



Australian Disability Enterprises (ADEs) employ more than 20,000 Australians with permanent and significant disability in supported employment.

Nadrasca Industry at Risk

From the Desk of the Executive Director

You may or may not be aware of the issues surrounding the **Business Services Wage Assessment Tool (BSWAT)**. This tool is used by a number of Australian Disability Enterprises (ADEs) and provides a pro-rata award-based wage in addition to the Disability Support Pension (DSP) for approximately 10,000 of the 20,000 people with a disability who work in ADEs.

In a recent Federal Court case *Nojin v Commonwealth & Anor*, the Full Federal Court determined that two ADEs had discriminated against two of their employees. It was decided that the use of the Business Services Wage Assessment Tool to determine their wages wasn't fair. The findings then went to the Human Rights Commission

which administers the Disability Discrimination Act.

The Australian Human Rights Commission (AHRC) found that it would be too complicated for ADEs to immediately change to another tool, so it gave ADEs just one year to move to a better tool. An application was made seeking 3 years to transition. An appeal has been lodged with the Administrative Appeals Tribunal (AAT) and a hearing is expected to be heard later in the year.

In addition two Unions have made a joint application for BSWAT to be removed from the Supported Employment Services (SES) Award. This matter is currently adjourned to allow the parties to convene a conference to narrow the issues in dispute.

In the meantime Maurice Blackburn Lawyers has filed a claim known as a

representative action with the Federal Court against the Commonwealth. This is on behalf of supported employees with intellectual disability, whose wages are determined by the BSWAT, seeking reimbursement of wages from 2004.

The Commonwealth Government has introduced the BSWAT Payment Scheme into Parliament, which would provide eligible supported employees with financial benefits without having to endure prolonged, complex and uncertain legal action.

This Bill if passed would also relieve ADEs of any uncertainty about the Commonwealth's liability for underpayment of BSWAT-determined wages. The Scheme covers the period from the first use of the BSWAT to May 2014 (after which the Australian Human Rights Commission's decision to allow temporary payment of BSWAT-determined wages came into effect).

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What is an ADE?

An Australian Disability Enterprise (ADE) is a not-for-profit organisation, with charitable status, which provides meaningful employment for people with significant disability who would otherwise not be able to work. It is a business that makes products, or provides services. It is usually run by a not-for-profit organisation, but it is still expected to make a surplus after paying all its costs, including staff salaries.

Who works there?

So, an ADE operates in the same way as other businesses, but there is one major difference. An ADE employs people with disability, and its employees are supported in their work.

'Supported' means that there are support workers available to give the employees any assistance they need with their tasks. For example, an employee with learning difficulties may need regular reminders from their support worker about how to do a task. Support workers are also paid employees of the ADE.

How are ADEs funded?

ADEs are given Australian Government funding for each person they employ. The amount of funding depends on how much support the employee needs to do their job. There are about 600 ADEs around Australia that employ more than 20,000 people with disability.

WE ARE
FIGHTING
FOR THE
FUTURE
OF ADEs



WE WANT
1 NO JOB LOSSES
2 FAIR WAGES
3 SUSTAINABLE
BUSINESSES

The legislation requires supported employees who accept a payment offer from the Scheme to opt out of legal proceedings. As a protection, it requires them to seek independent financial and legal advice before accepting an offer. The legislation ensures that payments would have no impact on income support and would cover any tax liability incurred.

Advocacy groups are pressing to have the Fair Work Commission remove all current approved tools from the Supported Employment Award 2010 except the Supported Wages System (SWS).

The SWS is predominantly used in 'open employment' and using this tool could potentially see an overall increase in annual wage costs of up to 80%. This could have a flow on effect on the sustainability and viability of ADEs. Many ADEs don't make much of a surplus as it is, so having to pay more could

force many to either downsize, or close down altogether.

If ADEs have to close or downsize, most supported workers who lose their jobs will be stuck at home. Some might be able to get into a state-funded day programme, which will give them something to do during the day – but they will no longer be as productive because they won't be working. Some may eventually be eligible for funding under the NDIS but may have to wait until 2019 when the scheme is completely rolled out.

At this stage, Nadrasca is not affected as Nadrasca employees are paid under the Greenacres Wage Assessment Tool; however, all these factors and a review of the tools or the introduction of a new tool could have an impact on Nadrasca Industry.

If this affects you, someone you support or your child working at Nadrasca

Industry, you are encouraged to access the website www.ade.org.au to show your support for the campaign 'ADEs Work for Me'.

You can:

- Obtain more information and join the mailing list for updates
- Show your support by sharing your story
- Email the Minister with your concerns.

If you need more information as it relates to Nadrasca specifically, you can contact Chris Bourke, General Manager Nadrasca Industry or Gus Koedyk, Executive Director on 9873 1111.

Gus Koedyk
Executive Director



Access www.ade.org.au and:

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