

July 2019

Submission to the Senate Standing Committees on Economics

Treasury Laws Amendment (Putting Members'
Interests First) Bill 2019

15 July 2019

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1 Introduction

As one of Australia's largest superannuation and retirement income funds, First State Super is a profit-for-members fund responsible for the accumulation and pension savings of 825,000 members and advised retirement clients, managing over \$98 billion in funds.

We aim to provide a better future for our members, the people whose lives are dedicated to helping others - nurses, teachers, emergency services workers and public servants. First State Super is committed to its member community and to the national interest as we believe both are intrinsically linked.

This submission raises our concerns about the **Treasury Laws Amendment (Putting Members' Interests First) Bill 2019** and its impact on emergency service workers and other high risk workers, implementation challenges and timeframe, and alignment of definitions with Protecting Your Superannuation Package.

1.1 Emergency services

We have special insurance cover in place for NSW Police Sworn Officers and Ambulance Officers (in addition to the default auto-acceptance cover). NSW Police Sworn Officers and Ambulance Officers are easy for us to identify, as the employer provides separate files and payments listing each member to help meet the cost of their extra insurance.

Automatic insurance for high risk workers, including Fire Fighters, provides a valuable level of basic cover that cannot always be obtained through voluntary (underwritten) cover. We have provided case studies of our NSW Police members in an appendix.

We have a number of concerns that the legislation will leave our members without insurance cover in some circumstances. Our reading of the current draft of the bill implies that these at-risk groups would unintentionally lose both the basic cover and their additional cover.

The first concern relates to the recently amended exception under Section 68AAE of the SIS Act:

- While sections 68AAE of the SIS Act may provide an exception for Police¹ and Ambulance Officers for their extra cover:
 - While the special cover is paid by an employer contribution above SG as per 68AAE, where part of the amounts which make up the employer sponsored contribution are from salary sacrifice, this may not be granted the exception,
 - We need clarification that these groups will retain their additional special cover.

Secondly,

- Without significant changes to group insurance policies, premium rates and industry processes, members will lose their automatic acceptance of basic cover:
 - We also note there is already a risk under choice of fund that, if officers have cover with another fund (or have kept an earlier fund), they may find they are explicitly excluded because their pre-existing cover excludes those employed in emergency services.

¹ Police Officers contribute a portion of the cost of their additional cover through salary sacrifice, and this may call into question the use of the 68AAE exception. There is a conflict of laws, given the requirement under NSW legislation for Police Officers to pay a percentage of the additional contribution as salary sacrifice.

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- We think this bill will exacerbate this problem of not being in appropriate workplace cover as provided by their default fund.

There is no common category for emergency services across Australia. Different commonwealth and state jurisdictions use different definitions. For example, in our fund, NSW Ambulance Officers are categorised in the health sector because they are employed by the Health Department.

One way to overcome issue this is to specifically identify these emergency service cohorts by name in the 68AAB(4) and 68AAC(4) exception, similar to the ADF exception already listed in 68AAA(6) and covered under the employer-sponsored contribution set out in 68AAE (for Protecting Your Superannuation legislation).

We therefore request that Police, Ambulance and Fire Fighters work categories are named in the general exception under the proposed section 68AAB and 68AAC of the SIS Act, as provided to Australian Defence Force employees. Ideally this list would include Correctional Services Officers, Juvenile Justice and State Emergency Services workers though they are not technically categorised as emergency services employees.

1.2 Other high risk groups

As well as the more readily recognisable occupation groups, we are concerned for the financial security of groups such as transport officers (state emergency services employees, bus, train and ferry drivers, transport security officers etc). The PMIF Bill will lead to the following:

- Loss of automatic cover for people doing hazardous work, including active members who are currently covered but have low balances,
- We note there are challenges with identifying specific members in broad work groups such as nurses, transport workers and correctional services officers, juvenile justice youth workers, Rural fire service workers (though we are confident that we can obtain the identifying data from our major employers within a six month timeframe),
- There is a broad matrix of cover - and gaps - across all states, work cover inclusions, accident and transport cover, and compulsory third party cover, however:
 - While many workers are covered by WorkCover or transport accident cover, these services do not necessarily cover all contingencies, for example, nurses injured while walking from completion of a late shift to public transport,
 - In certain jurisdictions, people seeking cover following a transport accident may need to litigate their claim (as opposed to simply lodging a claim)
 - Not all jurisdictions cover journey to and from work, especially walking to and from work
 - Accidents in the home or in leisure time are not generally covered; the National Injury Insurance Scheme has been implemented differently in some states and again focuses on car or other vehicle accidents.

A comprehensive review of this patchwork of cover needs to be completed and published.

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1.3 Consistency and member communications

Ideally, the PMIF bill will also be amended to reflect its operation at account level (as per proposed changes to the Protecting Your Superannuation legislation), and not at “product” level.

We have observed considerable uncertainty amongst members in relation to the PYS legislation. We will need to communicate carefully to all affected groups such as:

- new members so they are aware they are not automatically covered until they reach age 25 and a balance of \$6,000,
- existing active members who are over 25 but are yet to reach a balance of \$6,000.

