contribution bill, but we are continuing to ask questions on that today anyway.

**Ms Rubinstein**—I understand that. I did not know about the withdrawal of the surcharge, so thank you for informing me about that.

**ACTING CHAIR**—Please still comment on that, though.

**Ms Rubinstein**—Yes, I will. The ACTU has a view, which I think has been expressed previously, that the government's general direction in relation to superannuation—and that would include issues that are not currently before the committee; choice of fund being one and possibly the co-contribution being another—essentially has two objectives. One is to assist high-income earners to receive benefits, including taxation benefits, from investment in superannuation. The other is to facilitate a shift of superannuation savings from not-for-profit industry and corporate funds to the retail products, particularly the master trusts offered by the banks and life companies. That is the context. It is a view that we have held for some time about the general direction of the government. Unfortunately, very little in what we see would persuade us to depart from that view.

Having stated that at the outset, I will turn quickly to the issues that are the subject of these bills. They are covered in what is, unavoidably, a very brief submission, given the time frames. First of all, I should say that the ACTU supports the proposed requirement that superannuation guarantee contributions be paid at least quarterly, rather than annually. The ACTU believes that this ought to be monthly, but certainly the quarterly contributions are a major change. They will assist with compliance and insurance matters, and the proposed requirement is to be supported. We also support the requirement for employers to report to employees the amounts and destination of their superannuation guarantee contributions. The lack of that information until a statement is received from industry funds twice a year—and for many funds only once a year—means that employees are not in a position to even check whether their employers are complying.

In relation to changing the earnings threshold for the superannuation guarantee, the ACTU is strongly opposed. The government itself, in the comments of Senator Coonan, states that the purpose of the change is to take superannuation away from seasonal and casual workers, particularly in the rural and retail sectors, because that would make compliance easier for employers. That is not an adequate justification as far as the ACTU is concerned. It is very difficult to establish the precise number of employees who would be affected. It is unlikely that the ABS would be able to help even if unpublished data was obtained, which the time for this submission did not enable us to pursue. Perhaps there would be information about seasonal workers and people who work over relatively brief periods, but it is very difficult information to

get. I have also made inquiries of one of the large superannuation fund administrators as to whether they would be able to get an idea and, again, it would be very difficult to do—although something could be done on a sample basis, and they were going to look at that.

What we do know is that there is a very large number of employees who work a small number of hours on average per week, who are employed on a casual basis and who earn not much more on average than \$100 a week. We know that earnings vary, that hours change for a large number of these employees and that they are predominantly female. The figures that we have, which I have set out in the submission, give you an idea of the scale of that type of employment. For example, almost half a million employees earn less than \$100 a week and there are one million workers who work between one and 15 hours a week. There are 413,400 people who earn less than \$200 a week—that is, they are well within that \$450 threshold—and who receive superannuation contributions.

The ACTU estimates that at least 25 per cent of those people are likely to be affected by this change. That is because a very large proportion of people on such low earnings are working quite spasmodically, such as over university holidays and as seasonal workers in the hospitality industry or retail industry over the summer period. We have put a figure on it of at least 100,000 mostly casual employees who we believe would be affected. We cannot put that in blood, but it is the best estimate that we have been able to come to. It needs to be understood that the numbers of people affected are swelled by the way in which this works. A quarter is not just any three-month period: they are defined quarters starting in January, April, July and so on. That means that it would be possible, for example, for somebody to work across November, December, January and February in the retail industry or hospitality industry, or May, June, July and August in the snow type industry situation and miss out on superannuation entirely.

They are not paltry amounts. In some of the examples I have talked about where somebody was earning \$660 a month in those four months there would be a superannuation entitlement of \$237.60 that they would miss out on. It would also affect employees who work for a number of employers, as often happens. People will work for a couple of months here and a couple of months there or a bit here and a bit there, so they may not make that amount over the quarter, and they will be affected.

An obvious risk is that some employers will seek to structure their employment patterns so as to avoid the obligation to pay superannuation, which will be nine per cent from 1 July. For those employers in industries like hospitality, catering, retail and some of the agricultural and pastoral industries where there are large numbers of casuals employed, the incentive to do that could be quite significant. It is sometimes suggested that the amount of superannuation is so little that it is not worthwhile and it will all be whittled away in fees. However, some things are forgotten there. First of all, there are very few Australian employees who do not already have superannuation accounts. They actually have money in superannuation. So whatever would go in from now on would go to an already existing balance. The more that goes in, the less that is whittled away. Of course, some small account holders—those with less than \$1,000 in their accounts—have the advantage of member protection, so fees cannot erode away the absolute money value of their balance, although it might mean that they would not receive earnings. There is no suggestion in this that the employees would receive the money as cash. It is not as if the employees would get the benefit in some other way. The benefit would be entirely with the employers.

**Senator HOGG**—Can I just stop you there? That is the case now for those who do not receive superannuation, isn't it?

**Ms Rubinstein**—It is the case for those who, for example, do not earn \$450 a month. The benefit of that is entirely with the employer. It is also the case that many employees work part time or on a casual basis for particular periods of their lives. For example, women raising small children might already have significant superannuation accounts, which they have got from the period before they had children. These amounts might be very small but, when we consider that it is the time out that women have from having children which contributes so greatly to the problem of their lesser savings in retirement, we see that to take even more away from women in their situation is really quite unconscionable. Of course, even small amounts put away for 40 years or so can, through the miracle of compound interest, do quite amazing things. That is why every dollar that goes into superannuation, particularly with young people, will help to produce adequate retirement incomes further down the track.

To the extent that this proposal is being sold not as simply a benefit to employers but as some sort of answer to the problem of low account balances and low income employees, we would say that removing the entitlement is not the issue; it is putting more resources into educating superannuation fund members to consolidate their accounts. There is also to be a campaign started soon, if it has not already—the ATO and at least one of the preservation funds is having a lost members week where they are encouraging people to come to find out if they have lost superannuation accounts, to match these and consolidate them. That is the kind of initiative that ought to be taking place.

On the surcharge, I have a very small comment. The ACTU was opposed to the decision to reduce the surcharge because we believe that any cost to revenue in relation to superannuation ought to be distributed more fairly than a cut to the surcharge would be. For that reason, we support the proposals of the Labor Party in relation to the use of the \$370 million to reduce the contributions tax for all superannuation fund members. While I think there is some merit in the proposal that was discussed with the earlier witness of reducing the tax for lower income employees, it is possible that the administrative complexity of that would outweigh any benefit. We all have to be very aware of the problem with the complexity of the superannuation system.

I agree that superannuation for children is unlikely to be taken up to a very great extent because the money is locked away not until the child has reached the age of reason, say at 25 or 30, but rather probably until they are 65. I cannot see many people doing that. However, taken together with the co-contribution, and bearing in mind that many of these young people will work, it is quite possible that parents and grandparents will invest this money for children and then, once they get their first job on a paper round or with McDonald's, they will invest their co-contribution for them.

In a sense, there is nothing wrong with that, except that it is a cost in terms of taxation issues and also with the co-contribution in direct contributions. The ACTU would argue that, although the funds set aside for this are so modest as to lead us to assume that there is not much of an expectation of take up, funds that are available ought to be used more equitably and that this is not the best way of helping children and young people. The ACTU finally supports the proposed ability for people aged 75 to make contributions to superannuation funds.

**Senator HOGG**—On the second last matter, you see that just as something for the big end of town?

**Ms Rubinstein**—Clearly it is for the big end of town because most people do not have a lazy \$1,000 that they can invest for their children—possibly for their grandchildren. But, by and large, I think that it is. Also, if you are not from the big end of town, even if you are only modestly comfortable, you are going to want to provide for your children at the age when they are likely to need it, in their 20s when they are establishing themselves. It is only if you know that there is going to be so much money for them to have houses, school fees, cars, university expenses and everything else that you will take advantage of everything that is going, including this.

**Senator HOGG**—I have three kids who are 21, 19 and 17 and I find the expense on them goes up exponentially with their age. I do not know how anyone else has money to—

**Ms Rubinstein**—I have similar experiences and the age of independence seems to be moving further and further ahead these days.

**CHAIR**—Ms Rubinstein, I know a couple of young mothers who do some part-time work and reckon this is going to be the best investment in town.

**Ms Rubinstein**—What is?

**CHAIR**—The co-contribution. You know yourself the sacrifices that some parents are prepared to make for children in terms of giving them a good education. The ability to get \$1,000 for \$1,000 is quite attractive to them and we are not talking about big income earners here.

**Ms Rubinstein**—The company-contribution is the best investment in town. There is no question about that.

**CHAIR**—They say they might not be able to do it every year.

**Ms Rubinstein**—But the people who will do it every year are not the women who are working a few hours a week, who will do it, by and large, out of their own income.

**CHAIR**—Yes, they are the people I am talking about.

**Ms Rubinstein**—Are they the sole providers for their family?

**CHAIR**—Not always. Some are.

**Ms Rubinstein**—I cannot imagine a young mother working part time, being the sole source of support for children, being in a position to put \$1,000 into superannuation. That is \$20 a week for someone who is earning maybe \$300 or \$400 a week and from that has to pay housing costs, education costs, running a car and all of the other things. Where that work is ancillary to the main breadwinner, then of course that is going to happen. That is precisely the point we will

make when we come to making submissions on the co-contribution. We support the principle of co-contribution but ways need to be found to make it fairer so that low-income people who are supporting families on their low incomes would be in a position to attract some of that contribution. We have not worked out a detailed position on that because the issue has not arisen as yet.

**CHAIR**—You seem to be a bit unhappy with the coalition's attitude to superannuation, thinking it is discriminatory against non-profit superannuation. From my discussions with some of the very big non-profit superannuation people who have 600,000 plus members, they reckon in this low-income environment it is going to turn hundreds of thousands of people towards them because with low costs, a low return environment, industry funds are going to be the big winners. I just cannot see the basis. Obviously, for small funds that are not performing well, I can understand that. But some of the big funds with whom, for example, you must be associated are telling me that they think they are going to be the big winners.

