

16 July 2019

By email: economics.sen@aph.gov.au

Chair
Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senator Brockman

Senate Inquiry: Treasury Laws Amendment (Putting Members' Interests First) Bill 2019

Consumer Action Law Centre and Financial Rights Legal Centre welcome the opportunity to comment on the Senate Economics Legislation Committee's inquiry into provisions of the *Treasury Laws Amendment (Putting Members' Interests First) Bill 2019 (the Bill)*.

We strongly support the objective of preventing unnecessary and high insurance premiums from eroding superannuation account balances, particularly for young members.

This submission focuses on the interests of people who are on low incomes or have low superannuation balances. Our key consideration in assessing these reforms is ensuring that people who are financially vulnerable continue to be assisted by insurance in their superannuation, which can have a life-changing effect for families struck by injury, illness or death, while not having their superannuation balance eroded by insurance premiums.

This submission comments on our two main concerns with the Bill:

- The need to maintain default insurance for *active* superannuation accounts with balances under \$6,000; and
- The risk that problems with the implementation of the Protecting Your Super Package reforms will be repeated with this Bill unless the compressed timeframes are extended and quality of communications from trustees to fund members significantly improves.

We also **enclose** our previous submissions on the Exposure Draft legislation¹ and the Senate Economics Legislation Committee's Inquiry into the 2018 Bill,² which comment on similar issues.

About Consumer Action Law Centre

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just market place for all Australians.

About Financial Rights Legal Centre

The Financial Rights Legal Centre is a community legal centre that specialises in helping consumers understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the National Debt Helpline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies, and the Mob Strong Debt Help services which assist Aboriginal and Torres Strait Islander Peoples with credit, debt and insurance matters. Financial Rights took close to 25,000 calls for advice or assistance during the 2017/2018 financial year.

Maintain default insurance on low-balance accounts

As detailed in our submissions on the Exposure Draft legislation and the 2018 Bill, we **do not support** the removal of default insurance on active superannuation accounts with balances under \$6,000.

Therefore, we do not support proposed section 68AAB under Schedule 1 Item 1 of the Bill in its current form.

While we acknowledge the significant impact of balance erosion on low-balance accounts, it does not follow that people do not need insurance simply because they have less than \$6,000 in superannuation. Excluding insurance cover for the first \$6,000 of contributions – typically amassed over the first one to two years of work – may have a disproportionate impact on people with active superannuation accounts who:

- have returned to work after an extended period away from work due to parental leave or other reasons;

¹ Consumer Action, Submission to The Treasury, Treasury Laws Amendment (Protecting Superannuation) Bill 2018— Exposure Draft, 4 June 2018, available at: <https://consumeraction.org.au/submission-protecting-your-super-package-exposure-draft/>.

² Consumer Action and Financial Rights Legal Centre, Submission to Senate Economics Legislation Committee's inquiry into the provisions of the Treasury Laws Amendment (Protecting Your Superannuation Package) Bill 2018, 9 July 2018, available at: <https://consumeraction.org.au/protecting-your-super-package/>.

- have recently arrived in Australia; or
- have an employer that has not paid employer contributions.

A successful insurance claim can have a life-changing effect for families struck by injury, illness or death. The beneficial impact of topping up retirement income when a person's working life is unexpectedly cut short is arguably much greater for a person with a low superannuation balance than to someone with a substantial balance.

It may be suggested that the disability support pension replace a significant proportion of income for people on low incomes should they be unable to work due to a disability. However, a person's income level is not the only consideration in whether insurance is suitable for them. For example, a person working part-time and also providing unpaid care to a family member is making a significant non-financial contribution to their family. If that person was unable to work and provide unpaid care due to disability or death, the impact on their family of their unpaid care no longer being given may be more significant than their lost income.

RECOMMENDATION 1. Keep default insurance for active low-balance superannuation accounts.

If our primary recommendation is not adopted, we recommend that the low-balance account reforms in the current Bill be delayed until the impact of the recent *Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019* (Cth) (**Protecting Your Super Act**) is known.

Overall, the Protecting Your Super Act contains many positive reforms: removing insurance on inactive superannuation accounts; consolidating multiple accounts; capping administrative fees; and banning exit fees. These reforms are likely to significantly reduce the erosion of superannuation balances, and should be given time to work before further changes are made to active low-balance accounts.

