

## CHAPTER 5:

### SMALL AMOUNTS, FEES AND CHARGES

#### Introduction

5.1 The Committee received considerable evidence on the erosion of accounts with small balances by the fees and charges made on these accounts.

5.2 Mr Peter Woodcock, Supercard Australia Pty Ltd, provided the example of a member who received \$574.81 in employer contributions, after federal taxes. The annual administration was \$242.83, or 42.2% of the contribution. He also compared the interest of \$5.29 that was paid on the employer's contribution with the \$242.83 taken by the fund manager and administrator in fees.<sup>1</sup>

5.3 Ms Judy Collman, of Nimmitabel, NSW, outlined her experience with the erosion of superannuation balances by fees and charges. 'I earned \$1.40 on my superannuation in the last financial year and my fund was one of the better performing ones. The interest was eaten away by taxes and charges.'<sup>2</sup>

5.4 An angry reaction about the disappearance of contributions because of administrative fees was expressed by Mr Chris Minifie, of Trentham, Victoria. While not objecting to making contributions for employees, he was concerned that '[n]one of the money paid by us into superannuation will ever benefit any of our employees'.<sup>3</sup> Given that fund managers charge \$1 per week for administration on a \$60 balance, 'after a year or so the money has all gone into the pockets of the fund management company'.<sup>4</sup>

5.5 Ms Heather Howes,<sup>5</sup> of Ivanhoe in Victoria, and Niki Aravanis,<sup>6</sup> of Kew in Victoria, submitted details details of their superannuation accounts established by their respective employers to demonstrate the impact of tax and charges on their entitlements:

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1 SGCREV Sub No 2

2 SGCREV Sub No 6

3 SGCREV Sub No 36

4 SGCREV Sub No 36

5 SGCREV Sub No 74

6 SGCREV Sub No 78

Surely the intention of this legislation was not that employers be required by law to contribute to a retirement fund for their employees where the fund reduces by approximately 22% in 66 weeks.<sup>7</sup>

5.6 A similar story was related by Mr Michael O'Donoghue, of Clarence Park in South Australia, who had \$14.93 paid by the Electoral Commission for work performed during the last federal election on 13 March 1993. When he applied for the money, he was informed by the administrator of the fund that his claim could not be processed because the account keeping fee had absorbed his total account.<sup>8</sup>

5.7 Mrs Debbie Seay, of Mackay in Queensland, worked part-time as a child minder for three months, at which time her employer paid \$59.40 into her superannuation account. By the time she was able to claim her money after the mandatory 39 weeks which applied in this instance, her balance had been reduced to \$12.12 because of administrative charges.<sup>9</sup>

5.8 Mr K. F. Parr of Lismore, NSW, helps a banana grower on a part-time basis, and also found that administrative fees substantially eroded his superannuation accruals arising from SG obligations.<sup>10</sup> His daughter experienced similar problems as a person employed on a casual basis as a registered nurse, as did an acquaintance who worked casually for a security firm.<sup>11</sup>

5.9 Mr Paul Crowley of Brisbane complained about the impact of contributions tax upon his accrued entitlements.<sup>12</sup>

5.10 As a frequent employer of university students during their holiday breaks, Mr Garry Hamblin, Scott Crisp & Hamblin Pty Limited, submitted an alarming example of the small payments problem:

We had one 'casual' employee under the situation as described above and total contributions of \$55.20 were paid in early 1993. The employee has not worked with us since as he is a full-time University Student and we have therefore not made any further contributions. We recently received a

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7 Heather Howes, SGCREV Sub No 74

8 SGCREV Sub No 85

9 SGCREV Sub No 87

10 SGCREV Sub No 98

11 SGCREV Sub No 98 Supplementary

12 SGCREV Sub No 101

summary of member's benefits etc and were dismayed to find that due to overhead costs the subject 'casual' employee is now \$72.70 in ARREARS to the Fund.<sup>13</sup>

