

---

## CHAPTER 9: AMENDMENTS PUT TO THE COMMITTEE BY ORGANISATIONS AND INDIVIDUALS

9.1 A considerable number of amendments were put to the Committee in the course of its examination of the Superannuation Guarantee Bills. The amendments include:

- ACTU amendments:
  - the \$500 000 payroll threshold be eliminated<sup>1</sup>
  - the legislation to prescribe a lower threshold than \$250 per month<sup>2</sup>. (\$200 is suggested)<sup>3</sup>
  - in addition to the percentage calculation, the legislation should prescribe 'a flat dollar amount rather than a percentage calculation alone... [and] a flat dollar floor'<sup>4</sup>
  - the legislation should stipulate that the employer's contribution is to be 'net of any fees and charges'<sup>5</sup>
  - the minimum level of superannuation support should be paid monthly in arrears<sup>6</sup>
  - the age 65 threshold should be removed<sup>7</sup>
  - the current definition of 'employees' should be tightened 'to guard against contrived quasi-employee arrangements'<sup>8</sup>
- Life Insurance Federation of Australia amendments:
  - to permit any complying superannuation fund to be used by employers to meet the legislated minimum requirement<sup>9</sup> and if this is not adopted then

---

1 SG evidence p 44.

2 *ibid*, p 47.

3 SG sub no. 29, p 13.

4 SG evidence, p 45.

5 SG sub no. 29, p 12.

6 *ibid*, p 15.

7 *ibid*, p 14.

8 *ibid*.

9 SG evidence, p 135.

'as a minimum, any arrangements which are put in place by employers before any award provision, should not have to be dismantled',<sup>10</sup> and to allow:

... that if funds become non-complying for technical or other reasons, that is not held against the employer that has made contributions on a bona fide basis when, to the best of their knowledge, that fund was complying<sup>11</sup>

- [to provide] that all consequential legislation and regulations, which cover such matters as requirements for vesting, preservation solvency and tax treatment of personal contributions, be tabled now. Failing this, LIFA believes that additional transitional arrangements must be provided in the first year ...<sup>12</sup>
- to permit a 90-day grace period rather than 28 days<sup>13</sup>
- to increase the threshold to \$500 per month<sup>14</sup>
- to 'require employers to specify where the contributions being remitted are prescribed'<sup>15</sup>
- to reinstate 'the concept of successor schemes for determining the earnings base'<sup>16</sup> and that the definition of salary and wages should exclude components such as shift allowances<sup>17</sup>
- to allow Australian Taxation Office payments which are paid direct to members to be classed as eligible termination payments<sup>18</sup>
- to amend s.61 of the Superannuation Guarantee Administration Bill to require the Commissioner of Taxation to 'pay shortfall amounts to all retired employees, not just employees under 55 who have retired due to ill health'<sup>19</sup>

---

<sup>10</sup> SG sub no. 25, p 1.

<sup>11</sup> SG evidence, p 141.

<sup>12</sup> Sub no. 25, p 1.

<sup>13</sup> SG evidence, p 135.

<sup>14</sup> *ibid.*

<sup>15</sup> *ibid.*

<sup>16</sup> *ibid.*

<sup>17</sup> *ibid.*

<sup>18</sup> SG sub no. 25, p 2.

<sup>19</sup> *ibid.*

- to permit an allocation from reserves to meet prescribed minimum contributions, 'provided that they are fully vested from 1 July 1992 and preserved from 1 July 1993'<sup>20</sup>
- to exclude independent contractors 'from the scope of the legislation until the Government determines the treatment of all self-employed persons'<sup>21</sup>
- to provide for an annual payment in arrears to be allowed where the payment does not exceed \$100 for an employee
- Australian Association of Superannuation Funds of Australia (ASFA) amendments:
  - as for LIFA but also:
  - in relation to the first year's operations of the SGL, that employers be permitted to meet their obligations to pay contributions 'only in respect of the current employees at that time', namely, the end of the year;<sup>22</sup> or, to permit employers 'to be given six months in which to change their deeds and bring their arrangements into line'<sup>23</sup>
  - to allow 'an adequate arrangement for dealing with small superannuation contributions ...[in order to avoid] a very real prospect of such contributions being eaten up by administration costs'.<sup>24</sup> A suitable arrangement is to allow 'these contributions to be combined with all other contributions received previously or concurrently'<sup>25</sup>
  - to allow contributions to an accumulation plan to count for SGL purposes only 'where the employer has advised the trustee that the contributions will be counted for SG purposes'<sup>26</sup>
  - [to allow] ... an exemption for those with vested benefits in excess of the minimum lump sum Reasonable Benefit Limit ... [or] if the approach of a limit on the earnings base is to be adopted... [then] a cap significantly lower than \$80 000... [be adopted]<sup>27</sup>

---

<sup>20</sup> SG evidence, p 135.

