

IN THE MATTER OF A REVIEW OF MODERN AWARDS- SUPPORTED EMPLOYMENT
SERVICES AWARD 2020

SUBMISSION OF THE DEPARTMENT OF SOCIAL SERVICES IN RESPONSE TO
[2020] FWCFB 5295

1. This submission is made by the Department of Social Services (**the department**) on behalf of the Commonwealth of Australia (**Commonwealth**) in response to the decision of the Full Bench dated 2 October 2020 [2020] FWCFB 5295.
2. On 3 December 2019 the Full Bench published a decision ([2019] FWCFB 8179) concerning the *Supported Employment Services Award 2020* (the Award), in which the rate of superannuation contributions required to be paid by employers covered by the Award was raised. The Full Bench determined to increase employer superannuation contributions to either 9.5 per cent of ordinary time earnings or \$15.00 per week, whichever is greater.¹
3. Following the 3 December 2019 decision, National Disability Services requested the Commonwealth fund the first year of the increase to superannuation contributions. The Fair Work Commission (**FWC**) issued a statement dated 21 January 2020, indicating further consideration of the superannuation issue would be deferred until the Commonwealth was in a position to respond to this request.²
4. The department is not currently in a position to provide a response of the kind envisaged by the Full Bench in its statement of 21 January 2020 and referred to in the decision of 2 October 2020, for the following reasons:
 - 4.1. The Australian Government has agreed to fund a three-month trial of a new wage structure, as outlined in the Full Bench's decision of 3 December 2019.
 - 4.2. The trial was requested by the FWC to determine the practicality of the new classification structure and the cost impact of the new wage assessment structure on Australian Disability Enterprises (**ADEs**) before it is implemented, including the impact on wage bills and superannuation contributions.
 - 4.3. The outcomes of the trial will be used by the department to inform its proposal to Government on how best to support ADEs through the transition

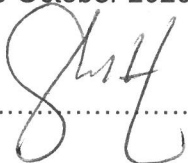
¹ [2019] FWCFB 8179 at [381].

² [2020] FWCFB 343 at [13].

to the new wage structure, using the \$67 million ADE Additional Support measure.

- 4.4. The department needs to understand the overall cost impact of the proposed new wage assessment structure so it can assess how the \$67 million can be most appropriately and effectively used to support the ADE sector. Making any earlier funding commitment in relation to superannuation only (in the absence of knowing the overall cost impact) could result in insufficient transitional support being provided to ADEs in other areas.
- 4.5. The trial was due to commence on 1 May 2020, but has been delayed due to the impact of the COVID-19 pandemic.
5. In the absence of knowing the outcomes of the trial, the Commonwealth is unable to make any commitment to provide specific funding to support the cost of the increase to superannuation contributions.

Date: 16 October 2020

A handwritten signature in black ink, appearing to read 'G. Sotiropoulos', is written over a horizontal dotted line.

George Sotiropoulos
Group Manager
Disability, Employment and Carers
Department of Social Services