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# Chapter Fifteen

## Other Issues

### Introduction

15.1 This chapter examines other issues that were raised during the conduct of the inquiry:

- The Federal and state workplace relations systems;
- The suggestion for a major review of the superannuation system; and
- State government superannuation schemes.

### The Federal and state workplace relations systems

#### Rightful superannuation entitlements

15.2 In its written submission, the Australian Pensioners' and Superannuants' League Queensland argued that there are thousands of 'fly-by-night' employers who are going in and out of business in any one year. The League argued that often the employees of these businesses – temporary, casual and part-time staff or short-term contractors – never receive their rightful superannuation (or other) entitlements.<sup>1</sup>

#### Occupational health and safety (OH&S)

15.3 In its written submission, DEWR indicated that it is currently examining initiatives in relation to OH&S for mature age workers. One issue is whether there needs to be different work measures, for example improved lighting, to enable mature age workers to continue to work without risk of injury. DEWR suggested, however, that most research papers in this area stress that accommodating mature age workers at work is not normally a major undertaking, and usually benefits younger workers as well.<sup>2</sup>

#### Unfair dismissal laws

15.4 In its written submission, Workingconnections argued that most work opportunities for mature professionals are in small businesses, on a part-time or contract basis. However, small businesses are generally averse to employing people in traditional, secure superannuated relationships. Workingconnections suggested that

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1 *Submission 1*, The Australian Pensioners' and Superannuants' League Queensland Inc, p. 10.

2 *Submission 29*, DEWR, . 23.

removal of the threat of unfair dismissal for small business would enable many more people to find work.<sup>3</sup>

15.5 This evidence was reiterated by Ms Johnson from Workingconnections in the hearing on 8 May 2003:

A lot of the fear about unfair dismissal is anecdotal. You sit people down and they will all have stories about this, that and the other business et cetera, but it is very genuine and it does prevent employment, as do the complexity and the on-costs of employing for businesses. A small business might want somebody three days this week and four days next week but can only really employ them gainfully one day the week after—this does not make for security for a worker—but, in some ways, they would rather do without that and have their business suffer than get caught up in something where they lose their ability to manoeuvre or take on somebody that is not right. If you have a business of five people and 20 per cent of your business has the wrong person in it and you are stuck, then it undermines the business totally.<sup>4</sup>

### **A major review of the superannuation system**

15.6 In its written submission, the ABA recommended that in the light of this inquiry, and issues raised by the Committee in its recent report, *Superannuation and standards of living in retirement*, the Government should undertake a major review of superannuation (and the welfare payments system in so far as it impacts upon retirement income). In making this recommendation, the ABA observed:

A major review should have the objective of achieving (where possible) full integration, based upon the development of an effective ‘safety net’ which will provide all Australians with an adequate income when they are unable to provide for themselves at any stage of their lives.

Major change to the present retirement income system is required and any deferral will make the ultimate decisions less palatable and their implementation more difficult.<sup>5</sup>

15.7 This position was reiterated by Mr Bell from the ABA in the hearing on 5 May 2003. He noted that there have been a number of inquiries into the superannuation system, and a lot of valuable information provided, and that it is time for some measure of finality to be brought to the superannuation system.<sup>6</sup> Mr Connolly, appearing on behalf of the ABA, continued:

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3 *Submission 18*, Workingconnections, p. 2.

4 *Committee Hansard*, 8 May 2003, p. 127.

5 *Submission 41*, ABA, p. 3.

6 *Committee Hansard*, 5 May 2003, p. 28.

The present system has effectively evolved – and I stress the word ‘evolved’ – over the last 20-odd years. As with any evolution, there are times when you need to look back and times when you need to look forward to see where you are actually aiming to be. We have suggested that a time frame of 40 years, in the context of the role of superannuation, is not excessive in terms of setting your clearly defined objectives. I do not think that has really been done. The objectives which we have currently have been confused to some degree between two fundamental points: are we trying to design a retirement income policy which makes the role of the state less – in other words, with more emphasis on individual personal support – or are we trying to devise a system which is in fact a mixture of both? As I recall, back in the early eighties, when the whole major debate was in place, we were told that the emphasis was placed on financial independence in retirement. You very rarely hear that word today. The emphasis is now clearly on a mix of the two.<sup>7</sup>

