

# Good Practice Guide:

Application of the Supported Wage System (SWS) under the Supported Employment Services (SES) Award 2020 from 1 July 2023



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## **Good Practice Guide for Disability Enterprises:**

Application of the Supported Wage System (SWS) under the Supported Employment Services (SES) Award 2020 - effective 1 July 2023

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NDS acknowledges the valuable assistance of the following three members of the National Panel of Assessors in the development of this guide:

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NDS also acknowledges the Department of Social Services (DSS) for approving the use of their SWS resource materials as referenced in the Guide.

# 1. Background

The Fair Work Commission has concluded its review of the *Supported Employment Services Award* (the **Award**), which was undertaken as part of the 4-yearly review of modern awards required by the Commonwealth *Fair Work Act 2009*.

During the review process, the Fair Work Commission (**FWC**) considered proposals to change the wage-setting methodology for employees with a disability.

The main changes introduced by the FWC are:

1. Removing all wage assessment tools available under the Award, with the exception of the Supported Wage System (SWS) with modifications.
2. Adding two new wage classifications (Grades A and B) to the Award, sitting below the existing classifications of Grades 1-7.

The SWS under the Award will be modified to include the following provisions:

- Where an employee performs more than one major task in their job, the SWS assessment must measure a representative sample of the tasks performed and weight them appropriately.
- The SWS assessor must independently determine that the benchmark to be used for the assessment is valid and appropriate.
- Where a Disability Enterprise collects employee productivity data in the workplace, that data must be assigned a 50% weighting in the overall assessment, regardless of the degree of disparity with the result of the SWS assessor's assessment.
- The minimum wage will be \$2.90 per hour, as opposed to 12.5% of the relevant classification. This rate will increase annually according to the FWC's National Wage Case decision.
- After the initial SWS assessments, there will be an automatic review after 12 months (to occur after the transition period ends i.e. after 30 June 2026). There are no further automatic reviews but the right to request a review because circumstances have changed remains.

The new wage classifications in the Award (Grades A and B) came into effect on 1 July 2023. All ADEs have been required to re-classify employees (where appropriate) having regard to the employee's skills, experience and qualifications and the nature of the position in which the employee is employed.

The new Grades A and B in the Award apply to any employee with a disability who:

- because of their disability, does not have the capacity to undertake the duties or exercise the level of skill and responsibility of any position to which Grades 1-7 apply; and
- has been placed in a position by their employer which:
- consists of duties and a level of supervision and monitoring which
- accommodate the effects of the employee's disability; and
- does not fall into Grades 1-7 of the Award.

Employers have a statutory obligation to comply with these new terms/conditions in the Award. It is worth noting that contravening a term or condition of the Award is unlawful and exposes employers to civil penalties of up to \$82,500 per breach.

## 2. Purpose of this Good Practice Guide – The Modified SWS Assessment Process

This Good Practice Guide focuses on Disability Enterprises being able to utilise the modified SWS assessment process if an eligible employee has a productive output rate less than 100% of predetermined and validated benchmarks for their job.

Note that utilisation of the modified SWS assessment process is not restricted to, or determined by the Grade at which an employee is classified under the Award. It can be applicable to any employee at any Grade (Grade A, Grade B, Grades 1-7), provided the employee meets the SWS eligibility criteria.

Note also that any decision to utilise the modified SWS assessment process to determine an employee productivity score of less than 100% is optional. However, this decision precludes a Disability Enterprise from otherwise reducing the employee's wage rate below the identified wage rate in the SES Award, regardless of the employee's new grading from 1 July 2023.

The modified SWS assessment must be undertaken by a qualified assessor from the National Panel of Assessors, to facilitate determination of the final productivity score and wage rate of an employee with disability.

These changes do not impact on the SWS assessment process in open employment. These only apply to assessments where the SES Award is the applicable industrial instrument.

This Good Practice Guide does not cover in any detail, the grading of employees under the new Award Classification Structure, nor any other changes to the Award resulting from the FWC review. For a detailed summary of the FWC decision and the other recent changes to the Award, please [click here](#).

