



Australian Government



**Supported Wage System Handbook
under the *Supported Employment
Services Award (2010)***

1 July 2018

Disclaimer

This version of the Handbook is written specifically for use of the Supported Wage System under the *Supported Employment Services Award (2010)*.

Table of Contents

Contents

Disclaimer	1
Section 1 Supported Wage System Overview	5
Introduction.....	5
Key principles of the SWS.....	5
Industrial framework and conditions	5
Limits of use.....	5
Eligibility of people not in receipt of the DSP.....	6
Management of the system	6
Assistance for employers	7
Employment Assistance Fund (EAF)	7
Assistance and information for SWS employees.....	7
JobAccess website	7
Assistance for an interpreter.....	7
Retention of Pensioner Concession Card	7
Mobility Allowance	7
Workers' compensation and superannuation.....	7
Employer payment of the productivity-based wage	7
Nominee	7
Who conducts the SWS productivity assessment?	8
Approval of SWS assessors	8
SWS assessor accreditation	8
A scenario of how people will enter the SWS	8
Background.....	8
Pre-employment steps	8
Commencement of the Trial Period	9
Work after the SWS wage assessment agreement begins.....	9
Section 2 How to Use the SWS Administrative Procedures	10
Eligibility and funding procedures.....	10
Contacting the Department's Assessment Team	10
Making the application.....	10
Variation in procedures for people who are not receiving the DSP.....	10
Advice of approval.....	10
An assessor is arranged	11
Work begins in a Trial Period	11
Advising Centrelink of change in financial circumstances of a person in receipt of DSP.....	11
The lead up to the assessment.....	11

Pre-assessment process	11
If validated benchmarks are not in place and the employer intends to collect workplace data	11
If validated benchmarks are not in place and the employer does not intend to collect workplace data	12
If validated benchmarks are in place and the employer intends to collect workplace data	12
If validated benchmarks are in place and the employer does not intend to collect workplace data	12
After the assessment.....	12
Operative date to pay the assessed wage.....	12
Review	12
SWS review assessments.....	12
Cost and content of reviews.....	13
Assistance for people in a job at risk.....	13
Disputes.....	14
Summary of SWS Process – Key Steps.....	14
Section 3 The SWS Productivity Assessment Process.....	16
Introduction.....	16
Things to consider	16
Reasonable adjustment.....	16
Trial Period	16
Evidence that the employee would be unable to work at full award wage level	17
Pre-assessment checks.....	18
Suitability of the employee and the job design.....	18
Avoidance of bias.....	18
Summary of steps in the assessment.....	19
Explanation of each step in the assessment	19
Assessment Step 1: List the major duties of the job. Briefly describe the tasks of each duty.....	19
Assessment Step 2: Agree on a performance standard for each duty or task at the full rate of pay for the job.	19
Benchmarks	20
Setting an accurate benchmark is an integral step in the assessment process	20
Assessment of quality.....	20
The performance standard used for quality will be that required by the employer for the duty or task in question	20
Methods of gathering information for performance standards	21
Workplace data collection.....	22
Assessment Step 3: Compare the employee’s achievement on the duty with an agreed performance standard for each task.....	22
Assessment Step 4: Specify the time spent on each duty and calculate the productivity rate... ..	22

Check the employee’s time spent on each duty	22
Calculate the productivity rate	22
Why use time to assess duty performance?	23
Rounding.....	23
Assessment Step 5: Validate the data.....	23
Employer and assessment timing discrepancies	24
Assessment Step 6: Calculate the appropriate wage level.	24
Minimum wage outcome	24
Payments above the rate of pay specified in the SES Award	24
Productivity assessment in part-time jobs	25
Next steps after the assessment	25
Reaching agreement.....	25
Commenting on the process	25
Notifying the FWC	25
Assessment Summary Sheet	26
Section 4 Industrial Relations	31
Lodging an SWS wage assessment agreement	31
Where a union has an interest in the award, but is not involved in the wage assessment.....	31
Special national minimum wage	31
Attachment A—Schedule D - Supported Wage System Under the SES Award	32
D.3 Eligibility criteria.....	32
D.4 Supported wage rates	32
D.5 Assessment of capacity	32
D.6 Lodgement of SWS wage assessment agreement	33
D.7 Review of assessment	34
D.8 Other terms and conditions of employment	34
D.9 Workplace adjustment.....	34
D.10 Trial period	34
Attachment B – Fair Work Commission – contact details	35
Attachment C – State industrial tribunals – contact details.....	36
Industrial Relations Commission of New South Wales	36
South Australian Industrial Relations Tribunals	36
Queensland Industrial Relations Commission.....	36
Western Australia Industrial Relations Commission	36
Tasmanian Industrial Commission.....	36
Attachment D – SWS Wage Assessment Agreement	37
Attachment E - Glossary	39

Section 1 Supported Wage System Overview

Introduction

The purpose of the Supported Wage System (SWS) is to provide a process for reliable and independent work productivity assessments to enable people whose work productivity is reduced as a result of their disability, to obtain employment. Many people with disability obtain employment in the open labour force at full award wages but for some people, the nature of their disability can significantly affect their productive capacity. People in such circumstances may find employment in an Australian Disability Enterprise (ADE).

The SWS productivity assessment process provides a method to assess the productivity of the employee against performance standards of other employees with or without disability undertaking the same tasks or duties in the workplace.

The SWS was introduced in 1994, and was developed in consultation with the relevant industrial authorities, employer, trade unions, disability peak bodies, government departments and specialised employment agencies for people with disability.

This Handbook applies to the SWS used to determine productivity based wages for employees employed by an employer defined as a supported employment service under the *Supported Employment Service Award 2010* (SES Award) The SES Award can be found [here](#). In 2017, industrial parties in the Fair Work Commission (FWC) agreed by consent to vary the SWS for use under the SES Award. This Handbook reflects the variations contained in Section 14.4 and Schedule D: Supported Wage System under the SES Award. This Handbook should be read in conjunction with the 'Supported Wage Assessment Guidelines – Supported Employment Services Award' when applying the SWS under the SES Award.

Key principles of the SWS

Industrial framework and conditions

The SWS must operate within federal and state workplace relations laws. People with disability who access the SWS retain the same employment conditions as their fellow employees under the relevant industrial instrument, for example a modern award or an enterprise agreement. The assessed percentage of productivity applies only to the wage rate.

The SWS was designed to use industrial instruments and principles of wage settings that apply to all other employees in the national and state workplace relations systems.

Limits of use

An SWS productivity or pro-rata wage is used only when it is clear that a person with disability is unable to work at full productive capacity compared to that of another employee without disability, who performs the job at the performance standard. The presence of disability in itself does not justify a pro-rata award wage.

The SWS should not be used to reduce the wages of people with disability already in jobs, however, it may be used to assist people whose continued employment at full award wages is at risk, subject to conditions (see Assistance for People in a Job at Risk).

Only people eligible to participate in the SWS are able to use it and it is not applicable to other employees, particularly to other disadvantaged job seekers without disability. The SWS is intended to be simple and practical to use.

It is essential that employees are not pre-determined as capable of performing at a certain wage level and then placed in jobs.

An SWS productivity rate is determined by assessment of the performance of a particular individual in a particular job. The SWS is not intended for contractors, short-term or temporary jobs in which the core duties and tasks often change

One person's SWS productivity assessment cannot be applied to other employees with disability performing similar duties, or to the same employee in another job.

Applications for SWS require meeting the following conditions:

- the job under consideration is covered by the SES Award
- the person is an Australian citizen or is a person resident in Australia whose continued presence is not subject to a time limit imposed by Australian law (e.g. a temporary visa)
- the person is at least 15 years of age
- the person has no outstanding workers' compensation claim against the current employer
- the person meets the impairment criteria for the Disability Support Pension (DSP) as determined by Centrelink
- the job being offered is for a minimum of eight hours per week.

The Department of Social Services' (the Department) Assessment Teams approve applications for SWS. Applications are submitted online via [JobAccess](#). The employer is responsible for ensuring it is lawful to employ a person under SWS provisions for the particular job. The employer and the assessor must ensure they understand the SWS provisions.

Eligibility of people not in receipt of the DSP

A person not receiving the DSP may choose:

- to claim the DSP, or
- not to claim a payment, but only to test whether they meet the medical impairment criteria for the DSP: this is referred to as a SWS Eligibility Test.

If the person chooses to apply for the DSP, it is advisable that they obtain information from Centrelink about the claim process. More information can be found on the [Department of Human Services](#) website.

For a person not on the DSP, the Department's Assessment Team will arrange an SWS Eligibility Test by contacting Centrelink. Centrelink will contact the person to arrange an assessment for the SWS Eligibility Test.

If the person is assessed by Centrelink as meeting the SWS Eligibility Test, the Department's Assessment Team processes the SWS application.