**Ms Rubinstein**—That may well be the case.

**CHAIR**—Obviously, they were not so much big winners when returns were high and you could get 30 per cent overseas, but in the environment we are likely to be in in the next few years they reckon they will be big winners.

**Ms Rubinstein**—That may well be.

**CHAIR**—What is the basis for your—

**Ms Rubinstein**—The basis is essentially the position on choice of fund that we have put consistently. We believe that, if you remove the protections that exist in awards in the current environment, the choice of fund will be exercised most commonly by employers and employers' concerns may be less about the costs that their employees pay and more about the kind of contra deals that they can get from the banks and the life companies. That is not the subject of the submission but by and large that is our position.

**CHAIR**—I thought I would raise it so that the contrary view is on the public record.

**Ms Rubinstein**—I think it is fair to say that more attention will go on fees in a low return environment, so low fee funds will be in a somewhat advantaged marketing position, but that only means anything if choice is exercised genuinely. We do not believe, in the employment relationship, that individual choice—whether it is about wages, working conditions and AWAs, to introduce another matter that is not in the submission, or whether it is about superannuation—can effectively be exercised by employees.

**Senator ALLISON**—I would like to ask about the surcharge. You suggest that, instead of reducing the surcharge contribution, you support the idea of reductions in contributions tax. You have also suggested that targeting those might be difficult administratively. Given the huge discrepancy between superannuation savings of men and women, what if this measure was to remove contribution taxes or lower them significantly for all women?

**Ms Rubinstein**—I think in those circumstances you would have to relate it to income, because there are obviously women in different situations. By and large, women have lower superannuation savings for two reasons. One is that they learn less, and that needs to be addressed. The other is the period out of the work force. Really this is not any kind of official policy, but, for example, superannuation could be linked into a system of maternity benefits. Although it is complicated, the government with its baby bonus system has proposed that that would be able to be used also for superannuation. The problem with that is that the more you earn the more you get, and if you are already out of the work force you do not get anything. Leaving that aside, there might be grounds for something creative that could be done in that way. Simply to divide it up amongst all women irrespective of their incomes would have some problems with it. It would be a fairly rough reallocation.

**Senator ALLISON**—On the same subject, what do you think \$370 million would buy in terms of tax on contributions? Would that lower contributions tax by one per cent, six per cent?

**Ms Rubinstein**—I think the Labor Party have said that they could decrease it by 1½ per cent.

**CHAIR**—Not on that alone. The Labor Party's measures involved other issues of raising money. That is where their position on budget night was quite misunderstood. The general populace felt that this \$370 million could reduce the contributions tax by X amount, but when you looked into the detail there were other factors built into it. It is fair enough to put that proposition.

**Ms Rubinstein**—It is. What we really say, without endorsing any particular kind of package of measures, is that an approach that says that you should try to increase superannuation savings on a basis that is at least equitable between all employees, if you cannot do particular things to assist those who are most in need, is the right approach. The government's approach is the complete opposite of that: it is about reducing the tax for the very small proportion of people who are affected by the surcharge.

**CHAIR**—But hopefully with a view to getting rid of it eventually, which will affect everybody.

**Ms Rubinstein**—Well, it won't. The only people affected by the surcharge are people who earn a high amount.

**CHAIR**—The costs of administering the surcharge are borne by all members of the fund.

**Ms Rubinstein**—That is true.

**Senator HOGG**—That has always been the point of the tax.

**Ms Rubinstein**—I cannot see how reducing the surcharge would affect the administration cost, so essentially you are still going to have the same administration cost for a third less revenue.

**CHAIR**—But it is the beginning of a desirable end, surely? Don't you want to look at it from the long-term point of view? You cannot suddenly take big taxes off in one go, can you?

**Ms Rubinstein**—No. But you could in fact shift to collect the surcharge in the way we had originally proposed, which was through the payroll system, through the ordinary tax system. Dealing with problems in the way the tax is collected by abolishing the tax does not seem a very smart way of doing things. There must be better ways to address that.

**CHAIR**—You just do not think it is worth sending that signal to the community?

**Ms Rubinstein**—To send which signal?

**CHAIR**—That it is desirable to knock off the surcharge.

**Ms Rubinstein**—But the signal that is being sent to the community is that it is desirable to reduce the taxes of those who are most well off. That is a principle to which I believe the government is committed, so perhaps that is the message that it wishes to send to the community. But that is the message.

**Senator LIGHTFOOT**—But, with respect, it is not reducing the tax back to what is considered to be a level of the average taxpayer. It is only reducing the surcharge less than a third over three years back to 10 points—which is still a surcharge.

**Ms Rubinstein**—Yes, there is still a surcharge.

**Senator LIGHTFOOT**—And a significant surcharge. I think that ought to be made clear, don't you?

**Ms Rubinstein**—Of course. But it is perfectly clear. What the government is doing is giving up revenue in one area to reduce the taxes on those who are the wealthiest of all superannuation fund members.

**Senator LIGHTFOOT**—But, with respect, they are still paying that 10 per cent.

**Ms Rubinstein**—Yes. To say that they will still be paying some additional tax is true but it is equally true that they will not be paying as much as they were before, and that is a cost to revenue.

**Senator HOGG**—If the contribution tax was reduced, they would still get the benefit of that.

**Ms Rubinstein**—Yes, they would still get the benefit of that.

**Senator HOGG**—We are going down the path of having a debate here—which we should not be—as to whether you give people the benefit of the tax right across the board through something off the contribution tax or whether it is honed in and refined to those people who have had to cop the surcharge. That is where the report is down to, isn't it?

**Ms Rubinstein**—Yes.

**CHAIR**—There is nothing wrong with having debates with witnesses, Senator Hogg.

**Senator HOGG**—I am not saying that.

**CHAIR**—They come from a perspective and we can look at that.

**Senator HOGG**—I mean amongst us. I am not talking about the witness.

**CHAIR**—Any further questions?

**Senator HOGG**—Yes. You quoted the comment of a press release made by Senator Coonan in respect of the change to the threshold.

**Ms Rubinstein**—Yes.

**Senator HOGG**—In her press release she says:

The quarterly threshold should reduce the compliance impact on business, particularly those with seasonal or casual workers (e.g. rural and retail sectors);

How do you believe the compliance costs will be reduced, if that is the case?

**Ms Rubinstein**—First of all there will be a saving of nine per cent on the wages. That is the key cost. It is not the paperwork. I would think that most employers would not have their entire work force in that category. They would still have to pay some superannuation for somebody and so the paperwork is happening in all of that. It is a bit like saying if you cut wages by 10 per cent it would reduce the compliance cost of paying wages. I mean, if you cut anything it would reduce the cost. But it does not go any further than that. It could not be described as a cut in red tape or bureaucracy.

**Senator HOGG**—When one considers that we have an ageing population, do you find this initiative of the government at odds with setting up reasonable retirement benefits for people?

**Ms Rubinstein**—I think it is very short-sighted, because I believe that a large proportion of the people who would be affected are comparatively young. That means that the earnings on their superannuation would accumulate for a very long time and would contribute to that. Also, they are people who would have superannuation but would be likely to have relatively low balances, and adding to those balances at this point in time is absolutely critical. As we know, the length of time that every dollar is in your superannuation account makes a big difference to the final payout because of the way compounding operates.

**Senator HOGG**—I refer to the change from the monthly to the quarterly threshold. As you know, I am an active member of a trade union; I am still branch president of the SDA in Queensland, so I have a bit of a feel for this. Earlier this afternoon, I raised with a witness my belief that the majority of major employers remit on a monthly basis. Is that a fair assessment?

**Ms Rubinstein**—It may be; I do not entirely know. Certainly, the industry funds which have a very large proportion of the total membership of superannuation funds generally require monthly payment of contributions.

**Senator HOGG**—If it becomes a quarterly situation, this could become an administrative nightmare for a number of those employers. I raised this issue earlier this afternoon. If someone earns \$600 one month, \$600 the next month and nothing the following month—as was one of the instances given to us—to make \$1,200 in total, the employer could have to pay on the \$450 threshold for the first two months and then find out that the employee has no employment in the third month and therefore falls below the \$1,350 threshold.

**Ms Rubinstein**—Presumably they would not pay until the \$1,350 had been reached. But yes, they would have to do a bit of rejigging of their computers to do that; that is true.

**Senator HOGG**—One would see a disruption to an established practice that has protected the rights of a number of people over a long period.

**Ms Rubinstein**—That is very well understood. Yes, I think that is right.

**Senator ALLISON**—Given the large percentage of big employers who pay monthly contributions—all of those contributing to industry funds, for instance—do you see any problem with requiring monthly contributions for employers of, say, over 100 employees?

**Ms Rubinstein**—No, not at all. I am not sure that it is just large employers who pay monthly. Funds like C+Bus and Host-Plus, for example, have a very high proportion of employers with fewer than five or 10 employees. Certainly, I cannot see that there would be an issue with that. One of the problems with this—which is really an education issue—is that I get the impression that a lot of employers who pay monthly because the fund or award requires it now think that they can pay quarterly. They do not understand that this is a change from the ability to pay annually. This will affect employers who are bound by the award, the deed that they have signed with the fund or both to pay monthly. Of course, it will not change—we know that—but there is a bit of an expectation that they can now pay quarterly. So that is something that will have to be dealt with.

**CHAIR**—I have some good news from the government for you. It is part of a response to a report which we put down a little earlier; that is, the government response to the Senate Select Committee on Superannuation and Financial Services report: *Enforcement of the superannuation guarantee charge*. I am sure that you will be delighted at this:

In implementing quarterly Superannuation Contributions, the Government will require employers to report to their employees the amount and destination of SG contributions.

That is good news, isn't it?

**Ms Rubinstein**—I think I have already noted that. I said that the ACTU supports that. We are capable of supporting initiatives by the government that are worthy of support.

**CHAIR**—That was as a result of some of the committee's work.

**Ms Rubinstein**—Yes. I am a great admirer of the work of the committee, as you are aware, Senator Watson.

**Senator HOGG**—Do you have any estimation of how many people currently fall below the \$450 threshold each month? I know you have done some exercises as to what would happen.