## 3. The SWS Assessment Process

From 1 July 2023, Disability Enterprises will need to arrange an initial SWS assessment for their existing employees with disability. The FWC has set a three-year transition period for all SWS assessments to be completed for employees with disability working in a Disability Enterprise at 30 June 2023. This means that all Disability Enterprises using wage assessment tools previously identified in the SES Award (and which can no longer be used from 1 July 2023) must move their supported employees to the SWS by 30 June 2026.

There are several distinct components of the SWS assessments under the SES Award that Disability Enterprises need to be aware of. These are:

- A. Submitting SWS Assessment Applications to Jobaccess
- B. Developing Performance Standards for Job Tasks
- C. Benchmarking Tasks
- D. Internal Collection of Employee Productivity Data by Disability Enterprises
- E. Preparation for and Participation in the SWS Assessment
- F. Process for Validating the Assessment Result
- G. Finalising of the SWS Wage Agreement



A flow chart showing the process for conducting SWS assessments in Disability Enterprises is set out in **Attachment A**.

## **A. Submitting SWS Applications to JobAccess**

The steps involved in submitting online SWS Applications include the following:

- Accessing the secure online Application site
- Signing in as an Employer/ADE user
- New Registration with myGovID account
- Completing the Application form

Disability Enterprises should consult the [SWS Online Application Instruction Document](#).

For new supported employees commencing after 1 July 2023, the trial period and trial period wages commence from the date the SWS application is approved. The Disability Enterprise must lodge an SWS application and have the application approved by the Department **prior** to the employee commencing work.

## **B. Developing Performance Standards for Job Tasks**

Disability Enterprises will need to consider the following steps when determining the minimum performance standards for the jobs and tasks of their employees with disability:

- Defining the Job, Duties and Tasks
- Applying Duty Weightings
- Establishing Performance Standards

### **Defining the Job, Duties and Tasks**

To establish task performance standards in readiness for SWS assessments, it is beneficial to consider the concepts of jobs, duties and tasks:

#### **Job**

An employee's entire role, which may consist of duties and tasks.

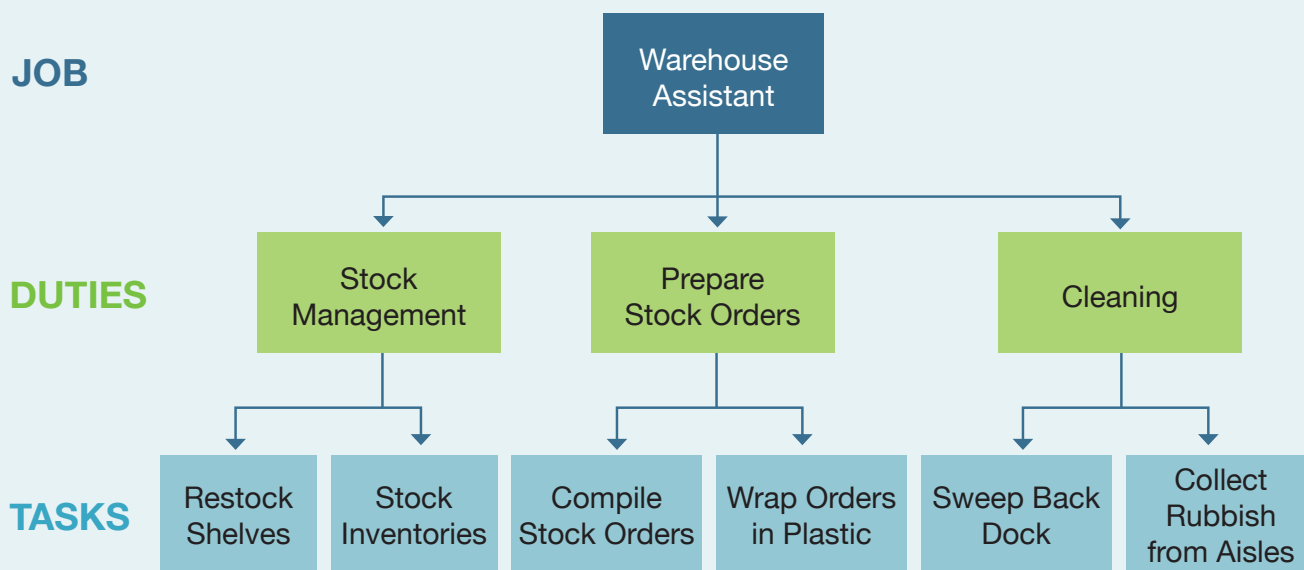
#### **Duty**

A defined category within the employee's job role and has an expected outcome.

