australian council of trade unions

Ignoring young workers at risk

Submission by the Australian Council of Trade Unions to the Treasury Consultation for the Protecting Your Super Package

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Executive Summary

Since its formation in 1927, the Australian Council of Trade Unions (ACTU) has been the peak trade union body in Australia. There is no other national confederation representing unions. For 90 years the ACTU has played the leading role in advocating for workers for the improvement of wages, conditions and social welfare.

The ACTU consists of affiliated unions and State and regional trades and labour councils. There are currently 43 ACTU affiliates. They have approximately 2 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

The ACTU and its affiliated unions founded industry superannuation and won the right for all workers to be entitled to super. The ACTU continues to be a leader in the superannuation sector, advocating to ensure workers retain their rights over their deferred wages, and that superannuation delivers adequate retirement outcomes for workers.

The Government's *Protecting Your Super* package is one which crudely approximates a solution to the problem of multiple accounts, account erosion, and inappropriate insurance coverage. Most worryingly, the Bill will be highly destructive to workers who need insurance through their super. Workers in high-risk occupations rely upon insurance for themselves for their dependents should the worst happen.

The ACTU believes that with significant amendments a positive solution to systemic fee erosion can be found.

The ACTU believes:

- Schedule 1 must be amended such that the regulator more rigorously defines passive fees, to encompass investment fees along with account fees so the industry more consistently applies the fee cap.
- Schedule 2 must be amended to ensure that young workers and those with low account balances working in industries with high-risk of injury, death and permanent disability are not denied insurance;
- Schedule 2 must be amended to allow the regulator to define an inactive account so that those who are active in the maintenance of their account but are not making contributions are not denied the benefits of holding that account;

- Schedule 2 must be amended to ensure that those who have taken parental leave are not made to reapply for insurance for a lapsed account which they wish to reactivate upon their return to work;
- Schedule 2 must be amended to ensure that those who take a break from work and acquire a disability, chronic illness or injury are not punished for allowing their insurance to temporarily lapse;
- Schedule 2 must be amended to ensure those changing jobs and industries are not lacking appropriate coverage for the period when they hold a new account accumulating to $6,000;
- Schedule 3 must be amended to ensure that the member is notified by the ATO when their superannuation balance is transferred to the Commissioner;
- Schedule 3 must be amended such that the ATO should find an appropriate account before taking custody of the account, or determine that the member would be better off for the ATO holding the account and returning the cash rate, rather than immediately receiving the funds; and,
- Schedule 3 should be amended to prescribe a maximum timeframe for the Commissioner to transfer the superannuation to the most appropriate account, and should no account be found or nominated the member is notified immediately and regularly (at a 6-month interval).

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Schedule 1 Fees charged to superannuation members

The ACTU supports limiting fees charged to low-balance account holders and banning exit fees for those consolidating their super. For too long, bank-owned super funds have been able to trap customers into their underperforming products. And for too long, young people, and those in intermittent work have their accounts eroded by high fees and returns below the cash rate.

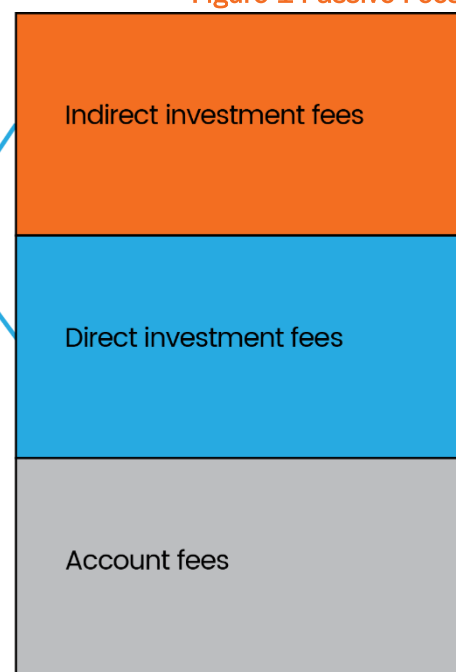
> The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry revealed a man lost roughly 25% of his TAL Super account due to the exit fee. He was advised by an AMP Financial Adviser to change his superannuation provider and lost $16,189 of his $68,000 balance.

The ACTU is concerned, however, that the legislation does not allow the regulator to set a consistent definition of passive fees. Often, bank owned super funds seek to hide their passive fees rolling them into lower investment returns.

Figure 1 shows that passive fees are made up of three components. General account or administration fees, the direct investment fees, and indirect investment fees. All superannuation funds disclose account fees as passive fees, however within the industry investment fees are often obscured or divided between a fee charged or a reduction in the rate of return.

