



Wage-Setting Decision 1/2008

On 8 May 2008 we, Ian Harper (Chairman), and Hugh Armstrong, Patrick McClure, Mike O'Hagan, and Judith Sloan (Commissioners), together constituting the Australian Fair Pay Commission, acting pursuant to the powers conferred on the Australian Fair Pay Commission by section 216 of the *Workplace Relations Act 1996* make the following decision to be known as Australian Fair Pay Commission Wage-Setting Decision 1/2008.

Interpretation

In this decision:

“*LHMU Award*” means the Liquor, Hospitality and Miscellaneous Union Supported Employment Services Award 2005 [AW841959].

“*Pay Scale*” means an Australian Pay and Classification Scale.

“*Special Business Services Pay Scale*” means the Special Business Services (Employees with a disability) Australian Pay and Classification Scale, [2007] APCS 2, as set out in pages 9 to 27 of Schedule A to Australian Fair Pay Commission Wage-Setting Decision 8/2007.

Commencement of decision

This wage-setting decision comes into operation on 11 May 2008.

A Adjustment to Special Pay Scale

A1 Adjustment to the Special Business Services Pay Scale

(1) The Special Business Services Pay Scale is adjusted to include the following wage assessment tools immediately after wage assessment tool 22 in Schedule 3 to the Special Business Services Pay Scale:

23. The Ability Options Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.
24. The Blueline Laundry Inc Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.
25. The Caloola Vocational Services Inc Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny

Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.

26. The GDP Industries Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.
 27. The Kurri Contracting Service Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.
 28. The Mai-Wel Group Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.
 29. The Paraquod Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.
 30. The Merriwa Industries Limited Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.
 31. The Waverley Helpmates Wage Assessment Tool as described in the Report dated 23 April 2008 of Jenny Pearson & Associates Pty Ltd titled Analysis of Revised Waverley Helpmates Wage Assessment Tool.
- (2) The Special Business Services Pay Scale is adjusted to include the following paragraphs immediately after paragraph 6.2(3):
- (4) An employer cannot use wage assessment tool 29 of Schedule 3 unless the employer was using or had used that tool on or before 10 May 2008.
 - (5) An employer cannot use wage assessment tool 29 of Schedule 3 after 10 May 2009.
- (3) The Special Business Services Pay Scale is adjusted to include the following note immediately after subclause 6.4:
- Note: The rates of pay set out in subclause 6.4 are minimum rates of pay only. This special Pay Scale does not limit the ability of employers to pay employees above minimum rates of pay.

B Adjustment to preserved Pay Scale

B1 Adjustment to the preserved Pay Scale derived from the Liquor, Hospitality and Miscellaneous Union Supported Employment Services Award 2005

- (1) The preserved Pay Scale derived from the LHMU Award is adjusted to include the following wage assessment tools:

The Ability Options Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.

The Blueline Laundry Inc Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.

The Caloola Vocational Services Inc Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.

The GDP Industries Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.

The Kurri Contracting Service Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.

The Mai-Wel Group Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.

The Merriwa Industries Limited Wage Assessment Tool as described in the Final Report dated 18 October 2007 of Jenny Pearson & Associates Pty Ltd titled Analysis of Wage Assessment Tools used by Business Services.

The Waverley Helpmates Wage Assessment Tool as described in the Report dated 23 April 2008 of Jenny Pearson & Associates Pty Ltd titled Analysis of Revised Waverley Helpmates Wage Assessment Tool.

C Reasons for Decision

C1 Minimum wage framework for employees with a disability employed in business services

In Wage-Setting Decision 1/2006, the Australian Fair Pay Commission (Commission) determined a new special Pay Scale to fill gaps in minimum wage coverage for employees with a disability in the business services sector.

This Pay Scale was consolidated in Wage-Setting Decision 8/2007, which determined the Special Business Services (Employees with a Disability) Australian Pay and Classification Scale (Special Business Services Pay Scale).

