CHAPTER 3 — VESTING AND PRESERVATION OF BENEFITS

Introduction

3.1 The Government's retirement incomes policy has two objectives: increasing the incomes of retirees and reducing the burden of aged care on the national budget. Superannuation, properly designed and administered, can assist in achieving both objectives. The optimum operating conditions to achieve this are:

- **Breadth of cover.** As large a proportion of the population as practicable should be covered. This was the rationale of the taxation concessions which have always applied to both occupational and personal superannuation and was the prime purpose behind the introduction of award superannuation. The latter was only partially successful however, owing to significant levels of both non-compliance and non-award employment. The introduction of the Superannuation Guarantee Charge as from 1 July 1992 has the effect of making superannuation compulsory for all employees, including casual, part-time and intermittent employees.

- **Depth of cover.** The greater the contributions in respect of each employee, the greater is the foundation for the ultimate accumulation of benefits. Award superannuation provided for employer contributions equal to three per cent of earnings. Under the SGC legislation, employer contributions are set to rise progressively to nine per cent by 2002. A further three per cent may come from employee contributions. The Government has announced a decision to support the inclusion in existing superannuation award provisions of the rates of contribution to superannuation funds required by the Superannuation Guarantee Scheme as they become operative.[1] Contributions of 12 per cent over a working life of 40 years should be sufficient to provide a retirement income of at least 40 per cent of earnings.[2] The age pension is currently about 26 per cent (single), or 43 per cent (married), of AWE.[3]

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1 House of Representatives *Hansard*, 2 April 1992, p 1767

2 John Dawkins, *Security in Retirement*, AGPS Canberra June 1992, p 19

3 Treasury sub no 195, p 5

- **Optimum net returns.** Given the level of employer and employee contributions, the benefits payable by superannuation funds (other than defined benefit funds) are governed by the extent to which trustees are successful in optimising the net returns of the funds and by the level of taxation on contributions and earnings. The maximisation of investment returns must be tempered by considerations of liquidity and safety and prudential controls are imposed to minimise losses due to faulty investment decisions and fraud. Outgoings on administration, fees and commissions need to be contained. These aspects of fund operation have been dealt with either in earlier reports of the Committee or elsewhere in this report. The Government, through the OSS Regulations, exercises a supervisory role and has foreshadowed a tightening of its prudential controls.

- **Minimum leakage.** Ideally, all net accumulations of funds, whether from contributions or fund earnings, should be retained until needed to produce retirement income and not dissipated on changing jobs or becoming unemployed, as frequently occurs. The vesting of employer contributions and the preservation of benefits, so that they may not be drawn until retirement from the workforce, are important in this context. The Government's policy regarding the early release of funds on hardship grounds is also critical in the context of containing leakages.

- **Provision of retirement income.** The final link in the chain is closed when the benefits are taken in the form of, or are used to generate, retirement income. The use of benefits for any other purpose, however necessary or worthy, detracts from the central purpose of superannuation, that is, the provision of retirement income. Furthermore, anything which tends to weaken the incentive to use benefits to produce retirement income operates to frustrate the implementation of government policy.

3.2 To date, policies have been, or are being, developed to strengthen the first three of these elements. With regard to the fourth, minimum leakage, a start has been made by the Government to improve vesting and preservation rules and proposals for a further strengthening are set out in this chapter.

3.3 In order to secure the final link – the provision of a retirement income stream – two problems need attention: the continuing preference to take benefits as lump sums rather than income streams, and the disincentive to invest for retirement income inherent in the interaction of the means test and income tax with the age pension. These two related issues are dealt with in the following chapter.

Concepts

3.4 In the context of superannuation, vesting is the conferring on a fund member the ownership of all or part of the accrued benefit applicable to that member. As virtually all funds have for many years recognised the members' ownership of their own contributions and as OSS Regulations 6 and 7 now require the vesting of members' contributions and accrued earnings, the aspects of vesting that remain to be addressed relate to the ownership by members of benefits arising from employers' contributions.

