



Australian Government
Department of Social Services

The Hon Justice Ross AO
President
Fair Work Commission
Level 4, 11 Exhibition Street
MELBOURNE VIC 3000

Dear Justice Ross

Re: Four Yearly Review of Modern Awards: MA 000103, *Supported Employment Services Award 2010 (SESA)*

The Australian Government's Department of Social Services (DSS) provides this submission to you as permitted in the four yearly review process. DSS is the agency administering annual funding of \$200m in employment support funding for people with moderate to severe disability working within the Australian Disability Enterprises (ADE) sector. The sector is covered by the SESA. This being the case, we have a significant interest in employment outcomes for people with disability working in supported workplaces.

We are currently engaged in a conciliation process, led by Deputy President Anna Booth, in response to an Award amendment lodged by the Health Services Union and United Voice in December 2013. The amendment sought the removal of all pro-rata wage tools except for the Supported Wage System (SWS), previously used within the SESA to assess the wages of supported employees. The amendment application was a response by the applicants to a full Federal Court judgment in December 2012 which stated the use of one of the tools owned and administered by the Australian Government (the Business Services Wage Assessment Tool, or BSWAT) was discriminatory in its application to two supported employees with intellectual disability.

The conciliation process is progressing well and the parties are currently engaged in a small-scale observation study to examine the use of SWS in supported employment settings.

The ADE sector comprises around 190 employers, employing approximately 20,000 supported employees with disability in a range of industries including packaging, manufacturing, cleaning, laundry and garden maintenance. There are currently well over 20 wage tools permitted for use in the SESA. We also understand that a small number of wage tools listed in the Award are no longer used in any ADE setting as a result of organisation mergers/closures.

The use of the BSWAT tool for new and recurring wage assessments in ADE environments ceased in December 2012. It is our understanding that most ADE organisations are in the process of moving to alternative tools. This in line with an

exemption decision in place until 29 April 2015 by the Australian Human Rights Commission relating to the use of the BSWAT. Information available to us indicates that the majority of ADEs within the sector that previously used BSWAT are transitioning wage assessments for the workers to the Supported Wage System, the Greenacres wage tool, or the Skillsmaster wage tool.

Pending the outcome of the conciliation process with Deputy President Booth, DSS reserves the right to make submissions regarding the existing wage tools in the SESA Award.

I appreciate the opportunity to provide a submission to this process. We continue to remain strongly committed to our participation in the conciliation process on foot, led by Deputy President Anna Booth, and we will watch closely developments in the SESA review process as they occur.

Yours sincerely

A handwritten signature in black ink, appearing to read 'F. Hand', written over a rectangular box.

Felicity Hand
Deputy Secretary

01 March 2015