Putting more members at risk

Submission by the Australian Council of Trade Unions to the Senate Economics Legislation Committee inquiry into the Treasury Laws Amendment (Putting Members' Interests First) Bill 2019

ACTU Submission, 15 July 2019
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Introduction

Since its formation in 1927, the ACTU has been the peak trade union body in Australia. There is no other national confederation representing unions and their members. The ACTU consists of affiliated unions and State and regional trades and labour councils. There are currently 43 ACTU affiliates. They have approximately 2 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

The Morrison Government's *Treasury Laws Amendment (Putting Members' Interests First) Bill 2019* is a flawed piece of legislation which would take a sledgehammer to the insurance of workers under the age of 25 and workers with superannuation account balances below $6,000. This Bill is a carbon-copy of the provisions of the 2018 *Protecting Your Superannuation Package* which the Government failed to pass through the Senate. These measures were not supported by the majority of the Senate Crossbench because they are hugely disruptive and problematic.

The *Putting Members' Interests First* bill would:

- Remove the ability for superannuation funds to provide default insurance to members under the age of 25;
- Remove the ability for superannuation funds to provide default insurance to members with account balances below $6,000; and,
- Have provisions which commence before the reporting date of this committee.

The ACTU believes that this bill will cause damage to workers under 25 and with low account balances who need insurance and undermine group insurance in Australia.

The concerns outlined in this submission must be addressed or the Bill should be opposed and the regulator should perform its duties in this area.

Commencement

The Bill would commence on 1 October 2019, with notification obligations beginning 1 August 2019. The Senate Economics Committee Inquiry into this Bill reports on the 15th of October 2019. This Bill would have enormous impacts upon workers' insurance arrangements and affect hundreds of thousands of workers holding superannuation accounts.

This Bill's commencement should be delayed, lest it impose retrospective obligations onto funds and onto members wishing to have uninterrupted insurance coverage.

Insurance through superannuation

Insurance is necessary in superannuation as it offers workers an affordable and comprehensive insurance package which they might not otherwise take up or be able to afford. Having insurance means that if the worst should happen to a worker, or if they are unable to work due to a permanent acquired disability, they and their families are not left destitute. Insurance through superannuation was part of the original bargain for superannuation that unions fought for prior to its universal establishment. Too many workers are injured at work, and no one should die at work. Insurance through superannuation provides for workers and their families should the worst happen. Its benefit is amplified where workers are injured outside of work and are unable to return.

The benefits of group insurance mean that workers are able to collectivise and decrease their individual insurance premiums. Superannuation funds use group insurance to minimise costs for the members, and more affordably insure high-risk members.

They can't just opt in

Default insurance works because everyone is covered despite their circumstances in the same way. Insurers will look at those who decide to opt-in differently if insurance becomes a choice. If a young person opts-in insurers call that 'self-selecting' which prompts the insurer to either deny coverage or require underwriting.

Workers may be subject to health checks before they are able to commence their insurance coverage. Those in high-risk jobs may not be eligible to receive insurance. Rice Warner reviewed Cbus's insurance offerings and found that their cohort would not have access to insurance if it weren't for Cbus's default policy.[1]

Workers in high-risk industries

Case study 1: Young worker permanently injured at work

A 22 year old fourth year carpentry apprentice suffered a prolapsed vertebrae and a severe neck strain while on site in NSW, March 2012.

The Government has blatantly ignored workers in industries with high rates of injury, death and illness. Superannuation was founded with insurance attached to reflect the unfortunate reality that workers are often injured and killed at their workplace. Life insurance is also offered so that dependents are not left destitute by the loss of a family member.

From 2003 to 2016 more than 3,400 workers have lost their lives on the job. Of those, 335 were under the age of 25.[2] More than 27% of workers under the age of 25 are in a high-risk job.

[1] Cbus, 2018, Submission to Senate Economics Legislation Committee Inquiry into Treasury Laws Amendment (Protecting Your Superannuation Package) Bill 2018, Melbourne: Cbus
[2] Safe Work Australia, 2016. *Work-related Traumatic Injury Fatalities, Australia,* Canberra: Commonwealth of Australia.

Figure 2 shows that young people are highly represented in industries with high-risk jobs. People aged under 25 make up 15.3% of the workforce and suffer injuries at work. Case studies included in this submission show that young people have suffered horrific injuries or have been killed at work. The proposal for the Government will mean it is less likely these workers will be covered.

Case study 2: 16-year-old killed at work
On the 15th of October 2003 a 16-year-old labourer was working atop a warehouse at Eastern Creek, NSW. The teenager lost his footing and fell through safety mesh 11.25 meters suffering severe injuries. He died shortly after arriving to hospital.

