



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**THE SENATE**

**BILLS**

**Superannuation Legislation Amendment  
(Service Providers and Other Governance  
Measures) Bill 2013, Superannuation Laws  
Amendment (MySuper Capital Gains Tax  
Relief and Other Measures) Bill 2013, Tax  
and Superannuation Laws Amendment  
(Increased Concessional Contributions  
Cap and Other Measures) Bill 2013,  
Superannuation (Sustaining the Superannuation  
Contribution Concession) Imposition Bill 2013**

**Second Reading**

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# **SPEECH**

**Monday, 24 June 2013**

BY AUTHORITY OF THE SENATE

## SPEECH

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**Questioner**  
**Speaker** Cormann, Sen Mathias

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**Senator CORMANN** (Western Australia) (21:47): I rise to speak on the Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013 and related bills. The handling of superannuation policy and legislation by the Rudd and Gillard Labor governments has been nothing short of disgraceful. As I travel around Australia and speak to Australians saving for their retirement—Australians working hard, trying to do the right thing to get themselves in a position to be able to look after their own needs in retirement so that they do not have to be a burden on the public purse by having to rely on the aged pension—they invariably complain to me about the constant chopping and changing and the constant chaos in the way this Labor government has approached superannuation laws. Remember, in the lead-up to the 2007 election the then opposition leader, Kevin Rudd, said that there would be no change to superannuation—not one jot, not one tittle, he said.

But since then, between then Prime Minister Rudd and current Prime Minister Gillard, they have imposed almost \$9 billion of additional taxes on people's retirement savings—almost \$9 billion of additional taxes to plug their budget black hole, which is coming straight out of people's retirement savings. They promised no change but of course this dishonest government immediately, in its first budget, slashed concessional contribution caps from \$100,000 for people over 50, over time, to just \$25,000. And right now concessional contribution caps across the board are down to \$25,000—which means in practice that any Australian who wants to save more than \$25,000 towards their retirement has to pay top marginal tax on that 46½ per cent. Why would anyone agree to lock more than \$25,000 a year into their superannuation if they have to pay more tax than they might have to pay on their take-home pay?

So, we have had the increased taxes because this is a government that has fundamentally mismanaged the budget. They have spent \$220 billion more than they have raised in revenue, even though they have benefited from the best terms of trade in 140 years, because they spent too much. And people across Australia—doing the right thing, working hard, saving for their retirement—have been asked to pay the price. But increased taxes were not enough. The government also had to impose massive regulatory change without going through proper process, without trying to test the cost-benefit equation and without making sure that the additional cost that is ultimately imposed on people saving for their retirement delivers a proportionate benefit. Conservative estimates across the industry are that the increased red tape imposed by the Rudd and Gillard Labor governments will cost about \$1½ billion just to implement and many hundreds of millions of dollars in additional compliance costs year in year out, which will come straight out of people's retirement savings and superannuation accounts.

And here we are: for the last three years the government has said, 'We're going to legislate the regulatory framework for those Australians who do not make active choices in relation to their superannuation'—legislate the consumer protection framework for those Australians who find themselves in default super arrangements—'we're going to call it MySuper, and it's going to come into effect on 1 July 2013.' Guess what? 1 July 2013 is less than a week away. And here we are dealing with the fourth tranche of the so-called MySuper bills in relation to legislation that is supposed to come into effect and be implemented in less than a week from now, and major businesses across Australia that are looking after people's retirement savings are expected to comply from day one.

It is incompetence writ large, but that is what we have become used to with this government. Over the last three years particularly, under the leadership of the current Prime Minister and with the current minister for superannuation, this government has been chaotic, dysfunctional, divided and fundamentally incompetent. People across Australia are on the receiving end of all of that dysfunction, division and incompetence. Not only do people have to pay more tax when they were promised no change and no increases in tax, they also have to pay higher fees as a result of all of the chopping and changing and the additional red tape that the government has imposed without going through a proper cost-benefit analysis or proper regulatory impact assessments.