The ACTU believes that the regulator should define and monitor passive fees to ensure that the new bill is not undermined by funds rolling in fees to returns.

Figure 1 Passive Fees



Recommendations regarding Schedule 1

Schedule 1 must be amended such that the regulator more rigorously defines passive fees, to encompass investment fees along with account fees so the industry more consistently applies the fee cap.

Schedule 2 Insurance for superannuation members

The proposed changes to insurance for young people, those with account balances below $6,000, and those with inactive accounts will cause significant harm and repercussions for the affected and their families. Workers in high-risk industries, women, those with chronic illness, those with seasonal employment, and those entering a new phase in their career will all be worse off due to this legislation. The Government is blinded by the pursuit of budget savings rather than developing sound policy to protect workers' retirement savings.

Workers in high-risk industries

The Government has blatantly ignored workers in industries with high rates of injury, death and illness. Superannuation was founded with insurance attached to reflect the unfortunate reality that workers are often injured and killed at their workplace. Life insurance is also offered so that dependents are not left destitute by the loss of a family member.

From 2003 to 2016 more than 3,400 workers have lost their lives on the job. Of those, 335 were under the age of 25.[1] More than 27% of workers under the age of 25 are in a high-risk job.

Case study 1: Young worker permanently injured at work

A 22 year old fourth year carpentry apprentice suffered a prolapsed vertebrae and a severe neck strain while on site in NSW, March 2012.

Figure 2 shows that young people are highly represented in industries with high-risk jobs. People aged under 25 make up 15.3% of the workforce, and suffer injuries at work. Case studies included in this submission show that young people have suffered horrific injuries or have been killed at work. The proposal for the Government will mean it is less likely these workers will be covered.

Case study 2: 16-year-old killed at work

On the 15th of October 2003 a 16-year-old labourer was working atop a warehouse at Eastern Creek, NSW. The teenager lost his footing and fell through safety mesh 11.25 meters suffering severe injuries. He died shortly after arriving to hospital.

While the ACTU acknowledges that insurance will not be withheld, nor will policies be withdrawn, the reality is that the vast majority of those under the age of 25 will not opt in to insurance. This will cause insurance premia to spike for those who prudently opt in, as well as for existing

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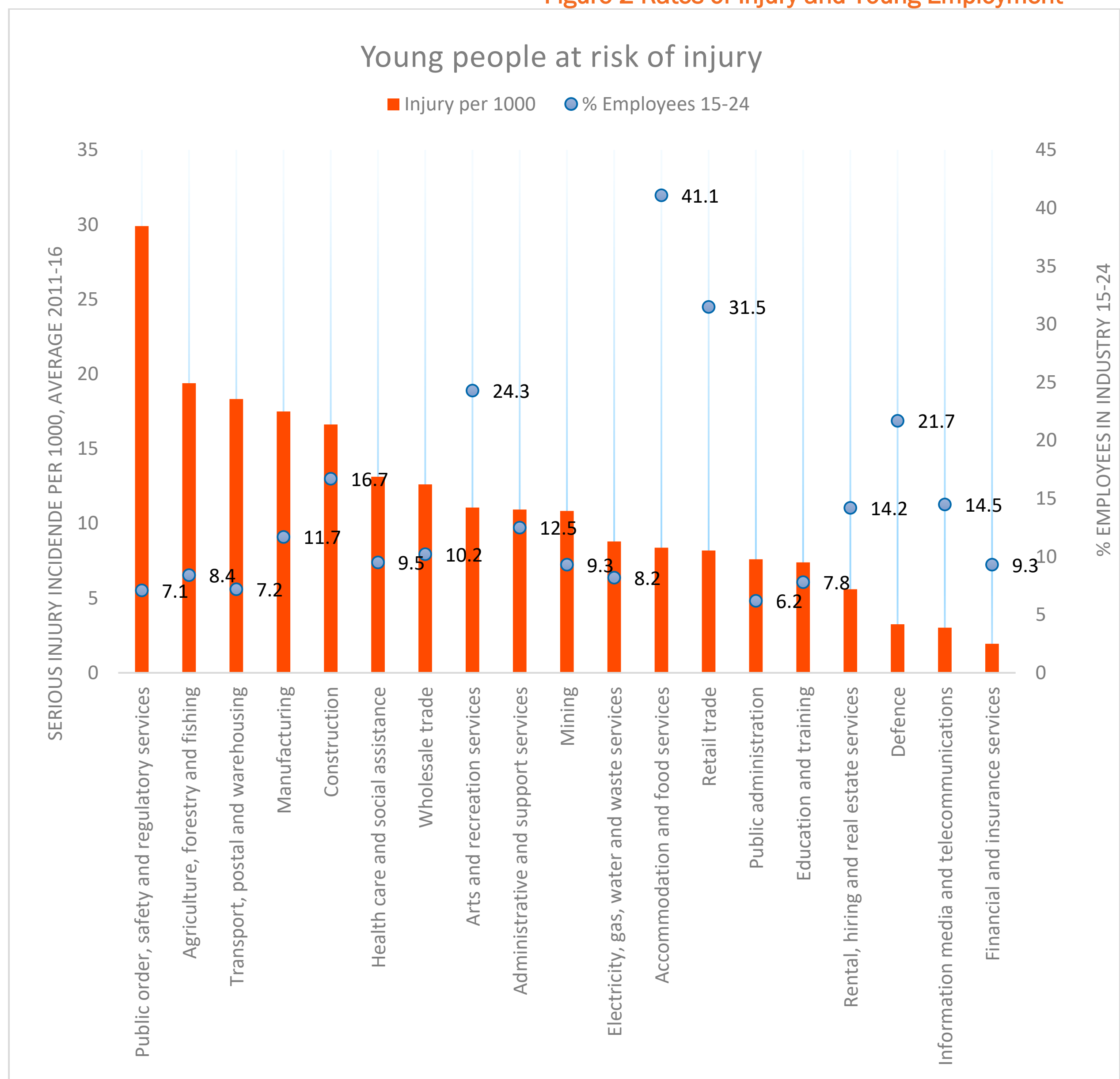
[1] Safe Work Australia, 2016. *Work-related Traumatic Injury Fatalities, Australia,* Canberra: Commonwealth of Australia.

