



Institute of Actuaries of Australia

30 January 2004

The Secretary
Senate Economics Legislation Committee
Room SG.64
Parliament House
Canberra ACT 2600

Dear Sir/Madam

CONSULTATION ON THE SUPERANNUATION SAFETY AMENDMENT BILL 2003

The Institute of Actuaries of Australia (Institute) appreciates the opportunity to provide comments on the Superannuation Safety Amendment Bill 2003 (the Bill). We note that the Institute provided comments to Treasury, in July 2003, on the exposure draft of the Bill. We attach a copy of that submission.

We are pleased to note that the Bill as tabled in Parliament appears to address some of the concerns we raised with Treasury.

However, we remain concerned that the Bill, as currently drafted, may have the unintended consequence of hampering an actuary's ability to oversee the financial management of a superannuation fund. In some cases this could jeopardise the security of members' benefits and as such is of significant concern.

Specific Comments

Section 129

We note that since the exposure draft of the Bill, there has been a change to the proposed amendment to section 129 of the *Superannuation Industry (Supervision) Act* (the SIS Act). The currently proposed amendment would be to require the actuary or auditor to report contraventions which "may affect the interest of members or beneficiaries", which are discovered while conducting an actuarial or audit function under the SIS Act, unless there is an honest belief that the opinion is not relevant to the performance of the function.

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To protect themselves from inadvertently committing an offence, actuaries and auditors may report contraventions with even trivial effects, which could result in excessive and unnecessary levels of reporting.

We therefore submit that it is important that the current uncertainty in relation to the reporting requirement be clarified, and restricted to significant adverse effects.

Section 130C

In addition to our previous comments on this section in our submission to Treasury (see attached), we note that the wording in this section does not restrict the reporting requirement to adverse effects. Inclusion of the phrase “may affect” (in section 130C(1)(c)) introduces significant uncertainty, and as such, may cause excessive and unnecessary levels of reporting.

Also, as noted in our attached submission, in some circumstances, contribution recommendations made by the actuary in exercising a statutory function may be superseded by later (non-statutory) recommendations or advice. If this type of advice is not covered by the regulations contemplated in section 130C(1)(iii), this gives rise to an anomalous reporting requirement. Section 130C should be amended so that the reporting requirement only relates to a contribution recommendation made under a statutory function if such a recommendation is the most recent in relation to the fund’s contributions and (as recommended in our attached submission) the action, or inaction, is deemed to be adversely material.

We would be happy to arrange further discussions on these issues if required. Please contact Catherine Beall, Chief Executive on (02) 9239-6106 or email catherine.beall@actuaries.asn.au should you require further information or wish to arrange a meeting.

Yours sincerely



Graham Rogers
President