Abolition of Age Limit on Payment of the Superannuation Guarantee Charge Bill 2011

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Abolition of Age Limit on Payment of the Superannuation Guarantee Charge Bill 2011

Date introduced: 28 February 2011

House: House of Representatives

Private Member’s Bill introduced by: Hon. B Bishop MP

Commencement: On the day of Royal Assent

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through http://www.aph.gov.au/bills/. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose

To amend the Superannuation Guarantee (Administration) Act 1992 (the Act) to abolish the age limit—currently 70 years—on the payment of the superannuation guarantee charge.

Background

Employers are required to pay contributions, calculated in accordance with a formula in section 19 of the Act, into superannuation funds on behalf of their employees. In general, an employer must pay contributions in respect of employees aged from 18 to 69 years inclusive. Once an employee reaches the age of 70 years, the Act provides that an employer is no longer required to pay the superannuation guarantee.

Basis of policy commitment

The Bill is a Private Member’s Bill introduced by Bronwyn Bishop MP, the Member for the electorate of Mackellar. In her introductory speech, Ms Bishop included the following claims in favour of her proposal to abolish the age limit:

• abolishing the limit would be equitable and eliminate age discrimination
• abolition would encourage older workers to remain in the workforce at a time when the ageing of the population is increasing pressures on the labour supply and the Budget
• the retention of older workers in the workforce would boost the economy compared with a situation where they retired, and

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• older workers possess skills which would otherwise be not utilised.¹

Policy position of parties and independents

Government position

On 2 May 2010, the Treasurer, Wayne Swan, announced reforms to superannuation designed to deliver substantial improvements in retirement savings and a fairer distribution of superannuation tax concessions, thus ensuring more Australians can enjoy a comfortable retirement.

As part of the Stronger, Fairer, Simpler Tax Plan for our Future superannuation reforms, the Government stated that it would raise the Superannuation Guarantee age limit from 70 to 75 from 1 July 2013. It expected that ‘around 33,000 employees’ would benefit from this measure.²

The Minister for Financial Services, Superannuation and Corporate Law, Chris Bowen explained the rationale for the decision as follows:

Currently, the SG only applies to people aged up to 70. In contrast, employers can make voluntary deductible superannuation contributions for employees under 75 and self-employed people can make deductible contributions until they turn 75. Individuals aged 70 to 74 are less likely to be able to negotiate voluntary superannuation contributions with their employers.

This measure will mean that workers aged under 75 will be eligible to, for the first time, compulsory SG contributions to be made on their behalf. This measure will align the age limit for SG with that of voluntary and self-employed contributions.³

Other positions

At the time of writing this Bills Digest, neither the independents nor the Australian Greens had made a formal statement in respect of this measure.


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Position of major interest groups

Mr Dante De Gori of the Financial Planning Association of Australia Limited (FPA) has stated:

This is a welcome announcement that, if implemented, would remove an inconsistency in the tax system that unfairly disadvantages mature-age workers … We should be encouraging a savings culture and providing incentives to defer the age pension by allowing individuals who are still working to receive Superannuation Guarantee entitlements offered to all other working Australians and to contribute to superannuation beyond the age of 75. We call on the Federal Government to support this Bill and the abolition of a Superannuation Guarantee age limit.4

The FPA also said that the Bill would provide consistency and fairness for mature-age workers and give them greater choice of when to retire.5

Committee consideration

At the time of writing this Bills Digest the Bill had not been referred to either a House of Representatives or a Senate Committee for inquiry and report.

Financial implications

The Bill will not have any direct financial implications for the Budget. However, in so far as the Bill results in the Government having to pay, for example, fewer age pensions, there will be a reduction in expenses.

Main issues

Employers who currently employ older workers would incur an additional cost. This could discourage employers from continuing to employ those workers or employing older workers in the future.

Although the Bill would remove the age limit in this Act, other aged-based provisions still exist under the Income Tax Assessment Act 1997 (Cth). As noted above, a person cannot claim a deduction for personal superannuation contributions if that person was 75 years or over and the contributions were paid after the day that is 28 days after the end of the month in which the person turned 75.6 Similarly, an employer cannot claim a deduction if a person was 75 years or over and the employer

5. Ibid.

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paid the contributions after the day that is 28 days after the end of the month in which the person turned 75.7

Key provisions

Existing paragraph 27(1)(a) of the Act states:

(1) The following salary or wages are not to be taken into account for the purpose of making a calculation under section 19:

(a) salary or wages paid to an employee who is 70 or over;

The Bill repeals this paragraph to remove the upper age limit of 70 years.

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