Management of the system

The Department's Assessment Team performs day-to-day management of the SWS. The Department's Assessment Teams are located in Melbourne and Perth. The Melbourne team manages Queensland, NSW, Victoria, Tasmania and the ACT. The Perth team manages South Australia, Western Australia and the Northern Territory.

Key responsibilities of the Department's Assessment Teams are to:

- quality assure, confirm eligibility of participants and approve applications for SWS
- facilitate approval to enable payments for SWS assessments and the SWS Employer Payment
- conducts audits of SWS applications and assessments performed by approved SWS assessors
- check for accuracy and timeliness of the wage assessment process and outcomes
- appear before industrial tribunals, such as the FWC or a state tribunal, where required.

Assistance for employers

Employment Assistance Fund (EAF)

The EAF is designed to help employers accommodate employees with disability. The EAF reimburses employers for the cost of special equipment or adjustments needed to accommodate an employee with disability in the workplace. Financial assistance for the provision of Auslan interpreters and disability awareness training is also available from the EAF. More information can be found at the [JobAccess](#) or by phoning **1800 464 800**.

Assistance and information for SWS employees

JobAccess website

The JobAccess website is a one-stop shop for all matters relating to the employment of people with disability. More information about SWS and other disability services can be found at [JobAccess](#) or by phoning **1800 464 800**. 1800 calls are free from fixed lines; please note calls made from mobile phones may incur additional costs.

Assistance for an interpreter

If you need an interpreter, you can get help through the Translating and Interpreter Service on telephone **13 14 50**.

If you are deaf or have a hearing or speech impairment, you can get help through the Speech-to-Speech Relay through the National Relay Service on **13 36 77**. Both of these services are available 24 hours a day seven days a week, and are the cost of a local call anywhere in Australia.

If you use Auslan to communicate, you can access the Government's Employment Assistance Fund (EAF) that can help with the costs of Auslan interpreting for SWS assessments.

Retention of Pensioner Concession Card

Recipients of DSP are entitled to the Pensioner Concession Card (PCC). PCC information can be found at the [Department of Human Services](#) website.

Mobility Allowance

SWS employees may be entitled to Mobility Allowance. This allowance provides assistance to people with disability who are in paid employment, voluntary work or vocational training, undertaking independent living/life skills training or a combination of paid work and training and who are unable to use public transport without substantial assistance. More information about Mobility Allowance can be found at the [Department of Human Services](#) website.

Workers' compensation and superannuation

Employers are required to provide workers' compensation insurance for all employees. This includes potential SWS recipients who are working in the Trial Period and those employed after the SWS productivity assessment. Superannuation must be paid as legislated.

Employer payment of the productivity-based wage

The employer will pay the assessed wage and superannuation as required. Payment of the assessed wage is made to the employee in the same way as other employees who do not participate in SWS.

Nominee

An employee may choose to involve a nominee in any stage of the job placement or SWS productivity assessment process. Any person nominated by the employee may carry out this general advocacy role.

Where a signature is required, such as on the wage assessment agreement, and the potential

employee is unable to provide it, the person signing must be someone nominated in accordance with the relevant state or territory laws to sign documents on the potential employee's behalf.

Who conducts the SWS productivity assessment?

The Department contracts NPA Providers to perform assessments. Assessors are required to have minimum qualifications and experience (see 'Approval of SWS assessors' below). A list of NPA Providers is available through JobAccess website.

The role of the SWS assessor is to work cooperatively in the workplace and not seek to impose a primary decision-making or arbitration role.

The assessment process must be conducted in a manner that ensures the employer and the employee have a strong sense of ownership of the outcome. The assessment will ensure that the employer, employee, and assessor agree on the assessment process, performance standards and classification.

Approval of SWS assessors

To be an approved SWS assessor requires prerequisite skills, training and experience. Assessors require a minimum of two years practical experience in the disability employment or related sectors, and an Australian education qualification (at a minimum of diploma level) in one of the following fields:

- Occupational Therapy
- Psychology
- Physiotherapy
- Rehabilitation Counsellor
- Vocational training
- Other diploma level or above qualification, which the Department considers is relevant to providing the required SWS assessments.

SWS assessor accreditation

In addition to the requirements above, SWS assessors must complete the relevant accreditation and training process as directed by the Department before they are eligible to assess employees covered by SWS provisions.

A scenario of how people will enter the SWS

The SWS can be initiated in a number of ways. Many people with disability are clients of employment services Providers, who can help facilitate the application for SWS. However, people who are not registered with an employment services Provider may also use the SWS.

Background

In this scenario, the applicant is an employment services Provider acting on behalf of an employee who receives the DSP. It is assumed that the employee will not be able to work at the full award wage rate as unsuccessful attempts have been made to secure employment at full award rates. A potential job in an ADE has been identified that is covered by the SES Award.

Pre-employment steps

The applicant contacts the [Fair Work Commission](#) on **1300 799 675** to confirm the ADE uses the SES Award.

The applicant visits [JobAccess](#) to check the requirements of participating in SWS and confirms that they meet the key eligibility requirements.

The potential employee or employment service Provider completes the SWS application online at

[JobAccess.](#)

On receipt of the application, the Department's Assessment Team verifies that the potential employee is in receipt of DSP, and checks that other eligibility criteria have been met.

The Department's Assessment Team notifies the applicant when their application is approved, or if they do not meet the necessary criteria they are notified that their application has been declined.

Commencement of the Trial Period

On confirmation of approval of their SWS application, the employee begins work in the Trial Period, and advises Centrelink of any change in circumstances: the rate of the DSP paid may need alteration for this period to take account of the wages paid.

The assessor must ensure that the employer and the employee understand the implications of SWS and agree on a time for the assessment to be undertaken. If a pro-rata award wage is appropriate, and accepted by those involved, the SWS wage assessment agreement is signed and a copy provided to the employer and employee.

Work after the SWS wage assessment agreement begins

Payment of the pro-rata wage commences from the date the wage assessment agreement is signed. The employee or their nominee advises Centrelink of the agreed wage.

The assessor also provides a copy to the employment service Provider and union if requested.

The employer lodges a copy with the FWC.

The employee commences work at the agreed assessed wage. The wage assessment agreement takes effect as soon as the employer, employee and assessor sign it.

An anticipated date for the review of the wage assessment is reached between all parties. This date can be varied by local agreement, but must generally be within a year following the assessment (see Section 2, 'Review Date Negotiated').

A Work Order to conduct a review assessment will be generated and issued to an SWS Provider approximately nine weeks before the review date. This is done so that the assessor has time to complete the preliminary research about the duties, work classification, workplace requirements, and so that the employer and employee can prepare for the assessment to take place in the workplace.

Section 2 How to Use the SWS Administrative Procedures

The key steps in the wage assessment process are summarised later in this section.

Eligibility and funding procedures

The SWS procedures apply whether a person is registered with an employment services Provider or not.

Contacting the Department's Assessment Team

The employee, employer or employment service Provider can contact the Department's Assessment Team by phone on **1800 065 123**.

Making the application

The online SWS application form is available on the [JobAccess](#) website. The employment services Provider completes and submits the application form online.

The Department's Assessment Team:

- confirms the potential employee meets the DSP impairment criteria (Department's Assessment Team may contact Centrelink to confirm this), or that they are in receipt of DSP
- checks all other eligibility criteria have been met
- approves or declines the application.

Variation in procedures for people who are not receiving the DSP

A person not receiving the DSP may choose to apply for the DSP. They are not required to apply for DSP, however the Department's Assessment Team may request Centrelink to test whether they meet the criteria for DSP to satisfy the SWS eligibility requirements at the SWS application approval stage.

If the potential employee chooses to apply for DSP, the relevant form(s) can be:

- downloaded from the [Department of Human Services](#) website
- collected by visiting a Centrelink Service Centre
- obtained by phoning the Centrelink Contact Centre on **13 27 17**.

It is advisable that the applicant or their nominee obtains information from Centrelink on the claim process.

The potential employee completes the claim for DSP and sends it to the local Centrelink office. Centrelink will contact the applicant about the claim.

If the potential employee meets the DSP criteria, the potential employee, nominee or employment services Provider informs the Department's Assessment Team, who then confirms the information with Centrelink.

The Department's Assessment Team then processes the application.

If the potential employee is not in receipt of the DSP, the Department's Assessment Team would notify the employment services Provider (or SWS applicant) that they will send a request to Centrelink to determine eligibility for the SWS.

If the outcome of the test indicates eligibility for participation in the SWS, the Department's Assessment Team then processes the application as previously outlined.

Advice of approval

The Department's Assessment Team notifies the applicant of approval of the SWS application and the potential employee commences the SWS Trial Period.

An assessor is arranged

The Department's IT system generates and issues a Work Order to a contracted SWS Provider.

The Provider accepts the Work Order and arranges an approved SWS assessor to prepare for the assessment.

