

[Details removed]

May 22nd.2006.

The Convener,
Same-Sex: Same Entitlements Enquiry,
HUMAN RIGHTS UNIT
HREOC.

COMMONWEALTH SUPERANNUATION SCHEME (COMSUPER)

Dear Sir,

As the attached "PENSION UPDATE" JULY 2005, confirms, one of the clearest examples of discrimination against same sex couples is the "eligible spouse" provisions of the Comsuper Act, by which a surviving spouse or de facto heterosexual partner receives a continuing residual pension of 5/8 of the superannuant's pension.

I am 78, my partner is 74; we have lived together for 39 years; we have joint bank accounts and jointly own our modest unit . I have a Comsuper pension. My partner, who was a pharmacist, has no superannuation, because none was available to him. While we both worked we lived on my partner's wages so that I could put the maximum ammount into my superannuation, which we saw as belonging to both of us. If I predecease my partner, he will receive nothing from Comsuper, nand may have to apply for the Social Security Pension.

This injustice is aggravated by the fact that, in June 2004 as part of its Superannuation Choice Legislation, the Government accepted Democrat proposals to recognise same sex couples (called "interdependent relationships") for superannuation death benefits, but the legislation only applied to the private sector funds, and not to the Government's own super funds.

However, in the Senate on June 22nd.2004, in response to a question from Senator John Cherry, the responsible Minister, Senator Coonan gave an assurance on behalf of the Government that the Commonwealth Superannuation Funds would be amended to ensure that they conformed with the new " interdependent relationship " provisions.

To partly honour this commitment the existing Comsuper fund was closed and a new superannuation fund for Commonwealth employees was established in July 2005 which included the " interdependent relationship " provisions.

In December 2004 the Dept. of Finance and Administration (DoFA) issued a discussion paper on the reform of the CSS (Comsuper) including recognising "interdependent relationships" for eligible death benefits.

After 18 months the only response from the responsible Minister, Senator Nick Minchin, is that the matter is "very complex and is still under consideration".

I submit that the matter is not complex - the word "spouse" can simply be replaced by "partner"- and that ,since gaining control of the Senate, the Government does not seem to have the will to make the change. In the Senate Estimate Hearings on Feb.14th.2006, Senator Minchin even denied any knowledge of Senator Coonan's unqualified commitment to amend the Comsuper scheme.

I hope this matter will feature prominently in your report as it affects a considerable number of Commonwealth Public Servants,


John Challis.



MAKING CHANGES TO YOUR TAXATION DETAILS

There may be instances when you need to contact the CSS to let us know about changing your PAYG tax arrangements. Changes to tax arrangements **cannot** be made over the phone and require you to complete a form to advise us of the change in writing. For more information about varying the amount of tax taken from your pensions contact us on 13 23 66 or log on to www.css.gov.au

SENIOR AUSTRALIANS TAX OFFSET

What is the senior Australians Tax offset?

The senior Australians tax offset allows eligible people to earn more income before they have to pay tax and the Medicare levy. If you are eligible, this tax offset means that you pay less tax. In some cases you may not have to lodge a tax return any more.

To be eligible for the senior Australians tax offset you must meet all four conditions:

- **condition 1**—age
- **condition 2**—eligibility for Australian Government age pension or similar payments
- **condition 3**—taxable income threshold, and
- **condition 4**—not in prison.

If you meet all four conditions, the amount of tax offset will vary depending on your taxable income and also your circumstances. You may also be able to transfer to yourself any unused portion of your spouse's tax offset to help reduce the amount of tax you have to pay.

To find out more about the senior Australians tax offset and the eligibility condition see the ATO's website at: www.ato.gov.au or phone the ATO on 13 28 61 from 8am to 6pm weekdays.

CLARIFICATION TO PENSIONER NEWS ISSUE 5

Following a number of enquiries about the article 'Where Your Pension Goes When You Die', it became apparent that some clarification was required. We apologise for any inconvenience or misunderstanding this may have caused. Below we have reprinted the section titled 'Eligible Spouse' and changed the third paragraph to help clarify the information.

Where Your Pension Goes When You Die

Eligible Spouse

When we determine whether a spouse is eligible for a pension, de facto spouses are generally viewed the same way as legal spouses. The test applied is whether or not the person had a 'marital relationship' with a pensioner at the time they died. To be eligible, the spouse would have lived with a pensioner as their husband or wife on a permanent and bona fide domestic basis at the time the pensioner died and for three years before.

The use of the words 'husband' and 'wife' in the legislation mean that same sex partners **cannot** be eligible spouses.

The CSS Board may grant a spouse's pension even though the couple may not have lived together for three years if it considers that a permanent and bona fide domestic relationship existed. Evidence the Board would take into account when deciding whether to grant a spouse's pension includes the joint purchase of the home where the couple lived, a legal marriage between the couple, the birth or adoption of a child or the whole or substantial financial dependency of the remaining partner on the pensioner.