**Ms Rubinstein**—It is approximately half. If you have 400,000 people earning less than \$200 a week, about half of those get superannuation, so it is probably 200,000 people who do not get superannuation.

**Senator HOGG**—What you are saying is, that figure of 100,000—

**Ms Rubinstein**—Would be the ones who are affected by this. I would make the point that there are difficulties with statistics and comparisons across categories and different ABS studies, but that would be approximately how we would see it.

**Senator HOGG**—In respect of the changes that came in, we have heard from other witnesses that some of them were consulted prior to budget night. Were you consulted?

**Ms Rubinstein**—No, we were not, Senator.

**Senator HOGG**—That does not surprise me. I have no further questions.

**CHAIR**—Thank you very much. We always enjoy your presentations.

**Ms Rubinstein**—I always enjoy appearing.

**Proceedings suspended from 5.31 p.m. to 5.45 p.m.**

**GILBERT, Mr Richard, Deputy Chief Executive Officer, Investment and Financial Services Association Ltd**

**CHAIR**—Welcome. I would like to remind the committee that Mr Gilbert is a distinguished former secretary of this committee. In August he was appointed as deputy CEO of that great organisation, IFSA. Congratulations, Mr Gilbert. We wish you well in the future and look forward to maintaining a close relationship both with you in your new capacity and with your organisation.

**Mr Gilbert**—Thank you, Mr Chairman. I never forget where I received my first education on this topic; it was certainly a good training ground. I thank the committee for inviting the association to make a submission and appear this evening. For the benefit of members of the committee who might not know the organisation, IFSA represents 100 members who hold assets in the superannuation and the non-superannuation industries, comprising about \$670 billion. The underlying investors number nine million Australians. We bring to the table expertise in investment and the administration of those public offer funds and in macroeconomic expertise, because my members make assessments on the economy, savings trends and investment patterns. It is with that background in mind that I would like to give you a general position on various tenets of this bill and then I would be very happy to take questions.

**Senator HOGG**—Before you start, Mr Gilbert, as you were not here at the start of the hearing you may not know that the government has taken the surcharge component out of the bill at this stage and is going to put it into another bill with the cocontribution. That should not inhibit you as we are still taking evidence on that matter now, but I want you to be aware of that.

**Mr Gilbert**—Thank you for reinforcing that; I appreciate it. I will run through our position on these issues and then I will be very happy to answer questions. IFSA supports the change from annual to quarterly requirements to pay SG contributions. We note in that regard that the majority of employees are already making payments more frequently than quarterly. IFSA does not support the change in the threshold for payment going from \$450 to \$1,350 earned in a quarter. We do not support that and I am prepared to go into the reasons for that during the course of my evidence. We strongly support the reduction of the superannuation surcharge for a host of reasons. We support the increased deductions for the self-employed and the contributions for children package which the government took to the last election and now wants passage of.

In general terms, it was good that the government took to the last election a package of superannuation measures. The industry has really only been debating extra taxes on superannuation. The last election was a momentous one for the industry because there was a debate about trying to enhance savings incentives and arrangements for all Australians. So that is IFSA's general position. We are also pleased that Labor has now entered that debate in respect of front-end taxes. I think that is a healthy development and a good sign for long-term savers. Our hope is that at the end of this debate there will actually be a lower imposition of the front-end tax regime for those Australians who benefit from whatever changes arise out of the Senate.

**CHAIR**—Basically, you agree 100 per cent apart from the \$450 to \$1,350; is that right?

**Mr Gilbert**—Yes, in summary. That is based on the itinerant worker, the casual worker type argument, which has been put before this committee in earlier submissions.

**Senator BUCKLAND**—I want to go back to an issue I raised earlier—I am not sure if you were here then—regarding contributions by children. I made a comment about loans against superannuation money. It does worry me in relation to this aspect of it. I understand that it is in fact illegal for anyone to offer a loan or provide credit based on superannuation or your superannuation contributions. Could you help me, and perhaps the committee, on this because I am now a little bit worked up about this because I know where I am coming from. Is it a requirement of any institution that you know of that lends money, that is a money lender, to ask for the details of your superannuation in the application?

**Mr Gilbert**—My understanding is that the law does not allow an individual to gear a loan against their superannuation accounts. I am not aware of any of my members with arrangements such as the one you are describing.

**Senator BUCKLAND**—Are you aware of any who are not your members who may be doing that? Banks or other institutions?

**Mr Gilbert**—No, I am not. I would be happy to take that on notice and come back to you.

**Senator BUCKLAND**—I would ask you to do that because I will pursue this matter and it may be something that needs to come in a different form. Could you take that on notice and provide some information to us?

**Mr Gilbert**—I will do my best, Senator.

**Senator BUCKLAND**—I might pursue that later tonight. Turning to another matter, you indicated that you would address the reasons for not wanting to change from \$450 to \$1,300 for the monthly cum quarterly payments. Could you do that for us?

**Mr Gilbert**—We approach these issues at a high principle level. Our policy is that superannuation should be broadened and deepened. Depriving part-time workers who have lumpy employment patterns over the quarter of their SG entitlement undermines that principle.

**Senator HOGG**—Just on that group of people: do you have an estimate of how many will be affected if the decision to take the threshold from \$450 a month to \$1,350 a quarter is proceeded with?

**Mr Gilbert**—I am sorry, we do not and I do not think we could get it. We have retail funds but, in the main, those balances are high balances and the contributions that are coming into those funds overwhelmingly are quite significantly more than perhaps the industry funds. The industry funds are probably best placed to advise you on that front.

**Senator HOGG**—Yes, I accept that. I am just asking if you have some understanding of that. Given the position that you have come from, the high principle position—and it is a very sound position—I am just wondering if you have some sort of basis for that.

**Mr Gilbert**—Again, I could endeavour to get some data from some of our corporate master trusts, but I think it would be difficult.

**CHAIR**—We have got a time problem, too.

**Senator HOGG**—I do not want to send you down a blind alley—let me assure you of that—because we have to report by next Wednesday.

**CHAIR**—Hopefully before.

**Senator HOGG**—Or before. I am not trying to use up your time, but if it is something that is readily available, yes. It seems to me from the witnesses that have appeared that, either by gut feeling or anecdotally, there is this reaction that there are going to be a number of people affected—some say a significant number. The ACTU have just said to us it is about 100,000 people, which is not an insignificant number of people. Would you have any feeling as to the proportion or the number?

**Mr Gilbert**—There would be a number of people affected, obviously.

**Senator HOGG**—Yes, all right. One of the other issues that I have put to people on this is that there would be a compliance difficulty for funds in the sense that by moving to a quarterly requirement—

**CHAIR**—Employers, not funds.

**Senator HOGG**—Not the funds, the employers. By moving to a quarterly requirement—and there are a number of employers who now remit on a monthly basis—employers might find themselves having remitted the first two months of a quarter and then come to the third month and find that, because there is some seasonal problem or slack-off in the work, they fall below the threshold. Is that a likelihood in these circumstances?

**Mr Gilbert**—I think that underlies our reason for saying that this is not good law.

**Senator HOGG**—All right. So you would be happy if the arrangement was such that the remittance had to be made on a quarterly basis but the requirement was still based on a monthly basis—

**Mr Gilbert**—That is how a person would do it over a year. So it seems to me there would not be an intense amount of extra systems work to do it over three months.

**Senator HOGG**—What is your experience in terms of remittances—are they mainly quarterly or monthly?

**Mr Gilbert**—The anecdotal evidence from my members—and they are not industry fund providers—is that about 80 per cent of the money coming into our industry is coming in on a monthly basis.

**Senator HOGG**—And the other 20 per cent would be?

**Mr Gilbert**—I have not disaggregated that.

**Senator HOGG**—Okay. So, overwhelmingly, a preponderance of both industry funds and funds that your organisation would look after are being remitted currently on a monthly basis.

**Mr Gilbert**—I guess that is just a reflection of the fact that most businesses do monthly sign-offs on their books. That is good business practice.

**Senator HOGG**—That is right. The reduction that is proposed in the surcharge would benefit those who probably have the greatest capacity and ability to pay tax anyway.

**Mr Gilbert**—And also to save. They are also the people who have the greatest capacity to save for their retirement.

**Senator HOGG**—That might be so. Labor, as you are aware, put up a proposition which would see the contribution tax, not the surcharge, reduced. Instead of just benefiting those few, it would benefit right across the board. What is your response to that?

**Mr Gilbert**—Our response is in regard to our recent experiences. Front-end taxes began in 1988—there were none before then. So this is the first attempt by any government since 1988 to reduce front-end taxes. Our principal approach is that the front-end taxes should be reduced. Obviously, a government's problem—and I do not want to speak on behalf of this government or any government—is fiscal responsibility. I guess in an ideal world your Labor approach is obviously admirable; but in a pragmatic world, budget affordability becomes an issue.

**Senator HOGG**—I accept that is an argument that will be had. It would seem, on the basis of fairness and equity, that if a benefit is being passed back it would be fairer and more equitable to pass it to a larger number of people, although the benefit might not then be as large, rather than to a select group of people.

**Mr Gilbert**—If we venture into equity, I think it is important to advise the committee that there are equity protection measures in the current superannuation arrangements. The RBL arrangements do stop people from saving excessively and excessively using tax concessions for their retirement benefits. That is the first thing the committee should be aware of and is no doubt aware of it.

The second important issue is maximum contribution deduction levels where you cannot, depending on your age, put more than X into a fund in a year, so there is an equitable issue there. We have some anecdotal evidence. A typical case is of a farmer who suddenly has a good year; he is not a rich farmer but he might have a good crop and wants to put some more money into superannuation. In effect, he is going to be hit with a 30 per cent tax instead of 15 per cent, if he is under the level. There are other examples of women who might have \$200,000 in superannuation. With \$200,000 in superannuation that only buys you a couple of age pensions, about \$17,000 a year. These people with \$200,000, aged 50 or 40, are paying the surcharge and yet it might be only in their last couple of years of employment that they reach the surcharge threshold.

