

**GOVERNMENT'S RESPONSE TO REPORT NUMBER 76 OF THE STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW IN RELATION TO THE UNCLAIMED MONEY (SUPERANNUATION AND RSA PROVIDERS) AMENDMENT AND EXPIRY BILL 2012**

**Background**

- The Unclaimed Money (Superannuation and RSA Providers) Amendment and Expiry Bill 2013 (the Bill) was introduced into the Parliament on 12 September 2013 and passed by the Legislative Assembly on 24 October 2013. The Bill was then introduced into the Legislative Council, which referred the Bill to the Standing Committee on Uniform Legislation and Statutes Review (the Committee) as per Standing Order 126(1). Report number 83 of the Committee on the Bill was tabled in the Legislative Council on 26 November 2013.
- The purpose of the Bill is to amend the *Unclaimed Money (Superannuation and RSA Providers) Act 2003* (UMA) and the *State Superannuation Act 2000* to provide for the transfer of the Stock, and ongoing responsibility, of lost and unclaimed superannuation money held by Western Australian public authorities and public sector superannuation schemes to the Australian Taxation Office (ATO).
- The Bill is identical to the 2012 version of the Bill introduced and considered by Parliament in 2012 (except for the year change). The 2012 Bill was passed by the Legislative Assembly in September 2012 and then referred to the Committee upon the Bill's introduction in the Legislative Council.
- In report number 76 on the 2012 Bill dated 25 October 2012, the Committee recommended that passage of the Bill be deferred pending consideration of amendments to the Bill allowing impacted members in Government Employees Superannuation Board (GESB) schemes with insured benefits to be excluded from having their accounts transferred to the ATO under the transfer proposal.
- The 2012 Bill lapsed due to Parliament being prorogued in the lead up to the State election.
- In report number 83 on the current Bill, the Committee noted that it has already reported to the Legislative Council on an identical Bill (i.e. the 2012 Bill) in report number 76 and it resolved to refer report 76 to the Legislative Council in its consideration of the current Bill.
- This note provides the Government's response to report number 76 of the Committee on the 2012 Bill and the reasons why the original 2012 Bill is supported without amendment in the current Bill.

**Committee recommendations from report number 76 in relation to the 2012 Bill**

• **Recommendation 1:**

The Committee recommends that the Minister representing the Treasurer confirm that the *Superannuation (Unclaimed Money and Lost Members) Act 1999 (Cth)* authorises a participating scheme to report all its lost member accounts and/ or unclaimed money, but only pay some of it over and that if this is the case, GESB's account holders' insured benefits could be preserved.

• **Recommendation 2:**

The Committee recommends that the Minister representing the Treasurer defer passage of the Unclaimed Money (Superannuation and RSA Providers) Amendment and Expiry Bill 2012 until the Minister reports to the Legislative Council on Recommendation 1.



## Issue

The Committee's recommendations reflect its concerns about GESB lost superannuation members with insured benefits (for which premiums are deducted from their accounts) whose benefits would be transferred to the ATO under the changes in the Bill. In this regard, insurance coverage for these members would cease upon transfer to the ATO.

The Committee considered the scenario where an insurance event occurred subsequent to the transfer of the member's benefit to the ATO (such as total and permanent disability, or death), and in the absence of the member having another insurance policy in their subsequent superannuation fund, resulting in potential financial detriment to the member and/or their family due to the loss of the insured benefit. This scenario formed the primary basis for the Committee's recommendations.

### Changes subsequent to the Committee Report 76

When the Committee reported on the 2012 Bill, the number of GESB members with insured benefits subject to transfer to the ATO was estimated to be around 70, out of a total of approximately 30,000 GESB accounts that would be subject to transfer to the ATO according to the then legislated criteria for lost and unclaimed superannuation. At the time of the Committee's consideration of the Bill, the lost account balance threshold for accounts subject to transfer to the ATO was \$200.

Subsequent to the release of the Committee's report, the Commonwealth raised the above transfer threshold to \$2,000 with effect from 31 December 2012. Further, the period of account inactivity for an account to be classified as lost was reduced from 5 years to 12 months. Together, these two measures could potentially exacerbate the concerns of the Committee as a consequence of the increased number of GESB lost member accounts meeting the new criteria, including those of members with insured benefits.

Concurrent with the changes to lost/unclaimed superannuation criteria, the Commonwealth also announced that it will pay interest at a rate equivalent to Consumer Price Index (CPI) inflation from 1 July 2013 on all superannuation accounts reclaimed from the ATO. This provides a further benefit to accounts meeting the lost superannuation definition being transferred to the ATO, as they will be protected against benefit erosion through price inflation.

The Commonwealth Government has flagged increases to the above lost member small account threshold by releasing for public consultation an exposure draft of planned legislative amendments in this regard. Under the proposed changes, the threshold will increase from \$2,000 to \$4,000 on 31 December 2015 and then to \$6,000 on 31 December 2016. The intent of this policy is to protect the balances of small accounts from benefit erosion by fees, price inflation and insurance premiums.

According to latest available data calculated as at 31 December 2013 under the new lost superannuation criteria (i.e. based on the current \$2,000 account balance threshold and 12 month account inactivity period criteria), GESB estimates that there are around 700 members with insured benefits whose account would be subject to transfer to the ATO, out of a total of approximately 46,500 accounts meeting the new lost/unclaimed superannuation criteria at this date.

### **Options considered to address the Committee's concerns with the 2012 Bill**

GESB examined two insurance options in response to the Committee's recommendations:

- Exclude ('carve out') GESB members with insured benefits meeting the lost superannuation criteria from the transfer proposal until the period their insurance cover can be maintained expires; and/or
- Transfer all lost superannuation accounts meeting the relevant criteria to the ATO as originally intended, but GESB to maintain cover for accounts with insurance attached to them.