This Bill, if passed, will cancel the insurance of police officers, paramedics, construction workers, truck drivers, agricultural workers, forestry workers, prison officers, nurses, and healthcare workers (including home care, disability and aged care workers). Each of these workers faces a higher risk of injury, illness or death at work than many others. First responders, including police, paramedics, hospital staff, community and disability workers, and security officers are most likely to be exposed to workplace violence.[3] Removing default insurance for front-line workers which covers accident, injury and post-traumatic stress disorder would be unacceptable.

This Bill will devastate insurance coverage for those under the age of 25. This will cause insurance premia to spike for those who prudently opt in, as well as for existing members within the group insurance plan. As the intent of the law surmises, young people are less engaged than other cohorts in their superannuation choices and so it is of prime importance that the law reflects the best interests of young people.

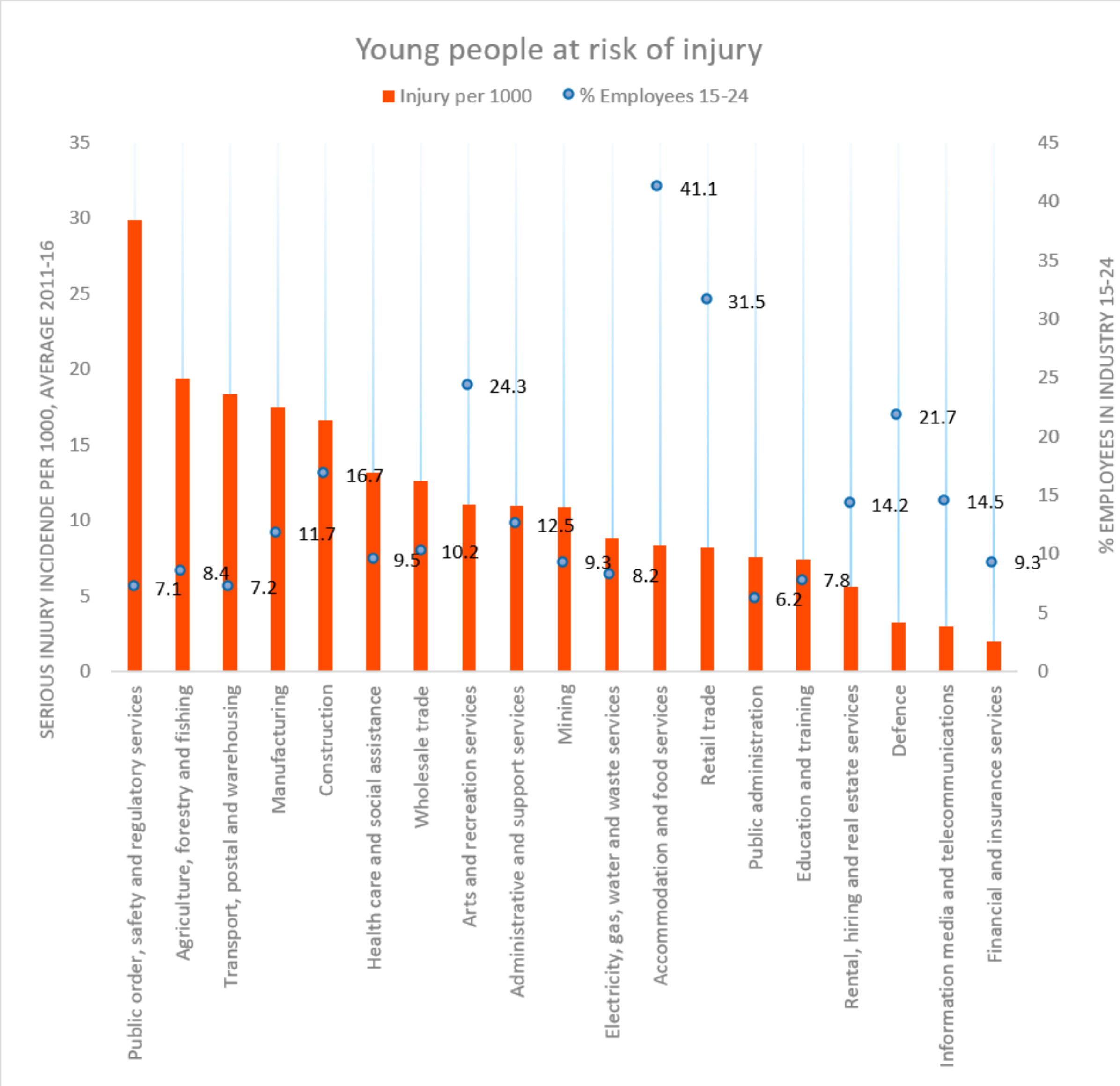
Causes of death for young people

The leading causes of death for Australians aged between 15 and 24 are suicide, land transport accidents, accidental poisoning and assault.[4] For young workers with insurance with their superannuation their families are supported by payouts covered under default clauses, and often have no other remedy.

