

Superannuation (Objective) Bill 2023 [Provisions]

Submission by the Australian Council of Trade Unions to the
Senate Economics Legislation Committee Inquiry and Report
on the *Superannuation (Objective) Bill 2023 [Provisions]*

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Introduction

Since its formation in 1927, the Australian Council of Trade Unions (ACTU) has been the peak trade union body in Australia. There remains no other national confederation representing Australian unions. Together with its 36 affiliate unions, the ACTU represents 1.8 million trade union members around Australia who work across a broad spectrum of industries and occupations in both the public and private sectors.

The Australian trade union movement led the campaign to establish superannuation to provide workers with dignity in retirement. Through industrial action, bargaining and advocacy at both the Australian Conciliation and Arbitration Commission and the High Court, the union movement won the introduction of superannuation for many workers. The ACTU and affiliates were instrumental to the creation of the Accord which introduced universal and compulsory superannuation through the legislation of the Superannuation Guarantee (SG) by the Keating Labor Government.

In the 30 years since the establishment of universal, compulsory, fully vested and portable superannuation, the ACTU and affiliates remain dedicated to ensuring that all workers live and retire in dignity and out of poverty. To do so, unions remain active contributors to the superannuation system. Member-representative trustee directors, nominated by the ACTU and affiliates, ensure that members' interests are the priority of superannuation funds and that these funds continually demonstrate industry-leading, best-practice governance, investment performance and administration.

The importance of an objective

In campaigning for universal superannuation, and in its custodianship of the system since, the union movement has maintained the fundamental objective of ensuring dignity for all workers in retirement. No worker should retire into poverty and workers' standard of living should be maintained into retirement. Superannuation, combined with the Age Pension, is critical to that goal. The union movement believes an objective of superannuation is critical to ensure that the fundamental principles of the system are protected and advanced.

The former Government attempted to undermine superannuation at every opportunity. In 2014 it froze the superannuation guarantee at 9.5 per cent, costing Australians thousands of dollars. It forced workers to raid their retirement savings to survive the pandemic and it took to the election a policy which would have forced workers to choose between security in retirement and a roof over their head. At every opportunity, the Coalition Government has chosen to use workers' superannuation to bail itself out of difficult and important policy decisions.

Workers understand the purpose of superannuation - to accumulate and preserve their savings to enable them to have a dignified income in retirement. Workers' ambition for their superannuation is to maintain their standard of living into retirement. To achieve this, an objective is required which reflects the foundational principles of the system.

As rightly noted in the Explanatory Materials, "The 2014 Financial System Inquiry recommended the Government "seek broad political agreement for, and enshrine in legislation, the objectives of the superannuation system and report publicly on how policy proposals are consistent with achieving these objectives over the long term". An objective of superannuation has support from many across the financial and superannuation industry, workers and the public because it provides confidence that Government will advance the objective that Australians all share - that we can retire at the end of our working lives, after a lifetime of hard work, and live in dignity, enjoying our retirement.

Comments on the objective

The ACTU is pleased that the Government has considered the objective of superannuation from first principles and proposed wording which acknowledges and advances these. In 2016, the former Government proposed a wholly deficient objective which failed to address the central tenets of superannuation: preservation, adequacy, equity, sustainability and universality which, alongside government support, provide dignity in retirement. The current proposed objective is an important step in acknowledging and advancing these fundamental principles.

Preservation

Superannuation is an instrument designed to contribute to income during retirement and to do so it must, by definition, be preserved until retirement. Workers did not fight for the industrial right to have superannuation contributions put aside for their retirement for it to be drained before they retire to meet the policy failures of Governments. The wilful destruction of workers' retirement savings by previous Governments showed a complete disregard for workers' quality of life in retirement and therefore, a disregard for working people.

The union movement agrees with the statement in the Explanatory Materials that "superannuation exists first and foremost as a savings vehicle to provide income in retirement and is not a pool of individuals' savings to meet other lifetime costs prior to retirement. When savings are preserved, the compound returns on superannuation helps individuals' savings to grow over a long period of time and enhance financial security in retirement."

Preservation, through responsible investment of superannuation contributions, not only means that workers will have access to an income in retirement but that their quality of life in retirement

will be further enhanced through the returns generated by a lifetime of investments. Such investment returns are unavailable to most workers outside of the group superannuation investment system. Therefore, when the objective of the superannuation system is upheld, workers' retirement incomes are both preserved and expanded.