Applicable to both options above is the fact that first and foremost the members subject to these proposed arrangements are lost members. Members in the unclaimed superannuation category (as opposed to members in the lost superannuation category) no longer have insurance attached to their superannuation account due to them being over 65 years of age.

At the basic level this means that the contact/address data held by GESB for lost superannuation members is unreliable despite best endeavours to have this data validated. As a result, these members do not know they have a benefit with GESB and the continued debiting of fees to their account is inconsistent with the principal policy objective of reuniting members with their lost superannuation. Notwithstanding this caveat, a further analysis is provided below of the above two options examined by GESB in relation to members with insured benefits whose benefits would be subject to transfer to the ATO under the changes in the Bill.

### **1. Carve out option**

This option involves the lost member accounts with insured benefits being retained by GESB, with insurance cover maintained by the continuing monthly deduction of insurance premiums until such time the account balance can no longer support the premium payment. When this occurs, whatever account balance remains would then be transferred to the ATO.

A number of issues arise with this option:

- It would be inconsistent with Commonwealth's policy intent in relation to protect and transfer lost superannuation to the ATO to facilitate members being reunited with their lost superannuation;
- GESB would be administering an arrangement which is inconsistent with the rest of the superannuation industry in terms of lost superannuation, requiring customisation of business processes potentially leading to higher administration effort and costs; and
- GESB, or the State, may later be held to account by impacted lost members subject to the transfer proposal for allowing fees to be deducted from their accounts when standard industry practice would have had their account balance preserved and protected by the ATO.

### **2. Option of GESB maintaining insurance for members while transferring their lost superannuation to the ATO**

Under this option, insurance cover for the lost member would continue once their benefit was transferred to the ATO. In practical terms, this would entail establishing notional accounts to maintain the continuing insurance arrangements for the now former member.

Taking into account the intent of the State's and Commonwealth's reform initiatives in relation to lost superannuation there are a number of issues to consider as a result of continuing cover for members once their accounts have been transferred to the ATO.

Maintaining a notional account after transferring the member's balance to the ATO is administratively complex and raises a number of issues:

- maintaining cover would mean that the member still has an interest in the scheme even though the member's benefit has been transferred to the ATO, which in normal circumstances would have resulted in closure of the member's account;
- potential inconsistencies with previous internal audit findings by GESB around maintaining notional accounts where member data is unreliable, which would be the case in regard to notional lost member accounts;
- GESB's insurer (AIA Australia Limited) understandably will not continue insurance for lost superannuation members without receiving the required fees;

- GESB is unable to use a cross-subsidy to pay for insurance costs of lost superannuation members as it would be inequitable between members and likely be inconsistent with the Heads of Government Agreement on superannuation;
- it is also unlikely that the State Government would subsidise lost member accounts as this is inconsistent with the Whithear Report recommendations on consolidation of small accounts and there are higher order demands on tax-payers' monies;
- systems/administrative issues arising from creating notional accounts, as indicated above; and
- consideration of reporting obligations in relation to notional accounts. In this regard, GESB would need to consider reporting and communication issues with the member and/or any other relevant parties associated with the notional insurance arrangements.

### **Assessment**

In light of the above, and notwithstanding the concerns of the Committee, the Government, with endorsement of the Department of Treasury and GESB, supports the Bill in its original form for the following reasons:

- an examination of insurance options outlined above has highlighted a number of issues of concern, particularly with regard to the issues of system/administrative complexities and sources of funding for insurance premiums;
- no option has been identified to address the Committee's concerns that does not expose the Government to cost and administrative complexity;
- it is considered that GESB's lost superannuation members are better served by having a greater possibility of being reunited with their superannuation money through transfer of their benefits to the ATO, rather than risk their account balance (and insurance cover) reducing to zero by deductions of insurance premiums and administration fees;
- the loss of insurance cover for members whose accounts are transferred to the ATO is a superannuation industry-wide issue, which was acknowledged by the Commonwealth Senate Economics Legislation Committee (Senate Committee) in November 2012 when examining the Commonwealth's Bill to increase the lost superannuation account balance threshold from \$200 to \$2,000 (which took effect from 31 December 2012). The Senate Committee noted that affected individuals who are still engaged in the workforce would likely have another active superannuation account with insurance attached. As such, they considered that these members are better off having their lost superannuation balances protected through transfer to the ATO rather than retaining any insurance cover linked to their accounts;
- as part of the Commonwealth's changes, transferred accounts reclaimed from the ATO would be paid interest at a rate equivalent to the CPI from 1 July 2013. This is an additional benefit for GESB lost super account members compared to having their account held at GESB and subject to account balance erosion from price inflation, in addition to erosion from account fees and charges;
- the above Senate Committee also acknowledged that the initiatives to centralise lost and unclaimed superannuation administration with the ATO have proven highly successful. In this regard, the Commonwealth Government recently reported that the number of lost accounts had fallen by 30% (from 5.0 million to 3.5 million) over the 18 months to 31 December 2012;
- the Whithear Report 'Putting Members First' made 18 recommendations in relation to the State's superannuation arrangements, all of which were adopted by Cabinet in April 2010. One of the recommendations was in relation to small accounts:

'that the State Government implement streamlined processes for current or former public sector employees to transfer small superannuation holdings to other superannuation funds with a target of at least a 70% reduction in accounts with account balances under \$10,000';

- the transfer to the ATO of lost/unclaimed superannuation of GESB member accounts is consistent with above recommendation, will protect and help reunite members with their lost/unclaimed superannuation benefits, and achieve a reduction in the administrative and cost burden to GESB associated with administering these accounts.

### **Recommendation**

The Government supports the Bill without amendments.