Work begins in a Trial Period

The workplace parties negotiate a trial wage. The employer pays a negotiated wage to the employee during the Trial Period. The trial wage must be at least the SES Award minimum SWS hourly wage, and should ideally reflect the expected productivity levels for the Trial Period.

Employees covered by the SES Award under the SWS must be paid a minimum hourly wage rate. This rate of pay is to be the higher of:

- the assessed productive capacity of the employee rounded to the nearest whole percentile, or
- 12.5 percent if the assessed productive capacity of the employee is less than 12.5 percent.

For these employees there is no minimum wage payable per week.

The Trial Period must be at least 13 weeks.

Advising Centrelink of change in financial circumstances of a person in receipt of DSP

Centrelink requires advice about the SWS employee's wage during the Trial Period, and any subsequent wage adjustments. The employment services Provider should assist the employee in advising Centrelink, where required. Centrelink can be contacted by telephone on **13 27 17**, in writing or by visiting a Customer Service Centre. It is important to advise Centrelink within 14 days of a change of wages as the employee's earnings may affect the rate of DSP. More information is available at the [Department of Human Services](#) website.

The lead up to the assessment

Following receipt of a Work Order, the SWS assessor negotiates a suitable date and time with the employee, employer and employment services Provider for the assessment to take place. If the employee is an employment service Provider client, the employment services Provider will usually make these arrangements.

Pre-assessment process

The employer may collect workplace data on the employee's productive capacity, in the period leading up to the assessment. The workplace data can then be used, in combination with data collected by the assessor, to calculate the employee's wage. Validated performance standards and benchmarks must be in place before workplace data can be collected.

If validated benchmarks are not in place and the employer intends to collect workplace data

The assessor will work with the employer to develop performance standards and benchmarks. Benchmark validation must be done prior to the employee completing their Trial Period as this is done independently of the employee.

As the validation period may take some time, it will be important to ensure that the benchmarking process is well organised, as the employee cannot take more than 26 weeks for the Trial Period.

Benchmarks must be validated for employer timings to be included in the employee's overall productivity calculation.

If validated benchmarks are not in place and the employer does not intend to collect workplace data

The assessment is allocated to the assessor who will organise for the assessment to occur after completion of the Trial Period. Benchmarks may be created and validated, as this may assist with other assessments, and does not require employee participation.

If validated benchmarks are in place and the employer intends to collect workplace data

Assessment is allocated to the assessor, a Trial Period of 13 weeks is undertaken and data collection is undertaken from week 14 to 26 (if full period is required). Assessment must be completed by 26 weeks from commencement.

If validated benchmarks are in place and the employer does not intend to collect workplace data

Assessment is allocated to the assessor and the assessment is carried out after the 13 week Trial Period.

After the assessment

The employer, or the assessor on the employer's behalf, sends the signed wage assessment agreement form to the FWC.

If a union representative was not party to the wage agreement, the FWC will email a copy of the wage assessment agreement to the union's nominated email address.

If the union has not notified the FWC with an objection within 10 working days, the FWC will advise the employer or the assessor that the wage assessment agreement has been successfully filed.

The assessor always provides a copy of the wage assessment agreement form to the agreement parties, for example the employee, employer, union representative if party to the agreement, and the employment services Provider if agreed to by the employee.

Operative date to pay the assessed wage

The operative date of the wage agreement is the date when the wage assessment agreement is signed by the employer, employee (or nominee) and a union representative (if requested by the employee) and the assessor. The employer will pay the agreed wage rate from this date and does not have to wait until receipt of notification from the FWC that the wage assessment agreement has been filed.

Review

SWS review assessments

Where an employee with disability is employed on an SWS productivity-based wage, the employee's productivity is periodically reviewed. This ensures that the wage rate reflects any changes in productivity.

For employees covered by the SES Award, reviews will be undertaken one year after the initial assessment and subsequently within a period not exceeding three years' service with the employer since the previous assessment.

A wage assessment may be reviewed at the initiative of either the employee or the employer, once every six months and not more than four times every three years. Unless an employer and an employee agreed prior to 1 May 2017 to undertake reviews in other circumstances, such a review may only be initiated in circumstances where an employee has changed jobs or the processes involved in the work undertaken by the employee have changed.

Where there is no agreement about the need for an early review (between the employer and the employee and/or the employee's nominee), the dispute mechanisms available in the workplace or

FWC may be used. Otherwise, the assessed productivity rate will stand until the next review.

The majority of SWS review assessments are allocated to assessors approximately nine weeks before the assessment is due.

Where an SWS review assessment is scheduled, the employer, employee, assessor and union representative (if required) will re-examine the work undertaken and the current level of productivity. The parties will reassess the percentage of the full award wage paid to the employee based on this review and agree to amend or retain the current assessed productivity rate.

If a party to the SWS wage assessment disputes the result, they may submit a written request to the Department's Assessment Team outlining why the assessment should be reconsidered.

If there is no agreement on the assessment outcome between the parties to the assessment, the employment contract under SWS provisions will lapse 30 calendar days after the date of the last assessment. It will be a matter for the parties involved as to whether they wish to enter a new contract based on the general industrial provisions, or whether they wish to use avenues generally available under the industrial relations system to resolve any areas of disagreement as to the operations of the industrial provisions for the SWS.

It is the responsibility of the employer to ensure that a copy of the new wage assessment agreement is sent to the FWC. The employer may request the assessor send the wage assessment agreement to the FWC on their behalf. The assessor must advise the Department's Assessment Team of any significant changes because of the review when they submit their assessment report online.

Cost and content of reviews

The Australian Government pays the cost of SWS wage assessments for each employee. This includes initial assessments and review assessments.

Reviews will require examination of the main elements of the previous SWS productivity assessment, including the tasks and duties performed, the suitability of the performance standards and benchmarks and the productivity results of the employee against those standards.

Where an employment services Provider is funded to support the person at work, this service Provider would usually offer to assist in the assessment process.

Since the record of the previous productivity assessments and reviews will normally be available to assessors, later reviews may be simpler and shorter than those conducted earlier.

Assistance for people in a job at risk

Occasionally the continued employment of an existing employee at full award wages may be at risk.

This may occur when, for example, a person with disability finds a job, and it is likely (but not certain) that an award-wage level of achievement can be reached. The employer, however, agrees to pay full award wages from the outset.

The person then enters work but is unable to achieve award-level productivity, despite reasonable adjustments being made, for any of the following reasons:

- a person acquires a disability outside the workplace (for example, a stroke or multiple sclerosis) and the person's capacity to work is reduced
- a person's existing disability is worsening and has reduced the person's capacity to work
- the job is substantially restructured or removed due to a change in business operating conditions.

There may be a need to reassess the residual job functions or to consider assessing a new position for the employee. Where a pro-rata wage is considered the most appropriate option, an employee at risk of unemployment may be covered by the provisions of the SWS, subject to meeting each of the

following five conditions:

- the person agrees to participate in the SWS
- the person does not have a pending or current employee compensation claim against the employer
- the person meets all eligibility criteria for the SWS (including meeting the DSP impairment criteria)
- the employer has made reasonable adjustments to maintain the person's productivity
- the employee's SWS assessment confirms an inability to meet the agreed performance standard for the job.

Disputes

If there is no agreement on the outcome of the initial SWS productivity assessment, the employer may choose not to offer the person employment under the provisions of the SWS. A disagreement between the employer and the assessor would not be subject to the industrial dispute mechanisms applying in the enterprise.

Once the employee has been engaged on SWS provisions, the dispute resolution mechanisms available to other employees in the workplace apply. The FWC has jurisdiction over disputes that an SWS employee may have with an employer. A nominee of the SWS employee may be involved to ensure the interests of the employee are adequately represented.

If one or more parties disagree with the SWS productivity rating, they need to try to discuss their different views, and seek to resolve them and reach agreement. If they fail to reach agreement, they may submit a request for a review of the SWS assessment process, with the Department's Assessment Team. The employer, employee, employee's nominee or a union representative can lodge a request for a review. The request must be in writing (email is acceptable) and must outline the specific parts of the SWS assessment process which they would like reviewed, making reference to the requirements for conducting SWS assessments outlined in this Handbook.

It is not sufficient to base a request for review on disagreement with the result alone. Grounds for requesting a review of the assessment must include evidence that the assessment was not conducted in accordance with this Handbook and that it would result in significant disadvantage to the employee and/or the employer.

The Department will respond to requests for review within 21 calendar days. The Department will not change the productivity rating, but may request that an assessor conduct parts of the assessment again or in cases where there is clear evidence that the assessment was not properly conducted, may request a new assessment.

