

8. WORKFORCE

8.1 RETIREMENT INCOMES/AGEING POPULATION

ACCI POLICY PRINCIPLES:

An effective national retirement incomes policy is necessary to address the social and economic consequences of an ageing population in Australia.

Employers ought not be required to fund retirement or ageing policies of individuals or the broader community.

Individuals who are beneficiaries of retirement income policies ought to contribute to their own retirement incomes.

Development of an effective national retirement incomes policy is best achieved by divorcing that policy from the workplace relations system.

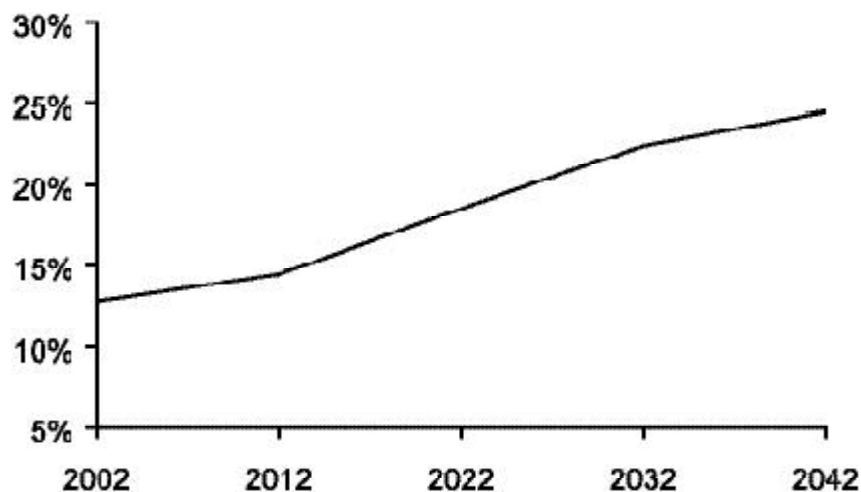
ACCI has called for a national inquiry into retirement incomes.

POLICY AUDIT & ANALYSIS:

- Superannuation and retirement incomes are important considerations. The Intergenerational Report released with the 2002/03 Commonwealth Budget forecast that persons over 65 will constitute an increasing proportion of the Australian population during coming decades:

- The current workplace relations system does not reflect the key principles of ACCI policy.
- Under the current system employers alone are compelled to make mandatory levies as a percentage of payroll (9% since 1 July 2002) into 'approved' superannuation on behalf of eligible employees. There is no

Proportion of the Australian Population Aged 65+ (Projected)⁶⁸



requirement for any mandatory contribution to be made by eligible employees themselves. The system does not actively encourage employee co-contributions.

- Further, current arrangements do not divorce the workplace relations system from compulsory employer obligations. Compliance with the mandatory superannuation guarantee does not complete the employer obligation. Superannuation remains an allowable award matter under the federal workplace relations system. This means that the AIRC has jurisdiction to increase employer costs or reduce employer flexibilities beyond those provided for in superannuation guarantee legislation.
- The Federal Government has proposed on a number of occasions to introduce employee choice of superannuation fund into federal law. Whilst ACCI supports this legislation in principle, such a policy imposes administrative costs on employers for no direct benefit. If those administrative costs outweigh the broader

benefits to the economy and retirement incomes policy, then they will be counterproductive to the interests of employers.

- The current federal system also requires the AIRC to take into account when determining national safety net wage increases the impact of increases in compulsory superannuation payments on the capacity of employers to bear wage increases. In principle this is a necessary and sound concept. However in practice the discretion given to the AIRC to decide how it takes superannuation costs into account appears too broad. For example, in the 2002 national wage case the AIRC awarded the highest level of increase in the federal minimum wage notwithstanding that 2002 is a year when the employer obligation to pay the mandatory superannuation levy rose to its highest level yet (9% of payroll).

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⁶⁸ Source: *Australian Government Intergenerational Report* (2002) Table 3

RECOMMENDATIONS:

Objective 1: The power of the Australian Industrial Relations Commission to create dual award and legislative obligations on employers in the area of occupational superannuation be reviewed.

Objective 2: Superannuation should cease to be an ‘allowable award matter’ and should be addressed solely by statute.

Objective 3: There should be no further increases in the level of compulsory employer contribution to occupational superannuation of employees.

Objective 4: Measures to introduce or encourage employee co-contributions to superannuation should be pursued.

