



# DECISION

*Fair Work Act 2009*

s.157—FWC may vary etc. modern awards if necessary to achieve modern awards objective

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

## Modern award superannuation clause review 2025

(AM2025/1)

JUSTICE HATCHER, PRESIDENT

DEPUTY PRESIDENT WRIGHT

COMMISSIONER CRAWFORD

SYDNEY, 16 JANUARY 2026

*Variation on the Commission's own initiative – superannuation provisions in modern awards – not a 4-yearly review of default funds – finalisation of third issue - updating names of default superannuation funds – 125 modern awards varied.*

[1] The background to this matter is set out in the Statement issued on 12 August 2025<sup>1</sup> (**August statement**) and the Decision issued on 3 December 2025<sup>2</sup> (**December decision**).

[2] This matter was commenced on the Commission's own initiative to deal with the following three issues:

- (1) A number of modern awards do not contain the standard 'employer contributions' clause. This may give rise to a question of inconsistency with s 149B of the *Fair Work Act 2009* (Cth) (**FW Act**).
- (2) The definition of National Employment Standards (NES) in the nine 'plain language' awards needs to be aligned with s 61 of the FW Act.
- (3) The fund names in the default fund terms in a number of modern awards need to be updated or corrected.

[3] We determined the first and second issues in our decision of 3 December 2025 and issued final determinations varying 25 modern awards to that effect.

[4] In respect of the third issue, we published 125 draft determinations in conjunction with the December decision and invited parties to file submissions in response by 19 December 2025. In respect of the *Legal Services Award 2020* (**LS Award**), we expressed the *provisional* view in the December decision at [70]–[71] that we should accept a submission made by the Australian Services Union (**ASU**) that the reference to the 'Law Employees Superannuation Fund' (**LESF**) should be replaced by 'Diversa Trustees', which acquired the LESF in 2013. We also invited parties to provide evidence and submissions in relation to the issue of the relationship, if any, between the AMP Superannuation Savings Trust, which is no longer

registered with APRA but remains named as a default fund in 15 modern awards, and the AMP Super Fund. This issue is outlined in the December decision at [65]–[68].

[5] We received three submissions in response from the following parties:

- AMP Limited (**AMP**)
- ASU
- REST – Retail Employees Superannuation Trust (**REST**).

[6] No party raised any specific issue with the draft determinations. The ASU supports the draft determinations with respect to the nine awards in which it has an interest. REST supports the proposed determinations but submits that the *Restaurant Industry Award 2020* (Restaurant Award) has not been included.<sup>3</sup> However, the draft determination for the Restaurant Award published on 3 December 2025 proposes the inclusion of ‘Retail Employees Superannuation Trust (REST)’ at clause 22.4(e).

[7] In respect of the LS Award, no party commented upon our *provisional* view that the reference to the LESF should be replaced with ‘Diversa Trustees’ (save that the ASU supported the draft determination for this award). Notwithstanding this, we have decided to depart from this *provisional* view. As was noted in the audit which accompanied the August statement, LESF is not registered with APRA and appears to be a cancelled fund. Diversa Trustees Limited provides trustee services to a range of APRA-registered superannuation funds. ‘Diversa Trustees’ is not the name of any superannuation fund. Upon further research, the Commission’s staff have established that in July 2020, Diversa Trustees transferred LESF into a superannuation fund named ‘Smartsave’ by way of a successor fund transfer. The name ‘Smartsave’ was subsequently changed to ‘OneSuper’ on 1 December 2020. OneSuper is an umbrella fund which operates a number of superannuation brands or products. Diversa Trustees have advised Commission staff that the relevant successor brand operated by OneSuper is ‘Superhero’. OneSuper appears in the APRA list of superannuation funds with MySuper authorised products. We consider on the basis of this information that the reference to ‘Law Employees Superannuation Fund’ should be replaced with ‘OneSuper (Superhero)’. This is in keeping with our current approach of using the APRA-registered fund name plus the recognised trading/brand name in parentheses.

[8] In its submission of 19 December 2025, AMP submits that current references to ‘AMP Superannuation Savings Trust’ in 15 modern awards should be replaced with ‘AMP Super Fund’ to reflect a fund merger and name change. It advises as follows:

On 15 May 2020, members in the AMP Superannuation Savings Trust, including members in MySuper products, were transferred into the AMP Super Directions Fund by way of a Successor Fund Transfer (fund merger).

...

On 1 October 2021, the name of the AMP Super Directions Fund was changed to AMP Super Fund. There was no change to the Fund’s ABN at this time. ...

AMP Super Fund is authorised to offer MySuper products and is listed in the APRA Register of MySuper Authorised products (Registration Number R1056433).

[9] Having regard to AMP’s submission, we are satisfied that ‘AMP Super Fund’ should replace ‘AMP Superannuation Savings Trust’ in the 15 relevant awards.

[10] We confirm the *provisional* view in the August statement at [28] that the inclusion in modern awards of default fund names which are outdated, erroneous, or refer to funds which do not offer a MySuper product, constitute ambiguities, uncertainties or errors within the meaning of s 160 of the FW Act which should be removed or corrected pursuant to that provision.

[11] We publish determinations varying 125 modern awards to give effect to the December decision and this decision. Other than the modifications necessary to effect the conclusions in [7]–[9] of this decision, the determinations are in the same terms as the draft determinations published together with the December decision. The determinations will operate from Friday, 23 January 2026.



PRESIDENT

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<sup>1</sup> [\[2025\] FWCFB 175](#).

<sup>2</sup> [\[2025\] FWCFB 272](#).

<sup>3</sup> [REST submission](#), 19 December 2025.