

# Women with family responsibilities need not apply

---

Elizabeth Fletcher

## *Discriminatory practices in the superannuation industry.*

From the mid-1980s onwards, superannuation went from being the prerogative of a small number of mainly male workers to becoming a legislatively enforced requirement of all workers, through the introduction of compulsory contributory superannuation. The majority of women in paid employment now have access to some sort of super, but this has raised a whole new set of problems.

The policy shift towards self-funded retirement has always held problems for women. Intermittent paid work combined with unpaid caring work, and lower wages on average than men has posed dilemmas for women and their economic independence. Treasury has estimated that women, on average, earn only 83% of the amount calculated as necessary for self-funded retirement, and 80% of women earn less. The end result of this is that women are poor during their working life, and poor in retirement.

### **The devaluing of women's work**

The relative poverty of women is largely a result of the unrecognised and unpaid work of women.

In 1994, the total value of unpaid work undertaken in Australia by homemakers and volunteers was valued in the range of \$137 billion to \$163 billion. This is worth between 52% and 62% of official national production.<sup>1</sup> Women do more than two-thirds of unpaid domestic work, half of all voluntary work, and, as well, work for wages. Women's unpaid role in maintaining the home and family has significant financial consequences. Their unpaid work reduces their ability to engage in paid work and, therefore, reduces their incomes, not only during their working life but also in retirement.

The devaluation of women's paid and unpaid work is worsened by a taxation system which rewards people who are able to work full time, on high incomes, and with access to generous superannuation. For example, the Australian Council of Social Service has estimated that a person earning \$50,000 a year receives at least five times the tax assistance available to people with incomes below \$20,700 a year,<sup>2</sup> because super is taxed at a flat 15%. This effectively redistributes income back to high income earners, usually men, and imposes a massive cost on the Australian economy. In 1994-95 it cost \$7 billion, and proposed government contributions to superannuation in 1999 will cost another \$4 billion.

The massive subsidisation of high income earners is particularly offensive, given current policy proposals. Consideration is being given to reducing government pensions — the major support of women in old age — by using the fact that women earn considerably less than men in paid employment. The proposal, not yet accepted by government, to remove the commitment to keep pensions at a level of 25% of average male weekly earnings, and instead use total weekly earnings as the benchmark will take advantage of the fact that women earn less than men in employment. This will be used to reduce pension levels,

---

Elizabeth Fletcher works in the Sex Discrimination Unit, HREOC.

These are the author's personal views not those of HREOC.

more often received by women. There is a strong irony in this which should not go unnoticed!

### Discriminatory super practices

Even if women do manage to have some sort of super, major problems of sex discrimination exist.

Long standing discriminatory practices by the super industry have made sex equality in super highly unlikely, even when women have spent considerable time in the workforce.

Until 1993, the superannuation industry enjoyed a blanket exemption from anti-discrimination legislation. The changes to the *Sex Discrimination Act* which came into effect in July 1994, have limited the freedom to discriminate once enjoyed by the industry. However, major gaps remain.

Sex discrimination in superannuation continues to be lawful where it concerns:

discrimination based on data about the average life expectancy of women and men as groups;

the denial of the right to provide superannuation benefits to anyone other than a spouse or children (for example, perhaps a sibling or a same sex partner);

differences in the position of women and men in the workforce which disadvantage women in relation to preservation of their benefits, vesting of employer's contribution, or the portability of benefits from one job to another.

This accounts for nearly all the existing discrimination in superannuation schemes.<sup>3</sup> For example, let us look at the effect of the actuarial exemption and the vesting exemption.

Different superannuation contributions, benefits and annuities for women and men have been legitimated by the use of actuarial data. In practice, the only demographic factor consistently taken into account in superannuation calculations is sex, even though there are marked differences in the life expectancy of different groups of men (for example, by class and race as well as class-related health issues like smoking). This means that poor women subsidise rich men.

Vesting requirements, which link ability to receive employer super contributions to length of service (generally 10 years but sometimes longer) mean that those workers who have family responsibilities may miss out on employer contributions because they cannot manage to work this length of time. However the employer contribution is part of a worker's wage, even if it is a deferred wage. To refuse to pay this part of the super package to a worker because they have not worked for that employer for longer than 10 years is flagrantly unfair. Yet it is lawful.

Unless these exemptions are removed, there is no chance of establishing women's rights to a fairer system of super in employment.

### New government policy and its likely impact on women and super

There are a number of issues which have been flagged by the new government as policy changes. Some of these concern super directly; some concern super indirectly, such as proposed industrial relations changes.

#### Super related changes

Government matching contribution will go ahead as planned by the previous government.



- Those workers who earn up to \$900 a month will be allowed to 'opt out' of super.
- Spouses who contribute for their partner will receive an 18% rebate for contributions up to \$3000 where their partner earns less than \$10,800.
- Age discrimination legislation will be introduced.
- Retirement Savings Accounts (RSAs) will be introduced.

Some of these changes will have a big impact on women for example, the 'opting out' provisions. These need to be understood in the context of proposed industrial relations changes as well as super changes.

The effects of 'opting out' are significant. Those workers who opt out will lose the government matching contribution (3%) and face effective higher tax rates than those workers who earn above \$900 a month or those who opt to stay in super.

