

fFAIR WORK COMMISSION

4 Yearly Review of Modern Awards

Supported Employment Services Award 2010

Matter No: AM2014/286

OUTLINE OF SUBMISSIONS

AUSTRALIAN BUSINESS INDUSTRIAL AND THE NSW BUSINESS CHAMBER

1. INTRODUCTION

1.1 By way of its Statement on 11 September 2018 the Full Bench requested that interested parties in these award review proceedings file submissions in relation to:

- (a) the merit of the Full Bench’s provisional conclusions contained in its Statement of 16 April 2018 (**April Statement**);
- (b) any proposal which any party wishes to advance concerning the design and implementation of the new wage assessment mechanism outlined in the April Statement, should the Full Bench ultimately determine to proceed with the provisional views expressed therein.

2. SUBMISSIONS ON MERIT

2.1 Australian Business Industrial (**ABI**) and the NSW Business Chamber (**NSWBC**) support the Full Bench’s provisional conclusions in the April Statement in relation to the need for, and model associated with, a new wage assessment mechanism by way of a new “Schedule B – Classifications” (**Classification Structure**) being inserted into the Supported Employment Services Award 2010 (**SES Award**).

2.2 By incorporating “job sizing” into the Classification Structure, this will ensure that work value considerations (bearing in mind the particular circumstances of supported employment, as outlined and confirmed in the April Statement) are taken into account when determining a employee with a disability’s pro-rata wage. This includes the recognition of:

- job-related skills;
- the complexity of work performed; and
- the degree of support necessary to perform these tasks.

2.3 A significant benefit of incorporating job sizing (together with output assessment) into the Classification Structure (as opposed to separate wage assessment tools) is that it will “bake in” wage assessment into the Award, so that there is clear and transparent consideration of work value within the instrument itself, as opposed to external documents/instrument(s), which may not be in the public domain.

3. SUBMISSIONS ON DESIGN AND IMPLEMENTATION

- 3.1 ABI/NSWBC have developed a proposed design concept for the job sizing component of the Classification Structure, as **annexed**.
- 3.2 We have been conscious to design the structure around the Full Bench's proposed structure contemplated in the April Statement.
- 3.3 Our concept also contemplates an output assessment process as per the April Statement.

4. SUBMISSIONS ON NEXT STEPS

- 4.1 We respectfully submit that the Full Bench should now proceed to:
 - (a) confirm its provisional conclusions about the design of its wage assessment mechanism consistent with the April Statement;
 - (b) direct interested parties to engage in a further (and final) series of conferences and/or submission process. The purpose of this would be to allow interested parties to confer further and provide final submissions on:
 - (i) the specific content of the occupational types and indicative tasks to be included in the Classification Structure;
 - (ii) the specifics of output assessment; and
 - (iii) proposals for implementation of the above.
- 4.2 The advantages of the above approach are that:
 - (a) interested parties will benefit from having certainty about the broad design of the Full Bench's wage assessment mechanism when conferring and caucusing to engage in further conferences and/or provide further submissions; and
 - (b) the Full Bench can then benefit from the outcome of these conferences and submissions in coming to a final decision in this matter.

We look forward to supplementing this outline of submissions on 5 and 6 November 2018.

Australian Business Lawyers & Advisors

For Australian Business Industrial and the NSW Business Chamber

19 October 2018

Annexure

ABI/NSWBC proposed job sizing methodology concept for revised “Schedule B – Classifications” in *Supported Employment Services Award*

1. General statement

- Each of Grades 1, 2 and 3 of the Classification Structure will in the first instance include a general statement of the type of work that is expected at that role, based on a fully competent employee who has the capacity to perform the work to the employer’s reasonable output and quality standard.
- An example is set out below extracted from the current Schedule B – Classification.

B.2.2 An employee at this level:

- (a) performs work above and beyond the skills of an employee at Grade 1 and to the level of their training;
- (b) works under direct supervision either individually or in a team environment; and
- (c) understands and undertakes basic quality control/assurance procedures including the ability to recognise basic quality deviation/faults.

