

15 November 2021

Committee Chair (Economic References)
Senate Standing Committees on Economics
PO Box 6100
Canberra ACT

Dear Committee Chair,

Inquiry into the unlawful underpayment of employees' remuneration

Industry Super Australia (ISA) undertakes policy research and advocacy on behalf of nearly five million members of industry superannuation funds, to ensure that policy settings for superannuation are consistent with the objective of maximising their retirement incomes.

On 13 February 2020, ISA made the attached submission to the Senate Economic References Committee's inquiry into the unlawful underpayment of employees' remuneration. In that submission we welcomed the Committee's acknowledgement of the scale of the problem of wage and superannuation theft, provided our analysis of the extent of the problem of unpaid super and proposed policy solutions to address the issue.

On 28 October 2021, ISA published our third report on unpaid superannuation. A copy of the report is attached for the committee's consideration as an addendum to ISA's original submission. Our report found that almost 3 million workers lose on average \$1,700 in super each year amounting to around \$5 billion in unpaid super each year.

ISA's analysis of the most recent 2018-19 ATO tax file data found:

- ▶ Almost 1.7 million men and 1.3 million women have been underpaid super
- ▶ Men lost \$3.4 billion and women \$1.6 billion
- ▶ A third of workers under 30 – about 890,000 – have been underpaid
- ▶ Half of those earning less than \$25,000 missed super payments and 30% of those earning between \$25,000 and \$50,000 were underpaid
- ▶ About 40% of blue-collar workers (machinery operators and drivers, labourers, technician and trade workers) have been underpaid super.

Together with our earlier work, the new research carried out for this report again points to four policy reforms that can help ensure Australian workers are not deprived of their employer super contributions and that honest employers are not penalised or disadvantaged when they meet their legal obligations to their employees. They are:

- ▶ **Mandate payment of super on pay day.** The single most effective change would be to require employers to pay superannuation guarantee contributions at the same time they pay employees' salaries. This simple reform would address many of the causes of unpaid super identified in this report.
- ▶ **Enforce penalties for employers who do not pay super.** The ATO should be much more rigorous in applying the existing enforcement regime. The ATO should also publicise its

enforcement action so that fear of detection and penalty acts as a real deterrent for employers looking to avoid paying super.

- ▶ **Facilitate other actors to assist in recovery.** Other relevant agencies, such as the Fair Work Ombudsman, and third parties such as unions and funds, should be given greater scope to work with the ATO to recover unpaid super. This could be achieved by allowing the ATO to share data with funds, or by allowing it to delegate an agent – such as a fund or a service provider to a fund – to recover unpaid super. ISA also recommends that the right to be paid the superannuation guarantee be included as part of the National Employment Standards. This will make it enforceable as an industrial entitlement for all workers.
- ▶ **Extend the Fair Entitlements Guarantee to cover SG contributions.** The Fair Entitlements Guarantee should be extended to cover unpaid super contributions. This would mean super would be treated in the same way as other employee entitlements in the event of employer insolvency.

If you wish to discuss the additional information contained in this submission and the accompanying report, please contact Ella Cebon at [REDACTED]



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