File Name: P295.2

10 January 2000

Dr Brendan Nelson MP
Chair
Standing Committee on Employment, Education and Workplace Relations
House of Representatives
Parliament House
Canberra ACT 2600

Dear Dr Nelson

INQUIRY INTO ISSUES SPECIFIC TO WORKERS OVER 45 SEEKING EMPLOYMENT, OR ESTABLISHING A BUSINESS, FOLLOWING UNEMPLOYMENT

Thank you for the opportunity to comment on the proposals in your Inquiry. ASFA has commented on the four proposals which have direct relevance to Superannuation.

The primary objective of superannuation is to both help to ensure an adequate retirement income (above that otherwise possible on the age pension) and reduce the dependence on the age pension. Independent research, commissioned by ASFA (undertaken by Mark Textor of Wirthlin Worldwide Australasia), indicates strong support for superannuation and the need for compulsory savings to fulfil these objectives. Unfortunately it is also clear that individuals are currently not saving enough to meet their expectations for retirement.

By way of general comment, ASFA does not support any measures which undermine the purpose of superannuation which is to provide for retirement benefits, benefits when the member dies, and certain other ancillary purposes such as cessation of work on account of ill health. In particular, ASFA does not support the use of retirement savings for business activities. In these circumstances a person could suffer a double jeopardy where, if the business fails, the retirement savings are also diminished.

ASFA would welcome further consideration of initiatives which allow people to "phase in" their retirement from the paid workforce. This may involve access to Superannuation savings once they are aged 60, but it also includes workable rules which allow older people to continue saving while employed part-time.

If you require any further information or clarification, please don’t hesitate to contact me or Michaela Anderson on (02) 92649300.

Yours sincerely,

Philippa Smith
Chief Executive Officer
(encl.)

RESPONSE TO THE INQUIRY INTO ISSUES SPECIFIC TO WORKINGS OVER 45 SEEKING EMPLOYMENT, OR ESTABLISHING A BUSINESS FOLLOWING UNEMPLOYMENT.

1. *Reverse the 1996/97 Budget decision which includes superannuation assets in eligibility assessments for Newstart payments for people over 55, who have received benefits for at least 39 weeks*.

ASFA supports this proposal as it would allow retirement savings to continue growing to support a longer period in genuine retirement.

As life expectancy rates increase for men and women, the time in retirement after age 65 will increase (Life expectancy for males in Australia is currently 75.2 years. For females this figure is currently 81 years.) A larger asset base is needed to finance this longer period.

The current policy of requiring the long-term unemployed to use their superannuation savings prior to being eligible for unemployment benefits means that they are required to sacrifice these savings for retirement and are unlikely to have any future opportunity to save for retirement again. The individual depletes both their asset base at age 55 and the cumulative growth of those assets.

From a government perspective it may have reduced its immediate cash flow but the individual will be dependent on the full pension throughout retirement (rather than a part pension if the individual drew down on annuity to supplement the age pension).

ASFA supports the preservation rules that individuals should not use superannuation for "other purposes" prior to retirement age. It recommends that government policy and practice should also be consistent in this regard.

The following table gives an indication of the amount a person could be expected to sacrifice if forced to draw down on superannuation at age 55. The table shows three salary ranges. It assumes savings to age 55 at the Superannuation Guarantee level of 9% of wages. The cumulative effect of investment earnings increases the value of this asset base. Investment earnings to age 55 and between age 55 and 65 are assumed at 9.5%.

Final Average Salary	**Asset level at age 55**	**Asset level at age 65**
$20 000	$143 646	$355 987
$40 000	$287 292	$711 976
$60 000	$430 938	$1 067 963

2. *Relax the hardship guidelines to allow early release of the preserved component of superannuation savings to enable unemployed people aged 45- 55 to continue regular house mortgage payments*.

ASFA does not support this proposal. It would be difficult to justify relaxation of the hardship guidelines to allow earlier access to preserved benefits only for those aged 45-55 years. Those in other age groups could easily claim discrimination. To relax the rules for all ages would seriously weaken preservation rules and therefore the integrity of retirement income system.