3.5 Preservation is the withholding of access to the whole or part of fund benefits by members until they have attained a specified age, or until the occurrence of a specified event, such as retirement, death or permanent incapacity.

3.6 Portability enables members leaving one fund to transfer the whole of their vested benefits to a new fund on change of employment.

Application

3.7 Under both award and SGC superannuation arrangements, all benefits are immediately vested in the members and preserved to retirement after reaching age 55.

3.8 The position with employer-sponsored occupational schemes is more complex and is governed by the individual trust deeds as well as by the OSS Regulations. Some trust deeds have no provision for the vesting of employer contributions, but most provide for a phasing in of vesting with length of service. In accumulation schemes, the vesting is based on the actual employer contributions in respect of each employee. Defined benefit schemes usually base pre-retirement vesting on a multiple of the employee-financed benefits.

3.9 Current government policy, as announced in the 1989/90 Budget, provided for the vesting of all employer-financed benefits accruing after 1 July 1995 at a rate of 10 per cent for each subsequent year of service, so that after 10 years of service from that date, full vesting would apply to all benefits accruing from that date. However, it has since been announced that:

> ... in light of the Superannuation Guarantee Charge and given the importance of vesting for labour mobility, the Government will review the previously announced 1995 vesting proposals.[4]

[4] John Dawkins, op cit, p 56

3.10 Compulsory preservation of benefits is a relatively new concept in Australia. It currently applies to benefits arising from private superannuation arrangements, tax-assisted member contributions, employer contributions under award superannuation and any new or increased employer financed and vested benefits brought in after 21 December 1986.[5]

3.11 It should be recognised that the earnings component of final benefits usually exceeds the contributions component by a substantial amount. The Association of Superannuation Funds of Australia (ASFA) estimates that two-thirds of typical final benefits comes from fund earnings and only one-third from contributions.[6] The vesting of these earnings is thus an issue of major concern.

Significance of Vesting

3.12 The significance of vesting, or the lack of it, lies in its impact on the withdrawal benefits payable to members, especially those in employer-sponsored schemes, who resign or whose employment is otherwise terminated prior to retirement.

3.13 In the absence of vesting, resigning members are entitled only to the benefits attributable to their own contributions. The benefits attributable to the employers' contributions – typically at least equal to, but often significantly larger than, the employees' contributions – remain in the funds. The consequences of this may be one or more of the following:

- reserves, including excess reserves, may be higher than otherwise;
- employer contributions may be reduced or deferred;
- employee contributions may be lower than otherwise; or
- the level of residual benefits may be greater than otherwise.

3.14 All of these outcomes result in the transfer of tax-assisted benefits from resigning members to employers and/or to employees other than those in respect of whom the contributions were initially made. A further consequence is the discouragement of employment mobility through the limitation on portability of superannuation benefits.

5 OSS Regulations 9 – 11

6 Evidence, p 2127

3.15 Resigning members are clearly the losers under these conditions: they are deprived of benefits which have been set aside on their behalf and which they could claim to have earned. More importantly, their retirement benefits are greatly diminished, thereby reducing their capacity to finance their own retirement. Among those most adversely affected will be those who, whether by choice or by the nature of their occupations, change jobs frequently and women, particularly those whose careers are interrupted by family commitments.

3.16 The government is also a clear loser, as the lower level of self-financed retirement incomes necessarily increases the call on age pensions.

3.17 Sponsoring employers and fund members continuing to retirement are the winners, sharing the benefits outlined above. As the AMP points out, the vesting of employer contributions is designed to encourage longer service. Employers wishing to do this could gradually increase contributions, thereby achieving similar results.[7]

3.18 The increases in fund surpluses resulting from the retention of unvested contributions in respect of withdrawing members, and from the failure to fully vest earnings on members' contributions prior to 1987, was illustrated in evidence by Mr David Hughes, a trustee of the Shell Australia Contributory Pension Fund, and Mr Bernard Maloney, of Chifley Superannuation Services.[8] Mr Maloney also claimed that some employers deliberately brought about redundancies with the objective of augmenting fund surpluses prior to repatriation.[9]

3.19 It has been estimated that half of the Australian workforce changes jobs every five years.[10] If this estimate is anywhere near the mark, the potential loss of benefits attributable to the lack of full vesting must be extremely large.