If the marital relationship commenced after the deceased became a CSS pensioner and after he or she reached age 60 and if the pensioner died within three (3) years of the relationship commencing, then the rate of the CSS pension payable to the eligible spouse is reduced on the basis of the number of days the relationship existed compared to three years. For example, if the relationship existed for one year before the

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (4.28 p.m.)—I can give a commitment on behalf of the government that the Commonwealth will collect and report information on the quantum of superannuation fees and charges. Details of which agency—that is, of which regulator: ASIC or APRA—should undertake this task are currently under consideration. There are arguments that it really should be ASIC, as the market regulator. On the other hand, APRA already does collect some data. We are currently examining which is the appropriate agency to undertake this task. We are also looking at, depending on which is the appropriate agency, whether they already have the power to do what we would be requiring—that is, to collect and report on the quantum of super fees and charges—and whether any legislative changes are required. That will be resolved as soon as possible. I should say in defence of the agreement with the Democrats—and in defence of the Democrats I am sure Senator Cherry will add to these comments—that that was not overlooked, that that was accepted as something that was appropriate. The difficulty is in finetuning—working out which agency is appropriate and what legislative changes might be necessary. The precise content as to how we will require this will be resolved as soon as possible. There is a clear commitment that the government will undertake to do this.

Senator CHERRY (Queensland) (4.30 p.m.)—The Democrats strongly view it as essential that there be full and comprehensive monitoring of fees and charges over the next five years minimum to get an idea of exactly what is happening in the marketplace. I thank the minister for her commitment, which we discussed in the lead-up to this debate. I also seek an assurance that the legislative changes that would be required to ensure those fees are collected will be en-

acted as soon as possible after those matters are resolved.

I ask for a second commitment on the amendments in schedule 2, which deal with interdependency. I seek an assurance from the minister that the government will be proceeding to move those amendments into its statutory funds, in particular the public sector funds and so forth, and that she will be making contact with the relevant portfolio ministers to ensure that we get this provision into the overall law today and then shift it into the other schemes as quickly as possible.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (4.31 p.m.)—Yes, I am able to give a commitment in response to Senator Cherry's question and to the committee that I will be asking my colleague ministers in other portfolios with responsibility for the Commonwealth superannuation schemes to review those to ensure consistency with these interdependency amendments. In fact, I can go a bit further and say that I already have letters on my desk awaiting signature, so in very short order letters will be sent to my colleagues to ask them to see whether or not the statutory schemes can be amended to achieve the same result as we are hopefully about to achieve here.

Senator SHERRY (Tasmania) (4.32 p.m.)—I want to remain with the issue of the reporting of fees and charges. Firstly, I am unclear about whether the assurance the minister has given includes commission payments. Secondly, I ask for an assurance from the minister that those fees will be publicly reported, whoever the regulator is. Thirdly—I suspect this is not going to happen—I ask for the establishment of a register so that we can actually see by individual provider what the fees, charges and commissions are. Obviously, we do not want the consumers' names, where that is relevant, but to be able

Ms Doran—No, they have not given us estimates of the numbers of members who might be in those categories.

Senator SHERRY—Do you know how they have gone about researching that information from an actuarial point of view? For example, have they done a representative survey of members?

Ms Doran—I do not believe they have done a survey of members. I would not like to comment on how they have formed their assumptions.

Senator SHERRY—This is an issue for the minister: Minister, does the government intend to stand by the commitment it gave in respect to the application of interdependent relationships to the PSS-CSS? Will it apply that principle to the PSS-CSS?

Senator Minchin—I am trying to recollect what public undertakings were given.

Senator SHERRY—It has been applied to defined contribution schemes, but it has not been applied to the existing PSS-CSS.

Senator Minchin—I would rather check formally on what has—

Senator SHERRY—It was Senator Coonan, I think, who made the announcement.

Senator Minchin—I am not sure that I have ever spoken publicly on the matter.

Senator SHERRY—No.

Senator Minchin—I think you are referring to Senator Coonan's commitment. She made a commitment to Senator Greig on 23 June 2005 to make inquiries into the progress of changes to all Commonwealth super schemes to allow payment of superannuation death benefits for persons in an interdependent relationship. The commitment was to make inquiries into the progress of changes. I have not had drawn to my attention an unconditional commitment by Senator Coonan or anybody else in authority to make those changes.

I like having a good relationship with the Commonwealth Employees Association. I have worked well with them on the changes that we have made; I want to have a constructive relationship. But this is quite a difficult area, as the officers have indicated. We are working assiduously to try to work out whether it is possible to do this and how. I hope you accept the integrity with which we are approaching this. But we cannot make an unconditional commitment to doing it, because we need to know what exactly is involved in making such a change.

Senator SHERRY—I am just trying to establish what the commitment is. On what you are saying, there is no unconditional commitment in this area.

Senator Minchin—No, there is not. There is a commitment to best endeavours to attempt to apply the principle to Commonwealth superannuation, but we have been up front in saying that it ain't easy.

Senator SHERRY—It ain't easy because of legal issues or because of cost issues?

Senator Minchin—A combination.

Senator SHERRY—I will just give you an example, Minister: it is not easy to apply the recent changes to family law to a DB fund—I understand that that is horrifically complex to apply to a DB fund.

Senator Minchin—You are right.

Senator SHERRY—Effectively, we are talking about the reversion of benefit.

Senator Minchin—Ms Campbell just wants to give more detail to the issues that we are working through.

Senator SHERRY—Fine. But my point to you would be that, in terms of the complexity of applying it to a DB fund, there is frankly nothing harder than the family law changes that went through.

