

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 35

THURSDAY, 18 NOVEMBER 1993

1 The House met, at 9.30 a.m., pursuant to adjournment. The Speaker (the Honourable Stephen Martin) took the Chair, and read Prayers.

2 PETITIONS

The Clerk announced that the following Members had each lodged petitions for presentation, viz.:

Mr J. N. Andrew, Mr Hawker, Mr Jull and Mr Lloyd, from 7, 2617, 10 and 27 petitioners, respectively, praying that no action be taken to change the national flag unless approved by the people of Australia in a national poll.

Mr J. N. Andrew, Mr Evans and Dr Kemp, from 222, 299 and 969 petitioners, respectively, praying that the increases in petrol excise proposed in the 1993-94 Budget be opposed.

Mr Cameron and Mr Lieberman, from 96 and 902 residents of Western Australia and the Division of Indi, respectively, praying that expanded mammography services be introduced and covered by medical benefits.

Mr Hawker and Mr Lloyd, from 92 and 30 petitioners, respectively, praying that the proposal to charge off-road users of diesel fuel a tax equal to one per cent of the diesel fuel rebate be abandoned.

Mr A. A. Morris and Mr P. F. Morris, from 26 and 13447 petitioners, respectively, praying that the *Seamen's War Pensions and Allowances Act 1940* be repealed and that wartime mariners be covered by the *Veterans' Entitlements Act 1986*.

Mr J. N. Andrew, from 5313 petitioners, praying that the proposal to increase the level of wholesale sales tax on wine from 20 to 31 per cent be abandoned.

Mr J. N. Andrew, from 30 petitioners, praying that Members of the House cease promoting an Australian republic, uphold the existing Constitution and oppose the removal of the Queen of Australia as head of state.

Mr J. N. Andrew, from 8 petitioners, praying that Medicare continue to be a universal health insurance system and that all eye examinations by optometrists be covered.

Mr Atkinson, from 876 residents of the Melbourne metropolitan area, praying that a special interest public radio station be established to provide programs reflecting the needs and interests of senior citizens.

Mr Beddall, from 2500 electors of the Division of Rankin, praying that the submission of the Wongaburra nursing home, Beaudesert, Qld, for extra nursing home beds be considered favourably.

Mr Braithwaite, from 526 petitioners, praying that the national flag not be changed, replaced, or diminished without being voted upon and approved in a national referendum.

Mr Cameron, from 1101 petitioners, praying that certain action be taken to lift television standards.

Mr Cameron, from 159 residents of Western Australia, praying that action be taken to stop the practice in China of extracting bile from caged bears for medical purposes.

Mr Cameron, from 104 residents of Western Australia, praying that any attempt to dissolve the Australian Army Band, Perth, be opposed.

Mr Cameron, from 19 petitioners, praying that any plan by the Prime Minister to purchase new VIP aircraft be opposed.

Mr Chynoweth, from 38 parents and friends of childcare centres, praying that the linkage of accreditation to eligibility for Childcare Assistance be rejected.

Mr Cleary, from 193 petitioners, praying that SBS TV and radio stations 2EA and 3EA provide programming which adequately services the needs of the Turkish community.

Mr Cleary, from 12 residents of Victoria, praying that the Austrade office in Rangoon be closed.

Mr Downer, from 11 petitioners, praying that the increases in wholesale sales tax, petrol excise, tax on wine and tax on lump sums received for unused leave proposed in the 1993-94 Budget be rejected.

Mr Hawker, from 1119 petitioners, praying that the increase in excise on leaded fuel be rejected and that certain action be taken to reduce the cost of manufacturing cars in Australia.

Mr Hawker, from 4 petitioners, praying that measures to treat unrealised capital gains and losses on listed securities as income under the *Social Security Act 1991* and the *Veterans' Entitlements Act 1986* be abandoned.

Mr Howe, from 4000 aged care nurses, praying that certain action be taken to improve the monitoring of outcome standards in nursing homes.

Mrs Kelly, from 198 petitioners, praying that the House support the withdrawal of the UN Protective Force from the Republic of Croatia unless the UN changes its attitude to Croatian sovereignty.

Mrs Kelly, from 178 petitioners, praying that the proposed overseas sale of the Starcke pastoral holding, Qld, be stopped.

Mr Lloyd, from 93 petitioners, praying that no change be made to the design or colour of the Australian national flag and that Australia remain a democratic constitutional monarchy with the Queen as head of state, represented in Australia by a Governor-General.

Mr Prosser, from 12 petitioners, praying that the proposed treatment of unrealised capital gains on listed securities as income be overturned and saving for retirement encouraged.

