

**FAIR WORK COMMISSION**

**4 Yearly Review of Modern Awards**

***Supported Employment Services Award 2010***

**Matter No:** AM2014/286

**OUTLINE OF SUPPLEMENTARY SUBMISSIONS**

**NATIONAL DISABILITY SERVICES, AUSTRALIAN BUSINESS INDUSTRIAL AND  
THE NSW BUSINESS CHAMBER**

**1. INTRODUCTION**

1.1 By way of its Statement on 11 September 2018 the Full Bench requested that interested parties in these award review proceedings file submissions in relation to:

- (a) the merit of the Full Bench's provisional conclusions contained in its Statement of 16 April 2018 (**April Statement**); and
- (b) any proposal which any party wishes to advance concerning the design and implementation of the new wage assessment mechanism outlined in the April Statement, should the Full Bench ultimately determine to proceed with the provisional views expressed therein.

1.2 These supplementary submissions are filed further to Outlines of Submissions filed on 19 October 2018 by:

- (a) National Disability Services (**NDS**); and
- (b) Australian Business Lawyers & Advisors on 19 October 2018 on behalf of Australian Business Industrial (**ABI**) and the NSW Business Chamber (**NSWBC**).

1.3 These submissions reflect an expansion and refinement of the earlier submissions and proposals by each of the above organisations following further consultation and consideration by NDS and ABI members in the lead up to the hearing days on 29 and 30 November 2018.

**2. SUBMISSIONS ON MERIT**

2.1 NDS and ABI/NSWBC rely on their Outlines of Submissions filed in these proceedings on 19 October 2018 in support of the Full Bench's provision conclusions in the April Statement.

2.2 In addition, we will be supplementing these submissions orally during the upcoming hearing days, including to address submissions and supplementary submissions filed by those parties in these proceedings that do not agree with the Full Bench's provisional views in the April Statement.

### **3. SUBMISSIONS ON DESIGN**

3.1 **Annexed** is a refined classification structure proposal, designed with regard to the Full Bench's proposed revised Supported Employment Services Award (**SES Award**) classification structure contemplated in the April Statement, and in particular the following principles:

- (a) As the Commission has noted in its April Statement, employees with a disability in ADEs perform disaggregated parts of a broader job that would entitle a fully competent employee to the full Award wage, and often do so in a team setting.
- (b) It is not practicable (or helpful) for the SES Award to reflect every possible job (and task within a job) performed in all ADEs. Rather, the SES Award can provide general statements and indicative tasks (as per other Awards) in relation to different types of work performed.
- (c) It is important to avoid any classification structure that is premised upon, or results in, assessing the capacity of employees with a disability at large, rather than with regard to the job value of the actual work they are performing in their jobs.

3.2 In addition, as ventilated during the earlier hearing dates, it is an important principle that an employee with a disability who is assigned a job in one location should be entitled to the same award wage as a person doing the same job in another location - at least in terms of job sizing, output assessment will obviously vary from person to person by its nature.

#### **Structure of attached proposal**

3.3 As per the April Statement, the indicative tasks within each occupational subcategory are intended to reflect the full range of tasks which a fully competent employee would have capacity to perform (to an employer's reasonable output and quality standard) – this is why they add up to 100%.

3.4 Each indicative task is then assigned a job sizing percentage. The inclusions are intended to be suggestions only, and subject to further input from interested parties.

#### **How the proposal works**

##### **Step 1**

3.5 Employees are assigned a particular job based on their abilities and operational requirements. This job might involve one or more indicative tasks in each occupational category within the classification structure.

3.6 For example, an employee might be engaged to do work in an ADE's timberwork division.

##### **Step 2**

3.7 ADEs consider the applicable Grade for the work the employee is actually doing as part of their job - noting this may differ from their position description. What matters is what the employee actually does as part of their job, provided of course this is activity requested/authorised by the ADE.

3.8 Going back to our example, the employee in question might be performing "somewhat more complex tasks", "exercises discretion" etc, and is therefore doing Grade 3 work in the timberwork occupational category.

