

**Parliament of the Commonwealth of Australia**

**Fifteenth Report of the  
Senate Select Committee on Superannuation**

**Super Guarantee**

**Its Track Record**

Canberra  
February 1995

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## MEMBERS OF THE COMMITTEE:

Senator John Watson	Chair	Tasmania
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Senator Bruce Childs		New South Wales
Senator Chris Evans		Western Australia
Senator Alan Ferguson		South Australia
Senator John Woodley		Queensland

### Secretariat Staff:

Secretary:	Ms Krista Gerrard
Principal Research Officer:	Mr Andrew Cunich
Senior Research Officer:	Mr James Satrapa (to 23 December 1994)
Senior Research Officer:	Ms Ann Settin
Executive Assistant:	Ms Janice Scarabottolo

**Address:** The Senate  
Parliament House  
CANBERRA ACT 2600

**Telephone:** (06) 277 3439

**Facsimile:** (06) 277 5719

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## RECOMMENDATIONS

### ***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.*

### ***Recommendation 6.1:***

*The Committee recommends that the Government ensure that appropriate transfer protocols are adopted by all participating funds.*

### ***Recommendation 7.1:***

*The Committee recommends as the first element in its proposal to alleviate the small amounts problem that consideration be given to changing the SG threshold from \$450 per month to a quarterly amount of less than \$1350.*

### ***Recommendation 7.2:***

*The Committee recommends the removal of access to preserved amounts of less than \$500 as the second element in its proposal to alleviate the small amounts problem.*

### ***Recommendation 7.3:***

*The Committee recommends the removal of contributions tax for the first \$500 as the third element in its proposal to alleviate the small amounts problem. The Committee is unaware of any investigation by the Government on the implementation and associated revenue implication of such a measure. The Committee further recommends that an assessment be made of the most effective and efficient means of implementing a tax free threshold.*

**Recommendation 8.1:**

*The Committee reaffirms its recommendation as set out in its report, Super Supervision Bills, that extended usage of TFNs for superannuation purposes be allowed, subject to member consent.*

**Recommendation 10.1:**

*The Committee recommends the Government submit to the section 150A AIRC review of awards. This submission should outline the means by which SG and award superannuation inconsistencies can be removed.*

**Recommendation 11.1**

*The Committee recommends that the Government extend exemptions from the requirements of SG to all non-resident workers where there is sufficient evidence that superannuation is being paid in the country of residence.*

**Recommendation 12.1:**

*The Committee recommends that the Government ensure that appropriately targeted education programs be maintained to dispel the confusion and uncertainty about superannuation.*

**Recommendation 12.2:**

*The Committee recommends that some relevant information concerning SG be included in the BizHelp software package, including the number of the SG hotline.*

# **PART 1**

## **BACKGROUND**

A democracy endeavours to provide economic, social and political stability for its citizens. Economic stability takes on a particular significance in many people's retirement years. It is during this period that they are less able to generate new income.

The Superannuation Guarantee has been added to the structure of this country's retirement income system. It has been in operation for 32 months. An understanding of the impetus for its establishment, the policy framework and the industrial context is a vital prerequisite to assessing the relevance, operation and adequacy of the SG.

The first part of this report sets out to provide such a background to the Superannuation Guarantee in the context of the review that is undertaken in the second part.

Part 1 also reports on some overall observations that were received in the course of the inquiry. Assertions were made that the Superannuation Guarantee has impacted upon employment levels, casualisation of the workforce and has contributed to the fear of losing the pension. The level of acceptance of the system was also debated. Each of these issues forms part of the mosaic against which the retirement incomes policy has and will continue to develop.

It is within the frame of reference drawn in Part 1 of the report that the Select Committee on Superannuation has reviewed the system and recommended measures to alleviate aberrations from the relevant principles of retirement incomes.



## CHAPTER 1: INTRODUCTION

### Introduction

1.1 Against the backdrop of an ageing population profile and declining national savings, the Government mandated superannuation for employees in 1992.

1.2 With the introduction of the Superannuation Guarantee (SG) came two enormous challenges. First, there was the obvious need for a suitable and enduring administrative system. The second, not so obvious, challenge was to earn the 'seal of approval' from everyday Australians who have been asked to embrace a compulsory superannuation system involving far reaching economic and sociological implications. The Government has not taken this second challenge lightly as the success of SG depends largely on the confidence and participation of workers and employers alike.

1.3 As with any other project of the magnitude of SG, one would expect a few 'teething pains'. For this reason, the purpose of this report is to review the operation of the SG during its formative year.

### Background

1.4 On 2 April 1992, the then Treasurer, the Hon John Dawkins, MP, outlined the following reasons for the Superannuation Guarantee in the Second Reading Speech on the Superannuation Guarantee (Administration) Bill 1992:

- to provide a genuine retirement savings vehicle for most Australians;
- to increase the level of superannuation savings per individual, in order to maintain a satisfactory living standard in retirement;
- to provide a major extension of overall superannuation coverage in the workforce;
- to provide an efficient means of encouraging employers to comply with award superannuation obligations;

- to provide an orderly way to increase the level of superannuation support over time, consistent with the economy's capacity to pay; and
- to increase the overall national savings so as to reduce Australian reliance on the savings of foreigners to fund development.

1.5 The legislative authority for the SG is provided by the *Superannuation Guarantee Charge Act 1992* and the associated administrative detail is contained in the *Superannuation Guarantee (Administration) Act 1992*.

1.6 The Commissioner of Taxation was given the responsibility for the implementation and administration of SG.

1.7 In the course of their passage through Parliament the Superannuation Guarantee (Administration) Bill and the Superannuation Guarantee Charge Bill were referred to the Senate Select Committee on Superannuation for inquiry and report. The Committee scrutinised the legislation in its second report, *Super Guarantee Bills*. Recommendations made in that report resulted in significant amendments to the legislation before it was passed.

1.8 In view of the involvement of this Committee in both the passage of the SG legislation and the Superannuation Industry (Supervision) (hereafter, SIS) legislation, it was suggested that the Committee was in a good position to review the operation of the SG scheme.

1.9 On 15 December 1993, the Committee was given the following terms of reference for inquiry and report:

The operation of the Superannuation Guarantee Charge (SG) during its first 12 month period, with particular reference to:

- (a) the impact of the SG on women, and on casual and part-time employees;
- (b) any technical deficiencies in the *Superannuation Guarantee Charge Act 1992* and the *Superannuation Guarantee (Administration) Act 1992*;
- (c) the administration, application and coverage of the SG scheme;
- (d) compliance with the SG scheme; and
- (e) any other matters related to the operation of the scheme.

## Conduct of the Inquiry

1.10 The Committee called for submissions on the reference by placing advertisements in a number of newspapers and journals. It also contacted persons and organisations who had expressed interest in superannuation matters and were on the Committee's mailing list. The Committee received 116 written submissions.<sup>1</sup> Ninety witnesses<sup>2</sup> appeared before the Committee to give oral evidence in hearings conducted in:

Sydney	12 July 1994
Melbourne	13 July 1994
Perth	14 July 1994
Canberra	29 August 1994
Canberra	19 September 1994
Canberra	20 September 1994
Canberra	23 September 1994
Berri	4 November 1994
Canberra	28 November 1994

1.11 In this inquiry, the Committee has sought to obtain the broadest views on the operation of the SG scheme. In doing so it has sought the general impressions of the scheme from a range of participants as well as specific analysis and proposals.

1.12 To facilitate discussion of the issues raised in the terms of reference, and in accordance with the Committee's previous resolutions, unless otherwise ordered, written submissions were published on receipt and uncorrected Hansard transcripts were circulated as soon as they became available.

1.13 Oral evidence is cited by reference to Hansard as follows: 'Evidence, p XX'. Written submissions are referred to by their registration number: 'SGCREV Sub No XX'.

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1 See Appendix A

2 See Appendix B

1.14 The Committee also heard evidence during the course of the above hearings on the increase of SG contribution levels, the Superannuation Complaints Tribunal, the SIS regulations and the Super for Women reference.

1.15 There is significant overlap between this reference and the Committee's reference on the adequacy of current retirement incomes policy in meeting the needs of intermittent workers, particularly women. This report examines some of the issues raised by these references. It also makes some recommendations in respect of those issues. However, the Committee intends to undertake a much broader inquiry and analysis of these matters in the 'Super-Women' inquiry. The terms of reference for that inquiry appear at Appendix C.

1.16 The Committee records its appreciation to those who made written submissions and gave oral evidence in the inquiry.

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## CHAPTER 2:

# RETIREMENT INCOME POLICY

*'Something has to be done now to  
meet our future retirement needs'.<sup>1</sup>*

### Introduction

2.1 Superannuation Guarantee is a key component of the superannuation component of the Government's Retirement Income Policy.

### The Government's Retirement Income Policy

#### *Background*

2.2 The Government's retirement income policy (RIP) was developed to address problems stemming from an ageing population caused by the large post war "baby boom" generation moving toward age pension age within the next couple of decades. Other major factors which were taken into consideration were the disadvantages faced by women in saving for their later years and the trend towards older people leaving the workforce at earlier ages.<sup>2</sup>

2.3 The policy framework for a comprehensive retirement income policy was established in an August 1989 Statement by the Minister for Social Security, Mr Brian Howe. It detailed the policy progress made since 1983 in relation to:

- superannuation;
- social security;
- taxation;

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1 The Hon John Dawkins, MP, Treasurer, *Security in Retirement, Planning for Tomorrow Today*, 30 June 1992, p 2

2 Statement by the Honourable Brian Howe, MP, Minister for Social Security, *Better Incomes: Retirement Income Policy into the Next Century*, August 1989, p 1

- community services;
- health care; and
- housing.

2.4 Recognising that 'the key to providing better income support for the growing number of older people is increased saving', the Government was instrumental in making profound changes to the superannuation system which it considers to be the 'most direct form of saving for retirement'.<sup>3</sup> As the age pension was retained as the centrepiece of its RIP, better integration with superannuation was seen as conducive to a more effective national retirement income policy.

2.5 The Committee notes that Ageing Agendas was commissioned to engage in a strategic review of the Income and Assets Tests. Ageing Agendas produced a discussion paper in July 1994 which, amongst other tasks, looked at the objectives of the income and assets tests within the framework of the Government's RIP and other relevant policies and proposed a set of benchmarks to guide decision making about the options.<sup>4</sup> The final report of that review, *Targeting for Equity*, was presented to the Minister for Social Security on 27 November 1994.

2.6 As the major objective of the RIP 'is to ensure an adequate income for retired Australians, both now and in the future',<sup>5</sup> SG was designed to ensure that those still in the workforce have opportunities to save more, either through superannuation or otherwise, for their retirement years.

2.7 The Government considered that improving superannuation benefits for both employees and the self-employed was the major way in which total retirement income adequacy could be increased, and that this could be achieved by:

- extending superannuation coverage across the labour force;
- increasing the levels of contributions;

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3 Statement by the Honourable Brian Howe, MP, Minister for Social Security, *Better Incomes: Retirement Income Policy into the Next Century*, August 1989, p 2

4 *Questions of Balance*, a Discussion Paper, by John Barber, Gillian Moon and Sharon Doolan, 'Aging Agendas', July 1994

5 Statement by the Honourable Brian Howe, MP, Minister for Social Security, *Better Incomes: Retirement Income Policy into the Next Century*, August 1989, p 28

- ensuring that superannuation benefits are not lost when an employee changes jobs;
- making superannuation more responsive to women's pattern of working; and
- ensuring that superannuation is not wasted before or at retirement.<sup>6</sup>

2.8 Until the advent of award superannuation in the mid-1980s, Australia's retirement incomes system comprised an aged pension and voluntary superannuation. The tax incentives offered in relation to superannuation were ineffective in extending coverage of superannuation. By 1983, only a minority of the workforce had any superannuation coverage, with most being highly paid white collar workers or public sector employees.

2.9 Between 1983 and 1986, a number of policy initiatives were introduced progressively to address what were perceived as major problems with superannuation. These initiatives were:

- to change the taxation treatment of the post June 1983 component of lump sums;
- to create rollover vehicles to encourage preservation of benefits;
- to encourage the spread of superannuation throughout the workforce, beginning with award superannuation in 1985/86;
- the introduction of vesting and portability to make superannuation a more effective vehicle of providing retirement income.

2.10 The Insurance and Superannuation Commission (ISC) was established in 1987 to administer guidelines by which superannuation schemes have to operate in order to be eligible for tax concessions. The *Occupational Superannuation Standards Act 1987* (OSSA) and its associated regulations codified these guidelines, or standards.

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6 Statement by the Honourable Brian Howe, MP, Minister for Social Security, *Better Incomes: Retirement Income Policy into the Next Century*, August 1989, pp 35-36

### *Superannuation Guarantee*

2.11 In August 1991 the Government announced its intention to extend superannuation coverage throughout the workforce at large by introducing widespread compulsory superannuation.

2.12 In his statement of 30 June 1992, the then Treasurer, the Hon John Dawkins, MP, stated that:

Australia - unlike most other developed countries - meets its age pension from current revenues. Taxation paid by today's workers is thus not contributing to workers' future retirement security; the revenue is fully used to meet the annual costs borne by governments.

And, like most other people, Australians generally undervalue savings for their own future retirement. Private voluntary savings cannot be relied upon to provide an adequate retirement security for most Australians. This is so even with the very generous taxation concessions which are available for private superannuation savings.

Our existing arrangements are no longer sustainable in the face of the community's growing retirement aspirations, as well as demographic and other changes.

These changes include the ageing of Australia's population, the significant trend to earlier retirement and changing community views about what level of retirement income is adequate. None of these changes can be readily reversed by government policies. The ageing of our population can only be postponed, by ever increasing the number of young immigrants; increasing aspirations for retirement are necessarily linked to increased living standards and improved health care.

In the face of these factors, changes are required to the current reliance on the pay-as-you-go approach to funding widely available retirement incomes. This means that we need now to start saving more for our future retirement. It also means that saving for retirement will have to be compulsory. It means that these savings will increasingly have to be 'preserved' for retirement purposes. Lastly, the rate of saving will have to ensure retirement incomes which are higher than that provided today through the age pension system.

There seems to be a general awareness in the community that something has to be done now to meet our future retirement needs.<sup>7</sup>

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7 The Hon John Dawkins, MP, Treasurer, *Security in Retirement, Planning for Tomorrow Today*, 30 June 1992, pp 1-2



2.13 The *Superannuation Guarantee Charge Act 1992* (SGC Act) and the *Superannuation Guarantee (Administration) Act 1992* (SGAA) took effect from 1 July 1992.

2.14 Australia's retirement income policy now has three key components:

- compulsory superannuation;
- voluntary superannuation arrangements; and
- age pension and other social security arrangements.

2.15 Australia now has a superannuation system similar to those in other developed countries.<sup>8</sup> The system could be considered unique, however, given that the payment of compulsory superannuation is operated through private sector organisations rather than operating through a central fund or on a pay-as-you-go basis.

2.16 The introduction of Superannuation Guarantee increased community concerns about the prudential management of superannuation benefits. The supervisory regime instigated under OSSA was seen as ineffective because its sanctions were derived chiefly from the Commonwealth's taxation head of power under the Constitution. Any breach of standards by trustees could only be punished by withdrawing a fund's complying status and its associated eligibility for tax concessions. Such a sanction was seen to be both draconian and ineffective as it generally penalised the members a second time without affecting the trustees.

2.17 As this was seen to be inadequate for the purposes of protecting the superannuation assets of the Australian workforce, new legislation was enacted which gave the ISC enhanced supervisory powers flowing from the corporations and pensions heads of power under the Constitution. The advantage of this was that trustees could be made directly responsible for the management and operation of funds. Breaches of the standards are punishable with civil and criminal sanctions without endangering a fund's compliance status.

2.18 The *Superannuation Industry (Supervision) Act 1993* and a raft of associated legislation came into effect generally from the commencement of a fund's 1994/95 year of income for funds whose trustees elected that the Act apply in relation to the fund. That election is irrevocable.

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8 Senate Select Committee on Superannuation, *Super System Survey - A background paper on retirement income arrangements in twenty-one countries*, December 1991

2.19 Funds cannot be complying funds for the 1994/95 or subsequent years of income until such an election is made.

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## CHAPTER 3:

### SOME GENERAL OBSERVATIONS

#### **Introduction**

3.1 The SG scheme was introduced in the context of both retirement incomes policy and national savings policy. However, the scheme has ramifications in a range of areas.

3.2 This chapter reports on some of the general observations made to the Committee on the acceptance of SG and its impact on national saving, employment levels, casualisation of the workforce and perceptions of the abolition of the aged pension.

#### **Acceptance of the SG system**

3.3 The Committee received conflicting evidence on the acceptance by the community of the SG system. The dominant view, however, that was expressed to the Committee was that the system has been accepted. Acceptance appears to have firmed over time.

3.4 The NSW Nurses' Association stated that '[employers] all accept that they have to pay' and that the gradual increase to 9% is inevitable.<sup>1</sup> Mayne Nickless declared that it 'is a supporter of superannuation for employees, and has been for a long time, well before it was required to do so'.<sup>2</sup> The Australian Medical Association (AMA) 'has accepted the superannuation guarantee charge scheme as a feature of contemporary medical practice'.<sup>3</sup>

3.5 Sedgwick Noble Lowndes strongly supports the concept of SG but suggested that the scheme is 'more complex than what it needs to be'.<sup>4</sup>

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1 Evidence, pp 42-43

2 Evidence, p 149

3 Evidence, p 457

4 Evidence, p 184, p 186

3.6 Mr John McCormack of Melbourne submitted that SG coverage should be extended to unemployed people and some people on pensions, for example those on disability or carers' pensions. He suggested that the Government, as 'de facto employer' contribute SG on behalf of these persons.<sup>5</sup> The Committee has received submissions to its next inquiry on this issue and it will be canvassed in that report.

3.7 In contrast to evidence supporting SG, the Committee heard from a number of witnesses who stated explicitly that they were discontented with the application of SG to those who provide services to them. Many of these witnesses represented small businesses.

3.8 Given the initial concerns expressed by small businesses at the commencement of the SG scheme, the Committee noted that no criticisms of the SG scheme were submitted by the Council of Small Business Organisations of Australia. However, a number of chambers of commerce made submissions on technical and employment issues.

3.9 Mr Myers, of the WA Small Business and Enterprise Association, stated in evidence: 'in my opinion, superannuation is the worst possible form of investment you can get involved in'.<sup>6</sup> Mr Myers argued that superannuation has changed drastically and is no longer 'a three way common law deal between an employer, key personnel and its insurance company',<sup>7</sup> but rather a system 'subject to the whim of political change'.<sup>8</sup>

3.10 The Australian Liquor Hospitality and Miscellaneous Workers' Union essentially shared the view that 'a lot of employers... are not keen to pay superannuation'.<sup>9</sup> The Australian Road Transport Industry Organisation submitted that truck drivers should be responsible for their own superannuation.<sup>10</sup>

3.11 Severe reservations were expressed by the Maitland Chamber of Commerce and Industry (MCCI) about all aspects of the SG.<sup>11</sup> The MCCI submitted that jobs would be lost because of the extra costs to employers, and

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5 SGCREV Sub No 32

6 Evidence, p 386

7 Evidence, p 386

8 Evidence, p 386

9 Evidence, p 255

10 Evidence, p172

11 SGCREV Sub No 81

that the employees most affected in this regard would be those the SG was designed to benefit. In addition, the Chamber advocated that superannuation be provided as part of each individual's tax arrangements, possibly through a direct debit transaction by the ATO to a superannuation fund nominated by the individual. The MCCI was dubious of the complexity of the rules governing superannuation, which confused 'the majority of Small Business and employees', and considered that changes in the tax treatment of superannuation over the years progressively reduced its attractiveness as an investment.

3.12 The National Racehorse Owners' Association stated that 'it would be inequitable, burdensome and wrong for the superannuation of jockeys to be paid out of the hard earned money of our members'.<sup>12</sup> Superannuation 'should be directed at the jockeys themselves and not directed at the owners', the Association contended.<sup>13</sup>

3.13 Although a supporter of SG, Jacques Martin indicated the lack of conformity may result from SG still being in its embryonic stage.

The key thing is, as with any new regime, that people try to test its limits; and you will have employers who will try that out until the tax office demonstrates... that it is really serious where it does uncover cases of evasion.<sup>14</sup>

3.14 In upgrading the administration of the SG requirements for the WA public sector, the Government Employees Superannuation Board of Western Australia (GES) encountered 'considerable difficulties... in establishing the arrangements necessary to cater for a diverse and dispersed workforce, with retrospective application'. Nevertheless, the GES Board concluded that the 'administrative requirements appear manageable', commenting that much of the administrative complexity was due to the inclusion of casual and part-time employees.<sup>15</sup>

3.15 The GES Board postulated that the additional cost of SG to the WA Government in its first 10 years of operation would be about \$700 million dollars in 1992/93 values, and asserted that there was a 'strong case for compensation [from the Commonwealth Government] by an increase in financial grants to the States'. The GES Board argued that it was:

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12 Evidence, p 211

13 Evidence, p 214

14 Evidence, p 137

15 SGCREV Sub No 73

standard practice for the Commonwealth to reduce States' financial assistance grants which adversely affect the Commonwealth... [and] the Commonwealth has often provided compensation to the States for policy changes which adversely impact on the States.

The Board concluded that 'Western Australia could have been better resourced by the Commonwealth to administer the SGC requirements'.<sup>16</sup>

3.16 Mr J Kelberg, of Ocean Grove in Victoria, also expressed some mild reservations, submitting that SG contributions made on behalf of each employee to defined benefit funds should be placed into accumulation accounts, separate from their defined benefits. This would alleviate complications generated by the build up of surpluses and the associated remedy 'contributions holidays' for employers.<sup>17</sup>

3.17 Mr O.A. Malikoff, of Cleveland in Queensland, considered that single income families and retired people would be adversely affected by SG, the latter because SG costs would be passed onto consumers in the form of higher prices for goods and services.<sup>18</sup>

#### *Deferred wages or a tax*

3.18 There was also a range of evidence on superannuation being wages foregone and deferred wages. The Australian Liquor Hospitality and Miscellaneous Workers' Union considered that from its perspective:

award superannuation was initially in substitute for a pay increase. It was a conscious decision made at a national level within the union movement, through the ACTU, that it would be pursued as superannuation.<sup>19</sup>

3.19 The Chamber of Commerce and Industry of WA (WACCI) was also of the view that superannuation is deferred wages.<sup>20</sup>

3.20 The Australian Council of Social Services (ACOSS) strongly supported this view in both its submission and in providing oral evidence before the Committee. The concerns expressed by ACOSS were based on the fact that 'most low income earners cannot afford to forego current income in order to save for

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16 SGCREV Sub No 73

17 SGCREV Sub No 21

18 SGCREV Sub No 66

19 Evidence, p 257

20 Evidence, p 305

retirement'.<sup>21</sup> In addition to more urgent current needs of these low income earners, there is the question of the inadequacy of the final retirement benefit such workers will receive. ACOSS proposed that employees below a set threshold, not necessarily the current \$450 per month which in itself discriminates against those low income employees, be given the option of having the contribution paid to a superannuation fund or of saying 'I would rather this in cash'.<sup>22</sup>

3.21 Ms Jennifer Willmott, of Nedlands, WA, also questioned the effectiveness of the SG given that many low income earners have more immediate needs. In her business, Ms Willmott, has employed people such as single parents who need money now to pay the rent and feed their children. Other employees have been saving for a house deposit. Ms Willmott stated:

What I have learned about the sorts of people who take on part-time jobs like these suggests to me that they would be far better off earning an extra 5% NOW and putting it back into the economy.<sup>23</sup>

3.22 Evidence was put to the Committee on the perception of SG as a tax. WACCI identified SG as:

a tax. It should not be, but it is. The superannuation guarantee charge does not say that you must pay superannuation; it says that, if you do not, you will pay a tax instead.<sup>24</sup>

3.23 The South Australian Employers' Chamber of Commerce & Industry does not support 'the use of a penal taxation Act which does not have as its purpose the collection of revenue for the Government'.<sup>25</sup> The Chamber submitted that the use of the Australian Taxation Office (ATO) to supervise expenditure on SG created a perception in business that superannuation is a tax matter. Therefore, compliance would be met only to the minimum standard.<sup>26</sup>

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21 SGCREV Sub No 86

22 Evidence, p 239

23 SGCREV Sub No 13

24 Evidence, p 307

25 SGCREV Sub No 42

26 SGCREV Sub No 42

3.24 Jacques Martin also questions the involvement of the ATO in the superannuation system. While 'the superannuation guarantee certainly has its basis in tax... the actual operation of the superannuation system should not be seen at the tax office first and at the industry second'.<sup>27</sup>

3.25 While questioning the constitutional authority of the Commonwealth Government to impose superannuation policies on the community, WACCI does see a need for superannuation policy to be coordinated at a national level. A possible solution 'may be for the State Governments (which do have constitutional powers over superannuation) to cooperate with the Commonwealth in designing a national and properly legislated scheme'.<sup>28</sup>

### National saving

#### *Treasury estimates*

3.26 The Committee outlined the effects of national saving and Superannuation Guarantee in its third report, *Super and the Financial System*, which was published in October 1992. That report focuses on a submission received from Treasury which notes:

... the impact of the SGC on national saving has the following components:

an increase in net private saving due to

- an increase in net private **superannuation saving** (measured as contributions plus earnings less fund payouts),
- a reduction in other forms of private saving;

plus an increase in public saving due to

- reduction in age pension outlays, partly (and in early years more than fully) offset by
- an increase in the cost of the **superannuation tax concessions**.<sup>29</sup>

3.27 Treasury's submission continues by explaining that its projections of the impact of the implementation of SG on national saving, which are broken down into the components listed above, were derived from the results of simulations

27 Evidence, p 137

28 SGCREV Sub No 24

29 Treasury, SG Sub No 47, 11 May 1992



conducted on the National Mutual Retirement Incomes Policy (RIP) Model. The projections estimate that SG will increase private superannuation savings by about 2 per cent of GDP within fifteen years, increasing to more than 2.5 per cent of GDP by the year 2020, before levelling off. The cost of tax concessions as a result of SG implementation over fifteen years is estimated to be 0.55 per cent of GDP, dropping very slightly to 0.53 per cent of GDP by 2020.<sup>30</sup>

*Estimates by the Retirement Income Modelling Task Force*

3.28 A recent paper prepared by Rothman and Bacon, of the Retirement Income Modelling Task Force (RIM), discusses how major demographic trends (particularly changes in fertility and mortality) and alternative scenarios impact on important Australian aggregates, such as the asset holdings of superannuation funds, and on age and service pension costs.<sup>31</sup>

3.29 Included in the modelling were some 1994 projections based upon labour force participation, adjusted for assumptions about entry age to the workforce. Projections indicate that 'following parameter adjustments, the current base RIP runs indicate a somewhat higher impact of the Superannuation Guarantee on national savings'.<sup>32</sup>

3.30 The adjustments referred to a labour force entry at age 20 as compared to previous projections which assumed labour force entry at age 25. Figure 3.1 shows the resulting impact on net private savings, age pension outlays, net tax concession costs, and national savings.