We note that it will take considerable time for many members to reach a balance of \$6,000 from account opening. Most people earning under \$50,000 p.a. will need more than two years to reach that balance. Part time workers, casuals and multiple job holders will be particularly affected unless they have a single account.

We request that the PMIF Bill be amended to align with PYS to be effective at account level, and we also request that existing active members retain entitlement to continuing insurance cover, regardless of age or account balance.

1.4 Implementation timetable

The legislation currently provides for an implementation timetable which will be unworkable with the letter of advice to members scheduled for 1 August 2019 and a start date of 1 October 2019.

- While the industry may aim to comply with a start date of 1 January 2020, we would like a transition phase to be provided for funds that have recently entered into any insurance arrangement, so that they can take all reasonable steps to apply the legislation and allow full compliance by three years of the effective date.
- The changes will require rate re-negotiations for funds; there is likely to be a delay as most funds re-negotiate with a small pool of actuaries and insurers (a bottleneck in the process).

We will again incur system changes, extensive member communications and will need to re-issue the Product Disclosure Statements (a large and costly process that takes an average of three months), so new members are aware of the changed conditions.

Given the range of difficulties with this Bill, a wider review of the gaps in the state based work related and vehicle accident insurance systems is indicated before committing to removing insurance for all younger and lower balance members.

While we could work towards complying with a start date of 1 January 2020, it may better for members to allow the Protecting Your Super changes to be embedded. This would minimise some of the confusion we expect as a consequence of rapid changes affecting some groups twice - in particular those active members with balances under \$6,000.

We recommend commencement no earlier than 1 July 2020, with earlier adoption possible from 1 January 2020.

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1.5 Recommendations

We support the Government's efforts to reduce costs in the system and to avoid erosion of members' balances. However, as noted, our concerns warrant further review and resolution.

In summary, we therefore recommend that

1. categories of emergency services are explicitly named under the proposed sections 68AAB of the SIS Act;
2. other high risk occupations are catered for;
3. the implementation timeframe is extended until at least 1 July 2020;
4. that an extended review be conducted, or a significant period of consultation and review of the patchwork of insurance coverage be specified to ensure the legislation is workable;
5. that the PMIF Bill aligns with proposed amendments to the Protecting Your Superannuation legislation.

Once again, we request a complete exemption of the classes of workers we have listed above. There are other affected occupations also worth consideration.

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ATTACHMENT - CASE STUDIES

Background - insurance arrangement for NSW Police

Eligible members of the NSW Police are offered compulsory death, terminal illness, total and permanent disablement (TPD) and income protection cover (IP) under a separate group insurance policy offered by First State Super (the Police Blue Ribbon Insurance policy). If they do not choose their own superfund, they are given a membership with First State Super, through which they are also provided opt-out death, and TPD cover.

While we are aware that our members will often be eligible for benefits under workers compensation schemes, these schemes are often designed with different objectives (treatment and return to work programs) and their benefits are not sufficient to meet the financial needs of members (and families) who become eligible for a TPD or IP claim due to significant injury or death.

Case Study 1 - Liam

Age	24
Dependents	One child under school age
Relationship	De facto
Insurance	Police Compulsory Blue Ribbon Insurance <ul style="list-style-type: none"> Sum Insured \$225,000 First State Super Insurance (automatic) <ul style="list-style-type: none"> Sum Insured \$207,000
<p>Liam joined the NSW police force as a sworn officer in 2012. He was eligible for insurance cover as an entitlement of his employment. He received automatic TPD insurance as part of his First State Super membership. He also received the compulsory Police insurance cover (Police Blue Ribbon Insurance) for TPD and IP.</p> <p>Liam ceased work in 2014 and was later certified as suffering from Post-Traumatic Stress Disorder (PTSD). Liam had no pre-existing psychiatric history before joining the NSW Police Force. His condition was sustained through incidents and events in his line of work.</p> <p>Despite treatment Liam continues to experience difficulties leaving his home, changing his routine and going out in public. He is reliant on his partner to do most of the cooking and shopping. The family of three is experiencing financial difficulties due to Liam's inability to work and his partner working in retail, a comparatively low paid industry.</p> <p>Without the group insurance arrangements offered as a workplace entitlement for eligible NSW Police, Liam would not have access to the valuable financial support he received following his injury and cessation from work.</p>	

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Case Study 2: Charlotte

Age	22
Dependents	None
Relationship	Married
Insurance	Police Compulsory Blue Ribbon Insurance <ul style="list-style-type: none"> • Sum Insured \$301,000 First State Super Insurance (automatic) <ul style="list-style-type: none"> • Sum Insured \$207,000
<p>Charlotte joined the NSW police force as a sworn officer in 2008. She was eligible for insurance cover as an entitlement of her employment. She received automatic default TPD insurance as part of her First State Super membership. She also received the compulsory Police insurance cover (Police Blue Ribbon Insurance) for TPD and IP.</p> <p>Charlotte ceased work in 2013 and was later certified as suffering from Post-Traumatic Stress Disorder (PTSD). Her condition was sustained through work place stress.</p> <p>Charlotte received IP benefits providing important financial security in the short -term after her injury and later received the TPD benefits under her compulsory and automatic cover.</p>	