



# **Equal Opportunity for Women in the Workplace Amendment Act 1999**

**No. 183, 1999**



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**An Act to amend the *Affirmative Action (Equal  
Employment Opportunity for Women) Act 1986*, and  
for related purposes**

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## Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
4	Definition .....	2
<b>Schedule 1—Equal Opportunity for Women in the Workplace</b>		<b>3</b>
Part 1—Amendment of the Equal Opportunity for Women in the Workplace Act 1999		3
Part 2—Amendment of the Equal Employment Opportunity (Commonwealth Authorities) Act 1987		11
<b>Schedule 2—The short title of the Affirmative Action (Equal Employment Opportunity for Women) Act 1986</b>		<b>12</b>
<i>Affirmative Action (Equal Employment Opportunity for Women) Act     1986</i>		12
<b>Schedule 3—Transitional</b>		<b>13</b>





# Equal Opportunity for Women in the Workplace Amendment Act 1999

No. 183, 1999

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## **An Act to amend the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986*, and for related purposes**

[Assented to 22 December 1999]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Equal Opportunity for Women in the Workplace Amendment Act 1999*.

### **2 Commencement**

- (1) Sections 1, 2, 3 and 4 and Schedule 2 commence on the day on which this Act receives the Royal Assent.

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(2) Schedules 1 and 3 commence on 1 January 2000.

### **3 Schedule(s)**

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

### **4 Definition**

In a Schedule to this Act, unless the contrary intention appears, *Equal Opportunity for Women in the Workplace Act* means:

- (a) so far as the context relates to a time before the day on which this Act receives the Royal Assent—the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986* as in force at that time; or
- (b) otherwise—the *Equal Opportunity for Women in the Workplace Act 1999*.

Note: Item 1 of Schedule 2 to this Act changes the short title of the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986* to the *Equal Opportunity for Women in the Workplace Act 1999*.

## **Schedule 1—Equal Opportunity for Women in the Workplace**

### **Part 1—Amendment of the Equal Opportunity for Women in the Workplace Act 1999**

#### **1 Title**

Omit “**Affirmative Action**” (twice occurring), substitute “**Equal Opportunity for Women in the Workplace**”.

#### **2 After section 2**

Insert:

##### **2A Objects of Act**

The principal objects of this Act are:

- (a) to promote the principle that employment for women should be dealt with on the basis of merit; and
- (b) to promote, amongst employers, the elimination of discrimination against, and the provision of equal opportunity for, women in relation to employment matters; and
- (c) to foster workplace consultation between employers and employees on issues concerning equal opportunity for women in relation to employment.

#### **3 Subsection 3(1) (definition of *affirmative action program*)**

Repeal the definition.

#### **4 Subsection 3(1) (definition of *Agency*)**

Omit “Affirmative Action”, substitute “Equal Opportunity for Women in the Workplace”.

#### **5 Subsection 3(1) (definition of *amalgamated institution*)**

Repeal the definition.

#### **6 Subsection 3(1) (definition of *Director*)**

Omit “Affirmative Action”, substitute “Equal Opportunity for Women in the Workplace”.

### **7 Subsection 3(1) (definition of *employment matters*)**

Repeal the definition, substitute:

*employment matters* includes the following:

- (a) the recruitment procedure, and selection criteria, for appointment or engagement of persons as employees;
- (b) the promotion, transfer and termination of employment of employees;
- (c) training and development for employees;
- (d) work organisation;
- (e) conditions of service of employees;
- (f) arrangements for dealing with sex-based harassment of women in the workplace;
- (g) arrangements for dealing with pregnant, or potentially pregnant employees and employees who are breastfeeding their children.

### **8 Subsection 3(1)**

Insert:

*equal opportunity for women in the workplace program*, in relation to a relevant employer, means a program designed to ensure that:

- (a) appropriate action is taken to eliminate all forms of discrimination by the relevant employer against women in relation to employment matters; and
- (b) measures are taken by the relevant employer to contribute to the achievement of equal opportunity for women in relation to employment matters.

### **9 Subsection 3(1) (definition of *operative day*)**

Repeal the definition.

### **10 Subsection 3(1)**

Insert:

*potentially pregnant* has the meaning given by section 4B of the *Sex Discrimination Act 1984*.

### **11 Subsection 3(1)**

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Insert:

*workplace profile*, in relation to a relevant employer, means factual information as to the composition of the employer's workforce.