### **Step 3**

- 3.9 ADEs examine the work the employee does as part of their job (being what they actually do in their jobs) and looks at which indicative tasks this work includes. This is not an assessment of what the employee is theoretically/actually capable of doing, as this would be assessing the person not the job.
- 3.10 Going back to our Grade 3 timberwork example, the employee's job might involve nail gun work (25), manual sewing (5) and manual cutting (25). The employee might also be capable of painting, but this is irrelevant, as it is not something they are required to do as part of their job.

### **Step 4**

- 3.11 Add up the job sizing percentages derived from the above:  $25 + 5 + 25 = 55\%$ .

### **Step**

**5**

- 3.12 Round the resulting figure up to the next 20% percentile (so in our example, this would be 60%).
- 3.13 If the employee was only performing Grade 2 manual sewing timberwork (5%) in their job, the relevant figure would be 20%. In other words, the following table applies:

<b>Job sizing sum range</b>	<b>Job sizing percentage</b>
0 to 20	20
Above 20 to 40	40
Above 40 to 60	60
Above 60 to 80	80
Above 80	100

### **Step 6:**

- 3.14 Conduct a output assessment to the above job sizing percentage. So for example, our timberwork employee at 60% job sizing that has a 50% output assessment is entitled to 30% of the applicable full award wage for a fully competent employee performing Grade 3 work.

### **Further refinement of proposal needed**

- 3.15 The annexed document is intended to provide a concept only, and the occupational categories and indicative tasks are modelled on the existing SES Award provisions, with the inclusion of a few extra occupational categories in arts and retail.
- 3.16 We recommend that there be a further conference/submission process in relation to:
- (a) any occupational categories that need to be amended, removed or added (microfilm might for example no longer be a relevant occupational category, and we have included arts and retail as suggested further categories);
  - (b) proposals for additional/replacement indicative tasks;
  - (c) alternative job sizing percentages assigned to each indicative task.

3.17 In determining job sizing values to indicative tasks, the Commission could consider providing guidance to the parties to the following effect following (going from lowest work value to highest work value):

1. Very simple single manual task activities working alone (e.g. threading beads on a string or sorting cutlery into boxes).
2. Very simple single task utilising non energised tools such as stamps, presses etc working alone.
3. Very simple single manual task activities that require co-ordination and co-operation as part of a team to produce the work outcome (e.g. packing boxes of hygiene products).
4. More complex single manual task activities working alone.
5. Very simple tasks utilising non energised tools (such as stamps, presses etc.) that require co-ordination and co-operation as part of a team to produce the work outcome.
6. More complex single manual task activities that require co-ordination and co-operation as part of a team to produce the work outcome.
7. More complex single tasks utilising energised tools or machines working alone.
8. More complex single tasks utilising energised tools or machines that require co-ordination and co-operation as part of a team to produce the work outcome.

3.18 An example of a more sophisticated set of indicative tasks that might be considered for inclusion in the Specialist Packaging occupational category is as follows:

- Undertake process and packing tasks
- Measure, weigh, and count products and materials.
- Examine and inspect containers, materials, and products in order to ensure that packing specifications are met.
- Record product, packaging, and order information on specified forms and records.
- Remove completed or defective products or materials, placing them on moving equipment such as conveyors or in specified areas such as loading docks.
- Seal containers or materials, using glues, fasteners, nails, and hand tools such as tape guns.
- Load materials and products into package processing equipment e.g. flow-wrap machine.
- Clean containers, materials, supplies, or work areas, using cleaning solutions and hand tools.
- Place or pour products or materials into containers, using hand tools and equipment, or fill containers from spouts or chutes.
- Ensure Quality Assurance and control procedures are implemented and maintained.

#### **4. SUBMISSIONS ON IMPLEMENTATION AND NEXT STEPS**

4.1 We respectfully submit that the Full Bench should now proceed to:

- (a) confirm its provisional conclusions about the design of its wage assessment mechanism consistent with the April Statement;
- (b) direct interested parties to engage in a further (and final) series of conferences and/or submission process. The purpose of this would be to allow interested parties to confer further and provide final submissions on:
  - (i) the specific content of the occupational types, indicative tasks and job sizing percentages to be included in the Classification Structure, having regard to the factors set out above;
  - (ii) the specifics of output assessment; and
  - (iii) proposals for implementation of the above.