Summary of SWS Process – Key Steps

1. Access the [JobAccess](#) website or phone the Department's Assessment Team (**1800 065 123**) for information.
2. Complete and lodge the application form on the JobAccess website.
3. The Department's Assessment Team checks the employee's eligibility.
4. If the employee is not in receipt of the DSP and does not have a current medical impairment assessment then the Department's Assessment Team contacts Centrelink for an SWS Eligibility Test.
5. If the employee meets the DSP criteria, then the Department's Assessment Team approves the application. A confirmation email is sent to the applicant.
6. The employee commences the Trial Period.
7. The SWS IT System assigns the assessment to an SWS assessment Provider.
8. If the employee is on income support, the employee notifies Centrelink about the employment.
9. The SWS wage assessment is conducted and agreed, and lodged with the FWC

10. The SWS IT system automatically initiates review assessments or the Department's Assessment Team can arrange an earlier review if requested.

Section 3 The SWS Productivity Assessment Process

Introduction

The productivity-based wage requires a standard to be set of the productivity needed for the full rate of pay for the job, followed by an assessment of the employee's achievement against that standard.

An employment services Provider may be involved in providing on-the-job support for the employee whose productivity is to be assessed. In practice, the SWS assessment may draw upon work already done by the employment services Provider for the job placement.

An employment services Provider often identifies and records the key tasks of a job. This guides the training provided for the employee. The usual job placement process often includes a discussion about the performance standards required for the key tasks. This information guides the employee's training strategy and gives each party a clear understanding of what is required for the placement to succeed.

A productivity assessment requires extra attention to any training-oriented description of duties and the subsequent assessment of the employee against those duties.

An important goal of the productivity assessment process is that it is reasonably easy to use and causes minimal disruption to the workplace.

The assessment must also guard against prejudice or bias (discussed later in this section) and ensure identification of a fair wage rate. The method of arriving at the assessment must be capable of review by an independent third party.

Workplaces are dynamic and each is unique; it is not possible to foresee every variation in job design or all employee requirements. Judgement is required in applying the assessment method in each particular environment.

Things to consider

Reasonable adjustment

Reasonable adjustments are alterations or modifications made to the workplace to assist an employee with disability to participate in employment on the same basis as others. Reasonable adjustments are given statutory force in the *Disability Discrimination Act 1992 (Cth)* and in other similar Acts at the state and territory levels.

Under the Act, a failure to make reasonable adjustments for an employee with disability can constitute unlawful discrimination. An adjustment is 'reasonable' under the Act if it does not impose unjustifiable hardship on the employer. In determining unjustifiable hardship, all relevant circumstances of the particular case must be taken into account, including the factors set out in section 11 of the Act.

Sometimes reasonable adjustments require more than modifications to the physical working environment. The manner in which reasonable adjustments are made will vary according to the needs of the employee with disability, the nature of the job, the physical setting, and the knowledge of people in the workplace. The provision of an appropriate modification to the workplace could mean the difference between a 60 per cent level of assessed productivity and an 80 per cent level.

An employer may make distinctions about the terms and conditions of employment where an employee is unable to perform the inherent requirements of the job even if reasonable adjustments are made: see section 21A of the Act.

Trial Period

People with disability will learn their job tasks at varying rates. Some people may have a 'learning curve' that climbs steadily for many weeks, others may learn the basics more quickly and their

performance may plateau earlier.

A period of specialised on-the-job training will usually be required for most people using the SWS before conducting an initial productivity assessment.

For this reason, and to enable consideration of the overall suitability of the job placement, a Trial Period is part of the SWS provisions. The Trial Period can commence on approval of the SWS application.

The Trial Period for employees covered by the SES Award must be a minimum of 13 weeks, with a maximum period of 26 weeks.

The extension of the Trial Period is only acceptable when it is for the benefit of the employee, for example an absence from work because of illness or where it is expected that the person could further improve work performance in a short period.

The employer pays a negotiated wage to the employee during the Trial Period. The trial wage must be the minimum SWS hourly wage provided for in the SES Award, and should ideally reflect the expected productivity levels for the Trial Period. The SWS minimum wage changes on 1 July each year and is available from the [Fair Work Ombudsman](#) website or by contacting the Fair Work Infoline on **13 13 94**.

Employees covered by the SES Award under SWS provisions must be paid a minimum hourly wage rate. This rate of pay is to be the higher of:

- the assessed productive capacity of the employee rounded to the nearest whole percentile, or
- 12.5 percent of the Award wage if the assessed productive capacity of the employee is less than 12.5 percent.

For these employees there is no minimum wage payable per week.

Depending on the anticipated productivity in the Trial Period, it is desirable that the trial wage is not substantially lower than the actual assessed wage. This is particularly relevant where the person has prior experience relevant to the job in question.

The wage in the Trial Period will apply until the productivity assessment is conducted and the workplace parties sign a wage assessment agreement. The employer, the employee and the assessor will agree upon the dates, on which the assessment will take place.

It is important that the employee is not persuaded to undertake an SWS productivity assessment before they are ready, or to delay an assessment, with the employee remaining on a training wage for longer than necessary.

The specialised training in the Trial Period is in addition to any other standard training normally provided to employees at the relevant workplace.

Many people will continue to receive specialised and general training after the SWS assessment is complete, in accordance with the SES Award provisions.

The employee with disability should reach a reasonably stable level of job performance before an SWS productivity assessment. The employee should have already received specialist training where required to gain the skill and confidence to perform their tasks safely.

Work trials should include induction or training as appropriate in the job being trialled.

Evidence that the employee would be unable to work at full award wage level

The parties should be satisfied that an award wage level of work performance has not been achieved so far on the job, and is unlikely in the short term.

The presence of disability or eligibility for DSP is not an indication of the need for an SWS productivity wage.

Many people with high levels of disability are able to work at full productivity and award wages. Take care in any discussion of current productivity to avoid prejudging the outcome of the later productivity assessment.

Pre-assessment checks

The assessor will need to ensure completion of the required pre-assessment checks have been carried out prior to the wage assessment.

An employment service Provider, where used, should check the items listed below, regardless of the anticipated use of full or pro-rata wages. The checks will occur before and during the job placement, as they are customary job-matching tasks for most people with significant disability.

Suitability of the employee and the job design

Is there an appropriate match between the individual and the job?

- Does the placement capitalise on the strengths and abilities of the employee, or does the placement place undue focus on areas of disability?
- The employee's freedom of choice and preferences should always be an integral part of this process.
- Are there any desirable changes to task allocation in the work team? Would changes improve overall productivity and help match the employer's requirements and the abilities of the employee?
- The EAF can provide reimbursement for the provision of necessary modifications to the workplace to assist with the employee's mobility or performance at work. More information is available on the [JobAccess](#) website.

Avoidance of bias

The SWS uses a specific assessment process to ensure wage rates are fair and to guard against bias or prejudice. A number of potential sources of bias may apply in the assessment of individual capabilities, particularly in the assessment of people with disability.

The following are some of the sources of bias:

- Expectancy bias; if you expect people to behave in a certain way, you will probably perceive them as behaving in that way. Someone who stereotypes people with disability as, for example, costly to employ, troublesome (i.e. having behaviour problems, being disruptive, etc.), and likely to be absent more often as a result of health problems, is more likely to see them as demonstrating those behaviours.
- The 'halo effect' in rating skills and performance; drawing an impression of an employee based on a single characteristic, such as intelligence or appearance. The halo may be either positive or negative; for example, a negative halo may be to assume that, simply because an employee has a speech impairment, they also have an intellectual disability.
- Failure to recognise the 'implicit' skills and attributes of the employee with disability, for example the ability to cooperate with others or to focus attention on a task.
- Gender factors; research suggests that gender discrimination in the general labour force interacts with discrimination against people with disability to severely disadvantage women with disability, in terms of access to jobs, training, services and income.
- Discrimination on the basis of age needs also to be considered, particularly in view of the ageing of the population.

To avoid bias in the assessment system:

- Ensure that assessments are based on explicit criteria that are (as far as possible) capable of measurement or observation (i.e. performance standards and benchmarks) rather than on unstructured subjective assessments.
- Include training for those undertaking assessments, using specific materials on recognising and preventing bias.

Summary of steps in the assessment

1. List the duties of the position and describe the major tasks of each duty
2. Agree on a performance standard for each task
3. Compare the employee's achievement on the job with agreed performance standards for each task
4. Specify the time spent on each task
5. Validate the data
6. Calculate the appropriate wage level.

Explanation of each step in the assessment

Guidelines and training in the methods of gathering information for productivity assessments are provided to contracted SWS Providers. The following is a description of the key points in productivity assessments.

Assessment Step 1: List the major duties of the job. Briefly describe the tasks of each duty.

Duties and tasks are key concepts related to a job. Tasks are usually part of a duty. Job requirements can include the knowledge, skills and abilities necessary for a job. Job tasks are specific actions in a duty required of someone in a given position. For example, someone may have a duty: package plumbing components. A task is a breakdown of the steps in each duty.

