



Mine Super

PO Box 9 Newcastle NSW 2300

t 13 64 63 | f 02 4962 3469

e help@mine.com.au | mine.com.au

30 January 2020

Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600
Email: economics.sen@aph.gov.au

Inquiry into the unlawful underpayment of employees' remuneration and superannuation

Please find enclosed our submission on the Inquiry into the unlawful underpayment of employees' remuneration and superannuation.

Should you require further information in relation to our submission, please do not hesitate to contact me on [REDACTED] or [REDACTED]

We would welcome the opportunity to discuss the matters raised in our submission.

Kind regards,

Adam Shultz
Executive Manager, Governance and Policy
Mine Super



Inquiry into the unlawful underpayment of employees' remuneration and superannuation

Submission by Mine Super

January 2020



Mine Super
PO Box 9 Newcastle NSW 2300
t 13 64 63 | f 02 4962 3469
e help@mine.com.au | mine.com.au

Content

About Mine Super	4
Executive summary.....	4
The cost to the national economy	4
Means of identifying non-payment or underpayment of superannuation.....	5
Enhancements that have been implemented	5
Effective means of recovering unpaid entitlements.....	5
Federal Parliament legislation.....	5
Additional recommendations that may assist	6
Abolition of the \$450 monthly earnings threshold requirement before SG applies	6
The existing law requiring employers to pay SG on a quarterly basis should cease	6
Increased ATO resourcing and improved coordination with superannuation funds	7
ATO education and awareness campaigns.....	7



Mine Super

PO Box 9 Newcastle NSW 2300

t 13 64 63 | f 02 4962 3469

e help@mine.com.au | mine.com.au

About Mine Super

Mine Super is a profit to member, public offer superannuation fund dedicated to serving miners and associated industries. A significant proportion (over 90%) of our members reside in regional and rural communities. Our shareholders are the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU), the NSW Minerals Council (NSWMC) and the Queensland Resources Council (QRC). Mine Super has been delivering exceptional retirement outcomes to members for over 75 years through a comprehensive range of superannuation and pension products, insurance and financial advice. Mine Super was awarded a Platinum rating by SuperRatings along with Chant West's Five Apples for both super and pension products in 2019. Mine Super employs approximately 200 staff and manages over \$11bn in assets for more than 60,000 members.

Executive summary

We welcome the opportunity to provide a submission to the Senate Economics References Committee (Committee) in relation to the Inquiry into the unlawful underpayment of employees' remuneration and superannuation (the Inquiry). We hope that this submission (Submission) is afforded adequate consideration and assists in developing appropriate legislation, regulation and compliance mechanisms to reduce the prevalence of underpayment of employee remuneration and superannuation.

The following is an outline of the key points contained within this submission:

- we are supportive of legislation, regulation and compliance mechanisms that reduce the causes, extent and effects of unlawful non-payment or underpayment of employees' remuneration and superannuation;
- enhancements in reporting through the Member Account Attribute Service (MAAS), Member Account Transaction Service (MATS) and Single Touch Payroll (STP) are welcome and significant;
- abolition of the \$450 monthly earnings threshold before the superannuation guarantee applies is recommended as paying superannuation on the first dollar earned would simplify the administration process, reduce threshold complexities and ensure low income earners are not disadvantaged;
- the existing law requiring employers to pay the Superannuation Guarantee (SG) on a quarterly basis should cease. A requirement to pay superannuation in real time, similar to salary would largely eliminate potential discrepancies;
- high levels of societal apathy associated with superannuation and an increasing proportion of an employee's total remuneration being quarantined into superannuation from 1 July 2021 requires the Government to mandate an increase in the frequency to pay SG obligations;
- the ATO should significantly increase resources to ensure SG compliance; and
- the ATO should invest in education, enforcement and awareness campaigns to ensure all employers know and understand their obligations in relation to superannuation.

The cost to the national economy

Mine Super is supportive of legislation, regulation and compliance mechanisms that reduce the causes, extent and effects of unlawful non-payment or underpayment of employees' remuneration and superannuation.

We recognise and note the impact that this causes the individual employee, their dependents and the government (ultimately through increased age pension payments).



Mine Super
PO Box 9 Newcastle NSW 2300
t 13 64 63 | f 02 4962 3469
e help@mine.com.au | mine.com.au

The Australian Taxation Office (ATO) have estimated that there are at least 2.4 million workers (about 30%) in Australia who have been underpaid their superannuation entitlements. This equates to an annual cost of approximately \$3.6 billion funded by the retirement savings of Australians.¹

The proposed objective, or purpose of superannuation is to provide income in retirement to substitute or supplement the age pension.²

At present, the age pension costs the Australian taxpayer in excess of \$50 billion dollars per annum.³ With an ageing population, people living longer and the age pension eligibility age increasing to 67, we need to be mindful of not only the individual, but also societal impacts of non-compliance with superannuation payment obligations.

At present, a significant proportion of retirees are retiring in defined benefit superannuation schemes (DB schemes). DB schemes generally pay an annuity for life, largely based on pre-retirement income and are essentially insulated from employers failing to pay the appropriate superannuation obligations in a timely manner. These DB schemes are now closed to new members (except for a small number) and have been for many years. Potentially, there could be significant disparity among the elderly in the future as a result of those who are in DB schemes compared to those retirees in Defined Contribution superannuation schemes (DC schemes).

Means of identifying non-payment or underpayment of superannuation

Enhancements that have been implemented

The ATO have instituted several enhancements in reporting through MAAS, MATS and STP which have increased transparency of information being reported by employers.

