

CHAPTER 2 : DESCRIPTION OF THE BILLS AND RELATED TERMS OF REFERENCE

2.1 Superannuation, as it operates in Australia, is highly complex. It involves a labyrinth of government regulations designed to establish fund compliance and security, a plethora of taxation rules to give this form of saving a boost over other forms to encourage self provision within the bounds of prudent fiscal management, and many other provisions to allow it to mesh with age pension arrangements and other principles of social security policy.

2.2 Its complexity has been exacerbated by attempts to fine tune retirement incomes policy via the taxation system. In order that existing entitlements are preserved and equity prevails, these fine tunings have taken effect under phase-in, or 'grandfathering', arrangements which have invariably made superannuation in Australia even more complex. Notwithstanding these changes, it was widely recognised during the inquiry that substantial change needs to be made to the fiscal and social security aspects of retirement incomes policy to achieve the desirable objective of providing all Australians with a secure retirement.

2.3 The Committee also notes that the taxation of superannuation provides substantial government revenue.

2.4 During the inquiry, the Committee was often made aware of the need for the equitable treatment of the different types of retirees, for example, those on Commonwealth age pension benefits, private sector occupational superannuation pensions and self-funded retirement incomes. This report therefore endeavours to address the development of policies which are both equitable and symmetrical in their impact on all retirees.

2.5 One of the aspects of policy symmetry which needs the attention of both Commonwealth and State Governments is that of unfunded public sector superannuation debt. The Committee believes that it is logically inconsistent to pursue a policy of full funding of superannuation in the private sector and at the same time allow unfunded public sector debt to rise. This is a matter which the Committee addressed in its third report, *Super and the Financial System*, which contains a recommendation calling on the Commonwealth and the States to develop a consistent and coherent policy. The Committee believes that, at the very least, a start must be made on the phasing-in of full funding of public sector superannuation.

Previous Conclusions of the Committee

2.6 The Committee, in its first and second reports, made a number of *prima facie* observations about deficiencies in the current policy which have been followed up in this report. The following points were made in this regard:

Superannuation and the Age Pension

- ◆ The Committee stresses that, in the long run, the greater the numbers who are independent of the age pension, the greater will be the scope for real increases in the age pension for those who must rely on it.¹
- ◆ The Committee acknowledges that the SGL upholds the 55 year preservation rule. Further, the Committee is well aware of the sound reasons for the rule in so far as it applies to employees who work in occupations which necessitate early retirement, but urges that the Government consider measures to better integrate this aspect of the social security and occupational superannuation systems.²
- ◆ Unlike most other OECD countries, Australia does not require that retirees take retirement benefits in pension form. In recent years the Government has sought to encourage benefits in this form by having a higher Reasonable Benefit Limit (RBL) for people who take their superannuation benefit as a lifetime ... pension or annuity.³

Taxation

- ◆ The Committee notes however, that, under current taxation arrangements, there is every incentive for better paid workers to contribute to superannuation and few tax incentives for low income earners. The Committee acknowledges that the current arrangements include some inequity and need to be addressed.⁴

Simplicity

- ◆ Superannuation in Australia is a most complex matter. It is provided in and outside the workplace and by a range of financial institutions.⁵

Double Dipping

- ◆ One of the problems of this policy which has been the subject of considerable attention during the Committee's hearings is the practice of

¹ *Super Guarantee Bills*, p 30

² *ibid*, p 65

³ *Safeguarding Super*, p 9

⁴ *ibid*, p 31

⁵ *ibid*, p 16

'double dipping'. Double dipping involves taking a superannuation lump sum which has received significant tax concessions, consuming it rapidly and then receiving an age pension. Whilst the evidence given to the Committee was largely anecdotal and not based on any systematic longitudinal data, 'double dipping' is common in Australia. It was submitted, however, that there are legitimate uses for lump sums other than purchasing an income stream, for example, paying out mortgages and other debts. Double dipping is facilitated by the preservation age for superannuation benefits being set at a lower age than the age pension age for men (65 years) and women (60 years). It is this policy scenario which allows some retirees who retire before the pensionable age to spend their lump sums and at a later stage become eligible for the full pension or a greater pension benefit than would have been available had the lump sum not been dissipated.⁶

Hardship Provisions

- ♦ Retirees who take superannuation benefits not subject to compulsory preservation before age 55 have them taxed at significantly higher rates. Award superannuation contributions and contributions for which tax deductions are allowed are subject to preservation. However, compulsorily preserved benefits can be accessed under the hardship provisions of the *Occupational Superannuation Standards Act* (OSSA), taxed at a pre 55 years rate and used for purposes other than retirement.⁷ These issues will be examined in detail in the Committee's third report.

