Chapter 1

The History of Superannuation

Having a secure income on retirement has always been a concern for workers. The labour movement for many years supported the concept of a universal age pension. Many of those who are retired now probably planned for their retirement in the belief that the age pension would always be there.

During the post-World War II period, the Chifley Government adopted the concept of “social security” with the right to adequate security, particularly in old age, guaranteed by law. Chifley introduced a social security tax to cover the cost of this commitment.

The tax was based on a sliding scale, with those on higher incomes paying at a higher rate in the pound. The tax went into a national welfare fund.

The concept and the tax were dropped and the balance in the fund put into consolidated revenue by the Menzies Government.

In 1972, the Whitlam Labor Government was elected on a platform which promised to establish national superannuation. His government set up the Hancock National Superannuation Committee of Inquiry.

The Whitlam Government was defeated and the Inquiry delivered its report to a Liberal Government which took no action on its advice, firmly rejecting the idea of national superannuation.

Whitlam did expand pension entitlements and increased the levels of payment.

The Fraser Government reversed many of Whitlam’s reforms, savagely cutting welfare payments. Up until the mid-1970s, superannuation was mainly limited to permanent full-time male and single female employees of government and semi-government establishments. For many of these employees it was compulsory.

Many self-employed professionals also took a form of insurance cover for their retirement. In the private sector senior executives took out lucrative retirement packages. By the early 1980s, 22 per cent of working women and 50 per cent of working men had some superannuation coverage.

The Hawke Labor Government

The Accord signed between the ACTU and ALP in February 1983 promised that an “immediate priority will be consideration of the possible role for a national superannuation scheme”.

The Hawke Labor Government was elected in March 1983, only a few weeks after the signing of the Accord. By the end of the year, it had abandoned the Accord proposal for a national scheme, supporting occupational-based schemes instead. The 1984 ALP National Conference supported “a portable national superannuation scheme providing entitlements to cover all persons”.

This was changed in 1986 to a policy of employment-based schemes, with the national scheme relegated to serving as a safety net for those not covered by other schemes. While superannuation was being pushed, the Federal Government wasted no time in cutting expenditure on social

services. Between March 1983 and June 1990, government spending on social security was slashed from 7.1 per cent of Gross Domestic Product (a measure of national income) to only 5.7 per cent.

Only three other OECD countries—Japan, the United States and Portugal—devoted a smaller proportion to social expenditures on health, education, welfare services, income support, etc, than Australia.

The Labor Government tightened the means test on pensions, introduced assets testing and supported the ACTU's claim for employer superannuation contributions in awards. In the 1991-92 Budget, the Federal Government announced its intention to legislate for a major extension of superannuation to cover virtually all employees. The Act for a Superannuation Guarantee Charge came into force on July 1, 1992. The legislation makes employer contributions compulsory, rising from three per cent up to a level of nine per cent of wages by the year 2002-03. The government has also indicated its intention to make employee contributions of three per cent compulsory by then.

At present, contribution levels vary. In NSW State Super, employees pay between one and nine per cent of their wages/salaries and their employers pay up to a maximum of six per cent. In other schemes, employers put in up to ten per cent and employees up to five per cent of their wages/salaries. In the case of the award-based schemes that arose out of the June 1986 national wage decision, employers pay the equivalent of three per cent of ordinary time earnings. Penalty rates and overtime payments are not included in the calculation. At present, workers are not obliged to contribute to award-based superannuation funds.

ACTU position

In 1979, the ACTU adopted a policy for "a national superannuation scheme" but also encouraged unions to pursue what it called "occupational superannuation coverage" for workers—until such time as a national superannuation scheme was introduced.

In 1983, the Storemen and Packers' Union, backed by the ACTU, began campaigning for superannuation coverage for its members. The building unions, among others, followed with successful campaigns for "union funds". The Building Unions' Superannuation (BUS) was also won as part of industry agreements at this time.

In 1985, the ACTU Executive launched a national campaign for occupational superannuation (funds whose members had a common occupation or worked in the same industry). This was endorsed by the ACTU Congress in September of that year. In the same year, the ACTU took the question of occupational superannuation to the Conciliation and Arbitration Commission, arguing that it was an industrial issue and hence in the domain of the Commission. This argument was supported by the Federal Government.

The ACTU had submitted a claim for a 4 per cent wage increase based on rises in the cost of living but settled for a wage-super trade-off. In June 1986 the Industrial Commission awarded a three per cent superannuation payment to be paid by employers instead of the four per cent wage rise. A subsequent government-backed ACTU claim for an increase in the superannuation payment by another three per cent was rejected by the Commission in 1990. Following this rejection, the government took up the

question of legislating for superannuation and proposed legislation for a Superannuation Guarantee Levy—later renamed Superannuation Guarantee Charge.

Employer position

The two leading employer bodies, the Business Council of Australia (BCA) and the Confederation of Australian Industry (CAI), opposed the three per cent claim and the recent Superannuation Guarantee legislation.

They are all for the government spending less and for workers having security in retirement, as long as it does not cost them money.

The CAI, in its December 1991 Bulletin, described the government's plans for compulsory superannuation as "ruining the economy with the best of intentions". On the other hand, banks, life insurance offices and other companies expecting to manage and directly gain from award superannuation funds were delighted at the prospect of superannuation coverage becoming compulsory for all workers. With the exception of these financial institutions, employers have done their best to delay the introduction of superannuation while, at the same time, acting to ensure that they control the funds.

They understand the importance of such funds. The Metal Trades Industry Association (a right-wing employer body) predicted that by the year 2020, 75 per cent of the Australian stock market would be owned by superannuation funds.

Comparing super and the age pension

The age pension is provided to men on reaching age 65 and women at age 60 years, the only limitation being the means and assets tests. It is paid out of revenue raised by way of taxation by the Federal Government. Apart from the payment of taxation during a person's working life a pensioner does not make any additional contribution. Pensioners who qualify are also entitled to various "fringe" benefits.

To this extent the age pension is "universal". It avoids massive administrative costs, provides a flat rate to retirees regardless of prior income or length of time in the workforce, and eliminates the discrimination against women, migrants and low income earners.

Superannuation also has the objective of providing an income on retirement. Some schemes offer additional insurance cover to provide benefits in case of disability or death. The benefits are paid to members of the scheme or, where such cover exists, to the member's spouse or children in the case of death. However, superannuation is "personalised" in that a person only gets out of it what has been contributed to the fund by the individual during his/her working life, plus contributions made by the person's employer. The employer's contribution is worked out as a certain percentage of an employee's wage or salary. These contributions are not related to amounts contributed to general government revenue through taxation. Additional amounts may accumulate from profits made from the investment of the fund. Benefits may be reduced or disappear altogether if the monies are invested badly or a company goes bankrupt.

No means test or assets test applies to superannuation and there are no "fringe" benefits associated with it.

Superannuation is not universal. Those who do not work are not able to contribute to a super fund but could take out their own insurance.

The national superannuation scheme put forward by Ben Chifley, envisaged an all embracing scheme undertaken by and administered by the Federal government, to which regular contributions were made to the social security fund and available to all.

Despite the advantages of the present pension scheme, the government has adopted a course based on the assumption that self-provision for retirement is the way to go and that this "industry" should be handed over to the private financial institutions to administer and from which to profit. Community responsibility is being replaced by individual responsibility. There has been little community debate on this vital question.

Government aims

The government has three main aims in pushing superannuation.

The first is to wind down the public, centrally funded age pension as part of the general drive to "small government". This will allow the government to avoid the "burden" of providing pensions for an ageing population and thus reduce the taxes, particularly, on corporations and high income earners. The second aim relates to the government's privatisation drive. The adoption of monetarist economic policies by the Australian Government led inevitably to moves to divest the government of previously accepted social responsibilities and to hand them over to the private sector. The fact that retirement savings and their administration are in private funds as against a public national scheme fits into this objective. Many of the financial institutions are waxing fat on income from administration fees imposed on the superannuation funds.