3. *Allow partial access to superannuation to support phased retirement over three-five years, without undue effects on final superannuation payouts.*

ASFA supports this proposal if it is confined to those aged 60 or over

This proposal would currently be in breech of the Payment standards under Part 6 the Superannuation Industry (Supervision) Regulations. To have access to preserved benefits a person must satisfy a condition of release specified in Column 2 of Schedule 1. In short, the person must be aged at least 55 and retired from the workforce or retire on account of permanent incapacity to have access to their preserved superannuation. Access to benefits while still in the workforce is permitted after age 65

The proposal allows for phased in retirement for people aged 60 and over. This is in line with the preservation age which, though currently 55, is increasing to age 60.

We have some concern about the danger of coercion from the employer to reduce hours of paid work and use retirement savings. There is a perception that this age group is vulnerable where "voluntary" redundancy schemes are used and we therefore suggest that the effectiveness of protective measures be examined.

To reduce the effect on final superannuation payment the following measures are recommended:

- Payment must be in the form of an income stream.
- Combined superannuation and part-time salary must not exceed full time salary immediately prior to the phasing in period to limit the loss of retirement savings.

This measure should compliment the ability of people aged 65 and over to continue to make contributions to superannuation funds while in part-time employment. Depending on the financial situation and the employment history it is likely that some people will want to start to draw down on their retirement savings while easing into retirement, while others will need to continue to save. The flexibility to accommodate these life patterns is an important issue for a successful retirement income policy as well as an employment policy.

Making contributions after age 65

In other submissions to Government, ASFA has supported a cut-off age for the acceptance of contributions. The alternative is to have no upper age limit which contains some risk as to undue deferment and increased tax costs. There is, however, no right age answer but the upper limit of 70 appears appropriate from a life expectancy and workforce perspective

Up to that age limit there is good reason to facilitate acceptance of contributions for those in the workforce. Difficulties continue in the application sub-regulation 6.21 (1) of Superannuation Industry (Supervision) Regulations which requires the benefit to be paid out if the person is aged 65 but not 70 and is not "gainfully employed on a full-time or part-time basis". In practice this means that the person must work at least 10 hours each week.

Sub-regulation 6.21(3) seeks to set out the responsibility of a fund trustee in relation to the work test for people over age 65 (for the purposes of determined eligibility for the compulsory cashing of benefits). The trustee of a fund "must make reasonable attempts to keep itself informed about the member's ongoing employment status and if the trustee cannot ascertain the member's ongoing employment status, the member is taken to be not gainfully employed." This does not overcome the difficulties that are apparent with the literal application of the test on a weekly basis. ASFA members point to the increasing practice of people in this age group being employed for blocks of time on project or locum work (eg consultancies, ministers of religion) rather than on a smooth weekly basis.

ASFA considers the rules relating to compulsory cashing of benefits for people who have reached age 65 are complex, inequitable, difficult to apply and not suitable for the modern workforce. The rules, as they stand, are contrary to the Government's intention to allow a longer period in which to accumulate an adequate retirement income.

4. *Allow partial assess to superannuation for small business people (formerly retrenched) for emergency purposes only, such as bridging loans.*

ASFA does not support this proposal.

It would cut across the operating standards for superannuation funds set out legislation. In particular, the proposal would be in breach of the sole purpose test (section 62 Superannuation Industry (Supervision) Act 1993). This says that the trustee of a regulated fund must ensure that the fund is maintained solely for the provision of retirement benefits, benefits when the member dies, and certain other ancillary purposes such as cessation of work on account of ill health.

If the access to funds was by way of a loan from the superannuation fund, the proposal would be in breach of the prohibition on loans to members (section 65 SISA).

More importantly, the proposal is also at odds with the logic which supports limitations on “in-house” assets. These seek to distance the superannuation fund member’s current business activities from the retirement saving. For example the “in-house” asset rules restrict the amount of investment in the employer-sponsor or, in the case of a self managed fund, in the trustee’s own business. It is not thought appropriate for the beneficiary of the fund to suffer a double jeopardy where, if the business fails, the retirement savings are also diminished.

Recent legislation has sought to tighten the rules in relation to Self Managed Superannuation Funds (SMSFs). These funds are often used by small business. The funds must now have fewer than 5 members who are all trustees and all the trustees must be members. Changes to the investment rules have not been directed only at SMSFs but the Government has indicated that the changes are a response to practices by that class. The rules have been tightened to prevent the funds from borrowing even indirectly and to widen the definition of “associates”. The overall effect of the investment rules is to separate current business needs from the retirement savings. This proposal would therefore be contrary to the direction of recent government legislative action.