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**Trustee
Corporations
Association
of Australia**

15 January 2007

Mr Peter Hallahan
Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Mr Hallahan

Simplified Superannuation Inquiry

Thank you for giving us the opportunity to comment on the bills designed to implement the Government's simplified superannuation reforms.

The TCA is the peak representative body for the trustee corporations industry in Australia. An overview of the industry is provided in the attachment.

The TCA has been very supportive of the Government's initiatives in removing many of the current complex tax arrangements and restrictions applicable to superannuation, so as to encourage saving for retirement and allow greater flexibility as to how and when people may draw upon their retirement benefits.

One of the core services provided by trustee corporations involves managing the financial affairs of people who are unable to do so themselves due to lack of intellectual capacity.

Those people include accident victims who have been awarded large compensation payments due to the severe nature of their injuries. Such payments can amount to many millions of dollars as they are usually intended to provide for their lifetime care.

It has often been the practice of trustee corporations to place compensation money (or part of it) into superannuation and commence an income stream as an element of a prudent and tax effective investment plan for the disabled client.

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Trustee Company**

**Australian Executor
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Trustees**

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**The Public Trustee of
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South Australia**

**The Public Trustee
Tasmania**

**Public Trustee
Western Australia**

Sandhurst Trustees

State Trustees

**Tasmanian Perpetual
Trustees**

Trust

We were pleased that the Government, when announcing the outcome of the Simplified Super exercise, agreed that the proceeds from a settlement for an injury resulting in permanent disablement should be exempt from the normal cap of \$150,000 pa on the amount of undeducted contributions that a person can make in a superannuation fund.

However, we were disappointed that the Government did not address an anomaly in the *SIS Regulations* which results in discrimination against people who acquired a severe disability at a young age.

The regulations provide that there are no cashing restrictions in relation to fund members suffering permanent incapacity, ie:

"permanent incapacity, in relation to a member who has ceased to be gainfully employed, means ill-health (whether physical or mental), where the trustee is reasonably satisfied that the member is unlikely, because of the ill-health, ever again to engage in gainful employment for which the member is reasonably qualified by education, training or experience."

We understand that interpretation of that definition by the superannuation industry and the ATO generally results in a member of a superannuation fund who has never commenced gainful employment being deemed ineligible for early release of funds, in the form of an allocated pension, ahead of the normal preservation age.

Such discrimination unfairly impacts on the standard of care and quality of life that those disabled persons are able to enjoy.

Only a small number of people are likely to fall into this category, but without a change in Government policy they will not have access to the tax free income streams available from 1 July to other superannuants over the age of 60.

We believe that further consideration should be given to amending the above definition so that it refers to a person's inability to engage in gainful employment, rather than to "ever again" do so.

Such an amendment would not represent a threat to the integrity of the superannuation system.

Yours sincerely



Ross Ellis
Executive Director