In Parliament, Treasurer John Dawkins described the policy as increasing "self-provision for retirement". This is the same "self-provision" or "user pays" policy that is occurring in education, health and other public services as more and more resources and people are squeezed or driven out of the public sector and the government steadily reduces its responsibility to provide social services.

The third purpose is to create a massive pool of savings which will be a major source of investment capital available to the private sector.

By adopting this course both the Labor Party and the ACTU have not even attempted to implement their former policy for national superannuation.

Under the circumstances that are developing, the age pension will no longer be seen as a right, but will increasingly become a safety net for those who are not provided for by a superannuation fund, insurance, or some other scheme. In years to come the present age pension may well be abolished altogether and be replaced by handouts, foodstamps or a similar "safety net".

Those who were disadvantaged throughout their working lives because of long periods of unemployment, for example, will continue to be disadvantaged in retirement. We are supposed to believe that, based on the same contributions, private financial institutions can manage the undoubted social "problem" of an ageing population but that a national government scheme cannot.

Retirement funds placed in private hands means accepting the risks arising from the instability of capitalism, its booms and slumps. There is an ever present possibility of fluctuations in interest rates and share prices and property market collapse. This has already happened to some of the funds which have suffered huge losses for these reasons. The funds will not be secure so long as they are under the control of private financial institutions. (See article from the <I>Sydney Morning Herald on page .)

Importance of funds

By 1989-90, according to Reserve Bank figures, 66.8 per cent of all employees had superannuation coverage -- 56.8 per cent in the private sector and 91.6 per cent in the public sector.

This figure is set to rise considerably following the introduction of the Superannuation Guarantee Charge. Government and other economists are predicting that by the year 2000, there will be between $300 billion and $600 billion invested in these funds.

The ACTU, in its December 1990 Bulletin, claimed that "by early next century the assets of superannuation funds will have grown to an amount approximately equal to the entire market capitalisation of the stock market". This is an indication of the potential size of the funds. Of course, not all this money will be invested on the stock market. Some will go to real estate and bonds, some overseas and so on.

According to Reserve Bank figures, the assets of various schemes administered by trusts, insurance and other companies amount to $160 billion -- 42 per cent of Gross Domestic Product.

Throughout the 1980s, funds grew at an annual average rate of 19 per cent per annum due to return on investments and additional contributions.

Out of workers' pockets

The trade-off of a wage rise for employer contributions to superannuation funds amounts to a transfer of income from the pockets of workers into compulsory savings for retirement. It is a transfer of wages into private funds. The sources of capital for private investment are undergoing a radical restructuring. Less and less capital for investment is coming from accumulated profits. Superannuation will become the major source of investment capital. The Reserve Bank, in a discussion paper on the role of superannuation funds in the financial sector (December 1991), pointed to the relative decline of household income in the form of wages and salaries and the rise in the proportion of income in other forms such as superannuation assets. Australia is following the US, Japan and a number of European countries where workers' retirement savings have become the main source of private sector investment. With these investment funds available, companies will need to retain a smaller percentage of their profits for future investment and pay out a larger proportion of profits to shareholders—relying on the supply of capital from superannuation funds.

A number of major corporations are countering their recession losses by issuing new shares to raise additional capital. That capital may well come from workers, through their superannuation funds.

Paul Keating, speaking as Treasurer to the Conference of Major Superannuation Funds in Wollongong (March 1991), said “superannuation has been developed as the government’s preferred savings vehicle”. He spoke of the “very important part that superannuation funds can play in the wider process of economic reform, to help achieve and sustain dynamic and internationally competitive industry...

“Much of the pattern of future productive investment in Australia will be set by the preferences of ... fund managers.”

The issues

The horse has bolted on superannuation. In the short term, the government will not take up its responsibility and set up a national scheme. This raises a number of important issues for workers:

- the type of schemes workers should opt for
- the security of their funds
- who controls and manages the funds
- who makes the contributions
- who owns the income in the funds
- where the funds are invested
- the cost of administration
- the portability of savings
- compliance on the part of employers
- the taxes imposed on contributions and earnings
- the coverage for those who have breaks in working life (raising children, unemployment, studies ...)
- the coverage for part-time and casual workers
- the protection of migrant workers, the disabled, contract labour and the self-employed.

Chapter 2

The Different Funds and Benefits

There are two basic types of fund—“defined benefits” and “accumulation” schemes. There are also two forms of payment on retirement—a lump sum and regular pension type payments.

Defined benefits

In defined benefits funds, the retiree receives a lump sum or a pension (most commonly fortnightly or monthly) which is usually based on the average wage/salary earned over the three years prior to retirement.

In the case of a pension, it may be a proportion of the salary or wage and may be raised in line with price rises. Lump sums are usually expressed in terms of a payment of seven or some other number of years’ wages.

The amount to be contributed is determined by the actuaries, depending on starting age, age at retirement and so on.

A fund has a legal obligation to pay that defined amount. In the case of State and Commonwealth government schemes (for public sector employees), the risks ultimately rest with the government if the fund performs poorly. The amount has to be paid regardless of performance.

In the case of the pension option (as against a lump sum), the retiree is guaranteed an income for the rest of his or her life. If they have been in the scheme for some time, this can provide quite a good income.

The fund carries the risk of the person living for many years and the retiree bears the risk of dying relatively soon after retirement and not recouping the full amount invested.

Accumulation schemes

With an accumulation scheme, the amount paid out on retirement depends on how profitably the contributions were invested—the amount is not predetermined or calculated as a percentage of the income earned before retirement. In this case, the risk is ultimately borne by the contributors. If the fund performs poorly, the payment will be lower.

Up until the mid-1980s, State and Federal government schemes (for public servants, teachers, police, etc), were mostly defined benefit pension schemes. In Victoria, for example, teachers paid in five per cent and the government ten per cent and teachers received a percentage of their salary on retirement.

Then came the drive for lump sum accumulation schemes—which shifted the risk onto the employee. The majority of private schemes are now accumulation schemes.

The shift to accumulation schemes

In the public sector accumulation schemes have been introduced alongside the old defined benefit pension schemes, which still operate but are closed to new members. In some instances, existing members of the old schemes have been encouraged to transfer to the new schemes. The government has turned to lump sum accumulation schemes and away from the defined benefits to reduce its liabilities. This trend away from defined benefits has been occurring in the private sector as well. From the point of view of the retiree, there is the potential to make more money from an accumulation scheme, if all goes well.

Take the example of a hairdresser on $20,000 a year who has paid three per cent contributions regularly over 30 years into an accumulation scheme. If an average rate of interest of ten per cent were maintained, the lump sum payment would be $247,000. (Average annual earnings on money invested by superannuation funds between 1980 and 1990 were 15 per cent.) Under a typical defined benefits scheme, in which the same amount had been paid in, the member would receive a lump sum of seven times the annual wage on retirement—say $140,000. If interest rates fall sharply, or there is another depression, or some bad investment decisions are made, then the same hairdresser could come out of an accumulation scheme much worse off than the defined benefit scheme provides. In either type of scheme, if the fund goes bust or money in it has been embezzled the member could end up with no money on retirement.

What to do with the lump sum?

In the case of a lump sum payment, the retiree also carries a second risk: what to do with the lump sum on retirement -- whether to live off it, invest it or spend some of it clearing debts.

Lump sum benefits have created an obstacle for the government in its efforts to see the age pension replaced by superannuation. Workers, when

they retire or are retrenched, have been using their lump sums to pay off the mortgage, clear other debts, have a trip overseas or buy a car. They spend their lump sum and are then able to pass the assets and means tests and qualify for the age pension or other social security benefits. This is what has become known as “double dipping”. The government wants them to invest their lump sum or buy an annuity so it becomes the source of their retirement income.

