



Australian Government

WorkChoices

Disability wages

Employees with disabilities may be employed to work as part of the general workforce (known as ‘open employment’), or in business services (formerly known as ‘sheltered workshops’).

In the federal workplace relations system, employees must qualify for the disability support pension (DSP) to be eligible to be paid ‘disability wages’.

Disability wages are usually calculated by multiplying the relevant minimum wage with a percentage that reflects the employee’s assessed productive capacity. The resulting wage is commonly known as a ‘productivity-based wage’ or a ‘pro-rata disability wage’.

The Supported Wage System (SWS)

The Supported Wage System (SWS) provides the most common method for setting productivity-based wages for employees with disabilities in open employment. For example, under the SWS, if an employee is assessed as having a capacity of 70 per cent for the job they are doing, the employee (who would otherwise qualify for the disability support pension) would be paid 70 per cent of the full rate of pay that would otherwise apply.

Setting disability wages

Under WorkChoices, the Australian Fair Pay Commission (Fair Pay Commission) is responsible for setting minimum wages, including disability wages for employees with disabilities who qualify for the DSP.

In setting and adjusting disability wages, the Fair Pay Commission must have regard to providing disability wages



WorkChoices and disability wages

that ensure people with disabilities are 'competitive in the labour market'.

The Fair Pay Commission may set or adjust disability wages under new wage instruments known as:

- Australian Pay and Classification Scales (APCSs); and
- special Federal Minimum Wages (special FMWs).

The wage provisions of awards and state minimum wages, including those that provide for pro-rata disability wages, have been preserved in APCSs on the commencement of WorkChoices.

These minimum wages form part of the Australian Fair Pay and Conditions Standard (the Standard).

For more information about the Standard see the 'WorkChoices and the Australian Fair Pay and Conditions Standard' fact sheet.

Guaranteed basic rates of pay

All employees covered by the Standard (including employees with disabilities) are guaranteed to be paid no less than the amount provided for in their APCS or special FMW (whichever applies), including any casual loading amount for casual employees. The rate in the APCS cannot fall below the rate that would have applied to the employee immediately before commencement of WorkChoices.

For more information about minimum wages see the 'WorkChoices and minimum rates of pay' fact sheet.

Transitional arrangements

WorkChoices will not replace the system of 'slow worker' permits that currently exist in some jurisdictions. Instead, employees who were covered by 'slow worker' permits immediately before commencement of WorkChoices will have their entitlements preserved in an APCS for a transitional period of two years. After that time, their employment may be covered by an APCS or special FMW. The Fair Pay Commission can adjust these entitlements.

Agreement-making for employees with disabilities

WorkChoices ensures that appropriate protections exist for employees with disabilities in agreement making, particularly Australian Workplace Agreements (AWAs).

The Office of the Employment Advocate (OEA) must have regard to the need to prevent and eliminate discrimination on various grounds, including physical or mental disability. The OEA must also encourage parties to agreement-making to take account of the needs of workers in disadvantaged bargaining positions.

A term of a workplace agreement is void if it discriminates against an employee on the basis of a physical or mental disability. It is not discriminatory to provide for disability wages in a workplace agreement, providing those wages comply with the Standard.

WorkChoices is a new system of workplace relations legislation that covers up to 85 per cent of Australian employees. This series of fact sheets is available to assist workers and employers to understand their rights and obligations under the legislation.

For more information call the **WorkChoices Infoline** on **1300 363 264** or visit the **WorkChoices** website **www.workchoices.gov.au**



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