Significance of Preservation

3.20 If the level of vesting were to be increased, a further problem would remain: resigning employees would receive considerably larger withdrawal benefits from their superannuation funds than they now do; but there would be no assurance that these additional sums would be held and reinvested for retirement – the temptation to dissipate all or part of the benefits may be

7 Sub no 120, p 39

8 Evidence, pp 637,696

9 Evidence, pp 697-699

10 Beth Quinliven, *Picking the Right Superannuation Scheme*, p 53, cited by Attorney-General's Department, sub no 107, p 25

difficult to resist. Any additional benefits resulting from improved vesting provisions would therefore need to be preserved if they are to be fully effective, that is, if they are to make a full contribution to retirement incomes.

3.21 But preservation itself is not a sufficient guarantee of an improvement in self-financed retirement. Where preservation is compulsory under the OSS Regulations, the age specified is 55, that is, benefits may not be withdrawn before then without incurring tax penalties. A further limitation is that the benefit may be paid only on retirement from the workforce, a proviso which, however, does not readily lend itself to definition, monitoring or enforcement.

3.22 As age pensions are payable at age 60 for women and 65 for men, there is a gap during which it is possible for retirees to draw their superannuation benefits and then rearrange their affairs so as to meet the requirements of the means tests for the age pension, a practice known as 'double dipping'. Among the options for the achievement of a reduction in assets are repayment of mortgages and other debts, upgrading of homes, overseas travel, purchase of motor vehicles and other major items and more sophisticated schemes involving the placement of funds with family members or trusts.

3.23 Under current legislation, the Department of Social Security (DSS) requires all pension applicants to provide information on financial transactions during the five years prior to application date in order to ensure that any assets disposed of without adequate consideration are taken into account in the assets test. Thus, a male applicant at age 65 may have up to five years to rearrange his affairs without fear of scrutiny.[11]

3.24 There are, regrettably, few statistics available which would provide a reliable indication of the magnitude of the double-dipping problem. Some light is thrown on the problem by ABS figures on intended and actual disposal of lump-sum superannuation payments, quoted by the Treasurer and reproduced in the Tables 3.1 and 3.2.

3.25 The figures in the following tables indicate that around 80 per cent of persons aged over 45 intend to use their lump sums primarily to produce retirement income or to pay off mortgages or on improved housing, with the housing component accounting for about 12-15 per cent of the total. Other figures quoted by the Treasurer dealt with the actual, rather than the intended, use of lump sums. They indicated that, while almost 80 per cent of the people actually used most of their lump sums for those purposes, the housing component accounted for about one-quarter of the total.[12]

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[11] Evidence, p 127

[12] John Dawkins, op cit, p 351

3.26 Weaknesses in these figures are, firstly, that the classification of each lump sum is determined by its principal use and no apportionment to other uses is made. Secondly, they relate to persons, not to dollars, so that lump sums of $10 000 and $1 000 000 are given equal weight. Thirdly, the inclusion of housing leads to a number of uncertainties of interpretation. While the repayment of a long-established mortgage or other indebtedness is consistent with the optimisation of retirement income, this is not so obviously the case where a mortgage is entered into late in a working life, or even after retirement, to expand or otherwise upgrade housing, on the assumption that a superannuation lump sum will be available to pay it off.