3.31 Additional net private savings over the next fifteen years resulting from lowering the assumed age of labour force entry age from 25 to 20 years are projected to amount to over 0.2 per cent of GDP, peaking at about 0.45 per cent of GDP by about the year 2030, before tailing off to about 0.35% in the following decades. Additional savings in aged pension outlays would be comparable with the additional net private savings, overtaking the latter in the very long term.

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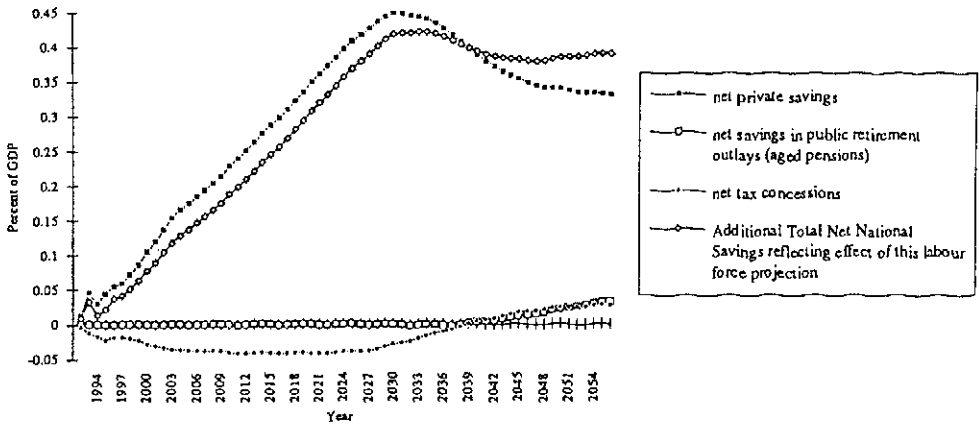
30 Treasury, SG Sub No 47, 11 May 1992

31 Rothman, G.P., & Bacon, B.R., Retirement Income Modelling Task Force, *The Impact of Population and Labour Force Scenarios on Superannuation, Tax Expenditures and Pension Costs*, July 1994

32 Rothman, GP, & Bacon, BR, Retirement Income Modelling Task Force, *The Impact of Population and Labour Force Scenarios on Superannuation, Tax Expenditures and Pension Costs*, July 1994

Figure 3.1

Additional Net Annual National Savings compared with previous analysis of impact of SGC, arising from new labour force projections, 20 year old entry to workforce



Source: Rothman, G.P., & Bacon, B.R., Retirement Income Modelling Task Force, *The Impact of Population and Labour Force Scenarios on Superannuation, Tax Expenditures and Pension Costs*, July 1994

### Other comments

3.32 WACCI cites the FitzGerald Report in questioning the effectiveness of SG in terms of national savings. FitzGerald states:

the Superannuation Guarantee Charge cannot effectively serve its retirement income objectives in the face of rapid aging of the population unless it raises national saving, so as to finance ahead of time a build-up of the capital stock per employee in the economy.<sup>33</sup>

3.33 Projections indicating an increase of GDP by around 1.5 per cent, with a possible two-thirds leakage through lower savings, is not seen by WACCI as making a significant contribution to national savings. WACCI concludes that 'in the context of aggregate national savings, the Charge in isolation is not efficient'.<sup>34</sup>

33 SGCREV Sub No 24

34 SGCREV Sub No 24

3.34 Professor David Allen, from Curtin University of Technology, WA, suggested a need for a 'level playing field as far as possible' to encourage all forms of savings.<sup>35</sup> This need could be enhanced by encouraging savings across the board, with various tax incentives to save. 'I think you should push saving as a whole and not just in particular forms.'<sup>36</sup>

## Employment

3.35 In the July 1994 issue of *ACCI Review*, the Australian Chamber of Commerce and Industry (ACCI) looked at the employment effects of the SG. ACCI identified unemployment as Australia's number one priority, but opined that the effect of SG on unemployment has remained entirely unnoticed. The article stated:

It is important to recognise that the Superannuation Guarantee has cost the Australian economy jobs and will continue to cost jobs as the levy is raised on an almost annual basis until the year 2002. The next round occurs from July 1 when the minimum Superannuation Guarantee payment rises from three per cent to four per cent. Whatever this may do for retirement incomes out beyond the year 2020, the immediate impact must be to slow the recovery in the number of jobs created.<sup>37</sup>

3.36 Despite using recent ABS employment statistics to support this claim on the effect of SG on unemployment, ACCI indicates that the ABS data should be treated with some caution because the series is based on the company register where new firms are not represented to the same degree as existing firms. Notwithstanding this comment, ACCI draws the reader's attention to the ABS table of the trends of wage and salary earners (see Figure 3.2) and concludes that the growth in the number of employees reduced as soon as SG was introduced and has continued to fall:

The introduction and continual increases in the Superannuation Guarantee are inconsistent with current efforts to reduce unemployment... . The July increase in the Superannuation Guarantee by raising the cost of employment will undermine efforts to lower unemployment.<sup>38</sup>

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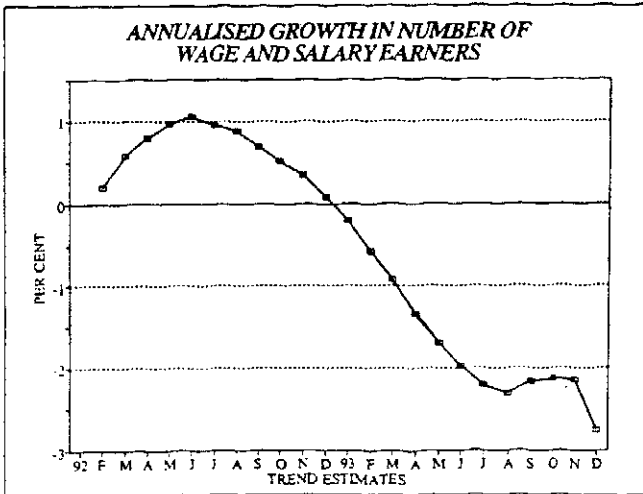
35 Evidence, p 364

36 Evidence, p 365

37 Australian Chamber of Commerce and Industry, *ACCI Review, Employment Effects of Superannuation Guarantee*, July 1994, p 6

38 Australian Chamber of Commerce and Industry, *ACCI Review, Employment Effects of Superannuation Guarantee*, July 1994, p 7

Figure 3.2



Source: Australian Chamber of Commerce and Industry, ACCI Review, *Employment Effects of Superannuation Guarantee*, July 1994

3.37 In a later article, ACCI estimated the number of jobs lost based on the Yellow Pages Small Business Index. Questionnaires, put to very small firms (1-20 employees), asked respondents to name anything which they felt was reducing the number of jobs offered. Results showed 12% of respondents identified the cost of superannuation as causing job restrictions. On this basis, ACCI has calculated that 'there might have been around 100,000 additional people working today than are in fact working had the Superannuation Guarantee not been introduced'.<sup>39</sup>

3.38 Similarly, the Victorian Farmers Federation believes that the 'SGC is a cost of employment which acts as a further disincentive for creating employment'.<sup>40</sup>

3.39 A survey conducted by Professor Tapen Sinha and Ms Rebecca Benedict, of Bond University School of Business, found 23.6 per cent of respondents reduced their number of employees or did not replace employees who quit in order to meet SG costs. Assuming that there are at least 800,000 small businesses in Australia, Sinha and Benedict estimated, on the basis of the sample percentage, that up to 192,000 jobs may have been lost.<sup>41</sup>

39 Australian Chamber of Commerce and Industry, ACCI Review, *The Super Guarantee - Fewer Jobs, Slower Growth*, October 1994, p 20

40 Evidence, p 224

41 SGCREV Sub No 3

3.40 In a separate submission, Professor Sinha measured, what he labelled, the 'opportunity cost' of SG. Expressed in terms of lost income tax revenue and increased unemployment benefits, he calculated that the opportunity cost will account for between 36 per cent and 72 per cent of age pension cost when SG is fully functional. Professor Sinha questions whether the purported savings to age pension outlays due to SG will eventuate.<sup>42</sup>

3.41 In discussing the effects of employment and SG, the Chamber of Commerce and Industry of WA identified small business as being most affected by SG. Even with transitional provisions, an increase in labour costs impacts heavily. These additional costs are borne by Australian industries forced to compete with overseas markets. However, WACCI did, in discussing employment and SG, acknowledge that:

All of the job creation in Australia over the past two years has occurred in the small business sector, with most employment projections pointing to new small businesses as a key source of employment growth.<sup>43</sup>

3.42 The Adult and Community Education Council submitted that:

if the current chronic underfunding of the NSW ACE sector continues, the sector will be unable to sustain its present staff when superannuation contributions rise to even 6%.<sup>44</sup>

3.43 One employer who was not aware of the impact of SG on employment or unemployment was Mayne Nickless who informed the Committee that the SG is not an issue in determining its rate of employment and reiterated that it believed in superannuation and is 'happy to meet an obligation'.<sup>45</sup>

3.44 The Committee compared the evidence associating SG and unemployment with figures in the *Australian Market Review - November 1994*. The Australian Bureau of Statistics data indicate that, notwithstanding the introduction of the SG, employment has grown since 1992.

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42 SGCREV Sub No 7

43 SGCREV Sub No 24

44 SGCREV Sub No 64

45 Evidence, p 154

## Women's work patterns

3.45 Retirement benefits for women under the current occupational superannuation system are comparatively lower than for their male counterparts because of the intermittent work patterns of most women. This intermittency reflects the parenting role played by women during their working lives. A woman's work pattern is greatly affected by child bearing and child raising.<sup>46</sup> A pattern emerges indicating high participation in early working life, an interruption to the pattern resulting from time taken to start and raise a family, and then a surge in the pattern indicating a return to regular paid work in the latter part of life.

3.46 The evidence of the NSW Nurses' Association confirmed the problems experienced by women because of intermittent work patterns and submitted that allowances have not been made for the breaks in employment taken by women for the following reasons:

- maternity leave or other family reasons;
- changing employment;
- early retirement;
- substitution of full-time employment by part-time or casual employment; and
- late re-entry to the workforce when their families eventually become relatively independent.<sup>47</sup>

3.47 The Association asserts that because of these interruptions, 'the average working life for women is significantly shorter than that of men'.<sup>48</sup> The Women's Economic Think Tank referred the Committee to ABS data which indicates that nearly a quarter of the women in the workforce had between 4 weeks and 39 weeks away from work in 1993. The reasons for taking these breaks differ greatly from the reasons men take career breaks. The differences are interesting:

62,000 men took career breaks; 40% took paid leave only, 32% unpaid leave only, the balance a mixture. Nearly 2/3 took time off for personal reasons including education, a quarter for work related reasons and there was barely a per cent for family reasons.

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46 Office of Cabinet, Queensland, SGCREV Sub 4

47 SGCREV Sub No 26

48 SGCREV Sub No 26

In contrast the 139,000 women who took career breaks were much more likely to fund their own time out: only 14% had their full leave paid, 52% took their whole leave unpaid, and the balance mixed pay and no pay. Their reasons were also different: two thirds took their breaks for family reasons, 6% for work reasons and a quarter for personal reasons.<sup>49</sup>

3.48 The Queensland Cabinet submission categorised women's work patterns and outlined the superannuation implications for each category:

- **Women who are self-employed** are limited to participating in private superannuation schemes and depending on the success or failure of the enterprise, may or may not accumulate sufficient contributions to provide a reasonable standard of living in retirement.
- **Women who are unpaid workers** are not eligible for membership of a superannuation scheme in their own right. They may rely on their spouse's benefit at retirement, death, disability. In the case of a breakdown in the relationship, there is little, if any, guarantee of a percentage of that benefit.
- **Women whose work patterns are intermittent** often have a number of accounts and are charged administrative fees on each one. The end result is usually a negative return on contributions invested. Final benefits for these workers are significantly low and dependency on the aged pension is more than likely.
- **Women in low income situations** include workers in part-time casual and full-time positions who, until the introduction of SG, would not have been in receipt of superannuation. Although these women will accumulate some benefits, it will not suffice in retirement. A dependency on the aged pension would be expected.
- **Women in above average wage positions for continuous periods** would be eligible for superannuation contributions by their employers. Ample benefits would be received at retirement, and combined with any assets accumulated, these workers may not be eligible for the aged pension.

3.49 In summary, the Queensland Cabinet submission states that in order for women to receive adequate retirement income from superannuation, they would be required to contribute a 'continual and significant percentage of average weekly earnings to a superannuation fund for thirty to forty years'.<sup>50</sup>

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49 SGCREV Sub No 27

50 SGCREV Sub No 4

3.50 This suggests that the part-time workforce is not catered for by the SG system. The Australian Federation of Consumer Organizations provided data on the size of this sector of the labour force:

Approximately 1.8 million, or about 22% of all workers are employed part-time in a labour force of around eight million people. This means that a sizeable part of the population receives little benefit from superannuation and are likely to be dependent on the age pension in their retirement.<sup>51</sup>

3.51 Ms Hazel Bateman, of the School of Economics, University of NSW, appeared before the Committee discussing the differences between male and female access to SG. Ms Bateman put these differences down to work force participation and social differences. It was then stated that:

We would like to emphasise that these differences cannot be resolved easily by tinkering with the superannuation guarantee... we point out that one should look at the entire retirement income system, not just the superannuation guarantee or the age pension... So while women may fare poorly under the superannuation guarantee alone, their circumstances are somewhat improved if one considers the age pension as well.<sup>52</sup>

3.52 Margaret Patrickson, Linley Hartmann and Leonnie McCarron of the University of South Australia submitted an analysis of the problems encountered by older women, mainly teaching staff, in the South Australian education system.<sup>53</sup> A legacy of the indirect discrimination that operated prior to the 1980s is the reduced access to superannuation to women because of broken work patterns, marriage, child rearing and lack of seniority. Although these grounds of discrimination have now been overcome, the earlier lack of access to superannuation has left most older women less financially secure than their male counterparts and in a less viable position to finance any early retirement options.

3.53 The Government Employees Superannuation Board of Western Australia (GES) commented that women and part-time employees (a large percentage of whom are women) are heavily represented in the Fund's non-contributory superannuation:

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51 SGCREV Sub No 20

52 Evidence, pp 119-120

53 SGCREV Sub No 16



The experience of the GES Fund is that many people do not join contributory superannuation because of other financial commitments, such as mortgage payments.<sup>54</sup>

## **Casualisation**

3.54 It is a universally acknowledged phenomenon that individuals no longer spend their working life with a single employer as was once the case. This increase in mobility has been accompanied by another more recent trend, that of casualisation of the workforce.<sup>55</sup>

3.55 It was submitted by Mr Davies of Mayne Nickless that:

increasingly census data will reveal that there are increasing numbers of people who are working on a casual basis or a part-time basis and sometimes holding down two jobs on that basis.<sup>56</sup>

3.56 Another facet of casualisation is an increase in 'contract work'.<sup>57</sup> For example, the Australian Road Transport Industrial Organisation submitted that truckdrivers are subcontractors because the industry contracts 'to hire a truck, and the fact is that you need a driver to drive the truck. [The industry does] not contract for the labour of the driver'.<sup>58</sup> These drivers are considered 'independent businessmen in their own right and there is a view that the SGC should not even apply to subcontract truck drivers'.<sup>59</sup>

3.57 The casualisation of the workforce seems to be moving many employees out of the SG net. The issues of 'contract work' and casualisation are connected to that of the SG coverage of contractors and the self-employed. This is discussed at Chapter 11.

3.58 Evidence received by the Committee indicates that small businesses have been most affected by the introduction of SG. Additional costs for small businesses have contributed to the further casualisation of a workforce in industries where the work was by its nature already structured in terms of casual, temporary and part-time work.

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54 SGCREV Sub No 73

55 Maratheftis, Evidence, p 43

56 Evidence, p 158

57 Evidence, p 73

58 Evidence, p 169

59 Evidence, p 169

3.59 Prior to the introduction of SG, small businesses were likely to be paying minimal, if any, superannuation for their employees. And while the timetable for SG allows for a gradual rise in levels of superannuation support, small businesses have the largest proportional increase in superannuation costs over the period.<sup>60</sup>

3.60 The Chamber of Commerce and Industry of Western Australia identified that small businesses are:

likely to be more seriously affected by the Charge because they tend to be more labour-intensive than large firms. If labour is a larger proportion of a business's input costs, then an increase in labour costs will have a disproportionate effect.<sup>61</sup>

3.61 This view was supported by representatives of the Riverland Horticultural Council.<sup>62</sup>

### **Employment and Casualisation: Conclusion**

*Apart from the projected impact of SG on national savings, little analysis has been made about the impact of SG in other areas. Given the evidence received on employment and casualisation, the Committee believes the Government, through its Retirement Income Modelling Task Force, should undertake, on a continuing basis, further analysis and modelling on the effectiveness of SG as part of Australia's retirement income policy. The completion of such an analysis would provide a foundation where actual assessment would be made of how SG has affected or will affect job numbers and casualisation of the workforce, or any other matters that may arise in relation to Australia's workforce. The Government will then be able to modify SG as necessary to ensure an effective form of compulsory superannuation in Australia.*

### **Fear of losing the age pension**

3.62 A consistent public perception of the future of the age pension was presented to the Committee: 'there is a real fear that the age pension will go'.<sup>63</sup> This concern is prevalent despite statements by both the major political parties

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60 SGCREV Sub No 24

61 SGCREV Sub No 24

62 SGCREV Sub No 47

63 Eva Cox, Evidence, p 57

that an age pension safety net will remain. Ms Eva Cox of the Women's Economic Think Tank submitted that 'the fear is widespread' although 'the present government keeps saying that it is going to maintain [the pension]'.<sup>64</sup>

3.63 This was reinforced by Ms Susan Ryan, of ASFA, who identified the fear:

as an understandable fear when generations of Australians, who have been brought up in the expectation that when they retire they will get the old age pension, suddenly hear and read all of this information that retirement is now something that they have to save up for themselves. It is a huge change. I have been publicly critical of the government, not for making the change but for not giving adequate attention to the need to explain those changes and to reassure people by in-principle commitments in relation to access to the old age pension for people whose self-funded retirement is not adequate.<sup>65</sup>

3.64 The Trades and Labour Council of WA indicated that while the fear has decreased somewhat there is still a notion, especially with low paid workers, that access to the aged pension will be restricted. A contributing factor to this fear is a combination of media presentation of the SG philosophy and a lack of understanding by the workers.<sup>66</sup>

3.65 The key role of the age pension in the Government's overall retirement income policy was outlined in *Security in Retirement*:

There is also concern that those who are unable to provide for their retirement - because, for example, of their inability to work - have access to adequate, publicly provided, retirement security. The framework for superannuation announced in this statement fully protects that access. By requiring those who can do so to save for their retirement, better retirement incomes can be provided for those who cannot save.

**... This Government sees the age pension not just as a security net for future retirees but as the key-stone of its superannuation policies. It expects that most future retirees will continue to be eligible for the age pension [for example, through a part pension] which, with self-provided and tax-assisted superannuation, will allow a higher retirement income than is now generally available.**<sup>67</sup> [Emphasis added]

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64 Evidence, p 57

65 Evidence, p 91

66 Evidence, p 292

67 The Hon John Dawkins, MP, Treasurer, *Security in Retirement, Planning for Tomorrow Today*, 30 June 1992, p 2

3.66 This position of the age pension in the Government's retirement incomes policy was reiterated by the Treasurer on 28 June 1994 when he stated:

The age pension and associated social security arrangements will always remain central elements of that policy, providing for everyone the essential safety net standard of retirement living.

However, superannuation, with both compulsory and voluntary components, has been developed as the principal means of providing for a higher standard of retirement living.<sup>68</sup>

3.67 Similarly, the Coalition has identified the key role of the age pension in its retirement incomes policy. Mr David Connolly, MP, Shadow Minister for Superannuation and Retirement Incomes, told attendees at the recent ASFA conference:

The Coalition accepts that even with the most optimistic predictions, a **superannuation strategy will not replace the need for a social security safety net as part of our welfare system.**<sup>69</sup> [Emphasis added]

3.68 Professor Allen acknowledged the 'strong role for the age pension'. He stated that the age pension will have to be a 'safety net and, clearly, in terms of the less advantaged members of society, they will still rely to a great extent on it'.<sup>70</sup>

3.69 The Catholic Women's League of Tasmania identified some of these less advantaged members as:

Women who are full-time homemakers and so are not in paid employment, often because of a caring role for the disabled, chronically/terminally ill, the young or elderly, and

Women who are in low paid, low status work and are therefore unable to accumulate Superannuation retirement income.<sup>71</sup>

3.70 Whilst acknowledging that the political parties have stated that there will not be an abolition of the old age pension, the Committee is concerned that this message has not been effectively conveyed.

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68 The Hon Ralph Willis, MP, Treasurer, *Statement on Superannuation Policy*, 28 June 1994

69 *Superannuation: The way ahead*, 11 November 1994

70 Evidence, p 368

71 SGCREV Sub No 8

## Defined Benefit Funds

3.71 The Institute of Actuaries of Australia (IAA) gave evidence that government legislation has progressively created a difficult climate for defined benefit funds. The introduction of the SG arrangements:

has generally been more difficult for defined benefit funds to adapt to than for accumulation funds... because the legislation, as with most superannuation legislation, tends to be framed with accumulation funds in mind, and then defined benefit funds have been allowed for generally as something of an afterthought. As a result, defined benefit funds face a more complex set of rules and relations in relation to SG than do accumulation funds. Much of the complexity was unnecessary...

Trying to change it now to remove [the complexity] would probably create even more complexity. However, we would urge the government to develop future policy in a way which is even handed between different types of funds.<sup>72</sup>

3.72 The Committee did not receive any other evidence on this issue. It is therefore unable to make specific recommendations but draws to the Government's attention the need for consideration to be given to the structure and operation of defined benefit funds in the development of superannuation policy and regulation.

3.73 An observation relating to public sector superannuation was made by the Australian Education Union (AEU). It submitted that 'the introduction of the SG must be characterised as a responsible step'. The AEU went on, however, to note that some state government schemes had reduced the superannuation arrangements for public sector employees to the minimum SG requirement.<sup>73</sup>

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72 Stephen Partridge, Evidence p 475

73 SGCREV Sub No 116

## PART 2

### TINY SUMS, BIG PROBLEM:

#### THE SMALL AMOUNTS PROBLEM

A major impact of the SG scheme has been the creation of a huge number of small balance accounts. This phenomenon, which has accompanied an increase in superannuation coverage, has become known as 'the small amounts problem'.

This part of the report examines the issue of the small amounts problem and the impact of SG on women, part-time and casual workers. It looks at where small amounts come from and what it is that keeps them small. The Committee recommends a package of measures that **together** will alleviate the diminution of small balance accounts.

All superannuation accounts start at a low level. For those with a regular, average wage, the balance increases over time. Some accounts, however, do not increase and, in fact, decrease over time. Part-time and casual workers, predominantly women, receive relatively low wages and therefore receive low SG contributions. It is this group of superannuation account holders that causes the Committee concern.

The Committee was consistently told, by employees and employers, that member accounts with small balances are eroded by administrative fees and charges. These fees are generally in excess of investment income earned. And once contributions cease to be made, the account can eventually dwindle away to a zero balance. The Committee also received evidence on the effect on retirement income of multiple accounts; the SG \$450 per month threshold; preservation rules, in particular, access to amounts less than \$500; and contributions tax. The potential for any retirement benefit can be minimal or non-existent where these factors act singularly or in concert to erode the account.

The Treasurer has acknowledged this problem and stated 'the Government is determined to achieve a comprehensive solution which will offer full protection for all members with small amounts'.<sup>1</sup> The solutions outlined by the Treasurer include the establishment of an ATO collection mechanism and a number of other measures which are scrutinised in this Part.

A large number of submissions dealing with the impact of SG on casual and part-time workers focused specifically on women. However, the Committee is aware of an increasing trend for male members of the population to take up casual and part-time work. The Office of the Status of Women provided figures indicating that between 1966 and 1992, part-time employment almost quadrupled for both women and men. From the early 1970s to 1990, part-time employment for women and men rose at nearly the same rate, but after 1990 increased more rapidly for men than for women.<sup>2</sup>

**The Committee will be conducting a further and broader inquiry into the adequacy of current retirement incomes policy in meeting the needs of those with intermittent work patterns. The terms of reference for that inquiry appear at Appendix C.**

The Committee anticipates that the present report will provide a starting point for contributors to its future inquiry and stimulate debate on the mechanisms that could be implemented to enhance the effectiveness of retirement incomes policy for those whose work participation falls outside the traditional 30 to 40 year working pattern.

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1 The Hon Ralph Willis, MP, Treasurer, *Statement on Superannuation Policy*, 28 June 1994

2 SGCREV Sub No 68

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## CHAPTER 4:

# THE ORIGIN OF SMALL AMOUNTS

### Small amounts: where do they come from?

4.1 The introduction of the compulsory superannuation scheme has increased the superannuation coverage of the **working** population.