The tasks required under package plumbing components may be; collect product and bags, fill bags with product, label bag. The product is washers and bolts and are placed into a plastic bag that is labelled with the contents.

The fundamentals that may be required for the job are the physical capability to collect the product and bags, the dexterity to label the bags, as well as the capacity to learn how to do these tasks. The employee's capability must be matched to the appropriate duties and tasks.

A person with disability may not be able to complete all the duties (or even all the tasks in a duty) in a job. However, they may be able to carry out one or more identified tasks as part of a duty.

Where identification of the duties and tasks within the workplace exists, checks are required for accuracy, given the possibility of job-redesign in the Trial Period. Existing job descriptions or competency standards specific to a particular workplace can also save time when defining the job. In some cases, there may be consideration of the appropriate classification of the position.

In some cases, information on the duties and tasks of the job will already be contained in:

- the specialised training plan for the employee
- existing job descriptions and personnel documents
- competency standards within competency based training systems.

Duties and tasks may be identified or confirmed by observation and by talking to the supervisor, employee, the employment service Provider and other employees. Consider the outcomes or key results required by the job, and then identify the duties and tasks needed to achieve these outcomes. It is important that the task is observable, measurable, replicable and has a clear beginning and end.

The provisions in the SES Award determine the appropriate classification for the position.

Where an employee performs duties that span more than one classification, they must be paid at the higher grade if carrying out the duties of the higher grade for two or more hours in any shift. This does not apply while the employee is carrying out work in a higher grade for training purposes only.

Assessment Step 2: Agree on a performance standard for each duty or task at the full rate of pay for the job.

A performance standard must be established before an SWS assessment can be undertaken, and

before the employer can collect workplace data. Performance standards provide the employee with specific performance expectations for each duty and task. They are the observable behaviours and actions that explain how the job is to be done, plus the results that are expected for satisfactory job performance.

For example, they describe all task details required to successfully complete the task, including task breakdown, start and end points, how the task is completed, the quality and quantity required, details of any tools/machinery used, relevant environmental conditions (where the task is performed), and any conditions that need to be in place before or after the assessment.

In many cases, the most effective way to set a performance standard is by observing the performance of another employee performing the same duties in the workplace.

The SES Award sets out classifications with indicative duties within each grade, but does not specifically set out productivity standards.

Key points about the use of performance standards in the assessment system are:

- performance standards should always reflect the level of performance that would be expected from a competent employee performing the same duties or tasks as the employee with disability
- to adopt some higher or 'ideal' standard would unfairly disadvantage SWS employees, as the minimum pay of other employees is not determined by this higher standard
- performance standards need to be set only for those duties or tasks where the employee's disability has some bearing on performance.

Where there are duties or tasks unaffected by the disability, the assumption is that the employee meets the performance standard and no assessment is required. It would simply be a matter of recording that the employee met 100 per cent of the requirements for that duty or task.

Benchmarks

A benchmark is an agreed standard or point of reference used to compare an employee's work performance and productivity. It is a specific indicator used to calculate the time taken or task output in relation to agreed performance standards.

Setting an accurate benchmark is an integral step in the assessment process

Validation of all benchmarks must occur by comparison observation to ensure they are achievable in the assessment workplace. This ensures that when incorporating employer timings, the employer and assessor measure exactly the same thing for that employee. It is recommended that at least three timings are taken on three different occasions. More information on the number of timings required is set out in the Guidelines.

Once an approved assessor validates a benchmark in the workplace, that benchmark may be used for other employees undertaking the same task in the same location and/or for review assessments for the same employee.

Validation of benchmarks must still take place even if employer timings are not being included, as they may provide useful information for comparing employees undertaking the same tasks.

Assessment of quality

The benchmark should specify the performance standards that incorporate both quality and quantity components.

The performance standard used for quality will be that required by the employer for the duty or task in question

An example of such a benchmark may be 'produce x units per hour, with a rejection rate not exceeding y per cent'.

The benchmark is established by the performance of other employees performing the same or similar jobs in the workplace in question.

The performance of the SWS employee can be assessed against such a benchmark, with the number of 'rejects' in excess of those allowed under the standard, deducted to from the score.

Another example may be where an employee is required to mow a lawn. The standard may be to mow 50 square metres in 10 minutes within acceptable guidelines.

Methods of gathering information for performance standards

Quantifying an employee's achievement will often be the easiest and most reliable way of setting performance standards, and of assessing the employee's achievement against the standards – especially in assembly, manufacturing or process duties.

While the need for judgement is a necessary part of the productivity assessment, the greater the reliance on subjective judgement, the greater the scope for bias and inconsistency (see 'Avoidance of bias' earlier in this section). The use of reliable data is therefore the preferred method of setting standards and assessing the employee's achievement.

However, where duties and tasks are appropriately quantified, a qualitative standard will be used.

Each party to the assessment must agree to the performance standards and to the assessed levels of work achievement against those standards.

Information on other employees' performance should be used in setting performance standards. Sometimes, this information can be achieved without direct observation of other employees. Many workplaces gather reliable production statistics that can be a non-intrusive means of establishing performance information.

In cases where other employees cannot contribute to the setting of performance standards, such as where the position is new or there is no one else performing those duties, it may be useful for the assessor to perform the duty to develop reasonable expectations of performance.

If another employee is involved in a performance standard determination exercise, the person should be competent in the task and, preferably, have a similar length of experience on the job as the person who is the subject of assessment. The performance of employees who have been doing the same job for many years could be unusually high.

If fellow employees are being monitored to develop performance standards, they should be advised of this. It should be noted that the very fact of providing this information could improve that employee's achievement.

Assessment information gained over too short a period may over-estimate sustainable performance over time.

Gather information to set standards under conditions closely approximating those normally applying to the workplace.

Make provision for rest breaks and personal time, consistent with the needs of the employee or the general operating standards of the workplace.

There can be a wide variation in the performance of an employee with disability, just as there can be in the performance of an employee without disability. Variations in performance reflect a wide range of workplace factors, not only the capabilities of the individual, for example supervision and work design.

Where the job involves considerable variation in duties on a day-to-day basis, it may be desirable to create a simulated work routine for the purpose of establishing performance standards and assessing achievement against these standards.

In this approach, base the performance standard and subsequent assessment of the employee's

achievement on a representative sample of tasks drawn from the range of duties the employee would typically perform in the job.

Workplace data collection

Prior to the assessor undertaking the assessment, the employer may choose to collect workplace data for use in the calculation of the assessed employee's wages.

For the workplace data to be valid, employers should collect and document a minimum of three timings against the agreed benchmarks for each task relevant to the employee's usual work.

The benefits of collection of workplace data for an ADE can be to assist with forecasting, tendering, workplace performance and planning. Another benefit can arise in a situation where no workplace data has been collected and there is a difference between an employee's productive capacity during assessment and when they are working normally, workplace data can make the situation less complicated to resolve.

Assessment Step 3: Compare the employee's achievement on the duty with an agreed performance standard for each task.

The assessment of the employee's achievement would almost always be made in the usual work setting. The employee, or their representative (union or nominee) or the employer, will be entitled to seek an opportunity for the employee to demonstrate their capabilities.

As noted above, there should be no assessment of any tasks where the disability clearly has no bearing on the employee's performance. Such tasks should be listed and rated at 100 per cent achievement. The total percentage of time taken to perform such a task is recorded.

If the employee achieves a greater than 100 per cent rating, for example 120 per cent, this is rated as 100 per cent achievement for that task.

The parties should agree on an appropriate rating for the employee for each task, against the performance standard. Express achievement as a percentage, with 100 per cent level representing the agreed performance standard for the full relevant rate of pay for the task.

The following points apply to any demonstration of performance by the employee:

- the goal is to choose unobtrusive and reliable methods of gaining productivity information
- observation or monitoring the employee's achievement in the course of their normal work is clearly preferable to a separate and more formal demonstration exercise, although this may be desirable in some cases.

Observation or monitoring should:

- be conducted in as natural and sensitive a manner as possible, so the employee is comfortable and relaxed
- be done independently of any 'hands on' assistance from supervisors, other employees or placement agency staff
- ensure the employee receives the same level of support and supervision that would be reasonably available to other people who do not have disability, such as being able to ask questions or discuss problems
- ensure the employee is free to stop and repeat the process if they feel uncomfortable.

Assessment Step 4: Specify the time spent on each duty and calculate the productivity rate.

Check the employee's time spent on each duty

Each duty the employee performs is weighted according to the amount of time spent on that duty by adding up the times of each associated task, usually per week, but could be per day, per fortnight, etc.

Calculate the productivity rate

Compare the employee’s achievement on each duty with the workplace’s standard for that duty. The comparative performance is then multiplied by the percentage of time spent on each duty. This gives a percentage of the award to be paid for each duty. The final percentage of the rate of pay to be paid for each duty is added.

