



# Affirmative Action (Equal Employment Opportunity for Women) Amendment Act 1992

No. 181 of 1992

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

[Assented to 16 December 1992]

The Parliament of Australia enacts:

### Short title etc.

1.(1) This Act may be cited as the *Affirmative Action (Equal Employment Opportunity for Women) Amendment Act 1992*.

5 (2) In this Act, “Principal Act” means the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986*<sup>1</sup>.

### Commencement

2. This Act commences on the day on which it receives the Royal Assent.

10 **Long title**

3. The long title to the Principal Act is amended by inserting “the Affirmative Action Agency and” after “establish”.

*Affirmative Action (Equal Employment Opportunity  
for Women) Amendment No. 181, 1992*

**Interpretation**

4. Section 3 of the Principal Act is amended:

(a) by inserting in subsection (1) the following definition:

“‘Agency’ means the Affirmative Action Agency;”;

(b) by omitting from subsection (1) the definition of “employer” 5  
and substituting the following definition:

“‘employer’ means an individual, or a body or association  
(whether incorporated or not), that employs an individual:

(a) under a contract of service, whether on a full-time, 10  
part-time, casual or temporary basis; or

(b) under a contract for services; or

(c) as described in subsection (5) or (6);”;

(c) by omitting from the definition of “relevant employer” in 15  
subsection (1) “, an authority or a voluntary body” and  
substituting “or an authority”;

(d) by omitting from subsection (1) the definition of “voluntary  
body”;

(e) by adding at the end the following subsections:

“(5) For the purposes of this Act, an elected trade union 20  
official is taken to be employed by the trade union, and not by  
any other employer, and this subsection has effect even if the  
rules of the trade union have an effect contrary to this  
subsection, or do not deal with the question at all.

“(6) For the purposes of this Act, during any time when a 25  
Group Training Scheme:

(a) is receiving funding support from the Commonwealth  
Government; and

(b) has placed a trainee in employment with a host employer;  
and

(c) pays the trainee, and receives payments from the host 30  
employer, for the services rendered by the trainee to the  
host employer;

the trainee is taken to be employed by the Scheme and not by  
the host employer.”.

**Heading to Part III** 35

5. The heading to Part III of the Principal Act is repealed, and the  
following heading is substituted:

**“PART III—THE AFFIRMATIVE ACTION AGENCY”.**

6. Before section 9 of the Principal Act the following section is 40  
inserted in Part III:

*Affirmative Action (Equal Employment Opportunity  
for Women) Amendment No. 181, 1992*

**Affirmative Action Agency**

“8A.(1) The Affirmative Action Agency is established.

“(2) The Agency consists of the Director of Affirmative Action and the staff referred to in section 29.”.

**5 Director**

7. Section 9 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) The Director has the management of the Agency.”.

**Functions and powers of Agency**

10 **8.** Section 10 of the Principal Act is amended by omitting “Director” (wherever occurring) and substituting “Agency”.

**Directions by Minister**

**9.** Section 11 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

15 “(1) The Agency is to exercise its powers and perform its functions in accordance with general instructions given by the Minister in writing.”.

**Agency to submit reports to Minister**

**10.** Section 12 of the Principal Act is amended:

20 (a) by omitting subsection (1) and substituting the following subsection:

25 “(1) The Agency must, as soon as practicable, and in any event within 6 months, after each 31 May, submit to the Minister a report on its operations during the year that ended on that 31 May.”;

(b) by omitting from subsection (2) “Director” (wherever occurring) and substituting “Agency”.

**11.** After section 13 of the Principal Act the following section is inserted:

**30 Agency may waive certain reporting requirements**

“13A. If the Agency is satisfied that:

(a) an employer has established an affirmative action program that complies with the requirements of subsection 8(1); and

35 (b) the employer has complied with the other requirements of this Act for a period of at least 3 years;

the Agency may, by written notice given to the employer, waive such of the requirements of section 13 as are specified in the notice.”.

*Affirmative Action (Equal Employment Opportunity  
for Women) Amendment No. 181, 1992*

**Transitional—acts of Director**

**12. If:**

- (a) something was done by or in relation to the Director before the amendments made by this Act; and
- (b) if the amendments had been in force at the time it was done, it would have been required to be done by or in relation to the Agency;

it has effect, after the amendments, as if it had been done by or in relation to the Agency.

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**SCHEDULE**

**CONSEQUENTIAL AMENDMENTS RELATING TO THE  
DIRECTOR**

The following provisions of the Principal Act are amended by omitting “Director” (wherever occurring) and substituting “Agency”:

Subsections 13(2) and 14(1), sections 15, 16, 17, 18, 19, 30 and 31.  
The Principal Act is further amended as follows.

**Subsections 32(1) and (2):**

Omit “a member of the staff or a consultant assisting the Director”, substitute “a member of the staff referred to in section 29 or a consultant engaged under section 30”.

**Paragraph 32(3)(a):**

Omit “Director”, substitute “Agency”.

**Subsection 33(1):**

Omit “Director” (last occurring), substitute “Agency”.

**Subsections 33(2), (3), (4) and (5):**

Omit “Director”, substitute “Agency”.

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**NOTE**

- 1. No. 91, 1986. For previous amendments, see Nos. 80 and 87, 1988; and No. 30, 1989.

**NOTE ON SECTION HEADING**

On the amendments of section 17 made by this Act, the heading to that section is altered by omitting “Director” and substituting “Agency”.

*Affirmative Action (Equal Employment Opportunity  
for Women) Amendment No. 181, 1992*

*[Minister's second reading speech made in—  
House of Representatives on 4 November 1992  
Senate on 24 November 1992]*