Table 3.1 Persons aged 45 to 74 covered by a superannuation scheme: Intended disbursement of lump sum payments from superannuation schemes

Intended disbursements of lump sum payment from a superannuation scheme (a)	1988 (b) per cent	1991 BY AGE 45-54 per cent	55-64 per cent	65-74 per cent	Total
Roll it over/invest in ADF deferred annuity or other superannuation schemes	38.5	42.3	32.8	22.1	39.5
Purchase an annuity	*	2.3	1.6	0.0	2.1
Invest the money elsewhere	28.7	25.2	28.8	48.4	26.5
Pay off home/pay for home improvements/buy a new home	11.8	14.2	15.6	14.7	14.6
SUBTOTAL	79.0	84.0	78.9	85.3	82.6
Pay for a holiday	10.8	7.9	10.4	5.3	8.6
Other	10.2	8.1	10.7	9.5	8.8
TOTAL	100.0	100.0	100.0	100.0	100.0

(a) Represents the primary purpose of the disbursement
(b) Disaggregated data by age is not available

Source: ABS *Superannuation Australia*, November 1991 (Cat no 6319.0) Unpublished ABS data for 1988.

Table 3.2 Persons who retired from full-time work early and who belonged to a retirement scheme: actual disbursement of lump sum payments from superannuation schemes

Disbursement of lump sum payments (a)	1986 '000	1986 per cent	1989 '000	1989 per cent
Invest in rollover funds (b)	28.8	9.3	92.5	18.0
Invested the money	133.1	43.1	190.8	37.2
Paid off home/pay home improvements	77.7	25.2	122.6	23.9
SUBTOTAL	239.6	77.5	405.9	79.1
Paid for holiday	16.4	5.3	30.3	5.9
Other	53.0	17.2	76.8	15.0
TOTAL	309.0	100.0	513.0	100.0

(a) Represents the primary purpose of the disbursement
(b) This includes annuity, deferred annuity and approved deposit fund investments

Source: ABS, *Retirement and Retirement Intentions, Australia*, November 1986 (Cat no 6238.0)
ABS, *Retirement and Retirement Intentions, Australia*, November 1989 (Cat no 6238.0), unpublished data

3.27 The Treasury, in its modelling of future superannuation savings, adopts an 'unfavourable' assumption that 'every lump sum up to $30 000 is dissipated' for the entire population of retirees.[13] Dr Vince Fitzgerald estimates that the annual leakage due to non-preservation is currently in the order of $2.5 billion, but will gradually decline, as shown in Table 3.3.[14]

Table 3.3 Transfer Leakage

Year	$ bn	Year	$ bn	Year	$ bn	Year	$ bn
1991	2.76	1996	2.03	2001	1.52	2006	1.14
1992	2.54	1997	1.97	2002	1.40	2007	1.10
1993	2.36	1998	1.90	2003	1.31	2008	1.08
1994	2.20	1999	1.79	2004	1.24	2009	1.06
1995	2.10	2000	1.66	2005	1.18	2010	1.04

3.28 Notwithstanding these uncertainties, there can be little doubt that, to a significant but unknown extent, one of the key objectives of the Government's retirement incomes policy is being frustrated.

[13] SGC evidence, p 16

[14] Sub no 263, p 2

3.29 The preservation age is not the only factor contributing to the encouragement of double dipping. The now almost standard practice of taking benefits in the form of lump sums rather than as pensions is also a major contributor – without this practice, the problem could not arise. And even with compulsory preservation up to the pension age, dissipation would still be possible, even though much more difficult to conceal. The worst, if unlikely, case for the applicant would be a five-year wait under the retrospective examination provisions.

Significance of Portability

3.30 If all funds provided for full portability, both inward and outward, and if all contributions were fully vested and preserved, it would be possible for the lifetime contributions in respect of every employee to be transferred with each job change and to be accumulated in a single fund on retirement.

3.31 However, relatively few funds permit such transferability so that, even with full vesting and preservation, an employee would retire with benefits spread over a number of funds – one for each employer. Portability therefore assists both labour mobility and administrative efficiency.