Mr Taylor, from 53 petitioners, praying that no change be made to the design or colour of the Australian national flag and that it continue to represent a true manifestation of the nation's history.

Ms Worth, from 36 petitioners, praying that the proposal to increase the duty on leaded and unleaded petrol be abandoned.

Petitions received.

3 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO TAKE NOTE OF PAPER

Mr Ferguson presented the following report:

Foreign Affairs, Defence and Trade—Joint Committee—Australia's relations with Indonesia—Report, November 1993.

Ordered to be printed.

Mr Ferguson, Mr MacKellar, Dr Blewett, Mr Sinclair, Mr Gibson, Mr Connolly and Mr Hollis made statements in connection with the report.

Mr Ferguson moved—That the House take note of the report.

In accordance with standing order 102B, the debate was adjourned, and the resumption of the debate made an order of the day for the next sitting Thursday.

4 DISABILITY PENSIONS FOR WAR-TIME MARINERS

Mr P. F. Morris, pursuant to notice, moved—That:

- (a) noting the onerous conditions attaching to the award of disability pensions under the provisions of the *Seamen's War Pensions and Allowances Act 1940*; and
- (b) observing that disability pensions available under the provisions of the Act have been awarded to fewer than 5 per cent of war-time mariners—

this House is of the opinion that:

- (c) war-time mariners should be given access to the same benefits under the *Veterans' Entitlements Act 1986* as those who served in the armed forces; and
- (d) the *Seamen's War Pensions and Allowances Act 1940* should be repealed.

Debate ensued.

Debate adjourned, and the resumption of the debate made an order of the day for the next sitting Thursday.

5 REFORMING THE STRUCTURE OF GOVERNMENT

Mr Snow, pursuant to notice, moved—That:

- (1) recognising that:
 - (a) Australia is over-governed with three levels of government in a nation which is geographically, demographically and socially one;
 - (b) since Federation there has been a continuing transfer of power from State to federal government;
 - (c) local government is an essential level of government and natural base for distribution of many services now being provided by State and federal governments; and
 - (d) State governments hinder rather than provide good government, increase the opportunity for corruption, confuse responsibility and accountability and reduce the sovereignty of the people; and
- (2) this House calls on the Executive to:

- (a) develop a strategy and a plan to continue the process of transfer of power from State governments but to both federal and local governments;
- (b) initiate action to phase out State governments, to base reformed local government on less than a hundred population centres throughout Australia and to provide constitutional recognition and Senate representation for local government; and
- (c) thoroughly examine all options for reforming the structure of local government to ensure that it provides democratic, efficient and accountable representation to the Australian people.

Debate ensued.

Debate adjourned, and the resumption of the debate made an order of the day for the next sitting Thursday.

6 FUNDING OF THE REPUBLIC DEBATE

Mr Braithwaite, pursuant to notice, moved—That this House:

- (1) notes the allocation of \$1.2 million from the federal Budget, comprising \$600 000 in 1993-94 and \$200 000 in each of the following three years, to the Republic Advisory Committee and Constitutional Reform Unit to prepare the basic arguments for an Australian republic;
- (2) notes that no allocation is made to any equivalent pro-monarchy organisation to provide balance to the debate on whether Australia should remain a monarchy or change to a republic;
- (3) condemns the blatant bias in the Government's spending and propaganda priorities which will not provide a balanced debate on this subject; and
- (4) calls on the Government to reconsider its priorities and provide equivalent funding to a pro-monarchy organisation, for example the Australians for a Constitutional Monarchy, to provide a properly balanced debate.

Debate ensued.

It being approximately 12.30 p.m., the debate was interrupted in accordance with standing order 104A and the resumption of the debate made an order of the day for the next sitting Thursday.

7 GRIEVANCE DEBATE

Pursuant to the provisions of standing order 106, the order of the day having been read—

Question proposed—That grievances be noted.

Debate ensued.

It being 1.45 p.m., the debate was interrupted in accordance with standing order 106.

Question—That grievances be noted—put and passed.

8 MEMBERS' STATEMENTS

Members' statements were made.

9 MINISTERIAL ARRANGEMENTS

Mr Howe (Acting Prime Minister) informed the House that, during the absence abroad of Mr Keating (Prime Minister), he would answer questions on behalf of Mr Keating.

10 QUESTIONS

Questions without notice were asked.

11 AUDITOR-GENERAL'S REPORT—PUBLICATION OF PAPER

The Speaker presented the following paper:

Audit Act—Auditor-General—Audit report No. 11 of 1993-94—Efficiency audit—Department of Defence: ANZAC Ship Project—Monitoring and contracting.