5.11 A concern of Women in Horticulture was that, given the small balances in some employees' accounts:

the administration fees of anything from 50 cents to 85 cents per week over the 52 week period before the money can be claimed, plus the termination fee of from \$20 to \$75, leave little if anything to be withdrawn.<sup>14</sup>

5.12 Mr Donald Jasprizza, of Young, NSW, in relating his dealings with administrative fees, provided to the Committee some examples of superannuation contributions made for cherrypickers. During the 1993-94 financial year, Mr Jasprizza informed the Committee that the average amount of SG contributions made per employee was \$2,312.91. Of this \$1,624.82 was taken out as management fees.<sup>15</sup>

5.13 The Australian Dried Fruit Association, as part of its submission, provided a breakdown of the cost structure of a superannuation fund to illustrate the break-even point where contributions made equal the costs charged.<sup>16</sup> Based on working 8 weeks of the year, in order to break-even an employee would need to earn \$3,216 annually. A 3% contribution on this amount equals \$96.47 which is totally negated by the administrative fees, death and disability insurance and 15% contributions tax.

5.14 Similar concerns were expressed by the Flower Industry Association - Australia Inc. located in Launceston, Tasmania.<sup>17</sup> There are about 2,500 flower growers in Australia employing up to 10,000 workers in growing, harvesting and packing flowers. The flower industry depends upon the availability of casual and part-time labour, many of whom are transient workers who 'may travel from place to place and work for a range of horticultural and other crop producers, in various States'. Consequently, the very small amounts contributed on their behalf are often consumed by administrative charges. In addition, the collection by these

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13 SGCREV Sub No 115

14 SGCREV Sub No 104

15 Evidence, p 556

16 SGCREV Sub No 45

17 SGCREV Sub No 79

growers of the details required by SG can be 'difficult and onerous', particularly as many employees are 'more than a little reluctant to provide tax file numbers and other details'.

5.15 Asserting that this situation was being repeated 'right across Australia', the Flower Industry Association maintained that:

Small hard working growers are required to keep detailed records for the collection and payment of money, to large organisations, only to be eaten up by these organisations under the guise of 'administration charges'. Surely there must be a simpler method of collecting the levy and then directing it into a fund without the penalties, for subsequent payment to the worker in later life.<sup>18</sup>

5.16 Table 5.1 summarises the submissions received on the effect that tax and charges have on small SG balances.

5.17 In its submission to the Committee, the Women's Economic Think Tank (WETTANK) questioned the current fee structure. WETTANK submitted that the fee and charges structure causes further problems for low income earners and intermittent earnings (both female and male) because of varying rates imposed and the structure of the fund.<sup>19</sup>

5.18 WETTANK considers it inequitable that funds use the 'community rating principle' (or averaging) for spreading the total cost of administration of the fund to all members. Individuals should be charged for what they themselves accrue. WETTANK believes this scaling of fees would prevent low income earners from shouldering the costs that may result from the more affluent accounts. Given that the SG contributions are compulsorily imposed by the Government, WETTANK considers 'that it could be argued that there is a responsibility on Government to preserve these small amounts by subsidising administrative costs'.

5.19 Faced with the high costs of complying with the SG requirements associated with a small family business, Mr John Winslow, of Normanhurst, NSW, suggested that a protocol be established under the SGAA preventing small contributions being eroded by fees and charges. Mr Winslow submitted that in an environment of compulsory superannuation, fees should be regulated, as he considered some to be 'outrageous'.<sup>20</sup>

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18 SGCREV Sub No 79

19 SGCREV Sub No 27

20 SGCREV Sub No 14

**Table 5.1: The Effect of Tax and Charges on SG Small Amounts**

Submission	Contributions (\$)	Time in Fund (months)	Amount Remaining (\$)
2	574.81	12	337.27
20	180.00	36	0
45	35.18	5	-12.17
45	540.00	12	37.47
60	383.40	18	330.00
74	1,810.74	15	1,461.39
78	1,282.68	12	1,249.34
85	14.93	3	0
87	59.40	3	12.12
93	1,200.00	6	826.38
97	1,306.29	12	329.63
97	222.25	24	56.12
97	459.81	24	255.20
97	173.06	24	19.59
97	85.26	12	10.60
98	120.27	12	10.98
104	91.00	12	34.00
105	18.00	5	0
115	55.20	18	-72.70