4.2 Figures provided by the Office of the Status of Women indicate that part-time employees with superannuation coverage has increased from 19% in 1988 to 54% in 1992. Female employees with superannuation coverage is estimated to have increased from 37% to 76% over the same period.<sup>1</sup>

4.3 Despite this increased coverage which has been attributed to the SG scheme, the adequacy of the superannuation support these workers now receive has been subject to some debate. Ms Eva Cox, of Women's Economic Think Tank, describes SG as 'a scheme somebody should have brought in about 1910 when people had lifetime jobs, because that is really what the scheme works best for'.<sup>2</sup>

4.4 The key to coverage is occupation and the Australian Federation of Consumer Organisations (AFCO) described this current policy arrangement as 'income derived'. The more a person earns, the more contributions are paid to a fund, and ultimately a larger benefit in retirement. For these reasons AFCO sees SG as benefiting middle to high income earners with stable employment histories and salary increases.<sup>3</sup>

4.5 The Association of Superannuation Funds of Australia (ASFA) submission also pinned the reason for the small amounts down to the fact that SG contributions are proportional to wages. Part-time and casual workers' wages are small because of:

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1 SGCREV Sub No 68

2 Evidence, p 73

3 SGCREV Sub No 20



- the short duration of employment;
- the small number of hours worked in a given period; or
- a combination of both.<sup>4</sup>

4.6 Casual and part-time workers on low or intermittent incomes receive small and irregular contributions, often across a number of funds which results in small capital accumulation and relative low returns. Erosion of the benefit by fees and charges exacerbates the problem.

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## 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 Jaspizza, 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 Jaspizza 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 (\$m)	Year 1995/96 (\$m)	Year 1996/97 (\$m)	Year 1997/98 (\$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.**

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## CHAPTER 6:

# MULTIPLE SMALL ACCOUNTS

### The problem

6.1 Employers usually choose the superannuation funds into which they pay superannuation contributions on behalf of their employees. They will generally attempt to pay all contributions that are payable in respect of their employees into one fund. The consequence for part-time and casual workers is that they will frequently have several superannuation accounts, each resulting from different employment. Furthermore, fees and charges are incurred on each account.

6.2 Mr Peter Woodcock, of Supercard Australia Pty Ltd, advised the Committee that approximately 700,000 rollovers are recorded annually and that this is expected to increase given the extension of coverage by SG. Exit or 'benefit calculation' fees charged by the majority of institutions and funds reduce retirement benefits.<sup>1</sup>

6.3 Mr Woodcock submitted that not only do small sums from many employers exacerbate the administrative charges problem but that many employees may be unaware of the number of funds into which contributions are being made and may fail to notify funds of a change of address. This contributes the funds' difficulties in keeping track of members.

6.4 In his submission to the Committee, Mr David Bourke, of Bungendore, NSW, outlined his personal experiences of having multiple superannuation accounts. Mr Bourke did not believe that the trend towards casual and part-time employment during the last two decades was taken into consideration in implementing SG.

6.5 A frequent occurrence is that an individual accumulates multiple accounts and pays multiple administrative fees, resulting in an unproductive form of retirement savings. Attempts to combine these accounts into one fund can be unsuccessful for a number of reasons, including employer refusal to make contributions into the employee nominated fund, as well as the daunting rollover fees imposed by the individual funds.<sup>2</sup>

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1 SGCREV Sub No 2

2 SGCREV Sub No 54

6.6 Mr Gregory Fogarty, of Kedron in Queensland, is a computer analyst. He works as a contractor from an agency, which is considered to be his employer and is therefore obligated to pay SG contributions on his behalf. The agency apparently does so by deducting the contribution from his gross salary. Although he had his own fund prior to the introduction of the SG, he encounters difficulties in persuading some agencies to place the contributions into his account. At the present time, he has three superannuation accounts and anticipates that before his professional career ceases he is likely to have a dozen or more accounts, each of which will be eroded by administrative charges. The foregone wages also makes it harder for him to service his own account.<sup>3</sup>

### **Amalgamating superannuation accounts**

6.7 The submission by the Australian Federation of Consumer Organisations (AFCO) identifies the primary purpose of superannuation as providing retirement income. Under the current system, multiple accounts are promoted, especially for casual and part-time workers. AFCO believes the best method of achieving an effective retirement income:

is for superannuation contributions to be consolidated into a single account. This will allow capital accumulation and compound interest to build a sizeable retirement investment.<sup>4</sup>

6.8 Such an amalgamation would result in only one set of administrative fees and charges being imposed, as against the current situation where some employees are subject to a number of imposts.

6.9 The NSW Cabinet Office supported the need for employees to amalgamate multiple accounts. An option already available in NSW was cited, where, with employer agreement, employees receiving superannuation through awards or agreements could nominate a single fund into which their contributions should be paid.<sup>5</sup>

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3 SGCREV Sub No 106

4 SGCREV Sub No 20

5 SGCREV Sub No 19



6.10 The Heywood Branch of the Victorian Farmers' Federation encouraged the establishment of full portability of superannuation to enable people to reduce the erosion [caused by multiple administrative costs] on superannuation accruals of people who have more than one superannuation account.<sup>6</sup>

6.11 Mr Charles Copeman, of Roseville, NSW, submitted that measures were needed for the part-time earnings of older people who already have adequate superannuation coverage. The 'disproportionate' amount of fees and charges levied on superannuation accounts to which he had commenced contributions as a non-executive director of several companies would not eventually be offset by the final benefit as retirement was imminent.<sup>7</sup>

### Choice of fund

6.12 Employers choose the fund into which SG contributions are made. A casual or part-time employee who is a member of a superannuation fund can have additional superannuation accounts opened on her/his behalf by employers who do not wish to make contributions to the fund to which the employee already belongs as a result of previous employment. The reason given by employers for this inflexibility is because of the extra costs involved in administering superannuation payments to numerous funds. The result is that the employee becomes a member of a number of funds, each of which charges fees. This reasoning has been met with varying responses.

6.13 AFCO believes that 'consumer choice should be at the heart of the Government's superannuation policy'.<sup>8</sup> Lack of choice is identified as a contributing factor to the small amounts problem. Being able to choose a fund that best suits an employee's needs and the option for amalgamating multiple accounts would result in a single account 'they could carry with them throughout their working career'.<sup>9</sup>

6.14 The NSW Nurses' Association stated that NSW legislation 'permits the employee to have [the] right of nomination'.<sup>10</sup> However, in combination with the SG provision that employers choose the fund into which SG is paid, a situation has arisen where some nurses have award superannuation contributions paid into

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6 SGCREV Sub No 31

7 SGCREV Sub No 34

8 SGCREV Sub No 20

9 SGCREV Sub No 20

10 SGCREV Sub No 26

the award fund of their choice, and the balance up to the appropriate SG level of contribution, paid into the employer-established account. The existence of multiple accounts results in multiple administrative fees which 'inexorably diminish the amount intended for the superannuation payout on retirement'.<sup>11</sup>

6.15 This lack of choice 'appears to be the outcome of assumptions that both continuous work and continuous employment in a certain industry'.<sup>12</sup> Ms Eva Cox, Women's Economic Think Tank, believes that occupational or employer based schemes present numerous problems for women because women's employment is less occupationally based and open to intermittency.

6.16 Mr Craig Tehan, of Hillarys, WA, has experienced the shortcomings of lack of choice. In evidence put to the Committee, Mr Tehan related his personal experiences resulting from casual employment.<sup>13</sup> Because of intermittent work patterns, Mr Tehan has a number of accounts being eroded by administrative fees and is unable to rollover his entitlements from a superannuation account administered by the WA Government Employees Superannuation Board until he has been out of State public sector employment for 12 months. Mr Tehan advised the Committee that employers do not approach the employee about choice of fund.

6.17 In Mr Tehan's situation, a choice of fund would allow multiple employer contributions to be paid into one fund and a sense of ownership of the account by having a say in 'what interest could be earned and what fees could be charged. At the moment employers are just getting the best deal for themselves'.<sup>14</sup>

6.18 Mr Mark Smith, of Practising Accountants Centre for Education (PACE), informed the Committee that a questionnaire had been sent to practicing accountants in the PACE organisation on superannuation and how it related to them. Responses were received from 119 practitioners which 'represented a minimum of 1000 funds':

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11 SGCREV Sub No 26

12 SGCREV Sub No 27

13 SGCREV Sub No 60

14 Evidence, p 269

An interesting finding was that people wanted control over their investments and their destiny, and they wanted their investments to be cost effective. They did not like paying fees and superannuation contributions to large institutions only to see those funds consumed by large administration expenses...<sup>15</sup>

6.19 Professor David Allen argued that 'it would be far better for individuals to make their own choice of pension schemes... I think that individuals are in a situation to judge their own circumstances'.<sup>16</sup> Individual requirements of wealth, age and position in the life cycle would be considered by individuals in making decisions about superannuation provisions. Professor Allen believes 'it is better to make decisions at the micro level rather than have decisions done by proxy':

I think it is a reasonably accepted observation in financial economics that if you have decisions made by proxy, by third parties, then you get what are termed agency costs and you do not get a reconciliation of interests or objectives.<sup>17</sup>

6.20 The WA Farmers Federation/WA Shearing Contractors Association was represented by Mr Neville Munns who appeared before the Committee. Mr Munns told of the inability for employees to choose a fund outside the ones nominated in the award. An election of fund beyond those stipulated, while of advantage to the employee, may be detrimental to the employer. An example was given of:

a shearing contractor with, say, 60 employees, who has 75,000 funds to choose from, could have 60 funds into which he would be paying cheques. He would spend a week drawing the cheques.<sup>18</sup>

6.21 AFCO believes the administrative burden of employee choice would be minimised by increasing technology in the workplace.

Many of these employers... are now direct crediting wages into certain accounts. So it would not be that much more difficult to have a computer mechanism to pay in into a fund.<sup>19</sup>

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15 Evidence, p 333

16 Evidence, p 360

17 Evidence, p 361

18 Evidence, p 354

19 Evidence, p 574

6.22 The Committee noted that the Treasurer's Statement of 28 June 1994, foreshadowing the introduction of 'member protection' rules,<sup>20</sup> would ameliorate one of the main problems experienced by holders of multiple superannuation accounts, that is, the erosion of small accounts through administrative charges. However, once the balance in each account reached the proposed protected threshold of \$1,000, charges would again be applied, and account holders would again become subject to multiple charges which could only serve to substantially reduce their final retirement benefits. This is especially apposite given that the majority of multiple superannuation account holders are part-time or casual workers in respect of whom superannuation entitlements are likely to accumulate at a comparatively slow rate because of the lower level of contributions that are generally paid on their behalf.

### Supercard

6.23 The Committee received evidence from a number of witnesses concerning possible solutions to the small amounts problems. One which targeted persons with the prospect of multiple accounts was Supercard.

6.24 Supercard is a superannuation product which was introduced in Sydney by Supercard Australia Pty Ltd on 1 July 1994, after almost five years of research, testing and development. The aim of Supercard is to provide consumers with a low cost superannuation product which has complete portability across all jobs and industries.<sup>21</sup>

6.25 Each member is issued a unique identification number on a plastic card. Contributions can be made by quoting their Supercard number. Contributions can be made simultaneously by more than one employer and members can make own contributions if they choose to. By verifying identification over the phone, a balance of the account is easily accessible. A benefit may be transferred via a rollover form or by Electronic Funds Transfer.

6.26 The Supercard is capable of accepting small sums from casual and part-time employees and is structured to incorporate an initial step into a savings account followed by a further step into a managed account, as follows:

- For account balances up to \$100, a savings account is established with a once only \$50 registration fee. There are no additional account keeping fees on this holding account;

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20 See Chapter 5

21 SGCREV Sub. No 2

- Account balances over \$100 are moved into a managed account where:
  - (i) an active account fee exists of 82.5c per week, payable in those months where contributions are received; or
  - (ii) a dormant account fee exists of 38.0c per week when a member is not working. (These fees are fixed until July 1997).

6.27 Supercard has no annual policy fees, no monthly contribution fees, no exit or benefit calculation fees, no fees when transferring from another fund and no special fees for lump sum payments.

6.28 The submission stated that 'the greatest advantage of Supercard is possibly its portability'. The employee simply quotes their identification to their new employer(s) and SG contributions can continue. No payment is required for enrolling a new employer onto the Supercard system. Supercard can accommodate fluctuating contributions and additional amounts can be paid at any time.

6.29 At the end of the financial year, employees receive an annual statement and report. Employers receive a statement showing contributions made to Supercard members.

6.30 When appearing before the Committee, Mr Peter Woodcock stated that since making his written submission in January 1994, Supercard had introduced provisions to protect members with balances of less than \$1,000. A holding account linked to a cash management account has been established for people with small amounts. Except for an establishment fee of \$20, members will not have to pay any charges until the balance reaches \$1,000 when the money will be transferred to a managed account, where dormant/non-dormant charges apply (see paragraph 6.26 above).

6.31 In summary, Mr Woodcock stated:

The whole concept of Supercard is based on one very, very simply premise: if you keep the fees low and the performance slightly above average, the person in the end that benefits is the card member or the member of the scheme, certainly not the entities that actually form part of the management or the administration of the fund... I can see that in this particular industry, in this particular sphere, the consumer was really not getting a very good deal. So we deliberately set out to create a scheme where the consumer really had a great deal of choice and a great deal of control over what was going on.<sup>22</sup>

6.32 The Committee acknowledges the role that products such as Supercard play in handling small amounts and would like to thank Supercard Pty Ltd for their submission and evidence.

## **Transfer protocol**

### *Background*

6.33 As part of the announcement on new initiatives to help improve the effectiveness of the current superannuation system, the Treasurer indicated that the Government will be encouraging and supporting initiatives already commenced by the industry. These initiatives are 'aimed at producing more cost effective procedures for transferring accounts between superannuation funds, through the development of a transfer protocol'.<sup>23</sup>

6.34 The initiatives referred to by the Treasurer as having already commenced involve a transfer protocol being developed by Australian Administration Services, Nexis and Jacques Martin.<sup>24</sup>

### *Outline of proposal*

6.35 This transfer protocol is 'designed to facilitate a more cost effective electronic means of amalgamating the multiple accounts of mobile workers in the system'.<sup>25</sup> In essence, the protocol would allow trustees, upon request of members, to authorise fund administrators to exchange information periodically and transfer former accounts held by members to their current fund.

6.36 Employees joining a new fund will be asked whether they have benefits in other funds and whether they wish to transfer these benefits to the new fund. Such requests for transfer will be processed on a quarterly basis and at a standard industry wide charge.

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23 The Hon Ralph Willis, MP, Treasurer, *Statement on superannuation policy*, 28 June 1994

24 The Hon Ralph Willis, MP, Treasurer, *Superannuation policy - statement of measures*, 28 June 1994

25 The Hon Ralph Willis, MP, Treasurer, *Superannuation policy - statement of measures*, 28 June 1994

6.37 The fundamental principles of transfer protocol have been agreed upon by fund administrators. Further deliberation was curtailed pending the Government's policy response to the small amounts problem.<sup>26</sup>

6.38 The Treasurer indicated that the Government:

will encourage the adoption of a transfer protocol and will facilitate the protocol, and account transfers between funds more generally, by relaxing where possible the taxation reporting and other regulatory burdens in respect of accounts transferred within the superannuation industry.<sup>27</sup>

### *Responses to the initiative*

6.39 Mr John Northcott, of Merino, Victoria, believes that 'you need to be able to amalgamate all polices - with no fuss'.<sup>28</sup> Mr Northcott was referring to people in one or more part-time jobs, with one or more superannuation accounts.

6.40 The Trades and Labor Council of WA (WATLC), in its submission, attests a range of administrative issues involving inactive and lost members, and unclaimed benefits.

6.41 In addition to utilising the TFN as a means of improving the location of lost and inactive members, the WATLC also recommends that superannuation funds be able to offer the option of:

- (a) Roll over to another fund nominated by the member;
- (b) The money to be held by the existing fund;
- (c) Or roll over to a central fund;
- (d) In the event of no response from the member the default should be for rollover to a central fund; and,
- (e) To accept rollovers from other funds.<sup>29</sup>

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26 The Hon Ralph Willis, MP, Treasurer, *Superannuation policy - statement of measures*, 28 June 1994

27 The Hon Ralph Willis, MP, Treasurer, *Superannuation policy - statement of measures*, 28 June 1994

28 SGCREV Sub No 23

29 SGCREV Sub No 59

6.42 The Office of the Status of Women (OSW) also indicated support for the establishment of a transfer protocol to allow the amalgamation of multiple accounts held by casual employees. OSW believes that 'even when SG contributions rise, there will still be some workers whose multiple employers and mix of time in and out of the workforce will continue to disadvantage them'.<sup>30</sup>

6.43 In situations where members are dissatisfied with their current fund(s), attempts to transfer to a new fund can result in penalties imposed in the form of fees. Toowong Mitsubishi submitted that the transfer of a member's balance to another fund should be allowed without the imposition of fees. The submission concludes that 'compulsory superannuation is good and necessary, but to prevent the movement of deposits between funds and allow them to charge any "fees" they like is legislation for theft'.<sup>31</sup>

6.44 The ACTU takes the transfer protocol one step further and recommends allowing:

access being made available for funds to transfer small inactive accounts to a nominated ERF. It would then be possible for the ERF to transfer the funds back once the account becomes active again.<sup>32</sup>

6.45 In evidence put to the Committee, AFCO indicated that 'coverage of the transfer of protocol is by no means certain'.<sup>33</sup> There is still uncertainty as to whether all funds will participate. AFCO believes the protocol is reasonably complex and this will only contribute further to the multiple accounts problem.

### *Summary*

6.46 The Committee believes that, in principle, the implementation of the transfer protocol will reduce problems currently experienced by workers, particularly part-timers and casuals, in relation to a multiplicity of superannuation fund accounts. Such amalgamations will be beneficial because they will prevent the erosion of benefits by multiple administrative charges, even after the implementation of the member protection rules, and may result in a more substantial benefit upon which future contributions may continue to grow.

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30 SGCREV Sub No 68

31 SGCREV Sub No 91

32 SGCREV Sub No 107

33 Evidence, p 568



**Recommendation 6.1:**

**The Committee recommends that the Government ensure that appropriate transfer protocols are adopted by all participating funds.**

6.47 The effectiveness of the protocol will be largely dependent upon the cost to the member.

6.48 The Committee believes that this protocol should pave the way for a rationalisation of transfer and exit fees. Once the transfer protocol is implemented, fees should be set at a level which reflects minimum cost to the member. *The cost should not be punitive and should not hinder portability.*

## **CHAPTER 7:**

# **THRESHOLD, PRESERVATION AND CONTRIBUTIONS TAX**

### **Introduction**

7.1 This chapter examines three regulatory provisions that can contribute to the small amounts problem. These provisions are:

- the \$450 threshold;
- access to amounts less than \$500;
- contributions tax.

### **The \$450 SG threshold**

7.2 This threshold is the point at which a liability arises for an employer to make a superannuation contribution on behalf an employee. The threshold for the SG legislation is \$450 per month, that is, once an employee earns \$450 in any given month an SG liability is incurred by the employer.

7.3 There was considerable debate on whether the SG threshold should be increased or decreased. There was also debate on whether the timing of the threshold calculations should be on a monthly, quarterly or annual basis. This debate arose not only in the context of the small amounts problem but also in relation to the inconsistency between the SG threshold and award thresholds.

7.4 Those in favour of raising the threshold argued that a higher threshold would reduce the small amounts problem and the administrative burden of deducting contributions for lower paid workers, especially itinerant workers.

7.5 The evidence against lowering the SG threshold, included:

- Mr Stevens, of William M. Mercer Pty Ltd, said that small payments could be reduced by raising the threshold and moving to annual payments. However, Mr Stevens went on to say that moving to an annual payment would allow a lower threshold. Mr Stevens also said that the requirement by

some awards to make superannuation payments from the first dollar earned was an impediment to reducing the small payments problem by raising the \$450 per month SG threshold.<sup>1</sup>

- The Government Employees Superannuation Board of WA (GES) recommended raising the limit to a level where employer contributions provide a 'meaningful benefit in terms of retirement income', suggesting \$10,000 per annum. GES also suggested that other forms of non-superannuation reward or savings should be considered to provide equity to employees earning below that limit.<sup>2</sup>
- Mr Donald Jasprizza, from Young, NSW, spoke of the administrative difficulties of applying SG to itinerant workers in the cherry industry. Mr Jasprizza supported either a move to a three month calculation period with a threshold of \$1,350.<sup>3</sup>
- The Australian Dried Fruits Association recommended that a move to a \$1,350 quarterly threshold would simplify the administrative work for employers because other government returns/assessments are completed on a quarterly basis.<sup>4</sup>
- The Northern Victoria Fruitgrowers' Association<sup>5</sup> and Riverland Horticultural Council<sup>6</sup> submitted in favour of a move to a \$1,350 quarterly threshold. The Riverland Horticultural Council added that a \$1,350 quarterly threshold would exempt about 70% of casuals employed in the horticultural industry. Mr Harley Swanbury, in representing the Riverland Horticultural Inc Industrial Relations Committee, echoed concerns about the administrative difficulties involved with applying the SG to itinerant fruit pickers. He, too, suggested the threshold be changed to \$1,350 per quarter.<sup>7</sup>

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1 Evidence, pp 202-205

2 SGCREV Sub No 73

3 Evidence, p 563

4 SGCREV Sub No 45

5 SGCREV Sub No 58

6 SGCREV Sub No 47

7 Evidence, p 630

- Further still, Mrs Beryl George, Women in Agriculture, told the Committee:

it seems to me that the sensible solution would be to alter the threshold requirement from monthly to quarterly, which... would drastically reduce the administrative work for the employer who has to use itinerant labour and go some way to ensuring that those who qualify for super contributions will not lose all their entitlements to insurance companies.<sup>8</sup>
- Mr Kelvin Taylor, Sedgwick Noble Lowndes, spoke in support of a \$5,000 annual threshold.<sup>9</sup> With reference to low income earners, Mr Fitzpatrick, Sedgwick Noble Lowndes, expressed to the Committee the view that 'clearly the individual gets no benefit from the superannuation guarantee payment. By giving them cash in hand, though, at least they get something out of it'.<sup>10</sup> In tandem with this view, Mr Fitzpatrick suggested that the \$450 threshold be trebled.<sup>11</sup>
- Ms Eva Cox, Women's Economic Think Tank, told the Committee that:

if you drop the threshold, they [employers] will drop all workers who earn less than the tax threshold... if you are earning \$80 a week at the moment, it is \$80 a week, flat, out, paid, finished. If you are going to have to sit down then and calculate the superannuation entitlement on the \$80 a week and make those payments on all of those sums, you will just decrease the number of people you have earning small amounts.<sup>12</sup>
- Mr Richard Calver, of the Victorian Farmers Federation, advocated moving to a quarterly calculation with a corresponding threshold of \$1,350, or more.<sup>13</sup>
- Mr James Ferguson, of the National Farmers Federation, also favoured the move to a quarterly calculation because of the effect that administration costs have on small amounts.<sup>14</sup>

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8 Evidence, p 670

9 Evidence, p 192

10 Evidence, p 190

11 Evidence, p 192

12 Evidence, p 74

13 Evidence, p 227

14 Evidence, p 406

- Mr Greg Hale, director of Osgate Pty Ltd, a farming company operating from Moree in NSW, suggested increasing the monthly threshold to \$900, or alternatively, increasing the calculation period to three months.<sup>15</sup>

7.6 On the other hand, those in favour of maintaining or lowering the current threshold essentially claim that, upon retirement, any superannuation benefit is better than none and that the measures proposed by the Treasurer allay concerns about additional small payments. Evidence supporting these claims included:

- Mr Jeffrey Carr, Australian Liquor Hospitality and Miscellaneous Workers Union, told the Committee that the \$250 a month threshold in the Hospitality Award must be sustained to ensure that workers of the Hospitality are not disadvantaged as they often work more than one job.<sup>16</sup>
- Whilst in favour of lowering the threshold, Mr Anthony Cooke, Trades and Labour Council of WA, acknowledged that the level of the threshold must be balanced with the economies that funds can achieve in dealing with small amounts. Mr Cooke articulated this to the Committee when he said:

obviously, \$450 is based on the economies as they exist at the moment in terms of charges and everything else; but we would like to see the day when the economies are achieved and that \$450 threshold can be lowered.<sup>17</sup>

- Mr David Vernon, Jacques Martin Industry, supports:

abolishing it [the threshold] altogether because the fact is there is a principle there,... it may only amount to several thousand dollars when they retire but the several thousand dollars may well buy them a fridge for their retirement and a few other things which will help their lifestyle... given the Treasurer's new framework for protection of small balances, your concerns about erosion of accounts are going to be taken care of.<sup>18</sup>

- Speaking of the need to provide support for casual employees, Mr John Davies, Mayne Nickless, told the Committee that:

it becomes too easy to avoid a superannuation obligation for those people. We are short-changing an increasingly large sector of the community. In

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15 SGCREV Sub No 22

16 Evidence, p 250

17 Evidence, p 295

18 Evidence, p 146

principle, superannuation should be supported, providing it can be delivered administratively easily... I must confess I am speaking personally. I would be in favour of maintaining the current threshold.<sup>19</sup>

- The Government Superannuation Office (Queensland) believes there is no need for thresholds if the small amounts payments problems were solved. Moreover, a \$450 threshold creates inequity for those earning less than that amount.<sup>20</sup>
- The Australian Federation of Consumer Organizations (AFCO) submitted in favour of maintaining the threshold at its present level as:

low income groups, including casual and part-time employees, receive little or no benefit from superannuation... low income earners have a greater need up front to meet the day-to-day needs for food, clothing and housing.<sup>21</sup>

Representing AFCO, Ms Jenni Mack, expressed concern to the Committee that any raising of the threshold might actually result in the lowering of wages.<sup>22</sup>

- The ACTU has recommended the Government:

reduce the monthly minimum pay threshold from \$450 to \$200. The arguments from employers that it is too onerous to contribute these small amounts have been presented to the Industrial Relations Commission and rejected. Many awards apply \$200 as the threshold in respect of the 3% award super requirement.

When appearing before the Committee, Mr Ian Court, ACTU, said that the level of the threshold should be considered in the light of the advent of member protection. Mr Court stated that 'while we think that eventually it could be removed altogether, the logical next step would be to bring it to \$200'.<sup>23</sup>

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19 Evidence, pp 157-158

20 SGCREV Sub No 65

21 SGCREV Sub No 20

22 Evidence, p 571

23 Evidence, p 693

The ACTU also submitted that reducing the threshold will remove the temptation for employers to dismiss casuals prior to them reaching \$450 in a month.<sup>24</sup>

- Treasury submitted that raising the threshold would clearly deny access to superannuation benefits to a significantly larger proportion of employees, but also opposed the reduction of the threshold because of the associated administration costs.<sup>25</sup>
- Ms Winsome Hall, Office of the Status of Women (OSW), told the Committee OSW was against lowering the threshold but said that they did not have a position on whether it should be raised.<sup>26</sup>

7.7 The Committee recognises that the lowering of the threshold would increase SG contributions and this should, in the long term, result in improved retirement income. The Committee does however recognise the argument that in the current superannuation environment the lowering of the threshold could exacerbate the small amounts problem and lead to further administrative demands.