Mr Beazley (Leader of the House), by leave, moved—That:

- (1) this House authorises the publication of the Auditor-General's audit report No. 11 of 1993-94; and
- (2) the report be printed.

Question—put and passed.

12 PAPERS

The following papers were presented:

Commonwealth Funds Management Limited—Report for 1992-93.

Commonwealth Funds Management Limited Act—Commonwealth Funds Management Limited—Annual return for 1992-93.

Employment, Education and Training Act—National Board of Employment, Education and Training—Report—Advice of the Employment and Skills Formation Council, including the Board's comments—Raising the standard: Middle level skills in the Australian workforce, November 1993.

National Capital—Joint Committee—Report—Our bush capital: Protecting and managing the National Capital's open spaces, 16 October 1992—Government response.

National Capital and External Territories—Joint Standing Committee—Report—City Hill: Review of the draft master plan, June 1993—Government response.

13 PAPERS—MOTION TO TAKE NOTE OF PAPERS

Mr Beazley (Leader of the House) moved—That the House take note of the following papers:

Commonwealth Funds Management Limited—Report for 1992-93.

Commonwealth Funds Management Limited Act—Commonwealth Funds Management Limited—Annual return for 1992-93.

Employment, Education and Training Act—National Board of Employment, Education and Training—Report—Advice of the Employment and Skills Formation Council, including the Board's comments—Raising the standard: Middle level skills in the Australian workforce, November 1993.

National Capital—Joint Committee—Report—Our bush capital: Protecting and managing the National Capital's open spaces, 16 October 1992—Government response.

National Capital and External Territories—Joint Standing Committee—Report—City Hill: Review of the draft master plan, June 1993—Government response.

Debate adjourned (Mr Howard), and the resumption of each debate made an order of the day for the next sitting.

14 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—DEFICIT REDUCTION STRATEGY

The House was informed that Mr Downer had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The Government’s plans to increase taxes to fund the hole in its deficit reduction strategy”.

The proposed discussion having received the necessary support—

Mr Downer addressed the House.

Discussion ensued.

Discussion concluded.

15 PUBLIC ACCOUNTS—JOINT COMMITTEE

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Technology and Regional Development), by leave, moved—That Mr Aldred be discharged from attendance on the Joint Committee of Public Accounts, and that, in his place, Mrs Moylan be appointed a member of the committee.

Question—put and passed.

16 SELECTION COMMITTEE—REPORT

Mr Jenkins (Chairman) presented the following report:

Selection Committee—Report relating to the program of business prior to 12.30 p.m. on Thursday, 25 November 1993.

17 MESSAGES FROM THE SENATE

Messages from the Senate, dated 17 November 1993, were reported returning the following Bills without amendment:

Message—

No. 125—Superannuation (Financial Assistance Funding) Levy 1993 (*without requests*).

No. 126—Superannuation (Rolled-Over Benefits) Levy 1993.

No. 127—Superannuation Industry (Supervision) Consequential Amendments 1993.

No. 128—Occupational Superannuation Standards Amendment 1993.

No. 129—Superannuation Supervisory Levy Amendment 1993.

18 MESSAGE FROM THE SENATE—SUPERANNUATION INDUSTRY (SUPERVISION) BILL 1993

The following message from the Senate was reported:

Message No. 130

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to make provision for the supervision of certain entities engaged in the superannuation industry, and for related purposes*”, and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in

which amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 17 November 1993

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

- No. 1—Clause 2, page 1, subclause (1), line 8, omit “and 31”, substitute “, 31 and 32”.
- No. 2—Clause 10, page 8, definition of “**custodian**”, line 38, after “contract with the trustee” insert “or an investment manager of the entity”.
- No. 3—Clause 10, page 9, after definition of “**executive officer**” insert the following definition:
 “‘**exempt public sector superannuation scheme**’ means a public sector superannuation scheme that is specified in regulations made for the purposes of this definition;”.
- No. 4—Clause 10, page 11, after definition of “**lodge**” insert the following definition:
 “‘**market value**’, in relation to an asset, means the amount that a willing buyer of the asset could reasonably be expected to pay to acquire the asset from a willing seller if the following assumptions were made:
 (a) that the buyer and the seller dealt with each other at arm’s length in relation to the sale;
 (b) that the sale occurred after proper marketing of the asset;
 (c) that the buyer and the seller acted knowledgeably and prudentially in relation to the sale;”.
- No. 5—Clause 10, page 13, definition of “**public sector superannuation scheme**”, lines 17 and 18, omit “but does not include a scheme specified in regulations made for the purposes of this definition;”.
- No. 6—Clause 10, page 14, definition of “**reviewable decision**”, paragraph (e), lines 27 and 28, omit the paragraph.
- No. 7—Clause 10, page 15, definition of “**reviewable decision**”, paragraph (v), lines 21 and 22, omit the paragraph.
- No. 8—Clause 10, page 15, definition of “**reviewable decision**”, paragraph (w), lines 23 and 24, omit the paragraph.
- No. 9—Clause 10, page 15, definition of “**reviewable decision**”, paragraph (zc), lines 34 and 35, omit the paragraph.
- No. 10—Clause 19, page 22, subclause (7), after paragraph (b) insert the following paragraph:
 “(ba) the fund is not a public sector superannuation scheme;”.
- No. 11—Clause 28, page 25, at end of clause add the following subclause:

“(3) The Commissioner must not make a decision under subsection (1) without the written consent of the Minister.”.

No. 12—Clause 45, page 34, at end of clause add the following subclause:

“(6) Despite subsection (1), if, at all times during a year of income when a fund was in existence, the fund was, or was part of, an exempt public sector superannuation scheme, the fund is a complying superannuation fund in relation to the year of income for the purposes of Part IX of the Income Tax Assessment Act.”.

No. 13—After clause 45, page 34, insert the following clause:

Complying superannuation scheme—superannuation guarantee charge

“45A. An exempt public sector superannuation scheme is taken to be a complying superannuation scheme for the purposes of the *Superannuation Guarantee (Administration) Act 1992*.”.

No. 14—After clause 48, page 38, insert the following clause:

Transitional—late lodgment of elections by trustees of superannuation funds

28 days late

“48A.(1) For the purposes of subsection 41(3), paragraph 42(1)(a) and subsection 45(2), if:

- (a) on a particular day (the ‘**lodgment day**’), the trustee of a superannuation fund lodges an election under section 19; and
- (b) the lodgment day is after the end of the fund’s 1993-94 year of income and before 29 July 1994; and
- (c) under the regulations, the fund is treated as if it had satisfied the transitional superannuation fund conditions at all times during the period (the ‘**pre-lodgment period**’):

- (i) beginning at the beginning of the fund’s 1994-95 year of income; and

- (ii) ending at the end of the lodgment day;

the fund is taken to be a regulated superannuation fund at all times during the pre-lodgment period.

Excluded superannuation funds

“(2) For the purposes of subsection 41(3), paragraph 42(1)(a) and subsection 45(2), if:

- (a) on a particular day (the ‘**lodgment day**’), the trustee of an excluded superannuation fund lodges an election under section 19; and
- (b) the lodgment day is after the end of the fund’s 1993-94 year of income and before whichever is the earlier of:

- (i) 1 January 1995; or

- (ii) the beginning of the fund’s 1995-96 year of income; and

- (c) under the regulations, the fund is treated as if it had satisfied the transitional superannuation fund conditions at all times during the period (the ‘**pre-lodgment period**’):

- (i) beginning at the beginning of the fund’s 1994-95 year of income; and

- (ii) ending at the end of the lodgment day;

the fund is taken to be a regulated superannuation fund at all times during the pre-lodgment period.

Public sector superannuation schemes

“(3) For the purposes of subsection 41(3), paragraph 42(1)(a) and subsection 45(2), if:

- (a) on a particular day (the ‘**lodgment day**’), the trustee of a superannuation fund, being a public sector superannuation scheme, lodges an election under section 19; and
- (b) the lodgment day is after the end of the fund’s 1993-94 year of income and before:
 - (i) 1 July 1995; or
 - (ii) such later date as the Commissioner allows; and
- (c) under the regulations, the fund is treated as if it had satisfied the transitional superannuation fund conditions at all times during the period (the ‘**pre-lodgment period**’):
 - (i) beginning at the beginning of the fund’s 1994-95 year of income; and
 - (ii) ending at the end of the lodgment day;

the fund is taken to be a regulated superannuation fund at all times during the pre-lodgment period.

Special circumstances

“(4) For the purposes of subsection 41(3), paragraph 42(1)(a) and subsection 45(2), if:

- (a) on a particular day (the ‘**lodgment day**’), the trustee of a superannuation fund lodges an election under section 19; and
- (b) the lodgment day is:
 - (i) after 28 July 1994; and
 - (ii) before whichever is the earlier of:
 - (A) 1 January 1995; or
 - (B) the beginning of the fund’s 1995-96 year of income; and
- (c) the trustee satisfies the Commissioner that, because of special circumstances, this subsection should apply in relation to the fund; and
- (d) the trustee has complied with such requirements relating to notifying members of the fund about:
 - (i) the delay in lodging the election; and
 - (ii) the reasons for the delay in lodging the election;
 as are specified in regulations made for the purposes of this paragraph; and
- (e) under the regulations, the fund is treated as if it had satisfied the transitional superannuation fund conditions at all times during the period (the ‘**pre-lodgment period**’):
 - (i) beginning at the beginning of the fund’s 1994-95 year of income; and
 - (ii) ending at the end of the lodgment day;

the fund is taken to be a regulated superannuation fund at all times during the pre-lodgment period.

