Agreement on Social Security between Australia and the Kingdom of Belgium, done at Canberra on 20 November 2002

REGULATION IMPACT STATEMENT

Exemption from the Superannuation Guarantee to remove double coverage

Policy objective

The policy objective is to remove double coverage obligations that can arise under superannuation legislation where an employee is sent to work temporarily in another country.

Background

The Government has decided to enter into international agreements with other countries to overcome the problem of double superannuation coverage. Double coverage arises where an employee is sent to work temporarily in another country and the employer is required to make superannuation contributions under the legislation of both countries. Under these international agreements only the home country's superannuation scheme will apply.

For example, a foreign employer who sends a foreign employee to work temporarily in Australia would be exempted from the Superannuation Guarantee in respect of salary or wages paid to the employee for their work in Australia but will remain subject to the superannuation scheme of their home country. Similarly, an Australian employer who sends an Australian employee to work temporarily in the other country will be exempted from the other country's superannuation scheme but will remain subject to the Superannuation Guarantee.

Implementation

The *Superannuation Guarantee (Administration) Regulations* have been amended to provide that payment of salary or wages to an employee will not give rise to a Superannuation Guarantee obligation where an international social security agreement exempts the employer from the Superannuation Guarantee legislation in respect of the work for which the payment was made.

Assessment of impacts (costs and benefits)

Impact group identification

Employers

Employers from a country which has a social security agreement with Australia, and who send employees to work temporarily in Australia, will benefit from a reduction in labour costs due to no longer being required to pay the Superannuation Guarantee.

Reciprocal benefits for Australian employers will arise where the employer sends an Australian employee to work temporarily in another country with which a social security agreement is in place. In these cases the employer will only be required to make Superannuation Guarantee contributions, and not contributions under the other country's legislation.

While employers will be required to determine if they are eligible for the new exemption, this is a self assessment process and consistent with existing practices. There are no significant compliance costs expected for employers.

Employees

Employees will no longer have contributions made for them under the legislation of both countries. However, they will remain appropriately covered under the legislation of their home country, where they are likely to retire.

Other Impacts

Where a foreign employer is exempted from the Superannuation Guarantee this will result in fewer Superannuation Guarantee contributions being made than would otherwise have been the case. The 15% tax normally levied on those contributions will also not be collected. The impact on Government revenue cannot be quantified but is expected to be small.

The reduction in labour costs for these employers may have some impact in promoting investment in Australia although again this cannot be quantified.

Consultation

Groups representing employers and the superannuation industry have been consulted on the proposed agreement and they have not expressed any concerns.

Conclusion

Provisions for avoiding double superannuation coverage are common practice amongst most industrialised countries. Such provisions ensure that employers do not have to make two contributions for an employee's retirement in respect of the same work undertaken by the employee.

The regulations achieve the objective of removing Superannuation Guarantee obligations from an overseas employer in respect of an employee sent to work temporarily in Australia. Consequently the double coverage obligation on the employer is removed.