7.8 Notwithstanding the evidence being weighted towards moving the threshold to a quarterly payment, the Committee was mindful of the effects such a move could have on compliance by small businesses. Small businesses would be required to anticipate the SG liabilities that would arise over the quarter rather than just over the month.

7.9 Although the Treasurer's Statement goes some way towards alleviating the small amounts problems to which the \$450 threshold has been said to contribute, it is not exhaustive. It is for this reason that the Committee is recommending that the threshold be essentially lowered **but** that the threshold calculation become a quarterly one.

7.10 This measure will enhance consistency between SG and award superannuation and will offset any additional administrative burden that may otherwise have been associated with lowering the SG threshold.

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24 SGCREV Sub No 107

25 SGCREV Sub No 96

26 Evidence, p 520

7.11 The Committee has concluded that by lowering the SG threshold along with changing the timing of the threshold calculation to a quarterly basis:

- the administration burden of threshold calculations will be lessened;
- the confusion of employers will be lessened; and
- small income earners will receive more significant SG contributions.

7.12 This, linked with the Committee's recommendation that the first \$500 of contributions be exempt from contributions tax, discussed later in this chapter, will improve the retirement outcomes of small income earners.

**Recommendation 7.1:**

The Committee recommends as the first element in its proposal to alleviate the small amounts problem that consideration be given to changing the SG threshold from \$450 per month to a quarterly amount of less than \$1350.

**Preservation**

7.13 Under SIS, preservation rules essentially mean that members of a superannuation fund cannot access the money in their superannuation account. It is generally 'preserved' until they reach retirement. However if a person has a benefit of less than \$500 and leaves the service of an employer they may access that amount.

7.14 Submissions were made to the Committee on the consequences of allowing access to balances less than \$500. The superannuation industry and service providers advocate the removal of access to such balances. Representatives of welfare organisations opposed that proposal on the basis that low income earners have immediate financial needs.

7.15 Australian Council of Social Services (ACOSS) called for a continuation of access to preserved balances below \$500. ACOSS believes there is a 'need for low income earners to obtain earlier access to their superannuation savings'.<sup>27</sup> Mr David Vernon, Jacques Martin Industry, who strongly recommended the removal of access to amounts less than \$500, stated that 'there are still some



other avenues where people can take out even their preserved money'.<sup>28</sup> These other avenues include hardship applications which may be made to the Insurance and Superannuation Commission.

7.16 The Life Insurance Federation of Australia<sup>29</sup> and the Construction + Building Unions Superannuation (C+BUS)<sup>30</sup> submitted that the removal of the facility for members to withdraw preserved balances below \$500 would alleviate the small amounts problem. It would 'ultimately result in larger benefits for members', AMP submitted.<sup>31</sup> But both AMP and Mr Rosario, Westscheme, were of the view that the access could only be removed once mechanisms, such as the member protection rules announced in the Treasurer's statement, had been implemented to stop the erosion of small amounts.<sup>32</sup>

7.17 Mr Woodcock, Supercard Australia Pty Ltd, expressed concern that access to amounts less than \$500 should not be permitted 'simply because it leaves itself open to abuse',<sup>33</sup> for example where people have deliberately moved from job to job so they can receive payment before the \$500 limit is reached.

7.18 Mr Greg Smith, Treasury, informed the Committee that the Government has considered the issue of removing the threshold but has decided to leave the policy as it exists. Mr Smith stated that there were 'pluses and minuses'<sup>34</sup> to the argument, including equity and administration, and that all facets had been investigated. The only consideration that Treasury outlined to the Committee, however, was that the removal of the \$500 threshold would increase recourse to the hardship provisions, that enable access to preserved superannuation, which are expensive to administer.

7.19 Treasury's comments indicate a concern for those lower income workers who have immediate financial needs. In recommending the removal of access to the \$500 amount, the Committee acknowledges that the interests of the low income group must be addressed. It is for this reason that the Committee has

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28 Evidence, p 146

29 SGCREV Sub No 67

30 SGCREV Sub No 95

31 SGCREV Sub No 75

32 Evidence, p 329

33 Evidence, p 20

34 Evidence, p 606

developed three interdependent recommendations including changes to the \$450 threshold that will increase the size of contributions and the removal of contributions tax on the first \$500.

7.20 Furthermore, the Committee recognises that low income earners have other life cycle savings needs. In Chapter 12, the Committee suggests a broader approach to savings to accommodate a life cycle savings vehicle for medium-term non-superannuation savings.

7.21 While taking into account the short term financial needs of low income earners and the small amounts problem the Committee believes that access to benefits is 'at odds' with the retirement income system operating in Australia as the early release of benefits may result in increased leakage from the system. Given the proposed introduction of measures outlined in the Treasurer's Statement, for example, the ATO collection mechanism and the member protection rules, the removal of access to \$500 amounts should, in fact, result in members being able to accumulate a more solid base on which to build retirement income.

**Recommendation 7.2:**

**The Committee recommends the removal of access to preserved amounts of less than \$500 as the second element in its proposal to alleviate the small amounts problem.**

**Contributions tax**

7.22 The current taxation system tolls superannuation at three points:

- on entry to the fund, a **contributions tax** of 15% is applied;
- whilst in the fund, an **earnings tax** of 15% is applied; and
- upon receipt of benefits, the **benefits tax** levels are 0%, 15% and 30% depending upon the tax that has been previously paid and the amount of the benefit.

7.23 Mr Greg Smith, of Treasury, outlined the history of the 15% contributions tax as resulting from the removal of the previous tax on final benefits. In addition, he stated:

The flat tax approach of 15 per cent in some measure is dictated by the administrative necessity of having a single tax rate imposed on the fund which has no knowledge whatsoever of the tax affairs of its members.<sup>35</sup>

7.24 Ms Eva Cox, Women's Economic Think Tank, believes the impact of the present tax on superannuation contributions for low income earners can be an effective increase in their overall tax rate as well as being another element that is deducted from an already small balance. Ms Cox stated that not only is superannuation not a good investment for many people, it is actually a disadvantage for them. 'The tax rate for people who earn below \$20,000 a year makes it no advantage at all.'<sup>36</sup> She submitted that the current system is beneficial to those individuals with high marginal tax rates, but is of no advantage to those whose marginal tax rate is nil.

7.25 In addressing the issue of an effective increased tax rate for low income earners, Ms Cox recommended that tax on contributions and earnings should be equal to an individual's marginal tax rate. In response to such an adjustment to the taxation of superannuation, Ms Hazel Bateman, University of NSW, School of Economics, suggested that 'trying to adjust the taxation of superannuation to take account of proportion taxation, as we do with wages, would even complicate matters further'.<sup>37</sup> Ms Bateman reminded the Committee that in questioning the equity of the current tax on superannuation system, consideration needs to be given to the fact that people on low incomes will gain more benefit from the aged pension than high income earners and that 'total retirement income' must be assessed.<sup>38</sup>

7.26 Mr Keith Wynn, of Cronulla, NSW, was of a similar view to Ms Cox. In recognising the effective increased tax rate for those earning under the income tax threshold, and the effect this has on small balances, he submitted that there should be a contributions tax free threshold for superannuation which is proportional to the income tax free threshold of \$5,400.<sup>39</sup>

7.27 The calculation of this contribution tax free threshold for the 1993/94 financial year would be:  $0.04 \times \$5,400 = \$216$ . This proposal would be based on annual income rather than a once only flat dollar rate.

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35 Evidence, p 605

36 Evidence, p 55

37 Evidence, p 125

38 Evidence, p 125

39 SGCREV Sub No 33

7.28 While acknowledging that this proposal may 'dilute tax revenue to the government',<sup>40</sup> Mr Wynn believes this would be adequately compensated by a balanced flow of long term investment funds into the economy; a future increase in tax from larger balances in funds; and a reduced demand for the aged pension.

7.29 The ACTU made a similar proposal to that of Mr Wynn. It advocated that there should be a contributions tax free threshold. The ACTU's proposal is that the first \$500 of superannuation contributions be exempt for contributions tax. The Committee supports this as a once only exemption that is linked with the removal of access to the preserved amounts of less than \$500. The exemption could be administered as a rebate.<sup>41</sup>

7.30 ACOSS also supported a rebate for low income earners. It believes the current 'superannuation tax concessions give far too much assistance to high income earners and too little to low income earners'.<sup>42</sup>

7.31 The system proposed by ACOSS involves the:

- abolition of the current special tax concessions for contributions and fund earnings;
- assessment of contributions and fund earnings as part of the individual member's taxable income, with tax on the superannuation component paid by the fund;
- provision of a uniform tax rebate, which could be offset against taxes paid by the fund in respect of contributions and fund earnings for each member; and
- abolition or substantial reduction of taxes on benefits, except for lump sums above \$78,000 (indexed annually) and benefits withdrawn before age 60 (except in cases of hardship involving persons over 50 years old).<sup>43</sup>

7.32 ACOSS believes the rebate could be calculated on either an annual or lifetime base, as either a flat amount or a percentage of taxable contributions and earnings up to a maximum level.

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40 SGCREV Sub No 33

41 SGCREV Sub No 107

42 SGCREV Sub No 86

43 SGCREV Sub No 86

7.33 In summary, ACOSS opined that 'reform of the tax concessions along the lines recommended above would eliminate any discrimination in the tax treatment of personal rather than employer contributions'.<sup>44</sup>

7.34 In relation to tax inequities, Treasury submitted that the only group to be disadvantaged by the current tax structure are those with incomes below the \$5,400 tax threshold. Mr Smith was of the opinion that designing a system which could recognise the income of workers in order to allocate rebates would be difficult because 'the tax is imposed on a fund, it is not imposed on the individuals'.<sup>45</sup>

7.35 Ms Nicola Cusworth, of the Chamber of Commerce and Industry of WA, expressed some concern about the introduction of any tax rebate on superannuation contributions. Ms Cusworth believes 'you would have a very intrusive administrative bureaucracy... That would be a lot more work for superannuation funds and a lot more intrusive work for superannuation funds'.<sup>46</sup>

7.36 The Committee acknowledges Ms Cusworth's remarks that the removal of contributions tax on the first \$500 may result in additional administrative workload for the superannuation funds. However, the Committee throughout the course of this review received no evidence from superannuation funds on this. The Committee is also unaware of any investigation the Government has undertaken on how a rebate could be implemented. It is therefore recommended that an assessment be made in order to identify the most effective and efficient means of implementing a tax free threshold.

7.37 As with Mr Wynn, the ACTU recognised that there would be a cost for this tax exemption. The ACTU estimated that the cost would be in the order of \$70 million.<sup>47</sup> This cost needs to be balanced against the facts that:

- as the measure is a tax exemption, the amount that would have been otherwise payable as tax remains in the member's account;
- the size of small accounts will not be diminished;

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44 SGCREV Sub No 86

45 Evidence, p 604

46 Evidence, p 311

47 SGCREV Sub No 107

- in concert with the other measures, namely the removal of the \$500 preservation accessibility and the decreased threshold, small balances will aggregate into balances that will provide a more substantial retirement benefit;
- the Government is requiring funds to protect member balances and it may therefore be appropriate for it to also contribute in this manner; and
- the alleviation of the small amounts problem will provide an overall improvement in national savings.

7.38 The Committee considers these proposals to have great merit. Whilst acknowledging that there is little evidence of how such proposals to provide tax relief on small amounts could be implemented, the ACTU proposal would appear to be the least administratively complex. However, this needs to be assessed by the Government.

**Recommendation 7.3:**

The Committee recommends the removal of contributions tax for the first \$500 as the third element in its proposal to alleviate the small amounts problem.

The Committee is unaware of any investigation by the Government on the implementation and associated revenue implications of such a measure. The Committee further recommends that an assessment be made of the most effective and efficient means of implementing a tax free threshold.

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## CHAPTER 8:

### OTHER INITIATIVES

#### Tax File Numbers

##### *Background*

8.1 The Treasurer's Statement, in announcing other measures to assist the small amounts problem, indicated that legislation would be introduced to allow the extended usage of Tax File Numbers (TFNs) in identifying and amalgamating superannuation accounts'.<sup>1</sup> Such use would only be made with employee authorisation.

##### *Current usage*

8.2 The present use of TFNs in the superannuation industry is strictly limited as they may only be obtained and/or quoted in the following circumstances:

- on payment of the SG Charge to the ATO, an employer must quote the employee's TFN if it is known;
- on transferring monies to an ERF, a trustee may quote a member's TFN with the member's authority; and
- on receipt of benefits such as an eligible termination payment, pension or annuity, members must quote their TFN in order to prevent tax at the highest marginal rate.

##### *Proposed usage*

8.3 The Treasurer's Statement stipulates:

- SIS will be amended to:
  - (a) allow superannuation funds to collect TFNs from new and existing members (and from other funds as in (b) below) for account identification purposes;

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1 The Hon Ralph Willis, MP, Treasurer, *Statement on superannuation policy*, 28 June 1994

- (b) allow a superannuation fund to provide a member's TFN to another superannuation fund when transferring the member's benefits to that superannuation fund;
  - (c) allow employees to authorise the use of TFNs provided to their employers for superannuation purposes and, subject to their being so authorised, require employers to quote the employee's TFN to a superannuation fund when making contributions on behalf of the employee to that fund.
- In order to facilitate the ATO collection mechanism the *Superannuation Guarantee (Administration) Act 1992* will be amended to require employers to quote an employee's TFN to the ATO when making contributions under the mechanism.<sup>2</sup>

8.4 The Treasurer's Statement also provides that the extension of the use of TFNs will help to streamline superannuation administration and reduce costs. For example:

it would facilitate the tracking of lost members, assist in specifically identifying members when transferring amounts between funds as envisaged, for example, under the transfer protocol, and enable funds to internally identify and amalgamate multiple contributions on behalf of the same individual.<sup>3</sup>

### Privacy

8.5 The Treasurer has recognised the importance of privacy considerations in extending the use of TFNs: 'As always, there is a need to balance proposals to extend the use of the TFN with the legitimate privacy concerns of individuals'.<sup>4</sup>

8.6 In the Committee's inquiry on the SIS Bills, the Privacy Commissioner submitted on the extended use of TFNs outlined in that legislation. In that submission the Commissioner stated that 'the ultimate responsibility for determining the public interest issues involved in any major extension of use of the tax file number in the community must lie with Parliament'.<sup>5</sup>

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2 The Hon Ralph Willis, MP, Treasurer, *Superannuation policy - statement of measures*, 28 June 1994

3 The Hon Ralph Willis, MP, Treasurer, *Superannuation policy - statement of measures*, 28 June 1994

4 The Hon Ralph Willis, MP, Treasurer, *Superannuation policy - statement of measures*, 28 June 1994

5 SIS Sub No 94



8.7 The Privacy Commissioner gave qualified support to the SIS proposal that once collected by the funds, the TFN could be used for other authorised purposes which did not involve any new users, uses or storage of the TFN. The Commissioner noted that 'individuals should be able to choose whether or not they quote their tax file number'. The Commissioner stated that the proviso for his support of the extension was that:

individuals are given notice of the practice at the point of first collection of the tax file number including: the purpose of collection; any later proposed uses; notice that quoting a tax file number is voluntary for the purpose of identifying members who may later need to claim benefits from an eligible rollover fund or the ISC; and giving member the opportunity to opt for a specific collection for each authorised purpose.<sup>6</sup>

8.8 The Committee did not receive a submission for the Privacy Commissioner in relation to the proposed changes outlined in the Treasurer's Statement of 28 June 1994, but has taken account of the concerns raised in the Privacy Commissioner's earlier submission.

8.9 The Committee did not receive any negative responses to the proposed extended uses of TFNs. The overwhelming support from all sectors in the superannuation arena has indicated to the Committee the need for the extension to be implemented promptly.

#### *Responses to the extended use of TFNs*

8.10 The Australian Federation of Consumer Organisations (AFCO) strongly supported the extension of the use of TFNs. It submitted that the use of TFNs would assist in the consolidation of superannuation accounts and the tracing of lost members. AFCO believes extended usage 'underpins the ability of consumers to easily keep track of their superannuation investment'.<sup>7</sup>

8.11 Westscheme submitted that extended TFN use would 'make the identifying numbers of members and participating employers for SGC purposes a composite of the relevant scheme tax file number and their individual tax file number'. Westscheme claim this would reduce the administrative problems that were created by the implementation of the SG.<sup>8</sup>

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6 SIS Sub No 94

7 SGCREV Sub No 20 Supplementary

8 SGCREV Sub No 28

8.12 Westscheme also believes that extending the use of TFNs would assist the enforcement of SG compliance. The consequence would be a reduction in the cost of compliance which is currently being borne by scheme members as opposed to SG defaulters.

8.13 General support for the extended use of TFNs was also received from AMP who indicated it would assist in the location of lost members.<sup>9</sup> ASFA believes that the use of TFNs 'is a welcome rationalisation of the current complex requirements'.<sup>10</sup>

8.14 Mrs Val Pate, Riverland Horticultural Council, outlined a number of difficulties experienced in administering small amounts for part-time and casual workers. Mrs Pate believes that the incidence of monies belonging to lost members ending up in Consolidated Revenue could be reduced by using TFNs for membership numbers. This would minimise many of the difficulties now being experienced with lost members.<sup>11</sup>

8.15 Jacques Martin Industry submitted that current employee information received from employers when SG contributions are made is inadequate and results in casual employees being unaware of the existence of such accounts. Knowledge of these accounts would allow the aggregation of benefits upon changes in employment.<sup>12</sup>

8.16 Jacques Martin suggested that 'with regard to the TFN it is our view that the Privacy Commissioner needs to take a more pragmatic approach and permit its use in the situation just described'. Jacques Martin highlighted the point that:

It is, after all, in the interests of the employee and consistent with the objectives of the recent Treasurer's Statement, ie to prevent the erosion of small balances and encourage their aggregation as much as possible.

8.17 In the light of the evidence regarding the extended usage of TFNs for superannuation purposes, the Committee reaffirms Recommendation 9.1 in the ninth report, *Super Supervision Bills* which reads:

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9 SGCREV Sub No 75

10 SGCREV Sub No 5 Supplementary

11 SGCREV Sub No 105

12 SGCREV Sub No 92

**Amendment to the Superannuation Industry (Supervision) Bill 1993**

**Collection and Use of Tax File Numbers (TFNs)**

The Committee recommends that the SIS legislation be amended to allow superannuation funds to collect member TFNs, subject to member consent, from the date the Bill receives Royal Assent. In addition, the Committee recommends that the SIS legislation be amended to allow superannuation funds, to use TFNs for taxation and transfer of benefits purposes.<sup>13</sup>

**Recommendation 8.1:**

**The Committee reaffirms its recommendation as set out in its report, *Super Supervision Bills*, that extended usage of TFNs for superannuation purposes be allowed, subject to member consent.**

**2 to 7 year contribution period**

*Outline*

8.18 Under SIS, a regulated superannuation fund can only accept contributions that are made in respect of a member who is under age 65 if:

- the contributions are mandated employer contributions; or
- the contributions are not mandated employer contributions and the member:
  - \* **has, at any time in the preceding 2 years, engaged in full-time or part-time gainful employment; or**
  - \* ceased full-time or part time gainful employment because of ill-health (whether physical or mental) that, at the date of acceptance, prevents the member from engaging in employment of the kind that the member engaged in at the onset of the ill-health.

8.19 Mandated employer contributions include contributions made by or on behalf of an employer:

- that reduce the employer's potential liability for the superannuation guarantee charge or payments of shortfall components;
- that are made to meet an obligation under an agreement certified, or an award made, on or after 1 July 1986 by an industrial authority.

*Extension of contribution period*

8.20 In a press release dated 18 July 1994, Mr Paul Elliott, MP, Parliamentary Secretary to the Treasurer, announced that amendments would be made to the *SIS Act* to allow non-working parents (male and female) to continue to make superannuation contributions for up to seven years where they are temporarily out of the workforce for child rearing purposes.

8.21 In his press release Mr Elliott stated:

The proposal will particularly benefit women, who traditionally have less money in their superannuation funds on retirement than men do.

This is because women typically have both lower salary levels and broken working patterns, due mostly to the commitments of raising children.

This initiative is another example of the Government's commitment to increasing the standard of living for women in retirement.<sup>14</sup>

8.22 Mr Elliott's announcement appeared to have resulted from the difficulties currently experienced by workers, particularly women, whose broken work patterns prevent a growth in superannuation savings. Current provisions limit contributions to a two year period. However, the Office of the Status of Women (OSW) believes that 'given that most breaks in employment are likely to be unpaid it is unlikely women could afford to continue superannuation contributions during this 2 year period'.<sup>15</sup>

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14 Mr Paul Elliott, MP, Parliamentary Secretary to the Treasurer, *Women benefit from superannuation changes*, (press release), 18 July 1994

15 SGCREV Sub No 68

8.23 In a follow-up statement on 28 October 1994, Mr Elliott stated that:

From 1 July 1994, a person leaving employment for child rearing purposes will also be permitted to contribute to superannuation for up to seven years - **provided they retain the right to return to their original job**, (for example, leave without pay).<sup>16</sup>

8.24 OSW indicated that the reasons behind Mr Elliott's announcement were differences between the SIS legislation and awards. Ms Hall, in appearing before the Committee, stated:

Various awards allowed for people to be away from the workplace for greater lengths of time than for two years and obviously still demonstrated that occupational link to that workplace and to a particular job.<sup>17</sup>

8.25 The NSW Cabinet Office believes the current two year limit indirectly discriminates against women whose work patterns may see them out of the workforce for more than two years. The NSW Cabinet Office argues that:

since the two year limit may not be long enough to reflect women's typical work patterns, it may create barriers to women's ability to save for their retirement, should they wish to do so.<sup>18</sup>

8.26 An increase in the time limit is seen by the NSW Cabinet Office as encouraging people to continue to save for retirement despite extended periods out of the workforce. An extension of the time limit too far, from the point of view of the superannuation funds, may create administrative problems in keeping track of inactive accounts. For this reason, the NSW Cabinet Office also submitted that 'if the prescribed time limit were to be increased, it may be appropriate to restrict it to a maximum of, say, five years'.<sup>19</sup>

8.27 The Committee believes the question which begs to be asked is: who can leave their employment for seven years and reasonably expect their job to be there when they return?

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16 Mr Paul Elliott, MP, Parliamentary Secretary to the Treasurer, *Government decision on women and superannuation*, (press release), 28 October 1994

17 Evidence, p 511

18 SGCREV Sub No 19

19 SGCREV Sub No 19

8.28 An associated issue was raised by Dr Alan Grant, of Gosford in NSW, who suggested that there be no age limit on making contributions while a person is working.<sup>20</sup>

## CHAPTER 9: SUPER SAVINGS ACCOUNTS

### **Background**

9.1 Whilst a number of banking groups presently offer superannuation savings accounts, these products are provided through an interposed trust structure, usually via the bank's life company subsidiary. Advocates of superannuation savings accounts (SSAs) seek the removal of the requirement for an interposed trust structure and the introduction of a separate regulatory regime with lower obligations for supervision and disclosure.

9.2 Whilst differing somewhat from the banks' proposal, the following script from a submission by the Credit Union Corporation (Australia) Limited (CUSCAL) provides an overview of the nature of SSAs:

- SSAs would operate using portable savings accounts for balances below say \$5,000;
- balances in SSAs would be capital guaranteed and there would be no administration fees and no entry or exit fees;
- once an account reached the \$5,000 threshold, the account balance would be transferred to the award superannuation fund, or if there is no nominated fund, to a fund nominated by the member;
- contributions to SSAs could be made by employers, employees or by people up to 2 years after leaving the workforce;
- interest would be credited periodically to the accounts, and would be concessionally taxed, in line with existing superannuation fund earnings;
- contributions to SSAs would attract existing tax benefits where they satisfy existing requirements for tax benefits;
- a reduced disclosure regime would apply, involving quarterly statements to members, indicating contributions, interest and the preserved and vested account balance; and
- credit unions would conduct regular, member authorised sweeps to consolidate SSAs.<sup>1</sup>

## Existing Government policy

9.3 In his Statement of 28 June 1994 the Treasurer announced that the Government has decided against the introduction of a special tax and regulatory regime for SSAs. In justifying the Government's position, the Treasurer maintained that:

the present arrangements ensure that superannuation products offered by banks are subject to the same rules and conditions as for other providers of superannuation... this prevents any one sector gaining an unfair advantage over competitors in the superannuation market, and ensures that members of all funds enjoy similar regulatory protection.<sup>2</sup>

9.4 In response to claims from banks and credit unions that a major benefit of introducing SSAs would be their contribution to resolving the small amounts problem, the Treasurer provided that 'the package of measures we are announcing today [which did not include SSAs] provides a comprehensive solution for small amounts'.

## The Case For SSAs

9.5 The two major proponents of SSAs are the Australian Bankers Association (ABA) and the Credit Union Corporation (Australia) Limited (CUSCAL), both of whom submitted to, and appeared before, the Committee.

9.6 In response to the Treasurer's Statement, Mr Alan Cullen, ABA, advocated SSAs to the Committee as a solution to the small payments problem, saying that:

Our view is that that [the Treasurers' Statement] has solved nothing but has merely disguised the way in which the costs and the benefits will operate, by enforcing cross-subsidies in the industry and really providing no choice to superannuants... when we talk about the group to which you are directing attention, would it not be easy for someone to have a simple superannuation savings account that they take from employer to employer?

