

**ASFONZ Oral Submission to the Finance & Expenditure Select Committee  
9.50 am on Wednesday 22 August 2007**

**[Bruce Kerr]**

Good morning

ASFONZ is the voice of workplace superannuation. As a membership organisation we have been in existence for the past 38 years representing the interests of employers who offer workplace super to their employees.

Members of our Association collectively represent around 80% of the total funds under management in workplace superannuation schemes.

My name is Bruce Kerr and I am the Executive Director of ASFONZ.

I am joined this morning by two ASFONZ Councillors.

Susan Leuchars is Fund Director at the Waterfront Industry Superannuation Fund while David Ireland is a partner at the law firm KensingtonSwan.

Our submission covers issues ranging from the substantial to technical drafting issues, as well as our well reasoned solutions. ASFONZ remains more than willing to engage with the officials to remove the disincentives for existing workplace schemes and ensure their continuance.

This morning, however, we wish to focus on:-

- The 'other contributions' offset allowed against compulsory employer contributions;
- Aspects related to complying funds; and
- The make-up of the minimum KiwiSaver member contribution.

Susan will now talk to our position on the 'offset'

**[Susan Leuchars]**

Offset of Contributions to existing superannuation schemes

The proposed rules defining the contributions to existing superannuation schemes which may be offset against compulsory employer contributions to KiwiSaver present problems for those employers who have already demonstrated a clear commitment to assisting their employees with retirement savings. The rules are simply too narrow to provide the relief intended by policy. In the bill as drafted an arbitrary line is drawn based on the date of employment – before or after 1 April 2008. This will result in:

- employees working side by side potentially being treated differently based on the date of their employment
- long-term collective employment agreements being undermined
- differences in treatment among employees on total remuneration and those on salary or wages plus benefits.

In addition the requirement for immediate vesting of employer contributions is contrary to the underlying principle of most schemes.

There are significant challenges for defined benefit schemes in meeting the requirements for offset of contributions. We have provided detail on these issues in our submission but wish to stress here that:

- these schemes encompass a significant number of employees currently covered by workplace savings arrangements, and
- because of their nature many of them cannot become complying funds.

For them the inability to offset contributions will be another nail in the coffin.

Contributions to existing superannuation schemes should receive blanket relief from the requirement to contribute to KiwiSaver. This would recognise the significant role already being played by employers involved in workplace superannuation. Further it would be consistent with the SOP recently introduced which provides a blanket offset for members of parliament, judicial officers and sworn police.

Failing the provision of an offset for any employer contribution to an existing registered scheme, as a minimum in order to ensure equity in workplace relations the grand parenting provisions must be addressed to allow offsets for any employer contributions determined prior to 1 April 2008, which will be relevant to a number of employers involved in collective bargaining with terms negotiated now to apply to workers employed after 1 April 2008. This is the only way to ensure a continuation of those remuneration arrangements without disruption and to facilitate a smooth transition into the compulsory contribution regime.

#### **[David Ireland]**

Just to pick up on Susan's comments – what we have experienced in recent months has been a significant level of enquiry from employers who currently contribute to superannuation schemes for their employees concerned about the prospect of double dipping if those employees opt into KiwiSaver, A number of those have commented that if their contributions might not be offset they will look to close or wind up their schemes from 1 April next year. In most instances, the contribution rates in question exceed the compulsory levels, meaning that contributions towards retirement savings for affected employees will reduce as a consequence.

The 2<sup>nd</sup> principal area of concern for ASFONZ centres around the complying superannuation fund rules. We were delighted when the principle of allowing KiwiSaver-equivalent tax relief for complying fund sections of existing schemes was recognised in the December 2006 Tax Act. The latest change to require the minimum contribution for complying funds to match the KiwiSaver minimum undermines that principle. Having to calculate contributions to one section of a scheme using a different base salary definition imposes a significant administrative burden on those schemes that have adopted or were contemplating adopting complying fund rules, as well as creating confusion in disclosure documentation. For some, the added complication means that complying fund rules are no longer an option, and our concerns as to the discontinuance of existing schemes resurface. ASFONZ would like to see the original wording of the complying fund rules definition restored.

We also believe there are technical difficulties with the rules relating to participation agreement criteria for complying superannuation funds that are spelled out in our written submission. ASFONZ' position remains that from a policy perspective, grand-parenting by reference to the presence and timing of participation agreements is inappropriate: any existing registered scheme that can evidence complying fund rules ought to be eligible to have contributions to it treated in the same fashion as contributions toward a KiwiSaver scheme, given lock-in equivalence.

The final aspect of the complying fund rules ASFONZ believes requires addressing is the lack of equivalence in the portability rules when compared with KiwiSaver. There is at present no ability to transfer savings from a KiwiSaver Scheme to a complying superannuation Fund, meaning that anyone who joins a new employer who provides

access to a complying superannuation fund is effectively forced to leave their KiwiSaver savings behind, and start up a new savings account. This heightens the prospect of multiple KiwiSaver and KiwiSaver-equivalent accounts, adding unnecessary complexity to the workplace savings environment.

**[Bruce Kerr]**

..... thank you David.

I would like to conclude by briefly making our position clear on the make-up of the minimum KiwiSaver member contribution.

ASFONZ believes that employers should have the flexibility to have a remuneration framework that suits their workplace. Provided the framework delivers equity amongst the employees of a particular employer (or group of employers) should be all that matters.

It shouldn't be the role of government to legislate whether the framework should be total employee compensation, total remuneration with specified super contributions tacked on-top (on a use it or lose it basis), or some other framework.

ASFONZ does not support the proposed replacement of Section 66 (of the KiwiSaver Act) with effect from 1 April 2008 effectively preventing employers from partnering their employee's in raising the minimum 4% contribution.

There will be many people in the workforce who will struggle to be able to pay the minimum contribution rate. Before Budget 2007, many employers and employer organisations, invested their energy in developing workable strategies to help their staff afford the cost of joining KiwiSaver. It would appear this all went up-in-smoke.

To encourage maximum take-up of workplace savings, ASFONZ would like to see the flexibility of the original provisions of the act retained.

Thank you.

Any questions?