Senator Minchin—They were certainly difficult. I agree with that.

Senator SHERRY—So I would submit that it is not an issue of complexity. There is certainly complexity in applying it, but I submit that the dominant issue would be cost.

Senator Minchin—I suspect you are right.

Ms Campbell—They are issues of complexity, as you have said, but there is the cost. We are still working that out to give that advice to government.

Senator SHERRY—So there is no commitment at this stage. That is where we are at.

CPSU Response to the Department of Finance and Administration Discussion Paper on Possible Changes to Superannuation Arrangements for Australian Government Employees, December 2004



This paper is structured in the same format as the Department of Finance and Administration *Possible changes to Superannuation Arrangements for Australian Government Employees* Discussion Paper December 2004.

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Part D – Other matters

Other matters arising from the review

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Issues raised during negotiations with DoFA but not addressed in their paper.

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2. Member Investment Choice in the PSS and CSS

<p>CPSU Position:</p> <p>Investment returns are critical for CSS members both when they are contributing members of the scheme and if they are preserved members. Therefore investment choice is a relevant issue for both CSS contributing and preserved members. For PSS contributing members, investment returns have no impact on the value of their defined benefit and therefore investment choice is not relevant. However, on preservation, the value on retirement is directly related to investment returns so at this point investment choice becomes extremely relevant. Recommendation: That investment choice is introduced for CSS members and preserved PSS members with one option being to remain with the current arrangements of no investment choice and “no negative crediting</p>	<p>DoFA Discussion Paper Conclusions:</p> <p>The CSS and PSS Boards have announced the introduction of a limited MIC and their proposal to introduce a fuller MIC range. The Department will continue to liaise with the Boards’ Executive during the development of the full MIC proposal.</p>	<p>CPSU Response</p> <p>The CPSU agrees in principle with this process; however, we note that the recent announcement of limited MIC has raised this as an issue for many CPSU members. There is now considerable pressure, particularly from CSS contributors, for wider MIC. CPSU seeks</p> <ol style="list-style-type: none"> 1) DoFA support and establishment of a realistic timetable for the introduction of MIC. 2) to be fully informed about all aspects of the development of this proposal. 3) DoFA or employer education awareness training regarding choice ‘risks’.
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3. Broadening eligibility for death benefits

<p>CPSU Position:</p> <p>Same-sex couples are excluded from CSS/PSS death benefit arrangements and have lesser superannuation entitlements when compared with opposite-sex couples in identical circumstances. Since 1999 State Governments have made significant progress in removing provisions from the state superannuation schemes that discriminate against same-sex couples. Extending the death benefit arrangements to same-sex couples incurs minimal costs. After 10 years the cost of annual pensions will have increased by \$200,000.</p> <p>Recommendation: That CSS/PSS death</p>	<p>DoFA Discussion Paper Conclusions:</p> <p>Because of the recent changes to the SIS Act and the outstanding changes to the SIS regulations a conclusion on this issue cannot be presented in the timeframe for this review. It will also be necessary to work with other relevant portfolios to ensure a consistent approach to eligibility for superannuation death benefits within the Australian Government schemes. However, the Government’s policy is to adopt an approach within the Australian Government schemes that is consistent with its recently announced policy to recognise interdependent relationships for</p>	<p>CPSU Response</p> <p>While the CPSU agrees in principle with this proposal, we are very concerned that the process outlined by DoFA has considerable potential to further delay the implementation of this important equity issue. CPSU seeks a realistic timetable for the proposed scheme changes to ensure consistency with the SIS Regulations as delay has the potential to be of further detriment to the dependants of CPSU members not currently eligible. Accordingly, we seek a commitment from the Government of retrospective eligibility for all affected CSS and PSS contributors from the effective date of the relevant changes to the SIS legislation. The CPSU seeks to be informed</p>
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benefit arrangements be extended to same-sex couples and their dependent children.

superannuation death benefits.

about all aspects of the development and implementation of this proposal.

Part B – Issues with possible outcomes

4. Limited Choice for a Certain Class of Australian Government Employees

Equity for new starters:

This is most relevant for temporary and casual staff and could be particularly complex for these categories of staff where individuals have such previous service. The issue of probationary staff is resolved by their clearly identified start date. There is the need to identify the impact on particular groups.

Residual accumulation scheme issues: Agencies to be encouraged to ensure that after 1 July 2005, staff who are eligible to receive 15.4% are promptly advised of their eligibility to join the PSS(AS).	DoFA Discussion Paper Conclusions: A certain select group of employees may effectively have the option to join the PSS accumulation plan or the PSS defined benefit plan. Every effort should be made by employers to ensure that those employees who have an option to join the PSS in respect of employment commencing before 1 July 2005 are aware of their options. In particular, those employees should be informed that if they don't join the PSS defined benefit plan and they are subsequently employed again after 1 July 2005, they may be required (or have the option) to join the PSS accumulation plan. Information should be provided to employers, by the PSS Board or the Department, to assist them with this responsibility.	CPSU Response There are two points for consideration here. Firstly, the CPSU agrees in principle with this proposal; however, the CPSU seeks to be fully informed about development of the information and its distribution to all Agencies and affected contributors. Secondly, as agreed during the consultations with DoFA, all Agencies are to be encouraged to ensure that after 1 July 2005, staff who are eligible to join the PSS(AS) and thereby receive 15.4% are promptly advised of their eligibility to join that scheme.
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5. Acceptance of Contributions for Spouses and Children of Members