The whole point of the extensive means and assets testing system and superannuation is to disqualify as many people as possible from receiving government benefits.

Different funds

In addition to the difference between “defined benefits” and “accumulation” funds there are many other different types of funds and run in different ways. Individual or personal funds, usually with insurance companies, are used extensively by self-employed professionals and tradespeople, like doctors, plumbers and engineers. They are also used by employed professional people whose employers do not make any contribution on their behalf. The insurance company determines how the contributions are invested. The benefits can be paid as a lump sum or pension. Company-sponsored funds usually provide cover for management, professional officers and “white collar” workers. Large corporations have their own staff funds which they control totally. The companies see the earnings of these funds as their property.

State and Commonwealth funds cater for public sector employees like those referred to above.

Industry schemes

The most rapid growth is in the industry or union funds, also known as occupational funds. Developed under the guidance of the ACTU and its affiliates, these funds include:

- The Health Employees Superannuation Trust Australia (HESTA) which is for workers in the health and community sector.
- The Building Unions Superannuation (BUS) and the Allied Unions Superannuation Trust (AUST) which both cover building and construction workers. These two funds are to be amalgamated.
- The Superannuation Trust of Australia (STA) which covers metal workers.

These funds are large and growing rapidly.

Fund	Membership	funds invested $ million
HESTA	181,330	130.4
BUS	195,734	486
AUST	84,434	175.3
STA	168,856	219.6

They have equal employer and union representatives on the board of trustees. One or two of the union representatives come from the ACTU which has played a significant role in setting up these funds.

All these funds are administered by companies such as Jacques Martin Industry (owned by Colonial Mutual Life), Nexis Proprietary Ltd (owned by National Mutual) and AMP which is the largest of them all. MLC is just starting out in this area. These financial institutions have worked hard at becoming the managers of the trade union funds. They have spent considerable sums of money towards this end.

They were corporate sponsors of the 1991 ACTU

Congress with stands promoting their wares to trade unions. They also spend heavily advertising in ACTU publications.

Superannuation funds nominally belong to their members. In practice, they are controlled by the private sector financial experts. There is big money in the administration of these funds and for the auditors.

As a major source of capital for investment by the private sector, whoever controls the funds has a major say in the future of Australia.

The potential to democratise the economy and to direct this wealth into socially desirable investment is immense. However, it will never be realised under the present setup.

Chapter 3

The Superannuation Guarantee Charge

When the Labor Government came to office in 1983, around 40 per cent of the workforce had some superannuation cover. By 1991, the proportion was 72 per cent. This rise was mainly due to the three per cent superannuation award contributions that employers have been obliged to pay following the 1986 decision of the Industrial Relations Commission.

In July 1992 Federal legislation for a Superannuation Guarantee Charge (SGC) came into force. While not directly making employer contributions to superannuation funds compulsory it imposes such penalties for non-compliance as to have that effect.

The legislation provides for the phasing in of higher levels of contributions so that by the year 2002-03 they will reach 12 per cent of wages—nine per cent from employers and three per cent or more from employees.

(a) Under certain circumstances this might be delayed.

The government found it necessary to legislate because the Industrial Relations Commission had thwarted its plans by refusing to award further increases in employer contributions.

A little encouragement for employers The government says the purpose of the Superannuation Guarantee (Administration) Act 1992 and related legislation is to “encourage employers to provide a minimum level of superannuation support for employees”. Those who make contributions to “complying funds” for their employees at or over the minimum rates specified in the Act are exempt from the penalties. (A complying fund is one that meets certain requirements for income tax purposes under the Occupational Standards Superannuation Act 1987.) The employer must

contribute a minimum of three per cent of income base, rising to nine per cent by the year 2002-03, for each employee.

An employer not contributing the minimum is obliged to pay to the Taxation Department an amount equivalent to that which is prescribed or any amount of shortfall if less than the set down percentage is paid. As a penalty the employer will be charged interest on the shortfall plus an administration fee and a fine.

The administration fee is a flat $50 plus an amount of $30 for each employee in respect of whom the employer has a shortfall. This is to recover some of the costs incurred by the Taxation Office and as a means of forcing employers to comply. The shortfall and the interest on it is then paid into a fund of the employee's choice.

These additional payments will not be tax deductible, whereas, contributions to superannuation funds made by employers on behalf of employees are usually tax deductible. This is another "encouragement".

Other provisions

The contributions must be fully vested and preserved so that that workers who retire early, change employers or break their working life are in a position to retain or to obtain the payments and benefits that have been accruing. This contrasts with many of the present funds which require membership for a number of years before the full amount of contributions and investment can be recovered or rolled over to another fund.

Under the Act, the minimum level of support—the amount to be paid by employers—is calculated as a percentage of each individual employee's "earnings base" which is defined as "not less than ordinary time earnings". Over-award payments, shift loadings or commissions and overtime payments are not included.

There is an upper ceiling on employer contributions, based on annual earnings of $80,000. This will be increased annually in line with the rise in average full-time adult average weekly ordinary time earnings, a figure released by the Australian Bureau of Statistics.

Employees and Contractors

The Superannuation Guarantee Charge applies to both employees and contractors. There is an obligation on employers to pay superannuation for employees and contractors. The Australian Taxation Office has issued a paper on the question of interpretation of these two categories. The paper defines an employees as "an employee at common law"—that is, where the master-servant relationship exists. The concept is extended under the Act to cover other people who are paid for their work—local Councillors, directors, actors, artists,...

Contractors who have "a contract that is wholly or principally for their labour" are also covered.

Contractors

A number of complications arise over contractors. The Corporations Law (which came into effect on January 1, 1991) considers contractors to be self-employed. Under the Corporations Law any fund which has assets other than life insurance policies and accepts contributions from a self-

employed person is obliged to register with the Australian Securities Commission and issue a full prospectus.

The issue of a prospectus would mean that members of a fund could find out what the fund is doing with their money! It would be an expensive exercise, however. HESTA (health workers' fund) made amendments to its Trust Deed in August 1991 to exclude self-employed people from being members of the fund. At that time they only had four self-employed members.

This issue will become a big one as more and more workers are employed as contract labour—a practice already extensively used in trucking, the construction and clothing industries.

Nexis, a National Mutual company dealing in superannuation, has suggested to trustees of funds that they do not accept contributions on behalf of contractors until some of these issues are clarified.

Exemptions

An employer will be exempt from Superannuation

Guarantee Charge for:

- employees who earn less than $450 a month;
- employees who are under 18 years of age and work part-time (defined as not working more than 30 hours per week);
- employees aged 65 or over;
- some categories of work undertaken overseas;
- Part-time domestic work (housework, part-time nanny, etc). Award superannuation

    The government supports the inclusion of the prescribed rates of employer contributions in existing award superannuation provisions.

    The government does not expect employers already paying the required level to have to pay any additional amount because of the legislation. However, Treasurer John Dawkins did not rule out payments over and above the minimum. "Of course, parties are free to negotiate levels of superannuation support above the minimum as part of an enterprise agreement," he said. The government has left it to employers and unions or employers and individual employees to reach agreement on funds into which superannuation contributions will be paid. The major insurance companies look set to make a killing as the money flows in.

    Small businesses

    Although the phasing-in of payments is slower for companies with a payroll of less than $1 million, many small businesses will find it difficult to find the additional payments.