The time spent on each duty is used to adjust the employee performance rating for each duty. This ensures low (or high) performance on a task within the duty will not unfairly influence the overall productivity rate. Time is generally also a useful indicator of the importance of each duty.

Why use time to assess duty performance?

Duties may vary in importance according to how frequently they are performed, how critical they are to job performance and how difficult they are to learn.

The fairness of the time dimension is explained in the following example.

An employee in a plant nursery spends 60 per cent of their time on one duty at which they achieve 70 per cent of the expected performance for the relevant rate of pay. The employee spends 30 per cent of their time on a second duty in which they achieved 50 per cent of the expected performance for the relevant rate of pay. The remainder of the time is spent on a duty in which her performance is at 40 per cent of the standard.

Without a time weighting the employee’s performance rating would be 53 per cent:

Duty 1	70%
Duty 2	50%
Duty 3	40%
Average	53%

With a time weighting, however, the performance rating is 61 per cent:

Duty 1	$70\% \times .60 = .42$
Duty 2	$50\% \times .30 = .15$
Duty 3	$40\% \times .10 = .04$
Total	.61 (by addition)

The proportion of time spent on a duty is the most reliable representative measure for the performance of a duty and is important for a fair wage outcome.

It should be noted that the amount of time spent on a duty could be per day, week, fortnight, or even month.

Performance rating may be adjusted for supervision and other work-related factors in some cases.

Rounding

Under the SES Award, the result is rounded to the nearest whole percentile. The method of doing this will be a simple arithmetic rounding, for example 37.50 per cent is rounded up to 38 per cent, or 53.49 per cent is rounded down to 53 per cent.

Assessment Step 5: Validate the data.

Validation is the analysis of the productivity data to establish whether the data is representative and reflective of the employee’s usual performance.

Validation evidence should be documented when the timings are being collected. The evidence should include information on the circumstances in which the timings were collected. For example, if

the employee is performing outdoor work, it would be relevant to include in the evidence any adverse weather and the effect this had on the employee's performance.

At the conclusion of the data collection process, the employee, the assessor and the employer will undertake a collaborative validation process, where all available data is shared. The employee, employer and assessor will discuss the available data and agree if any of the timings will be excluded in calculating the overall assessment result, or agree to undertake more timings.

Employer and assessment timing discrepancies

Where employer timings are taken and there is a variance between the workplace data and the assessor data of greater than 20 percentage points, the employee, assessor and employer should closely examine the available data and attempt to determine the source of the variance. The parties may agree to collect additional data. The additional data should be collected as soon as practicable, and added to the existing data. If the disparity is still greater than 20 percentage points then the overall productivity will be as collected and calculated by the assessor. If the employer wishes to dispute this, then the dispute mechanism outlined earlier in this Handbook applies.

Assessment Step 6: Calculate the appropriate wage level.

The usual process for wage calculation:

- The extent to which the employee achieves the performance standard for each task, expressed as a percentage, is multiplied against the time spent in that task. This step adjusts the rate of pay for each duty, so that a fluctuation in performance of a task will not excessively affect the overall wage rate.
- The result is the amount of the relevant rate of pay for that task. This is shown on the sample assessment sheet at the end of this section.
- The result from each task is added to give the percentage of the full relevant rate of pay for the job.
 - Where an employer has collected workplace data with respect to the employee being assessed, the assessor will calculate the percentage of the full relevant rate of pay by giving a weighting of 50 per cent to the workplace data, and a weighting of 50 per cent to the data collected by the assessor.
 - This is done by averaging the two results. For example, if the employer collected productivity rate is 46 per cent, and the assessor collected productivity rate is 57 per cent, the average is 51.5 per cent, which is rounded to 52 per cent.
 - If workplace data is not available, the assessor calculates the employee's wage using only the assessor calculated data.

Minimum wage outcome

The minimum hourly rate provided in the SES Award applies even where productivity assessment indicates a lower rate of payment.

Payments above the rate of pay specified in the SES Award

Where payments are made above the relevant award rate of pay as determined under the SES Award, the pro-rata wage should be based on the actual rate of pay.

Employers pay their employees above the relevant rate of pay for a variety of reasons. In some cases, over award payments are applied to all employees in a particular classification and in others, they are applied only to particular employees in specific circumstances. Whether the assessed employee should receive a pro-rata wage based on a rate of pay above the award may depend on particular workplaces, having regard to the provisions of the Disability Discrimination Act.

The Act effectively provides that an assessed employee cannot be excluded from being paid above the rate of pay specified in the award on the grounds of disability. However, to qualify for a pro-rata amount which exceeds that prescribed in the award, the assessed employee would have to meet any

specific criteria applicable for the payment in that particular workplace.

As a general rule, where the employer pays all employees in a particular classification, at a rate of pay above that specified in the award the pro-rata amount for the SWS employee would include the amount above the relevant rate of pay.

Productivity assessment in part-time jobs

Part-time jobs can be assessed under the SWS using the same procedure and calculations as for full-time jobs. This can be achieved by using the part-time hourly figures in the wage calculations.

Next steps after the assessment

This section covers the remaining steps in the assessment process.

Reaching agreement

The parties agree on the wage rate and date for review, and sign the wage assessment agreement. For the purposes of the wage assessment agreement, the employee's nominee (if nominated) is accepted as the signatory in accordance with relevant state or territory laws. This could occur in cases where the employee agrees with the outcome of assessment but is unable to sign the document.

If agreement on the outcome of the productivity assessment cannot be reached, then no employment contract can be made under the SWS provisions.

Commenting on the process

Any of the parties may record their comments on any aspect of the process. Each party is entitled to read the comments of the other parties before signing the wage assessment agreement.

Notifying the FWC

The employer, or the assessor on their behalf, must provide copies of the completed wage assessment agreement to the FWC. The FWC will notify the relevant union, if that union did not participate in the assessment process. The agreement will take effect, unless the union notifies the Registrar of its objection, within 10 working days.

Assessment Summary Sheet

The Duty list on the IT system displays the duties, and subdivides those duties into tasks that the employee performs in their job. The duties are populated from the SWS application. Assessors should add, delete or amend what was submitted if required.

The following is an example to clarify the process. Employees may choose to use the first table to obtain benchmarks to be used for validation.

Duty	Tasks	Observations								Average for each task in seconds	Benchmark
		1	2	3	4	5	6	7	8		
Package Product	1 Collect product & bags	420	150	260	180	165				235	45
	2 Fill bags with product	580	480	348	390	210	227	209	200	331	60
	3 Label bag	540	280	220	260	235	204	203	210	269	60

Each task is based on 10 bags, so task 1 is to collect 10 bags and 10 product. Task 2 is to fill 10 bags and task 3 is to label 10 bags.

The average for each task is calculated by adding all the seconds in each task and dividing by the number of observations, as demonstrated in the following table.

Task number	Title	Benchmark	Ave employee observation	Employee Productivity (%)
1	Collect product & bags	45	235	19.15
2	Fill bags with product	60	331	18.13
3	Label bag	60	269	22.30
Average productivity for this duty: $19.15 + 18.13 + 22.30 = 59.58 \div 3 = 19.86$				

The employee usually spends five hours out of a 15 hour working week performing duty one, four hours on duty two and six hours on duty three.

In this example the productivity rates for duty two is 18.76% and for duty three is 35.35%

Once the observations and averages have been calculated, time weighting is then applied. Time weighting is applied to each duty – not at the task level.

Duty 1: $19.86 \times 33\% = 6.55$

Duty 2: $18.76 \times 27\% = 5.07\%$

Duty 3: $35.35 \times 40\% = 14.14$

Total: 25.76 Therefore, overall productivity is rounded to 26%

Section 4 Industrial Relations

Lodging an SWS wage assessment agreement

All SWS wage assessment agreements under the SES Award, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the FWC. Contact details for the FWC are at Attachment B.

All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment.

Where a union has an interest in the award, but is not involved in the wage assessment.

Where a union has an interest in the SES Award and is not party to the SWS assessment, the FWC sends the wage assessment agreement to the union by email to the union's nominated email address and the agreement will take effect, unless an objection is notified to the FWC, within 10 working days.

Special national minimum wage

The Expert Panel within the FWC is required to review minimum wages annually, with any wage adjustments taking effect from the first pay period to commence on or after 1 July each year. In each annual minimum wage review, the FWC is required to make a national minimum wage order for employees not covered by a modern award or agreement. The national minimum wage order includes a special national minimum wage for employees with disability.

Where a relevant industrial instrument in the national system, other than a modern award, specifies rates that are lower than the special national minimum wage, then the level specified in the special National minimum wage will apply.

Attachment A—Schedule D - Supported Wage System Under the SES Award

D.1 This schedule defines the conditions which will apply to an employee with a disability where an employer uses the Supported Wage System as the approved wage assessment tool with respect to the employee.

