

# (Cth) Ban Subminimum Wages for Workers with Disability

- P: In Australia, workers with disability can receive payments below the national minimum wage under the Supported Wage System (SWS).
- S: The Minister for Employment and Workplace Relations and the Minister for Disability should ask the Fair Work Commission to introduce a phase-out of the Supported Wage System and productivity-based wage calculations by 2034 to lift minimum wages for employees with disability to 100% of the national minimum wage.
- E: Disability Royal Commission: 'should ... develop a model and pathway to lift minimum wages payable to employees with disability to 100 per cent of the minimum wage by 2034' and 'the scheme should include [the] revision of the productivity-based wages calculation'.

## PROBLEM IDENTIFICATION:

Section 284 of the *Fair Work Act 2009* (Cth) delegates authority to the Fair Work Commission to establish and maintain a safety net of fair minimum wages. Through this role, the Commission sets different minimum wages for people with disability (PwD) under the Supported Wage System (SWS).

According to the Fair Work Ombudsman, this means that PwD under the SWS can be paid below the national minimum wage. The Australian Human Rights Commission (AHRC) argued that the SWS is inconsistent with human rights obligations. Jenny Karavolos, Co-chair of the Australian Autism Alliance, has further noted that 'everyone deserves enough money to live with dignity and participate in society.'

## CONTEXT:

The SWS was designed to facilitate access to open employment for PwD by lowering the wages payable to an employee with disability. Fair Work Australia stated that this works by assessing the working capacity of a PwD, which then dictates 'the percentage of the minimum pay rate for their classification.' This means 'someone with an assessed work capacity of 70% is entitled to 70% of the relevant pay rate in their award or registered agreement.' It is known that the minimum pay rate for PwD covered under the SWS is \$3.12 per hour.

Inclusion Australia reported that 'approximately 20,000 people with an intellectual disability are legally paid less than the adult minimum wage set by the Fair Work Commission — with many earning under \$10 an hour.'

## ARGUMENTS:

People with Disability Australia reported that PwD experience greater financial stress, with roughly 45% living in poverty or struggling financially. According to

Inclusion Australia, this is often the result of the SWS. Inclusion Australia noted that 'it costs some people more to go to work ... than they get in the sub-minimum wages they earn.'

The AHRC argued that Australia has a human rights obligation to pay PwD equal wages, in order to uphold their right to work with dignity and equality. They stated that unequal pay 'imposes a discriminatory limit on the exercise of a person's right to work on an equal basis with others under Article 27(1)(b) of the CRPD.' The National Blueprint for People with Disabilities stated that 'economic justice for people with disability ... [is a] right under international and Australian law ... The current system is failing us. We need justice now.'

Professionals Australia and Inclusion Australia questioned the overall effectiveness of the SWS in improving employment outcomes. Disability Royal Commission Chair Ronald Sackville highlighted that Australia has one of the highest unemployment rates for PwD among OECD countries (10% for PwD, as opposed to 4.6% for people without disability). The Australian Council of Trade Unions argued that 'the unchanging unemployment rate of People with Disability ... suggests supported wage settings have not been successful in enabling sufficient numbers of workers to grow their skills ..., contributing to the entrenched and unacceptable rates of poverty experienced by People with Disability.'

A large-scale study by Yin, Seo and Vu (2025) on removing the subminimum wage for PwD in the USA noted that some may be concerned that the SWS provides essential employment opportunities for individuals who might otherwise struggle to find a job. However, their findings reported that SWS elimination 'occur[red] without measurable adverse effects on overall employment rates or labo[u]r force participation, alleviating concerns about widespread job displacement. The reforms also lead to ... higher annual earnings, and a shift away from low-wage service-sector employment.'

## ADVICE/SOLUTION IDENTIFICATION:

The Disability Royal Commission called for the development of a model and pathway to lift wages of PwD to 100% of the minimum wage by 2034. According to Darryl Steff, CEO of Down Syndrome Australia, phasing out subminimum wages 'will mean people with disability will finally have the chance to contribute [their] skills and build economic security.'

## PRECEDENT:

There is an international precedent for banning subminimum wages. In the USA, 16 states passed legislation to eliminate subminimum wages.