    Up to now small businesses contributed to general revenue by taxes according to their profits or incomes, retirement pensions being paid out of general revenue. Now, with superannuation, they will also be called upon to pay the 9 per cent per employee by 2002-03 regardless of their ability to pay. Thus the scheme works to the advantage of the bigger employers. It represents a shift in financial responsibility from large more profitable corporations to smaller businesses, many of which are already struggling. Further down the track, as the age pension is gradually phased out and replaced by

superannuation payments, the government will be able to cut its expenditures. Given the trends in taxation over the last few decades it is very likely that the main beneficiaries of tax concessions will be companies and the personal income tax of the rich.

The new legislation may encourage employers to employ under 18-year-olds as part-time or casual labour at less than $450 a month, thereby avoiding superannuation payments. A Loophole—cutting wages to pay super Since the introduction of compulsory superannuation, some employers have begun deducting the three per cent from the wages of employees who are not covered by awards instead of making the additional payment themselves. There is nothing in the legislation to prevent them from doing this. Workers whose wages at present include over-award payments could have the superannuation contribution deducted from this part of their wages.

According to the <I>Financial Review (30-7-92) up to one in three workers fall into these two categories—non-award or over-award.

The Prime Minister, Paul Keating, described the practice as a "redneck response", suggesting that "some employer groups simply want to pay people less money, and they'll try to find any pretext"! But there is no suggestion that this loophole will be closed.

Mr Keating would prefer that workers pay for the superannuation contributions by a process of discounting future wage rises. He doesn't want it to come out of existing pay packets, only future ones, believing that there is less likelihood of an adverse reaction to non-payment of a wage rise than to a reduction in the dollar amount of wages already being received.

Both the ACTU and government have said that employer increases in superannuation contributions would be taken into consideration when wage rises are being considered. It is clear that the government and ACTU leaders support a wage-superannuation trade-off.

The Australian Council of Social Service (ACOSS) has come out strongly against such proposals. In its 1991 budget submission, ACOSS said, "Many low-income people simply cannot afford to be deprived of wages which they badly need for day-to-day living..."

Workers need wage rises now let alone being deprived of wages already being paid in return for the promise of security in retirement—a promise which, it will be shown later on in this publication, is far from guaranteed. Higher wages are also needed to get the economy moving. One of the major causes of the recession and the failure of the economy to recover quickly is the inability of people to purchase what is produced.

Discounting and trading-off future wage rises will only make things worse for workers and the economy. It will add to unemployment.

Chapter 4

Whose Money Is It?

"It's your money", says the Superannuation Trust of Australia newsletter—the industry fund covering metal workers. That is correct. But not all funds recognise that it is your money.

In the case of award payments, they are compulsory savings made by the employer on the worker's behalf. If they are paid instead of a wage rise they are deferred wage rises. When an employer pays wages they belong to the worker who receives them. Imagine the outcry if an employer decided to dip into a worker's bank or credit union account or other assets.

In effect, however, this is happening with some schemes. CRA, Westpac, the Commonwealth Bank and other public and private sector corporations have been taking "surpluses" in superannuation funds to keep their books in the black and ensure that a dividend is paid.

If a fund invests successfully, at high interest rates or earns a good dividend, a "surplus" can emerge. The fund may also grow by members leaving the fund within the first few years without getting their full benefits if the scheme is not fully vested.

In a number of employer-run schemes the bosses have stopped contributing for a period or have dipped into the fund to shore up flagging profits during the recession. But if a fund is performing well and achieving a surplus, the benefits should go to the members. Some could be used to build reserves to offset financial problems, and the rest go towards some form of bonus in a defined benefit scheme or larger payouts in an accumulation scheme. Who controls the funds?

Running the funds is the responsibility of the board of trustees. The government has made it compulsory for funds with over 200 members to have an equal number of employer and employee representatives on the board. The member representatives do not have to be elected by the membership of the funds, however. Sometimes they are appointed by the government (some public sector schemes) or management and tend to be from management. This provision is called "democratic", but is it? Why should employers be on the board at all? It's not their savings.

Trustees are not required to have any knowledge, skills or training in the area and board members rarely have the expertise to decide on investments.

A fund's Board of Trustees and its consultants are legally required to put the interests of members first. This is an area of considerable disagreement, as the requirement to maximise returns overrides other criteria. While the trustees may make broad policy decisions the actual administration is, in reality, handed over to the financial institutions such as AMP, National Mutual, FAI, MLC and CML who manage the funds and invest them. These corporations are major shareholders in most of the top corporations in Australia. What do they do when a clash of interests arises? For example, if they have heavily invested in a corporation which has some financial difficulties - - would they use super funds to help bail it out or let the company go down and invest the super funds elsewhere? Some company-based funds have invested contributions back into their own company—the law limits this self-investment to 10 per cent of funds. Some have set up funds which lend the money back to the original

company. If the company goes bust, the workers lose their jobs and may lose their superannuation as well.

Inadequate regulation

“Employers large and small appear to be engaging in wide-scale rorting ... recession is forcing many straitened businesses into desperate action. The growing well of super money in the system is proving to be irresistible.” (Mark Westfield, economic writer in the <I>Sydney Morning Herald, 4-12-91) The ABC TV program, The Investigators, introduced its “Superannuation Special” (June 1992) program with the words:

“Superannuation—deception, manipulation and fraud in an industry out of control”.

The program gave one example of a self-employed person who had $53,000 invested in an insurance company, but was told it would cost around $30,000 in termination fees if he transferred it to another fund.

At present, there is no single set of regulations or statutory body governing funds. The industry is in the main “self-regulated”, which, in effect, means no regulation.

Most of the industry schemes come under the

Occupational Superannuation Standards Act which is administered by the Insurance Superannuation Commission (ISC). The ISC has very limited powers over life insurance companies who provide many of the super schemes. It is little more than a paper tiger and relies on its power to cancel the certification which a fund needs to get income tax concessions. The government is reviewing the situation. It favours the ISC as the regulating body for the whole industry, but shows no signs of giving the commission adequate funds to perform its responsibilities.

Many of the schemes like roll-overs, unit trusts and annuities do not come under the ISC. Such schemes provided by non-life insurance companies come under the Corporations Law, which is regulated by the Australian Securities Commission. They need only comply with the Occupational Superannuation Standards Act if they want tax concessions.

At present there are no mechanisms for settling disputes which arise between a fund and its members.

Keeping members in the dark

There are currently no requirements for full, frank or meaningful disclosure such as information on where money is invested, what losses have been incurred or the profit an insurance company is making out of administering a fund. Fund members have all kinds of problems trying to find out their entitlements, even just before they retire. Sometimes workers have been told that they will find out after retirement.

There are no legal obligations on insurance companies to reveal the cost of management, termination, or agents’ commissions when policies are taken out. The companies do what they like.

A policy which purportedly costs $30,000 to administer can hardly be described as efficient or as an advantageous way of preparing for retirement. A simple bank account without the tax concessions associated with superannuation would be far superior.

The Investigators warned viewers of schemes which have “foundation units” or “initial units”—a signal that a large amount of your money is being hived off into the company’s coffers.

The government has passed legislation which, from July 1 this year, will make it obligatory for the big funds (which include the occupational superannuation funds) to disclose how much interest they have made and how it is distributed. But, still there are no legal requirements to fully furnish in advance all the hidden costs. Controlling the super funds?

At present there are over 120,000 separate superannuation funds—union, small business, big company, individual, etc. More than 80 per cent of these funds—estimated to hold $160 billion—are controlled by the private sector.

There is no satisfactory way to ensure that funds are secure in a privatised system. One set of regulations, with a regulatory body which has teeth, is needed urgently. The legislation should provide for full accountability and disclosure and an independent arbiter in disputes between funds and members.

The government says it will give the Insurance

Superannuation Commission the power to institute criminal and civil proceedings against people responsible for superannuation funds who breach their duty to members and extend to smaller funds the requirement to have equal numbers of employer and employee representatives on the board.