3.32 While a degree of portability exists between some funds in the public sector, full portability is still some distance away. The New South Wales Government recently told the Commonwealth Joint Parliamentary Committee on Public Accounts that:

> One of the most significant barriers to mobility between public sectors has been the lack of portability of superannuation between the Commonwealth and the States ... Currently, [transfer] arrangements require detailed negotiation between the two funds in each case and are complicated by the operation of different systems for the provision of death and disability insurance.[15]

3.33 Notwithstanding this firmly expressed view, the Department of Finance told a Senate Estimates Committee only a few weeks later that:

> ... despite many conversations and approaches to various State Governments, the Queensland Government was the only government that was prepared to adopt a reciprocal arrangement with the Commonwealth Government under the [pre-1991] arrangement – much to our disappointment, I might add.[16]

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[15] JCPA inquiry into *The Management of Human Resources in the Australian Public Service*; submission by NSW Government, p 403

[16] Evidence, Senate Estimates Committee B, 22 September 1992, p 177

3.34 The Committee believes that portability among funds in the private sector will not become general until its beneficial effects and practicability have been demonstrated in the public sector. Further, it believes that the Commonwealth should take the lead in bringing this about.

Recommendation 3.1

The Committee recommends that, as a matter of urgency, the Commonwealth should initiate discussions with the States with a view to facilitating portability between them and that these objectives be achieved by the end of 1993.

Further Vesting

3.35 In view of the key role played by vesting and preservation in the building up of the capacity to earn income in retirement and of the large, unvested benefits accrued in occupational funds, the Committee expected to have placed before it well argued and well documented evidence on these topics. However, no estimates of the amount of accrued, but unvested, benefits were placed before it and there was little analysis of arguments for and against the vesting of these benefits, other than unsupported assertions. No consideration was given to partial vesting.

3.36 Many of those associated with the establishment and management of superannuation funds were opposed to any further vesting of employer-financed benefits.[17] The general view was that this would raise costs to employers by eliminating the subsidies inherent in the foregoing of unvested benefits through early termination. According to this view, the probable outcome would be a discouragement of voluntary benefits, leading to major restructuring, or even closure, of sponsored funds. Some believed that the exposure to higher resignation withdrawals would require the maintenance of higher levels of liquidity, at the expense of higher yielding but less liquid investments such as equities.

3.37 A few even felt that the very existence of defined benefit funds would be threatened. Others considered that the voluntary nature of the contributions should render them inviolate to any outside direction, particularly if any retrospectivity was involved.

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[17] ASFA, sub no 89; Institute of Actuaries, sub no 108; Noble Lowndes, sub no 80; LIFA, sub no 114; the Accounting bodies, sub no 119; National Mutual, sub no 100; and AM Corporation, sub no 96.

3.38 On the other hand, supporters of increased vesting as one way of increasing retirement incomes included AMP, (who also stressed the need for defined benefit funds to develop appropriate vesting formulas or, failing that, OSS Regulations), the Commonwealth Attorney-General's Department, the South Australian Employers' Federation, ACOSS and Mr Cliff Newman, a member of the Superannuation Committee of the Institute of Actuaries.[18] Clayton Utz pointed out that full vesting would virtually eliminate the accumulation of 'unplanned' surpluses in defined benefit funds and the resulting disputation over their ownership.[19]

3.39 Treasury, which has the principal role in the development of superannuation policy, acknowledged the vital importance of vesting and preservation and identified the inadequacies of the existing arrangements.[20] However, it made no comments on the desirability or feasibility of increasing the vesting of pre-1995 accrued benefits.

3.40 On 30 June 1992, the Government announced a series of proposed changes to the superannuation rules. As noted above in paragraph 3.9, the proposed changes to the vesting rules, scheduled to operate from 1995, are under review.

3.41 The Committee believes that it is important to eliminate, or at least reduce, the leakage of funds set aside for retirement income but dissipated on early termination of employment through inadequate vesting and preservation arrangements. In particular, it does not believe that it is legitimate to use these sums to subsidise either employers or other fund members. Accordingly, it believes that serious consideration should be given to seeking a mechanism whereby a greater proportion of existing employer-financed benefits in occupational funds could be vested without serious harmful effects on the funds.