CPSU Position: The only way for a CSS/PSS member to establish a spouse account is if they are already salary packaging	DoFA Discussion Paper Conclusions: Provided it is possible to address the risks for the Australian Government that have been identified as related to the acceptance of additional types of contributions into the PSS and the CSS, there would appear to be a case for allowing the scheme trustees to accept spouse and child contributions. Eligible spouse contributions could be accepted in respect of primary scheme members of the CSS and the PSS defined benefit plan provided they are not a preserved benefit	CPSU Response: The CPSU seeks to have the same provision applying to CSS and PSS members as would apply under the SIS legislation. CPSU agrees in principle with this proposal
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22 September 2005

The Hon Mal Brough
Minister for Revenue and Assistant Treasurer
Parliament House
Canberra ACT 2600

COPY

Dear Minister

I am writing on behalf of a constituent within my electorate who has made representation regarding the lack of recognition of 'interdependency relationships' within the Commonwealth superannuation schemes.

Last year's changes to the *Superannuation Industry (Supervision) Act* to define 'interdependency relationship' in section 10A of the Act did not apply to superannuants in Commonwealth superannuation schemes such as ComSuper.

I understand that this 'interdependent category' which would allow same-sex couples the same benefits as heterosexual couples does not apply to the Commonwealth's own employees whose superannuation is regulated by the *Superannuation Act 1976* and *Superannuation Act 1990*.

I am aware that you are currently undertaking public consultations to refine the meaning of 'interdependency relationship' by way of draft regulations. Could you advise when or if the Government will extend the benefits to partners of pensioners in 'interdependent relationships' within ComSuper schemes?

Yours sincerely

Tanya Plibersek MP
Member for Sydney
Shadow Minister for Work and Family
Shadow Minister for Childcare and Youth
Shadow Minister for Women

COPY



SENATOR THE HON NICK MINCHIN

Minister for Finance and Administration
Deputy Leader of the Government in the Senate

Ms Tanya Plibersek MP
Member for Sydney
422 - 424 Crown Street
SURRY HILLS NSW 2010

26 NOV 2005

Dear Tanya,

I am writing about your letter of 22 September 2005 to the Minister for Revenue and Assistant Treasurer, the Hon Mal Brough MP, on behalf of a constituent in relation to the recognition of interdependency relationships in the Australian Government superannuation schemes. Your letter was referred to me, as I am responsible for policy issues concerning the Australian Government civilian superannuation schemes.

A person in an interdependency relationship with a member of the new Public Sector Superannuation Accumulation Plan (PSSAP) may be eligible for the payment of death benefits from that scheme. Death benefits are paid to a dependant, who can include a person in an interdependency relationship, or legal personal representative mentioned in a valid binding member nomination. Where there is no nomination the scheme trustee, the PSS Board, will determine those dependants or legal personal representative to receive the benefit. The PSSAP applies to new Australian Government employees who commenced employment on or after 1 July 2005.

The closed Australian Government defined benefit civilian schemes, that is, the Commonwealth Superannuation Scheme and the Public Sector Superannuation Scheme pay death benefits to eligible spouses and children. The issue of extending eligibility for death benefits in those schemes to persons in an interdependency relationship with a scheme member is being examined. However because of the design of these schemes a number of technical matters and also Budgetary considerations need to be fully examined before any decision could be made.

Please thank your constituent for taking the time to raise this matter.

Yours sincerely

Nick Minchin

copy sent 12/12/05



Office of
SENATOR THE HON NICK MINCHIN
Minister for Finance and Administration
Leader of the Government in the Senate

Mr John Challis

8 - FEB 2006

[Details removed]

Dear Mr Challis

Thank you for your letter of 17 January 2006 to the Minister for Finance and Administration, Senator the Hon Nick Minchin, concerning the recognition of interdependency relationships in the Australian Government civilian superannuation schemes. The Minister has asked me to reply on his behalf.

While amendments to the *Superannuation Industry (Supervision) Act 1993* broadened the category of people who can receive superannuation benefits on the death of a scheme member, it was not mandatory for schemes to pay benefits to this extended range of people. Whether schemes would pay to this extended range of people was left as a decision for each scheme.

Extending eligibility to reversionary benefits in the closed defined benefits schemes (the Commonwealth Superannuation Scheme and Public Sector Superannuation Scheme) is a more complex matter than for accumulation superannuation funds, which are the more common superannuation funds. As such, the issue is still being examined.

Whilst this work will be completed as quickly as practicable, I am unable to provide you with a timetable for when a decision will be made.

On behalf of the Minister, thank you for taking the time to write with your concerns.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'David Wawn'.

David Wawn
Chief of Staff



Office of
SENATOR THE HON NICK MINCHIN
Minister for Finance and Administration
Leader of the Government in the Senate

Mr John Challis

- 6 APR 2006

[Details removed]

Dear Mr Challis

Thank you for your e-mail of 13 March 2006 to the Minister for Finance and Administration, Senator the Hon Nick Minchin, concerning the recognition of interdependency relationships in the Australian Government civilian superannuation schemes.