**CHAIR**—It discriminates against women.

**Mr Gilbert**—It does. People who suddenly have a couple of good years in their salary are hit with a higher tax. These people will never draw a big age pension; they will just be above that. But, equally, they will not have a large lump sum on which to derive an income stream. So I think the issue of equity needs to be looked at multidimensionally. That is the best answer I can give you, Senator Hogg.

**Senator HOGG**—But it really gets to the point, though, that the surcharge was deliberately targeted at those who are higher income earners, and whilst there are others that do get caught up in the net, it was a deliberate target.

**Mr Gilbert**—It was targeted at that, but at a time of severe budget stringency. We in the industry always took it to be a somewhat temporary measure and we criticised it quite openly. It was very difficult to administer and implement, it cost us \$200 million or \$300 million, and it remains a complex set of procedures. Any move to remove us from that inefficient tax we support. That is why we supported the government's announcement.

**Senator HOGG**—But even if one looks at the proposal of the government, which is 10 per cent reduction over the three years, that effectively still leaves the tax in place, and the administrative complexity and inefficiency of the tax remains.

**Mr Gilbert**—Admittedly that is right, but with a review at the end of the three years. If we were asked to make a submission in that review, we would be saying: bring that tax down. Equally, our submission supports and will be supporting the cocontribution at the lower end of the tax spectrum, so that is a balancing equitable factor which we should take into consideration.

**Senator HOGG**—You would not see, therefore, the lowering of the contribution tax as being a viable and reasonable alternative?

**Mr Gilbert**—It is an alternative, but it depends on what is available to reduce tax—that is, in budget terms—because that is a more widespread tax reduction.

**Senator HOGG**—In respect of the changes that have been brought about, particularly the change to the tax threshold, was your organisation consulted prior to the changes being mooted and, if so, what was your response?

**Mr Gilbert**—Are we talking about the \$450 to \$1,350?

**Senator HOGG**—Yes.

**CHAIR**—Didn't you have an in-confidence agreement?

**Mr Gilbert**—We were involved in the discussions with Treasury.

**Senator HOGG**—And did you express a view?

**Mr Gilbert**—Our views remain the same as they are now. We have been consistent.

**Senator HOGG**—The other question I want to raise is in respect of the contributions for children. Do you have any idea of the cost to the funds of establishing and running these accounts?

**Mr Gilbert**—I have not got the actual figures but to set up a fund is expensive. Ultimately, it is a matter for each company to determine whether they offer these products.

**Senator HOGG**—What sort of expense? Can you place a dollar figure on it?

**Mr Gilbert**—I am not a fund administrator but it might be \$100, it might be \$150. It has been a while since I have worked in that area; I did work in a fund. It depends whether you amortise those costs over the life of the account. There are a lot of variables there, Senator.

**Senator HOGG**—I accept that. I am thinking mainly of establishment costs and ongoing administration costs that would come about as a result of the establishment.

**Mr Gilbert**—I cannot give you a reliable figure here and now.

**Senator HOGG**—You might take that on notice and see if you can get back to us.

**Mr Gilbert**—I will consider it.

**Senator HOGG**—Do you know if there is any consumer demand for these types of accounts?

**Mr Gilbert**—IFSA have not done any consumer testing—my members may have. If the members do that they do it as a matter of competitive advantage and I do not think they are going to disclose that to us. Suffice to say our general feeling is that, properly pitched, some companies will provide this—that is the anecdotal evidence we get.

**Senator HOGG**—Anecdotally do you know if there is a widespread consumer demand for it?

**Mr Gilbert**—We have not tested it.

**Senator HOGG**—I would be highly surprised. I would think that there would be a limited demand at probably the top end of town.

**Mr Gilbert**—It is hard to say. In our industry we have had things such as schooling savings accounts and the friendly societies have offered those. Some parents open accounts on behalf of their children in the managed investment industry, and there are such accounts. So there is some demand.

**Senator HOGG**—That is not a superannuation account though, and there are different things attached to a superannuation account.

**Mr Gilbert**—Not preserved for life and what have you.

**Senator HOGG**—That is right. That leads me to ask you: why wouldn't people use a different vehicle than superannuation?

**Mr Gilbert**—There are some advantages. The taxation of these accounts will be different. If you are a minor you get fully taxed in an ordinary savings account. So that is one advantage.

**Senator HOGG**—In respect of the proposal to increase the contribution age to 75, are there any difficulties that you see arising from that proposal?

**Mr Gilbert**—Not that I am aware of. Again, our members have not been to us saying, 'Change this.' There are certain things that need to be clarified in respect of older workers, but this one does not appear to be presenting us with undue administrative complexities.

**Senator HOGG**—There is no way that some people will make a windfall gain out of it?

**Mr Gilbert**—I do not think that is the case.

**Senator HOGG**—The brief that I have got from the secretariat is a one-line brief and I am just wondering if there are any hidden dangers there.

**Mr Gilbert**—If people wish to work and wish to have superannuation when they are older they should not be proscribed from doing so on the basis of their age. That is our answer in terms of the principle.

**Senator ALLISON**—What do your members expect to pay in terms of the administrative cost of implementing the changes to the surcharge reduction?

**Mr Gilbert**—The evidence I have—again anecdotally; I have not surveyed them all—is that this is just a change in a rate: from 15, take away 1½ per cent. So it is a fairly simple change. I could opine that dismantling the whole system now would cost substantially more and in some ways the progressive reduction is a good thing for savings on the administrative front.

**Senator ALLISON**—So minimal cost?

**Mr Gilbert**—Yes.

**Senator ALLISON**—Can you think of an arguments for not requiring contributions to be made monthly?

**Mr Gilbert**—We have an 80 per cent acceptance on monthly—there is that other 20 per cent. It could be that some businesses do run their business on a quarterly basis and I think the tax arrangement, PAYGO, is run quarterly.

**Senator CHAPMAN**—GST.

**Mr Gilbert**—Yes. I think they are some of the strong arguments for staying at quarterly, but other businesses may have the flexibility. I guess it would depend on how well your computer systems will do that.

**Senator ALLISON**—Presumably there would not be any businesses paying wages on a quarterly basis?

**CHAIR**—No, mostly monthly or fortnightly or weekly.

**Senator CHAPMAN**—This move to the quarterly rather than the monthly threshold—you have indicated opposition to it and you said you were involved in discussions with Treasury.

**Mr Gilbert**—We support going to quarterly; it is the \$450 versus the \$1,350 threshold that we are having difficulty with.

**Senator CHAPMAN**—The lower threshold, but quarterly?

**Mr Gilbert**—Yes.

**Senator CHAPMAN**—Given that this has been adopted, are you aware of any groups, other than the government, that actually support or advocate the decision the government has taken? Given that there was obviously consultation on the issue, was the decision taken with the support of small business? Are there any sectors that you are aware of that did support it?

**Mr Gilbert**—You would have to look at those sectors who may or may not be affected by it. The one that comes to my mind is agriculture, where there is a lot of seasonality. The other one that comes to mind is that my daughter works in the retail industry, and I see how lumpy her employment is.

**Senator HOGG**—That sort of seasonality and casual employment is not a reason to deny people superannuation, is it?

**Mr Gilbert**—I go back to IFSA's high level principle that broadening and deepening actual savings is a good principle and a good objective.

**Senator BUCKLAND**—How much extra is it to administer a fund where a person is casual or seasonal in the nature of their work?

**Mr Gilbert**—Again, I do not have those figures, but for people with balances of less than \$1,000 you actually have cross-subsidisation working. We have done various studies on fees in the industry, and it is fair to say that low balances and low contributions are expensive to administer. As soon as people can move out of that \$1,000 range there is some cost recovery. I cannot add any more, I'm sorry.

**Senator HOGG**—Part of the answer to that is consolidation of existing accounts?

**Mr Gilbert**—Absolutely. Our research shows 3 ½ accounts per superannuant or superannuation contributor.

**Senator BUCKLAND**—There was a similar figure mentioned earlier on today. What efforts and steps are being taken to try to address that?

**Mr Gilbert**—Essentially, the tax office has access files listed on its web site for people to be able to mine those and have them combined. Some of my members advertise on that basis, for people to regather or to repool their superannuation savings and avoid three sets of charges. Again, it is a commercial decision for that fund.

**CHAIR**—Are there any further questions? Thank you for your forthright answers. We have appreciated them.

**Mr Gilbert**—Thank you very much.

[6.14 p.m.]

**BRAKE, Mr Roger Stephen, General Manager, Retirement and Personal Income Division, Department of the Treasury**

**CICCHINI, Mr Raphael, Manager, Superannuation Unit, Department of the Treasury**

**DEININGER, Ms Rosemary, Manager, Retirement Policy and Incomes Unit, Department of the Treasury**

**MALLORY, Mr Alan, Director, Superannuation, Australian Taxation Office**

**MURRAY, Mr Nigel Patrick, Acting Assistant Commissioner, Australian Taxation Office**

**CHAIR**—I welcome representatives from the Australian Taxation Office and the Treasury. Thank you for sitting through and listening to the deliberations of the other witnesses this afternoon. We would like you to comment on some of the presentations in terms of whether there were any inaccuracies, any misunderstandings or any problems that you perceive with what has been said before the committee today.

**Mr Cicchini**—I will make a couple of comments. It was clear that some of the comments made about child accounts indicated a lack of knowledge of the detail and that was because most of the details are in regulations to be made later this month we expect. The detail that is in the Taxation Laws Amendment (Superannuation) Bill (No. 2) 2002 relates to the taxation arrangements and that is simply so the contribution will not be taxable.

**Senator HOGG**—Could you go back over that? There are regulations to be made in respect of the—

**Mr Cicchini**—In respect of the child accounts.

**Senator HOGG**—And you say later this month?

**Mr Cicchini**—Yes. We expect them to be made next week.

**Senator HOGG**—So that is on the passage of the legislation?

**Mr Cicchini**—They are regulations. They are not dependent on the taxation laws amendment. The tax law amendment simply deals with the taxation of that contribution so that it will not be a taxable contribution. The SIS regulations amend the superannuation industry supervision regulations and the retirement savings account regulations to allow the fund to be able to accept contributions on behalf of a child.

