

[Details removed]

June 19th. 2006.

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

COMMONWEALTH SUPERANNUATION SCHEMES.

Dear Sir,

Further to my submission of May 22nd., I enclose copies of letters which I have just obtained from Federal Treasury under FOI.

The letters confirm that since June 22nd. 2004 it has been " Government policy to recognise interdependent relationships (including same-sex couples) for superannuation death benefits" and the then Minister responsible for Superannuation policy, Helen Coonan, explicitly asked the relevant Ministers, Minchin, Ruddock and Brough , to take action to ensure that the superannuation funds within their portfolios are consistent with the Government's new policy.

I submit that the question your enquiry should investigate is why, after 2 years, these Commonwealth funds still discriminate against same sex couples and there does not seem to be any indication that the relevant Ministers are trying to resolve the matter.

The letter from Senator Coonan to the Attorney General, Philip Ruddock, is particularly relevant to the excellent submission made by the Judicial Conference of Australia who do not seem to be aware that it is already Government policy to remove the discrimination they are complaining of.


COMMONWEALTH PUBLIC SERVICE PRACTICE:

I attach for your information a copy of as letter I received from Dept. of Foreign Affairs and Trade in 1999 in response to an enquiry about their policy and practises regarding entitlements for same sex couples.

If the long established practice and policy of the Australian Public Service is to recognise same sex couples for a whole range of entitlements, surely it is inconsistent, illogical and highly discriminatory for the Government not to recognise same sex couples for Commonwealth superannuation entitlements.

FINANCIAL PLANNING :

My partner and I are ALREADY suffering serious financial disadvantages because of the present Comsuper arrangements regarding death benefites. In order to ensure that my partner has an adequate income should I predecease him, we have to keep a large ammount of capital tied up to provide for his future needs. If we knew for certain that he would receive 62% of my pension should I predecease him, as heterosexual partners do , we could spend some of this capital to meet present day needs.

Yours truly,

John Challis.





**MINISTER FOR REVENUE AND
ASSISTANT TREASURER**

Senator the Hon Helen Coonan

PARLIAMENT HOUSE
CANBERRA ACT 2600

Telephone: (02) 6277 7360
Facsimile: (02) 6273 4125

assistant.treasurer.gov.au

22 June 2004

Senator the Hon Nick Minchin
Minister for Finance and Administration
Parliament House
CANBERRA ACT 2600

Nick
Dear Minister

Definition of dependent for superannuation death benefits

I am writing to request that the superannuation arrangements within your portfolio be reviewed with a view to ensuring consistency with the Government's policy to recognise interdependent relationships for superannuation death benefits.

As you know, the Government has announced that it will expand the relevant definitions of dependant in the *Income Tax Assessment Act 1936* and the *Superannuation Industry (Supervision) Act 1993* to include interdependency relationships. A similar amendment will also be made to the *Retirement Savings Accounts Act 1997* to ensure consistency. These changes will broaden the range of people who can receive a superannuation death benefit tax free.

For example, the definition will allow two elderly sisters who reside together and are interdependent to receive each other's superannuation benefits tax free. Similarly, an adult child who resides with and cares for an elderly parent will be eligible for tax-free superannuation benefits upon the death of the parent. In addition, same-sex couples who reside together and are interdependent but who may not be recognised under the current rules will be eligible to receive superannuation benefits tax free upon the death of their partner.

The definition being proposed draws on the *Property (Relationships) Act 1984 (NSW)* and is based on the concept of a 'close personal relationship' between two people who live together where one or the other provides financial support as well as 'domestic support' and 'personal care'. These terms have established judicial meaning.

The amendment will also provide for disabled persons to be considered as interdependent with another person where there is a close personal relationship but the remaining elements cannot be satisfied because of the disability.

Any inquiries from your office can be directed to [Name withheld]

[Details removed]

In addition, officers in your department may wish to speak directly with
[Details removed]

[Name withheld]

This letter has been copied to the Treasurer and the Prime Minister.

Yours sincerely



HELEN COONAN



**MINISTER FOR REVENUE AND
ASSISTANT TREASURER**
Senator the Hon Helen Coonan

PARLIAMENT HOUSE
CANBERRA ACT 2600

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22 June 2004

The Hon Mal Brough MP
Minister for Employment, and
Minister Assisting the Minister for Defence
Parliament House
CANBERRA ACT 2600


Dear Minister

Definition of dependent for superannuation death benefits

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Yours sincerely



HELEN COONAN



**MINISTER FOR REVENUE AND
ASSISTANT TREASURER**
Senator the Hon Helen Coonan

PARLIAMENT HOUSE
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Telephone: (02) 6277 7360
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22 June 2004

The Hon Philip Ruddock MP
Attorney General
Parliament House
CANBERRA ACT 2600


Dear Attorney General

Definition of dependent for superannuation death benefits

I am writing to request that the superannuation arrangements within your portfolio be reviewed with a view to ensuring consistency with the Government's policy to recognise interdependent relationships for superannuation death benefits.

As you know, the Government has announced that it will expand the relevant definitions of dependant in the *Income Tax Assessment Act 1936* and the *Superannuation Industry (Supervision) Act 1993* to include interdependency relationships. A similar amendment will also be made to the *Retirement Savings Accounts Act 1997* to ensure consistency. These changes will broaden the range of people who can receive a superannuation death benefit tax free.

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Yours sincerely



HELEN COONAN



**FOREIGN
AFFAIRS AND
TRADE**

Staffing Branch

29 March 1999

Dr John Challis

[Details removed]

Dear Dr Challis,

I refer to your letter dated 12 March 1999 to the Secretary of the Department of Foreign Affairs and Trade concerning entitlements of partners of departmental officers. The Secretary has asked me to reply on his behalf.

Consistent with Australian Public Service practice, the definition of 'spouse' includes de facto relationships, including same sex partners. Recognition of and thus entitlements for a spouse are automatic where the spouse normally resides with the officer.

I hope this information is of use to you.

Yours sincerely

Doug Chester
Assistant Secretary
Staffing Branch

[Details removed]

The Secretary,
Department of Foreign Affairs & Trade,
CANBERRA.

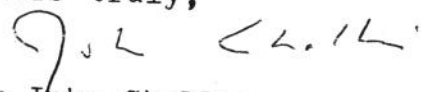
Dear Secretary,

I am carrying out a survey of the policy and practices of Commonwealth Government Departments in relation to granting entitlements to homosexual partners of staff members.

I'd be grateful if you could advise me what is the policy and practice of your department in this regard. Is it established practice to pay the same airfares, travel allowance, living away from home allowance, home leave and other entitlements to homosexual partners as would normally^{be} paid to wives or heterosexual de facto partners of staff members.

I'd appreciate your co-operation in this survey.

Yours truly,


Dr. John Challis.