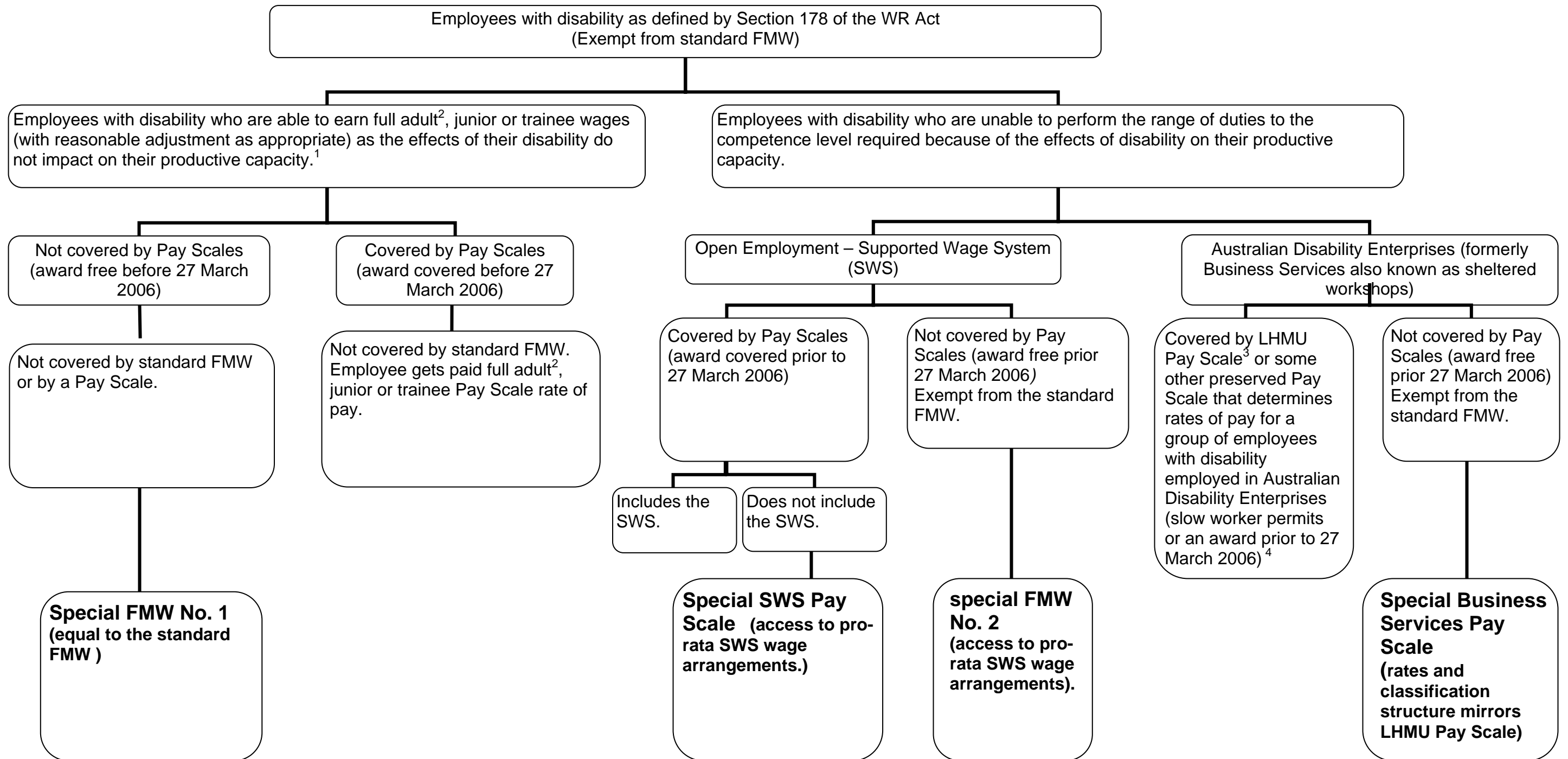




Employees with disability – Coverage of AFPC wage instruments



1 The term 'reasonable adjustment' is not contained expressly in the *Disability Discrimination Act 1992* (DD Act). However, the DD Act has an implied requirement for employers to make reasonable adjustments. The implied requirement under the DD Act to make reasonable adjustment results from s. 6, on indirect discrimination. Section 6 defines discrimination as including the imposing of any 'requirement or condition' which a person with disability cannot or does not comply with, if a substantially greater proportion of people without than with the disability can comply with it, and if it is not reasonable. A requirement or condition does not have to be a specific rule, policy, direction or action. For example, in *Waters v. Public Transport Corporation* (1992) 173 CLR 349 the High Court upheld a finding that a tram operator who ran trams and buses without conductors and with steps at the entrance had imposed conditions or requirements of being able to climb steps and being able to board without assistance from a conductor.

2 "adult basic period rate of pay" means a basic periodic rate of pay that does not explicitly apply to a class of employees with disability or employees to whom a training arrangement applies or junior employees.

3 Preserved Pay Scale derived from AP841959 Liquor, Hospitality and Miscellaneous Union Supported Employment Services Award 2005

4 Section 219A of the *Workplace Relations Act 1996* prevents employees of Australian Disability Enterprises who are covered by a preserved Pay Scale which determines a basic periodic rate of pay specifically for a particular class of employees with disabilities from being otherwise covered by the **Special Business Services Pay Scale**.