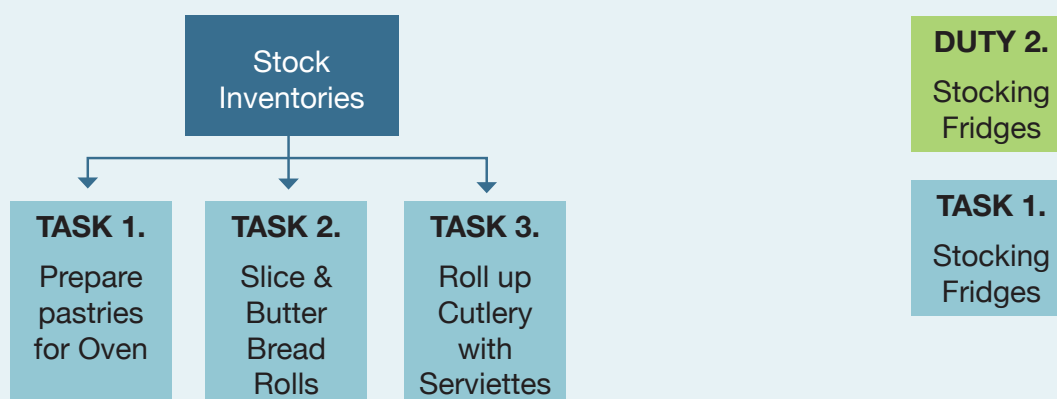
#### **Task**

A smaller component of a duty which may be one of several within a duty. Tasks are typically:

- Observable
- Measurable
- Consisting of clear parameters
- Replicable
- A continuous process



Some duties may have several contributing tasks whilst others may only have one:



The SWS Assessor will require an understanding of an employee's typical duties and each task within those duties. Some employees will not necessarily perform every task in a duty, for example some may only perform one task. Some duties may only consist of one task.

When preparing for the SWS assessment, the assessor will confirm the employee's duties and their respective tasks with the Disability Enterprise.

### Applying Duty Weightings

How much time the employee spends performing each duty per week will need to be determined and communicated to the assessor. This is known as the duty weighting and is determined as follows:

$$\frac{\text{Duty hours per week}}{\text{Total hours worked per week}} = \text{the duty weighting (expressed as a percentage)}$$

If a variety of duties are performed (e.g. at different times of the year or subject to the Disability Enterprise's changing business needs) it is necessary to focus on the most frequently performed duties and/or those that are most reflective of the employee's working week.

When the duty weightings have been determined, the SWS assessor will confirm all tasks performed within each duty. This is essential, as each task will be observed and timed by the SWS assessor, to help determine the productivity score for the employee.

### **Establishing Performance Standards**

Performance standards for job tasks performed by each employee need to be defined and confirmed, to enable the SWS assessor to conduct a successful assessment. They include the observable actions that explain how the job is to be done, plus the results that are expected for satisfactory job performance.

The SWS assessor will confirm performance standards for each relevant task, prior to assessing the employee. It is recommended that Disability Enterprises establish and document task performance standards in preparation for anticipated SWS assessments at their workplace. Performance standards such as the correct sequence of task steps may already be documented in the Disability Enterprise's Standard Operating procedures.

Performance standard descriptors should include:

- Task commencement and end points
- Process/sequence of completion
- Quality requirements
- Quantity outcome requirements
- Details of equipment used
- Additional information or considerations

A Task Analysis and Performance Standards Template is at **Attachment B**.