The government also promises other measures “to protect fund members from fraud, malpractice and so on”.

Chapter 5

How equitable is superannuation?

Almost all workers will soon be covered by superannuation right across the board. It is presented as being more equitable—but is it?

Superannuation funds have a history of discrimination. Eligibility requirements discriminated against women, part-time, “blue collar”, unskilled, migrant and casual workers and those on low incomes.

The government has gradually removed many of these barriers through legislation and by applying pressure to insurance companies, as well as by supporting the ACTU’s successful claim for three per cent employer contributions in awards.

These moves have given many more women and some part-time workers superannuation coverage. The recent legislation will extend coverage substantially.

Removing the barriers and forcing employers to make contributions appears progressive. In reality, superannuation is regressive, redistributing by various means, a massive amount of wealth into the pockets of the rich. The first step is the transfer of income out of people’s pockets into funds. This is followed by tax concessions that benefit the rich and tax impositions on those with lower incomes.

Transfer of income

The Industrial Relations Commission's 1986 decision to include superannuation in awards involved a trade-off of a wage rise for an employer superannuation contribution of three per cent.

For those on lower incomes, superannuation means compulsory savings which they may not be able to afford and would not have chosen. It would have increased consumption and limited the decline in living standards if it had been paid as a wage increase. In the case of high income earners, it means tax dodges and rearranging investments.

Taxation and superannuation

The present tax system and the means testing of age pension recipients works heavily against those on low incomes and people who have not been in a fund for a long period. A person aged 45 or 50 on a low income and just entering a super scheme now will be hit with a double whammy. Their employers will not have paid in enough during the few years of work remaining to them and they are unlikely to have been able to make substantial additional contributions themselves. Their retirement income will not be anywhere near enough to live off.

Secondly, they will be hit by what is known as an "equivalent marginal tax rate".

Taxed at 62 cents

A retired worker who has managed to provide for a weekly superannuation payout of $120 per week and is eligible for an age pension will have his or her pension reduced because of the means test and because the superannuation payments will be taxed.

Such a retiree's loss of income would be equivalent to a marginal tax rate of 62 cents in the dollar, according to the Economic Planning Advisory Council (EPAC Paper No 35). This would apply to someone with a superannuation payout of up to $272 a week. (1)

This is what EPAC describes as "the poverty trap" -

- trapped on a low income, even when you earn more.

This figure of 62 cents in the dollar is higher than the highest marginal tax rate of 47 cents paid by multi-millionaires. For the rest of the community, marginal tax rates are being reduced.

Workers who have broken their working life to raise families (in most cases women), low income earners (predominantly women and disabled people), seasonal workers, casuals and long-term unemployed will suffer the same fate—a low retirement income with the equivalent of a marginal rate of tax at 62 cents in the dollar.

Some worse off than on age pension

At present many retirees receiving superannuation payments are worse off than those on private pensions or who rely on the age pension. The age pension is hard enough to manage on. Imagine being worse off.

Take, for example, Commonwealth superannuants who receive superannuation payments under the 1922 and 1976 Commonwealth Superannuation Schemes. They include technical, clerical, postal, telephonist and other workers.

Superannuation was compulsory if they became “permanent employees”, and to become “permanent” was the only way to progress along staff structures.

The retirement income of these retirees, like most other superannuants, is considered in the same way as wages for taxation purposes. On the other hand, the income of a person receiving an age pensioner is treated differently. The income a person on a full age pension can earn before paying tax is higher than that for superannuants.

Although superannuation might be a couple’s only source of income, the payment is not divided between the couple for taxation purposes. In the case of a couple receiving the age pension, one half of the pension is attributed to each person for taxation purposes.

This is extremely important. At present a couple receiving an age pension of $503 a fortnight pay no tax.

A couple dependent on superannuation payments of $503 a fortnight would pay $59.06 in taxation. The same couple, without any additional income would be entitled to an age pension of $24.59 a fortnight. This still leaves the superannuated couple $34.47 worse off than a couple relying solely on the age pension. On top of that, the superannuated couple is ineligible for the Pensioner Health Benefit Card and all the fringe benefits that it brings, even though many of them are in receipt of an income below that at which an age pensioner couple would receive a card. The fringe benefits are estimated to be worth around $50 or more a week.

A couple receiving an average fortnightly superannuation payment of $708.80, would pay around $100 tax per fortnight. They would not be eligible for any pension and would also miss out on fringe benefits, which cut off at $352 per fortnight for a couple.

These taxing arrangements amount to a marginal tax rate of 70 cents in the dollar for fortnightly income up to $795. Any additional income which brings the payment to between $796 and $1,164.40 per fortnight is effectively taxed at 88 cents in the dollar.

Loss of fringe benefits

Fringe benefits are highly prized by pensioners. Commonwealth benefits include free comprehensive health care, hearing aids, funeral allowance, rent assistance, postal redirection, telephone rental and transport concessions. There are other benefits which vary from state to state. They include such items as free dentures, free dental treatment, free spectacles, free ambulance, home nursing, public housing rebates, mortgage and rent relief, electricity rebates, free driver’s license, a waver of residential parking fees, etc. The ATEA/ATPOA Retired Members’ Association has called on the government to tax superannuants in the same manner as age pensioners and make the Pensioner Health Benefit Card available to all of them.

“Tax relief for low to middle income earners obtained at the expense of welfare benefits is no gain at all...We see no future in tax cuts obtained by reducing Government commitments to welfare expenditure. “Such relief can only be obtained by reducing the tax avoidance provisions which currently enable many of the wealthy to unjustly reduce their tax liabilities.” (ATEA/ATPOA Retired Members’ Association submission to MPs, May 1988.) The costs to the government would be negligible.

The benefits to retirees enormous.

Double dipping for the rich

Without going into too much detail about our extremely complex taxation system, the following few comments should be sufficient to illustrate how the system discriminates against workers.

Contributions made by an employer for the benefit of an employee are considered part of a wage component of that employer's costs. They are therefore usually 100 per cent tax deductible for the employer.

The massive salary packages of hundreds of thousands of dollars that senior executives receive are also tax deductible for the company. If the person receiving that money puts a large component of it into a superannuation fund, it provides a substantial tax rebate against the tax on other income received.

This is a popular tax dodge with small businesses. The money in the fund, which has to be invested somewhere, is sometimes lent back to the company.

Discrimination

The Australian Council of Social Service 1991 budget submission provided estimates of the value of tax concessions for low income and high income earners and are shown in the table below.

Approximate value of concessions

Type of concession	low income people (cents in $)	high income people (cents in $)
Contributions	6	33
Fund earnings	6	33
Lump sum benefits	1	27

According to figures released by the Australian Taxation Office the amount of revenue lost to the government through superannuation-related tax concessions was $4.4 billion in 1990-91 -- close to half the amount spent on the age pension. The $4.4 billion did not, however, appear as a budget item eating up revenue. But its impact on government spending is no different to paying out $4.4 billion in pensions or other welfare payments.

Peter Davidson, the economic and tax policy officer for ACOSS, estimates that the overall cost to the government of tax concessions for someone earning around $90,000 per annum are three times higher than the pension. (2) The overall cost of tax concessions is expected to double when the government's recent legislation is fully implemented, and will eat into the amount of government revenue left to spend on social services including the age pension. To sum it up, the present system discriminates against low income earners, between workers in different types of funds and those who spend fewer years in the paid workforce. The inequalities that existed in the labour force are carried over into retirement.

A low wage leads to a low benefit and a high wage to a high benefit—if the fund performs well. The government's legislation does not deal with the inequities of the present system.

