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SUPERANNUATION BENEFIT (INTERIM ARRANGEMENT) BILL 1988

EXPLANATORY MEMORANDUM

(Circulated by Authority of the Minister for Finance,
Senator the Hon Peter Walsh)

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SUPERANNUATION BENEFIT (INTERIM ARRANGEMENT) BILL 1988

GENERAL OUTLINE

The purpose of this Bill is to provide, under an interim arrangement, superannuation benefits for:

- . Commonwealth employees and employees of Commonwealth authorities and bodies who are eligible employees under the Superannuation Act 1976; and
- . Commonwealth employees and employees of certain Commonwealth authorities and bodies who have no employer-sponsored superannuation.

The Conciliation and Arbitration Commission's June 1986 National Wage Case Decision made provision for employers and unions to negotiate new and/or additional superannuation agreements costing up to 3 per cent of ordinary time wages.

The Government agreed to a 3 per cent overall superannuation benefit for Commonwealth sector employees generally, with 1.5 per cent commencing on 1 January 1988 and the balance no later than 1 January 1989.

Time constraints and the Commonwealth Government's general review of superannuation precluded finalisation of the longer-term form of the benefits for the 325,000 eligible employees under the Superannuation Act 1976 or the 75,000 Commonwealth sector employees with no superannuation cover. Accordingly, it was decided to set up an interim arrangement which could be administered without the need for a central administrator.

The Bill provides for the benefits to accrue from 1 January 1988 and for benefits to be administered and paid by the employers. The Bill specifies:

- . the persons who are to receive the benefit;
- . how the amount of the benefit is to be calculated; and
- . the conditions under which the benefit is to be payable.

Each approved authority for the purpose of the Superannuation Act 1976 is an employer in its own right and accrued entitlements cannot be transferred to other employers. However, persons may move between remaining employers taking their accrued entitlements with them. Benefits when payable are to be preserved until genuine retirement although small amounts may be paid directly to the person.

Negotiations for longer-term arrangements will be negotiated in 1988. As longer-term arrangements are put into place for certain groups of persons, the Bill enables those groups of persons to be excluded from receiving benefits under the interim arrangements.

FINANCIAL IMPACT STATEMENT

The provisions of benefits under the interim arrangement implies an accruing financial commitment by employers of 1.5 per cent of the salaries for superannuation purposes of the persons covered in calendar year 1988 and 3 per cent in subsequent years. In 1987-88 prices, this accruing liability would be \$130.5 million in 1988 and \$271 million in later years.

The benefits under the interim arrangement will not, however, be met by employers paying contributions to a fund or to a central body. Rather each employer will be required to fund only the benefits that become payable. These would be much less than the full accruing cost. Assuming the interim arrangement will continue unchanged, costs are estimated to be (1987-88 prices):

| | |
|----------|----------------|
| 1987-88: | \$ 1.6 million |
| 1988-89: | \$14.4 million |
| 1989-90: | \$37.5 million |
| 1990-91: | \$62.8 million |

It is, however, likely that the interim arrangement will be dismantled as longer-term arrangements are put in place.

NOTES ON CLAUSES

CLAUSE 1 - SHORT TITLE

This clause is self-explanatory.

CLAUSE 2 - COMMENCEMENT

Clause 2 provides for the Bill to take effect from 1 January 1988.

CLAUSE 3 - INTERPRETATION

This clause defines the terms used in the Bill and specifies how those terms and other clauses of the Bill are to be interpreted.

SUB-CLAUSE 3(1)

This sub-clause defines the terms used in the Bill. Definitions which are not self-explanatory are explained below.

"ANNUAL RATE OF SALARY"

The annual rate of salary to be used in the calculation of benefits is the same salary that would be used to calculate the amount of employer-financed benefit under the Superannuation Act 1976, the Act under which long-term Superannuation benefits are provided for the majority of Commonwealth sector civilian employees.

This definition also provides that where a person is not an eligible employee under the Superannuation Act, the annual rate of salary for the purposes of the Bill is to be calculated as if the person were such an eligible employee.

"ANNUAL RATE OF CONTRIBUTION"

This definition specifies for 1988 the annual rate of contribution by employers for the specified ranges of annual rate of salary. Although contributions are proportionately higher for lower salary earners than for higher salary earners, the overall annual rate of contribution by employers is expected to average 1.5 per cent of relevant salaries.

Paragraph (b) of the definition provides for the ranges of annual rate of salary and their corresponding annual rate of contribution for 1989 and later years to be specified by regulation. It is not possible to specify in advance what these ranges and amounts will be because salary increases during 1988 and later years may not be the same percentage increase for all salary ranges and the intention is that the overall annual rate of contribution by employers in 1989, and later years, will be 3 per cent of relevant salaries.

"AVERAGE ANNUAL RATE OF CONTRIBUTION"

If contributions were adjusted as salaries were adjusted, employers would be faced with significantly increased administrative expenses. Accordingly, the basis of calculation simply takes the average of the annual rate of contribution for salaries at the beginning and end of each year or shorter period of employment in a year.