The employer, by paying into that account, would discharge his obligations. The person concerned would know precisely the amount they have in that account at any given time, whereas they would not normally know the value of the various superannuate amounts they have. They would at least have all

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2 The Hon Ralph Willis, MP, *Treasurer, Statement on superannuation policy*, 28 June 1994



their accounts consolidated at that time and, indeed, if they hold more than one superannuation savings account with banks, the building societies or credit unions, we would have the tax file numbers.<sup>3</sup>

9.7 When asked by the Committee why he thought the Treasurer had disregarded the ABA's proposals, Mr Cullen replied that:

one of the reasons the Treasurer advanced for not proceeding with the bank proposals was that the unions would never agree that superannuation savings accounts would be complying funds for the purposes of the awards. Therefore, given that the award was quite extensive, it would not solve this problem [the small payments problems].<sup>4</sup>

9.8 In regard to the 'level-playing-field' argument, Mr Cullen was critical of the way in which banks are presently required to offer superannuation products, claiming that:

it is true that banks offer superannuation savings accounts or simple products through their life subsidiaries but the banks are putting it [SSAs] forward because they see that they carry a cost burden which need not be carried in terms of the needs of particular superannuants. Therefore, they would offer both. The level playing field is an argument that has no merit whatsoever.<sup>5</sup>

9.9 In support of this argument, Mr Cullen claimed that the use of a trust structure amounted to 'a cost burden which need not be carried in terms of the needs of particular superannuants'. Mr Cullen elaborated to the Committee by saying:

The point is whether or not one is interested in the benefit to the superannuant or one is interested in the benefits to the providers. We have said that there is no need for a trustee, no need for a prospectus, no need for the type of reporting requirements you have if you are investing in a bank deposit which is prudently supervised by the Reserve Bank...

We have no problem with the superannuation savings account being offered by life offices and superannuation funds if they can meet the requirements [of the Reserve Bank of Australia].<sup>6</sup>

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3 Evidence, p 160

4 Evidence, p 161

5 Evidence, p162

6 Evidence, pp 161-162

9.10 Of particular interest to the Committee was the claim by the ABA in their submission that SSAs offer a means of consolidating multiple accounts.<sup>7</sup> Mr Cullen explained that this could be simply achieved by utilising the bank clearing system, providing the banks were given legislative authority to use Tax File Numbers for this purpose.<sup>8</sup>

9.11 Having had time to further analyse the ATO collection system, the ABA forwarded a supplementary submission to the Committee on 28 November 1994 outlining their views on that system, which can be summarised as:

- the costs of the ATO system are likely to well above the estimated \$7 million per annum estimated by the Treasurer;
- the member protection rules are likely to significantly increase the cross subsidies inherent in the system; and
- the Treasurer's Statement does not attack the cause of the small amounts problems, being the \$450 SG threshold.<sup>9</sup>

9.12 Also in favour of SSAs was Mr Chris Gration, of CUSCAL, who reiterated to the Committee that the credit union movement wishes to offer a product for amounts up to \$1,200 in any year, and not exceeding a threshold of \$5,000. Once the account balance reaches the \$5,000 threshold it would be transferred into the appropriate award fund or, in the absence of an award fund, a fund nominated by a member. The SSA product would offer a capital guarantee with a guarantee of growth at rates similar to those of term deposits and, importantly, with no fees or charges.<sup>10</sup>

9.13 When questioned by the Committee as to why CUSCAL chose \$5,000 for the threshold, Mr Gration replied that 'there was no particular science involved... we would be quite happy to consider a similar administrative framework with a \$2,000 or \$3,000 limit'.<sup>11</sup>

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7 SGCREV Sub No 80

8 Evidence, p163

9 SGCREV Sub No 80 Supplementary

10 Evidence, p 442

11 Evidence, p 450

9.14 Mr Gration did not present SSAs as the be-all-to-end-all for solving the small amounts problem, but rather suggested:

You are not going to have one single solution to this small amounts problem. It is a big problem, it is an ongoing problem and what we are saying is, we think superannuation savings accounts of the sort we are offering could be part of that solution.<sup>12</sup>

9.15 In support of this claim, Mr Gration expressed doubts to the Committee that the measures outlined by the Treasurer would provide the total solution to the small amounts problem because:

the member protection rules will protect a balance from erosion but it will not provide for growth... and... the Government cannot guarantee to pay interest for balances below \$1,200 and has explicitly stated that balances that reach \$1,200 and remain with the tax office will not be paid interest at all.<sup>13</sup>

9.16 Mr Gration also highlighted concern that:

the tax commissioner will, under the government's proposals, write to the worker to tell him that the balance has reached \$1,200 and will suggest that he nominates a fund to which that amount is to be transferred. If the worker does not do that, the amount just sits there. That person can keep contributing and will earn no more interest. The amount could sit there for 15 years and earn absolutely nothing at all.<sup>14</sup>

9.17 Mr Dave Taylor, of CUSCAL, claimed that credit unions proposal to establish SSAs should be considered on its own merit as there are distinct and vital differences between credit unions and banks. Mr Taylor claimed:

in the Treasurer's Statement, only two reasons were put why SSA[s] should not be permitted. One was that industry funds pay for their own supervision and banks do not. The second was that industry life and super funds are there to protect their members' interests and banks are not necessarily there to do that; they are there to derive income for their shareholders. On both points credit unions, of course, are somewhat different from banks. Credit unions do pay to for their own supervision and credit unions are there for one reason only, and that is to provide services for their members.<sup>15</sup>

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12 Evidence, p 452

13 Evidence, p 445

14 Evidence, p 450

15 Evidence, p 440

9.18 When asked by the Committee to comment on the comparative long term yields of SSAs, Mr Taylor emphasised that they are not intended to be long term investments and that credit unions would be happy to have SSAs transfer to a traditional trustee based superannuation fund once the balance reaches a certain amount. Significantly, Mr Taylor said 'I think it is the fear of other institutions and banks wanting to compete directly that has caused such a strong reaction (against SSAs) from life and superannuation funds'.<sup>16</sup>

9.19 As with the ABA, CUSCAL forwarded a supplementary submission after further analysis of the ATO collection system.<sup>17</sup> In their supplementary submission CUSCAL maintained:

- there is good reason to believe that a large number of Australians will continue to generate small superannuation balances as small contributors are often part-time workers with broken work patterns, low pay and high mobility;
- part-time workers represent a growth sector of the economy;
- the Government appears to have chosen to force an inferior product [the ATO collection system] on low income earners;
- unlike SSAs, the proposed member protection rules do not guarantee capital growth;
- it will be difficult for funds like REST that have large numbers of small contributors to implement member protection;
- SSAs are a better safety net than the ATO because:
  - (a) they pay interest where the ATO will not,
  - (b) workers can save using their SSA even when they are out of work, and
  - (c) SSAs are highly portable and easily accessible;
- existing trust structures are simply too cumbersome for small irregular amounts;
- to work properly, SSAs would need the same light disclosure regime that will be extended to funds implementing member protection;

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16 Evidence, p 449

17 SGCREV Sub No 89 Supplementary

- the 'competitive neutrality' or level playing field argument against SSAs does not serve low income earners well;
- C+BUS pays a maximum of \$14,000 per annum for supervision by the Insurance and Superannuation Commission, whereas, a credit union with comparable assets would pay \$400,000 for supervision by the AFIC;
- SSAs would be subject to the Superannuation Complaints Tribunal; and
- Credit Unions have a widespread distribution network.

9.20 In its submission to the Committee, the Australian Federation of Consumer Organizations Inc (AFCO) was generally supportive of SSAs but stipulated that 'bank operated superannuation funds should have the same prudential and consumer protection rights as other superannuation products. This must include appropriate information, monitoring and redress for complaints'.<sup>18</sup>

9.21 In giving evidence to the Committee, Ms Jenni Mack of AFCO reiterated their support of SSAs, saying:

we think that, in many instances, a SSA would be a lot more user friendly to some groups of consumers... at least they will get interest paid if they are in a bank.<sup>19</sup>

9.22 However, Ms Mack went on to express some reservations about complaints arising from the SSAs being dealt with by the Bank Ombudsman vis a vis the Superannuation Complaints Tribunal, an issue which CUSCAL addressed satisfactorily in their supplementary submission.

### **Arguments against SSAs**

9.23 The Committee was given a detailed account from Mr Greg Smith, of Treasury, of the Government's justification for its policy regarding SSAs. Mr Smith said:

It was proposed that that instrument [SSA] be an account which can be the subject of a withholding tax - not the tax that we now have on superannuation funds - on credits to that account and that those accounts not be part of a trustee structure.

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18 SGCREV Sub No 20

19 Evidence, p 572

They wanted to get away from being required to establish a trustee with a fund and rather simply offer an account, just like an ordinary bank deposit account. The government would then have to pass special taxation laws to impose taxes on those accounts of a withholding kind. So that was what was being proposed. It was a completely different regime both as regards the administration of the system and the taxation of the system.

An attempt, of course, would have been made to make it as close as possible to the existing taxation and administration of superannuation funds which are separate entities. But in fact it would have been a separate system.

The reason the government did not agree to that was that it felt that it could not get sufficiently identical and therefore equal treatment of those accounts with the current system and that there would therefore be a competitive issue, noting that all institutions are free now to establish those types of accounts through the existing arrangements, which some banks have already done.<sup>20</sup>

9.24 In a joint appearance before the Committee, Ms Susan Ryan, of the Association of Superannuation Funds of Australia (ASFA), and Mr John Maroney, of the Life Insurance Federation of Australia (LIFA), were generally supportive of the measures proposed by the Treasurer for dealing with the small amounts problem, including the policy of not allowing the introduction of SSAs. Their position was summarised by Ms Ryan in saying:

despite those differences [from their proposal], we strongly support the Government's package... it will make millions of members better off and it will begin the process of improving confidence. Many media reports on the statement have commented that banks have been frozen out of the superannuation system. Nothing could be further from the truth. All major banks currently offer superannuation products under the same rules as every other commercial superannuation provider.<sup>21</sup>

9.25 Of interest to the Committee was that ASFA and LIFA do not differentiate between the claims made by the banks for SSAs and those made by credit unions. In addressing a question from the Committee about the relative claims for SSAs by credit unions and banks, Ms Ryan simply advocated the importance of the role of trustees and the need for maintaining a competitive level playing field for all participants in the superannuation industry.<sup>22</sup>

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20 Evidence, p 601

21 Evidence, p 78

22 Evidence, p 78

9.26 Similarly, Mr Ray Stevens, of William M. Mercer Pty Ltd, argued that banks and credit unions have to cover their administration costs just the same as anybody else and said he was certainly against allowing anyone to offer superannuation outside of the trust regime.<sup>23</sup>

9.27 Also opposed to the introduction of SSAs was the ACTU, with Mr Ian Court taking issue with the claim that credit unions would not 'make any charges' for SSAs. Mr Court put to the Committee that:

they cannot really have a margin between deposits and earnings that is less than the banks... The cost is not actually going to be deducted from balances: it is going to be deducted off earnings. The credit unions simply cannot compete either with their technology in their systems to deal with these sort of accounts [SSAs], or with cost.

If you compare a credit union with its three or four per cent margin as against a member protected superannuation fund which is effectively charging - in the case of C+BUS - nothing up to \$500 and about 0.6 of one per cent for up to \$1,000, they simply cannot compete. They simply are not a competitive product.<sup>24</sup>

9.28 Mr Court objected to SSAs being permitted to operate outside the existing superannuation prudential framework. He believes member representation and trustees of superannuation funds are beneficial 'both in scrutiny and in ordinary people getting involved in managing their money'.<sup>25</sup>

9.29 Mr Court also questioned the appropriateness of CUSCAL's proposed \$5,000 threshold saying that 'it is not a small balance. The average balance in C+BUS is \$3,000 after ten years'.<sup>26</sup> In response to a statement by the Committee that CUSCAL would be flexible with regards to the \$5,000 threshold, Mr Court replied:

I will put it to you, Senator, that they have not done their numbers and there will be an amount below which they will not go, because of the cost associated with it.<sup>27</sup>

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23 Evidence, p 202

24 Evidence, p 709

25 Evidence, p 709

26 Evidence, p 709

27 Evidence, p 726

9.30 In response to Mr Court's evidence, CUSCAL reaffirmed in a supplementary submission that credit unions would provide a 'fee free retirement savings account, yet at the same time offer a "market rate" of interest'. They maintain they will do so by utilising an existing 'sophisticated computer systems network'.<sup>28</sup>

9.31 Having considered the preceding evidence, the Committee is confident that the member protection rules, in combination with the ATO scheme and transfer protocol, will assist with the problems associated with small superannuation balances.

9.32 The Government members of the Committee are of the view that all participants in the superannuation arena should come under the same prudential supervisory regime and the introduction of SSAs is an unwarranted complication to the superannuation scheme.

9.33 The Coalition and Democrat members of the Committee are of the view that there is a role for other financial intermediaries in alleviating the small amounts problem. The development of SSAs should be allowed providing:

- they come under the jurisdiction of the Superannuation Complaints Tribunal;
- consumer protection is further enhanced by additional funding for Consumer Credit Legal Services to provide representation and advice in the absence of trustees. This is consistent with the Committee's recommendation in its Ninth Report that the Government consider supporting the establishment of an independent superannuation advisory service;
- accounts are not subject to entry or exit fees;
- the rate of return is comparable to that of long-term deposits; and
- there is a maximum amount for such accounts of \$3,000 beyond which balances are transferred to a managed fund (although the account can then be re-opened with a balance of zero).



9.34 The Government and Democrat members question banks' capacity to provide SSAs, given their apparent inability to handle the issue of small bank accounts.

## CHAPTER 10:

# INTERACTION BETWEEN SG AND AWARD SUPERANNUATION

### Background

10.1 This Chapter examines the interaction between SG and award superannuation.

10.2 Award superannuation emerged from an industrial relations framework. It evolved from the National Wage Case of September 1983. The effect of that decision culminated in an agreement in September 1985 between the Australian Council of Trade Unions (ACTU) and the Federal Government to apply to the Australian Conciliation and Arbitration Commission for a 3% productivity increase to be taken as superannuation contributions with an intended commencement date of 1 July 1986.

10.3 The High Court subsequently held that the ACTU superannuation claim was an industrial matter and the then *Conciliation and Arbitration Act 1904* (now the *Industrial Relations Act 1988*) was amended to require the Industrial Relations Commission to take into account, in arriving at national wage case decisions, increased superannuation contributions made by employers.

10.4 As outlined in Chapter 2, the Government decided to introduce a mandatory superannuation scheme, which commenced on 1 July 1992. However, the award superannuation system was not dismantled when SG was implemented which has resulted in these two superannuation systems operating concurrently. The result is that employers may be required to comply with both superannuation systems simultaneously.

10.5 The evidence to the Committee in the course of this inquiry has been that the liability of the employer under each system can be markedly different. This position is further exacerbated by variations in the requirements of individual superannuation award provisions.

10.6 Consequently, the inconsistencies arising from the joint operation of the two arrangements has led to significant administrative difficulties. Indeed, evidence received by the Committee indicates that the relationship between SG and award superannuation has been quite fragile.

10.7 Of particular relevance to the issues discussed in this Chapter is the decision handed down on 7 September 1994, by the Full Bench of the Australian Industrial Relations Commission (AIRC) on a Superannuation Test Case dealing with the question of what provisions, if any, awards of the Commission should contain with respect to employee superannuation. The Test Case established standards which the Commission can incorporate in awards on application. This case is discussed in detail at the end of this Chapter.

10.8 In short, evidence has been provided to the Committee concerning the conflict in differing thresholds, contribution rates, earnings bases and frequency of payments.

### **Differing Thresholds**

10.9 The threshold for SG legislation is \$450 per month. However, award thresholds can vary from one award to another and may be defined in terms of salary dollars earned or the length of service, or both.

10.10 Several submissions identified the confusion surrounding these different thresholds as contributing greatly to the administrative burden of meeting superannuation obligations.

10.11 The extent of this problem is perhaps best illustrated by the evidence given by Mr Richard Calver, Victorian Farmers Federation, on how differing thresholds affect primary producers:

Under [the Pastoral Industry Superannuation Award] there are no qualifying number of hours. The three per cent employer contribution required to be paid under that award must be paid for all employees covered by the award from the first dollar earned, yet under a sister award, the Wool Classers and Shearing Staff Employees Award, there is a minimum qualifying period of 80 hours worked in a financial year. Once the 80 hours are worked, again the three per cent contribution under the award becomes payable from the first hour, not the 81st hour.

Then the farmer also needs to record whether or not the workers reached the monetary threshold now of \$450 per month under the SG legislation. That might affect the payment of the one per cent additional to those awards or it might affect the entire SG requirement. So, for a very small superannuation contribution, the farmer has got to cope with the provisions of no minimum payment [threshold] at all under the Pastoral Industry Superannuation Award, he has got to cope with logging the number of hours under the Wool Classers Award and then he has got to keep a monetary record. It could be that the same casual employee did different work for the

same farmer that would require that person to be paid under those three different awards. I do not think it an exaggeration to say that the SG process is held up to ridicule.<sup>1</sup>

10.12 The Committee heard similar evidence from Mr David Goodear, Jacques Martin Industry, that anomalies exist in the liquor industry where employers are confused as to whether the lower limit is the SG specification of \$450 a month or \$290 a month, because the award in some states specifies \$290.<sup>2</sup>

10.13 Ms J. Willmott, of Nedlands, Western Australia, succinctly outlined the problems arising from conflicting thresholds as being:

Our award stipulated that if a person worked 10 hours per week after a qualifying period of three months we must contribute 3%. We must therefore test each person's total income each month to see if they qualify for the Superannuation Guarantee and if they do not then we must look to see whether they qualify for the lesser amount of 3%.<sup>3</sup>

10.14 An example of the implications this confusion was articulated by the Australian Liquor, Hospitality & Miscellaneous Workers Union (ALHMWU). It submitted that:

many employers now feel justified in taking the stance that even though the award provides a minimum level of \$250 per month, the SGC gives them a higher minimum of \$450 per month and accordingly they are advising employees that no superannuation benefit is payable unless they earn in excess of that figure.<sup>4</sup>

10.15 The threshold differences were further exemplified to the Committee in a submission from the New South Wales Nurses' Association which provided that although the State-based award in New South Wales prescribes a threshold of \$1,744 per annum, the newly established public sector First State Superannuation Scheme has a once-only threshold of \$450.<sup>5</sup>

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1 Evidence, p 225

2 Evidence, p 134

3 SGCREV Sub No 13

4 SGCREV Sub No 40

5 SGCREV Sub No 26

10.16 An insight into why award thresholds vary was given to the Committee by Ms Ann Drohan, ALHMWU. Ms Drohan explained that:

in our sector... the award has been designed around the type of work that our members do... the reason that the \$250 minimum was struck was partly because they worked for more than one employer.<sup>6</sup>

10.17 Chapter 7 reports the considerable debate on whether the SG threshold should be increased or decreased. In this Chapter the Committee has explored the threshold in the context of the coexistence of the SG and award superannuation systems.

10.18 This evidence suggests that many awards have a different and mostly lower threshold, and the lowering of the \$450 per month SG threshold, as recommended by the Committee in Chapter 7, will ensure a greater degree of uniformity between the award and SG systems exists and a greater coverage of low income earners is achieved.

10.19 However, inconsistency, albeit to a lesser extent, will remain between the \$200 per month thresholds for most awards and the lower quarterly SG threshold recommended by the Committee.

10.20 The Committee notes that the decision arising from the AIRC Superannuation Test Case has provided a means by which the AIRC may further address this inconsistency. This is dealt with in the Committee's recommendation at the conclusion of this Chapter.

### **Contribution Levels**

10.21 The level of SG contributions is being increased, at a predetermined rate, to 9 per cent for the 2002/03 and subsequent financial years. The phase-in scale for small employers, with a payroll of less than \$1 million, is lower in the earlier years than the scale for large employers. Apart from this slightly different phase-in scale until 1996/97, SG contributions are uniform for all employers and across all industries. By contrast, award contributions vary from award to award.

10.22 Mr Rosario, of Westscheme, gave an account to the Committee of how confusion surrounding award requirements has led to non-compliance with SG. Mr Rosario told the Committee he had encountered much difficulty during May 1994 in communicating the impending increase in the SG contribution rate.<sup>7</sup>

10.23 The Committee also heard evidence from Mr Troy, Australian Road Transport Industrial Organisation (ARTIO), that the use of flat dollar contributions under some awards exasperates the complexities associated with contribution levels. Mr Troy explained that for a given, flat dollar contribution some employers could be paying less than is required under SG whilst, at the same time, other employers contributing under the same award could be paying more than is required.<sup>8</sup>

10.24 The interaction between the contribution levels for SG and award superannuation manifests the problem that employees can end up with two superannuation funds for the one employment relationship.

10.25 This anomaly affects the New South Wales Nurses Association (NSWNA), which submitted that disparity exists between the Commonwealth SG threshold and aggregation provisions and those applying under the State-based occupational superannuation award, the latter providing for the first 3% component of the overall current 5%.<sup>9</sup> Mr Maratheftis, NSWNA, highlighted this problem when he told the Committee that approximately 5% of employers have created their own complying superannuation funds to which they contribute SG amounts over and above the awards requirements. The result is that employees have one employer, but two active superannuation accounts.<sup>10</sup>

10.26 To alleviate this situation, Mr Maratheftis suggested that the Treasurer's comments about SG complementing rather than replacing awards warrants an amendment to SG legislation to make employers contribute to superannuation funds nominated under the principal the industrial award prior to the commencement of SG.

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7 Evidence, p 319

8 Evidence, p 167

9 SGCREV Sub No 26

10 Evidence, p 31

10.27 Although the continued phasing-in of SG is likely to mean some inconsistencies in this area will remain, the Superannuation Test case has given the AIRC the jurisdiction to hear applications to vary the superannuation provisions of awards.

### **Earnings base definition**

10.28 The SG legislation sets out definitions for earnings bases which are used for calculating superannuation contributions. Award superannuation definitions of earnings bases can vary from award to award and from those of SG legislation.

10.29 Various submissions to the Committee addressed the administrative problems that have occurred because of inconsistency between the definition provided by SG and those provided by some awards for the earnings base. Some awards use a flat dollar amount which eliminates the need for an earnings base for award superannuation purposes. Other awards have varying earnings bases. This situation has been compounded by the SG requirement that shortfall components must be calculated using ordinary times earnings, regardless of whether an award specifies a flat dollar contribution.

10.30 In giving evidence before the Committee, Mr Michael Monaghan, of the Australian Taxation Office, acknowledged the concerns associated with the use of flat dollar earnings bases because the *Superannuation Guarantee (Administration) Act 1992* was really designed around employers contributing on the basis of the earnings of an individual employee. Mr Monaghan explained that historically, the standard employee and flat dollar earnings bases were not in the original legislation, but they were introduced as a result of negotiations at the time of the passage of the bill.<sup>11</sup>

10.31 Mr Davies, of Mayne Nickless, gave the Committee an account of this from an employer's perspective:

When the superannuation act was enacted it did not recognise flat rate contributions but rather required all SGC support to be measured as a percentage of notional earnings. The majority of our employees are covered by the Transport Workers (Superannuation) Consolidated Award 1987 which requires the company to make a contribution to the TWU fund of \$17 per week in respect of the employee basic wage. Following a series of

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11 Evidence, p 609

meetings, the government agreed to amend the act so that the TWU fund would have to recognise a notional earnings base. The new section 25A which came into force in December 1992 was a result of this agreement.<sup>12</sup>

10.32 Mr Davies also gave evidence to the Committee that inconsistent definitions of earnings bases in SG and the Transport Workers (Superannuation) Consolidated Award 1987 created considerable a administrative burden. Mr Davies articulated:

When Superannuation Guarantee Ruling No. 93/D1 was issued by the Australian Taxation Office on 27 May 1993, it was clear that the Australian Taxation Office had interpreted section 25A to mean that we would need to use two earnings bases to measure our SGA contributions in respect of each transport award employee. Taking figures for the past year to illustrate this, we see that the \$17 contribution is 4.45% of the base wage, so we must make a top-up contribution to meet our 5% of SGA obligation in respect of each TWU employee. But the remaining 0.55% contribution must be based on the employee's ordinary times earnings... We estimate that approximately 7,000 additional SGA calculations were made in 1992-93 and 1993-94 financial years, owing to the use of two earnings bases.<sup>13</sup>

10.33 Mr Davies acknowledged that the Treasurer's Statement of 28 June 1994 foreshadowed legislation to rectify the problem with section 25A. From 1 July 1994, SG legislation would provide that the amount of flat rate contribution would be measured against a standard employee earnings base. Mr Davies assumes that this amendment will apply to both full-time and casual employees and asked that the Committee endorse the amendment proposed by the Treasurer.<sup>14</sup>

10.34 Whilst endorsing the Treasurer's proposed measures to rectify this problem with section 25A, Mr Davies highlighted another problem. He explained that, among other things, section 25A requires an award to be operative prior to 21 August 1991 before a flat rate contribution notional earnings base can be recognised.<sup>15</sup>

10.35 In discussing this situation, Mr Davies submitted to the Committee:

The relevant unions are agreeable to varying the award so that a classification of employees is named and a recognised notional earnings base

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12 Evidence, p 149

13 Evidence, p 149

14 Evidence, p 149

15 Evidence, p 149



be created. We believe that if an employer reaches agreement with a union to amend an award that does not presently contain all the elements of section 25A, but after the amendment would meet the requirements, then there is no reason why section 25A should not apply to effect a notional earnings base for that award.<sup>16</sup>

10.36 The Australian Chamber of Manufactures (ACM) also had serious concerns with the ramifications for employers under awards making the flat rate contributions.<sup>17</sup> The ACM did not consider that the insertion of section 25A fully addressed the problem. Its concern is about a ruling by the Tax Office that the award rate for the "standard" employee becomes the notional earnings base only for determining what percentage the flat rate represents:

If the flat dollar, when expressed as a percentage for the employee, is less than the employer's SGC percentage for the employee, the excess percentage must be measured against another earnings base... The problem is compounded in the case of part time and casual employees, and juniors and apprentices, because the relevant awards contain lower flat rate amounts for other than full-time adult employees... there is no provision for any apportionment of the contribution for a person paid at a lower rate than full-time adults. Accordingly, the notional earnings base is the same as for full-time adult employees.<sup>18</sup>

10.37 Although the *Taxation Law Amendment Act (No 4) 1994* remedied the anomaly in relation to part-time employees, the ACM submitted (in relation to what was then the Taxation Laws Amendment (No 4) Bill) that the situation concerning part-time employees working more than 30 hours per week, casuals, juniors and apprentices has not been addressed. The ACM regards this as 'highly unsatisfactory', considers section 25A as 'extremely complex' and one which 'has created an administrative nightmare for employers and will almost certainly result in widespread confusion and involuntary non-compliance'.<sup>19</sup>

10.38 Mr Brian Troy, ARTIO, gave the Committee an account of how the road transport industry had dealt with the problems associated with flat dollar contributions.<sup>20</sup> The union rejected a proposal from the ARTIO in early 1994 for an increase in the flat dollar award contribution from \$17 to \$21 on the basis that it would be best for majority of their members to remain with the SG percentage.