Most of the new schemes, like the old ones, are structured so that the more you earned while working, the larger the contributions and the higher your retirement income. <I>(The Building Unions scheme is an exception. Employers contribute a flat rate of around $50 a week for each worker rather than a percentage of wages actually paid. This means that each employee will receive similar benefits upon retirement irrespective of the wages earned.) Superannuation as at present being introduced is regressive, amounting to a further redistribution of wealth and perpetuating the inequalities that exist in the workplace. The age pension does not discriminate against those who have already suffered considerable disadvantage during their working lives. Regardless of unemployment, sickness, time out of the workforce to raise a family, the age pension offers the same payment to all, depending only on the application of the means and assets test.

The age pension, which comes from general revenue, is far more progressive. Employers and workers pay tax according to their (declared) profits or income.

The earnings of funds are taxed at the flat rate of 15 per cent, not at the marginal rate of the investor. That is, the same tax rate applies for millionaires and superannuants on less than the age pension.

The benefits paid after retirement up to a certain limit (called the Reasonable Benefit Limit) are usually not taxed. Over the limit, they are taxed at 15 per cent plus the Medicare levy of 1.25 per cent.

Government statement

The government in a statement issued in July 1992 indicated that there would be further reforms to the taxation of superannuation.

There will be a number of measures to make it less attractive for members of funds to draw on their benefits before age 60. The government wants retirees to take out superannuation benefits in the form of a pension rather than in a lump sum. The objective is to dissuade retirees spending their lump sum and then going on the age pension.

As one of these measures, no tax will be payable on private pensions or annuities up to around $17,300 a year (today's prices).

The statement nibbled at the edge of some of the inequalities, but left intact the most inequitable rorts for the self-employed whose lavish concessions will remain untouched. In the statement the government indicated that employees who earn less than $27,000 will be eligible for a tax rebate of ten per cent on the first $1,000 of their own contributions. That means they could receive a tax rebate of up to $100. The rebate will be on a sliding scale for incomes over $27,000, and will phase out for incomes over $31,000. The government anticipates making an extra $230 million from this measure, as many workers see their deductions or rebates cut. The government appears to have begun the process of winding down tax deductions on employee contributions.

The Reasonable Benefits Limit will be set at $400,000 for lump sums and $800,000 where at least half of the benefit is taken as a pension. Amounts over and above these will not attract tax concessions. This will not affect low income earners or the average worker as they are not in the position to make such contributions.

The flat tax of 15 per cent on employer contributions and fund earnings will remain. This reduced tax rate is the most costly to the government in revenue. As Peter Davidson said, "As long as superannuation is taxed at a flat rate, high income earners will continue to benefit at the expense of low income-earners and potential government revenue." (3)

Note:<R><I>The taxation of benefits is highly complex, depending on type of benefit, age, how much of the investment was accumulated before 1983, and so on. Readers are advised to check details for specific cases.

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(1) This EPAC figure comes from a 1988 publication.
The current money amounts would therefore be larger, but the same principles apply. The government has changed some of the taxation provisions and is expected to go on tinkering with them, making it difficult to plan for retirement.

(2) Davidson, Peter*,* *Impact*, page 8, August 1992, the journal of the Australian Council of Social Service. Davidson, Peter, ibid, page 9.

Chapter 6

Risky and Unethical Investments

The regulations on investment of the money in superannuation funds are very slack.

Virtually the only limits are on company schemes investing in their own company (a limit of ten per cent), and that the fund's sole purpose in investing must be to enhance the retirement income of its members.

Funds are supposed to invest members' money so as to minimise risk and maximise returns. The legislation excludes criteria such as social desirability or the wider interests of the economy or the people of Australia. The pressure on trustees to compete for new members is leading to funds taking bigger risks with their investments in order to chalk up the biggest returns on investments. The policing of funds is inadequate. The government has not provided the resources or regulations for this to happen. Funds are allowed to trade in speculative fields such as futures and options—best described as gambling. There are restrictions on the investment of funds in venture-capital projects, that is, long-term investment in unproven ventures. These are very risky, as the Victorian Government found out. However, the Federal Government plans to ease restrictions and encourage funds to invest in (ad)venture projects.

The South Australian Superannuation Fund Investment Trust (for public sector employees) has interests in the Adelaide Casino and is a joint venturer in AWA Defence Industries, a defence electronics contractor.

Superannuation funds are major investors in companies like North Broken Hill-Peko, BHP, Amcor, Boral, CRA, AWA, Pacific Dunlop, TNT, Goodman Fielder Wattie, etc. Look at the practices of some of these companies—

North Broken Hill-Peko's attacks on workers at Robe River and APPM, its uranium mining and its woodchip industry; BHP's exploration of East Timor's oil; CRA's role on Bougainville;

Pacific Dunlop's treatment of Edgell workers; Goodman's investments in South Africa, and so forth. Is this where you want your savings invested? The non-superannuation arms of the insurance companies are among the major investors in these same companies. How can anyone be sure that the choice of investment is not to bail out a corporation that the insurance company has interests in, rather than because it is a sound investment?

The government announced in the 1991 budget that it would be "placing increased emphasis on the accountability, financial stability and efficiency of the superannuation industry".

It remains to be seen what they mean by this and whether they are prepared to challenge the unregulated power of AMP, National Mutual and others.

The funds, properly controlled and directed, could be used in a planned way to underwrite development and production projects in the interests of the people as a whole. A national plan is needed.

This could be particularly important at the present time of high unemployment and a flagging economy. The enormous resources available in super funds could, if directed by the government, assist in job creation schemes or give assistance to those industries which were of particular importance to the economy, e.g. to develop export oriented manufactures or large infrastructure schemes.

Instead these funds are at the disposal of the private financial institutions and will be used in a manner which suits their interests which may be quite different to the interests of the economy as a whole.

To provide funds the government is embarking on a massive sale of public assets—Qantas, Australian Airlines, Telecom, the Commonwealth Bank, etc. This course only further weakens the government's economic power and will bring a "once only" injection of money.

There are very strong arguments for the Federal Government to have powers to control and direct the application of super funds in addition to taking measures to secure them against corruption, possible heavy losses in a depression, even bankruptcies.

Chapter 7

Who Takes the Risks?

The private sector manages, invests, regulates and profits from the funds. Neither the private sector nor the government provide any guarantees to protect these compulsory savings.

At present, fund members take the risks when a fund goes bust or a company drains the fund or is bankrupted. The members lose their retirement savings and the income from investments.

Advertisements for funds carrying big names like Westpac, National Mutual, Barclays, AMP, etc, need careful scrutiny. They convey a feeling of security when compared with names of small or unknown financial institutions. Take, for example, the full page advertisement for Westpac

Investment which appeared in the ACTU's magazine Workplace. The advertisement featured Westpac's logo and promoted "Westpac Investment Management". In large bold print, the advertisement boasted A Stockmarket exposure with a performance guarantee!! ... the most effective new funds management ever seen in Australia. It can deliver:

- a guarantee on capital
- a guaranteed minimum return
- market growth

The fine print at the bottom of the advertisement told a different story. It stated that Westpac Investment Management Pty Limited was a wholly-owned subsidiary of Westpac Banking Corporation and that "The Bank does not guarantee the performance of the company or the repayment of capital."

As already pointed out, there is no adequate regulation and supervision of the industry. There are few controls over where the funds are invested or the background or training of those managing the funds.

When a fund goes bust, or when one fund does better than another, two workers, who had both paid in the same amount over the same number of years but to different funds, could experience very different outcomes.

These could range from losing all their money, to receiving a small, unsatisfactory income or lump sum payment, to getting a good pension or large lump sum out of the fund. Those who survive the first round and take a lump sum then face a second round—how to invest that money. The retirees who invested their money in Pyramid, Estate Mortgage and some other building societies know how risky this is. The scope for corruption and the temptation that these huge funds offer is considerable. Robert Maxwell plundered the *Mirror* newspaper group's superannuation funds to the tune of more than $1 billion. In the US there is the Savings and Loans scandal in which billions and billions of dollars vanished and the government, using taxpayers money, will be bailing out these funds for years to come.

