

BSWAT Frequently Asked Questions (@ April 2013)

1. Where do I take my concerns about wages in Australian Disability Enterprises (ADEs)?

In the first instance, if you feel comfortable it is appropriate to discuss your concerns with the relevant Australian Disability Enterprise (ADE).

All ADEs funded by the Australian Government must be able to explain to supported employees, and if appropriate, their guardians and advocates, how wages and conditions are determined and the consequences of this.

The Complaints Resolution and Referral Service (CRRS) may be able to assist you. The CRRS exists to discuss any problem you might have regarding a disability employment service and will be able to talk with you about how best to approach an ADE about wage matters. CRRS can be contacted on freecall 1800 880 052. For further information please go to the [CRRS website](#).

You may also wish to contact the Fair Work Ombudsman. The Fair Work Ombudsman's services are free to all workers and employers in Australia. Please call them on telephone 13 1394 for the cost of a local call, or [send an email to the Fair Work Ombudsman](#). For further information please visit the [Fair Work Ombudsman website](#).

If you would like some personal assistance, you could also consider contacting a National Disability Advocacy Program (NDAP) agency. NDAP agencies offer free individual support to any person with disability and also offer information to people with disability about how to advocate for themselves. A full list of NDAP agencies can be found on the [Department of Social Services website](#).

2. How does income from my employment at an ADE affect my DSP?

Pension recipients who work are always better off in terms of their total income than when they are not working.

A DSP recipient can receive an amount of income before their pension starts to be reduced. This amount is called the **income test free area**.

From 1 July 2013, the DSP income test free area is \$156 a fortnight (\$4,056 a year) for a single pension recipient and \$276 a fortnight (\$7,176 a year) for couples combined.

Single Disability Support Pension recipients

For each dollar of income over the income test free area, the single pension is reduced by 50 cents. This is called the **taper rate**. You can earn up to **\$1,841.60 a fortnight (\$47,881.60 a year)** if you are a single DSP recipient before your pension completely cuts off. As long as you receive \$1 of DSP, you still keep your Pensioner Concession Card.

Couple Disability Support Pension recipients

For each dollar of income over the income test free area, the couple's combined pensions are reduced by 50 cents. This is called the **taper rate**. This means that for a pensioner couple, their individual pensions are reduced by 25 cents a fortnight for each dollar of income that the couple has over the income test free area. A part-pension is currently payable up to an income of **\$2,817.20 a fortnight (\$73,247.20 a year)** for pensioner couples combined, and they keep their Pensioner Concession Cards if their combined income is under this amount.

The income test free area is adjusted each year in July for singles and for couples combined for increases in the cost of living using the Consumer Price Index.

NB People who are permanently blind receive DSP free of any income or assets testing arrangements.

3. Why did the Government lodge an application for an exemption under Section 55 of the *Disability Discrimination Act 1992 (Cth)* with the Australian Human Rights Commission?

A three year exemption is being sought due to the complexity of the legal and policy issues involved and the time necessary to develop and/or implement a new wage tool.

It will take time to implement a new approach to wage setting across the supported employment sector. It is important that people with disability working in Australian Disability Enterprises (ADEs) do not experience significant disruption to their working lives.

The Department of Social Services lodged an application with the Australian Human Rights Commission for an exemption to allow the use of the Business Services Wage Assessment Tool (BSWAT) for up to three years pending the development of, and transition to, a new approach to wage setting, in consultation with the sector and people with disability.

4. Does the BSWAT decision (*Nojin and Prior v Commonwealth*) have implications for quality assurance certification of ADEs?

All ADEs funded by the Australian Government are required to comply with Services Standards in the delivery of supported employment to people with disability.

The Joint Accreditation System of Australia and New Zealand (JAS-ANZ) amended its Disability Employment and Enterprise Scheme (DEES) in light of the outcomes from the BSWAT court case. The full DEES requirements including the amendment can be found on the JAS-ANZ website.

The amendments will increase the Quality Assurance risks for some organisations and may result in an observation or a non-conformance being recorded. It is important that each ADE use the \$10,000 funding provided by the Department of Social Services in June 2013 to seek industrial relations advice relevant to their circumstances and discuss these issues with their certifying bodies well before their next audit falls due. This can help them understand what their auditor will be looking for.

5. Is the future of ADEs secure?

ADEs are a unique combination of business and social support. The Australian Government values the important role of ADEs and is committed to the ongoing supported employment of 20,000 workers with moderate to severe disability in the 192 ADEs across Australia.

In order to strengthen the focus on employment outcomes for these workers, it is essential for ADEs to be strong and viable to ensure they can continue to provide not only employment opportunities, but also good employment outcomes.

The Government is looking at a range of options to help ADEs achieve these aims.

6. Are all ADEs affected by the BSWAT decision?

The Australian Government considers that the BSWAT decision does not affect all ADEs. The decision may affect those ADEs that have used the BSWAT to assess the wages of their employees. However, the effect of the decision on an ADE and its employees will vary.

There is a range of views within the sector on how the BSWAT decision will affect an ADE and its employees. You should seek independent legal advice on your situation.