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Ms Christine McDonald
The Secretary
Standing Committee on Finance and Public Administration
The Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Email: fpa.sen@aph.gov.au

Dear Ms McDonald,

**INQUIRY INTO SUPERANNUATION CLAIMS OF FORMER AND CURRENT
COMMONWEALTH PUBLIC SERVICE EMPLOYEES**

At the Senate Finance and Public Administration References Committee hearing on 5 May 2011 I was asked to take on notice to provide a method to deal with claims that can be effectively handled through some fast-track alternative dispute resolution process.

As the matter ultimately relates to benefit entitlements from the Commonwealth superannuation schemes I consider that the Trustee, currently the ARIA Board of Trustees (ARIA), be given the authority to resolve disputes concerning whether or not a person should have been a member of the Commonwealth Superannuation Scheme (CSS) from a date earlier than the current commencement date of the persons membership of the CSS. Appeals from any decisions by ARIA could then be directed to the Superannuation Complaints Tribunal. This is the normal way disputes relating to superannuation entitlements are decided.

This requirement would involve an amendment to the scheme rules allowing ARIA to accept a request from a temporary or former temporary employee to be regarded as a member of the CSS from a certain date. Granting such a request will increase the member's contributory service as a member of the CSS and will increase the member's retirement benefit. The increase in the retirement benefit is the loss of benefit entitlement suffered by the member by not becoming a member of the CSS when entitled to do so.

However, before claims can be considered there are three threshold questions that need to be satisfied. They are:

1. The date the employee became a temporary employee of the Commonwealth.
2. The date the temporary employee completed the initial qualifying period of employment in order to apply to be a member of the CSS and to be accepted as a member of the CSS.

3. The date the temporary employee completed the period of employment that would have been certified as likely to be completed in order to be accepted as a member of the CSS.

If the person seeking membership of the CSS from an earlier date meets the three threshold questions, then the member should provide information to ARIA relating to why he or she should be accepted as a member of the CSS from an earlier date. This information would relate to information provided to the member at the time of becoming a temporary employee and reasons why ARIA should accept the request to be a member from the earlier date.

The person would still be required to convince ARIA that misinformation or no information about options for joining the CSS prevented the person from becoming a member of the CSS from that earlier date. Those that knew about their right to join the CSS and decided not to join should not have their membership of the CSS backdated to an earlier date.

The Department of Finance and Deregulation have provided statistics of the number of temporary employees employed by the Commonwealth at various times. However, it would seem that the vast majority of those temporary employees, due to their transient nature, would not have completed the required period of service, including the required period of future service, to become an “employee” or “eligible employee” within the meaning of the Superannuation Act 1922 and the Superannuation Act 1976, respectively. Consequently, the number of temporary employees seeking claims against the Commonwealth would only include a small percentage of all temporary employees.

It is suggested that the Senate Committee recommend to Government that the claims of temporary employees relating to not being able to join the CSS at the date they were eligible to do so be assessed by ARIA and if successful their period of contributory membership of the CSS be back dated to the date they were eligible to be a member of the CSS.

Yours sincerely,

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