members within the group insurance plan. As the intent of the law surmises, young people are less engaged than other cohorts in their superannuation choices and so it is of prime importance that the law reflects the best interests of young people.

The ACTU believes that workers in high-risk industries should be required to opt-out of their insurance policies, and the Government should delay implementation until a comprehensive consultation process with unions, employers, funds and insurers is completed to ensure the significantly detrimental gaps are filled.

Figure 2 Rates of Injury and Young Employment[2]



Change of career penalty

[2] Data: Census 2011 – Age Profile of Selected Industries; Safe Work Australia, 2018, *Number, frequency rate and incidence rate of serious claims by industry (2011-12 to 2015-16p)*

The changes to insurance will also cause harm to those who have recently changed jobs or careers. Where a worker moves from one industry to another and neglects to roll over their super. Until that worker accumulates $6,000 in superannuation they will likely not be covered by TPD, life or income protection insurance.

As with young people, those starting a new job will be unlikely to take-up the insurance policy. If they suffer an injury, even if they have insurance through their existing superannuation fund, because it is classified differently, they will be ineligible to claim.

Example: Changing careers from low-risk to high-risk

Alissar is a 27 year old retail worker who decides to take up an electrical apprenticeship. Alissar has an insurance policy with her old super fund, which classifies her as working in a low-risk industry. Upon starting in her new position as an apprentice, she signs up to the default fund and neglects to opt-in to insurance.

Before Alissar hits the $6,000 threshold she is injured at work and becomes permanently disabled. Because her old insurance policy is for a low-risk worker, Jane is ineligible to claim.

Taking a break from work – making super worse for women

The Bill will make women worse off, and all those who have taken a break from the workforce. If the account is deemed inactive and an insurance policy lapses, those returning to work will likely be required to underwrite the new policy. Underwriting an insurance policy is paying a higher premium for additional risks the insurer deems you pose. This is currently not a huge issue as workers beginning a new job at a young age are deemed low-risk, and continuing that insurance at low risks benefits the holder in later life.

The Bill would smash the model of lifetime coverage for benefit. As breaks from work would often lead to lapsed insurance policies. Upon return to work, the worker will likely be required to be underwritten, and their insurance premiums would be significantly higher compared with their previous payments.

The most obvious example of this is for women taking parental leave. Women who take extended parental leave will likely have their insurance lapse. Upon returning to the workforce, and should they want insurance they will likely be required to pay a higher premium. If they had continuous coverage, then they would be paying a lower premium. Due to the Bill, many women will face a motherhood penalty which simply compounds gender inequality in the superannuation system.

Similarly, if someone takes a break from the workforce and is diagnosed with a chronic illness or acquires a disability, they will suffer a penalty from the insurer for having allowed their insurance to lapse. The insurer could also refuse to offer them life or TPD insurance they would have otherwise held if their insurance did not lapse. The legislation as framed will be hugely detrimental to those who would otherwise have their situation somewhat alleviated by an active ongoing insurance policy.

