



Superannuation
Complaints
Tribunal

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Our Reference: 12-00160

17 January 2013

Dr Richard Grant
Acting Secretary
Parliamentary Joint Committee on Corporations and Financial Services
Department of the Senate
PO BOX 6100
CANBERRA ACT 2600

Dear Mr Grant

Via Email

**INQUIRY INTO THE SUPERANNUATION LEGISLATION AMENDMENT
(SERVICE PROVIDERS AND OTHER GOVERNANCE MEASURES) BILL 2012**

I refer to the above inquiry being conducted by the Parliamentary Joint Committee on Corporations and Financial Services. The Superannuation Complaints Tribunal (the Tribunal) welcomes the opportunity to provide a submission to the inquiry.

The focus of the submission is in relation to those aspects of the Bill which are directly or indirectly linked to the Tribunal, being:

- the requirement for trustees to provide reasons for decisions made in relation to complaints; and
- the extension of the time limit for members to lodge disability complaints with the Tribunal.

In respect of these aspects, Treasury consulted with the Tribunal regarding the amendments to s 101 of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) and s 14(6A) of the *Superannuation (Resolution of Complaints) Act 1993* (SRC Act) during the process of drafting these provisions.

Reasons for decisions

The Tribunal notes that ASIC has administration of s 101 of the SIS Act. Early drafts of the proposed amendment to s 101 required that a beneficiary or interested person request reasons before a trustee would be required to give written reasons for a decision made in relation to a complaint.

Complaints to the Tribunal about death benefit decisions are subject to special procedures set out in the SRC Act. These procedures contain a strict 28 day time limit for making complaints to the Tribunal about a decision regarding the distribution of a death benefit.

The 28 day time limit commences from the date of receipt of a trustee's decision by the beneficiary or person with an interest in the benefit.

The early draft of the proposed amendment did not differentiate between complaints made about a decision that relates to the payment of a death benefit and complaints of another kind.

In respect of that early draft, the Tribunal identified a concern to Treasury about potential confusion which may arise in relation to when the 28 day time limit to make a complaint commences for a beneficiary or interested person who has requested reasons for a decision. That concern regarded:

- when a beneficiary or interested person might consider the 28 day time limit commences (if they requested reasons); and
- that a result of the confusion might be that complaints are made to the Tribunal outside the 28 day time limit.

The issue has been resolved by the current proposed amendment which requires a trustee to give written reasons for a decision at the time of notifying a beneficiary of a decision that relates to the payment of a death benefit. This overcomes any potential confusion regarding the time limit for making a complaint.

With respect to complaints of another kind, the proposed amendments to s 101 requires trustees to provide reasons when requested to do so by a beneficiary.

The requirement for a trustee to provide reasons, either with a decision or upon request, in the Tribunal's view, improves the general societal level of awareness and understanding of the superannuation system. It may have the effect of reducing the number of complaints resulting from trustee decisions.

Time limits for disability complaints

The extension of the time limit for superannuation fund members to make a complaint to the Tribunal in respect of a TPD claim is supported by the Tribunal. The extended time limit more closely aligns access to the free Tribunal dispute resolution service with the time limits which apply to proceedings commenced in the courts. The Tribunal has specialist skill and knowledge in the area of superannuation and related insurance disputes.

Thank you for the opportunity to make a submission regarding the proposed amendments.

Yours faithfully

Jocelyn Furlan
Chairperson