### **C. Establishing Benchmarks**

The SWS assessor will measure and score the employee's work rate or productive capacity against an established benchmark. A benchmark for each task must be established before a supported employee can be assessed.

A benchmark is:

- An agreed standard or point of reference used to compare an employee's work performance and productivity.
- A specific indicator used to calculate the time taken or task output in relation to agreed performance standards.
- The minimum expected/acceptable performance for an employee to be paid a full Award wage

Benchmarks are obtained by observing and timing an employee without disability during performance of a task. This employee must perform the task according to the required Performance Standards.

Benchmarks must be based on at least three task timings and the variance between timings collected should be less than 10 percentage points. Only benchmarks that achieve this standard are considered valid.

The modified SWS assessment process allows for Disability Enterprises to establish and record their own benchmarks for all tasks, prior to the SWS assessment, for the assessor to validate. This is a recommended practice for Disability Enterprises, as it will help create a more efficient SWS assessment process.

If the Disability Enterprise does not provide the SWS assessor with any benchmarking data, the assessor may be required to organise and conduct benchmarking activities during their assessment visit(s).

The SWS assessor must validate all benchmarks to ensure they will be observable, measurable, replicable and achievable when the employee is assessed.

Once an assessor has validated a benchmark in the workplace, that benchmark may be used for other employees undertaking the same task in the same location and/or for review assessments for the same employee.

Performance against some duties may be better identified as a quantity figure (units of work completed in a specified time) rather than recording the time taken to complete the task. For example, it may be better to assess how many bags were correctly packaged in a 15-minute period, rather than recording the time taken to package 10 bags.

Ideally, a reasonable period of time should be set aside for observing and timing task completion, to ensure fairness. Observations should not be of very short duration or excessively lengthy. They should provide an accurate representation of the fully completed task.

Benchmark validation examples can be found at **Attachment C**.

## **D. Internal collection of employee productivity data**

The modified SWS assessment process also allows for Disability Enterprises to collect their own productivity data for each employee's task performance, prior to the SWS assessment.

The following are the minimum requirements of a Disability Enterprise when collecting an employee's task productivity data:

- Collect at least three timings for each task performed, ideally on different occasions, for calculating an average productivity score
- Note and record any variance in timings

If during the collection of productivity data, the supported employee's task performance does not meet the required quality standard, you may:

- Add the extra time taken to complete the task to the required quality, or;
- Subtract unsatisfactory units of work from the total units completed (e.g. incorrectly labelled bottles or poorly folded product boxes)



It is recommended that Disability Enterprises record all evidence of factors impacting on the employee's work performance, for referencing during validation discussions with the SWS assessor.

Note: Some employees may be identified as performing one or more of their tasks at 100% productivity. In the SWS assessment, these duties are not timed by the assessor, but they are included in the calculation of the final SWS assessment score.

See also the [ADE Workplace Data Collection Form](#) in the SWS Resources.

## **E. Preparation for and participation in the SWS Assessment**

The following steps must be undertaken by Disability Enterprises when preparing for an employee's SWS Assessment:

- Inform the employee of the need to conduct an SWS assessment that will determine the employee's rate of pay
- Submit an SWS Assessment Application through the online application portal
- Advise the employee and their nominee that a trial period has commenced for the employee from the date of approval of the SWS Application if the employee commenced work after 30 June 2023
- Ensure that an assessor has confirmed the date and time of the assessment noting this is scheduled after the minimum trial period for new employees of 13 weeks, with a maximum of 26 weeks
- Advise the employee and their nominee in advance of the assessment date
- Ensure that there are enough work resources available for the employee to complete the required duties and tasks on the day of the assessment
- Ensure a suitable co-worker will be available on the day of assessment to provide Benchmark timings if these were not established beforehand

Ensure that all relevant information has been discussed with the SWS assessor beforehand, including:

- What they may need to be aware of before the assessment, including worksite entry requirements
- Confirmation of the agreed duties, tasks and duty weightings
- Establishment of appropriate performance standards for each task
- Determine whether the Disability Enterprise intends to collect benchmark timings for assessor validation, or the assessor needs to collect these on the day of assessment
- Whether employee productivity data will be collected internally, for contribution to the employee's productivity timings with the SWS assessor's results

Note that independently establishing performance standards and benchmarks and collecting employee productivity data are optional steps for the Disability Enterprise.