The Special Business Services Pay Scale provides pro rata minimum wages to employees with a disability employed in the business services sector who are not otherwise covered by a preserved Pay Scale.¹

The Special Business Services Pay Scale sets out a mechanism for calculation of pro rata minimum wages based on an employee's productive capacity as follows:

- i. Upon appointment, the employee's employer grades the employee at one of seven different grades, having regard to the employee's skills, experience and qualifications. The grading descriptions are set out in Schedule 4 to the Special Business Services Pay Scale.²
- ii. the employee's capacity is assessed using a recognised wage assessment tool to determine the employee's capacity percentage.
- iii. the capacity percentage figure is applied to the rate of pay for the relevant grading (from step 1) in clause 6.4 of the Special Business Services Pay Scale.

This mechanism mirrors the minimum wage framework set out in the preserved Pay Scale derived from the LHMU Award. Together, these instruments form a minimum wage framework for the majority of employees with a disability in business services.³

Some employees with a disability employed in business services continue to be covered by preserved Pay Scales derived from Special Wage Permits issued by state industrial registrars prior to 27 March

¹ Special Business Services (Employees with a disability) Australian Pay and Classification Scale, [2007] APCS 2, as determined by Australian Fair Pay Commission Wage-Setting Decision 8/2007.

² The grading structure and the applicable rates of pay mirror those in the preserved Pay Scale derived from the Liquor Hospitality and Miscellaneous Union Supported Employment Services Award 2005.

2006. These preserved Pay Scales continue in effect after 27 March 2008. Employees who are covered by such instruments cannot be covered by the Special Business Services Pay Scales.⁴

C2 Background to this Decision

Prior to this Wage-Setting Decision, there were 22 wage assessment tools which were approved for use at step 2 of the business services minimum wage framework. Of these, five were limited to use by the employers who were using the tools on or before 27 June 2005.

The Commission exempted certain business services that were not using a recognised wage assessment tool from the Special Business Services Pay Scale until 11 May 2008.⁵

From 11 May 2008, these business services will be required to ensure that they comply with the minimum rates of pay set out in the Special Business Services Pay Scale. The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) has also advised the Commission that business services operating without a recognised wage assessment tool after 11 May 2008 will cease to qualify for Commonwealth Government funding.

In view of these considerations, the Commission established a process for the submission of new wage assessment tools for inclusion in the Special Business Services Pay Scale in Wage-Setting Decision 1/2007:

1. Business services wishing to have a new wage assessment tool added to the special business services pay scale should make a submission to the Commission by 31 August 2007.
2. The submission is referred to FaHCSIA, who engages an independent third party consultant to conduct an independent assessment of the tool, measuring it against the requirements of the *Guide to Good Wage Determination*.
3. The Commission consults with the disability round table on the proposed wage assessment tool.
4. The Commission makes a decision on whether to approve the wage assessment tool.
5. If approved, the wage assessment tool will be added to the new special Pay Scale which covers employees with a disability working in the business services sector.

⁴ Workplace Relations Act 1996, s 219A.

⁵ Special Business Services (Employees with a disability) Australian Pay and Classification Scale, [2007] APCS 2, as determined by Australian Fair Pay Commission Wage-Setting Decision 8/2007, subsection 5(2).

C3 Adjustment to Special Business Services Pay Scale

The Commission received ten new wage assessment tools for consideration for inclusion in the Special Business Services Pay Scale.

The Commission has conducted a wage review and has carried out a review of each of the wage assessment tools submitted for inclusion. As part of the review,

- As set out in stage 2 of the process, the wage assessment tools were referred to FaHCSIA to engage a consultant to measure the tools against the requirements in the *Guide to Good Wage Determination* (the Guide). The report showed that all proposed wage assessment tools met the requirements of the Guide.
- As set out in stage 3 of the process, members of the disability roundtable were consulted throughout the process and their views were sought on each of the proposed wage assessment tools.

The Commission has decided to adjust the Special Business Services Pay Scale to include a further nine wage assessment tools. In reaching this decision, the Commission has satisfied itself that it has met its obligations under the *Workplace Relations Act 1996* and in particular the anti-discrimination requirements under section 222 of the Act.

