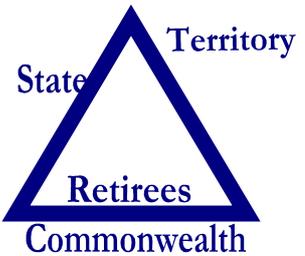

Australian Council of Public Sector Retiree Organisations Inc.

ABN 74 202 015 642



Peak Council representing Commonwealth, including military, State, Territory and other public sector retirees.

12 Muresk Street, Farrer ACT 2607

26 August 2016

Senator N Xenophon
Parliament House
Canberra ACT 2600

Dear Senator Xenophon,

***Social Services Legislation Amendment
(Defined Benefit Income Streams) Bill 2015
and the “10% Cap”***

I am writing this letter so that you, or the responsible member of your Senate team, has some background information in case this matter comes up for consideration.

The 2015 Budget measure generally referred to as the “10% Cap” came into effect on 1 January 2016 and reduced from 50% to 10% the proportion of tax free income that a defined benefit pensioner could exempt from the social security income test to determine their eligibility for a part Age pension. Depending on the structure of each defined benefit scheme, the tax free component could derive from a number of sources, including a pension paid out of the retiree's after tax contributions to their scheme.

As you may be aware, both Mr Morrison, as Minister for Social Services, and his successor, Mr Porter, as well as the Department in its 11 June 2015 submission to the Senate Standing Committee for Community Affairs, have repeatedly based the justification for the “10% Cap” measure on the following:

“The change in the calculation of the deductible amount resulted in people with service prior to 30 June 1983 having a significant amount of up front employer contributions treated as personal after-tax contributions.” [page 4 of DSS submission of 11 June 2015]

No explanation other than the treatment of pre-30 June 1983 service appears to have been provided to explain the general application of the 10% Cap to *all* tax-free components of defined benefit pensions. The 47,800 retirees affected by this measure include not only State and Commonwealth public servants but many teachers, police and emergency service personnel, clergy and academics.

On 9 March 2016, ACPSRO wrote to the Ministers for Human Services and Social Services (copy attached), requesting details of all the various groups of defined benefit pensioners whose retirement incomes had been affected by the 10% Cap. In particular, ACPSRO requested details of how many affected defined benefit pensioners had *no service at all prior to 30 June 1983*.

On 18 May the Department of Social Services responded (copy attached), providing some information but stating that it could not provide details of how many defined benefit pensioners had no service prior to 30 June 1983. ACPSRO had that confirmed under FOI.

ACPSRO is therefore at a loss to understand why a measure, apparently directed at an unknown but increasingly small number of retirees who have significant pre-30 June 1983 service, should apply to all defined benefit pensioners who have any tax-free component (for whatever reason) of their retirement income.

In explaining the 10% Cap measure in May 2015 (media article attached), Mr Morrison claimed that some retirees on total defined benefit pensions of \$120,000 pa were able to claim a part-Age pension because they had a tax-free component of \$60,000. It is clear from the Department's 18 May 2016 letter that there were very few, if any, defined benefit pensioners actually in that situation. ACPSRO is therefore inclined to believe that the aim, and the quantum (Why 10%?), of this measure was to allow Mr Morrison to claim \$100M(+) pa savings for internal Party purposes.

Probably of more immediate and practical concern, however, ACPSRO draws your attention to the effect of the 10% Cap on the majority of affected defined benefit retirees, as demonstrated in the Department's letter of 18 May. Those people, many on very modest pensions, have suffered disproportionate reductions in their retirement incomes and by no means can be considered "fat cats".

In her Second Reading Speech on the Bill, on 24 June 2015, Greens Senator Siewert concluded:

We urge them to monitor this. We certainly will be, and if there are unintended consequences for those people, particularly those with low and modest assets, we urge the government to then bring it back if they need to make amendments. If they do not, we will be. We will be monitoring this carefully, because overall we do think it is in the best interests of making the whole system fairer and consistent and applying rules that have equal impact. However, there may be a group of people who are affected through this process. Please monitor it.

We certainly will be, and we will bring back changes if this is causing hardship for those people who were teachers, firefighters and police. We note that military personnel have been exempted from this process. We need to look at those other public servants whom no-one could say were on very high incomes and who have contributed through their service, thinking they were doing the right thing. We will be monitoring that very carefully and proposing amendments if the government does not act to address those unintended and unforeseen consequences.

It seems quite clear from the Department's 18 May letter that there were "unintended consequences" and that they have fallen predominantly on the less well-off retirees. ACPSRO has sought the support of the Australian Greens to implement Senator Siewert's promise, on behalf of the Greens, to remedy this injustice.

Senator, if this matter does arise again, ACPSRO would be happy to provide the relevant member of your Senate team with additional background material or briefings.

Yours sincerely

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