## **12 Subsection 3(1)**

Insert:

*workplace program* is short for equal opportunity for women in the workplace program.

## **13 Subsection 5(4)**

Omit "an affirmative action", substitute "a workplace".

## **14 Part II (heading)**

Repeal the heading, substitute:

# **Part II—Equal opportunity for women in the workplace programs**

## **15 Section 6**

Repeal the section, substitute:

## **6 Employers required to develop equal opportunity for women in the workplace programs**

- (1) An employer:
  - (a) who is a relevant employer on the commencement of this section; or
  - (b) who becomes a relevant employer after the commencement of this section;must develop and implement workplace programs.
- (2) If, at any time, an employer ceases to be a relevant employer because the number of employees of the employer falls below 100, this Act continues to apply to the employer as if the employer were a relevant employer unless and until the number of employees falls below 80.

## **16 Sections 7 and 8**

Repeal the sections, substitute:

**8 Equal opportunity for women in the workplace program**

- (1) Before developing a workplace program, a relevant employer must:
  - (a) confer responsibility for the development and implementation of the program (including continuous review of the program) on a person or persons having sufficient authority and status within the management of the relevant employer to enable the person or persons properly to develop and implement the program; and
  - (b) consult with employees (or their nominated representatives) of the relevant employer, particularly employees who are women.
- (2) In preparing a workplace program, a relevant employer must prepare a workplace profile. The workplace profile must relate to the employer's workplace at a specified date occurring not more than 6 months before the start of the period to which the program relates.
- (3) After preparing the profile, the relevant employer must prepare an analysis of the issues relating to employment matters that the employer would need to address to achieve equal opportunity for women in the employer's workplace.
- (4) The program must provide for:
  - (a) actions to be taken in relation to priority issues identified in the analysis; and
  - (b) evaluation of the effectiveness of the actions in achieving equal opportunity for women in the employer's workplace.
- (5) A workplace program of a relevant employer may contain any other provision that the relevant employer thinks fit that is not inconsistent with the objects of this Act.
- (6) A relevant employer must have a workplace program for each reporting period (see section 13A).

**17 Part III (heading)**

Repeal the heading, substitute:

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## **Part III—Equal Opportunity for Women in the Workplace Agency**

### **18 Subsections 8A(1) and (2)**

Omit “Affirmative Action”, substitute “Equal Opportunity for Women in the Workplace”.

Note: The heading to section 8A is altered by omitting “**Affirmative Action**” and substituting “**Equal Opportunity for Women in the Workplace**”.

### **19 Subsection 9(1)**

Omit “Affirmative Action”, substitute “Equal Opportunity for Women in the Workplace”.

### **20 Paragraphs 10(1)(a) and (d)**

Omit “affirmative action”, substitute “workplace”.

### **21 Paragraphs 10(1)(e), (f) and (h)**

Omit “affirmative action to achieve equal employment opportunity for women”, substitute “equal opportunity for women in the workplace”.

### **22 Sections 13, 13A and 14**

Repeal the sections, substitute:

### **13 Contents of public report**

- (1) A relevant employer must prepare, in respect of each reporting period (see section 13A), a public report in writing about the outcomes of the employer’s workplace program.
- (2) The public report must:
  - (a) set out the workplace profile; and
  - (b) describe the employer’s analysis of the issues in the employer’s workplace relating to equal opportunity for women; and
  - (c) describe the actions taken by the employer during the reporting period to address the priority issues identified in the analysis; and
  - (d) describe the actions that the employer plans to take in the next reporting period to address issues in the employer’s

workplace relating to employment matters that the employer would need to address to achieve equal opportunity for women in the employer's workplace.

- (3) The report may contain an evaluation of the effectiveness of the actions in achieving equal opportunity for women in the employer's workplace. If the public report does not contain such an evaluation, the evaluation must be submitted in a confidential report under section 14.

### **13A Reporting periods for reports**

- (1) A relevant employer must lodge with the Agency public reports in respect of each of the periods set out in this section unless subsection (3) applies to the employer in respect of a reporting period.
- (2) A relevant employer must prepare a public report in respect of the period of 12 months commencing on 1 April 2000 and after that, in respect of each consecutive period of 12 months.
- (3) If the relevant employer had the status of relevant employer for less than 6 months of a particular reporting period, the employer does not have to comply with an obligation under this section to report in respect of that particular period.

### **13B When public reports are due**

Unless a relevant employer has received an extension of time in which to lodge a report under section 17, the employer must lodge a public report under section 13A within 2 months after the end of the period to which the report relates.