"LONG TERM BOND RATE"

If contributions were paid to a fund and invested, fund earnings would be allocated to them. Although contributions under the interim arrangement are not paid to any such fund, interest will be added to them in the calculation of the benefit. The rate of interest for a year is to be the long-term bond rate at the end of previous year.

"QUALIFIED EMPLOYEE"

This definition specifies the persons to be covered by the interim arrangement by providing for specific inclusions and exclusions, with provision for regulations to add to both the inclusions and exclusions.

The list of specific inclusions does not cover employees of approved authorities where those authorities provide superannuation benefits for their employees other than under the Superannuation Act 1976. It is expected that such authorities will provide benefits for their employees without superannuation cover under their separate arrangements. Should this not be the case, the employees can be covered by the interim arrangement by regulation.

The list of specific exclusions generally covers persons for whom alternative superannuation arrangements have been made or are likely to be made and some specific groups of persons who are not to be covered. Employees of the Northern Territory and its authorities, many of whom have superannuation benefits provided under the Superannuation Act 1976, fall into the former group.

"QUALIFYING PAY PERIOD"

The average annual rate of contribution may need to be reduced if a person was not employed or paid for a full year. Any such reduction is to be calculated on a pay period basis. The definition provides that a pay period will accrue a proportionate employer contribution towards a benefit, provided the person is paid for more than half the pay period by his or her employer.

"QUALIFYING PAY PERIOD VALUE"

This definition is a mechanism to provide equity between those who work full-time on full salary and those who work part-time or are in receipt of reduced salary. In the latter cases, the benefits to be received are to be reduced from the full-time on full salary rate in proportion to the part-time hours worked and/or rate of reduced pay received.

To ease the administrative load in calculating benefits, the reduction only applies where the part-time employment or reduced pay applies to the whole of the pay period.

"YEARLY INTEREST FACTOR"

This definition provides a factor which adds interest to the average annual rate of contribution (reduced where necessary).

The formula adds interest at the long term bond rate on the assumption that the average annual rate of contribution is paid in the middle of the period over which the benefit accrued, eg a benefit accrued over 12 months would get 6 months interest. This assumption applies even when the period over which the benefit accrued includes pay periods which do not qualify for benefits.

"YEARLY PAY PERIOD VALUE"

This definition is the factor which reduces the average annual rate of contribution, where necessary, to take account of pay periods that do not qualify for benefit and pay periods which qualify for reduced benefits.

SUB-CLAUSE 3(2)

This sub-clause defines the conditions under which a former qualified employee is taken to have retired voluntarily. Voluntary retirement is used later in the Bill in specifying when benefits may be paid directly to a former qualified employee.

SUB-CLAUSE 3(3)

This sub-clause includes in the calculation of a benefit a pay period which by ending in the year after a person became eligible for a benefit would otherwise not count towards increasing the person's benefit.

SUB-CLAUSE 3(4)

This sub-clause provides that retrospective adjustments to salary are to be taken into account in calculating "annual rate of contribution" and "average annual rate of contribution" where applicable.

SUB-CLAUSE 3(5)

Paragraph (a) of this sub-clause provides that overtime worked by a person is to be excluded for all purposes of the Bill.

Paragraph (b) of this sub-clause provides for the use of the shortest pay period where a person is paid on more than one basis of pay period during the year in calculating the amount of a benefit.

SUB-CLAUSE 3(6)

This sub-clause relates to technical, legal requirements associated with the provision of superannuation benefit. Without this sub-clause:

- . the Minister's approval in writing would be necessary for the provision of the interim benefit; and
- . the provision of benefits under the interim arrangement for eligible employees under the Superannuation Act 1976 could mean that such persons would cease to be eligible employees under that Act.

CLAUSE 4 - OTHER EMPLOYERS MAY APPLY INTERIM BENEFIT

This clause is included to make it clear that eligible employees under the Superannuation Act 1976 who are not Commonwealth employees or employees of Commonwealth authorities or bodies may receive similar benefits from their employers on the same basis as the benefits under this Bill if their employers so choose.

CLAUSE 5 - QUALIFYING SERVICE

This clause provides for a qualifying period of service before eligibility for a benefit in order to reduce the administrative costs associated with processing small

amounts. However, provided the qualifying period is served, the benefit payable would be calculated from the commencement of service or 1 January 1988 whichever is the later.

SUB-CLAUSE 5(1)

Sub-clause 5(1) provides that a person must complete a three month period of continuous service with his or her employer at the time a benefit would become payable before being eligible to receive the benefit. The qualifying period of service may precede 1 January 1988 even though service before that date does not accrue a benefit under the Bill.

SUB-CLAUSE 5(2)

Paragraph (a) of this sub-clause provides that periods of leave without pay neither count towards the qualifying period of service nor interrupt the continuity of such service.

Paragraph (b) of this sub-clause provides that where a person in a prescribed class has been employed on a recurring basis for periods of employment separated by not more than 6 months, the periods of when he or she was not employed neither count towards the qualifying period of service nor interrupt the continuity of such service.

Paragraph (c) of this sub-clause provides that where a person works part-time, the person must serve the equivalent of three months full-time service before being eligible for a benefit.

