



## DECISION

*Fair Work Act 2009*

s.160 - Application to vary a modern award to remove ambiguity or uncertainty or correct error

### **Variation on the Commission's Own Motion—Hospitality Industry (General) Award 2020** (AM2021/79)

Hospitality industry

COMMISSIONER O'NEILL

MELBOURNE, 23 NOVEMBER 2021

*Section 160 of the Fair Work Act 2009 (Cth) - change of default superannuation fund name*

[1] On 30 September 2021, AustralianSuper informed the Commission of the forthcoming merger of Club Plus Superannuation Scheme (Club Plus Super) and AustralianSuper, expected to occur on 1 December 2021.

[2] On completion of the merger, Club Plus Super as presently referred to in clause 27.4(d) of the *Hospitality Industry (General) Award 2020* (the Award) will no longer operate.

[3] AustralianSuper has requested that the Commission exercise its power under s.160(2)(a) of the *Fair Work Act 2009* (the Act) to vary the Award to remove an ambiguity or uncertainty arising from the merger.

[4] AustralianSuper does not have standing under s.158 of the Act to make an application to vary the Award. However, the Commission can act on its own initiative to remove an ambiguity or uncertainty or to correct an error in a modern award.

[5] A Statement and draft determination were published on the Commission's website on 7 October 2021. The Statement advised that my provisional view was to vary clause 27.4(d) of the Award in accordance with the draft determination, and that if no submissions opposing the variation were received, a final determination would be issued. Submissions opposing the provisional view were required to be filed by 22 October 2021.

[6] No submissions were received.

[7] I am satisfied that the merger of the two funds creates an ambiguity or uncertainty in relation to the Award.

[8] Pursuant to s.160 of the Act, the Award will be varied to give effect to the change in the name of the default superannuation fund from Club Plus Superannuation Pty Ltd to AustralianSuper.

[9] The determination will be issued separately.



COMMISSIONER

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