The Minister has also received your letters of 25 January 2006 to the Prime Minister and the Minister for Revenue and Assistant Treasurer. The Minister has asked me to reply on his behalf and I apologise for the delay in responding.

As advised previously, extending eligibility for reversionary benefits in the Australian Government civilian superannuation schemes is a complex matter. As such, the issue is still being examined.

The Minister appreciates the time you have taken to bring your views to his attention.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'David Wawn', written over a light blue horizontal line.

David Wawn
Chief of Staff

[Details removed]

May 1st. 2006.

Senator Nick Minchin,
Minister for Finance and Administration,
Parliament House,
CANBERRA.

Dear Senator Minchin,

Mr.Wawn's dismissive letter of April 6th. ignored the main point of my e=mail of March 13th., namely the wrong information you gave to the Senate hearings on Feb.14th.2006.about your knowledge of Senator Coonan's commitment that the 'interdependent relationship provisions' would be applied as soon as possible to all Commonwealth superannuation schemes.

The attached letter from Senator Coonan's successor as Assistant Treasurer is further confirmation that Senator Coonan did inform you of the commitment she gave the Senate and asked you and the other Ministers concerned to make the necessary changes.

I'm sure that Senator Coonan is embarrassed and disappointed that after two years the only response your staff can give is that " the issue is a complex matter which is still being examined".

I propose to forward this correspondence to the the HREOC enquiry into Federal and State discrimination against same sex couples.

Yours truly,

John Challis.

copy; Senator Coonan,
Senator Sherry,
Mr.Warren Entsch, MP.
Senator Allison.



OFFICE OF THE HON PETER DUTTON MP
THE MINISTER FOR REVENUE AND ASSISTANT TREASURER

Mr J Challis

21 MAR 2006

[Details removed]

Dear Mr Challis

Thank you for your letter of 17 January 2006 to the former Minister for Revenue and Assistant Treasurer concerning the recognition of interdependency relationships in the Australian Government superannuation schemes. The Minister has asked me to respond to you. I apologise for the delay in responding.

As you are aware, on 22 June 2004 the then Minister for Revenue and Assistant Treasurer, Senator the Hon Helen Coonan, gave an undertaking in the Parliament to write to her colleagues with ministerial responsibility for the Commonwealth superannuation schemes to review those schemes to ensure their consistency with the Government's regulations recognising interdependency relationships.

In fulfilment of this undertaking, Senator Coonan subsequently wrote to the three responsible ministers requesting that they review superannuation arrangements within their portfolios to this end. In line with the practice of previous governments, it is not the custom to release copies of correspondence between government ministers to members of the public.

Portfolio responsibility for the Australian Government superannuation schemes rests with the Ministers for Defence (in respect of the military schemes), Finance and Administration (in respect of the civilian schemes), and the Attorney General (in respect of judges). Any enquiries in relation to this issue should therefore be directed to the responsible Minister/s.

I trust this information will be of assistance to you.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Louise Ahern'.

Louise Ahern
Adviser

[Details removed]

May 22 nd. 2006.

The Convener,
Same Sex : Same Entitlements Enquiry,
Human Rights Unit, HREOC.

POLICIES OF THE GOVERNMENT AND OF THE OPPOSITION.

Dear Sir,

I submit the attached correspondence to the enquiry.

The letters from MR.BEAZLEY show that the Labor Party now has an explicit policy and programme for removing discrimination against same sex couples from all Commonwealth legislation and is prepared to consider some form of civil union as a means of recognising same sex couples.

The letter from MR RUDDOCK, replying on behalf of the Prime Minister, contains laudable sentiments about removing discrimination but there is no consistent policy or programme for systematically removing discrimination from Commonwealth legislation. In fact the Government in December 2005 introduced a new piece of discriminatory legislation in the SUPERANNUATION CONTRIBUTION SPLITTING LEGISLATION - amendments to include same-sex couples were explicitly rejected by the Government.

I give the enquiry my full permission to make public or include any of this correspondence in its final report.

Yours truly,


JOHN CHALLIS.



[Details removed]

December 6th. 2005

Hon. Kim Beazley, MP,
Leader of the Opposition,
Parliament House,
CANBERRA

RE: COMSUPER ENTITLEMENTS : SAME SEX PARTNERS.

Dear Mr. Beazley,

I was disappointed not to receive a reply to my letter of September 15th. asking for confirmation of your personal commitment to implement Labor's policy and programme for removing discrimination against same sex couples.

No doubt you will have noticed newspaper reports that the new Civil Partnership Act of Britain's Labor Government came into force yesterday, granting the same legal rights, including pension and inheritance rights, to same sex couples as are enjoyed by heterosexual married or de facto couples.

I would be grateful if you advise me whether the Australian Labor Party has studied this legislation in detail and will you, if elected, pass similar legislation; will you make the introduction of such legislation part of your policy for the election.

I look forward to a favourable and positive response.

Yours truly,

John Challis.



The Hon Kim C Beazley
LEADER OF THE OPPOSITION

19 JAN 2006

Mr John Challis

[Details removed]

Dear Challis

Thank you for contacting me about your concerns regarding same sex partners and 'Comsuper' entitlements.