## **F. Process for validating the assessment result**

Once the SWS assessment has been completed, the employee's performance during the assessment is discussed by the Disability Enterprise and the assessor. If there is no employee productivity data provided by the Disability Enterprise, then only data collected during the SWS assessment will determine the employee's final productivity score. Disability Enterprises should endeavour to collect this internal data to ensure the final productivity score is representative of the employee's usual performance.

Where a Disability Enterprise has not collected internal productivity data, it can ask the assessor that more time be provided to collect data that could be considered in the assessment result, or the assessor might agree to come back later and conduct more assessment timings. However, the assessment will have a due date, so this would need to be conducted within the due date timeframe.

If employee productivity data has been collected internally, then the two sets of results can be compared to see if they meet the acceptable variance standard, that is, the variance is no greater than 20% between the Disability Enterprise's and the SWS assessor's results.

Where there is a disparity of greater than 20% between the productivity percentage calculated from the Disability Enterprise's internal data and the productivity percentage calculated by the SWS assessor, the employee, employer and approved assessor may agree to collect additional data. The additional data should be collected as soon as practicable and added to the existing data with respect to the employee, for the purpose of determining a final assessment result.

The step above is optional, and ultimately the final productivity score will be calculated using a 50% weighting from the Disability Enterprise's productivity data (if contributed) and a 50% weighting from the SWS assessor's productivity score.

## **G. Finalising of the SWS Wage Assessment Agreement**

After confirming the assessment result with the employee, (and/or their nominee) and Disability Enterprise, the SWS assessor enters the final productivity result into the SWS Wage Assessment Agreement, checking the details of all the involved parties. The Disability Enterprise and the employee (or their nominee) then sign the Agreement.

A copy of the signed Agreement is provided to the Disability Enterprise and the employee and/or their nominee. The assessor will inform the employee about the relevant future assessment review process.

The Disability Enterprise is required to send a copy of the signed Agreement to the Fair Work Commission, however the SWS assessor may agree to do this instead.

The SWS assessor enters the relevant details of the assessment into the DSS IT System within seven days of the assessment completion date.

## 4. Employee Right of Review/Dispute Resolution Process

The SES Award contains two clauses about dealing with disputes. Clause 30 on dispute resolution, sets out procedures to be followed when a dispute arises about a matter under the Award, including a dispute in relation to the process or outcome of an SWS assessment. Such a dispute should be raised in accordance with the dispute processes outlined in the Supported Wage System Handbook on pages 14-15.

Clause 31 on rights at work for supported employees has been varied to include a mechanism for supported employees to request a review of the Grade into which they have been classified by their employer.

Re-grading of an employee under the Award does not form part of the SWS assessment process and is the responsibility of the Disability Enterprise. However, the SWS assessment process may highlight the need for a Disability Enterprise to review the current grading of an employee, following the assessor's analysis of their duties, tasks, supervision and monitoring requirements during the assessment. In this instance, the Disability Enterprise should seek advice from the Fair Work Ombudsman to determine if the employee's grade is correct. If the employee's grade is incorrect it is the responsibility of the Disability Enterprise to correctly regrade the employee.