D.2 In this schedule:

approved assessor means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

assessment instrument means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

disability support pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the Social Security Act 1991, as amended from time to time, or any successor to that scheme

relevant minimum wage means the minimum wage prescribed in this award for the class of work for which an employee is engaged

supported wage system means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: www.jobaccess.gov.au

SWS wage assessment agreement means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate

workplace data means data collected by an employer with respect to an employee's productive capacity in accordance with the Supported Wage System Handbook

D.3 Eligibility criteria

D.3.1 Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

D.3.2 This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

D.4 Supported wage rates

D.4.1 Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum hourly rate of pay. The applicable percentage will be the higher of:

(a) the assessed productive capacity of the employee determined in accordance with clause D.5 rounded to the nearest whole percentage; and

(b) 12.5%, if the assessed productive capacity of the employee determined in accordance with clause D.5 is less than 12.5%.

D.4.2 For the avoidance of doubt, there is no minimum amount payable to an employee per week.

D.5 Assessment of capacity

D.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive

capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

D.5.2 All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

D.5.3 The approved assessor will assess the productive capacity of the employee having regard to:

- (a) where an employer has collected workplace data with respect to an employee:
 - (i) the workplace data—50% weighting; and
 - (ii) the data collected by the approved assessor in accordance with the Supported Wage System—50% weighting;
- (b) otherwise—the data collected by the approved assessor in accordance with the Supported Wage System.

D.5.4 Where, in undertaking an assessment in accordance with clause D.5.3(a), there is a disparity of greater than 20% between the overall productivity percentage calculated from the workplace data and the overall productivity percentage calculated from the data collected by the approved assessor, the employee, employer and approved assessor may agree to collect additional data. The additional data should be collected as soon as practicable and added to the existing data with respect to the employee for the purpose of undertaking the assessment in clause D.5.3(a).

D.5.5 If, in undertaking an assessment in accordance with clause D.5.3(a), including in circumstances where additional data is collected in accordance with clause D.5.4:

- (a) the disparity between the overall productivity percentage calculated from the workplace data and the overall productivity percentage calculated from the data collected by the approved assessor is 20% or less, then the productive capacity of the employee will be determined in accordance with clause D.5.3(a); or
- (b) the disparity between the overall productivity percentage calculated from the workplace data and the overall productivity percentage calculated from the data collected by the approved assessor is greater than 20%, then the productive capacity of the employee will be assessed in accordance with clause D.5.3(b).

D.5.6 In addition to an employee's general right to access clause 9 an employee or an employer may:

- (a) raise a dispute in accordance with the dispute processes outlined in the Supported Wage System Handbook; and
- (b) after exhausting the process provided in clause 5.6(a), raise a dispute in relation to the assessment of the employee's assessed productive capacity in accordance with clause 9. In those circumstances, the Commission may, in exercising its powers under clause 9.4, make a determination as to the employee's productive capacity, having regard to the reasonableness of the workplace data and the data collected by the approved assessor and fairness between the parties in all of the circumstances.

D.6 Lodgement of SWS wage assessment agreement

D.6.1 All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

D.6.2 All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by email to the union's nominated email address and the agreement will take effect unless an objection

is notified to the Fair Work Commission within 10 working days.

D.7 Review of assessment

D.7.1 Clause 14.4(g) does not apply.

D.7.2 For the purpose of clause 14.4(a):

(a) the wage assessment of each employee will be reviewed after 12 months' service with the employer since the initial assessment, and the rate of pay adjusted accordingly;

(b) subsequently, the wage assessment of each employee will be reviewed within a period not exceeding three years' service with the employer since the previous assessment, and the rate of pay adjusted accordingly; and

(c) a wage assessment may be reviewed at the initiative of either the employee or the employer, once every six months and not more than four times every three years, and the rate of pay adjusted accordingly. Unless an employer and an employee agreed prior to 1 May 2017 to undertake reviews in other circumstances, such a review may only be initiated in circumstances where an employee has changed jobs or the processes involved in the work undertaken by the employee have changed.

D.8 Other terms and conditions of employment

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

D.9 Workplace adjustment

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

D.10 Trial period

D.10.1 In order for an adequate assessment of the employee's capacity to be made, an employer will employ a person under the provisions of this schedule for a trial period of at least 13 weeks, but no longer than 26 weeks.

D.10.2 During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum hourly rate of pay for a continuing employment relationship will be determined in accordance with clause D4 and clause D5.

D.10.3 The employee must be paid at least 12.5% of the relevant minimum hourly rate of pay for each hour worked during the trial period.

D.10.4 Once an assessment of capacity has been undertaken pursuant to clause D5 and the employee's rate of pay is determined in accordance with clause D4, the employer will apply any higher rate of pay determined in accordance with clause D4.1 with effect from thirteen weeks after the commencement of the trial period.

D.10.5 Work trials should include induction or training as appropriate to the job being trialled.

Attachment B – Fair Work Commission – contact details

You can contact the Fair Work Commission between 9.00 am and 5.00 pm on ordinary working days.

If you need help to communicate with the Fair Work Commission, you can use the Translating and Interpreter Service on telephone **13 14 50**. If you have a hearing, sight or speech impairment, you can use the Speech to Speech Relay through the National Relay Service on **13 36 77**.

You can contact the Fair Work Commission through the following:

- Email: Inquiries can be emailed to inquiries@fwc.gov.au
- Telephone: The national Fair Work Commission Help Line number **1300 799 675**.
- In person: Visit the Fair Work Commission office in your capital city.

Contact details for the Fair Work Commission offices in your capital city are available on the [Fair Work Commission](#) worksite

Attachment C – State industrial tribunals – contact details

Industrial Relations Commission of New South Wales

GPO Box 3670
Sydney NSW 2001
Ph: **(02) 9258 0866**

Western Australia Industrial Relations Commission

Locked Bag 1
CLOISTERS SQUARE
PERTH WA 6850
Ph: **(08) 9420 4444**

South Australian Industrial Relations Tribunals

PO Box 3636
Rundle Mall SA 5000
Ph: **(08) 8207 0999**

Tasmanian Industrial Commission

GPO Box 1108
Hobart TAS 7001
Ph: **(03) 6165 6770**

Queensland Industrial Relations Commission

GPO Box 373
Brisbane QLD 4001
Ph: **(07) 3227 8060**

Attachment D – SWS Wage Assessment Agreement

Supported Wage System Initial Wage Assessment Agreement

When completed this form must be sent by the employer to the Industrial Registrar at the following address:

Name	Address
Fax/email	

<p>The undersigned parties agree: _____ to recommend a wage of: _____ of the appropriate award or agreement rate for the relevant classification of work.</p> <p>_____ the name of the award or agreement which relates to the position is:</p> <p>_____ the classification of the position within the award:</p> <p>_____ the review date of the above wage rate / /</p>	

Enter details of all parties involved at the workplace in arriving at this assessment.

Employer

Name:

Australian Business Number (ABN):

Physical address:

Postal address (if different to physical address):

Telephone:

Contact:

Fax/e-mail:

Comments (optional):

I verify the job is covered by an award or legal industrial agreement which contains SWS Provisions.
If you are unsure go to www.fwc.gov.au or contact the Fair Work Infoline on 13 13 94.

Employer representative to print name and sign:

Date: / /

Employee

Family name:

Given names:

Date of birth:

Postal address:

Telephone:

Comments (optional):

Name of Nominee, if applicable:

Signature of employee (or nominee):

Date: / /

Supported Wage System
Initial Wage Assessment Agreement

Union

Union name:

Postal address:

Telephone:

Fax/e-mail:

Name of union representative:

Comments (optional):

Signature of union representative:

Date:

Assessor

Name:

Organisation name:

Postal address:

Telephone:

Fax/e-mail:

Comments (optional):

Signature of Assessor:

Date:

Information for the Industrial Registrar - To be completed by employer

Assessment productivity % (from page 1)	Minimum hourly award or enterprise agreement rate for this position	Hours Employee will work per week	Employee's gross earnings per week at expected hours	Actual agreed Amount
---	--	---	--	-------------------------

A	B	C	D	E
<input style="width: 80%; height: 20px;" type="text"/>	x	<input style="width: 80%; height: 20px;" type="text"/>	x	<input style="width: 80%; height: 20px;" type="text"/>
			=	<input style="width: 80%; height: 20px;" type="text"/>

To which Industrial Registrar will this form be sent?
 (e.g. Australian Industrial Registrar, Sydney):

It is the responsibility of the employer to ensure the calculated rate of pay is correct, and that it is paid in line with any annual wage increases. Please ensure a copy of the agreement is forwarded to HR/Payroll for processing.

Date this form sent to Industrial Registrar:

Signature of employer:

Date:

Form completion: If required by the Award or Agreement, original to be sent by the employer to the relevant Industrial Authority. Copies are provided to all signatories to the Wage Assessment Agreement, and the employee's employment service provider if requested.

