

ACTUS WORKPLACE LAWYERS

4 October 2022

FWC to address concerns about award superannuation clauses

The Fair Work Commission is reviewing the superannuation clauses in modern awards to bring them in line with recent legislative changes, including the 'stapled super fund' provisions and the provisions about underperforming superannuation funds.

The FWC has decided that the existing wording in award superannuation clauses could mislead employers into non-complying with superannuation legislation. In particular, an employer who makes superannuation contributions in accordance with an award clause, may nonetheless fail to comply with legislative requirements:

- If the employer has not complied with the 'stapled super fund' provisions which came into operation in November 2021; or
- If a default superannuation fund specified in an award has failed the Australian Prudential Regulation Authority's annual performance test for two consecutive years.

A 'stapled super fund' is an existing super account which is 'stapled' to an individual employee so that it follows them as they change jobs. Information about the 'stapled super fund' requirements can be found on the [ATO's website](#).

The FWC intends to review the superannuation clauses in more than 100 awards, with six awards selected for review in the initial stage of the proceedings.

Actus Workplace Lawyers are available to assist employers with any superannuation guarantee requirements or award superannuation issues.

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