First Nations Workers

The union movement notes the devastating life expectancy gap between First Nations workers and non-First Nations workers and the impact this has on reducing First Nations workers' access to their superannuation. Therefore, the union movement recommends a reduction in the preservation age for First Nations workers to ensure that the objective of super is met for First Nations people.

Insurance within superannuation

Insurance within superannuation is an important mechanism to realise the objective of superannuation and provide dignity in retirement through preserving savings for retirement and assisting workers to reach retirement. Income protection insurance protects workers and their retirement savings when they have to take unexpected time out of the workforce prior to retirement. Total and Permanent Disablement (TPD) insurance protects workers when they have to stop working prior to the retirement age due to illness or injury, and death insurance, along with the distribution of accumulated superannuation savings, provides dependents with assistance and support in the tragic instance their family member dies before retirement and is therefore, unable to contribute the foreseen working, and retirement, income to family expenses.

Accessing superannuation prior to the preservation age

The union movement notes that where workers require access to their superannuation during exceptional circumstances, this is a failure of Government policy to provide support for people at their most vulnerable. Workers requiring access to superannuation to meet medical expenses is a shocking failure of our health system. The purpose of our universal healthcare system is that no person's health should be determined by their bank balance. That more and more people are requiring superannuation to meet health expenses highlights gaps in our universal health system which need filling.

Financial hardship, too, represents a failure of our social support system to ensure that no worker is in poverty because of losing their job. With social safety net payments so low, and the liquid asset waiting period, many people suffer extreme financial hardship when unable to find work. If someone who is looking for work is required to drain their superannuation to put a roof over their head or food on their table, this only worsens their financial situation. Such occurrences should cause government to reflect on the policy failings that brought about these situations to ensure that sustainable solutions are found to current challenges instead of forfeiting workers' quality of

life in retirement. It is not unreasonable to expect that workers live in dignity, and out of poverty, while working, if they lose their job or if they suffer permanent and total disablement, and after their working life has ended.

Adequacy

The ACTU welcomes the inclusion of *dignified retirement* in the objective. No person in Australia should live in poverty and all workers in Australia should retire with dignity. Superannuation and the Age Pension must be sufficient to enable a worker to maintain their quality of working life into retirement.

Government support

The ACTU welcomes the inclusion of *government support* in the objective and agrees with the statement in the Explanatory Materials that “The inclusion of Government support in the objective reflects the crucial link between superannuation policy and government support. Policy-makers need to consider this interaction in making policy decisions relating to the superannuation.” The Age Pension is a fundamental part of the Australian retirement income system and ensures that all Australians can retire in dignity.

Equity and sustainability

The ACTU welcomes the inclusion of *equity* and *sustainability* in the objective. Superannuation was established as a sustainable way to improve equity in retirement.

Employer-paid superannuation, prior to universal superannuation, was the right of the few. Superannuation was largely an entitlement paid to managers, professionals, politicians and highly unionised workforces. Where retirement benefits were paid, they were rarely paid to women. The union movement sought to end this inequity by winning superannuation for all workers.

Women and First Nations workers continue to suffer from this historic wage and retirement income inequity today. The gender pay gap and the First Nations’ pay gap contribute to retirement income inequality, as do barriers to accumulation in the system including that superannuation is not paid on parental leave, workers compensation, that it is not paid to all workers and that it is not paid on every dollar earned. Superannuation should be equitable and the system settings should ensure this. As with gaps in preservation, including equity within the objective will assist Government to consider areas for future improvement.

The Australian Union movement welcomes the Government’s lowering of tax concessions for those with more than \$3 million in their superannuation accounts. At present, superannuation tax concessions are deeply inequitable. Superannuation is intended as a vehicle to generate and preserve retirement incomes, but tax changes have allowed the extremely wealthy few to gain

disproportionate benefits from taxpayers and risk the sustainability of the system. Where there is public expenditure through the superannuation system, either through tax concessions or other measures, it must be equitable and sustainable. Further reform is required to ensure that tax benefits and rates are equitable, including to ensure that lower income earners can access tax relief when saving through superannuation.