<sup>21</sup> *ibid.*

<sup>22</sup> *ibid.*, p 136.

<sup>23</sup> *ibid.*

<sup>24</sup> *ibid.*

<sup>25</sup> SG sub no. 20, p 2.

<sup>26</sup> *ibid.*

<sup>27</sup> *ibid.*, p 3.

- NSW Coal Association amendments:
  - ... [to provide that] where an employer is contributing to the fund in accordance with an industrial award or a law of the Commonwealth or of a State or Territory, then 'notional earnings base', in respect of an employee, means the earnings of the employee, or the earnings of the employee which equate to a rate of earnings prescribed under that industrial award or law, by reference to which the employer contribution is calculated<sup>28</sup>
  - in relation to the transitional provisions for funds created by legislation, amend the regulation under the *Occupational Superannuation Standards Act* so that:
    - a 'public sector scheme' is exempt permanently from minimum funding requirements and is exempt until 1 July 1993 from full vesting requirements
    - or alternatively
    - a public sector scheme which is not government guaranteed is exempt from minimum funding and vesting requirements until 1 July 1993<sup>29</sup>
- Queensland Mining Council amendment:
  - ... [to provide] for the notional earnings base of a pre-existing industry based scheme to be adopted by employers whether or not they were contributing to the scheme prior to 21 August 1991<sup>30</sup>
- Retailers Council of Australia amendments:
  - (i) Amend Section 20(3) and other relevant sections to set a minimum employer contribution for all employers at three per cent. This would mean larger employers would not have their contributions increased to five per cent.
  - (ii) Amend Section 24(2) in at least one of several ways:
    - If an employee's terms and conditions of employment are subject to an award that, as at 20 August 1991, contained provisions relating to employer funded occupational superannuation, the eligibility as established by that award will be the eligibility in relation to that employee for the purposes of the legislation. For an employee, whose terms and conditions of employment are not subject to an award that as at 20 August 1991 contained provisions relating to occupational superannuation, if that employee receives from one employer less than \$6 000 by way of salary or wages in respect of the year calculated as commencing on 1 July and concluding on 30 June, the salary or wages so received in respect of that year will not be taken into account for the purpose of making a calculation under Sections 18 or 19.

---

<sup>28</sup> SG sub no. 3.

<sup>29</sup> *ibid.*

<sup>30</sup> SG sub no. 7, p 3.

[Note: \$500 per month could be substituted for the \$6 000 per annum as long as the \$500 monthly threshold is calculated over at least a two month period]; OR

- If an employee receives from one employer less than \$6 000 by way of salary or wages in respect of a year, calculated to commence on 1 July and conclude on 30 June in the following year, the salary or wages so received in respect of that year will not be taken into account for the purpose of making a calculation under Section 18 or 19; OR

- If an employee receives less than \$500 by way of salary or wages in respect of a month, ... etc.<sup>31</sup>

- Australian Taxpayers' Associations (Mr Risstrom) amendments:

- the contributions threshold should be increased to \$3 000 per annum<sup>32</sup>
- definition of salary/wages should be explicit<sup>33</sup>
- the monthly basis for contributions should be rejected but, if pursued, the following amendment should be made:

The Commissioner of Taxation may issue a certificate to an employer declaring the monetary extent to which the employer shall be deemed to have complied in respect of a financial year, and shall have regard to –

- (a) the total contributed during the year in respect of an employee, or of a class of employees,
- (b) the dates or dates on which contributions were made during the year,  
*and*
- (c) contributions in any prior year, including a period before July 1992, which have resulted in an entitlement of the employee at the end of the year of an amount equal to or greater than would have resulted had the required contributions under this Act been made during –
  - (i) the year commencing on 1 July 1992, *or*
  - (ii) the respective months after June 1993.<sup>34</sup>

- Alexander Consulting Group amendment:

- to allow employers to meet their obligations by providing a benefit to employees which may be funded from a surplus in a defined contribution scheme<sup>35</sup>

<sup>31</sup> SG sub no. 16, p 3.

