

CHAPTER 1

INTRODUCTION

Background

1.1 The Superannuation Industry (Supervision) Amendment Regulations 2004 (No. 2), as contained in Statutory Rules 2004 No. 84 and made under the *Superannuation Industry (Supervision) Act 1993*, were notified in the *Commonwealth of Australia Gazette* on 12 May 2004, and tabled in both Houses of Parliament on 13 May 2004.

Purpose of the regulations

1.2 The regulations are claimed to improve the integrity of the superannuation system¹ by addressing an alleged range of tax avoidance strategies primarily involving small and non-arms length superannuation funds (DIY funds). These strategies are allegedly designed to avoid limits applying to tax concessions and social security means tests and allow superannuation to be used for wealth accumulation and estate planning arrangements rather than for retirement income purposes.

1.3 The regulations target potential strategies involving the forfeiture of superannuation benefits and the use of reserve accounts. They also strengthen the prudential standards that apply to funds that provide defined benefits and pensions to ensure that these funds have the capacity to provide the benefits.

1.4 The regulations require:

- benefits in accumulation funds to be fully vested in a given member;
- contributions to accumulation funds to be allocated to a member of a fund;
- defined benefit funds to have at least 50 members; and
- funds providing defined benefit pensions to have at least 50 members.

Reference of the regulations

1.5 On 16 June 2004, the Senate referred the regulations to the Senate Economics Legislation Committee for consideration and report, with particular reference to:

- (a) the extent to which defined benefit arrangements have been used for:
 - (i) the purposes of tax minimization,
 - (ii) estate planning,

1 Budget measures 2004-05, Budget Paper No. 2, p.37.

- (iii) reasonable benefit limit avoidance, and
- (iv) any other purpose other than providing retirement income;
- (b) the extent of past losses to revenue from the above measures; and
- (c) the estimated future losses to revenue likely in the absence of these regulations.

Submissions

1.6 The Committee advertised its inquiry into the regulations on the internet and in *The Australian* newspaper. In addition, the Committee contacted a number of organisations alerting them to the inquiry and inviting them to make a submission. A list of submissions received appears at **Appendix 1**.

Hearings and evidence

1.7 The Committee held two public hearings in Melbourne on Monday, 26 July 2004, and in Canberra, on Monday, 9 August 2004.

1.8 Witnesses who appeared before the Committee at the hearings are listed in **Appendix 2**.

1.9 Copies of the Hansard transcripts are tabled for the information of the Senate. They are also available through the internet at <http://aph.gov.au/hansard>.

Acknowledgment

1.10 The Committee wishes to thank all those who assisted with its inquiry.