**Senator HOGG**—So just let me understand that. The regulations are not dependent on the passage of the—

**Mr Cicchini**—They are not dependent on the passage of this bill that is before this committee.

**Senator HOGG**—But they operate in conjunction with this bill?

**Mr Cicchini**—That is right.

**Senator HOGG**—Is there any reason why a copy of those regulations is not available now?

**Mr Cicchini**—They have not been made yet.

**Senator HOGG**—That is a good enough reason. But it would seem to me that if they are going to operate in conjunction with the legislation, and they are not dependent upon the passage of the legislation, it would have been nice for them to have been made available to the committee.

**Mr Cicchini**—We could certainly do that.

**Senator HOGG**—How soon do you believe those regulations will be drafted, given that the committee needs to report by about Tuesday or Wednesday next week? I am not trying to squeeze you into a time frame.

**Mr Cicchini**—There are a couple of issues here. The regulations deal with the implementation of the superannuation election commitment to allow contributions to be accepted and to be made on behalf of a child. The tax law amendment simply deals with the taxation aspect of it. It is not clear to me what role the committee has in looking at those regulations—

**Senator HOGG**—It is not clear to me either.

**Mr Cicchini**—but I am happy, obviously, to provide those to you. We have undertaken extensive consultations with industry over the last few months to work through the various requirements that are in those regulations, which include disclosure requirements and requirements about who can open accounts on behalf of a child. We have been working through those things with industry and have only just resolved a lot of those issues. The commencement date is 1 July 2002 and we are working to have them in place by that date.

**Senator HOGG**—You say there was extensive consultation. Who was that consultation with? You can take that on notice if you wish.

**Mr Cicchini**—I can tell you that it was very wide consultation. There were meetings held in April with ASFA, IFSA, the Institute of Chartered Accountants, CPA Australia and ARISA. Perhaps somebody can help me—there were quite a number of people at those consultations where we exposed the regulations for comment. Initially they were not for public comment but were in the context of confidential consultations, but since the government's announcements we have been having two-way communication with ASFA, IFSA, the CPA, the Institute of

Chartered Accountants and ARISA, as well as the Australian Consumers Association, on those child accounts.

**Senator HOGG**—On those child accounts, I am not saying my party is even contemplating this, but there are other people in the Senate aside from the government and opposition parties determined to put forward a proposal which in some way amends that part of the legislation. Does it affect the regulations you would be putting together?

**Mr Cicchini**—No, all the taxation law amendment does is ensure that the contribution that is made on behalf of a child will not be taxable. Those contributions cannot be made until the SIS regulations are amended. The only other issue is that there was a comment made about whether or not a child could get early access if they were unemployed at 18. The comment we would make there is that, if they meet the early release rules that relate to financial hardship, they would probably qualify. The rules are quite tight. They require that you be on some form of Commonwealth income support payment for 26 weeks, and it is very difficult for an 18-year-old to be in that category, as I understand it, in this day and age. Basically I think you have to divorce your parents before you can get unemployment benefits at 18.

**Senator HOGG**—There are children who do that these days.

**Mr Cicchini**—I am aware of that.

**Senator HOGG**—It was raised as a legitimate concern that people may well go down the path of misusing—I think that is the correct term rather than abusing—the accrual that comes under the superannuation. Whilst it would have been put there with good intentions, it might not be appropriate.

**Mr Cicchini**—I guess the other comment to make is that there seems to be a suggestion at this table that the only people that will benefit from this are people with a bit of money behind them, which probably would indicate that their sorts of family arrangements may be such that their kids probably will not be on unemployment benefits when they turn 18. That is my opinion, and I am happy to put it on the record as my opinion.

**Senator HOGG**—I am glad you recorded it on the record, Mr Cicchini, because I think that is a real presumption. Are you supporting the view, then, that a wage earner on \$500 a week is not likely to access this provision?

**Mr Cicchini**—No, I am not supporting that view at all.

**Mr Brake**—If someone is on a wage of \$500 a week, they would not be on Newstart, so they would not be able to get early access.

**Mr Cicchini**—I think your comment is about whether or not their parent or grandparent is going to be able to make a contribution on behalf of their child, and that would be a matter for the individual. It does not necessarily have to be a high wealth individual that would make such a contribution. They might have some very wealthy grandparents.

**Senator HOGG**—Let us get to the real world. In the real world it is mainly high wealth individuals who would use this sort of thing. I am not denying them that right, but that is the reality in the real world. You were here when I quoted the case of what happens in my family, where I have got children aged 21, 19 and 17. If anyone has got a different experience, please come and see me afterwards and I will have an extensive consultation with you to find out what you are doing differently from me.

**Mr Cicchini**—The point I want to make is that obviously on severe financial hardship grounds people will be able to access their superannuation in the same way that they could currently do that. There are no changes to be made to those provisions. I can tell you that.

There also seemed to be a suggestion that an account opened by an employer would have the parent or guardian controlling that account. That will not be the case in the regulations. I just wanted to clarify that for the record. These regulations will not change the way that an employer opens an account for an employee if they are under the age of 18.

**Senator HOGG**—What happens in the case of an account that is opened for a young person, let us say at the age of five? If money is put into that account, in good faith by the parent or the grandparent, and something tragically happens to that child, how is the money then accessed?

**Mr Cicchini**—Superannuation benefits on the death of a member are payable to their dependant. If they do not have a dependant, and in this case the child probably does not have a dependant, then the trustee would be able to pay those funds to probably their next of kin.

**Senator BUCKLAND**—Is there provision for them to do that?

**Mr Cicchini**—There is provision in the SIS regulations to allow a trustee to pay a death benefit to a dependant, and if there does not exist a dependant there are rules which allow it to pay to the legal personal representative of the child which, in most cases, will probably be their parent, or their parent if they are not a legal and personal representative.

**Senator ALLISON**—I want to ask about a subject which was raised in a couple of submissions but has not been discussed tonight. It is in relation to the self-employed. There is an extensive submission from the taxpayers association, Taxpayers Australia Inc. Can you explain why it was not possible to treat contributions from all sources, whether they are employed or self-employed, and what the implications of doing that might be?

**Mr Cicchini**—I will just clarify: this is the issue of full deduction up to \$5,000 and then only 75 per cent up to the age based limit?

**Senator ALLISON**—Yes.

**Mr Brake**—Obviously what the deduction limits are is a matter of policy. The government has introduced legislation, as you say, to increase it from \$3,000 to \$5,000 at a cost to revenue of around \$10 million. Obviously if the deduction limit was increased further there would be a further cost to revenue.

**Senator ALLISON**—Yes, that is just a policy decision.

**Mr Brake**—Yes, the limit is a policy decision.

**Senator ALLISON**—I have a question about contributions for children. Correct me if I am wrong: this is the first time we have had contributions made to superannuation funds that are not related to earnings and to work—is that correct?

**Mr Brake**—There are already contributions which can be made on behalf of a spouse. The spouse does not have to work.

**Senator HOGG**—Can I go to the issues I have been raising about the quarterly payments—the shift from the threshold being \$450 a month to \$1,350 a quarter. We have heard evidence. Some of it could be described best as very anecdotal but it is, nonetheless, from people who say they have a feel for the industry, being representatives of the industry. The ACTU said about 100,000 would be affected. What is your view? How many will be affected if the shift is from \$450 a month to \$1,350?

**Mr Brake**—The government has not put out any figure on the number of people affected. We had done some analysis. Unfortunately, the Treasury does not have those people with us at the moment, so I could take that on notice.

**Senator HOGG**—Without holding you on pain of death or anything as bad as that, could you give us an idea now and then provide us with the figures tomorrow, over the weekend or on Monday? Could you give us an idea of what, in your preliminary judgment, the effect will be?

**Mr Brake**—I can certainly see if we can provide any material to you tomorrow or over the weekend; I can take that on notice, Senator.

**Senator HOGG**—Yes, but is there an impact? You must have some view.

**Mr Brake**—There are a number of issues with the move from the \$450 to the \$1,350. They were somewhat addressed in the Senate estimates we had recently. I think it is probably fair to say that the bulk of employees will be earning more than \$450 a month or more than \$1,350 a quarter. Some employees will actually receive more than they do now under the SG. For example, if you earn, say, \$400 one month, \$400 the next month and \$2,000 in the third month, at the moment there would only be the requirement to pay SG for that third month whilst, under the proposed change, the employer would have to make contributions for the whole of the three-month period. So there is that group of people.

**Senator HOGG**—How big do you really believe that group of people is in the real world?

**Mr Brake**—As I said, unfortunately I am not responsible for that work within the Treasury, so I cannot provide any information on the quantitative—

**Senator HOGG**—It is a pity you did not bring someone along who could answer these questions.

**Mr Brake**—I have someone's mobile phone number, so I can—

**CHAIR**—I think they were canvassed at a Senate estimates meeting.

**Senator HOGG**—Yes, they might have been canvassed there, but it seems to me incredible that you did not bring someone along.

**Mr Brake**—There is that group of people, and then there is the other group.

**Senator HOGG**—But they are likely to be a very small minority in the real world.

**Mr Brake**—I think that both groups are likely to be very small minorities in the real world.

**Senator HOGG**—That is your view.

**CHAIR**—It does provide flexibility for some people to be able to take it up.

**Senator HOGG**—Sorry, Mr Brake; you were going to say?

**Mr Brake**—Then there is the other group, which is made up of people who, for the quarter, would have earnings less than the \$1,350 but, for a particular month, would have earnings of more than \$450.

**Senator HOGG**—How was that arrived at—simply by multiplying the \$450 by three? Was it based on any modelling?

**Mr Cicchini**—I think the idea of the threshold was arrived at on the basis that the government was implementing a quarterly SG and delivering a package of measures, and that there would be some compliance costs—

**Senator HOGG**—That was not my question. My question was: was there any modelling on which the decision was based? It is a simple question.