A more holistic definition of inactive

The definition of inactivity proposed under the legislation is hugely problematic. 13 months without a contribution does not reflect the engagement of the member with their account. The ACTU believes that should a member be active in investment choices, changing insurance policies, changing their details or beneficiaries, the Fund should be allowed to deem them an active account holder. The regulator should be empowered to work with Funds to determine when an account is active, so that those intending to keep their superannuation insurance are not punished for missing communiques from their Fund.

Recommendations regarding Schedule 2

Schedule 2 must be amended to:

- Ensure that young workers and those with low account balances working in industries with high-risk of injury, death and permanent disability are not denied insurance;
- Allow the regulator to define an inactive account so that those who are active in the maintenance of their account but are not making contributions are not denied the benefits of holding that account;
- Ensure that those who have taken parental leave are not made to reapply for insurance for a lapsed account which they wish to reactivate upon their return to work;
- Ensure that those who take a break from work and acquire a disability, chronic illness or injury are not punished for allowing their insurance to temporarily lapse; and,
- Ensure those changing jobs and industries are not lacking appropriate coverage for the period when they hold a new account accumulating to $6,000.

Schedule 3 Inactive low-balance accounts and consolidation into active accounts

This Bill fails to offer a meaningful solution to the system-wide problem of inactive low-balance accounts. Usually belonging to those who hold multiple accounts, low-balance inactive accounts are often eroded by fees and an urgent solution which leaves workers better off. Low-balance inactive accounts should be consolidated as soon as they are identified as inactive. The Australian Taxation Office (ATO) should have its resources increased to deal with what may be millions of account consolidations. Workers should be notified by the ATO as soon as their account has been transferred from the fund to the Commissioner, and should be regularly notified that their account is with the ATO.

Low-balance accounts are at risk of being eroded by fees. Australia has seen multiple scandals where bank-owned funds are returning less than the rate of inflation to their members, and this situation is exacerbated when fees erode the principal investment. If there is another account to consolidate with, then this should be done. If the account is returning less than the cash rate in real terms, then it should be immediately transferred to the ATO.

However, the ATO only returns CPI to account holders. For many members with balances below $6,000, this would be worse than keeping their account with their superannuation fund. So the law should be amended so that the Commissioner must be satisfied that transferring the account to the ATO is in the best interest of the account holder. This should be paired by an active search by the ATO for another account into which the low-balance account can be consolidated.

In most cases the accounts will be consolidated into an active account. In other cases it will be paired with another inactive account so that the combined value reaches more than $6,000. However, this action, in this order, could be detrimental to members' retirement outcomes.

Example: When consolidation makes someone worse off

Catherine is not working, and has two superannuation accounts. Account X with $5,000 and Account Y with $7,000. Account X ordinarily returns 12.7% per annum, while Account Y ordinarily has a rate of return of 9.4%.

If Account X is rolled into Account Y, then after one year Catherine has $13,128.00 in Account Y.

If Account Y is rolled into Account X, then after 1 year Catherine has $13,524.00 in Account X.

Catherine is better off if her $7,000 account is consolidated into her $5,000 account.

The ATO should consider the financial best interest of those whose retirement savings it directs prior to consolidating or requiring the transfer of revenue.

After years of cuts to the ATO, the Government is proposing to increase its workload by millions of individual transactions and paired a proactive search for suitable accounts to reunify. The Bill allows the ATO to hold the inactive account balances indefinitely. Without a significant increase in resources made available to the ATO to proactively undertake this work, we can expect that inactive superannuation accounts will be held by the ATO until prompted by the account holder. However, the Bill does not direct the ATO to notify the account holder that their superannuation account has been transferred to the ATO. The account owner should be notified immediately upon transfer and every six months the ATO continues to hold the account.

Recommendations regarding Schedule 3

Schedule 3 must be amended

- To ensure that the member is notified by the ATO when their superannuation balance is transferred to the Commissioner;
- So that the ATO should find an appropriate account before taking custody of the account, or determine that the member would be better off for the ATO holding the account and returning the cash rate, rather than immediately receiving the funds;
- So that the Commissioner considers all inactive accounts held by the member to ensure that the remaining funds are consolidated into the most advantageous account; and,
- To prescribe a maximum timeframe for the Commissioner to transfer the superannuation to the most appropriate account, and should no account be found or nominated the member is notified immediately and regularly (at a 6 month interval).

Works Cited

Hutchens, G. & McGowan, M., 2018. *Banking royal commission: AMP advice led to loss of quarter of super account,* Sydney: The Guardian Australia.

Safe Work Australia, 2016. *Work-related Traumatic Injury Fatalities, Australia,* Canberra: Commonwealth of Australia.

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