Regulations may apply OSS system

“(5) Regulations made for the purposes of paragraph (1)(c), (2)(c), (3)(c) or (4)(e) may:

- (a) confer functions or powers on the Commissioner; and
- (b) make provision for or in relation to a matter by applying, adopting or incorporating, with such modifications as are prescribed, the provisions, or the repealed provisions, of:
 - (i) the *Occupational Superannuation Standards Act 1987*; or
 - (ii) regulations made for the purposes of section 7 of that Act; (including those provisions as they continue to apply, despite their repeal, because of the *Occupational Superannuation Standards Amendment Act 1993*).

Section 49A of the Acts Interpretation Act 1901

“(6) Subsection (5) of this section does not limit the application of section 49A of the *Acts Interpretation Act 1901* to regulations made for the purposes of this section.”.

No. 15—Clause 64, page 50, subclause (1), line 36, omit “The trustee”, substitute “Subject to subsection (1A), the trustee”.

No. 16—Clause 64, page 51, after subclause (1) insert the following subclause:

Exception—acquisitions of business real property and listed securities

“(1A) Subsection (1) does not prohibit a trustee or investment manager acquiring an asset from a member of the fund or a relative of such a member if:

- (a) the asset is business real property of the member or relative, or a listed security; and
- (b) the asset is acquired at market value; and
- (c) if the asset is business real property—after the acquisition of the business real property, that property, together with any other business real property previously acquired from a member of the fund or a relative of such a member since this Act received the Royal Assent, would represent no more than the acceptable percentage of the total value of the assets of the fund.”.

No. 17—Clause 64, page 51, subclause (3), line 18, omit “2 years”, substitute “1 year”.

No. 18—Clause 64, page 51, subclause (4), before definition of “**acquire an asset**” insert the following definition:

“‘**acceptable percentage**’ means:

- (a) for an excluded superannuation fund—40%; and
- (b) otherwise—0%.”.

No. 19—Clause 64, page 51, subclause (4), after definition of “**acquire an asset**” insert the following definitions:

“‘**business**’ includes any profession, trade, employment, vocation or calling carried on for the purposes of profit, including:

- (a) the carrying on of primary production; and
- (b) the provision of professional services;

but does not include occupation as an employee;

‘**business real property**’ of a person means any freehold or leasehold interest in real property which is used wholly and exclusively in the person’s business;

'listed security' means:

- (a) a share; or
- (b) a unit; or
- (c) a bond or debenture; or
- (d) a right or option; or
- (e) any other security;

listed for quotation in the official list of a stock exchange in Australia;”.

No. 20—Clause 65, page 52, subparagraph (3)(b)(i), lines 28 and 29, omit “the need for the borrowing was not reasonably foreseeable”, substitute “it was likely that the borrowing would not be needed”.

No. 21—Clause 93, page 69, subparagraph (3)(b)(i), lines 6 and 7, omit “the need for the borrowing was not reasonably foreseeable”, substitute “it was likely that the borrowing would not be needed”.

No. 22—Clause 95, page 70, subparagraph (3)(b)(i), lines 17 and 18, omit “the need for the borrowing was not reasonably foreseeable”, substitute “it was likely that the borrowing would not be needed”.

No. 23—Clause 118, page 81, paragraph (2)(a), line 28, omit the paragraph, substitute the following paragraph:

“(a) both:

- (i) a responsible officer of the body is a disqualified person; and
- (ii) the responsible officer was a disqualified person at all times during the immediately preceding period of 28 days; or”.

No. 24—Clause 119, page 82, subclause (2), line 20, omit “that the person is a disqualified person”, substitute:

“that:

- (a) the person is a disqualified person; and
- (b) the person was a disqualified person at all times during the immediately preceding period of 28 days”.

No. 25—After clause 119, page 82, insert the following clause:

Investment manager must not appoint or engage custodian without the trustee's consent

“**119A.(1)** An investment manager of a superannuation entity must not appoint or engage a custodian of the entity without the written consent of the trustee of the entity.

“**(2)** A person who intentionally or recklessly contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding 50 penalty units.”.

