

2013-2014-2015

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

**Business Services Wage Assessment Tool Payment Scheme Bill 2014**

SCHEDULE A

*Schedule of the requests by the Senate for amendments*

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(1) **Govt (12)** [Sheet EH127]

Page 64 (after line 23), after clause 98, insert:

**98A Certain administrative matters**

- (1) The Commonwealth may do any or all of the following:
  - (a) inform people about the BSWAT payment scheme;
  - (b) engage one or more persons to undertake activities (whether or not on behalf of the Commonwealth) in relation to informing people about the BSWAT payment scheme and make payments for services provided under such engagements;
  - (c) publish contact details and background information on behalf of legal practitioners who have indicated their availability to provide services in relation to legal advice certificates referred to in section 36;
  - (d) publish contact details and background information on behalf of financial counsellors who have indicated their availability to provide services in relation to financial counselling certificates referred to in section 37;
  - (e) make payments, in accordance with the rules, in discharge of costs, expenses or other obligations incurred by a person in connection with obtaining a legal advice certificate that complies with section 36 or a financial counselling certificate that complies with section 37 or otherwise in connection with a person's participation in the BSWAT payment scheme.
- (2) A power conferred on the Commonwealth by subsection (1) may be exercised on behalf of the Commonwealth by the Secretary.
- (3) This section does not, by implication, limit the executive power of the Commonwealth.

(2) **Govt (13)** [Sheet EH127]

Clause 99, page 64 (line 25), before "The", insert "(1)".

(3) **Govt (14) [Sheet EH127]**

Clause 99, page 65 (line 3), at the end of the clause, add:

; and (c) payments under subsection 98A(1).

- (2) Paragraph (1)(c) does not extend to payments in relation to the employment of APS employees in the Department.

**ROSEMARY LAING**  
Clerk of the Senate

The Senate  
15 June 2015

## SCHEDULE B

### *Amendments made by the Senate*

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(1) **Govt (1)** [Sheet HK115]

Clause 3, page 2 (line 8), omit “1 December 2015”, substitute “1 December 2016”.

(2) **Govt (1)** [Sheet EH127] (*As amended by Govt (1) [Sheet EH170]*)

Clause 3, page 2 (line 10), omit “1 May 2015”, substitute “1 May 2016”.

(3) **Govt (2)** [Sheet HK115]

Clause 3, page 3 (line 1), omit “1 September 2016”, substitute “1 September 2017”.

(4) **Govt (3)** [Sheet HK115]

Clause 3, page 3 (line 3), omit “31 December 2016”, substitute “31 December 2017”.

(5) **Govt (2)** [Sheet EH127]

Page 3 (after line 6), after clause 3, insert:

**3A Constitutional basis**

Without limitation, this Act relies on:

- (a) the Commonwealth’s legislative powers under paragraphs 51(xxiiiA) and (xxxix) of the Constitution; and
- (b) any implied legislative powers of the Commonwealth.

(6) **Govt (4)** [Sheet HK115]

Page 3 (before line 7), before clause 4, insert:

**3B Principles for nominees**

This Act and the rules are intended to reflect, in relation to nominees, the following principles:

- (a) all adults have an equal right to make decisions that affect their lives and to have those decisions respected;
- (b) persons who require support in decision-making must be provided with access to the support necessary for them to make, communicate and participate in decisions that affect their lives;
- (c) the will, preferences and rights of persons who may require decision-making support must direct decisions that affect their lives;
- (d) laws and legal frameworks must contain appropriate and effective safeguards in relation to interventions for persons who may require decision-making support, including to prevent abuse and undue influence.

Note: The safeguards referred to in paragraph (d) are provided in this Act (see for example section 54) and the rules.

(7) **Govt (3)** [Sheet EH127]

Clause 4, page 4 (line 8), omit “subsection 6(2)”, substitute “subsections 6(2) and (2A)”.

(8) **Govt (4)** [Sheet EH127]

Clause 6, page 6 (line 19), omit “28 May 2014”, substitute “31 January 2015”.

(9) **Govt (5)** [Sheet EH127]

Clause 6, page 7 (after line 5), after subclause (2), insert:

- (2A) Despite subsection (2), a person does not meet the condition in that subsection, and there is no *eligible day* for the person, if the day that (apart from this subsection) would have been the earliest eligible day for the person is later than 28 May 2014.

(10) **PUP (1)** [Sheet 7625]

Clause 8, page 8 (line 4), after “wage”, insert “, indexed in accordance with the method in section 8A”.

(11) **PUP (2)** [Sheet 7625]

Clause 8, page 8 (lines 15 to 22), omit subclause (5), substitute:

- (5) In this Act:

*actual wage* means the total wages, worked out in accordance with the rules, that a person was paid in respect of all eligible days for the person.

*productivity-scored wage* means the total wages, worked out in accordance with the rules, that the person could reasonably have been expected to have been paid in respect of all eligible days for the person if the productivity component of a BSWAT assessment had comprised the whole of the BSWAT assessment.

(12) **PUP (3)** [Sheet 7625]

Page 8 (after line 22), after clause 8, insert:

**8A Indexation**

- (1) This is how to index the excess of a productivity-scored wage over an actual wage for the purposes of paragraph (3)(a):

*Method statement*

Step 1. Work out how much of the excess is attributable to wages in respect of eligible days for the person concerned in each financial year. Each such amount is the *annual portion* for the financial year.

Step 2. Multiply the oldest annual portion by the indexation factor specified in subsection (2) for the financial year to which that portion is attributable. If the result is not an amount of whole dollars, round the result up to the nearest whole dollar.

