



Legislating the Objective of Superannuation

Submission by the Australian Council of Trade Unions to the Treasury
Consultation on the exposure draft of the *Superannuation (Objective) Bill*
2023 and explanatory materials

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Introduction

Since its formation in 1927, the ACTU has been the peak trade union body in Australia. There is no other national confederation representing unions. The ACTU consists of affiliated unions and State and regional trades and labour councils who have nearly 1.8 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector. In making this submission, the ACTU notes and supports the submission of the SDA.

The union movement and workers led the campaigns to establish universal superannuation. Through industrial action, bargaining, advocacy at both the Australian Conciliation and Arbitration Commission and the High Court the union movement won superannuation for the vast majority of workers. The ACTU, through the Accord process more than 30 years ago, developed and played a major role in bringing about universal, employer-paid superannuation. This culminated in the Superannuation Guarantee, legislated by the Keating Labor Government affording every worker access to superannuation.

In the 30 years since the establishment of superannuation, the ACTU and the union movement remain active participants in the system. The union movement have carriage of the maintenance of the award system, which still ensures workers are placed in occupationally appropriate funds. The ACTU and affiliates jointly sponsor on a not-for-profit basis, a significant number of industry superannuation funds, including the largest funds in the superannuation system. Member representative trustee directors nominated by the union movement ensure funds are high-performing, transparent, and achieve the objectives expected of them by their members and workers more generally.

In campaigning for universal superannuation and in its custodianship of the system since, the union movement maintained a fundamental objective for the elimination of poverty and ensuring dignity for every worker in retirement. No worker should retire into poverty and workers' standard of living should be maintained into retirement. Superannuation, combined with the Age Pension and other government support, is critical to that goal.

The union movement believes an objective of superannuation is critical to ensure the fundamentals of the system are protected. The former Government steps to undermine superannuation at every opportunity; In 2014 it froze the superannuation guarantee increases at 9.5 per cent, costing Australians thousands, it forced workers to raid their retirement savings in order to survive through the pandemic, and took to the election a policy which would have forced workers to choose between security in retirement and a house. At every opportunity, the Coalition

Government chose to use workers' superannuation to bail itself out of difficult and important policy decisions. Underscoring this, is that while opposing paid family and domestic violence leave, the Government was in the process of drafting legislation which would have forced women fleeing violent relationships to access their superannuation to fund their escape.

Despite the lack of articulation in legislation, workers have a clear understanding of the purpose of superannuation, to accumulate savings for a dignified income in retirement. Workers' ambition of their superannuation is to maintain their standard of living into retirement. In order to do this, a meaningful objective which reflects the foundations of the system is required. Workers' confidence in superannuation as a vehicle for an adequate retirement can only be improved by an effective objective which requires Government to ensure future policy decisions meet the objective of superannuation.

The ACTU is pleased that the Government has considered the objective of superannuation from first principles and proposed an objective which would go closer to the originating purpose of superannuation. In 2016, the former Government proposed a wholly deficient objective which would have failed to address the central tenets of superannuation: adequacy, equity, and preservation. The proposed objective is an important step in acknowledging these principles.

In order for the objective to be one which is lasting and meaningful, prior to legislating the objective the Government should lead a national conversation engaging with all Australians about the community's understanding of the objective of superannuation. This should involve public education and deep engagement with workers and members of the community they see as the purpose of superannuation. This kind of investment from Government in bringing the community along, long-term value in the objective being one settled through deep community consultation, rather than one settled through discussions with already engaged peak bodies and institutions. The purpose of the objective is to capture the national understanding of superannuation, now that more than 30 years have passed since legislating superannuation it would be a fundamental public good to once again have the national conversation. The Government should further invest in ongoing public education about the purpose and objective of superannuation. Its critical importance as a vehicle for retirement savings is one which deserves continual engagement and can only benefit by the community deepening their connection to the system.

Comments on the objective

In campaigning for a national employer contributed superannuation system, the ACTU and Labor committed for it to be a universal system. Universality remains an important foundational objective of superannuation. All workers should be entitled to superannuation paid on all wages, and exceptions to that should be removed. Campaigns for superannuation in the 1970s and 80s were for it to be an industrial right afforded to all workers. Women and Aboriginal and Torres Strait Islander workers were largely excluded from employer-run pension schemes and contribution systems, and efforts to win superannuation and establish superannuation as universal industrial entitlement were to rectify that injustice.