4.2 The advantages of the above approach are that:

- (a) interested parties will benefit from having certainty about the broad design of the Full Bench's wage assessment mechanism when conferring and caucusing to engage in further conferences and/or provide further submissions; and
- (b) the Full Bench can then benefit from the outcome of these conferences and submissions in coming to a final decision in this matter.

We look forward to further supplementing this outline of submissions orally on 29 and 30 November 2018.

**Australian Business Lawyers & Advisors**

**For National Disability Services, Australian Business Industrial and the NSW Business Chamber**

**28 November 2018**

**Annexure**

**New SESA Classification structure -  
DRAFT proposal by  
National Disability Services,  
ABI and NSWBC  
as at 28 November 2018**

<b>Grade</b>	<b>Occupational Category</b>	<b>Criteria</b>	<b>Task</b>	<b>Proposed Job sizing percentage</b>
1	Induction and initial training	General statement	<p>An employee engaged in this grade will undertake up to 38 hours induction training which may include information on the employer’s business, conditions of employment, introduction to supervisors and fellow employees, training and career path opportunities, worksite layout, work and documentation procedures, occupational health and safety, equal employment opportunity and quality control/assurances.</p> <p>An employee at this level performs basic routine duties essentially of a manual nature and to their level of training. Persons at this level exercise minimal judgment and work under direct supervision whilst undergoing structured training to Grade 2.</p>	12.5

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2		General statement	<p>An employee who has completed at least three months' structured training so as to enable them to perform work within the scope of this level.</p> <p>An employee at this level:</p> <p>(a) performs work above and beyond the skills of an employee at Grade 1 and to the level of their training;</p> <p><b>(b) performs a simple and repetitive range of tasks;</b></p> <p>(c) works under direct supervision either individually or in a team environment; and</p> <p>(d) understands and undertakes basic quality control/assurance procedures, including the ability to recognise basic quality deviation/faults.</p>	
	<b>Engineering</b>	Indicative tasks	<ul style="list-style-type: none"> <li>• repetition work on automatic, semiautomatic or single purpose machines or equipment;</li> <li>• assembles components using basic written, spoken and/or diagrammatic instructions in an assembly environment;</li> <li>• uses selected hand tools;</li> <li>• boiler cleaning;</li> <li>• uses hand trolleys and pallet trucks.</li> </ul>	30 30 20 10 10
	<b>Microfilm</b>		<ul style="list-style-type: none"> <li>• document copying</li> <li>• microfilm/scanner operator basic;</li> <li>• packaging, labelling and collating</li> </ul>	20 40 40
	<b>Catering</b>		<ul style="list-style-type: none"> <li>• assistance to employees who are cooking and performing delivery tasks;</li> <li>• removing food plates;</li> <li>• setting and/or wiping down tables;</li> <li>• cleaning and tidying of associated areas;</li> <li>• general clearing duties within a kitchen or food preparation area and scullery;</li> </ul>	20 10 10 5

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			<ul style="list-style-type: none"> <li>• assembly and preparation of ingredients for cooking</li> </ul>	20 35
	<b>Leather and canvas goods and sewing</b>		<ul style="list-style-type: none"> <li>• repetition sewing work on automatic, semiautomatic or single purpose machines (including basic operation of sewing machines) requiring some discretion with respect to kind, quantity, pressure, temperature or running speed;</li> <li>• rudimentary marking and hand cutting;</li> <li>• gluing (making basic eyelets) of small items;</li> <li>• manufactures components and/or assembles to finished product;</li> <li>• die cutting using clicking press on canvas material within the scope of this grade;</li> <li>• sorting, checking and packing.</li> </ul>	30  5 5 30 5 25
	<b>Clerical support</b>		<ul style="list-style-type: none"> <li>• clerical or routine office duties including basic typing, checking figures, matching documents, simple calculating, collating, sorting or filing, photocopying and handling of mail;</li> <li>• cashier and banking functions under direct supervision.</li> </ul>	80  20
	<b>Timberwork</b>		<ul style="list-style-type: none"> <li>• labouring;</li> <li>• repetition work on automatic, semi-automatic or single purpose machines or equipment;</li> <li>• sorting;</li> <li>• packing;</li> <li>• undercoat painting;</li> <li>• assembly.</li> </ul>	18 18 18 18 18 10
	<b>Gardening</b>		<ul style="list-style-type: none"> <li>• basic grounds and lawn maintenance, including use of lawn-mower and whipper snipper;</li> <li>• re-potting;</li> <li>• basic labouring.</li> </ul>	40 20 40