What to do if circumstances change?

- | | |
|--|--|
| <ul style="list-style-type: none"> • Significant changes to work tasks or productivity • New Employer entity | <ul style="list-style-type: none"> • Employment has ended • Employment Award/Agreement no longer contains SWS provisions |
|--|--|

If any of the above changes occur then please inform the Department's Assessment Team by
 Phone on 1800 065 123

Employers: Please file your copy of this agreement appropriately for future reference. Page 2 of 2 on 16/02/2018 10:30:33 AM

Attachment E - Glossary

Australian Disability Enterprise (ADE) is generally a not for profit organisation providing supported employment opportunities to people with disability. ADEs provide a wide range of employment opportunities and they operate within a commercial context. The Australian Government Department of Social Services funds ADEs.

Approved SWS assessor is a person who has been approved by the Department of Social Services to conduct SWS assessments.

Applicant is a person who submits an application for the Supported Wage System – either an employment services provider or an employer.

Award is an instrument that prescribes the terms and conditions under which a particular category of employee is employed.

Award Wage is the minimum wage, fixed by an award, certified agreement or enterprise agreement, to be paid to employees for performing specified work under conditions of full productivity.

Benchmark the minimum level of performance that would be expected from an employee who is paid the full award rate of pay. A standard or point of reference that will be used to compare an employee's work performance and productivity. A specific indicator used to calculate the time taken or task output in relation to agreed performance standards.

Bias is a tendency to arrive at a decision that has been influenced by views or beliefs held by the assessor and not based on fact.

Centrelink is an Australian Government agency that delivers a range of government services to the Australian community. These services are designed to assist people to become self-sufficient and to support those in need. Centrelink is responsible for the delivery of all income support payments.

Conflict of interest a situation where a Provider engages in an activity or obtains any interest or benefit that may interfere with or restrict the Provider in performing their role fairly and independently.

The Department is the Australian Government Department of Social Services and is responsible for the administration of the Supported Wage System assessments.

Disability has the same meaning as defined under section 4 of the *Disability Discrimination Act 1992 (Cth)*.

Disability Employment Service (DES) is a mix of large, medium and small for profit and not for profit organisations that are experienced in supporting people with disability to find employment as well as providing assistance to employers to put in place practices that support the employee in the workplace.

Disability Support Pension (DSP) is an income support payment and may be payable in respect to a person if they have an illness, injury or disability and are:

- aged 16 or over and under Age Pension age, or
- assessed as having a physical, intellectual, or psychiatric impairment and
 - unable to work, or to be retained for work, for 15 hours or more per week at or above the relevant minimum wage within the next 2 years because of the impairment, and
 - have actively participated in, or completed a Program of Support if required
- meet the residency requirements
- meet the income and assets test for your situation, or
- permanently blind.

Disability Discrimination Act 1992 (Cth) is Commonwealth legislation that makes it unlawful to discriminate against a person on the basis of their disability in prescribed areas of public life, including employment and access to premises.

Duties are the work outcomes expected by an employer from an employee in a particular job. A duty can comprise one or a number of separate, identifiable measurable tasks. For example, a duty for a room attendant in a motel may be 'to clean the room' while the tasks that make up this duty include 'making the bed', 'dusting the furniture' and 'vacuuming the floor'.

Employment Services Providers are a national network of community and private organisations dedicated to placing people into employment.

Fair Work Commission is the national workplace relations tribunal. It is an independent body with power to carry out a range of functions relating to the safety net of minimum wages and employment conditions, enterprise bargaining, industrial action, dispute resolution, termination of employment and other workplace matters.

Impairment Rating measures how much a particular impairment affects a person and their ability to work. The Social Security Act contains provisions that enable the Minister, by legislative instrument, to determine tables relating to the assessment of work-related impairment for DSP and to determine rules that are to be complied with in applying the impairment tables. The current instrument is the *Social Security (Tables for the Assessment of Work-related Impairment for Disability Support Pension) Determination 2011*. The tables describe functional activities, abilities, symptoms and limitations and assign ratings to determine the level of functional impact of impairment on a person's ability to work. To qualify for DSP, a person's impairment must be of 20 points or more under the Impairment Tables.

Industrial Agreement is a legal document that sets out the employee's rights and conditions at work.

Industrial Instrument is an award (including a modern award), an enterprise agreement, a public sector industrial agreement, a former industrial agreement, a contract determination or a contract agreement.

JobAccess is the national hub for workplace and employment information for people with disability, employers and service Providers.

Job Analysis is a systematic procedure for describing a job in terms of duties and tasks performed and the knowledge, skills and abilities required to perform the tasks successfully.

Job at Risk is where the continued employment or job placement of an employee at full award wages is threatened, usually as a result of the effects of a physical, intellectual or psychiatric disability.

Job Design is the way in which a job is structured in relation to tasks, duties and the skills required to perform them.

Job Match is the degree of fit between a job and the nature of the employee's disability, their personal preferences and skills.

Nominee is a person nominated by the employee to assist in the employment process and to ensure the best possible outcomes are achieved for that person or, for the purposes of signing the forms, a person whom the employee nominates in accordance with relevant state or territory laws to sign documents on their behalf.

Open employment refers to employment where the jobs are open to all people, with or without disability. People with disability who wish to receive assistance to find employment in open employment can register with a DES Provider.

Performance Standards provide the employee with specific performance expectations for each duty and task. They are the observable behaviours and actions that explain how the job is to be done, plus the results that are expected for satisfactory job performance. For example, they describe all task details required for benchmarking, including task breakdown, start and end points, how the task is

completed, the quality and quantity required, details of any tools/machinery used, relevant environmental conditions (where the task is performed), and any conditions that need to be in place before or after the assessment.

Pre-Assessment Check is an investigation and judgement about the appropriateness of the job placement, including ensuring the person has had adequate training and that all necessary reasonable adjustments to lessen the impact of the disability have been made. The checks are made by those involved in the placement process before a wage assessment proceeds.

Productivity or Productive Capacity is the work output of an individual employee over a predetermined time period. This is obtained by assessing a co-worker (where available) performing the same task to obtain the performance standard. Quality of output is taken into consideration, as the output is not just about the number of items produced (for example) but also the number produced that meet the agreed performance standards.

Pro-Rata Award Wage is the assessed percentage of the award wage. It is paid by the employer to the work on completion of the SWS wage assessment.

Reasonable Adjustment is an alteration or modification made to the workplace to assist an employee with disability to participate in employment on the same basis as others. An adjustment is reasonable under the *Disability Discrimination Act 1992 (Cth)* if does not impose an unjustifiable hardship on the employer.

Review Date is the date when an employee who is employed under Supported Wage System is due to have an SWS assessment to review their productivity.

Superannuation Guarantee is a specially established employer-supported superannuation contribution.

SWS Schedule is a schedule included in most modern awards that is one method of providing the legal basis for payment of a pro-rata wage. The SWS Schedule sets out the terms and conditions for the payments of a supported wage to an employee who is unable to work at the award wage because of the effects of a disability.

SWS Wage Assessment Agreement is an agreement which is entered into where the wage assessment results in a supported wage. All parties involved in the SWS assessment are to agree on the wage amount and date for review prior to signing the Wage Assessment Agreement.

Tasks are the steps required to achieve specific outcomes or results in a job. Often a number of tasks will combine to form a 'duty'. Tasks should be considered separately within a duty when, because of a significant time weighing and productivity difference between them, a distortion of the wage would result if the tasks were combined into one duty.

Trial Period is a provision that has been made in the SWS Schedule for the employee to undertake a trial period before the wage assessment. The Trial Period usually includes specialised on-the-job-training in addition to any other standard training provided by the employer. The Trial Period is a minimum of 13 weeks and a maximum of 26 weeks.

Unjustifiable Hardship has the same meaning as defined under section 11 of the *Disability Discrimination Act 1992 (Cth)*. In determining whether an unjustifiable hardship would be imposed on the employer, all relevant circumstances of the particular case must be taken into account (including the factors set out in section 11 of the Act).

Validation is the analysis of the assessor data and the Workplace Data to establish if the data is representative and reflective of the employee's usual performance.

Wage Assessment is a process for determining an appropriate productivity-based wage for people with disability whose work productivity is reduced as a result of disability. Assessment is based on productivity in a specific job. Assessments are not transferrable between jobs.

Work Order is a contract for SWS Providers to conduct a supported wage assessment.

Workers Compensation is provided by employers for all employees. This also covers the SWS Trial Period.

Workplace Assessment is where the SWS assessor visits the workplace and conducts pre-assessment checks and an assessment of work productivity.

Workplace Data is collected by the employer and is the productivity data and information related to the employee's duties and tasks, including at least three timings of each task. The employer may collect workplace Data prior to the SWS assessment.