RECOMMENDATION 2. Alternatively, that the low-balance accounts reforms in proposed section 68AAB be delayed until the impact of the Protecting Your Super Act reforms on account erosion is known.

Timeframes and communication with members

We are very concerned about the compressed timeframes in this Bill, and lack of prescription about how trustees must communicate the impact of the proposed changes.

This Bill will result in cancellation of default insurance for people with super balances under \$6,000 unless the member elects to maintain their insurance before 1 October 2019. Therefore, it is critical that affected people are made aware of these changes, understand the impact, and have time and support to make informed decisions about their insurance needs.

We note that:

- This Bill has highly compressed timeframes. The legislation was introduced on 4 July 2019. This Committee is only due to report on the Bill by 23 July but, if the Bill passes, trustees must send notices to fund members on or before 1 August 2019. Members who want to maintain their insurance cover then must make an election by 1 October 2019.

- The Bill only require trustees to write to affected members once.
- There are no requirements on trustees to follow up with members who may have moved, live remotely or abroad, are homeless, or those who do not have reliable mail service.
- If insurance cover does lapse, people can apply again through their super fund but may not get the same cover.
- The compressed timeframes in the Bill may also adversely impact trustees' negotiations on repriced group insurance contracts with existing insurers, and find alternative providers, which may increase premiums and fees.

Lessons must be learned from the recent implementation of the Protecting Your Super Act reforms, which also affected insurance in super. Problems included:

- Timeframes between passage of the legislation, deadlines for trustees to send notices required by the Act, and action required by fund members were too short.
- There was insufficient publicity about the changes, so many people were unaware that these changes were coming.
- Insurance in superannuation is complex and people were not supported to make the types of decisions the notices required.
- While trustees were required to contact fund members under the Protecting Your Super Act, research suggests that people are not very engaged with their superannuation and may not have realised that, unlike regular statements and updates from their super fund, this correspondence required urgent action on their part. These notices may have been disregarded.
- Many funds do not have up-to-date addresses, emails or phone numbers for their members.
- Some fund members do not have reliable phone, mail or internet services. Financial counsellors raised serious concerns that the implementation of these reforms may have had a disproportionately adverse impact on remote Aboriginal and Torres Strait Islander communities.³ It is highly likely that some of these members did not receive appropriate communications, or may not have understood the impact of the changes given the problems described here, and will therefore be unaware that they have lost insurance cover due to this law change.
- We were dismayed by the quality of communications from trustees to members that we reviewed. Some letters and emails were vague, confusing or potentially misleading, or lacked basic information such as the insurance benefits and premiums. Others opted for overwhelming members with too much information. Some members were left with vast spreadsheets of information that required multiple mathematical equations and an understanding of product design to determine the precise cost and benefit of a product.

As a result, we remain deeply concerned that many vulnerable Australians did not read, understand or even receive a notice about the Protecting Your Super changes and therefore did not make an informed choice about their insurance before the 1 July 2019 deadline.

³ See <https://www.abc.net.au/news/2019-06-07/superannuation-changes-to-strip-remote-australians-of-insurance/11182772>; see also <https://financialrights.org.au/financial-rights-e-flyer-june-2019/#Article2>.

This is a particularly egregious outcome for vulnerable members of our community who have paid insurance premiums for many years, eroding their superannuation, and have now lost access to insurance cover when they may need it the most.

Others, confused into action by the communications they did receive, may have opted to maintain low-value insurance that's not suitable for their needs and continuing to erode their balance.

These problems must not be repeated in the implementation of this Bill.

RECOMMENDATION 3. Extend the timeframes for implementation of this Bill.

RECOMMENDATION 4. Empower ASIC to provide guidance to trustees on the content of communications with fund members.

Other issues

Relief powers

We note the lack of relief powers for APRA and ASIC under the Bill. These powers may have been useful once the problems in the Protecting Your Super Act reforms, detailed above, were identified.

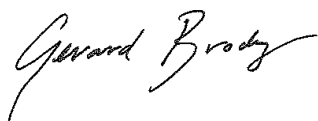
Election in writing

Further clarity should be provided about whether an election to take out or maintain insurance must be made in writing, as there is an apparent ambiguity at paragraphs 1.19 and 1.38 of the Explanatory Memorandum. An election to take out or maintain insurance cover should be easy and accessible, including by telephone (appropriately documented by trustees).

Contact details

Please contact Senior Policy Officer Cat Newton at Consumer Action Law Centre on 03 9670 5088 or at cat@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely



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