Those workers who decide to opt out need to take into consideration their higher tax rates and loss of the government contribution. Technically, this could be a pay discrimination issue, because it could affect pay equity if pay rates of some workers who opt out of super do not reflect the cost of higher tax rates, and the loss of the government contribution. I note that the government has said that mechanisms will be introduced to allow these workers to 'choose' to take the super as a wage increase instead. However, there are no details of how this will be costed and cashed out.

#### Industrial relations changes

There will be a drop in the number of people in the workforce covered by super because of likely industrial relations changes. The government proposes to:

remove the requirement in industrial awards and agreements for employers to make minimum contributions for employees; and

remove limits on part-time work in awards.

On current Australian Bureau of Statistics (ABS) figures, the number of people in the workforce earning less than \$900 a month is about 8.2% of employees (ABS 6305.0). Of these workers, 70% are women.

The removal of limits on part-time work (for example, most awards specify minimum hours to be worked, percentage of part-time workers to full-time workers) will increase the number of people who earn less than \$900 a month per employer. This will happen because superannuation legislation assumes employees only have one job. However there have been major changes in the way people work over the last decade. Increasingly, part-time and casual workers need to work for more than one employer in order to make a living. This is an area which has received little attention from government, and the proposed changes to the way part time and casual work is regulated will undoubtedly increase the number of people needing to work in more than one job.

The biggest group affected by this is women. In 1994, nearly 6% of women worked in more than one job (in comparison to 4% of men). This figure has doubled in the last five years.<sup>4</sup>

This will mean that as more people earn less than \$900 a month, and more people hold multiple jobs, but less than \$900 a month with each employer (the new proposed Superannuation Guarantee Charge requirement for contributions), the numbers of people covered by super will drop. It has been estimated that around 9.4% (or 650,000) employees will be affected.<sup>5</sup>

Furthermore, the removal of superannuation from award minimum conditions will increase the number of people not covered by super. It is difficult to estimate what percentage of workers this will affect, but many of them will be women.

A good example of this is workers in the hospitality industry. Many work for more than one employer and earn more than \$900 a month in total. However, because they do not earn \$900 a month with one single employer, they fall outside the SGC safety net. The insertion of superannuation in their industrial award meant that *all* the workers under that award were granted super regardless of their income level. These workers — of whom two-thirds are women — will lose their access to superannuation if the proposals to strip award conditions back to 'basics' is made law. Other 'women's industries' like nursing have the same problems.

The other area of great concern is the proposed introduction of RSAs. RSAs have been described as 'a niche product' for low-income earners, the self-employed, those with high job mobility and people nearing retirement.<sup>6</sup> They would have *some* advantages for women — there would presumably be no vesting, portability or preservation problems. However, there would be no trustee structure to guarantee that the prime interests of members are taken into account. And most importantly, RSAs would also be low risk, low return products, like the bank accounts they effectively are.

This poor person's super vehicle — or rather poor woman's super vehicle (as the majority of people using RSAs will be women) — will set in concrete the problems of long-term economic security for women. Poor during their working life and poor during retirement, will continue to be

the maxim for those women who have caring responsibilities that limit their continuous participation in employment.

### Future directions

Women are a crucial and still growing part of the workforce whose circumstances need to be taken into account

About two-thirds of new entrants to the workforce in the next 20 years will be women and women's employment will increase on average by 2% a year to the year 2001 while men's employment will increase by 1.6% a year.<sup>7</sup>

There needs to be recognition that women's work and family responsibilities impose responsibilities on them which are not experienced by most male workers. Thus the remaining exemptions with regard to vesting, portability and preservation are a particular problem for women.

The gender-based nature of actuarial tables needs research to substantiate whether these tables can reasonably justify the resulting discrimination.

For those women who manage to stay in the super system, even though they have intermittent working patterns, there is some hope of greater fairness. The Senate Standing Committee's Report No. 17, 'Super and Broken Work Patterns', recommended in November 1995 the removal of all the remaining superannuation exemptions in the *Sex Discrimination Act*.

For those women who manage to have some form of super (as opposed to RSAs), it is to be hoped that the Senate Committee's recommendations are adopted by the Government. They will not solve the underlying problems of women's economic inequality (for example, the lack of recognition of the unpaid work of women), but arguably they are a crucial early step in the establishment of women's right to super without discrimination.

### References

1. Australian Bureau of Statistics (ABS), 'Women in Australia' 1994, p.152, Table 5.20.
2. Australian Council of Social Service, 1996, 'Federal Budget Priorities Statement 1996-97', p.29.
3. Sex Discrimination Commissioner, 1994, *Superannuation and the Sex Discrimination Act: Current Status and Future Directions*, AGPS, p.2.
4. ABS 6216.0.40.001, August 1994.
5. AMP, *SuperTrends*, May 1995, p.11.
6. Connolly, D., Blackman, R., Abramovich, M., Wong, W., *Retirement Savings Accounts*, monograph, 1995.
7. Affirmative Action Agency, 'Quality and Commitment: The Next Steps: The Final Report of the Effectiveness Review of the Affirmative Action (Equal Employment Opportunity for Women) Act 1986', Canberra, AGPS, Dec.1992, p.49.