5.20 The Heywood Branch of the Victorian Farmers' Federation advocated that exit fees be regulated by government and that administrative costs be clearly disclosed.<sup>21</sup>

5.21 The Australian Chamber of Manufactures (ACM) supported the concept of the establishment of a low cost central superannuation fund to receive small amounts and to reduce erosion by administrative charges. The ACM also supported the idea of facilitating transfers of these small amounts into the central fund.<sup>22</sup>

5.22 Mr Alex Risk, of Geelong West in Victoria, submitted that management fees, and entry and exit costs should be controlled, and workers' superannuation entitlements guaranteed a return through the Government taking control of superannuation.<sup>23</sup>

#### **The Treasurer's Statement of 28 June 1994**

##### *Introduction*

5.23 In his announcement of 28 June 1994, the Treasurer, the Hon Ralph Willis, MP, outlined a number of new initiatives to substantially improve the effectiveness of the Government's superannuation policies.

5.24 The main measure announced in the statement was the proposed establishment of **member protection** rules to prevent the erosion of small account balances in superannuation funds.

5.25 The member collection rules are to be complemented by an **ATO collection mechanism** to which employers, who are unable to find a suitable member-protected fund, may contribute for their employees.

**5.26 Unless otherwise footnoted, direct quotations throughout this chapter are drawn from the Treasurer's Statement of 28 June 1994.**

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21 SGCREV Sub No 31

22 SGCREV Sub No 61

23 SGCREV Sub No 109

## **Member protection**

### *Background*

5.27 Member protection was one of a number of measures announced by the Treasurer to alleviate the small amounts problems currently being experienced.

5.28 Member protection will prevent the erosion of small amounts that occur where there is an imbalance between interest earned on the account and associated administration charges.

### *What is member protection?*

5.29 Basically, complying superannuation funds will be required to prevent erosion by administrative charges on accounts with balances of less than \$1,000. Where funds do not implement such provisions for new members, contributions cannot be accepted. The employer has the option, on behalf of the employee, of making superannuation contributions to the ATO scheme.

5.30 The Treasurer's Statement identified 'administration charges' currently imposed by superannuation funds as being one or more of the following:

- a fee imposed on entry to the fund;
- a fee imposed on exit from the fund;
- a periodic administration charge (say weekly);
- an asset management fee.

5.31 Charges for taxation, insurance or for investment losses are not included in the definition of 'administrative charges'.

5.32 In respect of existing member accounts with balances of less than \$1,000, new contributions cannot be accepted if member protection rules have not been implemented. Such accounts must be closed and transferred to an Eligible Rollover Fund (ERF) free of charge or to another complying superannuation fund if a member elects to do so. Notification of any such transfers must be sent to members.

5.33 No limits will be placed on actual administrative charges. However:

the protection of members' balances requires that the charges to the account in a year will be limited, in the first instance, to the interest credited to the account in that year.

5.34 The Treasurer stipulated that unpaid charges cannot be accumulated with the intention of deducting such amounts from the future account balance. However, where insufficient interest is earned by small accounts they may still have the administrative charges imposed and 'suffer erosion if the superannuation fund does not have total investment earnings to meet the otherwise unpaid charge'.

*Which accounts will be member protected?*

5.35 Member protection rules will only apply to:

- accounts with a balance of less than \$1000;
- funds not excluded under SIS;
- accumulation funds; and
- an account which is used to avoid or reduce the SG charge.

*Methods of providing member protection*

5.36 Funds are to decide on the most equitable method of administering member protection. Examples provided by the Treasurer suggest that funds may continue charging accounts as they presently do, and may opt to apply credits at the end of the year where fees have exceeded interest credited during that year. An alternative to such a crediting system, would be the imposition of administrative charges based on interest credited to the account.