Objective 5: At least whilst superannuation is an ‘allowable award matter’, the legislative discretion given to the AIRC to decide how it takes into account the compulsory employer superannuation payments in wage decisions should be tightened to ensure that superannuation imposts on employers act to reduce the quantum of wage increases that employers would otherwise be required to pay.

Objective 6: Legislation giving effect to employee choice of superannuation fund should be enacted only where the administrative costs to employers are minimised and do not outweigh the broader economic and social benefits of such a policy.

8.2 CASUAL/PART TIME EMPLOYMENT

ACCI POLICY PRINCIPLES:

“Specific, immediate policy objectives include: . . . the promotion of freedom of choice for employers and employees in their workplace arrangements.”⁶⁹

POLICY AUDIT & ANALYSIS:

- Workplace relations reform has, in part, been a response to changes in the Australian labour market.

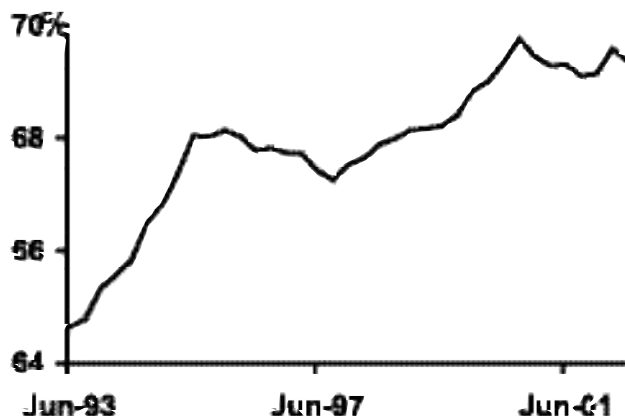
“The unemployment rate in Australia has declined over the past decade to be currently just over 6 per cent, close to the bottom end of the range in which it has varied during the past two decades. While the unemployment rate is close to the rate that prevailed in 1980, there have been marked changes in labour force participation and in the composition of the workforce in the intervening period.” Reserve Bank of Australia⁷⁰

- ACCI policy recognises that decisions about the nature of employment are individual matters between employers and employees at the workplace level. ACCI believes there is no role for governments or third parties to

regulate or determine the type of employment relationship, whether it is full time, part time or casual – or whether employees or independent contractors should provide services.

- For governments, unions or industrial tribunals to seek to impose arbitrary limits on the nature of casual or part time employment is contrary to the flexible workplace relations system necessary to meet both social diversity within the labour force, and business circumstances. A ‘one size fits all’ approach to these issues must be rejected. The modern economy and the diverse forms of working arrangements required and sought by individuals and businesses do not justify regulatory intrusion of this character.
- The current federal system, in its legislative intent accords with these objectives of ACCI policy.

Employment to Population Ratio - 1993 to 2002⁷¹



- However in the operation of the system, power still exists for the AIRC and trade unions making claims on employers to seek to restrict, regulate and even prohibit the full range of contracts of employment being offered.
- These residual powers of third parties to interfere in choices genuinely made between private individuals over employment structures and relationships should not exist. The December 2000 decision of the Australian Industrial Relations Commission to allow casual employees to unilaterally convert (on conditions) to permanent part time employment whether or not such an employment contract is offered by the employer should not form part of the arbitral powers of the Commission. The 2002 decision of the ACTU to seek to flow this decision into service industries highlights the urgent need to constrain tribunal powers over these matters.
- More emphasis must be given to the damaging results of effectively making certain types of employment inaccessible by making them too costly or placing too many restrictions on them.
- Increased regulation of full-time employment has, in part, led to increases in casual, part-time and temporary employment. In turn, excessive measures to regulate all categories of employment have led, in part, to increases in the use of contract workers.

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⁶⁹ ACCI Labour Relations Policy

⁷⁰ Reserve Bank of Australia (2002) "The Changing Composition of the Australian Workforce" Reserve Bank of Australia Bulletin, October 2002

⁷¹ Reserve Bank of Australia (2002) "The Changing Composition of the Australian Workforce" Reserve Bank of Australia Bulletin, October 2002, Graph 1, Share of the population aged 15-64 in full time or part time employment - ABS data

RECOMMENDATIONS:

Objective 1: The fundamental right of freedom to contract must be respected.

Objective 2: The federal workplace relations system should be amended to prevent arbitral decisions giving employees unilateral rights to change the nature of their contracts of employment.

Objective 3: Industry and governments should assess and produce, for the purposes of promoting a more informed community understanding of these issues, an analysis of the role that casual employment and part time employment has in the modern workplace.