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	<b>Laundries</b>		<ul style="list-style-type: none"> <li>• labouring (manual handling);</li> <li>• folding;</li> <li>• loading.</li> </ul>	45 45 10
	<b>Specialist packaging</b>		<ul style="list-style-type: none"> <li>• sorting (manual);</li> <li>• labelling;</li> <li>• folding;</li> <li>• stacking;</li> <li>• use of hand trolleys, pallet trucks;</li> <li>• taping;</li> <li>• heat sealing;</li> <li>• stapling</li> <li>• filling;</li> <li>• check weighing.</li> </ul>	10 10 10 10 10 10 10 10 10 10
	<b>Printing/Bookbinding</b>		<ul style="list-style-type: none"> <li>• labouring;</li> <li>• sorting;</li> <li>• labelling;</li> <li>• packaging;</li> <li>• gluing (manual);</li> <li>• assembly.</li> </ul>	18 18 18 18 10 18
	<b>Foam and plastic</b>		<ul style="list-style-type: none"> <li>• reception work on automatic, semiautomatic or single purpose machine or equipment;</li> <li>• maintaining records;</li> <li>• performing basic test functions, with an ability to measure accurately using gauges and meters;</li> </ul>	10 10 10

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			<ul style="list-style-type: none"><li>• operate hand-operated transport and lifting devices;</li><li>• operate granulating, reclaiming, crumbling and shedding machines;</li><li>• trimming, cutting, gluing, sealing, assembling or wrapping finished goods;</li><li>• operate slitting and/or setting machines;</li><li>• operate automatic and manual press machines;</li><li>• repair airbags, belts and cables, fit terminals and cables;</li><li>• operate machinery that requires basic set-up skills.</li></ul>	10 10 10 10 10 10 10
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	<b>Horticulture and related activities</b>		<ul style="list-style-type: none"> <li>• operation of powered tools including picking and harvesting equipment not requiring a license; 25</li> <li>• operation of irrigation of spraying equipment; 25</li> <li>• operating tractors with engine capacity up to 70kW; 20</li> <li>• grading, sorting and packing; 15</li> <li>• may be required to make sales from a restricted range of products. 15</li> </ul>	
	<b>Commercial biscuit and pastry making</b>		<ul style="list-style-type: none"> <li>• biscuit forming machine operator able to set up, control and efficiently operate and maintain the web on at least one production plant; 20</li> <li>• assists and periodically relieves mixer; 20</li> <li>• general hand and line hand duties involving loading, unloading and handling ingredients and semi-processed ingredients, cleaning or washing utensils or equipment; 20</li> <li>• weighing, checking, gauging product, packaged products or packaging materials; 20</li> <li>• packing product for dispatch 20</li> </ul>	
	<b>Recycling</b>		<ul style="list-style-type: none"> <li>• general labouring; 25</li> <li>• sorting; 25</li> <li>• loading bailing and strapping equipment; 25</li> <li>• shredding. 25</li> </ul>	
	<b>Arts</b>		<ul style="list-style-type: none"> <li>• TBA</li> </ul>	
	<b>Retail</b>		<ul style="list-style-type: none"> <li>• TBA</li> </ul>	

