

The Tasmanian Association of Disability Employment Services Inc

Monday 28 October 2013

Legal Section  
Australian Human Rights Commission  
GPO Box 5218  
Sydney NSW 2001

By email: [legal@humanrights.gov.au](mailto:legal@humanrights.gov.au)

Dear Sir/Madam,

**Re: BSWAT- Application for exemption under the Disability Discrimination Act 1992**

The Tasmanian Association of Disability Employment Services (TADES) represents 11 Australian Disability Enterprises (ADEs) which together employ approximately 600 people with a disability. The ADEs represent a range of industries and locations throughout the state. Of the 11 ADEs, 9 use the BSWAT wage assessment tool.

TADES supports FaCHSIA's application for an exemption for all Australian Disability Enterprises (ADEs) from sections 15 and 24 of the Disability Discrimination Act and from section 29 to permit ADEs to continue to assess and pay wages to workers using the Business Services Wage Assessment Tool (BSWAT).

**Certainty in difficult economic times**

Like most businesses, Australian Disability Enterprises crave certainty. Certainty re-assures directors they are meeting their legal, financial and fiduciary obligations. Certainty allows business managers to accurately cost and price the goods and services the business sells. Certainty allows enterprises to plan and budget for the future, including making decisions about job offers and allocations for capital improvements and maintenance.

The continued uncertainty surrounding the BSWAT is making it increasingly difficult for ADEs to manage their current operations and plan for the future.

Australian Disability Enterprises in Tasmania work in a very challenging socio-economic and political environment. Tasmania is experiencing very difficult economic conditions. "Tasmania's key economic indicators such as employment, investment and economic growth have deteriorated, relative to the national economy." ("Structural Changes in Tasmania's Economy", April 2013, Department of Economic Development, Tasmania). Key indicators that illustrate this precarious economic condition include:

- Unemployment rate of 8.1% compared with the national average of 5.7%
- 1.7% long term unemployed compared with 1.0% nationally
- Median weekly income of \$948 (national figure is \$1234)
- 1 in 5 Tasmanians live on or below the poverty line

In this context, ADEs need financial certainty in order to cost and price the goods and services they sell. Like most enterprises, employment costs constitute a significant part of the operating budget. Any changes in these costs have a direct impact on the cost and pricing of goods and services and therefore impact on ADEs capacity to compete in a very competitive commercial environment. Certainty around employment costs will enable ADEs to submit prices and enter into contracts that will sustain the enterprise, rather than jeopardise their viability. Customers will be reassured that the goods and services they have ordered will be delivered in full and on time and at the price that has been negotiated.

### **National Disability Insurance Scheme (NDIS)**

Tasmania is hosting a launch of the National Disability Insurance Scheme for people with a disability aged between 15 and 24 years. This is a significant opportunity to make substantial and sustainable improvements in the quality of life of young people with a disability in this state. The National Disability Insurance Scheme is a bold promise to people with a disability that they will receive the reasonable and necessary supports to enjoy fulfilling lives. Supported employment offered by Australian Disability Enterprises is a key element of that promise. However, the continued uncertainty surrounding the BSWAT means that ADEs are reluctant to offer employment to new employees because ADEs do not know the wage assessment mechanism that will form part of their offer of and conditions of employment. Shortly many young people with a disability will exit the school system. Many will be looking for work. ADEs have received industrial relations advice that they should not offer new employment opportunities until there is certainty about the BSWAT. Not only does this reduce the employment opportunities for young people with a disability, it also damages the reputation and standing of ADEs in their small communities.

### **Reputation**

Australian Disability Enterprises operate in the commercial, charity/not-for-profit and specialist disability service sectors. The business model is a complex one. At the heart of all ADEs is a commitment to providing people with a disability with the opportunity to undertake productive and meaningful employment in a place that respects and values their contribution, capacity and support needs. The community trusts us to fulfill this mission.

We have all spent many years building a reputation in our community for our business model which puts people first. The continued uncertainty and the inevitable publicity that surrounds the wage issue damages our reputation. We all rely on our good standing in the community to gain the trust of parents and carers to support their sons and daughters at work, to win commercial contracts and to raise secure donations, grants and sponsorships.

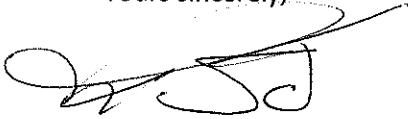
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TADES urges the Commission to grant the exemption sought in FaHCSIA's application. The exemption will give the Australian Disability Enterprises sector time to develop and implement a wage assessment tool that will preserve our worker's human and workplace rights while maintaining a viable supported employment sector that provides much needed and valued employment for people with a disability.

If you have any questions about TADES or the issues raised in this letter, please do not hesitate to contact me.



Yours sincerely,

A handwritten signature in black ink, appearing to read 'Donna Bain', with a long, sweeping horizontal stroke extending to the right.

**Donna Bain**  
**President**

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