The ABC program, The Investigators, interviewed a man who had been paying into a superannuation fund for ten years, but found the kitty empty when he retired. His savings were embezzled by a company director, who was trustee and sole signatory to the company run scheme. The savings of 12 people, more than $1 million, vanished and there was no protection whatsoever for the workers' funds. They lost everything as the company went bust. When Peter's Bakery in Kewdale (WA) went bust, its employees learnt that the company had borrowed most of the money in their superannuation fund. Their hard-earned savings went down with their employer. One employee, on the day he retired, was informed that the $30,000 he had put in since 1968 might not be recoverable.

These are not isolated cases.

The Australian Workers' Union (AWU) told the Senate Select Committee on Superannuation that the National Farmers' Federation (NFF) put the superannuation of 65,000 farm and pastoral workers into funds controlled by companies that pay millions in commission to the NFF.

The AWU claimed that the NFF's Victorian branch received $1.67 million in commission in 1991 from Australian Eagle—about 25 per cent of its gross income. It said that Federation Life Insurance paid the South Australian

and West Australian branches around $300,000 each in commissions in 1990.

No guarantees

The government has not yet moved to guarantee the funds as was done in the United States when the Savings and Loans scandals burst.

Instead, the government has bowed to pressure from the big finance companies to keep regulation and supervision to a minimum.

Without such guarantees, workers cannot feel confident about their retirement.

The government should not agree to super funds being in the hands of unaccountable institutions, some of which have shonky records, to say the least. It would make more sense for the government to control and manage the funds. "The retirement hopes of the nation are riding on the skills, or good luck, of a relative handful of funds managers." wrote Mark Westfield, economic columnist in the <I>Sydney Morning Herald, (4-12-91).

Whose interests?

The companies have their own interests. Rodney Adler, head of the FAI insurance group, believes super funds "should be made to help business".

In his opinion, the superannuation industry should be regulated to channel cash to businesses which are being starved of funds, particularly by the credit squeeze imposed by banks.

Apart from making a killing with fees (usually between 50 cents and $1 a week per member in the more reputable schemes), financial institutions investing and administering the funds have their own interests—those of big business. Take, for example, AMP, the largest or a principal shareholder in the majority of Australia's top 50 corporations. It is a powerful corporation and its power will grow with the growth of savings in superannuation funds. The investment policies of AMP and similar outfits will be a major factor in determining the direction of Australia's economy. Their policies will also decide the size of workers' superannuation payments on their retirement. Most funds spread their investments over a range of products in Australia and overseas, usually with a mix of highly risky and more stable types of investment. They lend money, buy shares and bonds, buy property and play the short-term money market.

With the lack of supervision and the temptations that these funds present, it is only a matter of time before the first big super scandal occurs and retirement income of thousands of workers disappears.

The replacement of the age pension with private schemes is bringing with it enormous risks. There is no guarantee.

The likes of Bond, Skase, Connell, Elliot,

Spalvins, etc, and the reckless behaviour of the deregulated financial sector in the 1980s should serve as a warning. It is many of the same corporations and people who are making the running in the "self-regulated" superannuation industry. As long as the retirement savings of workers remain in the hands of the corporate sector, those funds and the right of workers to retire on a secure and adequate income are at risk.

Chapter 8

Which way to go?

Security in retirement

Workers have a right to security in retirement. They have a right to an adequate income so they can live comfortably and in dignity.

They have a right to expect that their savings will be safely invested, managed well, and invested in socially desirable areas.

Those who have not been able to accumulate savings because of a broken working life, sickness, disability, time off to raise a family, unemployment, etc., also have a right to security in old age.

None of these rights are guaranteed under the private "self-provision for retirement" policy through superannuation. Superannuation is a gamble with retirement. Until such time as superannuation can be reined in, workers and their unions are faced with having to make important decisions. There are many reforms that should and could be introduced to reduce the risks.

There are literally hundreds of policy considerations to be made, many of which cannot be dealt with here. We shall take a look at a few issues:

Funds must be guaranteed

Having made superannuation compulsory, the government has an even greater responsibility than before to guarantee the security of these savings and introduce comprehensive prudential supervision.

It should directly guarantee the funds, so that if any do go bust or any corporate cowboys run off with the funds, then the government will make good the loss. Such a measure must be accompanied by strict regulations and supervision of funds. They must not be left to their own devices or "self-regulation"—which in practice amounts to no regulation. There must be independent and regular auditing. Standards must be set in regard to reserves and other matters of security of investments.

There should be strict laws governing appointment to boards of trustees. Those with a history of embezzlement and undischarged bankrupts should be excluded. From the point of view of fund members, there is absolutely no reason for employers to be on boards.

Worker representatives participating on boards should be given training so they have the knowledge and understanding to make independent policy decisions to be carried out by professionals.

Management fees are enormous. They should be reviewed and controlled. For example, Superannuation Trust of Australia, with 168,856 members, spent $4.7 million on administration costs in 1991. The Building Unions Superannuation Trust paid out $9.2 million in administration costs for its 195,734 members. These are by no means the most expensive charges.

There are other ways of going about it. For example, the Food Preservers' Union did not hand over its fund to a financial institution, but employed two professional staff to run its fund, the Food Industry Superannuation Trust (FIST). FIST caters specifically for the interests of its members, many of whom are seasonal and casual workers.

Instead of deducting administration and insurance (death benefits) costs from each individual member's contribution, FIST takes its costs out of the income earned by the fund. The union estimates that the costs (including insurance) have been kept down to 50 cents a week per member. This means that the retirement savings of a worker who is in and out of employment are not being eroded when that worker is not employed. Instead, they continue to earn money. This compares with deductions directly from contributions of at least $2.17 per week for administration and insurance in the ACTU-Chamber of Manufacturers corresponding fund -- the Australian Retirement Fund (ARF). It would appear that a member of ARF who is out of work would be losing at least 65 cents a week in charges.

FIST also offers a number of provisions which protect workers' interests that other funds do not offer. The books of account of the funds should be open. Members have a right to know where their money is being invested, how the fund is progressing. They also have a right to information on their own entitlements. Funds should be at an arms length from companies, not controlled by companies. Companies should not be able to help themselves to funds.

Strict limits on investment overseas should be set. The areas of investment that are permitted should be clearly specified, with a certain percentage invested in the public sector.

The question of fund managers (usually subsidiaries of large financial institutions) having interests of their own in the companies they are investing in needs to be addressed. Interests of fund managers should be declared and the board of trustees specifically approve any investment which might not be at arms length.

There is also a need for an independent body to resolve disputes between funds and their members. Which form of benefit?

The basic choice that unions and workers face on retirement is between a lump sum, a pension, or some combination of the two.

The lump sum is attractive to workers as it provides a means of paying off the mortgage, clearing debts, having an overseas trip, buying a new car, or whatever. However, the government has plans to limit or even prevent workers from taking a lump sum, spend it and then qualify for the age pension. The government calls this "double dipping". A major problem with a lump sum is its subsequent investment. This involves additional risks and headaches. The pension type of scheme, with regular weekly or monthly payments until death, is by far the more reliable when it comes to a steady income—providing the fund keeps afloat.

Advantages and risks

Accumulation funds are a gamble. A retiree may end up with a windfall, receive a reduced pay-out or even nothing. The union movement has promoted accumulation funds because there is the potential for a larger payout at the end. But workers carry the risk and the risk is significant. It all depends on the booms and slumps of the economic cycle. Accumulation funds are more flexible and cater for part-time workers and those who have breaks in their working life. This is another reason why the trade unions prefer this type of fund.

