



Australian Government

**Australian
Small Business
Commissioner**

15 April 2015

Senior Advisor
Contributions and Accumulation Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam

Re: Superannuation compliance

Thank you for the opportunity to provide some comments on the proposed legislation to simplify when a standard choice form for superannuation funds must be provided by an employer. We are strongly supportive of this change.

The content of this submission is informed by our ongoing engagement with the business community, including dealings with individual small businesses and their representatives. We have a strong interest in reducing the cumulative compliance burden on small businesses, particularly though the simplification and streamlining of processes. This is aligned with our role to provide information and assistance to small businesses, represent small business interests and concerns to the Australian Government, and work with industry and government to promote a consistent and coordinated approach to small business matters.

The benefits of the proposed legislation

The proposed legislation removes the obligation for employers to offer a choice of superannuation fund to temporary residents, or when superannuation funds merge.

In these circumstances, we agree that the simplification will benefit business, especially since temporary residents are unlikely to have existing superannuation arrangements and, due to the short term nature of their employment, they may not actually choose a fund. The proposed legislation also deals with an apparent instance of red tape where employers are required to provide employees with a standard choice form when an employee's superannuation benefits are simply transferred to a successor fund under a fund merger arrangement. We also agree with this simplification.

Although we strongly support these changes, we note that the changes apply only in the particular limited circumstances outlined. Small business commonly raises concerns with our Office of being treated as a free administrator and collector in the operation of the superannuation system. This is in addition to business being a tax collector and payment agent, as is the case with distributing paid parental leave payments.

We therefore encourage consideration of further changes that assist small business and lift the administrative burden. For example, despite a number of attempts by Government, there is still significant confusion regarding the distinction between independent contractors and employees. Adding to this confusion are differences in definitions and determining factors between the Commonwealth and State bodies (i.e. WorkCover). Understanding these differences is crucial for both independent contractors and their hirers as it can have an effect on matters such as tax and superannuation obligations, intellectual property ownership, and insurance requirements.

We have seen numerous cases where getting it wrong can have serious financial implications for small businesses engaging contractors. In one recent example, the business in question received advice from a solicitor and accountant when setting up the business, but a government review determined that the business did not quite get it right and as a result a significant sum was owed to the contractors. Following a second look at the review documentation, this decision was overturned. However this illustrates that more needs to be done to remove confusion and simplify compliance in this area.

We welcome the opportunity to be involved in additional consultation in relation to further simplification and streamlining that may assist small businesses.

Yours sincerely

A handwritten signature in black ink that reads "Mark Brennan". The signature is written in a cursive, flowing style.

Mark Brennan
Australian Small Business Commissioner
www.asbc.gov.au