CLAUSE 6 - WHEN BENEFIT PAYABLE

This clause specifies the conditions under which an interim benefit becomes payable and to whom such a benefit is payable.

SUB-CLAUSE 6(1)

This sub-clause provides, subject to clause 5 and sub-clause 6(2), that a benefit becomes payable when a person terminates his or her employment with either a Commonwealth authority or body or with the Commonwealth.

SUB-CLAUSE 6(2)

This sub-clause specifies circumstances under which an interim benefit would not be payable even though employment may have ceased.

Paragraph (a) of this sub-clause makes it clear that where a person takes up different employment as part of an interchange or similar scheme and is expected to return to his or her previous employment, a benefit is not payable but the person would retain his or her accrued entitlements.

Paragraph (b) of this sub-clause provides that where a person is expected to be employed by the same employer in the same capacity within 6 months and is employed within that period, a benefit is not payable but the person would retain his or her accrued entitlements. This paragraph is included to cater for persons employed on a recurring basis throughout a year for short periods of employment.

SUB-CLAUSE 6(3)

This sub-clause specifies circumstances in which a benefit is paid directly to the person.

Paragraph (a) of this sub-clause provides that this may happen when the person retires voluntarily (refer sub-clause 3(2)) or on the grounds of permanent invalidity.

Paragraph (b) of this sub-clause provides that this may happen when the benefit payable to a person is less than \$500.

SUB-CLAUSE 6(4)

This sub-clause provides that a benefit payable on the death of a person shall be paid to the person's personal representative.

SUB-CLAUSE 6(5)

This sub-clause provides that where a person is about to leave Australia permanently, the benefit is payable to the person.

SUB-CLAUSE 6(6)

This sub-clause provides that where a benefit becomes payable in circumstances other than that provided for in sub-clauses 6(4), (5) and (6) the benefit shall be preserved until:

- the person retires from the workforce after attaining the age of 55 years;
- the person retires from the workforce before attaining the age of 55 years on the ground of permanent incapacity or invalidity;

- . the person leaves Australia permanently;
- . the person dies; or
- . the occurrence of such other circumstances (if any) as the Insurance and Superannuation Commissioner may approve.

SUB-CLAUSE 6(7)

This sub-clause provides for the mechanisms by which a benefit shall be preserved.

Paragraph (a) provides for payment of the benefit to a superannuation fund, an approved deposit fund or a deferred annuity nominated by the person.

Paragraph (b) provides, where a person has not nominated a superannuation fund, an approved deposit fund or a deferred annuity within two months of becoming eligible for a benefit, the employer may nominate a superannuation fund or approved deposit fund.

SUB-CLAUSE 6(8)

This sub-clause is self-explanatory.

CLAUSE 7 - EMPLOYERS TO PAY INTERIM BENEFIT FOR THEIR EMPLOYEES

This clause is self-explanatory.

CLAUSE 8 - AMOUNT OF INTERIM BENEFIT

This clause sets out the basis for calculation of the amount of an interim benefit.

SUB-CLAUSE 8(1)

This sub-clause provides that the amount of benefit accrued in a year is the sum of:

- . the benefit accrued from the average annual rate of contribution for that year, reduced where appropriate for periods when the person was not paid by his or her employer or worked part-time or received reduced pay, plus interest thereon at the long term bond rate for that year assuming that such (reduced) amount was paid in the middle of the period over which it accrued; and

- interest at the long term bond rate for that year on the sum of all amounts (if any) that accumulated in respect of previous years for the period from the start of the year to the date the benefit became payable.

SUB-CLAUSE 8(2)

This sub-clause provides that the amount of the benefit payable at a given date in respect of the person is the sum of the amount that accumulated in respect of that year and the amounts (if any) that accumulated in respect of previous years in respect of that person.

CLAUSE 9 - ASSIGNMENT OF BENEFIT

This clause is self-explanatory.

CLAUSE 10 - REGULATIONS

Clause 10 provides that the Governor-General may make regulations.

SUB-CLAUSE 10(1)

This sub-clause is self-explanatory.

SUB-CLAUSE 10(2)

Should it be decided that the annual rate of contribution should be increased to reflect 3 per cent of salaries for superannuation purposes from a date earlier than 1 January 1989, it would be necessary to amend the basis of calculation for the amount of benefit accrued in 1988.

Sub-clause 10(2) provides that regulations may be made to alter the Act in such circumstances.

SUB-CLAUSE 10(3)

This sub-clause provides that where regulations are required for the purposes of sub-clause 10(2), they may take effect from a date, not earlier than 1 January 1988, specified in the regulations.

SUB-CLAUSE 10(4)

This sub-clause provides that where regulations are made for the inclusion of a person or persons in the definition of qualified employee, they will take effect from 1 January 1988.

SUB-CLAUSE 10(5)

This sub-clause provides that where regulations are made for the exclusion of a person or persons from the definition of qualified employees, they may take effect from a date, not earlier than 1 January 1988, specified in the regulations.

Such a provision may be necessary to ensure that a person does not become entitled to two lots of benefit in respect of the same period of service when longer-term arrangements are put in place; such longer-term arrangements may be retrospective to 1 January 1988.