Only applications from business services which employed employees who were capable of being covered by either the Special Business Services Pay Scale or the preserved Pay Scale derived from the LHMU Award were considered for inclusion. As one application did not meet this criteria, it was not considered for inclusion.

During the wage review, it emerged that the Waverly Helpmates Wage Assessment Tool did not determine a capacity percentage. The Secretariat worked directly with the business service to resolve this issue. A revised application was received and an updated report was commissioned from the independent consultant which showed that the revised wage assessment tool met the requirements of the Guide. Members of the disability roundtable were also consulted on the revised tool.

After consultations with members of the disability roundtable, the Commission considers that it would be beneficial to undertake further discussions with Paraplegic-Quadriplegic Association of W.A. (Inc) (Paraquad) regarding their wage assessment tool over the next twelve months. Some disability stakeholders have expressed the view that the wage assessment tool submitted for inclusion in the Special Business Services Pay Scale by Paraquad may be overly complex and difficult for employees to use. The Commission is of the view that the tool may benefit from additional work to increase its transparency and usability for the employees of Paraquad which will

be done in the upcoming 12 month period in consultation with the affected business service.

The Commission has considered it appropriate to approve the Paraquad wage assessment tool for the use of Paraquad only for a 12 month period to allow sufficient time to work with the business service to review its operation and, if necessary, identify any changes that would improve the tool.

The Commission has decided to adjust the Special Business Services Pay Scale to include a further eight wage assessment tools⁶ for general use.

A further wage assessment tool will be included in the Special Business Services Pay Scale for limited use by its current user for a 12 month period.

C4 Adjustment to the preserved Pay Scale derived from the Liquor, Hospitality and Miscellaneous Union Supported Employment Services Award 2005

The preserved Pay Scale derived from the Liquor, Hospitality and Miscellaneous Union Supported Employment Services Award 2005 is also adjusted by this decision to include the additional eight wage assessment tools which are available for general use.

Currently, the preserved Pay Scale derived from the LHMU Award and the Special Business Services Pay Scale contain similar operative provisions. For example, the same 22 wage assessment tools were included for use by both Pay Scales, regardless of which wage instrument in fact covers the business service.

In the interests of consistency and to avoid the potential for confusion, the Commission considers it desirable that the Special Business Services Pay Scale and the preserved Pay Scale derived from the LHMU award continue, so far as practicable, to include the same wage assessment tools.

C5 Future directions for minimum wages for employees with a disability.

In establishing this process, the Commission wished to complete the process of closing gaps in minimum wage coverage for the business service sector which has been evolving for a number of years. Unless advised to the contrary, the Commission considers that the gap-filling exercise for this sector has now been completed.

The Commission will continue to consult with members of the disability roundtable to monitor and evaluate the impact of its wage-setting decisions for employees with a disability in the business

⁶ The Paraquad Wage Assessment Tool has been restricted for use by Paraquad only.

service sector. The Commission will consider whether this sector ought to be considered a priority area for further future research as part of its 2008 Minimum Wage Review.

On 8 May 2008 we, Ian Harper (Chairman), and Hugh Armstrong, Patrick McClure, Mike O'Hagan, and Judith Sloan (Commissioners), together constituting the Australian Fair Pay Commission, make this decision to be known as Australian Fair Pay Commission Wage-Setting Decision 1/2008.

A handwritten signature in blue ink that reads "Ian R. Harper" followed by a long horizontal flourish.

Ian R. Harper
Chairman

A handwritten signature in blue ink that reads "Hugh Armstrong" in a cursive style.

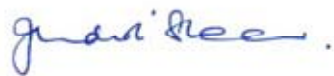
Hugh Armstrong
Commissioner

A handwritten signature in blue ink that reads "Patrick McClure" in a cursive style.

Patrick McClure, AO
Commissioner

A handwritten signature in blue ink that reads "Mike O'Hagan" in a cursive style.

Mike O'Hagan
Commissioner

A handwritten signature in blue ink that reads "Judith Sloan" in a cursive style.

Judith Sloan
Commissioner