*Timing of implementation*

5.37 Generally, the member protection rules will apply from 1 July 1995. This timetable will give funds adequate time to alter trust deeds and make any other changes necessary to introduce the rules. The ATO scheme will also be in place by this time and will provide an alternative route for those employers whose funds may not offer member protection.

5.38 However, in order to prevent funds taking action before 1 July 1995 which may prove detrimental to members, the Treasurer stipulated relevant legislation would be changed from 28 June 1994 to:

provide that... funds may not charge an exit fee to accounts transferred to another fund, ERF or other entity except where the transfer occurs with the consent of the member. Funds also may not introduce new fees in this period designed to circumvent this traditional role.



## **ATO Scheme**

### *Background*

5.39 In introducing the SG, the Government, for equity and social justice reasons, 'placed particular emphasis on the need to achieve the widest possible spread of superannuation'. Application has been successful, as evidenced by ABS statistics which show an increase in superannuation coverage for full-time permanent employees from 88 per cent in November 1991 to 96 per cent in 1993.

5.40 This increased coverage has, however, had its shortcomings. Administrative difficulties and practical issues have arisen since the implementation of SG and the Government and the superannuation industry have acknowledged this. A large proportion of these difficulties centre around what has been identified in Chapter 4 as 'small amounts'.

5.41 A joint submission to the Committee from the Australian Council of Trade Unions (ACTU), the Life Insurance Federation of Australia (LIFA) and the Association of Superannuation Funds of Australia (ASFA) succinctly captured the essence of the problems of small amounts:

where the account balance is less than about \$750, the net (after tax) annual earnings are likely to be less than the administration fees and charges, as well as any death and disability insurance premiums applied against the account.<sup>24</sup>

5.42 ACTU, LIFA, and ASFA put their proposal to the Treasurer on 22 April 1994 'as the preferred solution to these problems'.<sup>25</sup> Their proposal outlined a number of measures that would reduce current problems with SG as well as methods to eliminate future problems. In short, the tools to assist the SG in maturing were:

- a collection mechanism to be administered by the ATO. Such a mechanism would take advantage of the existing SG system;
- the aggregation of small multiple accounts through introduction of a transfer protocol;
- a limit on charges applied to members with small balances;
- the implementation of ERFs;

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24 SGCREV Sub No 76

25 SGCREV Sub No 76

- the removal of ability to withdraw preserved balances below \$500;
- the use of TFNs; and
- and a range of associated measures.

5.43 The Treasurer has acknowledged the involvement of the life insurance and superannuation industries and other interested parties, in formulating a comprehensive solution which will offer full protection for all members with small amounts.

*Why have an ATO scheme?*

5.44 The implementation of the ATO collection mechanism is seen as providing a low cost vehicle for accumulating small SG contributions. The costs of the ATO scheme will be relatively low compared with other superannuation funds as the ATO will not be required to comply with supervision and taxation regulations.

5.45 The ATO scheme will allow the aggregation of small contributions by employers until a request to transfer the monies to a superannuation fund is received from the employee.

*Who will use the ATO scheme?*

5.46 Use of the ATO scheme will be at the discretion of employers, who must continue to take into consideration any over-riding award obligations. Payments made to the ATO will be considered equivalent to making SG contributions to a complying superannuation fund. The SG legislation will be amended to recognise this.

5.47 The scheme is limited to those employees receiving less than \$1,200 in respect of each term of employment within the SG period. For the 1994/95 financial year, the SG period has been deemed to be the full year, ending 30 June 1995. Contributions for this period may be made:

- on or after the last day of the SG period (30 June 1995); but
- no later than the last due date for payment for that SG period (28 July 1995).

5.48 For contributions made in subsequent financial years, the employer can make payment to the ATO any time prior to the last due date for payment for that SG period.

*Frequency of payments*

5.49 The frequency of payments to the ATO scheme will be aligned to the requirements under the SG legislation. The current \$1,200 limit was established on the basis that an annual contribution period will be maintained under SG. The Treasurer stipulated that SG legislation 'will be amended to maintain the present annual basis for contributions until such time as the superannuation guarantee system becomes more settled'.