- A further worked example is set out below.
- Grade 1 will continue to be a grade associated with induction and initial training, and for supported employees will attract a fixed 12.5% of the full Award hourly wage. No output assessment will apply to Grade 1, with this process (as per the modified SWS) commencing at Grade 2.
- Grade 2 will involve a simple and repetitive range of tasks (split into sub-grades, as set out below).
- Grade 3 will involve somewhat more complex tasks (split into sub-grades, as set out below).

2. Sub-grading

- Each of Grades 2 and 3 would then be split into sub-grades to provide for job sizing, as follows:

Grade	Supported employee is entitled to following percentage of full Award hourly wage for relevant Grade, subject to output assessment (except for Grade 1)
Grade 1	12.5% (no output assessment)
Grade 2a	20%
Grade 2b	40%
Grade 2c	60%
Grade 2d	80%
Grade 2e (full Grade 2 range)	100%
Grade 3a	20%
Grade 3b	40%
Grade 3c	60%
Grade 3d	80%
Grade 3e (full Grade 3 range)	100%

- Each sub-grade will:
 - entitle the employee in question to the applicable percentage of the full Award wage set out above, subject to output assessment (where applicable);
 - outline indicative tasks for that sub-grade, split into different occupational types (similar to the current Schedule B, but updated for relevance to the supported employment sector, subject to further submissions from interested parties); and
 - indicate the level of support associated with each sub-grade.

- The tasks assigned to each sub-grade will:
 - be as comprehensive as practicable, but are intended to be indicative rather than exhaustive;
 - be cumulative, so (for example) that a worker performing work at sub-grade 2d will be capable of performing work at preceding Grades 2a through 2c (as applicable to their particular occupational type); and
 - take into consideration (in terms of the sub-group into which they are assigned):
 - the complexity of work performed;
 - skills required to perform the relevant tasks; and
 - degree of support necessary to perform the tasks at that sub-grade.
- For clarity, each supported employee's job sizing percentage:
 - is a fixed percentage, rather than a range;
 - will be determined based on the employee's occupational type only; and
 - is subject to output assessment (except for Grade 1).

Hypothetical example:

Grade 2 of the Classification Structure is amended to include the following:

Schedule B – Classifications	

B.2	Grade 2
B.2.1	An employee who has completed at least three months’ structure training so as to enable them to perform work within the scope of this level.
	[*General statement*]
B.2.2	An employee at this level: (a) performs work above and beyond the skills of an employee at Grade 1 and to the level of their training; (b) performs a simple and repetitive range of tasks, in accordance with the indicative tasks set out below; (c) works under direct supervision either individually or in a team environment; (d) understands and undertakes basic quality control/assurance procedures including the ability to recognise basic quality deviation/faults.
B.2.3	An employee with a disability is entitled to a percentage of the full award wage for a Grade 2 employee, depending on their applicable job sizing sub-grade as set out below, and subject to output assessment as set out in clause XX .
	[*Indicative duties*]
B.2.3	Indicative of the tasks which an employee at this level may perform are the following: ***
(n)	Recycling ***
•	manual sorting of recycling materials, involving a moderate level of support (Grade 2a: 20% job sizing)

Kevin is an employee with a disability who is assigned a job manually sorting recycling materials. This involves simple and repetitive tasks, with a moderate level of support.

(Note: Levels of support would be defined terms in the Classification Structure)

Kevin's duties place him into sub-grade 2a. This means he is entitled to 20% of the full Award Grade 2 wage, subject to output assessment.

Kevin's productive output is then assessed against the benchmark for tasks he is actually required to perform (taking into account the proportion of work time generally spent performing them), determined by way of comparison to a fully competent employee performing the same job to the employer's reasonable output and quality standard. This results in an output assessment figure of 75%.

Result: Kevin's award hourly wage will be **15%** (20% job sizing x 75% output assessment) of the full Award Grade 2 wage.