

**2013-2014-2015**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**SENATE**

**BUSINESS SERVICES WAGE ASSESSMENT TOOL PAYMENT SCHEME  
BILL 2014**

**FURTHER SUPPLEMENTARY EXPLANATORY MEMORANDUM**

**Amendments to be moved on behalf of the Government**

**(Circulated by the authority of the  
Assistant Minister for Social Services, Senator the Hon Mitch Fifield)**



# **BUSINESS SERVICES WAGE ASSESSMENT TOOL PAYMENT SCHEME BILL 2014**

## **Amendments to be moved on behalf of the Government**

### **OUTLINE**

These amendments to the Business Services Wage Assessment Tool Payment Scheme Bill 2014 reflect the later commencement of the Bill by adjusting the dates by which actions under the Bill must be taken or completed, provide principles with which nominees must comply, and clarify the extent of the Minister's power to make rules.

Former and current eligible employees have to register to participate in the payment scheme. The registration deadline will be amended to 1 May 2016. A person will have to take action to register before 1 May 2016.

The amendments will insert decision-making principles, which are to guide nominees and decision-makers in exercising the powers of and in relation to nominees.

The amendments will clarify the extent of the Minister's power to make rules by setting out, to avoid doubt, certain matters that may not be addressed by the rules.

### **Financial impact statement**

These amendments will not alter the financial impact originally stated for the Business Services Wage Assessment Tool Payment Scheme Bill 2014 and the Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill 2014.

## **BUSINESS SERVICES WAGE ASSESSMENT TOOL PAYMENT SCHEME BILL 2014**

### **Amendments to be moved on behalf of the Government**

#### **NOTES ON AMENDMENTS – Sheet HK115**

The amendments on Sheet HK115 reflect the later commencement of the Bill by adjusting the dates by which actions under the Bill must be taken or completed, provide principles with which nominees must comply, and clarify the extent of the Minister's power to make rules.

#### **Amendments 1 to 3 and 5 to 20**

**Amendment 7** amends the reference to the date the scheme ends. The BSWAT payment scheme will operate until the end of 2017.

**Amendment 11** amends to 1 July 2015 the opening date for people to make an application. **Amendment 12** amends to 30 November 2016 the last day a person may make an application.

**Amendments 1, 5 and 6** amend the references to the date before which a person may make an application.

**Amendments 13 to 15** provide that an application cannot be made on or after 1 December 2016.

**Amendment 16** amends to 1 September 2016 the last day on which the Secretary may make an offer or give a refusal, except as a consequence of review.

**Amendment 17** amends to 1 December 2017 the last day on which the Secretary may make an offer or give a refusal.

**Amendments 2 and 8** amend the references to the last day on which the Secretary may make an offer or give a refusal, except as a consequence of review.

**Amendment 18** amends to 31 December 2016 the last day on which the Secretary may extend the acceptance period of an offer under paragraph 22(1)(a).

**Amendment 19** amends to 21 November 2017 the last day on which the Secretary may extend the 21-day period for seeking a review under subsections 24(3) or 26(3).

**Amendments 3, 9 and 10** amend the references to the last day a person may lodge an effective acceptance.

**Amendment 20** amends to 1 January 2018 the date before which a person must lodge an effective acceptance.

## **Amendment 4**

**Amendment 4** sets out four decision-making principles in relation to nominees, which are intended to be reflected in the application of the provisions of the Act and rules made under the Act.

The four decision-making principles for nominees are that:

- every adult has the right to make decisions that affect their lives and to have those decisions respected;
- people who may require support in decision-making must be provided with the support necessary for them to make, communicate and participate in decisions that affect their lives;
- the will, preferences and rights of people who may require decision-making support must direct decisions that affect their lives; and
- decisions, arrangements and interventions for people who may require decision-making support must respect their human rights.

The principles for nominees are based on the National Decision Making Principles from the Australian Law Reform Commission's report entitled *Equality, Capacity and Disability in Commonwealth Laws*.

## **Amendments 21 and 22**

**Amendment 22** inserts new subclauses 102(2) and (3). New subclause 102(2) sets out, to avoid doubt, that the Minister may not make rules that do any of the following:

- create an offence or civil penalty;
- provide powers of:
  - arrest or detention; or
  - entry, search or seizure;
- impose a tax;
- set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
- amend this Act.

The Bill allows for the rules to make provision for the payment of certain amounts, including payments to a person who is eligible to receive a payment under the scheme, payments to external reviewers and payments in discharge of costs, expenses or other obligations set out in paragraph 98A(1)(e). New subclause 102(3) clarifies that rules that make provision in relation these payments are not to be taken to set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation under this Act for the purposes of paragraph 102(2)(d).

**Amendment 21** is consequential upon amendment 22.

## **NOTES ON AMENDMENTS – Sheet EH170**

The amendments on Sheet EH170 reflect the later commencement of the Bill by adjusting the dates by which actions under the Bill must be taken or completed. To achieve this, Sheet EH170 is drafted as amending the earlier Government amendments on Sheet EH127, which were agreed by the Senate on 24 November 2014.

### **Amendments 1 to 6**

**Amendment 4** amends to 1 May 2016 the deadline to register for the payment scheme. The Secretary cannot include on the register a person who first contacts the Secretary to register for the BSWAT payment scheme on or after 1 May 2016.

**Amendments 1 to 3, 5 and 6** amend to 1 May 2016 references to the registration deadline.