The insurance companies prefer defined benefit schemes because it can bring them huge profits if the fund's investments go well. They pocket the

extra, the “surplus” above that which is required to meet commitments. The defined benefit fund only accommodates workers who are in full-time and continuous work for the required 30 to 35 years.

With the defined benefit scheme, the fund carries the risk in so far as it is required to pay the set amount, regardless of luck on the stock market or elsewhere. Additional “risk” insurance can be taken out, but it is extremely expensive and amounts to paying out more money to the insurance companies. Furthermore, insurance companies do not cover the full amount at risk. The government has backed off making insurance compulsory.

The law should be changed to ensure that both wages and superannuation entitlements are paid out prior to all other claims such as the Taxation Office or creditors in the event of a company being put into the hands of receivers.

Ethical investment

Ethical and social as well as economic considerations should influence the investment of superannuation funds.

The government should legislate to ensure that superannuation funds are directed to socially desirable investments such as housing, childcare centres, hospitals, infrastructure development and the pubic sector, instead of chopping down forests, mining uranium, manufacturing weapons, or in speculative investments. Job creation and social needs should have priority.

State and Federal governments expect superannuation funds to be major investors in the privatisation of public enterprises. It is ironic that while the labour movement has been committed in the past to public enterprise, worker’s money in superannuation funds is being used to privatise publicly owned companies. Instead of being used for job creation, funds are being used to buy existing establishments. There should be strict controls on the amount of overseas investments.

As superannuation funds become the primary source of investment for the future development of the Australian economy, the people, through the government, should have control over the investment of their money.

The hundreds of superannuation schemes and the thousands of small business and personal funds waste large amounts of money in administration and management. This is a serious loss to the potential income of retirees. There is no logic in the proliferation of such schemes, unless you are an insurance company or bank or are looking for tax dodges.

Taxing questions

The whole area of superannuation related taxation needs overhauling. The present system is extremely complex and full of anomalies. It favours those on high incomes and the self-employed. It is wide open to massive tax rorts for those who have millions to play with. It discriminates heavily against those on low to middle incomes.

It is quite feasible that within a few years the amount of money lost in government revenue due to these tax concessions will be greater than the amount being paid out in age pension. The concessions are in the main benefiting high income earners.

The flat tax of 15 per cent on contributions and fund earnings is a regressive tax, favouring those on high incomes.

One method would be to tax contributions to funds at the same rate as the individual's other income is taxed. The payment of benefits up to a certain amount, say $20,000 per annum, to be tax free.

Tax concessions, if they remain, should be limited to a realistic ceiling that covers those on average weekly earnings or less. Those on higher incomes should pay a higher rate of tax on contributions.

Similarly, fund earnings should be taxed at the lower rate for earnings below a certain level. Those who are paying in massive contributions and making huge earnings on them should pay a higher rate of taxation. This would make the system more progressive and prevent massive rorts. The perpetual changing of the rules makes it difficult for people to plan for the future. These are just a few ideas on how to approach some of the taxing questions. We need a simple and equitable system, which is not open to abuse. These ideas only go part of the way.

Rights of retirees

No matter how much legislation is implemented, private superannuation and "self provision" for retirement cannot be made to work efficiently or equitably. There are no completely satisfactory answers to the questions raised in this publication.

While removing employers from superannuation boards would be a step forward, it would still leave workers at the mercy of those with the financial skills—the representatives of the financial institutions.

Reforms to the tax system, stricter regulations and policing of funds, guidelines on investment, greater accountability, etc, would all help, but still not provide the sort of guarantees workers are entitled to. Even if the private system with its more than 120,000 private funds were to be rationalised to reduce duplication and increase efficiency and if administration charges were reduced, it would still be economically unsound to leave retirement in the hands of the private sector. Only one way is fair and equitable—a universal central government-run age pension scheme, where all contributions are pooled and used for the common benefit. Instead of tax concessions, tax rorts and tax deductions for employers and the rich, with workers taking the risks, the universal age pension would be far more secure and equitable.

It means that those who suffer disadvantages in working life do not have them carried over into retirement. The ongoing funding for retirement should come from a tax, which could be along similar lines to the "social security" tax introduced by the Chifley Government. There is already a precedent for such a special purpose tax in the current Medicare levy. Employers and those on middle to high incomes would pay more, those on low incomes, less. The pension should be universally available, eliminating the means and assets test and the complex regulations which discourage retirees from making a few extra dollars.

The government should extend the Pensioner Health Benefit Card to all pensioners, superannuants and other retirees. Yes, this means that those who presently fail the incomes and assets tests would also receive the pension and fringe benefits. It would mean that the rich also receive the pension.

This would not be a problem if the tax system were reformed so that they paid a fair share of tax in the first place. The amount that they received in pension would be peanuts compared to their contribution to tax revenues. In the meantime, until the principle of a universal age pension is re-established as the government's priority, additional legislation is needed to ensure that superannuation funds are strictly regulated and supervised and that members' interests and rights are put first.

APPENDIX

Translating the super jargon

ACCUMULATION FUND -- where the payment made on retirement depends on the amount of the employer's and employee's contributions which have accumulated plus proceeds from their investment.

ACTUARY -- a professional person trained in mathematics, statistics and finance who does the calculations for insurance and superannuation funds to determine the payments, benefits and security of the scheme.

ANNUITY -- where a person pays a life insurance company a lump sum of money and in return receives regular payments of a predetermined amount as a pension which continues until the person's death. A deferred annuity is where the payments start some time after the deposit of the lump sum, such as on retirement. An immediate annuity is one where payments begin immediately. The payments come out of the original lump sum and investment income on that lump sum. Annuities are one way of converting lump sum payments into a form of pension.

BENEFICIARY -- the person who receives the money from the fund. This might be the member on retirement or could, in the case of death, be a spouse, children or other named person.

BENEFIT -- the amount the person receives from the fund.

CONTRIBUTORY FUND -- where members also make contributions to the fund.

DEFINED BENEFITS FUND -- where the amount of payments to be received on retirement at a particular age are specified in advance. The payment could be in the form of a lump sum—e.g. seven times annual wage on retirement if a certain percentage of the wage is paid in over a certain number of years, or, it could be in the form of a pension based on wage or salary earned in the years prior to retirement.

FUND MANAGER or ADMINISTRATOR -- usually a private financial institution which has been appointed by the trustees under the rules (trust deeds) of the particular fund to exercise the trustees' responsibilities for investment. A substantial fee is usually charged for these services.

LUMP SUM BENEFIT -- benefit paid in one single cash payment. Some schemes allow for a combination of lump sum and pension payment.

NON-CONTRIBUTORY FUND -- where the members do not make contributions to the fund, only the employers.

PENSION -- regular and fixed payments made to retirees by the government or from private funds.

PORTABILITY -- the right to transfer from one fund to another when changing employers. In this way accumulated benefits are retained. The alternative is to receive a lump sum benefit on termination of employment with one employer but this does not always include employer contributions or interest on the money.

ROLLOVER FUND -- when a person is changing jobs, the lump sum that was payable on leaving the job can be placed in the fund, to be eventually transferred to another scheme without losing the tax advantages that the fund has attracted.

TRUST DEED -- the rules which govern the operation of a fund.

TRUSTEES -- the directors of the fund who are responsible for running the fund, keeping membership records, collecting monies due and investing funds responsibly so as to produce a reasonable income for the fund.

VESTING -- the right of an employee to receive contributions made by the employer to a superannuation fund. Award-based superannuation is fully vested, that is, the contributions belong to the member from the day of payment. In some funds, the employer's contribution cannot be obtained unless the employee has been in the scheme for a certain length of time.

In some schemes, workers do not get any money or only a percentage of payments due if they leave the scheme during the first five years. The payments are kept as agents' fees.