8.3 CONTRACTORS

ACCI POLICY PRINCIPLES:

“ACCI's overarching policy objectives are: . . . to achieve legislative reform which will permit greater flexibility and efficiency in the operation of the enterprise.”⁷²

POLICY AUDIT & ANALYSIS:

- ACCI policy recognises that decisions about whether work is to be performed by employees or by independent contractors are individual matters for decision at the workplace level. There is no role under ACCI policy for governments or third parties to regulate or determine the type of working relationship that best suits private individuals and businesses.
- The use of contractors throughout industry is one of the most positive features of the Australian labour market. The workplace relations system should facilitate contracting, not seek to regulate it.
- The current federal system, in its legislative intent, accords with these objectives of ACCI policy (other than a limited scope in the Act for the review of certain contracts with independent contractors).
- However in the operation of the system, power still exists both in the hands of the AIRC or in the hands of trade unions negotiating agreements and making claims on employers to effectively restrict and regulate engagement of independent contractors.
- For example, the transmission of business provisions of the federal system act as a disincentive to the outsourcing of work to contractors because contractors are compelled to pay above award wages and employment conditions that a previous employer may have negotiated in the past with a trade union or employees of former employer. This is inappropriate. Workplace agreements negotiated between individual parties should only bind the parties to those agreements, not other parties or future employers/principals.
- For governments, unions or industrial tribunals to seek to impose arbitrary limits on contracting, contracting out, and outsourcing is contrary to the objectives of a flexible workplace relations system. As is the case with the employment of casual and part time employees, a ‘one size fits all’ approach to these issues must be rejected. The modern economy and the diverse forms of working arrangements required and sought by individuals and the businesses that engage them do not justify regulatory intrusion of this character.
- The value and legitimacy of contracting arrangements must be defended in all forums.

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⁷² ACCI Labour Relations Policy

RECOMMENDATIONS:

Objective 1: That the federal workplace relations system be amended to prevent agreements made by one employer becoming binding obligations on independent contractors to whom work is contracted out and who employ staff in their own right.

Objective 2: That industry and governments prepare an analysis of the constructive role independent contractors have in the modern workplace and labour market.

8.4 JUNIORS, TRAINEES AND APPRENTICES

ACCI POLICY PRINCIPLES:

“The minimum standards should comprise: . . . a minimum hourly wage for juniors.

ACCI has also been at the forefront of providing policy leadership for the development and implementation of national policies for the employment of trainees and apprentices in commerce and industry.”⁷³

POLICY AUDIT & ANALYSIS:

- ACCI policy strongly supports the employment of youth, trainees and apprentices and the need for the workplace relations system to actively promote and facilitate their employment.
- The social, personal and community advantages of maximising youth employment at a time of continuing high youth unemployment are very real. The career and business advantages of increasing the level of skills and training amongst the workforce (especially new entrants) cannot be overstated. The federal workplace relations system, allied with the national and state training systems largely reflect these policy objectives:

“Employment incentive programmes . . . try to promote hiring through reductions in labour costs and relaxed conditions for temporary contracts, hoping that work experience and training assist the transition to work process and increase the participant’s employability. Many countries have public programmes to promote apprenticeships. Apprenticeships need to be made attractive to individual employers and employees...” OECD Employment Outlook⁷⁴

- The amendments made in 1998 to the federal *Workplace Relations Act 1996* which retain age-based youth wages in the award system, and which compel the AIRC to make decisions which promote youth employment, were long overdue and have increased the confidence of employers to employ young people and provide a bridge into the world of work. Those amendments must be retained in full, and should be seen to meaningfully inform the decisions of the Commission.
- Given the high importance that the legislation places on this matter, the ERS proposed by ACCI (discussed above) should specifically identify how the objectives of promoting greater youth employment are to be realised by the relevant decisions that impose new regulatory imposts.
- It is also essential that the currently proposed Commonwealth anti-age discrimination law ensure that the status of age-based youth wages is unequivocally. ACCI notes that the Federal Government’s announced commitment to these laws expressly excludes any impact on age-based youth wages.
- It is also essential that the federal (and state) workplace relations systems remove any

remaining impediments to awards permitting use of the full range of apprenticeships and traineeships offered under the New Apprenticeship System.

- ACCI and the ACTU, together with the Federal Government and the AIRC have worked constructively to create model provisions to ensure awards support the training system working effectively. Despite this, some awards are yet to be varied, and some objectors and sceptics remain. Every attempt must be made to resolve these remaining obstacles.
 - Model award variations for the employment of trainees and apprentices should be developed in both federal and state industrial systems.
 - Where in state industrial systems the implementation of appropriate award

variations to allow for the employment of trainees and apprentices under the 'New Apprenticeship' scheme has not been completed, the relevant state government should take immediate and pro-active steps to resolve impasses with the relevant employer and employee interests, and if necessary with the relevant state industrial tribunal.