## 5. SWS Assessment Review Provisions

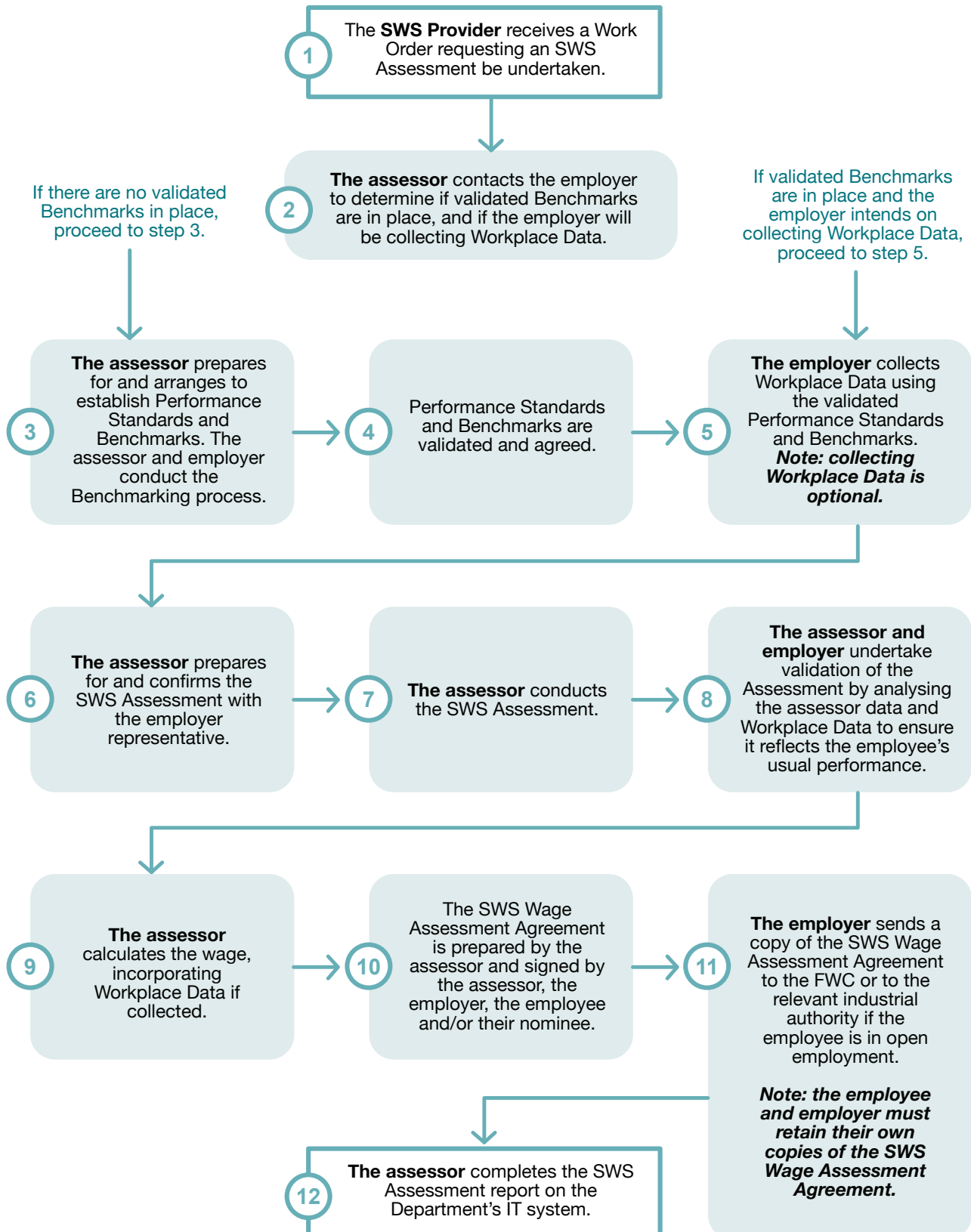
Disability Enterprises should note that there are different SWS assessment review provisions for existing supported employees at 30 June 2023 and those who commence their employment on or after 1 July 2023. The provisions below are from the latest version of [the SWS Handbook under the SES Award June 2023](#).

Existing employees that have not had an SWS assessment before 30 June 2023, **must have an initial SWS assessment before 30 June 2026**. Where an existing employee had their initial SWS assessment during the transition period (from 30 June 2023 to 30 June 2026) **no further SWS assessments are required for a period of three years after the date of the initial assessment**.

Where a new employee with disability is employed (i.e. on or after 1 July 2023), **the employee's productivity is reviewed 12 months after their initial assessment**. This ensures that the wage rate reflects any changes in productivity over their first year of being in the job. **No further automatic assessments are required after the 12-month review assessment**.

