



DECISION

Fair Work Act 2009

s.160—Variation of modern award to remove ambiguity or uncertainty or correct error

Variation of modern awards on the Commission’s own motion – Modern award superannuation clause review

(AM2022/29)

Various industries

JUSTICE HATCHER, PRESIDENT
VICE PRESIDENT CATANZARITI
DEPUTY PRESIDENT CLANCY

SYDNEY, 26 MARCH 2024

Variation on the Commission’s initiative – review and variation of modern award superannuation clauses to reflect current superannuation requirements – Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023 – superannuation in the National Employment Standards.

[1] On 4 March 2024, we issued a decision¹ (March Decision) relating to variations to the superannuation clauses in modern awards to ensure that the clauses properly reflect current superannuation requirements.

[2] The superannuation clauses in modern awards were categorised into 6 categories of clauses, as set out in [Background Document 3 – Award Superannuation Clauses by Category](#) (Background 3 Document).

[3] In the March Decision, we proposed a variation to the *Miscellaneous Award 2020* at paragraph [6]. At paragraphs [9], [12], [14] and [16], we confirmed our views in relation to the Category 2 to 6 clauses. At paragraph [18], we confirmed our view in relation to the *Textile, Clothing, Footwear and Associated Industries Award 2020*, and at paragraph [19], we confirmed our view in relation to the *Supported Employment Services Award 2020*.

[4] We published draft determinations varying 147 modern awards and invited interested parties to comment on the draft determinations by 15 March 2024.

[5] We received submissions from:

- Australian Retirement Trust Pty Ltd (ART);² and
- Aware Super Pty Ltd (Aware).³

[6] Both Aware and ART made submissions about the names of default funds listed in the superannuation clauses of certain awards, noted that the names of certain default funds had changed as a result of mergers and proposed that the relevant subclause in each affected award be varied to reflect the new name of their particular default fund.

[7] The issue raised by both Aware and ART is outside the scope of this particular matter. To that end, a new matter will be created to deal with the name changes suggested by Aware and ART. Variations to lists of superannuation default funds in the modern awards as a whole will also be considered in the new matter.

[8] No submissions were otherwise received in relation to the content of the draft determinations issued in this matter.

[9] Determinations varying 147 modern awards will be issued with this decision in the same terms proposed in the March Decision. The determinations will operate from **9 April 2024**.



PRESIDENT

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¹ [\[2024\] FWCFB 123](#).

² [ART submission, 13 March 2024](#).

³ [Aware submission, 14 March 2024](#)