Level of Pensions

- ♦ At no stage of the Committee's inquiry was a demand made for the Government to reduce the present level of pension benefit expressed as a percentage of AWE, that is, 25 per cent. Those witnesses representing the interests of welfare groups submitted that the current age pension is too low and needs to be increased.⁸

Changes Proposed in the Social Security Legislation Amendment Bill (No 3) 1992 Divisions 16-19 (inclusive)

2.7 The Social Security Legislation Amendment Bill (No 3) 1992 Divisions 16-19 (inclusive) amends the following Acts:

- ♦ *Social Security Act 1991*; (the principal Act);
- ♦ *Social Security (Family Payment) Amendment Act 1992*;

⁶ *ibid*

⁷ *Safeguarding Super*, p 9

⁸ *Super Guarantee Bills*, p 18

- *Health Insurance Act 1930*; and
- *National Health Act 1952*.

2.8 Divisions 16-19 (inclusive) of the bill, the only provisions of the Bill referred to the Senate Select Committee on Superannuation, will effect significant changes to retirement incomes policy.

2.9 Division 16 will amend the principal Act to simplify the treatment of managed investments, in respect of the incomes means test for pension eligibility, by assessing income from them on an on-going basis according to actual performance of the previous 12 months.

2.10 Division 17 is designed to exempt from the income and assets tests any money in a superannuation or rollover fund until pension age or until an annuity or pension commences to be payable from the fund.

2.11 Division 18 will extend to listed shares and other listed securities the provisions which apply to managed investments, that is, their growth in value will be taken into account under the means test on social security pensions and other benefits.

2.12 Division 19 is the change under this Bill which has attracted most attention from submitters to the inquiry. It provides that the value of allocated pensions and allocated annuities will be taken into account for the purpose of the assets test, and further provides that they will be income tested according to the fund earning rate.

Changes Proposed in the Taxation Laws Amendment (Superannuation) Bill 1992

2.13 This Bill has five parts which amend the following Acts:

- Part 1. *Preliminary*
- Part 2. *Income Tax Assessment Act 1936*;
- Part 3. *Occupational Superannuation Standards Act 1986*;
- Part 4. *Superannuation Guarantee (Administration) Act 1992*; and
- Part 5. *Taxation Administration Act 1953*.

2.14 As foreshadowed in the Treasurer's *Security in Retirement* statement, the legislation:

- sets new limits for the amount of deductions available to an employer or self employed person for contributions to a superannuation fund;
- replaces the existing deduction and rebate arrangements for personal superannuation;
- changes the taxation of pension and rollover products;
- alters a number of entitlements in relation to the rolling over of eligible termination payments, and limits the tax concessions on redundancy, early retirement and invalidity payments; and
- introduces flat dollar RBLs (Reasonable Benefit Limits) as a replacement for salary linked limits.

2.15 The Bill also amends the *Occupational Superannuation Standards Act (OSSA)* by, *inter alia*, allowing superannuation funds to hold a member's benefit for up to 90 days while the member decides whether to rollover the benefits, and permits retirees to transfer their benefits into superannuation funds.

2.16 Finally, the Bill amends the *Superannuation Guarantee (Administration) Act 1992* to bring into force a number of changes foreshadowed when it was debated in the Senate in June 1992 including:

- provision for flat rate contributions under the SGC; and
- extension of the measure to apply before 21 August 1991.

The Scope of the Recommendations made in Addition to Matters Contained in the Bills

2.17 As stated in Chapter 1, and earlier in this Chapter, this report goes further than commenting on the two Bills. To this end it considers the evidence the Committee has received on the related terms of reference and makes recommendations on matters in addition to those contained in the Bills. Furthermore, it covers the preservation age issue, which is expected to be the subject of future legislation/regulation, and recommends that the Government change its policy on early access to superannuation benefits in cases of hardship.