Because of the truncated nature of the way in which this legislation has been dealt with—because of the government's running so hard into the wind—businesses across Australia are exposed to higher costs than they

would have been if the government had handled this legislation competently and professionally. We have a minister for superannuation who is so distracted from his portfolio that he cannot possibly focus on what needs to be done to ensure a proper and orderly process. If Minister Shorten were as focused on his superannuation portfolio as he is on his other extracurricular activities, he would have done much better for people across Australia saving for their retirement.

In 2007, people were promised no change, but the government slashed concessional contribution caps from \$100,000 down to \$25,000 and progressively slashed the superannuation co-contribution benefits for low-income earners from \$1,500 for every \$1,000 saved down to just \$500 for every \$1,000 saved—saving about \$3.3 billion in the process at the expense of low-income earners. In the lead-up to the 2010 election we had another pre-election lie from this government. We now have, in this bill, another broken promise from a Gillard Labor government which clearly cannot be trusted. In the lead-up to the last election, we were told that the concessional contribution cap for people over 50 with super balances of less than half a million dollars would be increased to \$50,000 from 1 July 2013. Actually, it was initially to be from 1 July 2012, but that was deferred. Now, instead of getting an increase to \$50,000 for people over 50, as promised, we are getting an increase to just \$35,000 for people over 60 from 1 July 2013—not to \$50,000 but just to \$35,000.

An honourable senator interjecting—

**Senator CORMANN:** As Senator Boyce said, why would anyone be surprised, because this government lies. This government lies. Here we have the minister for superannuation out there, jumping up and down and talking about the fact that a coalition government would scrap the low-income super tax offset. Let me make this prediction: if the Labor Party happen to be returned to government on September 14, the Labor Party would scrap the low-income super tax offset because they cannot afford it. That is what they have done in the past; that is what they will do in the future. Because Labor's record on superannuation is to promise the world in the lead-up to the election—they promised no change, in the lead-up to the 2007 election, and an increase back to \$50,000 concessional caps for people over 50 after the 2010 election—and then, after the election, target low- and middle-income earners with additional taxes on their superannuation. They will pursue the pre-election rhetoric of 'target the rich'—those 'bastards' that are not paying their fair share of tax—before an election to get people on board and then, after the election, just press ahead, as they have done in the past, targeting low- and middle-income earners with increased taxes and red tape.

Here we are dealing with the fourth tranche of the MySuper bill which is implementing a series of corporate governance changes. But one corporate governance change which the government has not touched, because their paymasters in the union movement do not want them to touch it, is the very sensible and very important recommendation of the Cooper review into superannuation that at least one third of directors on industry fund boards should be independent directors. The Cooper review, initiated by this government, came to the conclusion in 2012 when they reported that it is no longer appropriate to have corporate governance arrangements based on the so-called equal representation model. Superannuation today is big business, and the thought that you could have some cosy arrangement with union representatives in charge and employer representatives making up the numbers as an appropriate corporate governance model for superannuation that is looking after people's retirement savings in 2013 is just completely unacceptable.

Superannuation boards, like all other boards of major businesses, should have appropriately high corporate governance standards. They should have an appropriate diversity of skills and experiences represented on their boards. There should be independent directors who are not linked either to the union interests or to the employer organisational interests but will take a dispassionate view, including on behalf of those fund members that are represented by neither a union nor an employer organisation. That was the very sensible view promoted by the Cooper review.

Guess what? When we moved that amendment in the House of Representatives, the House agreed with us. The House of Representatives voted for our amendment 72-68. But guess what happened then? The phones started ringing hot. All of the union bods that are keeping the Gillard government in power, all of the union bods that are making sure that Ms Gillard remains as the Prime Minister until the job is done, said, 'You have got to fix that. Go back in. Fix it.' Fix it they did. They forced the House of Representatives to remove what was a good amendment that implemented good policy, which was consistent with the government's own Cooper review recommendations and the coalition's policy. But, clearly, it was not consistent with the vested interests of the union bosses that are running the show in the Labor Party. So, here we are, dealing with this bill again. I can

confirm that the coalition will again move that set of amendments. Hopefully the Greens will see the merit in ensuring that there is a diversity of skills and experiences for competency on boards and will vote for proper corporate governance.

