

CHAPTER 1: INTRODUCTION

The object of this report is to examine concerns raised about the Superannuation Industry (Supervision) Regulations.

Background

1.1 Pursuant to the *Superannuation Industry (Supervision) Act 1993* (the 'SIS Act') are the Superannuation Industry (Supervision) Regulations, Statutory Rules No. 57 of 1994 (the 'SIS regulations'). These regulations were made on 4 March 1994, gazetted on 11 March 1994, and tabled in the Senate and the House of Representatives on 17 and 22 March 1994, respectively. The SIS regulations were referred to the Senate Select Committee on Superannuation on 16 March 1994. The terms of reference of this inquiry appear at Appendix A.

1.2 The SIS regulations prescribe the standards to apply in relation to an extensive array of issues, including the provision of information for members and other persons, matters associated with public offer entities, the management and trusteeship of superannuation entities, minimum benefits, payment standards (formerly known as preservation standards), contributions and benefit accruals, the financial management of funds, eligible rollover benefits, information to be given to the Insurance and Superannuation Commissioner, pre-1 July 1988 funding credits, and a number of miscellaneous and transitional provisions.

The issues

1.3 Beneficiary investment choice (otherwise known as 'member choice' or 'member investment choice'), the standards for which are prescribed

under SIS regulation 4.02, was the issue which drew the largest response in terms of submissions and evidence given at the hearings. A number of other equally important issues that were raised included the possible impact that the prohibition of charges over assets under SIS regulation 13.14 would have on funds' custodial services; whether partial disability benefits would conflict with the sole purpose test; whether the new preservation requirements should be implemented earlier; whether the age at which a person is deemed to have retired should be lowered; and the controversy surrounding the arrangement between the AWU-FIME and the administrator of the Nationwide Superannuation Fund, the Professional Services Investment Pty Ltd (PSI).

Conduct of the inquiry

1.4 On 24 March 1994, the committee wrote to about 400 persons and organisations on its mailing list. Thirty six written submissions were received. The list of written submissions appears at Appendix C.

1.5 The committee conducted public hearings on 20 and 23 June 1994 in Canberra and heard evidence from AWU-FIME and PSI on 19 September 1994. A list of witnesses who gave evidence at these hearings appears at Appendix D.

Superannuation (Resolution of Complaints) Regulations: Update

1.6 On 29 August 1994, the committee tabled its thirteenth report, *Super Regs I*, on the Superannuation (Resolution of Complaints) Regulations. On the same day, the Senate resolved to disallow these regulations. On 17 October 1994, the Senate rescinded that resolution.

1.7 The Government has stated that a new regulation is to be made which will exempt medical evidence for six months. However, during this period, the Superannuation Complaints Tribunal is 'to evaluate ways of dealing with complaints involving medical evidence'.¹

¹ Press Release No. pst19, by the Parliamentary Secretary to the Treasurer, 13 October 1994

1.8 Also on 17 October 1994, Senator Sherry, at Senator Watson's request, said that the Government now favours giving the Tribunal resources and powers to deal with the consideration of medical evidence, and will take steps to ensure that this occurs from the date of expiry of the proposed new exemption regulation.²

1.9 On 1 November 1994 the Superannuation (Resolution of Complaints) Regulations (Amendment), Statutory Rules 1994 No. 374, were notified in the *Commonwealth of Australia Gazette*.

1.10 The new Regulation 4 commences on gazettal, 1 November 1994, and ceases six months thereafter. Regulation 4 reads:

(1) For the purposes of the definition of 'excluded subject matter' in section 3 of the Act, excluded subject matter is matter in relation to which the Tribunal, in dealing with the matter:

- (a) would have to undertake the assessment or evaluation of medical evidence, opinion or reports; or
- (b) would have to consider, having regard to medical evidence, opinion or reports, the question of a person's incapacity; or
- (c) would be likely to have to perform a function mentioned in paragraph (a) or (b).

(2) This regulation ceases to have effect at the end of 6 months after it commences.

1.11 As at 15 November 1994, Statutory Rules 1994 No. 374 had not been tabled.

Acknowledgments

1.12 The committee records its appreciation of the written submissions and oral evidence to this inquiry. In particular, the committee acknowledges the diligence and cooperation of the Insurance and Superannuation Commission (ISC) in resolving a number of issues which were raised in submissions before the hearings were conducted. The committee also expresses its appreciation for the cooperation extended by Brian Scott of

² Senate *Hansard*, 17 October 1994, p 1811

Towers Perrin in enabling the committee to use the survey information referred to in this report.