No. 26—Clause 126, page 85, after subclause (1) insert the following subclause:

Section does not apply if the first person believes that his or her opinion is not relevant to the performance of actuarial or audit functions

“**(1A)** This section does not apply to the first person if the first person has an honest belief that the opinion is not relevant to the performance of those functions.”.

No. 27—Clause 130, page 90, at end of clause add the following subclause:

Written consent of the Minister

“**(5)** The Commissioner must not make either of the following decisions without the written consent of the Minister:

- (a) a decision to suspend or remove a trustee;
 - (b) a decision to extend the suspension of a trustee.”.
- No. 28—Clause 142, page 95, subclause (2), lines 15 to 19, omit the subclause.
- No. 29—Clause 222, page 122, at end of subclause (4), add “A beneficiary is taken to have quoted the beneficiary’s tax file number to the trustee under this subsection if the beneficiary has already quoted that number to the trustee under:
- (a) Part 24 of this Act; or
 - (b) a provision of the *Income Tax Assessment Act 1936*; or
 - (c) a provision of the repealed Part IIIA of the *Occupational Superannuation Standards Act 1987* (including a provision as it continues to apply because of the *Taxation Laws Amendment (Superannuation) Act 1992*).”.
- No. 30—Clause 241, page 127, paragraph (1)(a), line 34, omit “in respect of a member; and”, substitute the following words and subparagraphs:
- “to:
- (i) a member; or
 - (ii) the trustee of another fund in respect of a member; or
 - (iii) another person in respect of a member; and”.
- No. 31—Clause 241, page 127, paragraph (1)(b), line 36, omit “fund”, substitute “first-mentioned fund”.
- No. 32—Clause 242, page 128, at end of subclause (2) add “A beneficiary or member is taken to have quoted his or her tax file number to the trustee under this subsection if he or she has already quoted that number to the trustee under:
- (a) Part 22 of this Act; or
 - (b) a provision of the *Income Tax Assessment Act 1936*; or
 - (c) a provision of the repealed Part IIIA of the *Occupational Superannuation Standards Act 1987* (including a provision as it continues to apply because of the *Taxation Laws Amendment (Superannuation) Act 1992*).”.
- No. 33—Clause 246, page 130, subclause (5), line 9, omit “section”, substitute “Act”.
- No. 34—Clause 261, page 135, at end of clause add the following subclause:
- Written consent of the Minister*
- “(6) The Commissioner must not give a notice under this section without the written consent of the Minister.”.
- No. 35—Clause 323, page 167, paragraph (2)(b), line 36, omit “30 June 1994”, substitute “30 June 1996”.
- No. 36—Clause 326, page 168, subclause (2), line 20, omit “30 June 1994”, substitute “30 June 1996”.
- No. 37—Clause 330, page 169, subclause (2), line 6, omit “30 June 1994”, substitute “30 June 1996”.
- No. 38—Clause 341, page 175, subclause (12), line 21, omit “(e).”.
- No. 39—Clause 349, page 179, after subclause (1), insert the following subclause:
- “(1A) Without limiting the generality of subsection (1), a report under that subsection must set out information about the exercise during the year of the Commissioner’s powers under Part 29.”.

No. 40—At end of bill, page 192, add the following Part:

**“PART 32—ADDITIONAL TRANSITIONAL
PROVISIONS—TAX FILE NUMBERS**

Object of Part

“378. The object of this Part is to allow a member of a fund, scheme or trust to quote his or her tax file number to the trustee before the commencement of Parts 22 and 24. Those Parts commence on 1 July 1994.

Quotation of tax file number

“379.(1) A member or beneficiary of a fund, scheme or trust may quote his or her tax file number to the trustee of the fund, scheme or trust in connection with the possibility of the future operation of section 222 or Part 24, or both.

“(2) Subsection (1) ceases to have effect on 1 July 1994.

Pre-1 July 1994 quotation of tax file number to be treated as if made under provisions commencing on 1 July 1994

“380.(1) This section applies if a beneficiary or member of a fund, scheme or trust quotes his or her tax file number to the trustee under section 379.

“(2) This Act has effect, after 30 June 1994, as if the beneficiary or member had quoted that tax file number to the trustee under subsections 222(4) and 242(2) immediately after the beginning of 1 July 1994.

Pre-1 July 1994 quotation of tax file number—request for quotation, or recording, of number not prohibited by the *Taxation Administration Act 1953*

“381.(1) Section 8WA of the *Taxation Administration Act 1953* does not prohibit a person from requesting another person to quote the other person’s tax file number if provision is made by section 379 of this Act for the quotation of the number.