I have to pause here. The intriguing thing about what happened in the House of Representatives is that, ultimately, what helped Labor do the bidding of their union bosses by removing that very sensible amendment was the support at the final hour of Independents such as Mr Windsor in the seat of New England and Mr Oakeshott in the seat of Lyne. I use the word 'Independents' loosely because I would say that they are fully paid-up members of the Labor Party, or they may as well be. We have this ludicrous situation where the so-called Independent members of parliament in the House of Representatives voted against independent directors on boards. I ask the question: what do the Independents have against independence? Why can't the Independents see the sense of having proper independent representation on superannuation boards which are currently filled with union hacks and employer representatives? Surely the Independents would have seen the merit in having independent directors as part of good corporate governance. If ever anyone wanted to see evidence that the Independents are fully signed-up members of the Labor Party, or may as well be, that was one key example.

Then we have the MySuper legislation which is supposed to enshrine in legislation the default fund arrangements, the concealed protection arrangements, that should apply to Australians who do not make active choices in relation to their own superannuation. But guess what? This government actually does not trust its own legislation. Here we are debating the fourth tranche and, if it passes the Senate, it becomes law on 1 July 2013. This government does not trust its own legislation and says, 'We can't possibly allow these products that are established in the name of this legislation to compete freely in the default fund market. We've got to have this additional red-tape process through Fair Work Australia.' It is a highly discredited process, it is non-transparent and non-competitive, and it protects the vested interest of the union movement, which is the only thing that remains to unite this rabble of a Labor Party. Standing up for the vested commercial interests of the union movement is the last thing that is uniting the Australian Labor Party.

**Senator Boyce interjecting—**

**Senator CORMANN:** Senator Boyce has just reminded me that it represents just 17 per cent of Australian workers. We say, 'If this MySuper legislation passes through the parliament, trust your own bill, trust your own legislation.' Any product which qualifies for registration of a MySuper product should be allowed to compete freely in the default fund market without any further discredited and conflicted involvement by Fair Work Australia. You have union reps, who are super fund trustees, going to Fair Work Australia and arguing in favour of the listing of their fund as the default fund in a particular modern award. It is completely conflicted and completely inappropriate, and it is something that the coalition would fix in government. We believe that any MySuper product should be able to compete freely in the default fund market.

There are four bills here, which would normally attract a 20-minute contribution by each senator on behalf of the coalition, which we now have to ram into this very truncated debate. In the House of Representatives they had months and months to deal with this and we get less than one hour. One of the bills is the Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Bill, and we also have the Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill, which is effectively a breach of promise in relation to what the government said they would do before the last election.

There is, of course, a better way. If the coalition are elected to government at the next election we will not make any unexpected detrimental changes to superannuation. With the coalition there are no surprises and no excuses. We will be open, transparent and upfront before the election instead of promising no change before the election and then hitting people with additional taxes after the election. We will improve corporate governance arrangements for super, ensuring that there is appropriate provision of independent directors on super boards by making sure there is proper management of conflicts of interest, in particular in relation to Labor Party transactions. We will properly address the issue of excess contributions to make sure that Australians saving for their retirement are not unfairly penalised for genuine unintended errors. We will pursue opportunities to cut unnecessary red tape in super, which the government has added in abundance. We will remove regulatory barriers currently restricting product innovation and improved options to manage financial risks in the retirement phase. We will revisit concession contribution caps and super co-contribution benefits for lower income earners once the budget is back in a strong enough position. And, of course, we will conduct a financial systems inquiry, which will include a focus on superannuation. We will not rescind the increase in compulsory super from nine to

five per cent, though we will delay the full phase-in by two years so we will get there by 2021 instead of 2019, which will help us fund the income tax cuts and pension increases without a carbon tax.