

**WORKPLACE GENDER EQUALITY (MATTERS IN RELATION TO GENDER
EQUALITY INDICATORS) AMENDMENT (REPORTS BY RELEVANT
EMPLOYERS) INSTRUMENT 2022**

EXPLANATORY STATEMENT

Issued by authority of the Minister for Women

under subsection 13(3) of the *Workplace Gender Equality Act 2012*

PURPOSE AND OPERATION OF THE INSTRUMENT

The purpose of the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Amendment (Reports by Relevant Employers) Instrument 2022 (Amending Instrument) is to amend the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* (the Principal Instrument), to reduce the reporting burden on relevant employers who must report to the Workforce Gender Equality Agency (the Agency) to comply with *The Workplace Gender Equality Act 2012* (the Act).

Specifically, the Amending Instrument will omit the words “including distance from the CEO or equivalent” from paragraph 1.1.2 of Schedule 1 of the Principal Instrument.

BACKGROUND

Under section 13(1) of the Act, a relevant employer must prepare a public report in writing containing information relating to the employer and to the gender equality indicators as defined in the Act.

Subsection 13(3) provides that the Minister must, by legislative instrument, specify matters in relation to each gender equality indicator. The Principal Instrument has been made under subsection 13(3) of the Act. A public report lodged under the Act must contain details of the matters specified in the Principal Instrument.

Paragraph 1.1.2 of Schedule 1 to the Principal Instrument provides that the relevant employer’s public report must report on data regarding managers, including the manager’s distance from the Chief Executive Officer (CEO) or equivalent of their organisation. The intended effect of the Amending Instrument is to remove the requirement to report on this data under the Act.

The Amending Instrument gives effect to recommendation 4.1a) in a review of the Act by the Department of the Prime Minister and Cabinet published on 4 March 2022.

Recommendation 4.1a) of the Review recommends the removal of the ‘Reporting to CEOs level’ which currently requires employers to report managerial distance from the CEO or equivalent. The current mandatory reporting under Schedule 1 – Matters in relation to each gender equality indicator of the Principal Instrument requires the collection of disaggregated data by gender on workforce profile for employment status, manager (including distance from the CEO or equivalent) and non-managers. The method of describing employee positions and distance from the CEO does not align with many existing workplace reporting structures. Collecting data on the distance of managers from their CEO or equivalent often requires relevant employers to extract data from multiple payroll and human resource systems and do time-consuming manual work joining up, interpreting and checking data from disparate systems to report to the Agency. Removal of this specification from the Principal Instrument will give effect to Recommendation 4.1a) of the Review and will alleviate a major time-consuming, manual burden for employers reporting to the Agency, and will not impact the usefulness of the Agency’s dataset.

CONSULTATION

The Act sets out under Section 33A that the Minister is required to consult with the Agency before making a legislative instrument under the Act and have regard to any recommendations of the Agency. The Minister must also consult such persons mentioned in subsection 31(3) of the Act as the Minister considers appropriate. This includes persons representing industry or business, employee organisations or higher education providers and persons having special knowledge or interest in relation to gender equality in the workplace, the functions of the Agency or the operation of the Act. This also reflects the consultation requirements set out in Part 3 of the *Legislative Instruments Act 2003*.

The Australian Government announced in the Women’s Budget Statement 2021–22 a targeted review (the WGEA Review) of the *Workplace Gender Equality Act 2012*. On Wednesday 20 October 2021, the Minister for Women published a media release to announce the WGEA Review consultation was public on the Department of the Prime Minister and Cabinet (PM&C) website. Also on 20 October 2021, the PM&C WGEA Review Team put the WGEA Review Consultation Paper on the PM&C website and circulated it on social media. The PM&C WGEA Review Team also sent emails to key stakeholders to inform them of the consultation.

Consultation was undertaken with a number of stakeholders, including the Agency and industry groups. Consultations were held via virtual roundtables with stakeholders from a variety of organisations and targeted representatives from the business and not-for-profit sectors, employee organisations, higher education providers, the women’s sector, users of the Workplace Gender Equality Agency data and other interested parties

Australian Government officials were convened for a virtual roundtable, as were State and Territory Government officials. Relevant Australian Government departments and agencies engaged included the Department of the Prime Minister and Cabinet (PM&C), Treasury, Department of Finance, the Australian Bureau of Statistics, the Australian Taxation Office, and the Australian Public Service Commission among others.

Government and private sector data experts were convened for a virtual data roundtable. Stakeholders were invited to respond to the consultation paper which was released on 20 October 2021. The consultation paper invited written responses for 10 questions. Submissions were due on 24 November 2021 and 155 submissions were received. Submissions to the Review are published on the Department of the Prime Minister and Cabinet's website.

REGULATION IMPACT STATEMENT

The Office of Best Practice and Regulation (OBPR) has advised that a Regulation Impact Statement is not required. The OBPR reference number is 02032.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

***Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Amendment
(Reports by Relevant Employers) Instrument 2022.***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of this Legislative Instrument is to remove the requirement that relevant employers collect and report data on manager's distance from CEO or equivalent within organisations. This will no longer be required in order for reporting employers to be compliant under *The Workplace Gender Equality Act 2012* and *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No.1)*. The Instrument is intended to reduce the reporting burden on employers who must report to the Workforce Gender Equality Agency (the Agency) under existing legislation.

Human Rights Implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise human rights issues, has no adverse implications for the Government's compliance with its human rights obligations and does not adversely affect the human rights of individuals.

The Legislative Instrument will reduce an unnecessary burden for those required to report to the Workplace Gender Equality Agency under the *Workplace Gender Equality Act 2012*.

Details of the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Amendment (Reports by Relevant Employers) Instrument 2022

Section 1 – Name

This section provides that the title of the instrument is the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Amendment (Reports by Relevant Employers) Instrument 2022.

Section 2 – Commencement

This section provides that the whole of this instrument commences the day after this instrument is registered.

Section 3 – Authority

This section provides that the instrument is made under subsection 13(3) of the *Workplace Gender Equality Act 2012*.

Section 4 – Schedules

This section provides that each instrument specified in a Schedule to this instrument is amended as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

This Schedule provides for the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No.1)* to be amended.

Item 1 – Paragraph 1.1.2 of Schedule 1

This item provides for “, including distance from the CEO or equivalent” to be omitted from current paragraph 1.1.2 of Schedule 1 to the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No.1)*.