5.50 In accepting the contributions from employers, the ATO will not question whether that employer should be making such payments elsewhere, for example to an industry fund as stipulated under an award. The contribution will also be accepted regardless of the accumulated (or prospective) balance of the employee's account.

*Relationship to awards*

5.51 The ATO will not scrutinise employer contributions. Instead, in educating employers of the new scheme, attention will be drawn to the fact that employers must comply with award requirements. However, for those industry funds that do not abide by the member protection provisions, the Government will support amending awards to allow contributions made to the ATO scheme to be recognised as satisfying award requirements.

*Information requirements*

5.52 The payment of contributions to the ATO must be accompanied by:

- the employer's Tax File Number (TFN);
- the employee's TFN, where provided to the employer;
- the employee's name and address; and
- details of the payments in relation to each employee.

5.53 Notification to employees of contributions to the ATO scheme will be required. The actual format of such notification will be decided after further consultation with interested parties, but the possible solution may involve:

- notification on pay slips;
- inclusion on employee's group certificate; and/or
- upon final payment for services to employees.

*Treatment of monies received*

5.54 Contributions received by the ATO will:

- be tax deductible for employers, as would any SG contributions made to a complying fund;
- be untaxed, until such time as monies are transferred to a complying superannuation fund when contributions tax will be paid on the whole amount;
- not be reduced by administrative charges;
- receive interest from any surplus resulting from the deduction of operating costs of the scheme from income earned by the scheme. Such interest would only be paid for amounts up to \$1,200 held for a full quarterly batching period. This provision will contribute to simplifying administration of the scheme, and will promote the transfer of accounts to complying superannuation funds once the balance reaches \$1,200.

*Will the ATO scheme be a superannuation fund?*

5.55 Any contributions received by the ATO as a result of this scheme will be paid into a trust fund. This fund will be administered by the Commissioner of Taxation. The trust fund will not be a complying superannuation fund as stipulated in SIS, but rather will operate under separate legislation. The Treasurer indicated that 'it is expected that the ATO mechanism will be established in time to receive Superannuation Guarantee contributions in respect of the 1994-95 financial year'.

5.56 The trust fund can invest only in 'Commonwealth Government securities or otherwise be invested with the Commonwealth in return for an earnings rate linked to the rate of interest paid on Commonwealth securities'. Any earnings of the trust fund will have the fund's administrative costs deducted, before any surplus is credited to employee accounts.

5.57 Employees' accounts may be paid out:

- to a complying superannuation fund upon receipt of instructions from the employee owning the account or from a fund acting on behalf of that employee.
- at the discretion of the Commissioner of Taxation:
  - (i) to a deceased employee's estate; and
  - (ii) to an employee where he or she could otherwise qualify for such payment (for example, financial hardship as determined by the ISC, on permanent departure from Australia).

Payment of monies as a result of the Commissioner's discretion would be taxed as per any payments made from an untaxed source/untaxed superannuation fund.

- on termination of employment subject to the balance being less than \$500. Such a payment would be subject to the same taxation provisions as would be the case if the payment were withdrawn from an ordinary superannuation fund.

#### *Administration*

5.58 Requests to transfer accounts to a complying superannuation fund, whether received directly from the employee or from the interested fund, will be processed or 'batched' on a quarterly basis.

5.59 On attaining the \$1,200 limit, the ATO will notify the employee of the balance and ask that such monies be transferred to a complying superannuation fund. If no response is received from the employee, 'the ATO would make reasonable efforts to locate the employee but would be under no obligation to do so'. The monies would remain with the ATO until such time as they are claimed by the employee. The Commissioner of Taxation may determine, upon criteria yet to be developed, that such monies are not likely to be claimed and should be paid to the Consolidated Revenue Fund where future recovery is available.

5.60 Provisions will be made for the redeeming of contributions from the ATO scheme where such contributions have been wrongly paid to the ATO. These provisions will not extend to those employers seeking recovery of contributions only to redirect them to a superannuation fund.