**Mr Cicchini**—I think the answer to that is—

**Senator HOGG**—No?

**Mr Cicchini**—No.

**Senator HOGG**—So it was just a matter of—

**CHAIR**—The committee appreciated the reason, though. It was handy to have that comment about the reason—to make it consistent on a quarterly basis—on the record.

**Senator HOGG**—I understand that. But there was no modelling to look at the effect of the quarterly basis as opposed to the monthly threshold, was there?

**Mr Cicchini**—Are you asking us how we arrived at the \$1,350?

**Senator HOGG**—Yes.

**Mr Cicchini**—We multiplied \$450 by three; I think that is right.

**Senator HOGG**—That is right.

**Mr Cicchini**—It is also consistent with some recommendations.

**Senator HOGG**—It was not a trick question. I was just trying to work out whether you had modelled it and worked out how people are going to be affected by this and whether \$1,350 was a fair figure or whether some other figure was a fair figure. Whilst you have quoted the example of \$400, \$400 and \$2,000, we were given another example. Admittedly, there was no justification for it other than they said it could be \$600, \$600 and nothing. It seems to me that the decision to plump for \$1,350 has no foundation other than it is three times the existing \$450 figure.

**Senator ALLISON**—Mathematically, you would have to assume that more people would not be paid superannuation as a result of that ‘times three’ calculation.

**Mr Cicchini**—At the time we thought through the issues, I think we thought there would be some people who would probably miss out on superannuation.

**Senator ALLISON**—Some additional people?

**Mr Brake**—That is right; obviously some people do not make the \$450 now.

**Senator ALLISON**—Did you estimate what that number might be?

**CHAIR**—It would work for some people, but again we cannot quantify it. Some would miss out; some would benefit. Mathematically, it must happen.

**Senator ALLISON**—How would they benefit, Chair?

**Mr Cicchini**—Some people will benefit. In the case that Roger mentioned, if you are in a situation where you are earning close to the \$450, slightly under or over that each month, under some scenarios you will be better off in some quarters and potentially you might miss out on some in other quarters. I think there is a case of swings and roundabouts for some people.

**Senator ALLISON**—Have you seen any evidence of employers manipulating this \$450 figure already? We heard evidence earlier today, I think it was a petrol retail chain—

**Mr Cicchini**—You might ask the tax office that. We do not do any enforcement.

**Senator ALLISON**—Do you organise the rostering so that this is what happens?

**Mr Mallory**—The compliance area in respect of SG is not my particular area, but anecdotally we occasionally get suggestions that it does happen. I would not know the degree to which it happens.

**Senator HOGG**—It is interesting that in the debate on these bills in the House of Representatives on 5 June Mr Slipper said:

Fewer employees as a proportion will miss out on employer superannuation under the new quarterly SG exemption threshold than when SG was introduced under Labor in 1992. In 1992 five per cent of employees were excluded from SG because of the \$450 per month exemption threshold. After the proposed change, only three per cent of employees will miss out on SG.

Is that assertion correct? You have that comment and you have me trying to find out about that modelling. I understand the argy-bargy that has gone on on the estimates front. I have had the pleasure of reading the *Hansard*; it is one of the pains that one is put to around here. Can someone help me out on this?

**Mr Cicchini**—I think it was Roger who said that we have some work being looked at in this area at the moment. Those comments made by Mr Slipper would be, in essence, based on the number of employees who were entitled to SG under the scenario in 1992 and, I guess, on how many now would be entitled. But I do not think we have any numbers.

**Senator HOGG**—So really that statement does not tell us much at all, does it?

**Mr Brake**—I think that the analysis there was largely driven by changes in prices and wages since then because the \$450 has not been indexed. So you would expect that in 1992 more people would have had incomes of less than \$450 per month as a proportion of the overall work force than they do now.

**Senator HOGG**—It has nothing at all to do with these bills. It has to do with the fact that the amount has not been indexed. It is an indexation issue.

**CHAIR**—Largely.

**Senator HOGG**—Yes. I am glad we cleared that up.

**CHAIR**—It is just a debate issue.

**Senator BUCKLAND**—In relation to the over 70s market, if I interpret this correctly, there is a requirement to work 10 hours. I understand that is not a great deal of time. I am curious because I know of a couple of cases personally—and I will never be in this category, so do not think I am thinking of myself—where people have done quite well. They are not what you would class as high-income earners; they are blue-collar workers and they have done well over their working lives and invested well with property. They get to the age, in one case that I can recall recently, of 72 and decided to call it a day at work. They do not need their superannuation to live on because they are able to sell property and have a comfortable income. What are the implications as far as tax is concerned. They can no longer contribute to the fund. What are the provisions if they do want to continue? The superannuation funds are better payers as far as interest and earnings are concerned than are banks or other investment opportunities? They are

safer for them and of course they are thinking of their grandchildren and children after they pass on. Do you have any comments on that because it seems inequitable?

**Mr Murray**—The main issue is that, under the SIS regulations, they cannot contribute.

**Senator BUCKLAND**—They cannot contribute but the bill is not then going far enough. I am concerned about that because it is something that a lot of people rely on now.

**Mr Murray**—Superannuation is designed to accumulate an amount of money and then draw that down over your retirement. To ensure that happens, the SIS legislation requires you to start drawing it out once you cease working. If the person is 72 and ceases work, then that would apply to them.

**Senator BUCKLAND**—Yes, that has happened. He has had to transfer the money to another fund. Does not that create a difficulty if you are saying, ‘You have to take it out at age 75.’ I understand law, although I do not understand too much about superannuation, despite what you might think. Is there not some inequity if you are saying that at age 75 you cannot contribute if you do not work, but at the other end of the scale we are opening it up so you can contribute if you are a child under the age of 18 and do not work?

**Mr Cicchini**—The whole purpose of the tax concessions that are provided to superannuation is as a savings vehicle for your retirement so that the tax concessions are intended to support you and provide income in retirement. As the ATO mentioned, the idea is that once you get to 70 and you are no longer working, firstly, you can no longer contribute and, secondly, you must start drawing your income. If you do not start drawing your income, then the government has provided tax concessions in a concessional tax environment and you are not using the money for your retirement income. Over that 70 end, there is more scope to not pay tax, when in fact you have had a concessional tax environment for most of your life.

**Senator BUCKLAND**—I do not want you to misunderstand me because you probably would not find a better supporter of superannuation funds around the table than me. Looking at this, probably only over the last 10 or 15 minutes or so, it is in my mind that we are creating an inequity with this. At one end of the scale, we are opening up access to a fund for nonworkers, albeit, to provide for their future—and I have no difficulty with the concept of it. At the other end of the scale, we are denying access to people who wish to keep paying into a fund for the benefits. They are still not living off the government’s pension scheme or anything like that. They would have to be a self-funded retiree to be in that situation anyway. I find it a little inequitable that you can have that provision. It is a bit late to start questioning it now, but I would like your comments on it.

**Mr Brake**—I will not comment on the equity issue because it is not my role. As Mr Cicchini explained, the policy rationale for the concessional tax treatment of superannuation is to build up retirement incomes, and implicit in that is that they are not used for estate planning purposes.

**Ms Deininger**—Also, people in that situation can save through other vehicles other than superannuation, if they wish to save for their children and their grandchildren, as you mentioned. They do not need to save through superannuation per se.

**Senator BUCKLAND**—I totally agree and that happens. I would never dispute it. The point is the superannuation funds have better returns in general than other savings mechanisms. I would certainly rather have my money in the super funds, given what most banks are offering around town these days, for the purpose of handing it on. Do you have any figures as to how many people would fall into this category of 70 and over?

**Mr Cicchini**—No, we do not have any figures of how many people over 70 continue to work and will make a contribution with us.

**Senator HOGG**—So you have no projections as to the take-up of that initiative?

**Mr Cicchini**—The budget papers indicate a very small cost to revenue. There are many people over age 70 who continue to work and they will have the benefit of being able to make a personal contribution to superannuation. I do not have the numbers.

**Senator HOGG**—You have no projections?

**Mr Cicchini**—We could probably get some, but we have not been asked.

**Senator BUCKLAND**—Certainly not by the time we are due to report.

**Mr Cicchini**—You could go to the ABS statistics and find out how many people over 70 are continuing to work.

**Senator BUCKLAND**—I wondered whether you had used a figure that you found had warranted the change from 70 to 75.

**Mr Cicchini**—That was a government election commitment.

**Senator BUCKLAND**—So it was not taxation office based?

**Mr Cicchini**—No, the government announced that it wanted to do this and just talked about implementing that decision.

**Senator HOGG**—To go back to the issue I was pursuing, the quarterly payments: do you believe that it is mainly the seasonal workers and casual workers, those people, who are going to miss out as a result of the move from the \$450 a month to \$1,350 a quarter?

**Mr Cicchini**—That would probably be consistent with Minister Coonan's press release which said the benefits are intended to go to employers in those industries who have seasonal and casual workers.

**Senator HOGG**—I raised this earlier but it seems to me there is a conflict of purpose. The idea is to have people plan for and contribute towards their retirement, yet here we have a measure that is going to remove people from the umbrella of the SG and superannuation. Can you comment on that?

**Mr Cicchini**—I think when the government decided to implement a quarterly superannuation guarantee it recognised that there would be costs imposed on certain businesses and, as part of the implementation, it looked at how it might ameliorate those costs and decided to change the threshold.

**Senator HOGG**—So the amelioration of the cost is borne by the employees, by not having a contribution made to superannuation? I want an answer to what I have said, because you do not have to be Einstein to work that out.

**Mr Brake**—Employees will be significant beneficiaries if they move to a quarterly superannuation guarantee.

**Senator HOGG**—No-one is arguing about that. I am talking about the threshold issue.

**Mr Cicchini**—The point we are making is that it is a package of measures. There will be a whole range of employees who will be better off. Some parts of business will be worse off and, as you have pointed out, there might well be some individuals who miss out.