3.42 It is probable that an increase in vesting requirements would have some adverse impact on business costs. Mr Michael Devlin, of AM Corporation, pointed out to the Committee that:

> ... the withdrawal surplus is a major part of the funding formula. Most defined benefit funds would have funding rates approximately double what they currently are if there was full vesting.[21]

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[18] Sub nos 120, 107, 185, 35 and 3

[19] Evidence, p 622

[20] Sub no 195, pp 31-34

[21] Evidence, p 746

3.43 Consideration of increased vesting therefore raises the question of equity: to what extent, if any, should funds set aside for the retirement of one employee be used to subsidise the retirement of others or the labour costs of employers? The Committee notes the growing acceptance of universal superannuation as an integral component of the retirement income mix, a necessary element of which is provision for retirement throughout the working life. The lack of universal vesting of employer contributions cuts across this principle. If an increase in vesting results in increased business costs, then that must be recognised as an inevitable consequence of the removal of any subsidy.

3.44 Greater vesting need not affect liquidity requirements and long-term investment goals if proper action is taken with regard to preservation, as there would not be any immediate call to pay withdrawal benefits. It need not adversely affect defined benefit funds if, for this purpose, they are treated in a similar manner to accumulation funds. As to the voluntary nature of the contributions and the retrospectivity involved, it should be remembered that employer contributions are generally made under contract as part of the conditions of employment and are tax deductible; vesting would merely ensure that they were used for the purpose for which they were made. Retrospectivity would both remedy an injustice and serve the national interest.

3.45 The Committee believes that the present situation is highly unsatisfactory, but accepts that an attempt to solve it with a sweeping recommendation for full and immediate vesting could be counter productive. Nevertheless, it believes that some action is necessary.

3.46 A recent survey indicates that employer contributions to sponsored funds are, on average, almost double those of employees.[22] It follows that the vesting of employer contributions in these funds up to the level of already-vested employee-financed benefits should pose few difficulties and would still leave substantial sums unvested. The impact could be further softened by phasing in the change over a period of years.

[22] Noble Lowndes, *Australian Benefits Survey*, 1992/93

Recommendation 3.2

The Committee recommends that the Government take steps to provide for the mandatory vesting, as from a date to be determined, of a significant part of the employer-financed benefits in occupational superannuation funds accrued to that date but not otherwise vested. An example of a possible scheme is:

(i) The amount to be vested shall be not less than each member's contributions, plus fund earnings, to that date.

(ii) The amount should be vested over a ten year period.

(iii) Where existing rules would, if applied, result in a greater sum being vested in any member, those rules should apply.

Recommendation 3.3:

The Committee recommends that, in relation to Recommendation 3.2 regarding increased vesting requirements, the base date should be the date on which the Government announces the adoption of the policy in order to protect the interests of then-existing members. Employees retrenched or dismissed after the announcement, but before the base date, should be entitled to whatever vesting they would have been entitled to if the base date had been the date of their termination.

Recommendation 3.4:

The Committee recommends that immediate vesting of all employer contributions subsequent to the vesting base date be compulsory.

Preservation Measures

3.47 In order to be fully effective, measures to improve vesting need to be accompanied by measures requiring the preservation of the vested benefits. The ideal arrangement from the standpoint of both maximising retirement benefits and simplifying of implementation would be a requirement that all benefits should be preserved.

3.48 Such a requirement would raise issues of equity, for example, in relation to the treatment of those member contributions subsequent to 1 July 1983 which receive no tax assistance. This was recognised in the new preservation arrangements announced on 30 June 1992 which will come into force on 1 July 1996. Under these proposals, all benefits will have to be preserved, except for the greater of:

- a member's undeducted contributions after 1 July 1983; and
- a member's cash vested resignation (or retrenchment) benefit as at 1 July 1996 (or other specified annual review date), indexed to average weekly ordinary time earnings.[23]

3.49 These provisions will both simplify the rules and significantly increase the amounts subject to preservation. However, the Committee notes that there would be a four-year gap between the announcement and the implementation of the proposal, prolonging the scope for preservation leakage to no good purpose. The need for such a delay in the implementation of a proposal, which is essentially a simplification measure and which has no immediate financial consequences, was not made clear in *Security in Retirement* and the Committee believes that the timing should be reconsidered.

