



**Submission to Senate Economics References Committee**  
**Inquiry into the 2017 Superannuation Bills:**  
**the impact of non-payment of the Superannuation Guarantee**

Prepared by Associate Professor Helen Hodgson, Curtin Law School

## **Submission to Objective of Superannuation**

This submission is being made on behalf of The National Foundation for Australian Women (NFAW).

NFAW is dedicated to promoting and protecting the interests of Australian women, including intellectual, cultural, political, social, economic, legal, industrial and domestic spheres, and ensuring that the aims and ideals of the women's movement and its collective wisdom are handed on to new generations of women. NFAW is a feminist organisation, independent of party politics and working in partnership with other women's organisations, including the National Women's Alliances Equality Rights Alliance and economic Security 4 Women. These organisations include those committed to increasing support for women in Australia as well as those with a special interest in women's history.

NFAW is concerned about the financial security of women, and the role of superannuation in achieving that security. To that end we have made a number of submissions to previous Parliamentary and Treasury enquiries into the superannuation system and to the Senate Inquiry into the Financial Security of Women in Retirement.

## **Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 2) Bill 2017**

This bill addresses two issues: choice of fund for certain employees who are currently restricted under specified employment agreements, and changes to the salary sacrifice provisions.

Currently employees who are employed under certain EBAs do not have the right to choose their superannuation fund, or that choice is restricted in some way. It is estimated that around 20% of workers do not currently have choice of fund<sup>1</sup>. It has also been estimated that up to two thirds of people use their employer's default fund, with fewer than 2% of people switching funds each year<sup>2</sup>.

The relevant provisions in s.32C(6) ensure that a contribution made in accordance with relevant workplace determinations and enterprise agreements will be treated as complying with the choice of fund provisions by default. The amendment proposed is a minimalist option, in that it will apply prospectively, taking effect from 1 July 2018; and existing funds are "grandfathered" by virtue of proposed subsection 32C (6AA).

We do question the need to enact this change before the conclusion of the current Productivity Commission review of the competitiveness and efficiency of the Australian superannuation system, which is due for completion in mid 2018. The role and regulation of default funds is a major aspect of that enquiry.

Having said that we note the data on: the low rate at which choice of fund is exercised; the ability for an employee to nominate the current fund as their choice of fund; and the grandfathering of existing arrangements. Accordingly we would not oppose this measure.

The second measure, intended to preserve the integrity of the superannuation guarantee payments where a person chooses to salary sacrifice into superannuation, will close a loophole that has been

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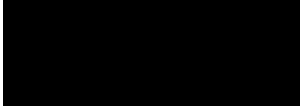
<sup>1</sup> Productivity Commission (2017): *Superannuation: Alternative Default Models (Draft Report)* March 2017, p 33 Commonwealth of Australia <https://www.pc.gov.au/inquiries/current/superannuation/alternative-default-models/draft>

<sup>2</sup> Productivity Commission (2016): *How to Assess the Competitiveness and Efficiency of the Superannuation System* November 2016, p 199 Commonwealth of Australia <https://www.pc.gov.au/inquiries/current/superannuation/competitiveness-efficiency/report>

identified. It is in accordance with a recommendation arising from the report of the Senate Economics References Committee on the Non-payment of Superannuation Guarantee<sup>3</sup>.

We note that salary sacrifice will become less significant as a result of the 2016 amendments to increase personal deductibility of superannuation, however closing this loophole will ensure that employees who salary sacrifice with the intention of building their superannuation balance will not be short-changed.

We strongly support this measure.



*Prepared by Associate Professor Helen Hodgson  
For the NFAW Social Policy Committee  
29 September 2017*

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<sup>3</sup> Senate Economics References Committee (2017) *Superbad – Wage theft and non-compliance of the Superannuation Guarantee* May 2017  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/SuperannuationGuarantee/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/SuperannuationGuarantee/Report)