Indeed, when Treasurer Dawkins introduced the Superannuation Guarantee (Administration) Bill 1992, he noted that the one of the objectives of the Superannuation Guarantee was to extend coverage to those who did not have it:

“Superannuation was the preserve of a few, mainly the wealthy, and a substantial proportion of concessionally taxed superannuation savings was dissipated well before retirement.

“The reform of superannuation has been one of the great achievements of the Government. Over its term of office, the Government has greatly expanded access to superannuation savings. In particular, award superannuation has fostered the spread of superannuation to large areas of the work force which previously had no cover.”¹

Universality of superannuation is just as important a tenet of superannuation as preservation and equity. In the last Parliament, proposals to make superannuation optional, to abolish it entirely, or to limit the entitlement to those earning above certain thresholds were all floated by members of the now Opposition.

¹ Dawkins, John, 2 April 1992, *Superannuation Guarantee (Administration) Bill 1992 second reading speech*, House of Representatives, Parliament House, Canberra

To give effect to this the ACTU proposes the following amendment to the objective:

The objective of superannuation is to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way **for all workers.**

Explanatory materials

The ACTU notes the Government's objective is that it will not legislate nor regulate subsidiary objectives. Superannuation and the foundations which underpin it are broader than a single sentence can adequately explain. Subsidiary objectives were intended capture the essential functions of the system that operate beneath the provision of retirement income.

One of those critical subsidiary functions of superannuation is the provision of occupationally appropriate insurance. The purpose of life and total and permanent disability insurance through superannuation is a core part of workers' claim for universal superannuation. Default group insurance is often the only affordable means of accessing insurance for workers. Nearly all Australian workers have access to high-quality insurance as a result of universal superannuation, leaving Australia a nation which was critically underinsured to one which ensures that families aren't left behind if workers don't return home from work, or are unable to work again.

The ACTU recommends that insurance through superannuation be noted in explanatory materials as a core part of the system.

The consultation paper outlines that the Government's ambition is that key terms are identified and described in the explanatory memorandum. The union movement supports a fulsome explanation through the explanatory memorandum as a way to ensure that future Governments, the community, and, in special cases, the courts have a reasonable way of determining if a law or issue meets the objective of superannuation.

'Preserve'

Superannuation is an instrument to fund income in retirement and to achieve that it must be preserved for retirement. Workers did not fight for superannuation to be paid on top of wages in order for it meet policy challenges or crises faced by Governments. The wilful destruction of workers' retirement savings by the previous Governments showed a complete disregard for workers' outcomes at retirement. The union movement generally supports workers having access

to their superannuation as a last resort during exceptional circumstances. However, that these circumstances arise is often a failure of Government in the first place.

Workers requiring access to superannuation to meet medical expenses is a shocking failure of our health system. The purpose of our universal healthcare system is that no person's health should be determined by their bank balance. That more and more people are requiring superannuation to meet health expenses highlights gaps in our universal health system which need filling.

Financial hardship, too, represents a failure of our social supports to ensure no worker is in poverty as a result of a lost job. JobSeeker being so low, combined with the liquid asset waiting period, means many people suffer extreme financial hardship as a result of losing their job. Workers experiencing severe financial hardship, which may only be temporary, required to drain their superannuation to keep paying their mortgage or put food on the table doubles the impact of a terrible situation to be in. One's retirement should not be condemned due a lost job.

While workers experience these hardships, avenues to relieve them should not be taken away. But this kind of deviation from the objective of superannuation should require Government to consider how it has failed to meet the objective of superannuation and what steps need to be taken in other areas for superannuation to live up to its expectations.

'Dignified retirement'

No person in Australia should be in poverty and all workers in Australia should retire with dignity. The Government should avoid a mechanistic definition of dignity in retirement. A dignified retirement should reflect societal expectations about the standard of living we all expect to retire into.

'Government support'

The reference to Government support is welcome. Understanding the interaction of government support measures with superannuation is important in assessing whether the retirement incomes system is meeting the expectations of Australians (ie to retire with dignity and security). However the ACTU is of the view the wording should be amended to clarify the role the aged pension plays in our retirement incomes system. Rather than being a *substitute for superannuation* the age pension and other income support measures should be recognised as the cornerstone of our retirement incomes system. With this in mind the ACTU recommends rewording the section on Government Support as follows:

Government support

1.43 As Australia's superannuation system continues to mature over time, more individuals are expected to retire with larger superannuation balances. However, most Australians will continue to use their superannuation and private savings in conjunction with a full or part aged pension along with other government support to achieve a dignified retirement.