“(2) If a beneficiary or member of a fund, scheme or trust quotes his or her tax file number to the trustee under section 379 of this Act, section 8WB of the *Taxation Administration Act 1953* does not prohibit the trustee from:

- (a) recording that tax file number or maintaining such a record; or
- (b) using that tax file number in a manner connecting it with the identity of the beneficiary or member;

in connection with the possibility that the trustee may be required to exercise powers or perform functions under or in relation to Part 22 or 24, or both, of this Act on or after 1 July 1994.

“(3) Subsections (1) and (2) cease to have effect on 1 July 1994.

Pre-1 July 1994 quotation of tax file number—objects of tax file number system

“382.(1) Section 202 of the *Income Tax Assessment Act 1936* has effect as if the facilitation of the future administration of Parts 22 and 24 of this Act were an object of Part VA of that Act.

“(2) Subsection (1) ceases to have effect on 1 July 1994.”.

[Note: If clause 64 is amended as proposed in amendment no. 16, the heading to the clause should be altered by inserting “certain” before “assets”.]

Mr Johns (Parliamentary Secretary to the Treasurer) moved—That the amendments be agreed to.

Debate ensued.

Paper: Mr Johns presented a supplementary explanatory memorandum to the Bill.

Mr Rocher moved—That progress be reported.

Question—put.

The committee divided (the Deputy Chairman, Mr Truss, in the Chair)—

AYES, 55

Mr Aldred	Mr Downer	Mr Lloyd	Mr Ronaldson
Mr Anderson	Mr Evans	Mr McArthur	Mr Ruddock
Mr J. N. Andrew	Mr Filing*	Mr McGauran	Mr Sharp
Mr Atkinson	Mr Fischer	Mr McLachlan	Mr Sinclair
Mr Beale	Mr Forrest	Mrs Moylan	Mr Slipper
Mr Bradford	Mrs Gallus	Mr Nehl	Mrs Sullivan
Mr Braithwaite	Mr Hall	Mr Neville	Mr Taylor
Mr Cameron	Mr Halverson	Mr Nugent	Mr Tuckey
Mr Carlton	Mr Hawker	Mr Peacock	Mr Vaile
Mr Charles	Mr Hicks*	Mr Prosser	Mr Wakelin
Mr Cobb	Mr Howard	Mr Pyne	Mr Williams
Mr Connolly	Mr Jull	Mr Reid	Dr Wooldridge
Mr Costello	Dr Kemp	Mr Reith	Ms Worth
Mr Dobie	Mr Lieberman	Mr Rocher	

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Mr Adams	Mr Dodd	Mr Horne	Mr Newell
Mr Baldwin	Mr Duffy	Mr Howe	Mr O'Connor
Mr Beazley	Mr Duncan	Mr Humphreys	Mr O'Keefe
Mr Beddall	Mrs Easson	Mr Jenkins	Mr Price
Mr Bevis	Mr Elliott	Mr Johns	Mr Punch
Mr Bilney	Ms Fatin	Mr Jones	Mr Sawford
Dr Blewett	Mr Ferguson	Mrs Kelly	Mr Sciacca
Mr Brereton	Mr Fitzgibbon	Mr Kerin	Mr L. J. Scott
Mr Campbell	Mr Free	Mr Kerr	Mrs S. J. Smith
Mr Chynoweth	Mr Gear	Mr Knott	Mr Snow
Mr Cleary	Mr Gibson	Mr Langmore	Mr Snowdon
Mr Cleeland	Mr Gorman	Mr Lee	Mr Staples
Ms Crawford	Mr Grace*	Mr Lindsay	Mr Swan
Mr Crean	Mr Griffin	Ms McHugh	Mr Tanner
Mrs Crosio	Mr Griffiths	Mr Mack	Dr Theophanous
Mr Cunningham	Mr Haviland	Mr McLeay*	Mr Walker
Mr Dawkins	Mr Holding	Mr A. A. Morris	Mr Willis
Ms Deahm	Mr Hollis	Mr P. F. Morris	Mr Woods

* Tellers

And so it was negatived.

Amendments agreed to.

Resolution to be reported.

The House resumed; Mr Truss reported accordingly.

On the motion of Mr Johns, the House adopted the report.

19 MESSAGE FROM THE SENATE—SUPERANNUATION (RESOLUTION OF COMPLAINTS) BILL 1993

The following message from the Senate was reported:

Message No. 131

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act relating to the resolution of complaints about decisions of trustees of superannuation funds and approved deposit funds*", and acquaints the House that the Senate has agreed to the bill with the amendment indicated by the annexed schedule, in which amendment the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,

Canberra, 17 November 1993

Ordered—That the amendment be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE AMENDMENT MADE BY THE SENATE

Clause 16, page 7, at end of clause add the following subclauses:

"(2) Reasonable steps to help the complainant include supplying the complainant with written information about, and method of contacting, any organisation that is:

- (a) engaged in providing consumers with advice or assistance or both on (but not necessarily exclusively on) superannuation, including the making of complaints and the resolution of disputes; and
- (b) independent of the Tribunal and any fund; and
- (c) supported, in whole or part, by funds appropriated for that purpose; and
- (d) prescribed by regulations as an independent superannuation advisory service for the purposes of this section; and
- (e) reasonably accessible to the complainant.