**Senator HOGG**—What parts of business will be worse off? It really gets down to the minister's statement that it will reduce the compliance impact on business. We have heard today that 80 per cent are paying monthly already.

**Mr Cicchini**—I do not know that they are.

**Mr Mallory**—While we have 85 per cent of businesses paying quarterly or better—and I do not have the figures, but there could be 80 per cent paying monthly—there are still 15 per cent paying annually at the moment. From the figures we have seen, the majority of that 15 per cent of businesses would be businesses with nine or fewer employees, so we are talking about smaller businesses.

**Senator HOGG**—Those businesses, though, do not traditionally have a large number of employees. We are talking about the businesses at the end of the market that we would traditionally call mum and dad type businesses.

**Mr Mallory**—No, we are talking about small businesses. A business with nine employees is a bit bigger than a mum and dad type business. A large proportion of that 15 per cent that are paying annually are small businesses. I note, for example, that the Australian Primary Superannuation Fund released some information last year through the National Farmers Federation which showed that about 53 per cent of their employer sponsors only paid annually.

**Senator HOGG**—So this is to overcome a problem for the National Farmers Federation?

**Mr Mallory**—We are trying to encourage small businesses and, presumably, rural employers as well to move from a current annual payment regime to a more regular quarterly payment regime.

**Senator HOGG**—There is no-one who would deny that that is a commendable thing to be doing, but the key issue here is the threshold that you have struck, because that does exclude people. I am not asking you to comment on this, but it seems that at a time when governments should be focusing on broadening the access to superannuation—given our ageing population—we see this step being taken. Can I confirm from what you are saying, Mr Mallory, that the basic premise of this bill arises out of representations from the National Farmers Federation?

**Mr Mallory**—No, I would not say that. We are looking at trying to reduce compliance costs for businesses that are currently annual payers.

**Senator HOGG**—What sort of reduction in compliance costs will there be?

**Mr Mallory**—I presume it will be in aligning your assessment of the payment or obligation against your quarterly contribution, for those employers who were contributing annually and are now contributing quarterly.

**Senator HOGG**—What are the compliance costs that will be reduced?

**Mr Mallory**—I made the assumption that they will be aligning their PAYE reconciliations and their other obligations on a quarterly basis.

**Senator HOGG**—Right. They have their tax obligations on that quarterly basis, anyway, haven't they?

**Mr Mallory**—And they are making their super contribution to the fund on a quarterly basis.

**Senator HOGG**—I accept that. So how does that reduce compliance costs?

**Mr Mallory**—Presumably they would just be looking at a quarterly payroll figure to determine whether or not they have an obligation to make those contributions.

**Senator HOGG**—Where is the compliance cost? How much is it? In changing from annual to quarterly, are they going to save 75c in stamps, \$10 or what? Part of the justification in the minister's explanatory memorandum and—as I understand it—press release was that it will reduce the compliance impact on business, particularly those with seasonal casual workers. Can you quantify for me what the compliance cost reductions will be?

**CHAIR**—Time value of money cost. If you are paying quarterly rather than annually, there is a time value of money cost involved.

**Senator HOGG**—You must have some idea for the minister to make that statement.

**Mr Mallory**—As far as I am aware, we have not quantified that within the tax office, but we did consult with business organisations around the move to a quarterly regime. We canvassed a number of proposals that would reduce the impact of that measure on the business compliance cost.

**Senator HOGG**—The obligation to pay the money is there whether you pay it quarterly, six monthly or annually. The obligation to pay the money is no different. It is just the time at which you pay it that is the difference. I am trying to find out what are the compliance costs specifically in terms of dollars where the minister says it will reduce the compliance impact on business.

**Mr Murray**—We do not have any specific dollar amounts that we can give you. It is just a general feeling.

**Senator HOGG**—So Treasury and the tax office now work on feelings?

**Mr Murray**—No, Senator.

**Senator HOGG**—Quite seriously.

**Mr Murray**—You cannot always quantify down to the specific dollar what the benefits of a particular measure will be.

**Senator HOGG**—It is important because it is a fundamental basis on which the government have made the decision to put the threshold at \$1,350 over a three-month period and you cannot tell me the basis for the compliance cost reduction.

**Mr Mallory**—In our consultations with industry or businesses, a number of business organisations indicated that a move to a quarterly threshold would reduce their compliance costs. I believe when the National Farmers Federation gave evidence to the committee on SG enforcement they indicated that a move to a quarterly threshold would be one of the prerequisites for their supporting a quarterly contribution regime.

**Senator HOGG**—So you are saying those costs are available?

**Mr Mallory**—No.

**Mr Brake**—The point was that the tax office consulted with business on the move to quarterly arrangements and the businesses said this would reduce their compliance costs.

**Senator HOGG**—I understand that and that is very easily said. Having said it though, one must be able to justify it in terms of mathematics and money statistically. There must be some foundation.

**Mr Murray**—It would vary significantly between employers, depending on their size, their number of employees and a whole raft of factors.

**Senator HOGG**—I understand all of that.

**Mr Murray**—What we were trying to say was that we did see that there would be some benefit for employers. We were not really able to quantify, given the vast array of different employers and their different existing administrative systems, how they would change under a

quarterly regime, but we thought it was worthwhile noting that there could be some benefits to employers. That should be noted on the record even if we cannot necessarily quantify those in every case.

**Senator HOGG**—So was this a best guess or a hunch? How did you work it out?

**Mr Murray**—With all these measures, under the regulation impact statement which is included in the explanatory memorandum it is necessary to go through and assess the impacts of a particular measure.

**Senator HOGG**—I accept that.

**Mr Murray**—That does not require us, if we cannot do it, to come up with a dollar figure, because a dollar figure plucked out of the air may not necessarily be very helpful. Rather, the aim is to alert parliament and others that there are some benefits and there are some disadvantages to a particular measure. That is all we are trying to do in this particular example.

**Senator HOGG**—I can say that the moon is going to be blue tonight, and it may well be when I walk outside, because of some phenomenon. But there must be some mathematical basis.

**Mr Murray**—As I said, all we are trying to do—

**Senator HOGG**—I know what you are trying to do—

**Mr Murray**—is identify that there are some benefits and there are some disadvantages and note them on the record. We cannot in every circumstance say exactly what they would be in monetary figures.

**Senator BUCKLAND**—How can you say that there is a benefit or a disadvantage if you have not done that?

**Mr Murray**—As Mr Mallory had mentioned, we had consulted with employers and some employers saw benefits arising from these measures.

**Senator BUCKLAND**—So you just go and consult a group, they say this would be a good idea, and off you run with it? It is that what you are telling me?

**Mr Murray**—That would be the best way to ascertain whether employers are going to experience any effects.

**Senator HOGG**—Do you consult the employee groups as well?

**Mr Mallory**—No.

**Senator HOGG**—No. Ah!

**Mr Mallory**—I am trying to recall who we did consult.

**Mr Cicchini**—They will benefit from more frequent contributions.

**Senator HOGG**—That is not my question. The question was: did you consult employee groups?

**Mr Mallory**—No.

**Senator HOGG**—So you got the employer view, which said there would be a reduction in compliance costs and benefits, and you have come to a conclusion without consulting the other side. That is fine. I understand now how you made your decision.

**Senator BUCKLAND**—How long did these consultations take? Was it just a meeting with them one afternoon over a beer? Was it a series of workshops?

**Senator HOGG**—Two beers. No-one does anything over one beer, I hope.

**CHAIR**—Mr Mallory has some information for you. Have you?

**Mr Mallory**—No. I was going to refer to one of the submissions that the Senate select committee has just received. It is from the Taxpayers Australia, noting that they support the proposal because the quarterly contributions and the additional reporting requirements will have added costs for employers and the change to a quarterly exemption threshold will ameliorate those to some extent.

**CHAIR**—That was the letter I referred to earlier.

**Senator HOGG**—I accept that those statements are floating around, and they may be all well and good. I am trying to get something definite on the record. If you find my line of questioning different, you will find I use that same line of questioning in other inquiries, as I am sure the chair will attest to. I like facts and figures. You have not been able to provide me with any. If you can, over the next day or so, I would welcome those, but I do need to move on.

**CHAIR**—Can I give you a response?

**Senator HOGG**—No. I didn't ask you the question, Chair.

**CHAIR**—I thought you were just seeking some information.

**Senator HOGG**—You and I will have a discussion when we come to putting the report together. One of the issues that was raised here this afternoon by Ms Rubenstein was that going to the quarterly payments may need some education of the employers, because there now seems to be an expectation on the part of some employers who are bound by awards agreements and other contracts who pay on a monthly basis that they can revert automatically to a quarterly payment. Have you addressed that issue?

**Mr Cicchini**—I think the ATO can answer that. I am aware that they have been given some funding for administration and education campaigns.

**Mr Murray**—There will be a campaign. We do not have the numbers with us at the moment. We can provide further details of those to you tomorrow or on Monday, if that is satisfactory.

**Senator HOGG**—Yes, and the quantum of funds that have been allocated in terms of the education programs that you will undertake would certainly be helpful. I think I have just about worn out my welcome on that issue. I want to turn to the issue of the surcharge for a moment. Do you have an estimate of the number of people that will benefit in the reduction of the surcharge?

**Mr Brake**—Again, I do not think there has been a number released. I can take that on notice and see if there is any further information we could provide for you.

**Senator HOGG**—By saying it has not been released, does that mean there is a number?

**Mr Brake**—As I said, Senator, there has been no number released. Obviously, in working out the revenue estimate, there would have been considerable analysis done of those sorts of issues.

**Senator HOGG**—If there is a considerable analysis, can that considerable analysis, or a summary of the analysis, be made available to the committee?

**Mr Brake**—I can take that on notice.

**Senator HOGG**—No, that is not what I said. Can it be made available?

**Mr Brake**—That will be a matter for the government, Senator. I can take it on notice and refer it to the minister.

**Senator HOGG**—All right.

**CHAIR**—You cannot ask for more than that.

**Senator HOGG**—No, I am not, but I think that is a better answer to have on the *Hansard* record than ‘I will take it on notice’. I would rather that be the actual answer that is on the *Hansard* record.