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3		General statement	<p>An employee who has completed relevant training so as to enable the employee to perform work within the scope of this level.</p> <p>An employee at this level:</p> <p>(a) performs work above and beyond the skills of an employee at Grade 2 and to the level of their training;</p> <p><b>(b) performs somewhat more complex tasks than a Grade 2 employee;</b></p> <p>(c) is responsible for the quality of their own work subject to routine supervision;</p> <p>(d) works under routine supervision either individually or in a team environment; and</p> <p>(e) exercises discretion within their level of skills and training.</p>	
	<b>Engineering</b>	Indicative tasks	<ul style="list-style-type: none"> <li>• operates machinery and equipment requiring the exercise of skills and knowledge beyond that of an employee at Grade 2;</li> <li>• non-trade engineering skills;</li> <li>• sorting, checking, packing (other than repetitive packing in a standard container or containers in which such goods are ordinarily sold);</li> <li>• basic soldering techniques;</li> <li>• operation of forklifts, roving pendant type overhead cranes and winch operation;</li> <li>• assists one or more tradespersons;</li> <li>• third class machinist and/or welding operation, drilling/tapping machine operators;</li> <li>• rewind machine operators.</li> </ul>	<p>20</p> <p>20</p> <p>20</p> <p>5</p> <p>10</p> <p>10</p> <p>7.5</p> <p>7.5</p>
	<b>Catering</b>		<ul style="list-style-type: none"> <li>• specialised non-cooking duties in a kitchen or food preparation area;</li> <li>• elementary cooking including finger and take-away food</li> </ul>	<p>50</p> <p>50</p>

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	<b>Leather and canvas goods and sewing</b>		<ul style="list-style-type: none"> <li>operates machinery and equipment requiring the exercise of skill, knowledge and judgment in the layout of product beyond that of an employee at Grade 2;</li> </ul>	35
			<ul style="list-style-type: none"> <li>operates heavy duty and special duty application sewing machines including bias binders;</li> </ul>	15
			<ul style="list-style-type: none"> <li>ability to perform basic machine setting skills and control adjustments;</li> </ul>	35
			<ul style="list-style-type: none"> <li>assists one or more tradespersons;</li> </ul>	10
			<ul style="list-style-type: none"> <li>die cutting using click press on canvas material with discretion, within the scope of this grade.</li> </ul>	5
	<b>Microfilm</b>		<ul style="list-style-type: none"> <li>microfilm camera operator;</li> </ul>	40
			<ul style="list-style-type: none"> <li>microfilm jacketing;</li> </ul>	20
			<ul style="list-style-type: none"> <li>dark room operators.</li> </ul>	40
	<b>Clerical support</b>		<ul style="list-style-type: none"> <li>general clerical or office duties within a regular work routine such as typing, operates a switchboard and basic data entry;</li> </ul>	70
			<ul style="list-style-type: none"> <li>receiving, despatching, documenting and recording of goods.</li> </ul>	30
	<b>Timberwork</b>		<ul style="list-style-type: none"> <li>nail gun work;</li> </ul>	25
			<ul style="list-style-type: none"> <li>sewing (manual);</li> </ul>	5
			<ul style="list-style-type: none"> <li>cutting (manual);</li> </ul>	25
			<ul style="list-style-type: none"> <li>painting;</li> </ul>	25
			<ul style="list-style-type: none"> <li>more complex assembly.</li> </ul>	15
	<b>Gardening</b>		<ul style="list-style-type: none"> <li>propagation and gardening;</li> </ul>	40
			<ul style="list-style-type: none"> <li>uses self-drive lawn-mowers;</li> </ul>	20
			<ul style="list-style-type: none"> <li>landscaping.</li> </ul>	40

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	<b>Laundries</b>		<ul style="list-style-type: none"> <li>• laundering (other than labouring);</li> <li>• sealing;</li> <li>• stamping;</li> <li>• basic machine operation.</li> </ul>	30
				20
	<b>Specialist packaging</b>		<ul style="list-style-type: none"> <li>• more complex packaging blister packaging, shrink wrapping, flow wrapping, skin packing, pallet wrapping (including weighing and measuring);</li> <li>• operation of more complex machinery;</li> <li>• operation of forklifts.</li> </ul>	20
				40
				40