### **13C Agency may waive public reporting requirements**

- (1) The Agency may waive the reporting requirements set out in sections 13, 13A and 13B in respect of a relevant employer:
  - (a) on application in writing made to it by the relevant employer;  
or
  - (b) on its own initiative;but only if the relevant employer has complied with those requirements for a period of not less than 3 consecutive reporting

years, including a period of 3 reporting years beginning before the commencement of this section.

- (2) Before the Agency waives the reporting requirements in respect of a relevant employer, the Agency must be satisfied that the employer has taken all reasonably practicable measures to address the issues relating to employment matters that affect equal opportunity for women in the employer's workplace.
- (3) In making a decision under subsection (2), the Agency must have regard to regulations, if any, made for the purposes of subsection (5).
- (4) The waiver must be in writing and specify the period for which the waiver operates.
- (5) The regulations may prescribe matters to be taken into account by the Agency when determining if it is satisfied that a relevant employer has taken all reasonably practicable measures to address the issues relating to employment matters that affect equal opportunity for women in the employer's workplace.

#### **14 Confidential reports of employer evaluations**

- (1) A relevant employer may choose to lodge, as a confidential report, the employer's evaluation of the actions taken by the employer to address the issues in the employer's workplace relating to equal opportunity for women.
- (2) In the evaluation, the employer must assess the effectiveness of the actions in achieving equal opportunity for women in the workplace.
- (3) A confidential report must be in writing and lodged with the Agency during the same period that the public report, of which the confidential report is a part, is required to be lodged.

#### **23 Subsection 17(1)**

Omit "subsection 13(2)", substitute "section 13B".

#### **24 Section 18**

Repeal the section, substitute:

**18 Agency may request information**

If a public report or confidential report has been lodged with the Agency by a relevant employer, the Agency may, by notice in writing, request the employer to provide to the Agency such information as is specified in the notice concerning any aspect of:

- (a) the employer's workplace program; or
- (b) the preparation of the report; or
- (c) the report itself.

**25 Part V (heading)**

Repeal the heading, substitute:

**Part V—Director of Equal Opportunity for Women  
in the Workplace**

**26 Subsection 31(1)**

Omit "affirmative action", substitute "workplace".

**27 Paragraphs 31(3)(e) and 33(5)(a)**

Omit "affirmative action", substitute "workplace".

**Part 2—Amendment of the Equal Employment  
Opportunity (Commonwealth Authorities)  
Act 1987**

**28 Subsection 3(1) (paragraph (b) of the definition of  
*authority*)**

Omit “*Affirmative Action (Equal Employment Opportunity for Women) Act 1986*”, substitute “*Equal Opportunity for Women in the Workplace Act 1999*”.

**Schedule 2** The short title of the Affirmative Action (Equal Employment Opportunity for Women) Act 1986

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**Schedule 2—The short title of the Affirmative  
Action (Equal Employment  
Opportunity for Women) Act 1986**

*Affirmative Action (Equal Employment Opportunity for  
Women) Act 1986*

**1 Section 1**

Omit “*Affirmative Action (Equal Employment Opportunity for Women) Act 1986*”, substitute “*Equal Opportunity for Women in the Workplace Act 1999*”.



## **Schedule 3—Transitional**

### **1 Definitions**

In this Schedule:

*Agency* means the Equal Opportunity for Women in the Workplace Agency.

*amended Equal Opportunity for Women in the Workplace Act* means the Equal Opportunity for Women in the Workplace Act as in force on and after 1 January 2000.

*Director* means the Director of Equal Opportunity for Women in the Workplace.

*old Equal Opportunity for Women in the Workplace Act* means the Equal Opportunity for Women in the Workplace Act as in force immediately before 1 January 2000.

### **2 Continuity of Agency and Director not affected**

To avoid doubt:

- (a) the continuity of the Agency's existence; and
- (b) the continuity of the Director's appointment;

is not affected by the change to the Agency's name or Director's title, or by any other amendment, made by Schedule 1 or 2.

### **3 Waiver of reporting obligations**

A waiver given under section 13A of the old Equal Opportunity for Women in the Workplace Act continues in force according to its terms as if it were issued under section 13C of the amended Equal Opportunity for Women in the Workplace Act.

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*[Minister's second reading speech made in—  
House of Representatives on 22 September 1999  
Senate on 21 October 1999]*

(184/99)

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