*How much will it cost to administer?*

5.61 Preliminary costing estimates were set out in the Treasurer's Statement (see Table 5.2). These estimates were based on the assumption that the scheme will be operational in July 1995 to accept SG contributions for the 1994/95 financial year.

**Table 5.2: Costing estimates of ATO collection mechanism**

	Year 1994/95	Year 1995/96	Year 1996/97	Year 1997/98
	(\$m)	(\$m)	(\$m)	(\$m)
Salary	1.3	3.4	3.2	3.2
Admin	4.3	4.1	3.8	3.8

*Response to ATO scheme proposal*

5.62 ASFA, one of the contributors in the joint proposal put to the Treasurer earlier in the year, indicated in a submission to the Committee that the announcements made on the ATO scheme by the Treasurer in his statement were 'broadly in line with the joint industry submission and it is accordingly welcomed'.<sup>26</sup> However, ASFA drew the Committee's attention to the following:

- The setting of a \$1,200 contribution limit makes it difficult for an employer to determine in advance whether this limit will be exceeded. This uncertainty may encourage a deferral of payment of contributions until such time as this can be determined. ASFA believes it may be better to have an eligibility test that employers could use on a monthly basis (just as the SG legislation applies on the basis of monthly income).
- The removal of amounts less than \$500 by employees on termination of their employment means that some people will never build up their superannuation to a sustainable amount. ASFA suggests such access be removed and believes there is broad industry support for such action.

- The need for employers to check award requirements before making SG contributions to the ATO may lead to non-compliance with awards.

5.63 The Australian Federation of Consumer Organisations Inc (AFCO) believes the establishment of the ATO will contribute to greater retirement savings. AFCO opined that 'the proposed ATO option has the potential to provide a simple and cost effective mechanism'.<sup>27</sup>

5.64 However, AFCO identified three limitations of the ATO scheme:

- First, the lack of employee choice, as contributions made to the ATO scheme are done so at the discretion of the employer. AFCO believes that while the ATO should be considered the default collector of small contributions, an employee should have a right not to choose the ATO scheme.
- Second, AFCO is concerned with the upper limit for contributions to the ATO scheme. Given that AFCO's submission was received prior to the Treasurer's Statement of 28 June 1994, this concern might have been addressed by the fact that a limit of \$1,200 is currently proposed.
- Third, AFCO questions the uncertainty of interest to be received on accounts. For equity reasons, AFCO believes that contributions should earn interest equivalent to long term bond returns.

5.65 AFCO also voiced agreement with a previous comment by the Treasurer that it is simply untenable that people can be forced into a situation of loss on what is effectively a part of their wages or salaries. AFCO applauded moves by industry funds who, at the time of their 3 June 1994 submission, had already made moves to scrap administrative charges.

5.66 The Australian Council of Social Service (ACOSS) also questioned the issue of the lack of guarantee that holders of such accounts have of receiving interest on their account balance. ACOSS recommended:

The ATO should pay interest on small accounts, preferably at the long term bond rate, but at least at the social security "deeming rate" for bank interest (currently around 4 per cent).<sup>28</sup>

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27 SGCREV Sub No 20 Supplementary

28 SGCREV Sub No 86

5.67 Whilst acknowledging that the ATO scheme will have to recover administrative costs, the Committee endorses the view that all efforts should be made to ensure maximum interest returns on ATO small accounts.

5.68 AMP identified the advantages of using the ATO system in receiving SG contributions on behalf of employees as including the use of the existing ATO infrastructure and an existing contact with employees via their tax file numbers.<sup>29</sup>

5.69 AMP identified the main obstacle to using the ATO for such a collection mechanism as the possible confusion employers and employees might experience by the addition of a new layer to the existing superannuation system. It also submitted that the following controls would be necessary:

- placing a limit on the employees (and their employers) who would be eligible to use the system;
- ensuring that superannuation funds remain more attractive;
- ensuring that employees have strong incentives to transfer their benefits away from the ATO (as soon as it is viable for them to do so);
- including a sunset clause since this is an interim solution to a short-term problem.<sup>30</sup>

5.70 The Australian Bankers' Association (ABA) believes that the introduction of the ATO scheme will add 'another layer to the existing voucher system which is already complex'.<sup>31</sup> ABA also questions whether a collection mechanism administered by ATO will actually solve the small amounts problem.