Case study 3: 22 year old father committing suicide
In September 2015, a 22-year-old father committed suicide leaving behind a spouse, daughter and step-daughter. In December 2015, the spouse contacted ISA to claim the insurance on behalf of the children. The family received a $200,000 payout as a result.

[3] Safe Work Australia, 2018, *Workplace violence*, SWA Commonwealth of Australia, URL: https://www.safeworkaustralia.gov.au/workplace-violence
[4] AIHW, 2018, *Deaths in Australia*, AIHW Commonwealth of Australia, Canberra URL: https://www.aihw.gov.au/reports/life-expectancy-death/deaths-in-australia/contents/leading-causes-of-death

Figure 2 Rates of Injury and Young Employment[5]



Members with account balances below $6,000

This bill does not just affect young workers. Members with account balances below $6,000 are often not young. Workers could be returning to work after an extended break, new to Australia, or have created a new superannuation account with a new job.

The changes to insurance will also cause harm to those who have recently changed jobs or careers. Until that worker accumulates $6,000 in superannuation they are not likely not be covered by TPD, life or income protection insurance.

[5] Data: Census 2011 – Age Profile of Selected Industries; Safe Work Australia, 2018, Number, frequency rate and incidence rate of serious claims by industry (2011-12 to 2015-16p)

Millions of workers earning under $50,000 will take more than 2 years to reach an account balance of $6,000. This is compounded where workers hold more than one account or are working multiple jobs. Superannuation theft costing workers $5.9 billion per year and insecure work increases barriers for workers gaining more than $6,000 in superannuation. Where low-wage workers have multiple jobs, the $450 minimum earnings threshold discounts workers' ability to earn superannuation.

As with young people, those starting a new job will be particularly disadvantaged by this Bill. If they suffer an injury, even if they have insurance through their existing superannuation fund, because it is classified differently, they may be ineligible to claim.

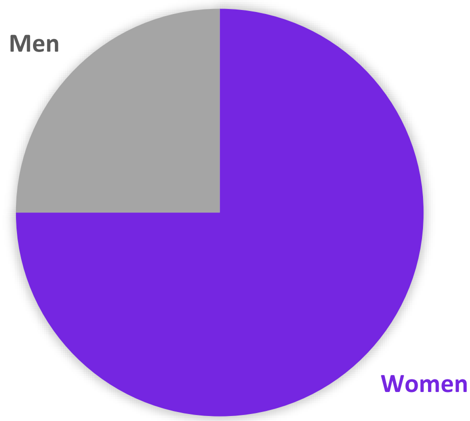
Effect on women

The majority of account holders with less than $6,000 in their accounts are women. This is due, in part, to the continuing gender wage gap as well as caring responsibilities which more often fall to women rather than men.

Women are already disadvantaged for superannuation, in part by taking leave from the workforce for primary caregiver duties, and because they work in industries, including health, childcare, education, that traditionally attract lower-paid and less secure work than male-dominated industries. This Bill would exacerbate this disadvantage.

Should the Bill pass, women will be most disadvantaged and more may be required to underwrite their insurance policies as a result.

Case Study: HESTA



Most of HESTA's members do not have personal insurance policies outside of super. There are 177,742 HESTA members with balances less than $6,000, and of those, approximately 75% are women.
On average it takes HESTA members 24 months to reach an account balance of $6,000. The average age of a HESTA member who would lose insurance as a result of this Bill is 36. Meaning they will likely have dependents or an insurable need, like a mortgage. This bill would be devastating to members who expect to be eligible for insurance coverage, especially given the member communications as a result of the *Protecting Your Superannuation Package*.

Interaction with the Protecting Your Superannuation Package

The recently passed *Protecting Your Superannuation Package* required inactive members who had balances below $6,000 to tell their fund if they wanted to continue their insurance coverage. The amended inactivity provision allowed those who actively maintained their insurance or account to be found as active members. Super funds told their members this, and significant proportions across a range of funds have opted in. If this Bill is passed, members who have chosen to remain covered by their insurance policy will be excluded from insurance. Combined with the incredibly short period before commencement, the Bill will cause significant confusion for fund members with account balances below $6,000 and under the age of 25.

Furthermore, the first round of auto-consolidation of inactive accounts by the ATO has not yet been completed. So, some members will be excluded from insurance before their accounts have been reunited.

APRA has an existing responsibility

The Australian Prudential Regulation Authority (APRA) has an existing authority to ensure that superannuation trustees enhance members' outcomes by offering appropriate and value-driven insurance products. APRA has the existing authority to strike out any insurance product offerings under the Member Outcomes Test which do not meet members' best interests. Where there are inappropriate default insurance products, APRA has declined to act. Despite the Royal Commission finding that APRA should be more proactive in the use of its powers, the regulator has shown no impetus to ensure insurance in superannuation meets member's best interest.

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