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16 Evidence, p 148

17 SGCREV Sub No 61

18 SGCREV Sub No 61

19 SGCREV Sub No 61

20 Evidence, p 168

For example, a flat \$21 would disadvantage the higher paid worker who, in some cases would receive \$26 to \$28 under the SG percentage. To facilitate this approach, a small amendment was made to the trust deed of the TWU superannuation fund to ensure that section 25A would not apply. SG now applies, with the minimum flat dollar, which exists under the award, now acting as a minimum, rather than a standard rate of contribution.

10.39 Mr Troy also recommended that the Treasurer's proposal to amend SG legislation from 1 July 1994, to provide that there is only one earnings base for flat dollars, be backdated to cover the first two years of the operation of SG.<sup>21</sup>

10.40 The Committee heard a view from Mr Richard Calver, Victorian Farmers Federation (VFF), that recognition of a flat dollar earnings basis would not be a 'sufficient solution'. Mr Calver suggested the best approach would be for SG to eliminate award superannuation where the entitlements were coexistent, but did, however, recognise that such an approach would almost certainly give rise to industrial disputes. Mr Calver told the Committee that the VFF supported the National Farmers' Federation approach that SG legislation should be amended to ensure that its coverage and application are established as statutory terms which override awards.<sup>22</sup>

10.41 A contrary view was expressed by the ARTIO who recommended in their submission to the Committee that SG legislation be amended to provide that, where a federal award provides for a system of superannuation contributions that are reasonably comparable to SG requirements, then the awards will operate to the exclusion of SG.<sup>23</sup>

10.42 The Institute of Actuaries of Australia (IAA) submitted that there are 'a number of significant problems with the use of Ordinary Time Earnings as the earnings base... particularly... in the case of defined benefit funds'.<sup>24</sup>

10.43 The Committee notes that, subsequent to the submission being forwarded, this issue was addressed by the Treasurer in his Statement of 28 June 1994.<sup>25</sup> Nevertheless, the IAA gave evidence that the changes

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21 Evidence, p 167

22 Evidence, pp 226-232

23 SGCREV Sub No 50

24 SGCREV Sub No 53

25 The Hon Ralph Willis, MP, Treasurer, *Superannuation Policy - Statement of Measures*, 28 June 1994

announced in the Treasurer's Statement do not go far enough as they cover only a small proportion of the problem issues.<sup>26</sup> The IAA suggested that the SGAA be amended so that 'the existing earnings base provision is independent of employers, so that it just depends on the funds having been there at August 1991'<sup>27</sup> and for Tax Office approval of 'successor funds set up as genuine replacements to earlier funds'.<sup>28</sup>

10.44 A further issue in the award superannuation arena was raised by Mr G.M. Strickland, of Tennant Creek, Northern Territory. Mr Strickland submitted that under an enterprise agreement with his employer, the notional earnings base for employer contributions is a 'base rate' of earnings which is less than gross yearly earnings. Mr Strickland's concern is that because of this method of calculating contributions, his retirement benefit will not be in accordance with his earning capacity.<sup>29</sup> The employer and employee agree that the contributions are in accordance with the enterprise agreement. Although this matter is one of industrial relations, it illustrates another area of superannuation in which confusion and grievance can arise.

10.45 The Committee acknowledges the confusion surrounding varying definitions for earnings bases and notes that the AIRC now has authority to ensure that awards specify an employee's earnings which, for the purposes of SG legislation, will operate to provide a 'notional earnings base'. The Committee therefore concludes that inconsistencies with earnings bases are now a matter for parties to raise before the AIRC.

### Frequency of Payments

10.46 The SG provisions on frequency of payments are as follows:

- during its first year of operation (1992/93) employers could make payment on an annual basis.
- during subsequent years, employers could make payments on a quarterly basis.

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26 Stephen Partridge, Evidence, p 476

27 SGCREV Sub No 53

28 SGCREV Sub No 53

29 SGCREV Sub No 108, Supplementary SGCREV Sub No 108

10.47 However, quarterly payments were postponed for the 1993/94 year. The Treasurer's Statement of 28 June 1994 further provided that:

The present annual contribution requirement for the SG will be maintained in 1994-95 and subsequently until the SG regime is more settled and established. The requirement for quarterly contributions under the SG will then be introduced with 12 months notice to employers.<sup>30</sup>

10.48 Despite these changes to the frequency of SG contributions, many award contributions remain payable on a monthly basis. Mr Jeffrey Carr, of ALHMWU, raised the point that monthly payments ensure workers are provided immediate access to death and disability insurance and start accruing interest on their contributions immediately. Mr Carr also suggested that six-monthly statements enabled the employee to check that payments are being made correctly.<sup>31</sup>

10.49 The Maranoa Graziers' Association questions the frequency of payments under the awards and recommends a quarterly payment system. They submitted that the main benefit of a quarterly payment system would be to streamline the procedure, in line with the already established tax system. They added that this would require an alteration to the industrial awards which pertain to the rural industry.<sup>32</sup>

10.50 The introduction of a quarterly payment system was also supported by the Australian Council of Trade Unions which suggested that it would resolve a number of problems currently faced by funds, including:

- monitoring compliance is difficult with an annual payment;
- death and disability cover in most cases cannot be maintained where an annual payment is made; and
- annual statements to members show nil because the payment is received after the end of the financial year.<sup>33</sup>

10.51 The Committee is pleased to note that the AIRC also has the authority now to facilitate the process of making contribution rates of awards more consistent with those provided by the SG legislation.

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30 The Hon Ralph Willis, MP, Treasurer, *Superannuation Policy - Statement of Measures*, 28 June 1994

31 Evidence, p 249

32 SGCREV Sub No 1

33 SGCREV Sub No 107

## Recent Developments

### *Superannuation Test Case*

10.52 In its submission to the Committee, the Commonwealth Treasury stated that the Government's position on the interaction between SG and award superannuation is that most of the difficulties could be addressed through a process of harmonisation. In particular, the Government recommended to the AIRC that the superannuation provisions of awards should be reviewed with a view to amending or removing those that provide for a lower standard of practice than the SG.<sup>34</sup>

10.53 On 7 September 1994, the full bench of the AIRC handed down a Superannuation Test Case decision dealing with the question of what provisions, if any, awards of the Commission should contain with respect to employee superannuation.

10.54 A useful summary of the outcome of the Superannuation Test Case was provided in a submission from the Department of Industrial Relations (DIR).<sup>35</sup> DIR stated that the main outcome of the test case was the AIRC had a continuing role to play in the application of superannuation. Moreover, DIR's submission explained that where application to vary award provisions as far as they relate to quantum of employer contributions and employees covered, the AIRC determined that it would:

- vary the award by inserting a clause stating: 'Superannuation legislation - The subject of superannuation is dealt with extensively by legislation including the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties';
- if appropriate, ensure that the award contains a specification of an employee's earnings (for example, 'ordinary time earnings') which, for the purposes of the SG Act will operate to provide a 'notional earnings base'; and

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34 SGCREV Sub No 96 .

35 SGCREV Sub No 94

- if the award is to prescribe a 'flat dollar' amount of employer contributions, ensure that appropriate amounts are inserted so as to give effect to the levels of contribution required from time to time under the SG Act.

10.55 The AIRC also determined that it would continue to deal with applications in respect of choice of fund matters and such matters would be regarded as part of the safety net award wages and conditions. Any specification of a fund will carry with it the obligation on an employer to pay contributions at such intervals (for example, monthly) as required by the fund.

#### *Section 150A Review*

10.56 The insertion of section 150A of the *Industrial Relations Act 1988* in March 1994 was the result of the *Industrial Relations Reform Act 1993* which requires that the award system operate effectively at enterprise level.

10.57 The AIRC has an obligation under section 150A to review each of its awards every three years to consider if they are deficient, in respect of the provisions of paragraph 150A(2), and take action to remedy any such deficiencies.

10.58 The AIRC provided in its decision in the 'Safety Net Adjustment and Review Case', of 21 September 1994, that a set of detailed principles by which awards can be reviewed will best be developed by conducting a pilot award review programme.

10.59 The pilot award review program involving 14 awards, currently underway, is to be completed by August 1995. The AIRC will then reconvene to determine, among other things, the principle on which the continuing review of awards should progress.

#### **Conclusion**

10.60 The Committee recognises the extent of the administrative burden generated by the inconsistent interaction of the requirements for SG and award superannuation and notes that the outcome of the AIRC Superannuation Test Case has provided a means by which many of these inconsistencies may be resolved.

10.61 However, the Committee is concerned at the time involved in such a process as each award, or group of awards, has to be individually brought before the AIRC. The Committee believes the removal of inconsistencies would be

expedited if the Government investigated and made submissions to the section 150A review on the most appropriate means by which SG and award superannuation inconsistencies can be removed. That submission should be based upon the principle that award and SG superannuation converge at the earliest possible time.

**Recommendation 10.1:**

**The Committee recommends the Government submit to the section 150A AIRC review of awards. This submission should outline the means by which SG and award superannuation inconsistencies can be removed.**

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## CHAPTER 11:

# COVERAGE AND COMPLIANCE

### Introduction

11.1 This chapter examines the scope of coverage required under the SG legislation, and the problems associated with superannuation for the self-employed. The extent of compliance with SG is also examined.

### Coverage

#### *Requirements*

11.2 The *Superannuation Guarantee (Administration) Act 1992* (the SGAA) requires all employers to make contributions in relation to their employees. Some exemptions apply, including foreign executives with Class 2 temporary entry permits (Code 413) Schedule 3 Migration Regulations.<sup>1</sup>

11.3 Under the Superannuation Industry (Supervision) Regulations (the SIS regulations), superannuation accounts can only commence if a person is employed. This occupational nexus is retained until a person retires, although the SIS regulations allow contributions to be accepted by a superannuation fund in relation to a person for limited periods of unemployment. This occupational link has particular impact upon women and others with patterns of broken participation in the workforce and is explored in more detail in Chapter 3.

#### *Statistics<sup>2</sup>*

11.4 The most recent data from the Australian Bureau of Statistics, as at November 1993, reveals that there were 7.638 million persons aged 15 to 74 in employment, of whom 6.145 million (over 80%) had superannuation coverage.

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1 Australian Taxation Office, *The Superannuation Guarantee, An Employer's Guide*

2 Australian Bureau of Statistics, *Superannuation Australia November 1993*, Catalogue No. 6319.0



**Table 11.1: Superannuation coverage of employed persons**

COVERAGE	FEMALES	MALES
employers	42%	61%
employees	86%	91%
self-employed	23%	43%

Source: Australian Bureau of Statistics, *Superannuation Australia November 1993*, Catalogue No. 6319.0

11.5 Nearly half of all employed persons with superannuation coverage (2.903 million) had their employer paying all their superannuation contributions.

### The self-employed

11.6 Taxation legislation has historically allowed self-employed persons to claim tax deductions for personal superannuation contributions. Prior to 1 July 1991, if a self-employed person received any employer-financed superannuation support, they lost their eligibility for these tax deductions. From 1 July 1991, a person who received contributions pursuant to *award* superannuation ('superannuation agreement contributions') could retain this tax deduction if the income from which those contributions related accounted for less than 10 per cent of the person's assessable income ('the 10 per cent rule').<sup>3</sup>

11.7 The taxation treatment of personal contributions was again changed on 1 July 1992 to allow for the introduction of the SG arrangements.<sup>4</sup> From 1 July 1992, the reference in the 10 per cent rule to industrial agreement contributions was broadened to refer to any employer-financed superannuation, which includes award superannuation, SG or any other employer-financed superannuation.

11.8 The 10 per cent rule had been designed to allow persons who were substantially self-employed with minimal employer superannuation support to receive the same levels of tax deductions for personal contributions as self-

3 Definition of "unsupported eligible person" in subsection 82AAS(1) of the *Income Tax Assessment Act 1936*, inserted by section 17 of SR No 80 of 1992

4 Subsection 82AAS(3) of the *Income Tax Assessment Act 1936*

employed people and employees without employer support.<sup>5</sup> Examples include some professionals such as doctors or lawyers receiving fees from lecturing, and primary producers who supplement their incomes during drought years.

11.9 A number of Visiting Medical Officers, truck drivers, building designers, and jockeys submitted that as self-employed persons they are adversely affected. The consequences of the self-employed receiving more than 10 per cent of their income in respect of which employer-financed superannuation is provided, is the loss of tax concessions for personal superannuation contributions.

11.10 It was put to the Committee by the Australian Medical Association that loss of tax deductions in such circumstances could undermine these persons' security in retirement by serving as a disincentive to provide for their own retirement.<sup>6</sup> This view needs to be balanced against other factors, such as anomalies that may have arisen if the tax arrangements had remained unchanged.

11.11 Mr Glen Jolly and Mrs Christine Jolly, of Brookfield in Queensland, were unhappy with the tax incentives for the self-employed and for employees. They also considered that the current rules discriminated against employees who were unable to persuade their employers to deduct contributions from their pay in the form of a salary sacrifice. Furthermore, Mrs Jolly had ceased work some years ago and her husband was unable to split his retirement benefits with her to reduce the tax burden on their single income situation. They advocated tax deductibility for all contributions to a maximum amount, removing tax payable on excess benefits, and a greater tax free component where there is a single accumulation to fund a family's retirement.<sup>7</sup>

#### *Local government councillors*

11.12 Subsection 12(10) of the SGAA defines a person who holds office as a member of a local government council as an employee of the council. Under the SGAA, the council is therefore obliged to make contributions on that person's behalf. The Committee received 19 submissions, 18 of which were from local government councils, opposing this provision.<sup>8</sup>

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5 Taxation Laws Amendment Bill (No 2) 1992, 2nd Reading Speech, 2 April 1992, Weekly House Hansard p 1767

6 SGCREV Sub No 48

7 SGCREV Sub No 110

8 SGCREV Subs No 9,10,11,12,15,17,18,25,30,35,37,38,39,43,46,49,51,62 and 69

11.13 The remaining submission in relation to local government councillors was from Coopers and Lybrand on behalf of the Municipal Association of Victoria and the Australian Local Government Association. It questioned the application of the:

- the 'control test', which asks whether the employer has the right to control how, when and where the work is done (even if control is not actually exercised);<sup>9</sup> and
- the 'integration test', which examines whether the individual's services are an integral part of the employer's business or merely ancillary to it;<sup>10</sup>

in determining employer/employee relationships. Their submission cited the *Local Government Act 1989* which 'expressly excludes employees of councils from standing for election to the council by which they are employed'.<sup>11</sup>

11.14 The Treasurer subsequently announced that the requirement for local government councils to make 'relatively minor superannuation contributions in respect of the meeting and travelling allowances that they pay to councillors' would deny:

many self-employed councillors the tax concessions they could otherwise claim in contributing to their own personal superannuation schemes... this effect is particularly harsh on local councillors who for all intents and purposes effectively volunteer their services to the community.<sup>12</sup>

11.15 The Treasurer consequently announced that:

The Government has therefore decided to amend the SGAA with effect from 1 July 1993 to exempt from its ambit income which elected local Government Councillors derive in performing their duties as Councillors. However, this measure will not preclude Councils from continuing to provide superannuation support on behalf of Councillors in circumstances, for example, where Councillors are effectively full-time employees.<sup>13</sup>

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9 Australian Taxation Office Superannuation Guarantee Ruling 93/1

10 Australian Taxation Office Superannuation Guarantee Ruling 93/1

11 SGCREV Sub No 49

12 The Hon Ralph Willis, MP, Treasurer, *Superannuation Policy - Statement of Measures*, 28 June 1994, p22

13 The Hon Ralph Willis, MP, Treasurer, *Superannuation Policy - Statement of Measures*, 28 June 1994, p22

11.16 The Association of Superannuation Funds of Australia (ASFA) considered the exclusion of local government councillors' allowances to be a 'sensible protection of the tax concessions for self-employed people who act in this largely honorary capacity'.<sup>14</sup> ASFA pointed out that:

there are a large range of similar positions in many statutory authorities and the office-holders in such cases are equally deserving of this concession. While this adds a further complexity, we strongly believe this exemption should be extended to the full range of similar, largely honorary, positions.<sup>15</sup>

11.17 While the Committee supports this position in principle, it does not favour initiatives which look to extend SG exemptions, unless there are compelling reasons to do so. It would seem likely that the exemption foreshadowed by the Treasurer in respect of local government councillors could conceivably be extended to other affected groups, should that be appropriate.

### *Jockeys*

11.18 The National Racehorse Owners' Association (NROA) and the Victorian Jockeys' Association (VJA) forwarded submissions, the former giving evidence to the Committee expressing concern that jockeys' remuneration would be subject to SG contributions.<sup>16</sup> This was determined in SG Determination 93/13. Jockeys' remuneration is calculated in relation to:

- \$60-\$65 riding fee; and
- a percentage of the stakemoney.

11.19 The NROA, however, asserts that:

Except for subsection 12(8) of the superannuation guarantee legislation of 1992, everyone regarded the jockey as the paradigm of a self-employed person, unless he happened to be associated with a stable<sup>17</sup>

and that is 'wrong for the superannuation of jockeys to be paid out of the hard earned money of our members'.<sup>18</sup>

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14 SGCREV Sub No 5

15 SGCREV Sub No 5

16 SGCREV Subs No 56 & 88 respectively, Evidence pp 209-223

17 Kurt Esser, Evidence, p 219

18 Kurt Esser, Evidence, p 211

11.20 In their submission to the Committee, the VJA described jockeys as:

self-employed individuals who offer their experience and skill to the owner of the racehorse to ensure that the horse participates in a race to the best of the horse's ability.<sup>19</sup>

11.21 The Treasurer's Statement of 28 June 1994 announced that prize money won by sportspersons and others would be exempted from the SG requirements from 1 July 1993, but that the definition of prize money:

will not be extended to appearance fees, commissions, incentive payments and regular payments in the nature of salaries. Remuneration of this kind will continue to be subject to the requirements of the SG legislation.<sup>20</sup>

11.22 Although the Treasurer's Statement foreshadowed an exemption from SG of winners of prize money, it seems that jockeys do not fall into this category as prize money is paid to the horse's owner. It has been submitted that confusion over this issue has led to high levels of non-compliance:

owners are not paying into any fund at all... they are not complying at the moment pending further inquiries made by this committee and further advices they receive from time to time. At the moment, it is fair to say that everything is on hold, partly for the reason that the arrangements are so burdensome and difficult.<sup>21</sup>

11.23 Superannuation Guarantee Determination 93/13, which was released by the Commissioner for Taxation on 11 November 1993, makes it clear that a jockey's employer is the person who is liable to make the payment to the jockey. In most cases this would be the owner or the trainer. Both the race fee and the share of the prize money earned by a jockey are paid by the racing club as agent for the owner or trainer. Payments made by an employer are subject to SG.

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19 SGCREV Sub No 88

20 The Hon Ralph Willis, MP, Treasurer, *Superannuation Policy - Statement of Measures*, 28 June 1994

21 Kurt Esser, Evidence, p 215

*Visiting Medical Officers*

11.24 Submissions and evidence from the Australian Medical Association (AMA), the Port Macquarie Division of General Practice Ltd, and the NSW Rural Divisions Co-ordinating Unit Ltd raised similar concerns to those of the jockeys.<sup>22</sup>

11.25 The AMA advised that state public hospitals engage specialists and general practitioners (Visiting Medical Officers or VMOs) who are also in private practice (and hence self-employed) to provide medical services to public hospital Medicare patients. The AMA submitted that income received by VMOs from their work in public hospitals generally constitutes a small proportion of their total income. Many of these VMOs make personal contributions to private superannuation schemes.

11.26 If, however, income from hospitals exceeds 10% of their gross income, the tax deductions from superannuation contributions, which are available to them as self-employed persons, are no longer available because of subsections 82AAS(2)&(3) of the *Income Tax Assessment Act 1936*.

11.27 The AMA submitted that this can put VMOs at a significant disadvantage in relation to other practitioners who gain tax concessions for superannuation contributions, and act as a disincentive for practitioners to enter into, or remain in, public hospital appointments.<sup>23</sup>

11.28 The NSW Rural Divisions Co-ordinating Unit Ltd submitted that the tax 'repercussions' of the 10 per cent rule could lead to 'general practitioners leaving country areas where already there is a major problem in recruitment and retention of doctors'.<sup>24</sup>

*Building Design Professions*

11.29 The Australian Council of Building Design Professions Ltd (BDP) expressed similar reservations to those expressed by the AMA about the operation of the 10 per cent rule and its impact on the tax concessions available

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22 SGCREV Sub No 48, Evidence pp 457-470; SGCREV No 111 and SGCREV Sub No 113 respectively

23 SGCREV Sub No 48

24 SGCREV Sub No 113

to self-employed persons making personal superannuation contributions.<sup>25</sup> The Council submitted that 'BDP is concerned that this situation would also apply to independent contractors in other industries such as the building design profession'.

11.30 BDP recommended that the Government establish 'an equitable system where everyone is entitled to the same tax deductibility of contributions up to a certain limit regardless of the source of income'.<sup>26</sup>

### *Transport Workers*

11.31 Mayne Nickless Limited and the Australian Road Transport Industrial Organisation (ARTIO) expressed concerns about the impact of SG upon the use of the sub-contractors they employed in road transport operations.<sup>27</sup> Mayne Nickless supported SG coverage for this class of worker but raised administrative concerns, whereas ARTIO expressed opposition to an SG liability for these workers.

11.32 Mr John Davies, of Mayne Nickless, advised the Committee that the company had problems with the administrative complexity of the SG rather than with the obligation.<sup>28</sup>

11.33 The company submitted that it had agreements with independent contractors who, for the main part, perform tasks identical to those performed by employees.<sup>29</sup> Prior to the advent of the SG, superannuation arrangements had been the same for both independent contractors and for employees, where superannuation support by the employer had been a flat rate based upon the Base Wage. However, the introduction of SG requires employer contributions for independent contractors to be based upon ordinary time earnings. Accordingly, the company now:

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25 SGCREV Sub No 63

26 SGCREV Sub No 63

27 SGCREV Subs No 44&50 respectively; Evidence pp 148-158 & pp 166-183 respectively

28 Evidence, p 149

29 SGCREV Sub No 44

finds it has two classes of worker, who perform the same job but whose superannuation support is different. The situation creates unrest for us and has the potential for damaging industrial action.<sup>30</sup>

11.34 Mayne Nickless recommended that if an award employee and an independent contractor are performing the same job, the SG earnings base applicable to the employee should also be applicable to the independent contractor.<sup>31</sup>

11.35 Mayne Nickless also expressed problems with the Tax Office Determination 93/6, which attempted to explain when a courier driver was to be considered an employee under subsection 12(3) of the SGAA. It submitted that courier drivers are paid at a parcel rate and that it was impossible to distinguish how much of that rate is for the labour and how much for the vehicle.<sup>32</sup> Mayne Nickless recommended that a courier receive the same amount of superannuation support that an employee would receive in the circumstance that the employee were supplied with a vehicle.

11.36 Although the Committee accepts Mayne Nickless' assertion that some standardisation was necessary, it is considered to be a matter to be settled in the industrial relations arena.

11.37 ARTIO submitted that the road transport industry makes extensive use of sub-contract drivers to provide transport services.<sup>33</sup> Sub-contractors may be sole or corporate traders. The corporate structure of the latter 'can be many and varied', operating as incorporated companies, trusts or partnerships'.<sup>34</sup> As Superannuation Guarantee Determination 93/6 exempts a prime contractor from SG obligations when dealing with sub-contractors who operate through a family company, trust or partnership, ARTIO argues that there is an incentive for prime contractors to deal only with incorporated sub-contractors, as it is administratively easier and cheaper. Consequently this has the effect of 'discriminating against sole traders, as prime contractors refuse to engage sub-contractors unless they are incorporated'.<sup>35</sup>

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30 Evidence, p 152

31 Evidence, pp 152-3

32 Evidence, p 153

33 SGCREV Sub No 50

34 SGCREV Sub No 50

35 SGCREV Sub No 50



11.38 The administrative difficulties of dealing with sole traders stems from the difficulties a prime contractor encounters in determining whether or not a sole trader should be treated as an employee, firstly by applying the 'control test', secondly by applying the 'integration test', and finally by determining under subsection 12(3) of the SGAA whether a person 'is working wholly or principally for the labour of the person'.<sup>36</sup>

11.39 ARTIO maintains that it is sometimes extremely difficult for a prime contractor to determine the labour content of a contract, as operating and capital costs, which would be deducted from the contract value to determine labour costs, 'are known only to the sub-contractor'.<sup>37</sup> A further uncertainty would be that 'there is no way of telling whether the value determined by the prime contractor will be the same as that calculated by the Taxation Office'.<sup>38</sup>

11.40 ARTIO proposes that administrative costs could be reduced and consistency and fairness in sub-contract rates be achieved through establishing a scheme parallel with the Prescribed Payments Scheme whereby a sub-contractor would need to obtain an SGC Exemption Certificate from the Tax Office to exempt a prime contractor from being required to make SG contributions.<sup>39</sup>

11.41 The Committee agreed that there was some problems involved with the different categories of contractors within the industry, but did not consider that SGC Exemption Certificates were an appropriate solution to the problem. Mr Noel Kimberley, of the Victorian Road Transport Association, commented in evidence that subcontractors:

are a broad group of people. There is, on the one hand, a group of highly organised independent contractors who are engaged by a number of larger companies who are called tied, committed, dedicated or whatever. They have an industrial perspective that they want their prime contractors to pay it. On the other hand there are thousands of these other people operating out there who work itinerantly... to have their own arrangements in place... [over which they wanted to retain control]. That is the way it should be, that these people take a choice.<sup>40</sup>

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36 SGCREV Sub No 50

37 SGCREV Sub No 50

38 SGCREV Sub No 50

39 SGCREV Sub No 50

40 Evidence, p 181

11.42 The Committee considers that this issue is essentially also one to be resolved in the industrial relations arena.

*Non-resident workers*

11.43 A number of submissions were received concerning the efficacy of applying the SG requirements to overseas residents working temporarily in Australia.