5.71 The need for improved service and products is identified by the Credit Union Services Corporation (Australia) Limited (CUSCAL) as being a solution to the small amounts problem as opposed to a part solution in introducing the ATO scheme.

The very fact that the Government has thought it necessary to propose the ATO collection mechanism confirms the view that left to their own devices, the industry funds are simply not capable of providing an adequate service to members with small balances.<sup>32</sup>

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29 SGCREV Sub No 75

30 SGCREV Sub No 75

31 SGCREV Sub No 80

32 SGCREV Sub No 89



5.72 CUSCAL also questions the non-application of the SIS regime upon the ATO scheme despite the need for SG contributions to be made to a complying fund. The submission also expresses concern at the Treasurer's Statement that the ATO would make some effort to locate members about their balances, but 'would be under no obligation to do so'.<sup>33</sup> The views of the ABA and CUSCAL on the small amounts problems are discussed in detail in Chapter 9.

5.73 The introduction of the ATO scheme has been received favourably by small businesses. The Riverland Horticultural Council was receptive to such a scheme which would solve the current problems experienced with small amounts. A further simplification of providing superannuation support for employees was also suggested by the Council: 'We should add the superannuation payment to the flat tax payment and let the Australian Taxation Office do the paper work'.<sup>34</sup>

*How effective will the ATO collection mechanism be?*

5.74 Ms Eva Cox, Women's Economic Think Tank, levelled some criticism at the ATO scheme, saying:

the idea of the central fund... was for somebody who could opt to put their money in there and stay there in the knowledge that they were likely to be moving to various jobs, that they would have multiple jobs, or purely and simply because it made it simpler for them if they had a fund which they could put everything into.<sup>35</sup>

5.75 The Committee's attention was also drawn by ACOSS to the fact that the ATO scheme will only accept new contributions. ACOSS identified this as a major shortcoming.

5.76 While playing a major part in the formulation of the ATO scheme, the ACTU sees the scheme as being necessary only in exceptional circumstances.<sup>36</sup>

5.77 This belief stems from the fact that the Treasurer's Statement in effect issued a challenge to superannuation funds to implement the member protection provisions. ACTU indicated that virtually all of the major funds have announced the introduction of member protection:

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33 SGCREV Sub No 89

34 Evidence, p 630

35 Evidence, p 67

36 SGCREV Sub 107

it is therefore now true to say that every employee and employer in this country has access to a member protected fund if not immediately certainly from 1 July 1995.<sup>37</sup>

5.78 The ACTU submitted that it has called on ASFA to conduct a survey of its members to enforce this claim.

5.79 To ensure that the ATO collection mechanism is only used in exceptional circumstances, the ACTU submitted to the Committee that employers seeking to use it should be required to certify that:

- there is no access to a member protected fund; and
- the employee is not an existing member of another fund.

5.80 The ACTU suggests that use of the ATO would be minimised by the availability to employers of a list of funds offering member protection.

5.81 In appearing before the Committee, Mr Ian Court, ACTU, said that the ACTU believes 'that the Tax Office mechanism can be put in its proper perspective in terms of dealing with emergencies or exceptional circumstances'.<sup>38</sup>

5.82 To facilitate this, Mr Court said the ACTU believes 'there will need to be some fund rationalisation'. Mr Court elaborated:

we think some of the smaller funds will have difficulty protecting member benefits, but we think that [rationalisation] is appropriate not only for that reason, but for other reasons. A lot of the smaller funds are pretty inefficient.<sup>39</sup>

5.83 The Construction + Building Unions Superannuation (C+BUS) informed the Committee in its submission that action has already been taken 'protect all balances (not just small balances) from erosion from administration fees'.<sup>40</sup>

5.84 Measures introduced from 1 July 1994 include the removal administration fees on balances of \$500 or less, accompanied by a substantial reduction of fees on all other balances. No entry fees apply and an exit fee of \$30 is limited to payments made on members leaving the industry or where employers change funds.

