

Chapter 1

Introduction

Inquiry terms of reference

1.1 On 1 December 2016, the Senate referred an inquiry to the Senate Economics References Committee (the committee) into the impact of non-payment of the Superannuation Guarantee (SG).¹

1.2 The terms of reference for the inquiry were:

(a) the economic impact on:

- (i) workers, their superannuation balances, and retirement incomes,
- (ii) competitive neutrality among employers, and
- (iii) government revenue, including forgone superannuation contributions, earnings taxes, and SG charge penalties, over both the forward estimates and the medium term;

(b) the accuracy and adequacy of:

- (i) information and data collected by the Australian Taxation Office (ATO), the Australian Prudential Regulation Authority and the Australian Securities and Investments Commission on SG non-payment,
- (ii) information and data collected by other agencies, such as the Fair Work Ombudsman, on SG non-payment, and
- (iii) any legislative, privacy, or other reporting barriers preventing the collection of accurate information and data on SG non-payment;

(c) the role and effectiveness of:

- (i) the ATO monitoring, investigations, and recovery of unpaid SG, including technology and data collection to predict and prevent non-payment,
- (ii) resources and coordination between government agencies and other stakeholders to prevent non-payment,
- (iii) legislation and penalties to ensure timely and fair payment of SG,

1 *Journals of the Senate*, No. 23, 1 December 2016, p. 754.

- (iv) superannuation funds in detecting and recovering unpaid SG,
 - (v) employment and contracting arrangements, including remedies to recoup SG in the event of company insolvency and collapse, including last resort employee entitlement schemes, and
 - (vi) measures to improve compliance with the payment of SG;
- (d) the appropriateness of responses by:
- (i) the ATO receiving complaints and ‘tip-offs’ about SG non-payment,
 - (ii) members of Parliament asked to assist and support constituents who have been impacted by SG non-payment, and
 - (iii) accountants, auditors, creditors and financial institutions who become aware of SG non-payment; and
- (e) any other related matters.²

Conduct of the inquiry

1.3 The inquiry was publicised on the committee's website.³ The committee also wrote to key stakeholder groups and organisations to invite submissions.

1.4 The committee received 72 submissions which are listed at Appendix 1.

1.5 The committee held three public hearings:

- 25 January 2017 in Melbourne;
- 3 March 2017 in Canberra; and
- 14 March 2017 in Melbourne.

1.6 The witness lists for these hearings are available at Appendix 2.

Structure of the report

1.7 During the course of the inquiry, the committee identified a wide range of matters related to the non-payment of SG.

2 *Journals of the Senate*, No. 23, 1 December 2016, pp. 754–755.

3 Senate Standing References Committee on Economics, Superannuation Guarantee non-payment, www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/SuperannuationGuarantee (accessed 1 March 2017).

1.8 Chapter 2 provides background information on the operation of the SG system. It notes the previous reviews into the system and briefly canvasses the remit of the government's multi-agency working group on SG non-compliance.

1.9 Chapter 3 examines the extent of SG non-payment in Australia. It also considers the challenges impeding the calculation of an accurate SG gap by the ATO.

1.10 Chapter 4 provides an in-depth examination of the impacts of SG non-payment. It considers the impact of SG non-payment at three levels; that of the individual employee, business, and government.

1.11 Chapter 5 analyses the causes of SG non-payment. Based on the evidence received during the inquiry, the chapter identifies factors that contribute to SG non-payment and recommends solutions to mitigate the impacts of these factors.

1.12 Chapter 6 examines matters relating to efforts to address SG non-compliance. It seeks to evaluate the effectiveness of the ATO's work in the area and considers the role of third parties in identifying and recovering unpaid SG. It also canvasses the division of responsibilities between the ATO and the Fair Work Ombudsman in regard to SG compliance. Finally, the chapter turns its attention to a number of SG matters arising from employer insolvency.

1.13 Chapter 7 considers the accessibility and timeliness of SG data, with a focus on the current information sharing arrangements between government agencies. The chapter also discusses potential remedies for SG non-payment, including the Single Touch Payroll initiative and improved payslip reporting.

Acknowledgment

1.14 The committee thanks those individuals and organisations who contributed to the inquiry by preparing written submissions and giving evidence at public hearings.

Notes on references

1.15 References in this report to the Hansard for the public hearings are to the Proof Hansard. Please note that page numbers may vary between the proof and official transcripts.