<sup>32</sup> SG sub no. 2, p 2.

<sup>33</sup> *ibid.*

<sup>34</sup> *ibid*, p 6.

<sup>35</sup> SG sub no. 14.

- Mr Block suggested the following changes:
  - the current tax threshold is far too low. We would like to see that threshold increased<sup>36</sup> ... [and] we would like to see the award superannuation and the SGL being, as it were, merged into one and simplified from the point of view of employers<sup>37</sup>
- Australian Council of the Rehabilitation of the Disabled (ACROD) amendment:
  - that, if the Commonwealth Government does not provide additional subsidies to cover the costs to voluntary organisations of complying with the SGL obligations, 'the levy on voluntary organisations classified as 'public benevolent institutions' should be deferred'<sup>38</sup>
- Institution of Engineers Australia amendment:
  - that provision be made 'to confine the effect of the guarantee scheme to employees, that is, those persons accepted by the Taxation Office as employees'<sup>39</sup>
- Women's Economic Think Tank and Women's Electoral Lobby amendments:
  - ... the monthly limit should be set above the tax threshold as this would reduce the likelihood of employers making use of this to curtail certain limited part time jobs ... We would propose at least \$500 per month;
  - the recipient should have the option of receiving a cashed out equivalent of the SGL if they show income levels up to double the threshold and they have been at a low income level for the previous year. This will allow low income earners some choice of savings versus immediate bills and needs;
  - the Government should establish a Government Superannuation Fund, similarly to Medibank, which would offer intermittent workers and others who expected to have multiple employers, to select this fund. This could offer an administrative subsidy for contributions, where these would exceed one per cent of the contribution; and
  - employees should have the right to opt to contribute, even where their income is below the threshold. This is particularly necessary where some people may 'have multiple short term jobs, or periods of low activity, but want to continue paying in.'<sup>40</sup>

---

<sup>36</sup> SG evidence, p 81.

<sup>37</sup> *ibid.*

<sup>38</sup> SG sub no. 12, p 2.

<sup>39</sup> SG sub no. 13.

<sup>40</sup> SG sub no. 24, p 5.

- Pharmacy Guild of Australia amendments:
  - the threshold should be raised to \$800 000 instead of \$ 500 000<sup>41</sup>
  - payments should be made on an annual or biannual basis<sup>42</sup>
  - the legislation should provide that superannuation be calculated on the basis of an annual not the monthly amount, and 'should be at least \$6 000 per annum'<sup>43</sup>
- Thompson Douglass Butterell amendment (on behalf of Booz-Allen & Hamilton (Australia) Limited):
  - [that] prescribed employees in the category of exempt employees be extended to include employees who hold Class 2 temporary entry permits to Australia – Code 414 in terms of Schedule 3 of the Migration Regulations – and who are in receipt of sufficient employer superannuation support be deemed to satisfy employer obligations under the Bill<sup>44</sup>
- Clayton Utz amendment:
  - that the legislation be amended to exclude persons who are 'substantially self-employed ... [ and] who, in addition to any income they receive by way of self-employment also receive a relatively small non-award salary.'<sup>45</sup>
- Queensland Branch of the Australian Medical Association amendment, supported by the Queensland Minister for Health:<sup>46</sup>
  - that provision be made to exclude doctors who are Visiting medical Officers in public hospitals;<sup>47</sup>
- Mr P C Turner amendment:
  - that the legislation be amended to include 'a clause explicitly prohibiting an employer from varying an employee's existing remuneration package'<sup>48</sup> (with the intent to 'sidestep [the employer's] contribution under the legislation and pass the cost of the SGL on to his employees).<sup>49</sup>

---

41 SG sub no. 42, p 2.

42 *ibid*, p 3.

43 *ibid*

44 SG sub no. 44, p 1.

45 Sg sub no. 37, p 1.

46 SG sub no. 49.

47 SG sub no. 45.

48 SG sub no. 61, p 1.

49 *ibid*