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37 SGCREV Sub No 107

38 Evidence, p 691

39 Evidence, p 692

40 SGCREV Sub No 95

5.85 As from 1 January 1995, C+BUS will also 'protect the value of all account balances against a negative return caused by the imposition of administrative charges'.<sup>41</sup>

5.86 The implementation of such measures by C+BUS are aimed at solving the small amounts problems currently experienced by members 'and will relieve the Australian Taxation Office of becoming a major collection agency for small superannuation contributions made by employers in this industry'.

5.87 C+BUS appears in agreement with the ACTU proposal, indicating that employers should make SG contributions to funds providing member protection before making payments to the ATO; employers should utilise existing employee accounts if necessary; and information should be made available to the employer on which funds provide member protection.

5.88 Mr Court gave the Committee some insight into the viability of member protection when he said:

In terms of practicality, member protection will certainly be more difficult in industries where there is a high level of casuals - as a proportion of the casuals and part-timers. It will also be more difficult where the fund is smaller in size and where reserves are not significant.<sup>42</sup>

5.89 In relation to the cost of protecting small balances, Mr Court advised the Committee that the C+BUS fund has estimated that only accounts with balances of less than \$430 will need support, that is cross-subsidisation. He went on to explain that 'we looked at the cost of supporting balances under \$430 and found that it is 0.003 per cent of the fund, or about \$33,000'.<sup>43</sup>

5.90 In response to a question from the Committee on the need for the ATO system, Mr Court replied:

it is important for the Tax Office to have that facility available because it closes the loop and it gives absolute confidence that, whatever the situation, your balance will be protected.<sup>44</sup>

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41 SGCREV Sub No 95

42 Evidence, p 707

43 Evidence, p 707

44 Evidence, p 708

5.91 In considering the effectiveness of the ATO scheme, the Committee has considered a number of issues and believes that, in principle, the ATO scheme will offer a satisfactory solution to the small amounts problem.

5.92 However, evidence before the Committee indicates it is likely that there will be little demand for the ATO scheme as most, if not all, superannuation funds will offer member protection.

5.93 Mr Court summarised his views on member protection and cross-subsidisation by saying:

the fact of the matter is that you have got to provide the greatest good for the greatest number and you need to do it within an administrative cost that is reasonable... what we are talking about here is a drop in the bucket compared to the overall inequity in the system.<sup>45</sup>

5.94 With regards to the cross-subsidisation issue associated with member protection, Mr Court put to the Committee that:

there is the old argument, is there not, that everybody had a small balance once. And during that early period everybody eventually will have some benefit from the system. As they become larger balances, that will reverse.

5.95 But Mr Court suggested that 'we have to be very careful about the issue of cross-subsidy, because in every fund, within every collective financial arrangement, there are cross-subsidies of one sort or another'. Mr Court supported this claim with the following example:

Take the costs associated with managing and investing the funds; virtually all fund managers charge a fee based on assets. In other words, if you want to get BT to invest a portfolio of \$100 million in equities, they will charge you about 0.6 of one per cent. That obviously falls on the higher balances much more severely than it does on the lower balances.<sup>46</sup>

5.96 The evidence before the Committee suggests that the scheme should be promoted as a last resort for those employers unable to locate a superannuation fund offering member protection. Promotion of such funds should be an integral part of the ATO's education campaign. Consideration should also be given to utilising existing employee accounts.

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45 Evidence, p 713

46 Evidence, p 712

5.97 The need for a simpler administrative system was also brought to the attention of the Committee. In utilising the ATO mechanism such simplification could result from the ability of the employer to make SG contributions to the ATO via the current PAYE forms. These forms could be amended to include an area for contributions to be indicated. On receipt of these forms, the ATO could disseminate the information accordingly.

**Recommendation 5.1:**

**The Committee recommends the ATO scheme be limited to those employers unable to find appropriate funds offering member protection or unable to utilise existing employee accounts. Current PAYE forms should be utilised to simplify employer administration of their SG obligations.**