As per the SES Award, review assessments can be requested earlier if an employee has changed jobs or the processes involved in the work undertaken by the employee have changed (i.e. there has been a significant change in the employee's duties). **Review assessments can also be requested earlier if the employee's productivity has either significantly increased or declined**.

# Attachment A: Supported Employment Services SWS Assessment Flowchart



# Attachment B: Task Analysis and Performance Standards

**Note:** Text in blue in the tables below identifies examples and can be removed

## Duty and Task List

Duty#	Duty Name	Task#	Task Name
1	Prepare packaging boxes	1	Assemble cardboard boxes
2	Package food products	1	Fill cardboard boxes with chip packets
		2	Seal Filled cardboard boxes with tape
		3	Label filled cardboard boxes with stickers

Duty# 2	Task# 1	Task Name: Fill cardboard boxes with chip packets
<b>Task Description</b>		
<b>Timing start and end points (please be specific):</b>		
Each timing commences when the employee picks up the first packet of chips ready to pack into the cardboard box.		
Each timing concludes when the last of 10 packets of chips has been correctly placed in the cardboard box.		
<b>Process of Completion:</b>		
Each assembled cardboard box is to be filled with 10x 165g packets of Kettle chips. Filled boxes are removed from the work table and placed on the adjacent benchtop for sealing.		
<b>Quality Requirements:</b>		
All packets of chips must have labels facing up correctly.		
Packets of chips will be arranged standing up in 2 rows of 5.		
All packets will remain intact during packaging process – no tears, burst bags or spillage of contents.		



<b>Duty# 2    Task# 1    Task Name: Fill cardboard boxes with chip packets</b>
<b>Task Description</b>
<b>Quantity Requirements:</b> Each cardboard box will contain 10 packets of chips.
<b>Equipment:</b> Trolley of loose packets of chips to be placed to employee's right hand side. Employee to wear protective gloves.
<b>Additional information (see Checklist):</b> Completion of this task is reliant on availability of assembled cardboard boxes

✓ X	Considerations	Comment
	What does a good job look like?	
	How accurate or good is acceptable? What results would be considered satisfactory?	
	What condition will exist when the duty is well performed?	
	How long should it take? (Benchmark, machine output, industry standards)	
	Are there behaviours that are expected -teamwork, leadership, creativity, customer service?	
	Are there safety considerations?	
	Are there legislative or regulatory requirements that need strict adherence?	
	Other considerations	

## Attachment C: Benchmark Validation Examples

The SWS assessor must validate all benchmarks to ensure they will be observable, measurable, replicable and achievable.

Benchmarks must be based on at least three different task timings and the variance between timings collected should be less than 10 percentage points.

Only benchmarks that achieve this standard are considered valid.

### Calculating Timing Variance

1. Convert each timing to seconds
2. Calculate the difference between the highest number and lowest number
3. Divide the difference by the highest number
4. Multiply by 100 = percentage point variance (PPV)

### Examples

#### Validated task benchmark timings:

1. 330 seconds
2. 340 seconds
3. 318 seconds

(Average 329 seconds)

Difference  $340 - 318 = 22$

$22 \div 340 = 0.0647$

$0.0647 \times 100 = 6.47\%$  (PPV)

**BENCHMARK OF 329 SECONDS IS VALIDATED**

#### Not validated task benchmark timings:

1. 330 seconds
2. 392 seconds
3. 266 seconds

(Average 329 seconds)

Difference  $392 - 266 = 126$

$126 \div 392 = 0.3214$

$0.3214 \times 100 = 32.41\%$  (PPV)

**BENCHMARK OF 329 SECONDS IS NOT VALIDATED**

Further timings will be needed to establish this Benchmark.

