

11. Superannuation Guarantee Contributions

[11.1] Section 90A of the *Workplace Relations Act 1996* requires the Commission to have regard to the operation of the:

- a. *Superannuation Guarantee Charge Act 1992*; and
- b. *Superannuation Guarantee (Administration) Act 1992*.

[11.2] Under s.20(3) and (5) of the *Superannuation Guarantee (Administration) Act 1992*, the final scheduled increase in employer superannuation contributions from 8% to 9% of salary will commence from 1 July 2002.

[11.3] It was the clear intention of Parliament in introducing compulsory statutory superannuation, that increased labour costs to employers through increases in superannuation would be taken into account in determining the ongoing level of the award wage safety net, and in determining award minimum wage adjustments.

[11.4] Senator Sherry moving the *Superannuation Guarantee (Consequential Amendments) Act 1992* in the Senate (which inserted s.90A into the then *Industrial Relations Act 1988*) stated (in regard to s.90A):

*“the Government ... will legislate in the Industrial Relations Act—to ensure that the ... cost impact will be taken into account. So there will be no increase in unemployment as a result of this legislation; there will be none at all.”*⁵¹

[11.5] The purpose of s.90A of the *Workplace Relations Act 1996* is to ensure prescribed labour costs to employers from compulsory superannuation form an integral part of the Commission’s decision framework on each occasion increases in compulsory superannuation

⁵¹ Senate Hansard, 23 June 1992, p.4353

increases; and on an ongoing basis (see below). The safety net adjustment that the Commission decides to award this year must have regard to the increased in compulsory employer superannuation contributions required by the *Superannuation Guarantee Act*.

[11.6] The consideration under s.90A should be (3) threefold:

- a. The Commission should consider the labour cost impact of compulsory superannuation on employers, and their ongoing capacity to viably apply any award wage increases in addition to mandatory labour cost increases through superannuation.
- b. The Commission should assess the impact of compulsory superannuation on the economy and labour market more generally.
- c. The Commission should also take into account the additional incomes payable to employees through superannuation in assessing appropriate adjustments to award wages. Superannuation income forms part of total remuneration for employees, and part of the total incomes derived from employment. Increases in minimum wages should not be made without regard to the significant, existing income transfer already payable through superannuation.

[11.7] It is relevant to consider the role of compulsory superannuation as an instrument for the creation of retirement incomes. The witness materials advanced by the ACTU in these cases in recent years have sought to create an impression that employees are not successfully saving at award levels of pay⁵². In any consideration of such material,⁵³ the Commission should recognise that under the superannuation legislation identified in s.90A, employers are making substantial and direct contributions to employees' personal savings, including employees in receipt of award payments only.

⁵² (C2001/5719 and ors) ACTU Written Submission, 8 February 2002, [e.g. 6.33, 6.42, and 6.48]

⁵³ Section 7 addresses the weight and balance we should attach to such considerations.

[11.8] The ACTU has also not provided the Commission with any evidentiary basis to generalise on circumstances generally with regard to savings capacity on award rates of pay:

- a. The witness material presented does not represent a stratified sample, nor a sufficiently large group from which to draw conclusions on savings more generally. It does no more than give us a generalised summary of the current circumstances of 11 people who were not chosen randomly.
- b. Not all the witnesses identified difficulties with saving at current income levels.
- c. The ACTU claim is not targeted solely to award workers on comparatively lower rates of pay, but instead is a claim for increases at all levels of award wages, including those at or above AWOTE. It is impossible to generalise on the capacity of award rates and superannuation contributions to generate savings and retirement incomes across such diverse pay cohorts.

[11.9] In the October 1993 decision⁵⁴ (the first after the commencement of s.90A) the Commission examined the “*state of the national economy*” and “*labour cost increases through the operations of [superannuation guarantee legislation]*” as concurrent considerations. It appeared to give equal weight/significance to these factors in ruling out any additional general wage increase.

[11.10] In its May 2000 decision⁵⁵, the Commission noted that in addition to the statutory obligation imposed by s.90A, such an increase in labour costs was an important factor in its own right which should be taken into account in its determination of any safety net adjustments. This was a welcome recognition that such labour such cost imposts affect the capacity

⁵⁴ *Review of Wage Fixing Principles October 1993* [Print K9700], p.24

⁵⁵ *Safety Net Review - Wages May 2000 Decision* [Print S5000], Paragraph 37.

of employers, and the economy as a whole, to successfully apply award increases.

[11.11] ACCI believes the Commission should continue to recognise that superannuation based labour costs, including but not limited to, scheduled compulsory superannuation increases, are matters of significance in addressing claims for substantial award wage increases, and in determining appropriate increases (if any) on each occasion.

The Current Claim

[11.12] Section 90A of the *Workplace Relations Act 1996*, and the scheduled increase in superannuation contributions highlight the importance of non-wage labour costs to employers and the economy and labour market, and to the determination of appropriate minimum wages.

[11.13] Applied to the consideration at hand, ACCI argues the scheduled increase in superannuation guarantee obligations on employers from 1 July 2002 will have two primary impacts:

- a. Directly increasing labour costs for the significant majority of Australian employers; and
- b. Increasing incomes payable to employees, including employees on relatively lower rates of pay.

[11.14] There also appears to be significant scope for a flow on impact to labour costs for employers that have entered additional superannuation arrangements above the superannuation guarantee.

[11.15] The scheduled increase in superannuation contributions should also be considered in conjunction with the economic and labour market challenges facing employers and the economy/labour market more generally, as highlighted throughout this submission. The increase in superannuation provides additional support for ACCI's submission that the Commission should:

- a. Reject the \$25.00 per week ambit increase sought by the ACTU.
- b. Instead award a genuinely moderate and appropriately targeted increase.

[11.16] The ongoing superannuation impact upon employees (now 9%) should also be considered under s.90A on an ongoing basis. Where an increase in minimum award rates is applied it does not of course constitute the full cost impact for employers. A \$25 increase in award rates would for example be, in the context of superannuation, $\$25 + 9\%$ (\$27.25).

[11.17] A range of other employment on-costs are also subject to increase under any increase in award rates, including those calculated as percentages of payroll. Whilst not directly recognised in the *Workplace Relations Act 1996* in a manner comparable to s.90A, they remain crucial considerations in the Commission's wider deliberative task.

Future Considerations

[11.18] This is the final scheduled increase in compulsory superannuation under the superannuation guarantee framework. ACCI however notes that:

- a. Section 90A was not introduced subject to any automatic deletion from the *Workplace Relations Act 1996*. Parliament clearly intended that the ongoing impact of superannuation on employers, employees, the economy, and labour market be taken into account beyond 2002.
- b. The relevance of the cost of superannuation to employers, and income transfers to award covered employees through superannuation, does not cease simply because the scale of payments in s.20(3) and (5) of the *Superannuation Guarantee (Administration) Act 1992* has ceased to escalate.
- c. A 9% employer superannuation contribution continues to be a substantial labour cost impost upon employers, and a substantial income transfer to employees.

- d. Section 90A of the *Workplace Relations Act 1996* remains a relevant consideration in minimum wage fixation. ACCI will continue to argue that this major labour cost needs be taken into account in the future. ACCI will argue that s.90A must form part of the Commission’s “National Wage Case” consideration into the future.