The enhancements that have been made are welcome and were required. However, we note that the information required to be provided remains largely at the discretion of the employer. The compliance dates have since passed and we acknowledge the significant upgrades that have been made to employer administration systems. Collectively, we believe most employers have made best endeavours to comply with their obligations.

A requirement imposed to pay superannuation simultaneously with salary would largely eliminate any discrepancies that remain.

Effective means of recovering unpaid entitlements

Federal Parliament legislation

The two pieces of legislation passed by Federal Parliament to deter non-payment and underpayment of superannuation (Treasury Laws Amendment (2018 Measures No. 4) Bill 2018 and Treasury Laws

¹ Employers 'short-changing' Australian workers by withholding superannuation payments, report says, ABC news, 5 December 2016, <https://www.abc.net.au/news/2016-12-05/employers-not-paying-australian-workers-correct-superannuation/8091300>

² Superannuation (Objective) Bill 2016, Australian Parliament House, 9 November 2016, https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd1617a/17bd069

³ It's time to storm the gates on age pension reform, The Centre for Independent Studies, 9 November 2019, <https://www.cis.org.au/commentary/articles/its-time-to-storm-the-gates-on-age-pension-reform-2/>



Mine Super

PO Box 9 Newcastle NSW 2300

t 13 64 63 | f 02 4962 3469

e help@mine.com.au | mine.com.au

Amendment (2019 Tax Integrity and Other Measures No. 1) Bill 2019) are welcome and hopefully assist in deterring employers who engage in unlawful practices in relation to superannuation.

Further to this, we note the Treasury Laws Amendment (Recovering Unpaid Superannuation) Bill 2019 (known as the SG Amnesty Bill) which requires employers to pay their employees what they are owed including interest. It aims to encourage employers to come forward and pay outstanding superannuation obligations, while not imposing penalties on employers for late payments. To date, this Bill is yet to be legislated and is politically contested within the Parliament.

Additional recommendations that may assist

Abolition of the \$450 monthly earnings threshold requirement before SG applies

At present, an employee is required to earn \$450 per calendar month before SG applies. If superannuation was paid on the first dollar earned, this would simplify the administration process, reduce the unnecessary complexity of thresholds and ensure low income earners, including casuals and those employed infrequently are not disadvantaged.

The Protecting Your Superannuation (PYS) package and Putting Members' Interests First (PMIF) requirements have reduced the availability of group insurance offerings for low balance members. If an individual receives superannuation on all monies earned, they are more likely to be able to access group insurance offerings in a timelier manner should they choose to do so.

The existing law requiring employers to pay SG on a quarterly basis should cease

Employers are obligated to pay SG to a complying superannuation fund on behalf of an employee on a quarterly (three monthly) basis. If a requirement was imposed on employers to pay superannuation in real time, similar to salary, this would largely eliminate any potential discrepancies between an employee's payslip (which shows superannuation contributions for the pay period) and actual contribution payments.

High levels of societal apathy associated with superannuation requires the Government to increase the frequency of payment of SG obligations. As the rate of the SG is set to increase to 10% from 1 July 2021 and reach 12% by 1 July 2025, there is an increasing proportion of an employees' total remuneration being quarantined for retirement within superannuation.

SG has evolved since its universal inception in 1992 at a rate of 3 per cent. The obligations and frequency of SG payments must also evolve as the proportion of an employees' earnings being attributed to superannuation is increasing. The ATO should utilise technology and its compliance powers to ensure all employers are meeting their SG obligations.

The payment of SG has a clear and distinct nexus with salary earned and should be treated with the same level of importance as an employees' pay. At present if an employer is experiencing cashflow problems, it is possible for the business to utilise an employees' SG over this period. If the cashflow problems persist at the end of the quarter when SG payments are due, it is possible the contributions won't be made. Requiring contributions to be made in real time (at the same time as the employees' pay) could mitigate this issue.



Mine Super

PO Box 9 Newcastle NSW 2300

t 13 64 63 | f 02 4962 3469

e help@mine.com.au | mine.com.au

Increased ATO resourcing and improved coordination with superannuation funds

Mine Super believes that the ATO needs to significantly increase resources to ensure SG compliance. We recommend that superannuation funds be able to directly obtain information on non-compliance with superannuation obligations from the ATO. The ATO could cross reference the employers' STP records against those provided by MAAS and MATS to identify potential instances of non-compliance. This would in our view require evidence to be provided to the ATO that the superannuation fund is one the employer has been remitting contributions to.

Information should be shared between the ATO and the superannuation fund. The individual member should be notified of any non-compliance by the ATO and followed up with appropriate communications from the superannuation fund. The ATO could apply appropriate mechanisms to ensure the employer meets their superannuation obligations and the superannuation fund would then be aware of the current situation.

At present, if the ATO is pursuing an employer, the member will contact the superannuation fund, including when they are notified of matters by the ATO. However, in many instances the superannuation fund has no knowledge of the ATO's actions and has no ability to assist the member. Further, when an SG contribution is received from the ATO on behalf of a member, the superannuation fund has no knowledge of where the payment originated or the pay period it relates to which again inhibits the superannuation funds ability to assist the member.

ATO education and awareness campaigns

It is important that employers know and understand their obligations in relation to superannuation. Education and awareness campaigns that the ATO provide employers should be regular and tailored to large, medium and small business employers. The ATO should invest in both enforcement and educational resources to ensure all employees receive their superannuation entitlements.