## Attachment D: Glossary of Terms

Term	Meaning/Explanation
Benchmark	The minimum level of performance that would be expected from an employee who is paid the full award rate of pay. A standard or point of reference that will be used to compare an employee's work performance and productivity. A specific indicator used to calculate the time taken or task output in relation to agreed performance standards.
Co-worker method	Using a co-worker to set a performance standard for a task. The co-worker should be competent in the task and, preferably, have a similar length of experience on the job as the person who is the subject of the assessment. The performance of employees who have been doing the same job for many years could be unusually high.
Duties	The work outcomes expected by an employer from an employee in a particular job. A duty can comprise one or a number of separate, identifiable and measurable tasks. For example, a duty for a room attendant in a motel may be 'to clean the bathroom', while the tasks that make up this duty include 'polish the mirrors, wash the basin, sweep and mop the floor.'
Employee with a disability	A national system employee who qualifies for a disability support pension as set out in sections 94 or 95 of the Social Security Act 1991 (Cth), or who would be so qualified but for paragraph 94(1)l or paragraph 95(1)(c) of that Act.
Job	Work that a person does to earn money.
Job analysis	Describing a job in terms of duties and tasks performed and the knowledge, skills and abilities required to perform the tasks successfully.
Performance Standards	Specific performance expectations are provided to the employee for each duty and task. They include the observable actions that explain how the job is to be done, plus the results that are expected for satisfactory job performance. They describe all task details required for benchmarking, by task breakdown, start and end points, how the task is completed, the quality and quantity required, details of any tools/ machinery used, relevant environmental conditions (where the task is performed), and any conditions that need to be in place before or after the assessment.

Position / Role	A rank or level in a company / organisation; the position or purpose that someone has in an organisation.
Productive capacity	The level at which a person with disability can perform their job. An employee's rate of productive output of a good or service.
Task analysis	The process used to list all the duties in the role, then identifying all the tasks required for each duty.
Tasks	The steps required to achieve specific outcomes or results in a job. Often a number of tasks will combine to form a 'duty'. Tasks should be considered as separate duties when, because of a significant time weighting and productivity difference between them, a distortion of the wage would result if the tasks were combined into one duty.
Trial period	A provision that has been made in the SWS Schedule for the employee to undertake a trial period before the wage assessment. The Trial Period usually includes specialised on-the-job training in addition to any other standard training provided by the employer. The Trial Period for employees covered by the SES Award is for a minimum of 13 weeks with a maximum of 26 weeks. For employees in open employment covered by a modern award the trial period can be up to 12 weeks (although by agreement, it may be extended to 16 weeks).
Validation	The analysis of the assessor data and the Workplace Data to establish if the data is representative and reflective of the employee's usual productivity.
Workplace Data	Productivity data and information related to the employee's duties and tasks, including at least three timings of each task. Workplace Data may be collected by the employer prior to the SWS Assessment.

## Attachment E: Additional SWS Resources

[The Jobaccess Webpage containing the SWS Handbook and Guidelines](#)

[The Jobaccess SWS background information page including the Learning Modules for supported employment services](#)

The SWS learning Module links:

- [Module 1 – Introduction to the SWS](#)
- [Module 2 – Benchmarking](#)
- [Module 3 – Collecting Workplace Data](#)
- [Module 4 – Preparing for and participating in an assessment](#)
- [Module 5 – Validation of assessment and communicating outcomes](#)

NDS Resources developed following the Community of Practice 26 July 2023 - The application of the SWS in Supported Employment:

[Link to PDF Slideshow](#), Keryl Neville, LEAD

[Link to PDF Slideshow](#), Robyn Lambert, APM Assessment Services

[Link to Video of the Community of Practice](#)

Frequently Asked Questions PDF - [Application of the SWS in Supported Employment](#)

[The Fair Work Commission's Determination on the SES Award's new wages structure](#)

[The Guide to new classification structure for the SES Award](#)



# Contacts

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Phone: (03) 8341 4319

## **Department of Social Services:**

DSS Assessment Team: 1800 065 123

JobAccess Advisers: 1800 464 800.

## **Fair Work Ombudsman:**

Online Enquiries: [www.fairwork.gov.au/about-us/contact-us/online-enquiries](http://www.fairwork.gov.au/about-us/contact-us/online-enquiries)

Phone Enquiries: 13 13 94