



## DECISION

*Fair Work Act 2009*  
s.160—Variation of modern award

**NGS Super Pty Ltd**  
(AM2012/352)

JUSTICE ROSS, PRESIDENT

MELBOURNE, 20 DECEMBER 2012

*Social, Community, Home Care and Disability Services Industry Award 2010 and others—  
change of default superannuation fund name.*

[1] On 23 November 2012 the Australian Federation of Employers and Industries (AFEI) contacted Fair Work Australia with the intention of submitting applications to vary two modern awards (the *Social, Community, Home Care and Disability Services Industry Award 2010* [MA000100] and the *Health Professionals and Support Services Award 2010* [MA000027]) to change the name of a default superannuation fund. The change proposed was subsequent to the merger of two funds—NGS Super and UC Super. The two funds merged on 1 March 2012 and since then have been known as NGS Super.

[2] Section 158 of the *Fair Work Act 2009* (Cth) (the Act) provides who may make an application for the making of a determination varying a modern award and this is relevantly limited to:

- An employer, employee or organisation that is covered by the modern award; or
- An organisation that is entitled to represent the industrial interests of one or more employers or employees that are covered by the modern award.

[3] It appears the AFEI does not meet the standing requirements of s.158 as outlined above, however under s.160(2)(a) Fair Work Australia has the capacity to make the applications on its own initiative to remove an ambiguity or uncertainty or to correct an error in a modern award.

[4] UC Super is listed in the two modern awards which were the subject of the applications by AFEI and an additional modern award (the *Nurses Award 2010*) as outlined below:

| Award code | Award title                             | Clause  | Current fund name |
|------------|---|---------|-------------------|
| MA000100   | <i>Social, Community, Home Care and</i> | 23.4(j) | UCSuper           |

|          |   |         |          |
|----------|---|---------|----------|
|          | <i>Disability Services Industry Award 2010</i>              |         |          |
| MA000027 | <i>Health Professionals and Support Services Award 2010</i> | 22.4(j) | UC Super |
| MA000034 | <i>Nurses Award 2010</i>                                    | 20.4(j) | UC Super |

[5] A schedule outlining the proposed change of these fund names in the three affected modern awards was published on the Fair Work Australia website on 3 December 2012 along with Directions seeking any submissions in relation to the matter and a Notice of Listing.

[6] No submissions were received and no interested persons attended the hearing on 20 December 2012.

[7] Pursuant to s.160 of the Act the modern awards will be varied to give effect to the change in the name of the default superannuation fund from UC Super (however named) to NGS Super, from the first pay period commencing on or after the date of this decision.

[8] That determination is pursuant to my power under section 160 of the Act, and I am satisfied that the merger of the two funds earlier identified creates an ambiguity or uncertainty in relation to the three awards that are the subject of these determinations.

[9] Determinations will be issued accordingly.

PRESIDENT

*Hearing details:*  
2012.  
Melbourne:  
December 20.

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