There was an issue that I think Senator Sherry raised previously—I think it was with someone from Treasury—about the proposition that I have raised with a couple of people this afternoon on the alternative options that were raised by my party on, instead of removing the surcharge, reducing the contribution tax. There were a couple of options. Has any progress been made on that?

**Mr Brake**—Senator, you will be aware, if you have been reading the estimates *Hansard*, that there was a considerable discussion about these issues. I do not have an updated state of play on

those matters, so unfortunately I will have to take that on notice and refer that to the minister to see if there is any further information we can provide on those.

**Senator HOGG**—But I understood a costing had been done. Is that correct?

**Mr Brake**—There was a considerable discussion about this. I am just trying to recollect it. My understanding is, but I was not actually—

**Senator HOGG**—So why can't you tell this committee? Is there some reason that you can't?

**Mr Brake**—I think the Treasury officer at the time said that he would refer that to the Treasurer. If there are any developments in that regard, I can report back to the committee.

**Senator HOGG**—But I understand Senator Sherry also put it in writing the same day that he made the request at Senate estimates. I am just curious as to why that information cannot be imparted to this committee.

**CHAIR**—There may not have been any work done on it. Treasury were not clear as to what was originally stated because it was expressed in reasonably vague terms and the Treasury proceeded on a basis that subsequently, I think, the Labor Party changed.

**Senator HOGG**—It is good to see that the chair is now a witness before the committee.

**Senator BUCKLAND**—I wonder, if that is the case, if they cannot be released, whether the position put forward by the Labor Party is more favourable or advantageous. There must be a reason.

**CHAIR**—They may not have done the work yet.

**Mr Brake**—There was considerable discussion about all of these issues, including, as I recall, the treatment of defined benefit members under the opposition's proposals, which was certainly not something that we were aware of until the day of the Senate estimates.

**Senator BUCKLAND**—Just help me: where did the discussion take place?

**CHAIR**—Senate estimates.

**Senator HOGG**—At the estimates. It is interesting reading—

**Senator BUCKLAND**—But it does not give an answer.

**Senator HOGG**—No. I understand that there has been an update. Is that correct?

**Mr Brake**—I cannot add to what was said at estimates. I do not have any further information on those matters. There were a number of matters which were taken on notice. If there have been developments which I can report back to the committee, I will.

**Senator HOGG**—I find this amazing. You people are supposed to be providing us with information, and the fact that you are incapable of providing us with information—

**CHAIR**—Information in relation to an alternative policy put forward by the Labor Party, not government policy.

**Senator HOGG**—That is right.

**CHAIR**—The Treasury officers are only required to respond in relation to government policy as enunciated through these bills.

**Senator HOGG**—There were costings done on it and there was a need to revise those costings, as I understand it. I think that is the correct situation, in very broad terms. That is correct, isn't it? Those things went to the Treasurer's office in the week beginning 20 May, and here we are on 20 June.

**CHAIR**—Senator Hogg, we are discussing a bill before the parliament at the present time. We are not debating an alternative proposal put forward by the Labor Party and whether that has been costed, evaluated or whatever.

**Senator HOGG**—It does have a bearing on the way in which the bill will be debated in the chamber and amendments that may well be put to the bill. The opposition, minor parties and Independents do have a right to put amendments to legislation that goes before the chamber. If these questions were not posed, we would be rightly criticised as not having asked the appropriate officials when they appeared before this committee on this legislation about the impact of those changes. I think it is a very sensible and reasonable position for us to put.

We have to stop by 7.30 anyway, that is the time limit, so you can filibuster or I can try to talk it out, but I am not going to put either of us through that. I just think that it should go on the record that this is a very valid position for me, representing my political party, to put, and I am surprised that the officials are not in a position to be able to provide us with that information this evening, because it is pertinent to the debate on the bill. Are you as officials either of Treasury or the ATO in the position where you can supply the committee with the relevant information before the week is out?

**CHAIR**—I think it would create a very significant precedent to expect Treasury officials, at the point of time of debating a bill before a committee, to calculate the combinations and permutations of every opposition amendment that is likely to be put before a Senate, or indeed a House of Representatives.

**Senator HOGG**—I understand that, Chair.

**CHAIR**—It is adding a whole new dimension that has never been accepted before.

**Senator HOGG**—I am not trying to add a whole new dimension; I am just asking the officials. They can answer the question. I am asking them if they are able to provide that, or whatever they can relevant to the questions I am raising, by Monday.

**CHAIR**—It is fair enough, as long it is not an expectation.

**Senator HOGG**—No, I am asking the officials to respond—a simple question. They can respond.

**Mr Brake**—We can refer those matters to the minister. Ultimately, the release of costings is a matter for the government and not our department. That point was made during Senate estimates.

**Senator HOGG**—I understand that, but I think I am raising the issue in a proper way and I expect a reasonable response. Will the reduction of the surcharge over a three-year period drive down the compliance burden and the administrative complexity of the surcharge itself?

**Mr Mallory**—The reduction in the surcharge rate should not have any impact on fund reporting for private sector funds. Some of the consequential changes may require some additional record keeping for certain public sector funds. But the funds will effectively continue to report as they have done in the past and the ATO does the calculations and issues the assessments, so there should be no change to current arrangements.

**Senator HOGG**—There is no change in compliance costs or the actual complexity of the surcharge itself as a result of this?

**Mr Mallory**—No.

**Senator HOGG**—The benefit will be to those people who are at the higher income end and are paying the surcharge? That is correct, isn't it?

**Mr Mallory**—The benefit will be for those who pay the surcharge.

**Senator HOGG**—Yes. Broadly speaking, they are those people on higher incomes, as opposed to those on the likes of \$500 a week or less?

**Mr Mallory**—Yes, Senator.

**Senator HOGG**—You are not going to be hung, drawn and quartered for answering that, I hope. The only other area I want to ask about is increasing the age contributions. You heard me ask a couple of the industry representatives whether there were any ways in which that might be the subject of exploitation. I am not trying to ask you, 'How long is a piece of string?' but sometimes it is a help to be able to pre-empt where the difficulties might arise.

**Mr Cicchini**—The proposal is that only personal contributions can be made to superannuation. The bill ensures that it is only personal contributions, so we see little scope for setting up arrangements to minimise tax because the contribution will not be tax deductible. The regulations that are to be made next week will allow the fund to accept such a contribution. It will only be a personal contribution, which will be treated as an undeducted contribution, so we do not see a lot of scope for tax abuse. Perhaps the ATO has something further to add.

**Mr Murray**—I would support those comments. Contributions are already allowed up until a certain age; we are simply extending that age under the regulations. We do not see any possibility of abuse under the tax changes in the bill.

**Senator HOGG**—That was a question I had to ask. I think it was worth getting the answer on the record so that, if anything happens in 10 years time, people will know whom to hang, draw and quarter. I might have covered this: the contributions for the children. Do you have a figure for the likely cost of setting up the facility? If you will recall, we were given a figure today of \$100 from one of the witnesses.

**Mr Cicchini**—To set up an account?

**Senator HOGG**—Yes.

**Mr Cicchini**—What we need to consider is that funds already establish accounts for spouses who do not have any general connection to the work force or employment. Simply, we are allowing a fund to be able to establish a child account. There probably will be some minor setting up costs for a fund to be able to do that.

**Senator HOGG**—Can you quantify those?

**Mr Cicchini**—I am unable to quantify those, but it would certainly be no more than the cost involved in setting up a spouse account. We expect there may need to be a minor change to the computer systems so that they can track that only the \$3,000 per three-year period is being accepted—and there is obviously a cost involved in that. On the other hand, the limit is now \$3,000; we see that as allowing a viable account to be established. As noted by ASFA, these accounts will not be member protected, because they will not include mandated employer contributions. Also, any undeducted personal contribution made at the moment under \$1,000 would not be member protected, unless it included SG contributions. So I guess that the fund will be able to charge a fee to recover some of those costs.

**Mr Brake**—The other point to make is that this will be voluntary for the funds, and so it will be a commercial decision for the fund.

**Senator HOGG**—I accept that. Following on from your comment, could it occur that a parent or grandparent makes contributions to the fund on the basis of building a nest egg for the child; the family circumstances change and contributions cease? In those circumstances, one could foresee these funds being eroded over a period of time by administration charges. Is that a risk that would be taken?

**Mr Cicchini**—Certainly it is a risk. But, as with all funds, particularly those with low balances, they can be transferred to an ERF, which is an eligible roll-over fund. In those accounts, I think all balances must be member protected, and they are specifically designed for low balance accounts. Obviously, there is always a risk that, where you have money in an account and where the investment earnings are not greater than the return, the balance would go backwards.

**Senator HOGG**—That is what I was specifically seeking. That is quite different from other circumstances.

**Mr Cicchini**—Yes.

**Senator HOGG**—It is a ‘buyer beware’ situation, isn’t it?

**Mr Cicchini**—That is certainly true in most investments.

**Senator HOGG**—But, with this investment, once you put funds in, they are locked in, as opposed to putting them in some other form of investment.

**Mr Cicchini**—We expect that most funds, or at least some funds, offer portability. So they can initially choose which fund the money ought to be put into. They can also probably have the opportunity to move it to another fund, if they do not feel that fund is performing or the fees are excessive.

**Mr Brake**—Again, that was one of the benefits of moving to the \$3,000 contribution limit. You would expect that sort of risk would be lower with a larger account balance than with a small account balance.

**Senator HOGG**—I accept all of that. Arising out of your comment, it seemed to me that that is a risk that hangs over that type of investment, which people might not otherwise be aware of. As we are getting close to half past seven, I would like to thank the officials for their cooperation.

**CHAIR**—That concludes the meeting’s proceedings. Others have promised submissions which have not come in in time. On behalf of the committee, I thank all witnesses, particularly those who have given evidence today, as well as those who have found time to make a submission to the committee’s inquiry, especially given the very short time frame involved. Thank you for your participation tonight and your forbearance.

**Subcommittee adjourned at 7.26 p.m.**