11.44 Arthur Anderson & Co submitted that application of the SG scheme produced results which were impractical when applied to non-residents working temporarily in Australia.<sup>41</sup> An example that was given was where a non-resident company employed non-residents to work in Australia on a cyclical basis. Because the non-resident employees did not have the necessary visas (executive overseas visa code 413) to qualify for exemption from the requirements of the SG scheme, the company was required to make contributions on behalf of those employees.

11.45 Arthur Anderson & Co also submitted that:

- it was not cost effective to enrol the employees in the company's superannuation fund;
- the administration is onerous to both employers and employees;
- the employees will only derive a minimal benefit as they will not remain in Australia; and
- if the company does not make contributions and becomes liable for the shortfall levied by the ATO, then:
  - (i) the ATO forwards SG vouchers to the employees who are required to nominate a superannuation fund in Australia into which the SG amount can be paid;
  - (ii) the money held by the ATO is then paid into the superannuation fund; and
  - (iii) the employees then withdraw the money, incurring all associated fees, when they leave Australia.

11.46 Mr Richard Friend, of Arthur Anderson & Co, considered that:

it does not really achieve any of the SGC objectives from my understanding because it is not money going to fund anybody's retirement because they are not retiring in Australia.<sup>42</sup>

11.47 Arthur Anderson & Co recommend that an exemption be inserted in section 27 of the SGAA to apply to all salary and wages paid to non-residents, at least for those working in Australia for less than two years.

11.48 Sedgwick Noble Lowndes made a similar submission.<sup>43</sup> They argue that:

the basic purpose of the Superannuation Guarantee is to ensure a systematic build up of funds for working Australians so that ultimately the bulk of the workforce is not reliant (at least not totally) on the public purse for income in retirement. To that extent the Australian Government does not need to be concerned with overseas residents who may be working in Australia for short period, either as employees or contractors...

The inclusion of overseas employees on (generally short term) secondment to Australia almost always involves the continuation of pension fund provisions by the overseas company. The provision of additional superannuation benefits through the superannuation fund conducted by the Australian subsidiary is therefore inappropriate and unnecessary. From our experience such employees will not generally receive Superannuation Guarantee related benefits as these benefits will be integrated with their overseas benefits or offset against remuneration earned in Australia.

The net outcome is additional non productive administration and is not consistent with the purpose for which the Superannuation Guarantee arrangements were established.<sup>44</sup>

11.49 Sedgwick Noble Lowndes recommended that the application of the SG exemption to overseas residents should be extended to include arrangements under Entry Permit Classes 411, 414, 417, 420 and 421.

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42 Evidence, p 426

43 SGCREV Sub No 52

44 SGCREV Sub No 52

11.50 William M. Mercer Pty Ltd considered that as most overseas executives working in Australia retire overseas, it seems pointless to have to provide them with compulsory superannuation which can in any event be cashed when they leave Australia permanently. Most would have adequate superannuation schemes in their own country.<sup>45</sup>

11.51 Mrs Finch, of Cronulla in NSW, submitted that SG for non-residents was a loophole hurting employers, maintaining that although such employees are 'not entitled to receive the tax free threshold... to claim any dependents' allowance... to claim for supportive benefits... [or] to have a Medicare card', their employer must pay SG on their behalf.<sup>46</sup> Furthermore, when the worker's work permit expires and they leave the country, they take the benefits arising from those contributions with them. Mrs Finch remarked that 'we may as well give them a few hundred dollars on the day they leave our employment with our best wishes'. She questioned the rationale for contributing to workers' retirement, only to have the benefits taken out of Australia by non-residents.

11.52 Finikiotis & Father, public accountants of Bondi Junction in NSW, queried the inclusion of non-resident entertainers within the SG requirements.<sup>47</sup> Included with their submission were copies of numerous complaints by industry employers, including the Australian Opera, Conrad Jupiters, the Entertainment Industry Employers Association, the Gordon Frost Organisation, Musica Viva and others. These grievances suggested that the SG requirements for non-resident entertainers are administratively cumbersome, expensive, inappropriate, and lead to negotiation difficulties between promoters and overseas artists which in turn generates 'a poor reflection on the Australian income tax system at an international level'.<sup>48</sup>

11.53 The Committee basically endorsed the concerns raised in relation to overseas workers. As the SG arrangements were designed to provide for or to supplement the retirement benefits of Australians, there seemed to be little rationale for legislating for overseas workers temporarily employed in Australia to be subject to SG obligations.

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45 SGCREV Sub No 57

46 SGCREV Sub No 90

47 SGCREV Sub No 93

48 SGCREV Sub No 93

11.54 The essential point seems that in these circumstances, it is extremely unlikely that benefits arising out of SG would ever be used for their intended purpose - that of providing benefits in retirement, as overseas workers with accrued SG entitlements would cash these in as benefits when leaving Australia permanently. If anything, early cashing in of SG benefits seems to defeat the purpose for which SG was implemented.

### **Recommendation 11.1**

**The Committee recommends that the Government extend exemptions from the requirements of SG to all non-resident workers where there is sufficient evidence that superannuation is being paid in the country of residence.**

### *Conclusion*

11.55 The evidence and submissions to the Committee highlights a number of difficulties inherent in the SG as it applies to persons whose self-employment status is indeterminate or ambiguous:

- self-employed persons with personal superannuation arrangements have a stake in maintaining their status as self-employed persons because they maintain tax concessions on personal contributions;
- potential employers have a stake in maintaining contractors' status as self-employed because it exempts them from SG liabilities and administration;
- self-employed persons without personal superannuation are not covered under SG; and
- under the 10 per cent rule, a person would be able to attract tax deductions on personal contributions, even though most of their income is derived from employers, as long as the income received from employers within any given month is below the \$450 threshold.

11.56 The issues which arise out of these problems are as follows:

- should the 10 per cent rule be changed?
- should the self-employed be subject to SG obligations? and, if so,
- what level of contributions should they be required to make, and by when?

*The 10 per cent rule*

11.57 The Committee notes the problems encountered by the groups discussed above as a result of the 10 per cent rule, but considers it inappropriate to recommend alteration of that provision. Ten per cent appears to represent an arbitrary negotiated solution to the problem of small employer contributions without it representing or referring to any particular yardstick or benchmark. It appears to the Committee to represent a compromise which enables self-employed people a margin of error to plan their financial affairs without being disrupted by the threat to the tax concessions to which they would be otherwise entitled posed by *any* small, and perhaps unexpected employer contributions.

11.58 The Committee notes that in some cases, 10 per cent of income amounts to a substantial amount of money, and a concomitantly substantial amount of employer-provided superannuation. At the very least, the ten per cent rule eliminates the 'sudden tax death' syndrome to which the self-employed were vulnerable prior to 1991.

*Superannuation Guarantee for the self-employed*

11.59 The Association of Superannuation Funds of Australia (ASFA) commented in evidence that:

It is doubtful that the current voluntary incentive approach which applies for self-employed people will ever achieve a satisfactory coverage...

Arguably attainment of adequate and sustainable retirement income levels across the board requires comprehensive superannuation coverage of the workforce. From a broad retirement incomes policy perspective, therefore it seems appropriate to extend compulsory SG coverage to self-employed persons.

However, there are a range of practical issues... which make mandating of self-employed persons' contributions highly problematic.

One of the most critical of these is the issue of determining an appropriate earnings base... there is obviously no concept of salary or wages or ordinary time earnings which can be used.

Thus the concept of "net business income" may be a possible earnings base.<sup>49</sup>

11.60 ASFA accepts that the policy arguments for mandating superannuation extends to some degree to the self employed, but considered that there are 'very significant practical issues which would need to be addressed in detail before the Government took any firm steps to introduce such a measure'.<sup>50</sup>

11.61 The Committee recognises that the issues to be resolved before a mandatory SG regime for the self-employed can be introduced are of immense complexity. It considers that, in principle, the problem is not insurmountable and that an innovative approach needs to be employed to resolve what could become an intractable issue which threatens the integrity of the SG regime.

11.62 The Committee proposes that as a self-employed person is not located within an employer/employee relationship, it should be possible to provide additional incentives which are linked to the occupational nexus itself.

11.63 A recent survey commissioned by the Australian Consumers Council revealed that most Australians consider superannuation to be a poor investment.<sup>51</sup> In addition, the Committee is mindful of the burdens imposed upon the self-employed, and small businesses generally. In this context, the Committee considers that the incentives for the self-employed to invest more in their superannuation should be structured to make superannuation a highly competitive investment.

## Compliance

11.64 In its report to the Committee, the Australian Tax Office (ATO) advised that awareness and compliance with the Superannuation Guarantee 'is at a high level'.<sup>52</sup> The ATO also advised that over 90% of employers claimed to have superannuation arrangements for all their employees in August 1993 compared to 64% in March 1992:

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49 SGCREV Sub No 5

50 SGCREV Sub No 5

51 Australian Consumer Council, *Super Day Super Sa*, - The Results of the Consumer Superannuation Phone-In, 23 November 1993; published 1994

52 SGCREV Sub No 84

Audits confirm this position, with over 90% of employers paying superannuation for their employees, although [only] about 80% are actually making enough superannuation contributions.

Employers who erred in the Superannuation Guarantee obligations are doing so by an average of less than \$250 per employee. The most frequently occurring shortfall amount reflected in audit activities is about \$30.<sup>53</sup>

11.65 The ATO also advised that 95% of employers were providing superannuation for 'some' of their employees. This level of success in achieving compliance by employers reportedly prompted a market researcher for the ATO to comment that compliance was at 'saturation level'.<sup>54</sup> The Committee understands that this level of compliance compares extremely favourably with compliance with other tax legislation, particularly the *Income Tax Assessment Act 1936* and the Child Support legislation.

11.66 The ATO also reported that there are three levels of employer compliance with the SGAA:

- employers who complied;
- employers who tried to meet their obligations but failed; and
- employers who, either because of lack of awareness or will, made no effort to comply.<sup>55</sup>

11.67 The problems with compliance often seemed to centre upon confusion about employees' earnings bases as well as employers overlooking casual and temporary workers.

11.68 One submission which represents organisations/employers who try to meet their obligations but may fail, was forwarded by the Adult and Community Education (ACE) Council. It submitted that many organisations within the ACE sector have great difficulty in complying with the SG requirements because of the associated costs, and administrative and accounting difficulties, which an under-resourced sector encounters in attempting to maintain accurate records for remittance of small amounts of money to funds.<sup>56</sup> The lack of resources also made it difficult for these organisations to find complying superannuation funds.

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53 SGCREV Sub No 84 Supplementary

54 SGCREV Sub No 84 Supplementary

55 SGCREV Sub No 84 Supplementary

56 SGCREV Sub No 64



Even where an employee has a superannuation account 'ACE organisations with insufficient administrative infrastructure have mostly not been able to accommodate payments to an employee's individual existing scheme'.

11.69 The ACE Council expressed reservations about the operation of the current legislation, particularly in relation to 'the not-for-profit, government supported NSW ACE sector'.<sup>57</sup>

11.70 Both the ACE Council and the Australian Chamber of Manufactures expressed concerns about employees who were unwilling to participate in superannuation funds established for the purposes of SG.<sup>58</sup>

11.71 Notwithstanding the favourable SG compliance figures, the Committee heard evidence of non-compliance. Mr Harry Sugars, AWU (SA), reported superannuation non-compliance associated with under award payments by some fruitgrowers. In the school holiday season when apricots are picked, Mr Sugars stated that he would deal with 'anything up to 15 or 20 cases' of under award payment and associated superannuation non-compliance in the South Australian Riverland District.<sup>59</sup>

11.72 The Committee agreed that the ATO's Superannuation Guarantee Project had been extremely successful in communicating the requirements of SG to the community, particularly employers, and noted that the ATO would be preparing further strategies for the 1994-95 year of income.

11.73 The Committee notes that 'compliance activities are now being targeted toward risk areas. These include employers of contractors or casual and part time employees'.<sup>60</sup>

#### *Dumping SG contributions*

11.74 Jacques Martin Industry submitted that a problem encountered by that organisation, as the largest industry fund administrator, is that:

many employers often simply "dump" money in the funds to meet Superannuation Guarantee requirements and provide a minimal amount of information regarding the relevant employees [to the funds]... many casual

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57 SGCREV Sub No 64

58 SGCREV Subs No 61 & 64

59 Evidence, p 665

60 Commissioner for Taxation, *Annual Report 1993/94*, p 75

members are accumulating small benefits of which they are unaware, and therefore aggregation of benefits as they change employers and industries is prevented.

This practice also adds significantly to fund administration costs through efforts necessary to try and obtain sufficient details from employers.<sup>61</sup>

11.75 Jacques Martin suggested that the remedy would be:

having a statutory requirement for employers making SG contributions to be required to provide an appropriate amount of information, ie. the employer's name, date of birth, last known address and TFN. This would permit easy identification and aggregation of employees' multiple accounts.<sup>62</sup>

11.76 It was not clear to the Committee why such an obligation upon employers should be explicitly statutory. A fund, complying or otherwise, is not obliged to open new superannuation accounts at an employer's request. If the information that an employer supplies is inadequate for the purposes of proper fund administration, then the fund is clearly free to refuse to accept those contributions until the necessary information has been made available. The onus to upgrade inadequate information then rests with the employer who remains under obligation to meet the requirements of the SGAA within the statutory time frame.

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61 SGCREV Sub No 92

62 SGCREV Sub No 92

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## **CHAPTER 12:**

### **AN ALTERNATIVE, AN ADDITION, AND EDUCATION**

#### **Introduction**

12.1 This chapter looks at the evidence received by the Committee concerning two unrelated proposals:

- the Institute of Actuaries of Australia (IAA) proposal for a Universal Pension; and
- the need for a 'lifecycle savings vehicle'.

12.2 This chapter also assesses the extent of community education needed in superannuation.

#### **Universal pension**

12.3 The following extract from the submission of the Institute of Actuaries of Australia (IAA) to the Committee captures much of the rationale behind their proposal to replace the current retirement income policy with a universal age pension:

Retirement Incomes are essentially a compromise:

- Ideal levels of benefit are too expensive;
- The most equitable system is too complicated;
- Individual preferences conflict with broad requirements;
- Targeted social security benefits conflict with incentives to save; and
- Budgetary requirements limit desirable tax treatments.

Combined with these conflicts are different political views, differing funding approaches and differing attitudes to government/private responsibilities. It is no wonder that our retirement incomes system has been subject to dispute and change... our present system is unsatisfactory.<sup>1</sup>

12.4 The IAA submitted that their objective for the universal pension is 'to enable all Australians to retire at a suitable time and to spend their whole retirement lifetime with a secure and adequate level of income'.<sup>2</sup>

*Outline of universal pension proposal*

12.5 To achieve their objective, the IAA propose a structure comprising of:

- a universal age pension entitlement for each Australian; male or female, earner or non-earner, not subject to any means test, but subject to income tax and a residency test; and
- superannuation plans which are tax-encouraged up to a certain level and with benefits primarily in income form, including:
  - (a) compulsory occupation-linked superannuation benefits based on the present SG arrangements;
  - (b) voluntary employer sponsored superannuation;
  - (c) voluntary personal superannuation; and
  - (d) other forms of savings.

12.6 The IAA submitted that their proposal is a flexible integrated structure with built in control mechanisms enabling adjustments to be made in relation to government revenue outlays on the basis of assessments of future costs and benefits which will be made to take into account changing demographic, economic and political situations.

12.7 An integral element of the proposal is the abolition of the age pension income and assets tests. Social Security administration would be simplified and the intrusiveness into pensioners' private affairs, which is a necessary part of means testing, would be alleviated.

12.8 The SG would be frozen at 6%, which would be popular with employers (especially small business), some of whom view the SG as an additional impost, and popular with lower income earners who view the SG as foregone wages.

12.9 The focus of the proposed system is on end benefits and security in retirement rather than on contributions and arbitrary benefit outcomes. This would better enable long term financial planning for retirement.

*Cost Estimates*

12.10 The IAA used the National Mutual Retirement Income Policy (RIP) Model, as modified by the Government's Retirement Income Modelling Taskforce, to assess the cost of their proposal. The IAA maintain that the cost to government revenue is very similar to the current system for the next three decades or longer.

12.11 The Committee is conscious of the public debate occurring among expert commentators about the cost of the IAA's proposal. For instance, when asked by the Committee to comment on the actuaries' proposal, Mr Greg Smith, Department of Treasury, commented that a paper prepared by the Retirement Income Modelling Taskforce, for submission to the Government's strategic review of the pension income and assets tests 'does, in fact, challenge pretty strongly the results that were claimed in the submission from the Institute of Actuaries'.<sup>3</sup>

12.12 Mr Smith's claim was supported by Mr Phil Gallagher, a Director with the Retirement Income Modelling Taskforce, who doubts the accuracy of the IAA's modelling and has stated, among other things, that:

although hypothetical analysis cannot make definite conclusions about whole populations, the current analysis suggests the implementation of the IAA's proposals as submitted to the Senate might well substantially increase costs to government and also increase inequity among the aged.<sup>4</sup>

12.13 On a similar note, Mr Anthony Cole, LIFA, questioned the impact of the cost of the IAA's proposal when he told the Committee:

I think that [the] actuaries' presentation talks about a maximum difference in cost of one per cent of GDP. That is very big as a proportion of the sorts of levels of change that we need in total saving in the Australian economy.<sup>5</sup>

12.14 Mr Martin Ferguson, ACTU, has been attributed with saying that the universal pension would cost the Government \$5 billion annually. Mr Ferguson told the ABC radio program, *P.M.*, that:

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3 Evidence, p 611

4 *Superfunds*, November 1994, p104

5 Evidence, p 588

so far as I am concerned, the union movement will go out of its way to ensure that the universal pension is not established in Australia at this point in time.<sup>6</sup>

12.15 In answering questions from the Committee, Ms Nicola Cusworth, of the Chamber of Commerce and Industry of Western Australia, observed that such a universal pension option is usually 'phenomenally expensive' and could tend to be somewhat regressive in that those who retire with a substantial nest-egg are still subsidised by the taxpayer. Interestingly, Ms Cusworth said that the United Kingdom and other countries in Europe which have had that kind of proposal are tending to move away from universal pensions, the main reason being that they are extremely expensive.<sup>7</sup>

12.16 The Committee has received a supplementary submission from the IAA which rebuts, in some detail, the criticisms levelled at their proposal, including regressiveness, the inadequacy of the financial model, the assumptions used and the resultant costing estimates. Among other things, the submission states that it must be acknowledged that many contributors to this debate have argued from relatively pre-determined positions, with their sentiment being either:

- the introduction that the universal pension cannot be afforded; or
- the introduction of a universal pension would be inequitable.<sup>8</sup>

12.17 The Committee does not wish to be drawn on the technical merit of the financial model as it is conscious of the complex and subjective nature of financial modelling, especially when dealing with long time horizons and numerous interrelated variables. Rather, the Committee prefers to focus on the general merit of the proposal and the feasibility of implementing such a comprehensive change in retirement income policy.

### *General Discussion*

12.18 In evaluating the IAA's proposal, the Committee was particularly interested in the benefits provided by the present retirement income policy to marginal income earners, who are unlikely to ever self-fund their retirement.

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6 Transcript for ABC radio, *P.M.*, Thursday 22 September 1994

7 Evidence, pp 305-306

8 SGCREV Sub No 29 Supplementary

12.19 In this regard, Ms Eva Cox, Women's Economic Think Tank, touched favourably on the concept of a universal pension by suggesting:

that it would actually cost less and be more effective to offer a universal age pension at 25% of average weekly earnings and allow no tax concessions... if you simplified the whole damned thing and had a universal pension with a single supplement available to those people who failed to save, you would probably find that people would be prepared to save because there would be no disincentive to having additional income... at the moment you have a system where people go to enormous lengths to be able to retain bits of the age pension.<sup>9</sup>

12.20 The IAA's call for simplification of the retirement savings system was echoed by Mr Frank Muggeridge, of Sunnybank, Qld, who submitted, among other things, that the Government should:

make the age pension available to all Australians from age 65 for an amount equivalent to say 40% of their earnings over the ten years prior to retirement with a minimum of \$150 weekly and a maximum of \$250 weekly.<sup>10</sup>

12.21 Mr Muggeridge also said that all Australians need an incentive to save for their own retirement and 'should be encouraged [with tax deductions] to save as much as they want to top up this amount [the age pension] to their own standard'.

12.22 Also in favour of a universal pension was Mr Kenneth Wynn, from Cronulla, NSW, who told the Committee:

so, overall, a universal pension system would not only provide a better outcome but it would relieve a lot of the angst in society about people who are getting pensions and boasting about them when they are not entitled to them, and people who are on the margin, barely above the pension rate, and have paid into superannuation all their lives, are self-supporting and are worse off. These alternatives are very serious considerations.<sup>11</sup>

12.23 With regards to the feasibility of making the transition to a universal pension, Ms Alison McClelland, Australian Council of Social Service (ACOSS), provided:

if you were starting from scratch and designing an ideal income system, you might have a universal age pension, which is essentially reducing any disincentives to save that might operate as a result of the income test. So it is

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9 Evidence, pp 62-63

10 SGCREV Sub No 114

11 Evidence, pp 116-117

having savings, compared with what we have now. It is giving the same amount to everyone, which is not what we have now... if you combine age pension assistance and superannuation tax concessions, a high earner still gets at least three times more assistance over a lifetime than a low income earner.

A universal pension would be more efficient and more equitable than the current system... However, it is a matter of whether we could ever get there from where we are now.<sup>12</sup>

12.24 In addressing criticisms concerning the difficulty implementing a universal pension, Professor David Knox, Retirement Incomes Committee, IAA, told the Committee 'It is a bit like asking the farmer near Dublin how to get to Dublin: he [the farmer] said, 'I wouldn't start from here'.<sup>13</sup>

12.25 Professor Knox went on to explain to the Committee that the IAA 'took the view that there is no point putting up a proposal to which it would not be practical to move from where we are right now'.<sup>14</sup>

12.26 The Committee believes the present retirement incomes framework is well established. The task now is to build community confidence in the system and the Committee feels that wholesale change at this stage would undermine this objective.

## Life Cycle savings

### *Background*

12.27 In his June 1993 report to the Treasurer entitled 'National Saving', Dr Vince FitzGerald, Allen Consulting Group, highlighted the economic imperative for Australia to increase national saving.<sup>15</sup> It was from this report that the concept of a 'life cycle savings product' propagated.

12.28 Dr FitzGerald raised the issue that a non-superannuation savings vehicle may have a role to play in increasing private household saving; especially as superannuation investments are generally locked away until retirement. Dr FitzGerald concluded in his report that:

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12 Evidence, p 241

13 Evidence, p 538

14 Evidence, p 538

15 Dr Vince FitzGerald, *Report to the Treasurer on National Saving*, June 1993



such a 'life cycle' savings vehicle should be seen as desirable, but is perhaps affordable only quite some years ahead when there has been a substantial structural strengthening of government finances.<sup>16</sup>

12.29 The Treasurer addressed the Government's policy intentions with respect to a life cycle savings vehicle his Statement of 28 June 1994 when he said:

Dr FitzGerald proposed that once fiscal circumstances allow, consideration should be given to introducing a new type of tax advantaged saving vehicle.

As the previous Treasurer stated last August, the Government agrees with Dr FitzGerald that priority should be given at this stage to increasing public sector saving.

It will be important that any initiative in this area provide a boost to total national saving, and not merely increase private saving at the expense of public saving.

The Government is continuing to examine various possible approaches to such a vehicle with the view to the introduction of the most cost-effective arrangement.<sup>17</sup>

12.30 In the context of reviewing the first twelve months operation of the SG, the Committee heard evidence from several sources in support of a life cycle savings vehicle.

12.31 The Chamber of Commerce and Industry of Western Australia (WACCI) submitted to the Committee that there exists an important need to increase substantially total savings, not just superannuation savings.<sup>18</sup> WACCI was critical of the regressive nature of the taxation of interest bearing deposits, which it claims, outside the family home, are the largest form of household saving.

12.32 The Committee was receptive to the point raised by WACCI that:

the most heavily taxed form of savings is also the one most readily accessible to lower income groups. Equities, investment (or even owner occupied) housing, personal superannuation etc tend to be more accessible to the more affluent.<sup>19</sup>

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16 Dr Vince FitzGerald, *Report to the Treasurer on National Saving*, June 1993

17 The Hon Ralph Willis, MP, Treasurer, *Statement on superannuation policy*, 28 June 1994

18 SGCREV Sub No 24

19 SGCREV Sub No 24

12.33 WACCI also submitted that:

to raise national savings incentives must have a significant impact on the marginal saver's decision to save... it may difficult to justify the relatively generous taxation treatment currently given to superannuation.<sup>20</sup>

12.34 These views were endorsed by Ms Nicola Cusworth, WACCI, when she told the Committee 'we would like to see a the Government undertake a broader range review of the whole savings issue implementing perhaps more of the FitzGerald report'.<sup>21</sup>

12.35 WETTANK submitted to the Committee that the taxation benefits of superannuation do not benefit low income earners and these people are more likely to need access to their savings for both normal life cycle needs and crisis.<sup>22</sup>

12.36 Ms Alison McClelland, of the Australian Council of Social Service (ACOSS), is another who does not believe superannuation is an attractive investment for low income earners. Ms McClelland told the Committee:

we think there is excessive emphasis on superannuation in relation to compulsory savings when households have other important life cycle savings needs... we should be allowing some of that compulsory savings to be available to households.<sup>23</sup>

12.37 ACOSS submitted to the Committee that the SG should be capped at around five per cent and a separate medium-term compulsory savings vehicle introduced to cater for other life cycle needs such as having a family or education. With respect to this proposal, Ms McClelland said 'all we are saying is that we think there should be more flexibility so that it can meet more diverse life cycle needs'.<sup>24</sup>

12.38 Similarly, Professor David Allen, from Duncraig, Western Australia, told the Committee that there is a need for a broader approach to national savings. Professor Allen articulated:

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20 SGCREV Sub No 24

21 Evidence, p 302

22 SGCREV Sub No 27 Supplementary

23 Evidence, p 245

24 Evidence, p 246

You have just mentioned FitzGerald; I think his arguments are quite convincing. I think there should be the encouragement of savings across the board and that there should be various other tax incentives to save in appropriate form.<sup>25</sup>

12.39 The Committee believes that a broader approach to savings is desirable and endorses the Treasurer's stated intention to continue examining various possible approaches for a life cycle savings vehicle for medium-term non-superannuation savings.