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	<b>Printing/bookbinding</b>		<ul style="list-style-type: none"> <li>• strapping;</li> <li>• stores assistant;</li> <li>• basic machine operation;</li> <li>• manual guillotine work;</li> <li>• use of gluing machines;</li> <li>• more complex assembly.</li> </ul>	10 10 25 25 25 5
	<b>Cleaning</b>		<ul style="list-style-type: none"> <li>• vacuuming and spot cleaning of carpets and soft furnishings;</li> <li>• sweeping and mopping;</li> <li>• toilet cleaning;</li> <li>• rubbish collection;</li> <li>• cleaning of glass, both internal and external;</li> <li>• polishing.</li> </ul>	20 20 20 20 10 10
	<b>Horticulture and related activities</b>		<ul style="list-style-type: none"> <li>• operation of forklifts; powered trolleys;</li> <li>• box making.</li> </ul>	80 20
	<b>Recycling</b>		<ul style="list-style-type: none"> <li>• operate bailing and strapping equipment;</li> <li>• operate recycling equipment.</li> </ul>	50 50
	<b>Arts</b>		<ul style="list-style-type: none"> <li>• TBA</li> </ul>	
	<b>Retail</b>		<ul style="list-style-type: none"> <li>• TBA</li> </ul>	

**IN THE FAIR WORK COMMISSION**

**4 yearly Review of Modern Awards**

**Supported Employment Services Award 2010**

**FWC Matter No.: AM2014/286**

**Annexure 6**

**Example of Level of Support**

Employment Coach/Production Team Leader monthly report on support given in work area, during the 13 week Assessment period.

Employee Name		Date Range	-		
Name of Service		Weeks	-	of 13	
Name of Staff Member/s		Other RiskMan - ISN raised	Yes	No	

RATING TABLE			
1 – No Assistance Provided	2 – Some Assistance Provided	3 – Moderate Level of Assistance Provided	4 – High Level of Assistance Provided
Worker consistently achieved this with no prompts, reminders, counselling or other support during the past 3 months.	Worker required up to 3 or 4 prompts, reminders, or brief (e.g. up to 10 minutes duration) counselling or role modelling sessions during the past 3 months.	On average, worker required weekly prompts, reminders, counselling or role modelling sessions during the past 3 months.	Worker required frequent (e.g. daily) prompts, reminders, counselling and/or other support during the past 3 months.

					SCORE
<b>1. COGNITIVE SUPPORT</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>19 points</b>  <b>Average: 19/10 = 1.9</b>
1a. Learn a job with 3+ steps(1-2 tng sessions)		x			
1b. Learn a job with 1 or 2 steps(1-2 tng sessions)	x				
1c. Solve a simple problem	x				
1c. To make a decision about the task/job	x				
1d. Understand & follow new instruction (3+ steps)		x			
1e. Understand & follow new instruction (1-2 steps)	x				
1f. Remember new instruction for rest of day		x			
1g. Remember instruction for 3+ days after given			x		
1h. Concentrate on job without being distracted			x		
1i. Plan and organise own job			x		
<b>2. VOCATIONAL SUPPORT</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>25 points</b>  <b>25/11 = 2.27</b>
2a. Undertake full range of tasks for current job		x			
2b. Understand basic work requirements e.g. report to supervisor, attend work, comply with instructions		x			
2c. Reach productivity required			x		
2c. Reach quality required			x		
2d. Work, on task, for 30 mins		x			
2e. Work, on task, for at least 1 hour		x			
<b>2. VOCATIONAL SUPPORT continued</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	



2f. Understand time		x			
2f. Be on time in morning & after breaks		x			
2h. Use initiative, move to next task/step		x			
2j. Work following WH&S rules (no running, etc)		x			
2j. Wear required PPE		x			
<b>3. PHYSICAL SUPPORT &amp; PERSONAL CARE</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>13 points</b>
3a. Pick up and use small objects		x			<b>13/6 = 2.16</b>
3b. Move or use large objects			x		<b>Total</b> <b>(19 + 25 = 13) = 57</b> <b>(10 + 11+ 6) = 27 = 2.1</b>
3c. Lift and carry objects safely			x		
3d. Move safely in the workplace		x			
3e. Set up own equipment and materials	x				
3f. Keep to work pace without tiring		x			

<b>SUPPORT</b>	
<b>Score</b>	<b>Weighting</b>
0	0%
0 - 1	1%
1.1 -2	2%
2.1-3	3%
3.1-4	4%