Universality

In campaigning for a national superannuation system, the ACTU and the Australian Labor Party committed that it would be universal system and universality remains a key objective of superannuation. All workers should be entitled to receive superannuation, on every dollar earned, and all exceptions to this should be removed. Campaigns for superannuation in the 1970s and 1980s were for superannuation as an industrial right for all workers. Women and First Nations workers were largely excluded from employer-run superannuation schemes and efforts to establish superannuation as a universal industrial entitlement were to rectify that injustice.

Indeed, when Treasurer Dawkins introduced the *Superannuation Guarantee (Administration) Bill 1992*, he noted that the one of the objectives of the Superannuation Guarantee was to extend coverage to those who did not have it:

“Superannuation was the preserve of a few, mainly the wealthy, and a substantial proportion of concessional tax superannuation savings was dissipated well before retirement.

“The reform of superannuation has been one of the great achievements of the Government. Over its term of office, the Government has greatly expanded access to superannuation savings. In particular, award superannuation has fostered the spread of superannuation to large areas of the work force which previously had no cover.”¹

To reflect this foundational objective of universality, the ACTU proposes the addition of the words “for all workers” to the objective, to enable it to read:

¹ Dawkins, John, 2 April 1992, *Superannuation Guarantee (Administration) Bill 1992 second reading speech*, House of Representatives, Parliament House, Canberra

The objective of superannuation is to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way for all workers.

Responsible investment

The investment of superannuation funds in nation building projects such as infrastructure, housing and the transition to a renewable energy economy in response to the climate crisis, support the objective of superannuation. Such investments deliver high returns for members while managing risk and therefore, help to ensure that members have adequate account balances to provide dignity in retirement.

Responsible investment similarly supports the objective of equity and sustainability. Long-term responsible investments aid system sustainability while improving equity outcomes. For funds to provide dignity in retirement for their members, they cannot invest in assets which reduce their members' quality of life while working or in retirement through negatively impacting industry, jobs, society and the environment. Instead, funds must responsibly invest their members savings to maximise returns and improve their members' working and retirement lives.

Trustee obligations and the objective

The ACTU endorses the statement in the Explanatory Materials that “the objective complements core trustee obligations under superannuation legislation: the best financial interests duty, the sole purpose test and retirement income covenant.” Trustees should always act to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way, as per the objective.

Statement of compatibility

The ACTU welcomes the Bill's introduction of a mandatory statement of compatibility with the objective for Bills and regulation relating to superannuation.

To support this, regulation should be introduced to require that statements of compatibility are drafted by the relevant Department to assess the impact of policies against each aspect of the objective for all workers including women workers, First Nations workers, casual and part time workers, gig workers and young workers.

Accountability

The objective of superannuation, and supporting statements of compatibility, should be reinforced through a mechanism to ensure that Governments are held accountable when making policy

decisions. To do so, the union movement supports establishing a tripartite Council of Superannuation Custodians to assess statements of compatibility, policies and the performance of the retirement incomes system, against the objective. These proposals would support the work of Government, Parliamentary Committees, parties, and the public in scrutinising and understanding legislation impacting retirement.

Conclusion

Since campaigning for, and winning, universal superannuation, the union movement has maintained that the fundamental objective of superannuation is to provide dignity to all workers in retirement. No worker should retire into poverty and workers' standard of living should be maintained into retirement. Superannuation, alongside government support, is critical to that goal. The union movement believes an objective of superannuation is critical to ensure that the fundamental principles of the system are protected and advanced and thereby, that the system delivers for working people.

The union movement commends the inclusion of preservation, adequacy, government support, equity and sustainability in the objective. To reflect the additional foundational objective of universality, unions propose that the objective be amended to read: "The objective of superannuation is to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way for all workers."

The ACTU commends the introduction of a mandatory statement of compatibility with the objective for Bills and regulation relating to superannuation. To support this, regulation should be introduced to require that statements of compatibility are drafted by the relevant Department to assess the impact of policies against each aspect of the objective for all workers including women workers, First Nations workers, casual and part time workers, gig workers and young workers.

To support the objective of superannuation, a tripartite Council of Superannuation Custodians should be established to assess statements of compatibility, policies and the performance of the retirement incomes system, against the objective.

address

ACTU
Level 4 / 365 Queen Street
Melbourne VIC 3000

phone

██████████

web

actu.org.au
australianunions.org.au