Labor is committed to delivering to same-sex couples equivalent legal status to heterosexual de facto couples. To do this, Labor would audit of all Commonwealth legislation, similar to exercises already conducted by many State and Territory Governments.

The purpose of the audit would be to identify where, among the thousands of pieces of Commonwealth legislation, discrimination against same-sex couples exists. Labor will then amend legislation to remove discrimination against same-sex couples in all areas such as taxation, social security, superannuation, immigration and others.

Thank you again for taking the time to write to me about this matter.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Kim C Beazley'.

KIM C BEAZLEY MP

[Details removed]

Jan 31st. 2006

The Hon. Kim Beazley,
Leader of the Opposition, Parliament House,
CANBERRA ACT 2600.

RE: COMSUPER ENTITLEMENTS : INTERDEPENDENT RELATIONSHIPS

Dear Mr. Beazley,

Congratulations and thanks for the clear and concise statement of Labor's policy and programme for removing all legislative discrimination against same sex couples, contained in your letter of 19th. January.

I look forward to seeing this policy included in your policy statement at the next election. May I suggest that the coming Mardi Gras Festival, when the issue of a form of civil partnership for same sex=couples will be aired, will provide an opportunity for you to publicize your policy and win support from liberal minded voters. The Prime Minister recently used this issue to express his support for removing discrimination against same=sex couples, although as the Government's record on Public Sector superannuation indicates, his sincerity about this matter is doubtful.

As you are aware, the Government announced in June 2004 that it was carrying out an audit of Public Sector Super Funds with a view to extending the interdependent relationship provisions to such funds as Comsuper, but after 18 months the matter is still "being examined". In view of Labor's commitment to remove discrimination against same =sex couples, will you ensure that your Shadow Ministers responsible for superannuation and anti-discrimination press the Government as vigorously as possible on this matter by questions in Parliament.

May I also suggest that Labor does not have to wait until it is in office to begin working on its audit of legislation needing to be amended to remove discrimination. Will you immediately appoint a Shadow Minister to have responsibility for starting to prepare this audit so that it is as complete as possible by the time Labor comes to office and it can be implemented without delay. This was the kind of work that Mr. Whitlam and his shadow ministers did while preparing for office.

I'd be grateful if you would let me know the name of this Shadow Minister when you have made this appointment.

Yours truly,



John Challis.



Received 10/5/06

The Hon Kim C Beazley
LEADER OF THE OPPOSITION

Mr John Challis

[Details removed]

Dear Mr Challis

Thank you for writing to me seeking clarification on my position on the rights of same sex couples.

Labor is currently pursuing a range of strategies to overcome discrimination and homophobia. In the coming months, my colleague, Nicola Roxon, Labor's Shadow Attorney-General Nicola Roxon will introduce a Private Members Bill to prohibit discrimination, harassment and incitement to violence on the grounds of sexuality or gender identity. We are also undertaking a process of consultation with a range of community groups on the best model for formal recognition of same sex relationships, such as civil unions. Your views or comments on this issue are most welcome.

Labor is committed to delivering to same-sex couples equivalent legal status to heterosexual de facto couples. In Government Federal Labor would audit all Commonwealth legislation to identify and remove remaining areas of discrimination against people in same sex relationships. We would then amend legislation where necessary to remove discrimination against same-sex couples in, for example, areas such as taxation, social security, superannuation, immigration, etc. This process follows the reforms undertaken by Labor governments in many states.

In the meantime we will continue to hold the Government to account for the small commitments it has made to same sex couples, but not acted upon. For example, Liberal Senator Nick Minchin is still dragging his feet on the Government's previous promise to end discrimination against same sex couples in the Public Sector Superannuation (PSS) Scheme. We won't let the Government get away with such procrastination.

Labor is committed to equality and fairness for the gay and lesbian community.

Your views are important to me and once again, I thank you for taking the time to write to me about this matter.

Yours sincerely

A handwritten signature in black ink, appearing to be 'KCB', written over a series of horizontal lines.

KIM C BEAZLEY MP

[Details removed]

February 10th. 2006

The Rt.Hon. John Howard,
Prime Minister,
Parliament House,
CANBERRA.ACT.2060

Dear Prime Minister,

I recently received from the Leader of the Opposition the attached clear and concise statement of Labor's policy and programme for "delivering to same-sex couples equivalent legal status to heterosexual de facto couples" by removing all discriminatory provisions from Commonwealth legislation.

I'd be grateful if you would advise me whether your Government has a similar policy and programme. You have often stated that you supported removing discrimination against people in same sex relationships, but, what is your Government doing to remove the many discriminatory clauses in Commonwealth legislation?

I look forward to receiving a positive reply from you .

Yours truly,

John Challis.



ATTORNEY-GENERAL
THE HON PHILIP RUDDOCK MP

06/3576
MC06/3198

27 APR 2006

[Details removed]

Dear Dr Challis

I refer to your letter of 10 February 2006 to the Prime Minister, the Hon John Howard MP, regarding rights for same sex couples. Your correspondence was referred to me for reply as family law issues fall within my portfolio responsibilities.