### **Education**

12.40 This section assesses the extent of education in superannuation that is required to assist with the effective implementation of the Government's retirement income policy and to maximise the retirement benefits of the Australian community.

#### *Background*

12.41 In its sixth report published in June 1993, the Committee recommended that the Insurance and Superannuation Commission (ISC) and key superannuation industry groups representing the interests of consumers and providers combine to develop and implement a five year superannuation consumer education strategy for implementation in early 1994.<sup>26</sup> The Government accepted this recommendation, although carriage of that education campaign has subsequently been taken by the Australian Tax Office (ATO), working with the ISC and other key entities.

12.42 In the 1994/95 budget, the Government allocated \$3.1 million to the ISC over three years from 1994/95 to undertake a community education campaign on the protection of superannuation savings.<sup>27</sup>

12.43 In a speech at the ASFA 1994 National Superannuation Conference in Perth on 9 November 1994, the Treasurer expressed his belief that the superannuation industry is now moving into a consolidation phase, within which

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25 Evidence, p 364

26 Recommendation 3.10 of the Sixth Report of the Senate Select Committee on Superannuation, *Super - Fees, Charges and Commissions*

27 Budget Paper No. 1, 1994-95, pp 3.234- 3.235

more focus will be given to the efficiency with which the industry will handle the large amounts of money entrusted to it and on the effectiveness of the industry's communication with its members.

12.44 The Treasurer stated that the Government had commissioned a team of private consultants to undertake a program of market research into community attitudes and perceptions towards superannuation which would help in the development of the broadly based community education program which would be run by the ATO and the ISC. Seven million dollars has already been allocated for this purpose.

#### *The need for community education*

12.45 Notwithstanding the extent of the ATO's efforts to notify employers of their obligations under the *Superannuation Guarantee (Administration) Act 1993* (the SGAA), there is evidence to suggest that many small businesses are ignorant of key features of the scheme. A survey of several hundred small businesses in the Gold Coast area in late 1993 indicated that nearly half of the respondents were unaware that the contribution rate for SG would increase to 9% by 2002.<sup>28</sup>

12.46 Another finding by this survey was that although employers of small businesses did, in fact, receive material from the ATO and/or the ISC about SG, they did not remember anything about it. Researchers found that although the information within the various communication vehicles was capable of getting the facts across to small businesses, they attracted insufficient interest from the small business sector to pay attention to the information presented. However, most small employers recalled receiving information from insurance companies about superannuation.

12.47 In spite of these survey results, the ATO's education campaign, which had been conducted to ensure that employers were aware of their obligations, appears to have been very effective:

following the first year of operation, research confirmed that employers' awareness and acceptance of their obligations was substantially higher than had been demonstrated by earlier surveys. 90% of employers had superannuation arrangements in place for all staff, as compared with 64% in March 1992.<sup>29</sup>

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28 Tapen Sinha and Rebecca Benedict, *How Small Business Perceives the New Superannuation Guarantee Charge*, December 1993, p 18

29 Commissioner for Taxation, *Annual Report 1993/94*

12.48 The conflict between the findings of the two surveys seemed to be more apparent than real. The installation of superannuation arrangements does not in itself guarantee that the employers will comply with future requirements, particularly if they are unaware of future increases in the rate of SG contributions. However, the ATO appears to be methodically formulating strategies for targeting the causes of non-compliance.

12.49 Westscheme, an industry fund with 60,000 employees and 3,500 participating employers, submitted to the committee that the introduction of SG has produced problems which are basically the same as those commonly encountered in the administration of award superannuation schemes.<sup>30</sup> Presumably because of the extensive coverage that is an integral feature of SG, those problems have greatly increased in volume, as well as introducing new problems involving the timing of payment obligations, the earnings base issue, and the uncoordinated interaction between award superannuation and SG, particularly given that awards are both State and Federal.

12.50 Westscheme make the point that changes to the superannuation legislation have confused both employers and employees:

A period of stability and consolidation would serve to focus attention on the benefits of the retirement savings plan. During such a period an important part of the education task would be to enhance the competence of individuals to make informed choices about their superannuation arrangements.<sup>31</sup>

12.51 The Australian Liquor, Hospitality and Miscellaneous Workers Union (ALHMWU) suggested that an education campaign needed to be run by the Government in conjunction with industrial parties to ensure that employees are aware of their entitlements under both SG and the award system.<sup>32</sup> Although the campaign which had been conducted by the ATO via television advertisements had generated a large number of inquiries from both employers and employees, ALHMWU considered that the campaign had been too short and had not been followed up.

12.52 The Committee noted the difficulties encountered in administering superannuation in the hospitality industry due to confusion arising from the interaction between award superannuation and SG, and to the youth and the

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30 SGCREV Sub No 28; Evidence, p 317

31 SGCREV Sub No 28

32 SGCREV Sub No 40

temporary nature of much employment in that workforce - evidence suggests that 90% of that workforce is employed on a casual basis.<sup>33</sup> In addition, the industry also exhibits a very large turnover of employers.<sup>34</sup>

12.53 While the recent Test Case by the Industrial Relations Commission has helped to clarify its jurisdiction in this regard, and sought to clarify the interaction between award superannuation and SG, clearly much needs to be done to educate, on an ongoing basis, all the players in industries such as the hospitality industry which are characterised by high levels of casual employment and employer turnover.

12.54 The education campaigns which have been conducted by the ATO in relation to the implementation of SG have clearly been extremely successful and should form the platform for ongoing community education. Nevertheless, the majority of the consumers are still confused by superannuation. Although recent surveys indicate a gradual rise in public confidence, much more work is needed to be done before the community as a whole is confident enough about superannuation for high levels of active member participation to occur, particularly by those whose stake in superannuation at the present time consists of SG or award contributions only.

12.55 The ACTU gave the Committee an example of the level of confusion which occurred in the early days of award superannuation, and which hopefully no longer occurs:

There have been cases in the early days where people have got a statement and thought it was a bill and sent us a cheque.<sup>35</sup>

#### **Recommendation 12.1:**

**The Committee recommends that the Government ensure that appropriately targeted education programs be maintained to dispel the confusion and uncertainty about superannuation.**

33 Evidence, p256

34 Evidence, p 253

35 Ian Court, Evidence, p 714

*BizHelp*

12.56 The Committee noted that the Minister for Industry, Science and Technology had recently launched BizHelp, which is a computer-based and updateable directory of business assisted programs and services designed to assist small and medium enterprises. It provides 'accurate and comprehensive information on Commonwealth, State and Territory business assistance programs, as well as selected private sector programs... from a single source'.<sup>36</sup>

12.57 It appeared to the Committee that this package could usefully signal the superannuation requirements under awards and SG to small and medium businesses, particularly those which were in the process of being established. The BizHelp package could usefully include instructions about where to seek further information in relation to the superannuation arrangements which are relevant to that business.

**Recommendation 12.2:**

**The Committee recommends that some relevant information concerning SG be included in the BizHelp software package, including the number of the SG hotline.**

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36 Statement by the Minister for Industry, Science and Technology, Senator Peter Cook, 18 November 1994, at the launch of BizLink

## **APPENDIX A:**

### **LIST OF WRITTEN SUBMISSIONS**

- No 1 Maranoa Graziers' Association
- No 2 Supercard Australia Pty Ltd
- No 3 Bond University, School of Business
- No 4 Office of the Cabinet, Queensland
- No 5 Association of Superannuation Funds of Australia (ASFA)
- No 6 Ms Judy Collman
- No 7 Professor Tapen Sinha (Bond University)
- No 8 Catholic Women's League, Tasmania
- No 9 Shire of Swan Hill
- No 10 City of Horsham
- No 11 Shire of Creswick
- No 12 City of Berwick
- No 13 Ms Jennifer Willmott
- No 14 Mr John Winslow
- No 15 Borough of Sebastopol
- No 16 Professor Margaret Patrickson (University of SA)
- No 17 City of Ararat
- No 18 City of Hawthorn



- No 19      The Cabinet Office, NSW
- No 20      Australian Federation of Consumer Organisations (AFCO)
- No 21      Mr J Kelberg
- No 22      Osgate Pty Ltd
- No 23      Mr John Northcott
- No 24      Chamber of Commerce and Industry of WA
- No 25      City of Bairnsdale
- No 26      New South Wales Nurses' Association
- No 27      Women's Economic Think Tank
- No 28      West Scheme
- No 29      The Institute of Actuaries of Australia
- No 30      Arapiles Shire Council
- No 31      Victorian Farmers' Federation - Heywood Branch
- No 32      Dr John McCormack
- No 33      Mr K L Wynn
- No 34      Mr Charles Copeman
- No 35      Shire of Bacchus Marsh
- No 36      Mr Chris Minifie
- No 37      Shire of Kowree
- No 38      Shire of Mansfield
- No 39      Shire of Mortlake

- No 40 Australian Liquor, Hospitality and Miscellaneous Workers Union
- No 41 Professor D E Allen
- No 42 South Australian Employers' Chamber of Commerce and Industry
- No 43 Shire of Tambo
- No 44 Mayne Nickless Limited
- No 45 Mr V Byrnes and Mr L Kadziela (Australian Dried Fruits Association)
- No 46 City of Maryborough
- No 47 Riverland Horticultural Council Inc
- No 48 Australian Medical Association
- No 49 Coopers and Lybrand
- No 50 Australian Road Transport Industrial Organisation (ARTIO)
- No 51 Shire of Bannockburn
- No 52 Sedgwick Noble Lowndes
- No 53 Institute of Actuaries of Australia
- No 54 Mr David Bourke
- No 55 Arthur Andersen & Co
- No 56 National Racehorse Owners' Association
- No 57 William M Mercer
- No 58 Northern Victoria Fruitgrowers' Association
- No 59 Trades and Labor Council of WA

- No 60 Mr Craig Tehan
- No 61 Australian Chamber of Manufactures
- No 62 Shire of Bulla
- No 63 Australian Council of Building Design Professions Ltd
- No 64 ACE Council
- No 65 Government Superannuation Office, Qld
- No 66 Mr O A Malikoff
- No 67 Life Insurance Federation of Australia (LIFA)
- No 68 Office of the Status of Women
- No 69 Shire of Warracknabeal
- No 70 National Farmers' Federation
- No 71 Victorian Farmers Federation
- No 72 Dr Alan Grant, Gosford, NSW
- No 73 Government Employees Superannuation Board, WA
- No 74 Ms Heather Howes
- No 75 Australian Mutual Provident Society
- No 76 Life Insurance Federation of Australia Incorporated (LIFA);  
Australian Council of Trade Unions (ACTU);  
Association of Superannuation Funds of Australia (ASFA)
- No 77 Practising Accountants Centre for Education Inc.
- No 78 Niki Aravanis
- No 79 Flower Industry Association-Australia Inc.

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- No 80 Australian Bankers' Association
- No 81 Maitland Chamber of Commerce and Industry
- No 82 The Western Australian Farmers Federation (Inc.)
- No 83 WA Small Business and Enterprise Association Inc.
- No 84 Australian Taxation Office (ATO)
- No 85 Mr Michael O'Donoghue
- No 86 Australian Council of Social Service (ACOSS)
- No 87 Mrs Debbie Seay
- No 88 Victorian Jockeys Association
- No 89 Credit Union Services Corporation (Australia) Limited (CUSCAL)
- No 90 Mrs Finch
- No 91 Toowong Mitsubishi
- No 92 Jacques Martin Industry
- No 93 Finikiotis and Father
- No 94 Department of Industrial Relations
- No 95 (C + BUS)
- No 96 The Treasury
- No 97 Mr D and Ms L Jasprizza
- No 98 Mr K F Parr
- No 99 Australian Workers of Australia (SA Branch)
- No 100 District of Waikerie

- No 101 Mr Paul Crowley
- No 102 Retired Police Association of NSW Inc
- No 103 Riverland Horticultural Council Inc Industrial Committee
- No 104 Women in Horticulture
- No 105 Mrs Val Pate
- No 106 Mr Gregory Fogarty
- No 107 Australian Council of Trade Unions (ACTU)
- No 108 Mr G M Strickland
- No 109 Mr Alex Risk
- No 110 Mr Glen and Mrs Christine Jolley
- No 111 Port Macquarie Division of General Practice Ltd.
- No 112 **In camera**
- No 113 NSW Rural Divisions Co-ordinating Unit Ltd
- No 114 Mr Frank Muggeridge
- No 115 Scott Crisp & Hamblin Pty Limited
- No 116 Australian Education Union

## **APPENDIX B:**

### **LIST OF WITNESSES AT PUBLIC HEARINGS**

#### **SYDNEY, 12 JULY 1994**

Dr Nazife Bashar, Acting Director Policy, New South Wales Superannuation Office, New South Wales Department of Industrial Relations, Employment, Training and Further Education

Ms Hazel Bateman, Research Associate, Superannuation Economics Research Group, School of Economics, University of New South Wales

Ms Eva Cox, Co-convenor, Women's Economic Think Tank and Women's Electoral Lobby

Mr Harry Maratheftis, Industrial Relations Officer, New South Wales Nurses' Association

Mr John Maroney, Convenor, Superannuation Committee, LIFA

Ms Susan Ryan, Executive Director, ASFA

Mr Peter Woodcock, Managing Director, Supercard, Australia Pty Ltd

Mr Kenneth Wynn

#### **MELBOURNE, 13 JULY 1994**

Mr John Alducci, Secretary, National Racehorse Owners' Association

Mr Leigh Bernhardt, Group General Manager, Industrial Relations, Transport Services Australia, Mayne Nickless Ltd

Mr Richard Calver, Director, Industrial and Legal, Victorian Farmers' Federation

Mr Jeffrey Carr, Secretary, Australian Liquor Hospitality and Miscellaneous Workers' Union

Mr Allen Cullen, Executive Director, Australian Bankers' Association

Mr Peter Davidson, Senior Policy Officer, Australian Council of Social Service

Mr John Hugh Davies, Director, Personnel and Corporate Affairs, Mayne Nickless Ltd

Ms Ann Drohan, Industrial Officer, Australian Liquor Hospitality and Miscellaneous Workers' Union

Mr Donald Elmer, Councillor, Australian Road Transport Industrial Organisation

Mr Kurt Esser, Delegate, National Racehorse Owners' Association

Mr James Fitzpatrick, Consulting Actuary, Sedgwick Noble Lowndes Ltd

Mr Roger Foenander, Group Taxation Manager, Mayne Nickless Ltd

Mr David Goodear, Manager, Jacques Martin Industry

Mrs Peggy Haines, Solicitor for Mayne Nickless Ltd

Mr Gary Healey, Director, Research, Australian Bankers' Association

Mr Noel Kimberley, Member, Victorian Road Transport Association

Mr Philip Lovel, Executive Director, Victorian Road Transport Association

Ms Alison McClelland, Principal Policy Coordinator, Economics and Tax, Australian Council of Social Service

Mr Leslie Moth, Executive Adviser to the Chairman, Australian Bankers' Association

Mr Michael Read, Member, Australian Road Transport Industrial Organisation

Mr Raymond Stevens, Director, William M. Mercer Pty Ltd

Mr Kelvin Taylor, Director, Sedgwick Noble Lowndes Ltd

Mr Brian Troy, National Director, Australian Road Transport Industrial Organisation

Mr David Vernon, Jacques Martin Industry, Manager, Client Services and International

**PERTH, 14 JULY 1994**

Mr Philip Achurch, Executive Director, WA Small Business and Enterprise Association

Professor David Allen

Mr Anthony Cooke, Assistant Secretary, Trades and Labour Council of WA

Ms Nicola Cusworth, Chief Economist, Chamber of Commerce and Industry of Western Australia

Mr Noel Harding, President, Practising Accountants Centre for Education Inc

Ms Stephanie Mayman, Executive Member, Trades and Labour Council of WA

Mr Neville Oliver Munns, Executive Officer, Western Australian Farmers' Federation (Inc.) and Secretary, Western Australian Shearing Contractors' Association

Mr Denis Myers, Member, WA Small Business and Enterprise Association

Mr Charles O'Leary, Sales Manager, Davey Real Estate

Mr Howard Rosario, General Manager, Westscheme

Mr Robert Shadbolt, Member, WA Small Business and Enterprise Association

Mr Mark Smith, Committee Member, Practising Accountants Centre for Education Inc



Mr John Stopher, Member, Practising Accountants Centre for Education Inc

Mr Craig Tehan

**CANBERRA, 29 AUGUST 1994**

Mr James Ferguson, Industrial Director, National Farmers' Federation

Mr Richard Friend, Tax Partner, Arthur Andersen

Mr Glen Simpson, National Director, Industrial Relations, Master Builders Australia

**CANBERRA, 19 SEPTEMBER 1994**

Mr Chris Gration, Policy and Government Relations, Credit Union Services of Australia Ltd

Mr Colin Grenfell, Member, Superannuation Practice Committee, Institute of Actuaries of Australia

Mr Stephen Harrison, National Secretary, AWU/FIMEE

Mr Erich Janssen, Director, Industrial Relations and Remuneration, Australian Medical Association Limited

Mr Stephen Partridge, Convenor, Superannuation Practice Committee, Institute of Actuaries of Australia

Mr Graham Poole, Director, PSI Superannuation Management Pty Ltd

Mr Dave Taylor, Executive Manager, Government Relations, Credit Union Services Corporation

Mr Michael Tyler, Chairman of Board, PSI Superannuation Management Pty Ltd

**CANBERRA, 20 SEPTEMBER 1994**

Ms Karen Barfoot, Assistant Secretary, Office of the Status of Women

Mr Colin Grenfell, Member, Retirement Incomes Policy Committee, Institute of Actuaries

Ms Winsome Hall, Adviser, Task Force Section, Office of the Status of Women

Ms Patricia Kelly, Acting First Secretary, Office of the Status of Women

Professor David Knox, Retirement Income Policy Committee, University of Melbourne

Mr Raymond Stevens, Member, Retirement Income Policy Committee, Institute of Actuaries of Australia

**CANBERRA, 23 SEPTEMBER 1994**

Mr Leo Bator, Acting Assistant Commissioner, Superannuation, Australian Taxation Office

Mr Garry Carrigan, Acting Assistant Manager, Awards Management Branch (New South Wales) Department of Industrial Relations

Mr Anthony Cole, Executive Director, Life Insurance Federation of Australia

Mr Tony Coles, Researcher, Australian Federation of Consumer Organisations

Mr Grant Doxey, Director, Employment Conditions Policy Section, Department of Industrial Relations

Mr Philip Drever, Assistant Secretary, Labour Relations Policy Branch, Department of Industrial Relations

Mr Murray Edwards, Assistant Secretary, Business Finance and

Superannuation Branch, Financial Institutions Division, Department of the Treasury

Mr Donald Jasprizza

Ms Leigh Ann Jasprizza

Ms Jenni Mack, Director, Australian Federation of Consumer Organisations

Mr Michael Monaghan, Assistant Commissioner, Superannuation, Australian Taxation Office

Dr Darryl Roberts, Assistant Commissioner, Policy, Insurance and Superannuation Commission

Mr Greg Smith, First Assistant Secretary, Financial Institutions Division, Department of the Treasury

Ms Louise Sylva, Policy Analyst, Life Insurance Federation of Australia

Mr Trevor Thomas, Assistant Commissioner, Review Branch, Insurance and Superannuation Commission

**BERRI, SA , 4 NOVEMBER 1994**

Mr Harley Swanbury, Chairman, Riverland Horticultural Council Inc

Mr Colin Roy, Riverland Horticultural Council Inc

Mr Dean Slade, Riverland Horticultural Council Inc

Mr John Moss, Riverland Horticultural Council Inc

Mr Duncan Wood, SA Employers' Chamber of Commerce and Industry Inc

Mr Harry Sugars, AWU

Mrs Jan Centofanti, Mayor, DC of Waikerie

Mrs Beryl George, Women in Horticulture

Mrs Greer Wilkinson, Riverland Development Corporation

Mrs Valerie Pate

Mrs Joy Mules

**CANBERRA, 28 NOVEMBER 1994**

Mr Ian Court, Senior Industrial Officer, Australian Council of Trade Unions

## **APPENDIX C:**

### **TERMS OF REFERENCE**

**1 September 1994**

That the following matters be referred to the Senate Select Committee on Superannuation for inquiry and report on or before 28 February 1995:

- (1) The adequacy of current retirement incomes policy arrangements in meeting the needs of those members of the community, in particular women, whose participation in the workforce falls outside the traditional 30 to 40 year working life pattern.
- (2) Steps which could be taken to address any deficiencies identified in paragraph (1), including the advisability of implementing the following policies:
  - (a) initiatives to address equity issues which arise during the contributions and benefits phases of the retirement incomes cycle; and
  - (b) providing superannuation support for those members of the community who experience broken labour force participation and/or are in receipt of social security payments.
- (3) The implications of the Government's decision to progressively raise the pension age for women from 60 to 65.
- (4) Any other relevant matters, including measures which, if implemented, would enhance the capacity of Australians to save for retirement.

**APPENDIX D:**  
**RULINGS AND DETERMINATIONS**  
**ISSUED BY THE AUSTRALIAN TAXATION OFFICE**  
**(as at 6 February 1995)**

<b>Final SG rulings</b>	<b>Final Number</b>	<b>Date of Final</b>
Who is an Employee	SGR93/1	18 March 1993
Independent agencies: Labour hire firms; service firms; employment agencies	SGR93/2	1 April 1993
Ordinary Time Earnings	SGR93/3	withdrawn 15 September 1994
Ordinary Time Earnings	SGR93/4	15 September 1994
Salary or Wages	SGR93/4	withdrawn 15 September 1994
Salary or Wages	SGR93/5	15 September 1994
Earnings Bases	SGR94/1	21 April 1994
Extension of Time	SGR94/2	11 August 1994
Remission of Penalties	SGR94/3	11 August 1994
<b>Final SG determinations</b>	<b>Final Number</b>	<b>Date of Final</b>
Part-time employees	SGD93/1	11 February 1993
Grouping of Business	SGD93/2	11 February 1993
Grouping of Companies	SGD93/3	11 February 1993
Salary Sacrifice	SGD93/4	11 February 1993
Guest Speakers	SGD93/5	1 April 1993
Couriers	SGD93/6	29 April 1993
Maximum Contribution Base for 1993/94	SGD93/7	24 June 1993
Calculating Notional Employer Cont Rate	SGD93/8	8 July 1993
'Deemed' Defined Benefits	SGD93/9	1 July 1993
Nominee Directors' fees	SGD93/10	8 July 1993
Professional Sportspersons' Prizes	SGD93/11	22 July 1993
Councillors/Board Members	SGD93/12	12 August 1993
Jockeys	SGD93/13	11 November 1993
Bands/Entertainers	SGD93/14	9 December 1993
Exemptions under Sections 27 & 28	SGD94/1	27 January 1994
Advance Payments	SGD94/2	10 February 1994
Norfolk Island	SGD94/3	3 March 1994
Family Day Care	SGD94/4	7 April 1994
Timing of Payments	SGD94/5	14 April 1994
Award conts for non-union members	SGD94/6	5 May 1994
Maximum contribution base for 1994/95	SGD94/7	2 June 1994
Surpluses in Accumulation Funds	SGD94/8	16 June 1994
<b>Draft SG determinations</b>	<b>Draft Number</b>	<b>Date of Draft Issued</b>
Last day for superannuation contributions/ statement falls on weekend, public holiday, or bank holiday - employers make conts/ lodge statement on next working day	SGD94/D1	5 May 1994
Refunded Contribution	SGD94/D2	11 August 1994
Visiting Medical Officers	SGD94/D3	18 August 1994

## APPENDIX E:

### LIST OF COMMITTEE REPORTS

*Super System Survey - A Background Paper on Retirement Income Arrangements in Twenty-one Countries (December 1991)*

Papers relating to the Byrnwood Ltd, WA Superannuation Scheme (March 1992) Interim Report on Fees, Charges and Commissions in the Life Insurance Industry (June 1992)

First Report of the Senate Select Committee on Superannuation - *Safeguarding Super - the Regulation of Superannuation (June 1992)*

Second Report of the Senate Select Committee on Superannuation - *Super Guarantee Bills (June 1992)*

*Super Charges - An Issues Paper on Fees, Commissions, Charges and Disclosure in the Superannuation Industry (August 1992)*

Third Report of the Senate Select Committee on Superannuation - *Super and the Financial System (October 1992)*

*Proceedings of the Super Consumer Seminar, 4 November 1992 (4 November 1992)*

Fourth Report of the Senate Select Committee on Superannuation - *Super - Fiscal and Social Links (December 1992)*

Fifth Report of the Senate Select Committee on Superannuation - *Super Supervisory Levy (May 1993)*

Sixth Report of the Senate Select Committee on Superannuation - *Super - Fees, Charges and Commissions* (June 1993)

Seventh Report of the Senate Select Committee on Superannuation - *Super Inquiry Overview* (June 1993)

Eight Report of the Senate Select Committee on Superannuation - *Inquiry into the Queensland Professional Officers Association Superannuation Fund* (August 1993)

Ninth Report of the Senate Select Committee on Superannuation - *Super Supervision Bills* (October 1993)

Tenth Report of the Senate Select Committee on Superannuation - *Super Complaints Tribunal* (December 1993)

Eleventh Report of the Senate Select Committee on Superannuation - *Privilege Matter Involving Mr Kevin Lindeberg and Mr Des O'Neill* (December 1993)

A Preliminary Paper Prepared by the Senate Select Committee on Superannuation for the Minister for Social Security, *Options for Allocated Pensions Within the Retirement Incomes System* (March 1994)

Twelfth Report of the Senate Select Committee on Superannuation *Super for Housing* (May 1994)

Thirteenth Report of the Senate Select Committee on Superannuation - *Super Regs I* (August 1994)

Fourteenth Report of the Senate Select Committee on Superannuation - *Super Regs II* (November 1994)



Fifteenth Report of the Senate Select Committee on Superannuation -  
*Super Guarantee - Its Track Record* (February 1995)