

SUBMISSION ON PROPOSED LEGISLATION TO ESTABLISH AN OBJECTIVE FOR SUPERANNUATION

NEED FOR A LEGISLATED OBJECTIVE FOR SUPERANNUATION

A legislated purpose for superannuation is unnecessary because the Sole Purpose Test as set out in Part 7 of the *Superannuation Industry (Supervision) Act 1993* clearly establishes the objective. The Regulator has the power to approve benefits other than those specified in the Act and any such approval is up to the government of the day.

It should be noted that any legislation can be revoked or amended by the government of the day.

COMMENTS ON RATIONALE OF WORDING PROPOSED

Preserve savings

The preservation of savings is a worthwhile objective. Nevertheless, there are undesirable consequences when this is combined with the delivery of income for retirement.

The consultation paper indicates that **superannuation should be preserved for a person's retirement only**. Under this provision, once a contribution is paid into a fund, it becomes part of the contributor's savings for retirement. Thus, it could not be used to fund insurance other than that for retirement due to total and permanent disability. Death and income protection insurance cover could not be provided.

Any legislated objective for superannuation should make it clear that an individual's superannuation balance is available to support that person when they are unable to work because of long term illness or injury (subject to a qualifying period).

Also, preservation only for retirement takes no account of the variation in an individual's personal financial circumstances throughout their life prior to retirement. Many circumstances may arise when it is appropriate for an individual to access funds held in a superannuation fund prior to retirement. **It is desirable to allow governments the flexibility to allow some pre-retirement drawdowns in times of dire personal need or national emergency.**

It is noted that the consultation paper uses the terms 'a person's retirement only' This could be seen as preventing any splitting of superannuation balances on relationship breakdown and as providing for forfeiture, presumably to the government, of any remaining superannuation assets on the death of an individual. **Superannuation balances have been accumulated from a base of salary and wages or similar remuneration foregone and individual contributions. Thus, the funds are the property of the individual.** Assets in superannuation must remain available either to be divided as agreed or determined by the courts on relationship breakdown or to go to dependents or beneficiaries on death.

Deliver income

This 'principle' of superannuation is too narrow in that it specifies income. It is noted that the objective suggested by the 2020 Retirement Income Review (the Review) used the term "*to deliver an adequate standard of living*". The delivery of income implies that all benefits will have to be taken as an income stream, presumably subject to maximum annual limits.

Drawing lump sums from superannuation at or after retirement should be entirely at the discretion of the individual. Ability to draw a lump sum on retirement is highly desirable in many circumstances including paying down a mortgage on a home, paying off other debt, and paying a bond to an age care facility, particularly if a spouse still requires the family home.

Assets and income outside superannuation, together with gifts to non-charities, are considered when assessing pension eligibility. **There is no justification for restricting superannuation benefits to income stream so the possibility should not be left open in any objective for superannuation.**

Dignified retirement

This is a vague term and could refer to pre-retirement lifestyle of some objective measure such as that for comfortable lifestyles as estimated by the Association of Superannuation Funds of Australia for those up to age 84 years. Nevertheless, the lump sum superannuation balances required to achieve the above lifestyles assume part age pensions and, apparently, full draw down of superannuation balances by age 84. Any estimate of the superannuation balance required to fund retirement is dependent on assumed investment returns that are highly variable from fund to fund and year to year.

Many self-funded retirees deliberately draw the minimum pensions necessary to fund a constrained lifestyle while living independently because they fear that they will be unable to fund the level of supported age-care they will require to maintain their dignity. When unable to live independently, maintaining dignity, privacy, and the maximum amount of independence come at a cost. The actual levels of support needed and the duration of that support are unknown so cannot be budgeted for by individual superannuants. **Most self-funded retirees endeavour to maintain sufficient resources for the worst case age-care scenario so they can maintain their dignity until death.**

Government support

This is another vague term and leaves the way open for governments to reduce taxation concessions for superannuation, as it has already foreshadowed. It is of particular concern when the Assistant Treasurer refers to superannuation as *honey to be managed in the best interests of the hive*. The hive appears to be the government and this ignores the point made earlier that superannuation balances are the result of individual sacrifices.

The 2020 Review notes that Australia's retirement income system is based on three pillars: a means tested age pension, compulsory superannuation, and voluntary savings including home ownership. **The objective proposed ignores the voluntary**

savings pillar and puts the age pension under the general umbrella of government support.

Equitable

The current system is equitable in that those who have made similar superannuation contributions over their working lives will have similar balances, provided fund returns are similar. Personally, I made some sacrifices in my life style while working to ensure I had a balance that would support me in sickness and health to beyond my life expectancy. If there is a balance remaining for my beneficiaries on my death, they have every right to it as it is result of my sacrifices and my death before the balance is exhausted. The transfer balance cap already serves the purpose of taxing amounts in excess of what the government believes is reasonable.

Also, this vague term may mean that individuals' superannuation should be in a closed pool, with significant exit fees other than through a pension. If this is the intent, the Hawke-Keating governments should have set up a national defined benefit scheme. The generous defined benefit schemes for judges and longer serving politicians are noted.

Sustainable

The superannuation system was set up with a set of concessions to encourage savings for retirement. Some of these were found to be non-sustainable and have been closed via contribution caps. This is now a legacy issue and will become redundant over time.

Superannuation is not the 'Honey Pot' to raid in times of fiscal restraint. To further target superannuation is to target productive people and savers. *Ad hoc* changes to taxation of superannuation and other conditions destroy confidence in the system as a sensible means of saving for retirement.

Also, superannuation funds are required to invest in the best financial interests of members. They should not be available to fund government sponsored initiatives unless the government is prepared to guarantee exemplary returns.

RESPONSES TO CONSULTATION QUESTIONS

1. There are no practical benefits associated with legislating an objective for superannuation when the Sole Purpose Test clearly sets out the purpose. The wording of the proposed legislation is open to interpretations that allow policy makers to make changes that do not contribute to helping individuals save for retirement. Setting an objective for superannuation without including the other key pillars of the retirement income system is pointless.
2. The Sole Purpose Test sets out my understanding of the objective of the Australian superannuation system. The proposed objective fails in that it contains too many broad terms that can be interpreted to interpretations to suit the government of the day. Any legislated objective should refer to the Sole Purpose Test and be tightly drafted with little if any room for interpretation.

3. As detailed above, legislating an objective for superannuation will achieve no real purpose. Any legislated objective can be changed to suit the whims of the government.
4. Accountability is increased if any future legislation is required to include a statement of compatibility with the Sole Purpose Test.

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