1.44 Government support is provided by all levels of government and include the Age Pension, Commonwealth Rent Assistance, and the Home Equity Access Scheme. While most Australians will continue to rely on government support to achieve a dignified retirement, it is noted that not every Australian will draw upon government support, particularly as the superannuation system continues to grow and mature. The ongoing success of the Government's superannuation policy in promoting greater self-provision of retirement incomes will influence the fiscal capacity of future Governments to sustain and improve the adequacy of the age pension

1.45 The inclusion of Government support in the objective reflects the crucial link between superannuation policy and government support and provides certainty to all Australians by articulating the existence of a strong and adequately provisioned social safety net including the aged pension and other income support that allows for a dignified retirement. The age pension and associated social security arrangements remains the cornerstone of the retirement incomes system and will provide an adequate safety net in retirement. Policymakers need to consider their interaction in making policy decisions relating to superannuation and/or government support.

'Equitable and Sustainable'

Superannuation was fought for as a measure to improve equity in retirement. Employer-paid superannuation, prior to the campaigns to win it starting in the 1970s, was the right of the few. Superannuation was largely an entitlement paid to managers, professionals, politicians, and paid to very highly unionised workforces. Where retirement benefits were paid, often they were not paid to women. Even during the campaigns to win superannuation through the 1970s and 80s, where its coverage increased, both women and Aboriginal and Torres Strait Islander workers were excluded from coverage as they were either paid at the Award, employed in smaller

businesses, or excluded from fair wages entirely. The union movement sought to end this inequity by winning superannuation for all workers.

Women and First Nations workers suffer from this historic inequity today and continue to retire with great inequality. The gender pay gap and the First Nations pay gap both contribute to retirement income inequality, as do barriers to accumulation in the system including that superannuation is not paid on parental leave, workers compensation, that it is not paid on all forms of work nor all hours, and the recently abolished \$450 per month minimum threshold. Superannuation should be equitable and the system settings should achieve that. As with gaps in the universality or preservation of the system, ensuring equity is part of the objective will allow Government to consider areas of future reform.

The Australian Union movement welcomes the Government's recent commitment to lower tax concessions for those with more than \$3 million in their superannuation fund. As it currently stands, tax concessions in superannuation are deeply inequitable. Superannuation is meant to be a vehicle for retirement incomes, but tax changes led largely by the Coalition have allowed the extremely wealthy to gain outsized benefits from taxpayers. Reforms to ensure that where there is public expenditure through the superannuation system, either through concessions or other measures, are sustainable are needed. However, there is more to do to ensure tax benefits and rates are equitable, including to ensure that lower income earners gain a proportionate tax advantage from saving through superannuation.

It is important to note that boosting aged pension adequacy has been a long-stated equity objective of superannuation as the then Treasurer Raph Willis outlined in 1995 **Saving for Our Future** statement² on super/retirement incomes policy...

“Even then, it is important not to lose sight of the linkage that exists between superannuation and the age pension in ensuring that all Australians receive an adequate income in their retirement. In particular, in the context of the general ageing of Australia's population into the middle of the next century, the success of the Government's superannuation policy in promoting greater self provision for retirement will influence the fiscal capacity of future Governments to sustain and improve the adequacy of the age pension”.

² Statement by the Hon Ralph Willis, M.P., Treasurer of the Commonwealth of Australia, 9 May 1995

In this context problems with access to affordable housing will have a major impact on retirement incomes, pension adequacy and government outlays.

Accountability

The objective of superannuation should be reinforced with a mechanism to ensure that future Governments are held accountable to the objective when making policy decisions. The Australian Union movement supports establishing a Council of Superannuation Custodians to assess the performance of the system against the objective. The Council of Superannuation Custodians would be a tripartite body which would be charged with assessing potential reform proposals to ensure they are consistent with the adequacy, sustainability, and fairness of the superannuation system.

The union movement also notes proposals from AIST and ISA that would require government to assess policies affecting superannuation against the objective. These kinds of assessment should be required to assess the impact of retirement income policies on women, First Nations people, median workers, part time and full-time workers, and manual workers and non-manual workers. Governments should be required to ensure that each aspect of the objective are assessed, with particular attention paid to the key words highlighted in the consultation paper. These proposals would support the work of Parliamentary Committees, parties, and the public in scrutinising legislation.

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