Recommendation 3.5

The Committee recommends that the commencement date of the new rules to substantially increase the amount of benefits to be compulsorily preserved, as announced in *Security in Retirement*, should be reconsidered by the Government with a view to earlier commencement.

3.50 With regard to the preservation age, the Committee takes the view that all reasonable steps should be taken to make double dipping as difficult and as transparent as can be achieved with reasonable equity. Accordingly, it takes the

[23] John Dawkins, op cit, pp 70-71

view that the closer the preservation age is to the pension qualifying age, the more likely is this objective to be achieved. It firmly believes that the onus lies squarely on those favouring an earlier preservation age to justify their position, rather than on those who favour lifting the age.

3.51 In this respect, it takes issue with the ACTU, which expressed the view that the onus lay on those wishing to raise the age to quantify the level of double dipping and to prove that a material contribution to its reduction would thereby be made.[24] Very few of the other witnesses defended the existing preservation age of 55.

3.52 The Australian Retirement Fund (ARF) stressed that employees did not like preservation and that 55 was 'probably the right age' at present; but had no views on its long-term suitability.[25] Mr Dale Hennessy, Director of the Queensland Government Superannuation Office, while conceding that some preservation was acceptable, seemed to be advocating double dipping when he told the Committee that:

> Most people would see superannuation as legitimately providing a bridge between retirement from the work force and the age of entitlement to the social security pension ... It is hardly rational to restrict a person's access to a sizeable superannuation asset until the age at which access to social security is permitted and in the process deprive the person of a reasonable standard of living in the meantime.[26]

3.53 The Treasury conceded that 'the current age discrepancy undoubtedly presents the potential for such practices' and pointed out that 'raising the preservation age would ensure that superannuation benefits are withdrawn closer to age pension age.'[27] Yet it stopped short of making a firm recommendation to that effect and went on to outline three indirect measures designed to discourage double dipping, namely:

- tax penalties on benefits taken before pension age;
- the inclusion of deemed rates of return on early benefits as income for means test purposes; and
- requiring all early benefits to be taken as pensions.[28]

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[24] SG evidence, pp 51,19

[25] Evidence, p 330

[26] Evidence, p 1177

[27] ibid, p 33

[28] ibid, p 34

3.54 Furthermore, in its oral evidence, the Treasury would not concede that there were economic or financial reasons for raising the preservation age to 60, claiming that it was 'not a straightforward question'.[29]

3.55 DSS recognised that 'the issues of vesting and preservation are central to superannuation' and favoured a faster phasing-in period for the proposed 1995 vesting changes. However, while conceding that raising the preservation age to 60 was 'an option that merited some consideration', it was more concerned at the large volume of benefits paid out before age 55.[30] Such payments, excluding those attributable to redundancy and invalidity, amounted to 37 per cent of all eligible termination payments (ETPs) in 1989-90.[31]

3.56 The majority of the Committee welcomes the Government's decision to raise the preservation age to 60 years but notes that some witnesses, notably ACOSS, The Institute of Actuaries and LIFA, favoured an earlier phase-in timetable.[32]

Recommendation 3.6:

The Committee by majority recommends that the preservation age be raised to 60 years in accordance with the phasing in proposals outlined in *Security in Retirement.*

Recommendation 3.7

The Committee further recommends that the Government should, as a matter of urgency, initiate research into all aspects of appropriate retirement ages and the extent of double dipping in Australia.