- Step 3. Take the result of step 2. Add to it any annual portion for the next financial year (unless it is the 2014-2015 financial year, in which case go to step 4). Multiply:
- (a) the total; or
  - (b) if there is no annual portion for the next financial year—the result of step 2;
- by the indexation factor specified in subsection (2) for that next financial year. If the result is not an amount of whole dollars, round the result up to the nearest whole dollar.
- Reapply this step for each subsequent financial year up to and including the 2013-2014 financial year, substituting the result of the previous application of this step for the result of step 2.
- Step 4. Take the result of step 3. Add to it any annual portion for the 2014-2015 financial year.
- Step 5. If the result is not an amount of whole dollars, round the result up to the nearest whole dollar.

(2) The indexation factors are the following:

- (a) 1.025 for the 2003-2004 financial year;
- (b) 1.025 for the 2004-2005 financial year;
- (c) 1.04 for the 2005-2006 financial year;
- (d) 1.021 for the 2006-2007 financial year;
- (e) 1.044 for the 2007-2008 financial year;
- (f) 1.014 for the 2008-2009 financial year;
- (g) 1.031 for the 2009-2010 financial year;
- (h) 1.035 for the 2010-2011 financial year;
- (i) 1.02 for the 2011-2012 financial year;
- (j) 1.024 for the 2012-2013 financial year;
- (k) 1.03 for the 2013-2014 financial year.

(3) This section does not apply if:

- (a) the productivity-scored wage does not exceed the actual wage; or
- (b) all eligible days for the person concerned were in the 2014-2015 financial year.

**(13) Govt (5) [Sheet HK115]**

Clause 12, page 11 (line 6), omit “1 December 2015”, substitute “1 December 2016”.

**(14) Govt (6) [Sheet EH127] (*As amended by Govt (2) [Sheet EH170]*)**

Clause 12, page 11 (line 7), omit “1 May 2015”, substitute “1 May 2016”.

**(15) Govt (6) [Sheet HK115]**

Clause 12, page 11 (line 9), omit “1 December 2015”, substitute “1 December 2016”.

**(16) Govt (7) [Sheet HK115]**

Clause 12, page 12 (line 3), omit “2016”, substitute “2017”.

**(17) Govt (8) [Sheet HK115]**

Clause 12, page 12 (line 4), omit “1 September 2016”, substitute “1 September 2017”.

**(18) Govt (9) [Sheet HK115]**

Clause 12, page 12 (line 6), omit “1 December 2016”, substitute “1 December 2017”.

**(19) Govt (10) [Sheet HK115]**

Clause 12, page 12 (lines 7 and 8), omit “31 December 2016”, substitute “31 December 2017”.

**(20) Govt (7) [Sheet EH127] (*As amended by Govt (3) [Sheet EH170]*)**

Clause 13, page 13 (line 5), omit “1 May 2015”, substitute “1 May 2016”.

**(21) Govt (8) [Sheet EH127] (*As amended by Govt (4) [Sheet EH170]*)**

Clause 13, page 13 (line 15), omit “1 May 2015”, substitute “1 May 2016”.

**(22) Govt (9) [Sheet EH127] (*As amended by Govt (5) [Sheet EH170]*)**

Clause 14, page 13 (line 21), omit “1 May 2015”, substitute “1 May 2016”.

**(23) Govt (11) [Sheet HK115]**

Clause 15, page 13 (line 26), omit “1 July 2014”, substitute “1 July 2015”.

**(24) Govt (12) [Sheet HK115]**

Clause 15, page 13 (line 27), omit “30 November 2015”, substitute “30 November 2016”.

**(25) Govt (13) [Sheet HK115]**

Clause 15, page 14 (line 4), omit “1 December 2015”, substitute “1 December 2016”.

**(26) Govt (10) [Sheet EH127] (*As amended by Govt (6) [Sheet EH170]*)**

Clause 16, page 14 (line 11), omit “1 May 2015”, substitute “1 May 2016”.

**(27) Govt (14) [Sheet HK115]**

Clause 16, page 14 (line 12), omit “1 December 2015”, substitute “1 December 2016”.

**(28) Govt (15) [Sheet HK115]**

Clause 18, page 15 (line 27), omit “1 December 2015”, substitute “1 December 2016”.

**(29) Govt (16) [Sheet HK115]**

Clause 21, page 18 (line 27), omit “1 September 2016”, substitute “1 September 2017”.

**(30) Govt (17) [Sheet HK115]**

Clause 21, page 18 (line 30), omit “1 December 2016”, substitute “1 December 2017”.

**(31) Govt (18) [Sheet HK115]**

Clause 22, page 19 (line 13), omit “31 December 2016”, substitute “31 December 2017”.

**(32) Govt (19) [Sheet HK115]**

Clause 22, page 19 (line 15), omit “30 November 2016”, substitute “30 November 2017”.

**(33) Govt (11) [Sheet EH127]**

Clause 37, page 30 (line 1), omit “or by”, substitute “, the person or”.

**(34) Govt (20) [Sheet HK115]**

Clause 38, page 30 (line 11), omit “1 January 2017”, substitute “1 January 2018”.

**(35) Govt (21) [Sheet HK115]**

Clause 102, page 65 (line 14), before “The”, insert “(1)”.

**(36) Govt (22) [Sheet HK115]**

Clause 102, page 65 (after line 19), at the end of the clause, add:

(2) To avoid doubt, the rules may not do the following:

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

(3) However, to avoid doubt, rules that make provision in relation to:

- (a) the payment amount for a person; or
- (b) amounts of remuneration or allowances for the purposes of subsection 27(4); or
- (c) amounts of costs, expenses or other obligations for the purposes of paragraph 98A(1)(e);

are not to be taken to set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act for the purposes of paragraph (2)(d) of this section.

**ROSEMARY LAING**  
Clerk of the Senate