The Australian Government condemns discrimination in all its forms, including discrimination on the basis of sexuality. The Government believes that each of us should have the opportunity to participate in the life of our community and to experience the benefits and accept the responsibilities that flow from such participation without fear of discrimination. The Government is committed to maintaining the Australian traditions of tolerance and respect for diversity, which are the foundations of one of the world's most successful multicultural societies.

For example, Government amendments to superannuation law since 1999 have allowed trustees to accept binding death benefit nominations from members so that death benefits are payable to a person nominated appropriately where that person is a dependant of the deceased member or his or her personal representative. In 2004, the Government expanded the definition of dependant, and thus the range of potential beneficiaries of tax-free superannuation death benefits, to include people in an 'interdependency relationship'. This will benefit, amongst others, people in same sex relationships who may not otherwise have met the definition of dependant.

Further, in the area of migration, a person who shares an interdependent relationship with an Australian citizen or permanent resident is able to apply for an interdependency visa to allow them to reside in Australia. This includes people in same sex relationships.

The Government has also agreed to extend certain conditions of service entitlements to members of the Australian Defence Force in interdependent relationships, which will include members with same sex partners.

In the area of industrial relations, the Commonwealth *Workplace Relations Act 1996* contains provisions that prohibit an employer from terminating a person's employment on various specified grounds, including because of their sexual preference. Complaints of unlawful termination on the basis of sexual preference can be lodged with the Australian Industrial Relations Commission (AIRC). In addition to the AIRC, the Human Rights and Equal Opportunity Commission (HREOC) has power to inquire into and conciliate complaints of discrimination on the ground of sexuality in the employment context. HREOC also has the power to inquire into any Commonwealth act or practice which may be inconsistent with specified human rights and to report to me on its findings and recommendations. Such reports are then tabled in Federal Parliament.

All States and Territories of Australia also prohibit discrimination on the grounds of sexual preference in a range of areas of public life, including education and employment. The majority of States and Territories also prohibit harassment on the ground of sexual preference. The Government believes that other matters relating to same sex couples, such as property disputes on the breakdown of a relationship, are properly a matter for the States and Territories.

The Government believes that the existing measures, in combination with State and Territory laws that recognise same sex relationships, create a legal and policy framework that adequately addresses discrimination on the basis of sexuality.

However, the Government is aware that not all distinctions on the basis of sexual preference constitute discrimination in international human rights law. The Australian Government believes overwhelmingly in the institution of marriage and, in 2004, acted to define in legislation the common understanding in our community of marriage which is 'the union of a man and a woman, to the exclusion of all others, voluntarily entered into for life'. The Government believes that the majority of the Australian community agree with that definition.

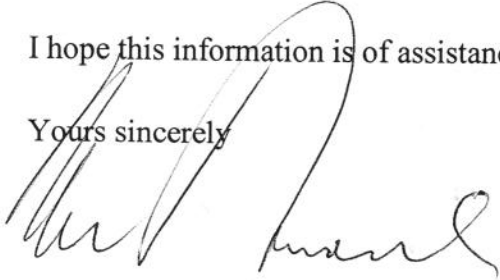
The Government does not believe that same sex relationships have the same character as marriages and therefore considers that they should not be given the same legal and community status as marriage. The Government believes it is important to signal its strong commitment to the institution of marriage as one of the bedrock institutions of society and affirm in legislation the law as it has always been understood. That is why the Government does not have any plans to introduce any civil union scheme at Commonwealth level although it is open to individual States or Territories to do so.

The Government further believes that it is in the best interests of children where possible to have the care and protection of a mother and a father. The Government has previously moved to legislate in a number of areas to protect the interest of children in this regard.

The Government's inclusion of a definition of marriage in the *Marriage Act 1961* is not an expression of discrimination. The changes do not seek to prevent people from entering into same sex relationships. The Government supports tolerance and freedom from discrimination for individuals on the grounds of sexual preference. The 2004 amendments are about the special status of marriage.

I hope this information is of assistance to you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Philip Ruddock', written over the 'Yours sincerely' text.

Philip Ruddock

[Details removed]

12th.May 2006

The Hon.Philip Ruddock, M.P.,
Attorney-General,
Parliament House,
CANBERRA.

Dear Mr.Ruddock,

Thank you for your lengthy letter of April 27th. setting out the laudable sentiments of the Government regarding discrimination against same-sex couples and citing actions already taken to remove some instances of this discrimination. However, one gets the impression that there is no consistent policy which is applied uniformly by all Ministers; for example, would you please explain why Senator Coonan's explicit exclusion of same-sex couples from the Superannuation Splitting law, as recently as last December, does not merit the condemnation of discrimination on the basis of sexuality contained in your letter.

You mention that in 2004 the Government recognised same sex -relationships (renamed "interdependent relationships") in regard to superannuation death benefits, but you omitted to mention that the Commonwealth's own superannuation schemes still discriminate against people in interdependent relationships, as the attached Comsuper newsletter demonstrates.

On June 22nd. 2004, Senator Coonan gave a commitment to the Senate that the Government would revue its statuory superannuation schemes to make them consistent with the Government's new policy of recognising interdependent relationships in superannuation matters.I understand that Senator Coonan wrote to you asking you to effect these changes in relation to judicial schemes. I'd be grateful if you could advise me have the superannuation schemes in your portfolio been amended to recognise people in interdependent relationships, and if not, when do you expect these changes to be made.