15.8 The Committee Chair subsequently raised with the representatives of the ABA the form any such inquiry should take. In response, Mr Rice representing the ABA argued that any inquiry should have the support of the major parties, although he did not necessarily agree with the proposition that the inquiry should be a royal commission.<sup>8</sup>

15.9 Senator Sherry also raised with the representatives of the ABA whether Australia should have a defined goal in terms of what is an adequate retirement income. In response, Mr Bell and Mr Rice agreed that it would be good to have a national goal in terms of superannuation savings. Such an objective might be to say that in 40 years time, when the superannuation system is fully mature, only 10 per cent, or 25 per cent, or 50 per cent of Australians would be dependent on social security.<sup>9</sup>

15.10 The Committee also subsequently raised this issue in hearings with industry representatives:

- Mr Clare representing ASFA indicated that ASFA at one time supported a wide-ranging inquiry, but has since moved to advocate more immediate reforms in response to clearly identified problems.<sup>10</sup>
- Ms Bloch and Mr Stanhope representing IFSA indicated that the settings of the superannuation system in Australia are broadly right, and that without having seen the ABA’s submission, IFSA believes that there is a good understanding of many of the issues facing the superannuation system.<sup>11</sup>

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7 *Committee Hansard*, 5 May 2003, p. 29.

8 *Committee Hansard*, 5 May 2003, p. 30.

9 *Committee Hansard*, 5 May 2003, pp. 30-31, 33.

10 *Committee Hansard*, 5 May 2003, p. 40.

11 *Committee Hansard*, 5 May 2003, pp. 61-62.

15.11 Members of the Committee also raised the ABA proposal for a major review of superannuation with the representatives of ASIC in the hearing on 8 May 2003. In response, Ms McAlister indicated that from the regulator's point of view, incremental change is easier to manage than a complete overhaul of the superannuation system, and that accordingly, ASIC would prefer to address specific flaws in the system as they are identified.<sup>12</sup>

15.12 Finally, the Committee again raised the issue with representatives of Treasury in the hearing on 15 May 2003. Mr Brake from Treasury indicated that Australia already has a very sophisticated retirement income system, but that any proposal for a major inquiry would be a matter for the Government.<sup>13</sup>

### **State government superannuation schemes**

15.13 The Committee notes the submission of the South Australian Government Superannuation Federation. It cited the progressive closure of public sector defined benefit schemes, notably in South Australia,<sup>14</sup> and argued that this is inconsistent with the objective of the Commonwealth Government in seeking to ensure an adequate retirement income for all retired Australians.<sup>15</sup>

15.14 To rectify this, the Federation argued that Super SA should be prepared to offer current retirees post-retirement income stream products, in particular allocated pensions. Such products could utilise the in-house investment infrastructure already in place for the accumulation fund to handle investment of lump sums rolled over to an income stream product.<sup>16</sup>

15.15 In response to concerns that such an approach to in-house allocated pensions would expose the employer (the State Government) to unacceptable financial risks, the Federation argued that:

In practice, the risk is borne entirely by allocated pension recipients because a principle underlying these products is that the level of pension depends on the residual capital (net of costs and draw down), and in turn, the residual capital reflects investment performance. The risk, or more precisely the lack of risk, is no different than the risk inherent in the existing accumulation superannuation scheme.<sup>17</sup>

15.16 The Committee notes that this issue was also raised by Mr Butterworth, Mr Crawshaw and Mr Smith representing the South Australian Government

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12 *Committee Hansard*, 8 May 2003, p. 103.

13 *Committee Hansard*, 15 May 2003, p. 299.

14 The SA Government defined benefit scheme closed in 1985.

15 *Submission 17*, South Australian Government Superannuation Federation, p. 1.

16 *Submission 17*, South Australian Government Superannuation Federation, p. 2.

17 *Submission 17*, South Australian Government Superannuation Federation, p. 3.

Superannuation Federation in the Committee's hearing on 9 May 2003. Mr Crawshaw noted to the Committee:

In relation to the specifics of our written submission, there is no post-retirement product being offered by the state government to assist people to make the transition to retirement. What the State Superannuation Board people tell me is that most of those people go to private providers, usually commercial providers, who provide those products at highest cost and not necessarily at the highest return. We believe that people are getting a very poor deal as they leave government employment. We have been urging government for some time now to introduce its own post-retirement products as a number of other state governments do. While we have had some negative responses from the state government, the most recent response to that has been on the positive side, without making a commitment.<sup>18</sup>

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18 *Committee Hansard*, 9 May 2003, p. 226.