



Police Federation
of Australia

The National Voice of Policing

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Secretariat to the
Expert Panel
Review into Australia's Superannuation System
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Expert Panel Members

**POLICE FEDERATION OF AUSTRALIA: SUBMISSION TO REVIEW
INTO AUSTRALIA'S SUPERANNUATION SYSTEM**

This submission by the Police Federation of Australia (PFA) is made on behalf of Australia's 52,000 police officers from each State and Territory, and the Commonwealth. The submission is not confidential.

We note that your Terms of Reference enable you to consider matters of Governance, which includes the legal framework of the superannuation system (including the *Superannuation Industry (Supervision) Act 1993*) and that you are precluded from considering certain matters that are before the *Australia's Future Tax System Review*.

The PFA is also mindful that the Rudd Government, in its pre-election commitment to the PFA responded to our policy proposal¹ as follows:

Policy Proposal 11: The PFA seeks your commitment to exempt police from the standard superannuation preservation requirement to enable police to retire from age 55.

Response: 'Federal Labor will recommence its commitment to examine the access age issue as it did at the last election.

Labor recognises there are some special cases where access should have been permitted between fifty-five and sixty years for those born

¹ See also Attachment: Extract from PFA Policy.

after 30 June 1960. Police should be allowed to argue their case before a special panel.

Labor will allow the terminally ill to access their super at any age.²

The Office of the then Minister for Corporate Law and Superannuation, the Hon Nick Sherry MP subsequently advised us that your Panel will be considering the access age issue and our proposal in particular.

Superannuation Preservation Age

The highest priority for Australia's 52,000 police officers, and each Branch of the PFA, as far as retirement income policy is concerned is to lower the superannuation preservation age so that officers can choose to retire from age 55 years. The reason for our focus on the preservation age is that policing is not a profession or occupation for an older person.

Furthermore, the PFA is alarmed at the suggestion being put in some quarters that the superannuation preservation age should be increased to age 67 to encourage older Australians to remain in the workforce for longer and to align the superannuation preservation age with the pension age.

The PFA understands that the superannuation laws apply a community-wide standard preservation age which was increased in 1993. However, the *Superannuation Industry (Supervision) Act 1993* also includes a power to exempt specified categories of people so that a more flexible retirement regime can be provided. It was acknowledged at the time that a 'one-size-fits-all' approach was not necessarily suitable for the entire workforce.

The modern workplace provides flexibility for employees to retire at a later age beyond 60 or 65 years and to exit and re-enter the workforce according to an individual's circumstances. The PFA supports this flexibility for later retirement.

There are also situations where flexibility to retire earlier, and access ones superannuation savings, should be facilitated without a tax penalty.

The PFA has been campaigning for several years for police to be able to retire with dignity from age 55. The reason for seeking greater flexibility for police is that policing is particularly physically and psychologically demanding and dangerous work and generally involves extensive years of shift-work, all of which take a severe toll on officers.

Over 97 years ago, on 1 November 1906, Mr Joseph Carruthers, the Member for St George and Colonial Treasurer, said in the NSW Parliament in the Second Reading Speech on the Police Regulation (Superannuation) Bill –

² ALP correspondence of 15 November 2007 to the Police Federation of Australia.

“This bill proposes to carry out a promise which has, for a considerable time been made by, I think, all sides in politics towards the police of this country....I think it will be admitted that if there be a class of public officer who deserve the best treatment in regard to their old age, or their period of incapacity, it is the police force who have to protect the lives and property of the people of the country”

This view is still relevant today for 52,000 men and women of Australia’s police forces who, if current preservation age rules continue to be applied, will be expected to continue to *“protect the lives and property of the people of the country”* until they are 60.

In May 2000, the then NSW Police Commissioner called for a reduction in the retiring age for police. He proposed that police be able to exit policing with dignity after 20, 25 and 30 years of service. At the Police Commissioners’ Conference in March 2003 the Police Commissioners of Australia unanimously supported police officers being granted an exemption from the current preservation age rules. They agreed with the PFA that it was not sensible or feasible to expect front-line police officers to continue working operationally after age 55.

In the United Kingdom and New Zealand police are able to retire at age 55. More favourable treatment of police compared with the general community is recognition of the physical and psychological demands of their work and that age-induced impairment of these capacities make it appropriate for their own safety – and that of the public they serve – that they have the option to retire from age 55.

In response to the PFA’s pre-election policy on this matter, the Australian Labor Party said ‘Labor recognizes there are some special cases where access should have been permitted between fifty-five and sixty years for those born after 30 June 1960’. We estimate there are some 40,000 police officers born after July 1964 who would potentially benefit from greater flexibility in retirement age and for whom this is the highest priority reform.

We propose that police be exempt from the standard superannuation preservation age to enable police to retire from age 55.

We would be pleased to discuss our proposal with the Expert Panel and to elaborate on our proposal.

Yours sincerely

Mark Burgess
Chief Executive Officer
Attachment

ATTACHMENT: Extract from PFA Policy – *Law and Order in Australia: Policies for the Future, September 2007*

Superannuation Preservation Age

In 2005 the PFA made a submission to a federal government review of superannuation preservation arrangements as they apply to police. The review recommended *“that no special exemption to the preservation age be made for police officers”*.

The report went on to state that –

It found no evidence that police are in a unique position in so far as they are affected by the increase in the preservation age. The review believes that the preservation age should be treated as a community wide standard, and that issues specific to the police force should be dealt with through occupation-specific policies.

The PFA refutes this finding and believes that the review erred.

An exemption mechanism exists under the *Superannuation Industry (Supervision) Act 1993* that does not require legislative or even regulatory amendment, enabling the government to exempt police from the new preservation age requirements. This would enable police to retire with dignity at age 55.

The mere fact of the existence of the exemption power in the Act indicates that the Parliament in 1992–93 realised when passing the law that a one-size-fits-all approach may not be appropriate in the future. The legislation was deliberately designed to allow exceptions to the general rule to be achieved by executive action of the *“Regulator”* rather than by having to come back to the Parliament to be specifically debated or voted upon.

We suggest that this procedure clearly demonstrates that Parliament deliberately chose to delegate the power of exemption to the Executive, again reinforcing the point that exceptions were always contemplated and need not go through Parliament for approval.

The fact that the Treasury review did not even mention the existence of this provision, even though it was contained in the PFA’s submission to the review, demonstrates the flawed nature of the report.

Proposed policy

The PFA seeks your commitment to exempt police from the standard superannuation preservation requirement to enable police to retire from age 55.