[29] Evidence, p 2109

[30] ibid, p 1277/8

[31] Australian Taxation Office, cited by The Treasury, sub no 195, p 32

[32] Evidence, pp 2158, 2117, 2116

Special Provisions

3.57 The Committee notes that certain occupations have long-established retirement ages below the general level of 65 years, for example, the armed services, police, airline pilots and coal miners. It sees no reason why those special cases should not be provided for in the Regulations, but would urge caution in expanding their number, particularly where retirement ages below 60 are specified.

3.58 Unemployment, for those over the age of about 45 years, is a particularly intractable problem and many of those affected seek early payment of their superannuation benefits.[33] There is provision under the OSS Regulations for special treatment in cases of hardship and the ISC informed the Committee that such requests were running at an annual rate of 30 000 per year in March 1992. The rate for the whole of 1991 had been 9 000.[34] Such requests are processed in the first instance by fund trustees and LIFA reported a doubling of applications in each of the years 1991 and 1992. About 85 per cent of applications were recommended by fund trustees for approval, but the ISC was somewhat more strict and withheld approval in many cases. LIFA noted that the processing of these requests was a substantial administrative burden and sought promulgation by the ISC of more specific, written guidelines.[35]

3.59 The Committee acknowledges the work of the Australian Financial and Credit Reform Association in providing counselling services to those in financial difficulty. The Association's policy is that superannuation benefits be accessed only under the following circumstances:

- All options to resolve the financial hardship of the consumer have been canvassed in an informed manner;
- The benefit of the access will make a substantial difference to the financial situation of the consumer;
- The current benefit of access to the consumer outweighs the long term benefit [of preservation to retirement age];
- The accessed funds are to be used to protect an existing home or existing income protecting asset or for necessary emergency medical treatment;

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[33] The average duration of unemployment for those aged 45 and over is 82 weeks, compared with 44 weeks for those under 45 – ABS Labour Survey, Cat 6203

[34] Evidence, p 1853

[35] LIFA, paper presented to ASFA Seminar on Financial Hardship, Canberra July 1992

- The accessed funds are not to be used to supplement income;
- Access is at the initiative of the consumer; and
- Access should be determined by an authority independent of industry operating on the following guidelines:
  - The procedure be efficient and with definite expeditious guidelines, and
  - The procedure be at no cost to the consumer.[36]

3.60 The Committee notes that the principal purpose of superannuation is to provide for retirement and thereby alleviate possible future hardship. It should not be regarded as a fund available for stand-by relief during the period of a normal working life. In those circumstances, the Committee believes that social security is the proper channel through which emergency relief is available, rather than through a loss of future superannuation benefits.

3.61 Overseas countries, most of which operate defined benefit schemes, do not allow early release of benefits in either the pension or a lump sum form. The Committee notes that ready availability of lump sums has contributed to the increase in applications for early release of benefits.

3.62 The Committee believes the Government should address the following questions:

- Is early access to benefits severely undermining the objectives of retirement incomes policy?
- Can early access to a lump sum benefit make a significant difference to the long term well being of the recipient?
- Is there a consistency of treatment of applications for hardship assistance?

3.63 The Committee notes that there is a cyclical trend for persons to seek early access to retirement benefits. Also, there appears to be a tendency for some applicants seeking this form of assistance to see their lump sum as being a remedy for immediate problems which could be solved under some other arrangement, for example, social security assistance or re-negotiations and/or rearrangement of personal finances.

[36] Sub no 271

3.64 If this trend is allowed to continue, early access to benefits on the scale currently being experienced will result in a significant leakage of superannuation funds.

3.65 The Committee believes that the abolition of early access to benefits in cases of hardship should be one of Australia's long term retirement incomes goals. However, the Committee was unable to reach a unanimous agreement on a short or medium term implementation timetable for this policy.

Recommendation 3.8:

The Committee recommends that the ISC, the organisation which it believes is best placed to administer this policy, work towards the achievement of the Committee's long term goal to eliminate early access to retirement benefits. The Committee also recommends that the ISC promulgate a policy to ensure consistency of treatment of applications and further recommends that the ISC develop a more limited set of rules setting out clearly the circumstances for hardship assistance.