I'm pleased to learn from your letter that the Government has dropped its opposition to the ACT Government's plan to introduce a civil union scheme, the purpose of which is not to weaken the instisute of marriage but merely to give same-sex relationships the same legal rights as de facto heterosexual couples.

I shall include this correspondence in my submission to the current HEROC enquiry into State and Federal legal discrimination.

I look forward to your response to the two matters I have raised with you in this letter.

Yours truly,

John Challis.



Tanya Plibersek MP

Member for Sydney

*** MEDIA RELEASE ***

12 December, 2005

SUPER SPLITTING – SAME SEX COUPLES MISS OUT

Same sex couples have been excluded from the benefits of the new Superannuation Splitting Law that passed parliament last week.

Liberal Minister Senator Coonan confirmed same sex couples were not covered by the super splitting provisions.

Senator Nick Sherry attacked the Liberal Government for the exclusion.

"Not only have same sex couples been deliberately excluded, a false story was given to the media by Liberal sources that they would be included".

Labor and Democrat amendments to include same-sex couples were voted down by the Liberal/National majority in the Senate.

The Superannuation Splitting will allow splitting of contributions between married couples when in an "accumulation" fund.

A benefit results in two possible areas –

- Increases the eligible Termination Payment (ETP), currently \$129, 751 below which the 15 p.c. exit tax is not paid to \$259, 502, and/or
- Increases the Retirement Benefit Limit (RBL), currently \$1.3 million above which penalty rates of super tax apply to \$2.6 million.

Tanya Plibersek MP, Member for Sydney, said, "This government has no commitment to ending discrimination for the LGBT community. Last year, the Government was forced to extend some superannuation rights to same sex couples, but this time refused to vote for Labor's amendments."

"This illustrates the arrogance of the Howard government and their piecemeal approach to the LGBT community."

A split that can benefit you and your spouse

From today, you have a golden opportunity to cut the tax you will pay in retirement.

Although I have a large amount in my super fund, my spouse has very little. We're keen to split contributions to a spouse account. Do we qualify and how do the new rules work?

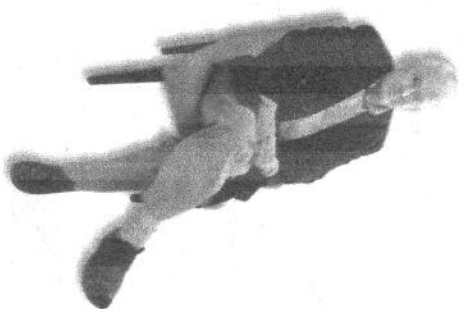
The option to split superannuation contributions with a spouse is available to married couples and those in de facto relationships (although same-sex couples are, unfortunately, not included). To qualify, the spouse who is to receive the split contributions must be younger than 65 and not permanently retired from the workforce. Your super fund must also be prepared to participate and assist in moving the contributions to a spouse account.

Why can't I just tell my employer to pay the contributions pre-tax into my spouse's super account?

The Government and the Australian Taxation Office have decided that the most efficient way to implement the change is for super funds to arrange the transfer at the end of each financial year. This avoids any administrative burden on employers having to check whether the spouse is eligible for the contributions and it also reduces the number of super fund transactions to one per spouse at the end of the financial year.

How much can I split with my spouse?

The rules are generous and cover all contributions made from today. You can ask for up to 85 per cent of tax deductible contributions (the 9 per cent of your salary your employer pays in, as well as any money that you salary sacrifice into super) and 100 per cent of non-deductible contributions (so any



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DIXON

personal contributions made after tax) to be transferred to the spouse account. The 15 per cent difference is explained by the 15 per cent contributions tax levied on tax-deductible contributions. This ensures tax has been allowed for before the money is transferred to the spouse account.

What about earnings that accrue on the contributions before the split is made?

It appears that these cannot be split with a spouse. So the sooner the transfer is made after the end of each financial year, the greater the benefit to the recipient.

I called my super fund seeking information and the call centre was not able to tell me whether the fund will be offering this benefit.

This is the situation with many funds at the



Picture: TANYA LAKE

moment due to uncertainty about how the system will work. But it is likely to change quickly as, if a fund does not offer the facility, members wanting to split future contributions with a spouse will move to a fund that does offer the option. Hopefully, your fund will be able to announce its decision early this year. There is no tearing hurry though as the first actual transfers cannot occur until after July 1, 2006 (even though these transactions will be for money paid in from today).

Will the benefits to me be worth the additional complications involved in spouse super splitting?

It will certainly be worth it in cases where, without splitting, the spouse's super balance is unlikely to reach the \$129,751 (indexed annually) that can be withdrawn from super after age 55 without any tax payment.

Otherwise, you will simply waste this allowance. Plus equalising super account balances will reduce income tax burdens on allocated pensions at retirement and allow someone who is approaching the maximum that can be held within super and receive concessional tax treatment to stash money in their spouse's fund. The new arrangements introduce more flexibility into the system.

One last question. Does my spouse have to continue working till 65 to be eligible to receive my split super contributions?

Definitely not. Non-working spouses will be able to declare that they have not permanently retired from the workforce and be eligible for contributions splitting until they reach 65.

comments@dixon.com.au