"(3) If regulations referred to in paragraph (2)(d):

- (a) are not in force immediately after the commencement of this Act; or
- (b) have been disallowed;

the Minister must table in each House of the Parliament, not later than 5 sitting days of that House after:

- (c) commencement of this Act; or
- (d) such disallowance;

a statement explaining why the intention of the Parliament expressed in that paragraph:

- (e) has not been complied with; or
- (f) has been complied with inadequately.

"(4) Subsections (2) and (3) are repealed 3 years after the day of commencement of this Act."

On the motion of Mr Johns (Parliamentary Secretary to the Treasurer), the amendment was disagreed to, after debate.

Resolution to be reported.

The House resumed; Mr Truss reported accordingly.

On the motion of Mr Johns, the House adopted the report.

Mr Johns moved—That Mr Hollis, Mr Price and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to the amendment of the Senate.

Question—put and passed.

Mr Johns, on behalf of the committee, brought up such reasons, which were circulated, and are as follows:

Reasons of the House of Representatives for disagreeing to the amendment of the Senate

The House rejects the amendment of the Senate for the following reasons:

- (1) The Superannuation (Resolution of Complaints) Bill 1993 makes provision for complainants to be assisted by the Tribunal in making complaints.

Under the Bill the tribunal is obliged to:

- assist a person in making a complaint (clause 16); and
- make arrangements so that information about how complaints may be lodged and how they will be resolved are made reasonably available to members of regulated superannuation funds and beneficiaries of approved deposit funds (clause 13).

These services will be provided by the Tribunal through a full-time secretariat based in Sydney, which will be able to be contacted from anywhere in Australia through a toll free (008) telephone number. Offices of the Insurance and Superannuation Commission in State capital cities will also be able to assist and refer complainants to the secretariat.

The Tribunal will be in the best position to assist complainants, assess a complainants problem and to determine whether or not the Tribunal can hear the complaint.

The Tribunal and its secretariat can be relied upon to provide accurate and impartial assistance in resolving complaints. The secretariat who will, in practice provide the assistance to complainants will be staffed by public servants who have no vested interest in the outcome.

Given that the Bill addresses the concerns raised by the consumer movement in proposing the service, it is highly questionable whether the \$660,000 needed for its establishment is an appropriate use of public revenue.

- (2) Should the Government endorse mandatory referral of complainants to a Service of the kind proposed, there would be pressure for lawyers from the service to represent the complainants before the Tribunal.

This would undermine the objectives of the Tribunal as a low cost, informal and expeditious disputes resolution mechanism.

On the motion of Mr Johns, the committee's reasons were adopted.

20 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REPORTS—STATEMENT BY MEMBER

Mr Hollis (Chairman) presented the following reports:

Public Works—Parliamentary Standing Committee—Reports—

Partial refurbishment of stage 1, Commonwealth Centre, Hobart (6th report of 1993).

Construction of air traffic control centres at Brisbane and Melbourne (7th report of 1993).

Upgrading of Mount Wellington broadcasting facilities, Hobart (8th report of 1993).

Severally ordered to be printed.

Mr Hollis, by leave, made a statement in connection with the reports.

21 INDUSTRIAL RELATIONS REFORM BILL 1993

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

Mr J. N. Andrew addressing the House—

Adjournment negated: It being 10.30 p.m.—The question was proposed—That the House do now adjourn.

Mr Sciacca (Parliamentary Secretary to the Minister for Social Security) requiring the question to be put forthwith without debate—

Question—put and negated.

Mr J. N. Andrew continued his speech.

Debate adjourned (Mr Sciacca), and the resumption of the debate made an order of the day for the next sitting.

22 ADJOURNMENT

Mr Sciacca (Parliamentary Secretary to the Minister for Social Security) moved—That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at 10.49 p.m., adjourned until Monday next at 2 p.m.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Brown, Mr Katter, Mr Keating, Mr Lavarch, Mr Melham, Mr Miles, Mr Moore, Mr B. C. Scott, Mr Simmons*, Mr S. F. Smith and Mr Somlyay.

*On leave

L. M. BARLIN

Clerk of the House of Representatives