- If a national harmonised workplace relations system is created, it may have positive outcomes with respect to training issues between jurisdictions.

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⁷³ ACCI Labour Relations Policy

⁷⁴ OECD (2002) OECD Employment Outlook, June 2002

RECOMMENDATION:

Objective 1: The workplace relations system should strongly support employers in their efforts to provide training and employment for young people, including providing current minimum wages and conditions for trainees and apprentices which properly reflect their age, work and education balance, and experience. Policies to promote education and training should be pursued in an endeavour to achieve maximum political and industrial consensus between employers, employees, trade unions and governments.

8.5 EMPLOYEE SHARE OWNERSHIP

ACCI POLICY PRINCIPLES:

ACCI has actively supported policy initiatives to increase the level of employee financial participation in enterprises, and employee share ownership.

This included a detailed submission to the House of Representatives Standing Committee on Employment and Workplace Relations Inquiry into Employee Share Ownership during 1999/2000.

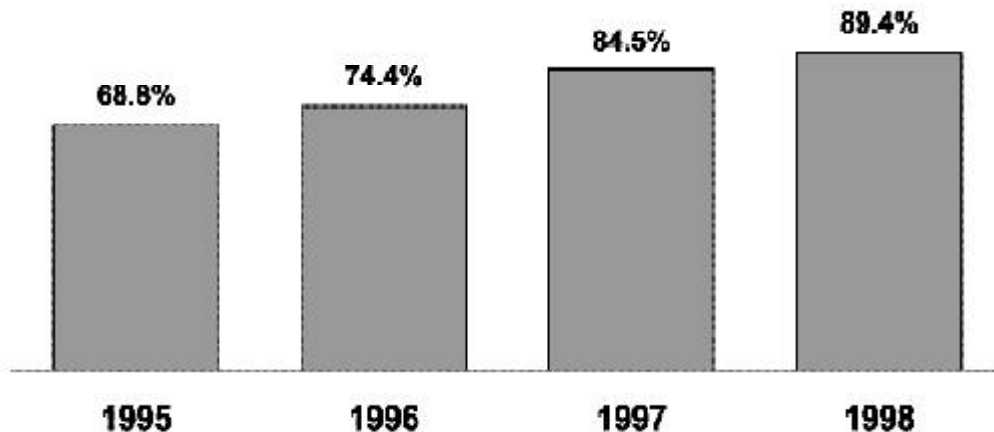
POLICY AUDIT & ANALYSIS:

- During the past decade there has been a significant increase in the proportion of Australians owning shares. Major share floats such as the Commonwealth Bank and Telstra have ensured that share ownership is no longer the province of a high earning minority, but forms part of the financial management of middle Australia.
- A variety of Australian employers and employees have entered employee share ownership/employee financial participation arrangements.
- There is an increasing level of political bi-partisanship emerging in the national debate about the value of employee share ownership.

This is an encouraging development.

- Employee financial participation offers opportunities to:
 - Break down traditional, simplistic notions of an inherent divergence of interests between employers and employees. Employee commitment can be enhanced.
 - Better align employee and enterprise interests. It can deliver clear benefits in terms of improved workplace relations and participation, and often accompanied by significant workplace improvement.
 - Better link employee remuneration to business performance.

Share Plan Incidence in Australia's Top 350 Companies⁷⁵



- Key challenges for the next decade include:
 - Consolidating the benefits of employee share ownership in organisations.
 - Ensuring more Australian employees and employers can access to the benefits of employee share ownership.

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⁷⁵ House of Representatives Committee on Employment, Education and Workplace Relations (2001), *Inquiry into Employee Share Ownership In Australian Enterprises*, Appendix E, Figure 3

RECOMMENDATIONS:

Objective 1: Government, through appropriately supportive regulatory arrangements, should encourage employee share ownership in Australia.

Objective 2: The benefits of employee share ownership should be promoted by governments, industry and trade unions, and there should be further consideration by all parties of these benefits on an ongoing basis.

Objective 3: The workplace relations system should support, and not hinder, employee financial participation/employee share ownership. Where employers and employees wish to address their financial arrangements in agreements, there should be scope to do so. However, there should be no attempt to regulate or control employee share ownership through industrial instruments.