



Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2023

I, Katy Gallagher, Minister for Women, make the following instrument.

Dated 3 February 2023

Katy Gallagher
Minister for Women

Contents

Part 1—Preliminary	1
1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Schedules	1
5 Definitions	1
Part 2—Matters in relation to each gender equality indicator	3
6 Gender equality indicator 1—gender composition of the workforce	3
7 Gender equality indicator 2—gender composition of governing bodies of relevant employers	3
8 Gender equality indicator 3—equal remuneration between women and men	3
9 Gender equality indicator 4—availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities	4
10 Gender equality indicator 5—consultation with employees on issues concerning gender equality in the workplace.....	5
11 Gender equality indicator 6—sexual harassment, harassment on the ground of sex or discrimination.....	5
Part 3—Application, saving and transitional provisions	7
12 Application of <i>Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)</i>	7
Schedule 1—Repeals	8
<i>Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)</i>	8

Part 1—Preliminary

1 Name

This instrument is the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2023*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	6 February 2023

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsections 3(1A) and 13(3) of the *Workplace Gender Equality Act 2012*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed 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.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) discrimination;
- (b) gender equality indicators;
- (c) governing body;
- (d) relevant employer;
- (e) reporting period.

In this instrument:

Act means the *Workplace Gender Equality Act 2012*.

Section 5

Agency Head has the same meaning as in the *Public Service Act 1999*.

employment status means employment on a:

- (a) part-time; or
- (b) full-time; or
- (c) permanent/ongoing; or
- (d) casual; or
- (e) fixed-term contract/non-ongoing;

basis, but does not include employment on a contract for services basis.

harass on the ground of sex has the same meaning as in the *Sex Discrimination Act 1984*.

Note: Other parts of speech and grammatical forms of “harass on the ground of sex” (for example, “harassment on the ground of sex”) have a corresponding meaning (see section 18A of the *Acts Interpretation Act 1901*).

key management personnel means those persons having authority and responsibility for planning, directing and controlling the activities of a relevant employer, directly or indirectly, including any director (whether executive or otherwise) of that employer.

manager includes the following:

- (a) Chief Executive Officer or equivalent;
- (b) Agency Head or equivalent;
- (c) key management personnel;
- (d) other managers.

non-manager includes the following:

- (a) professionals;
- (b) technicians and trade employees;
- (c) community and personal service employees;
- (d) clerical and administrative employees;
- (e) sales employees;
- (f) machinery operators and drivers;
- (g) labourers;
- (h) graduates;
- (i) apprentices;
- (j) other non-managers.

sexually harass has the same meaning as in the *Sex Discrimination Act 1984*.

Note: Other parts of speech and grammatical forms of “sexually harass” (for example, “sexual harassment”) have a corresponding meaning (see section 18A of the *Acts Interpretation Act 1901*).

Part 2—Matters in relation to each gender equality indicator

6 Gender equality indicator 1—gender composition of the workforce

For the purposes of subsection 13(3) of the Act, the following matters are specified in relation to the gender composition of the workforce:

- (a) disaggregated data on the composition of the workforce by gender, which includes the following:
 - (i) employment status;
 - (ii) year of birth;
 - (iii) primary workplace location;
 - (iv) managers;
 - (v) non-managers;
- (b) the existence of, and information about, a strategy or policy to support gender equality;
- (c) the composition of applicants appointed to positions by gender and by manager/non-manager;
- (d) the number and proportion of employees awarded promotions by gender, employment status and manager/non-manager;
- (e) the number and proportion of employees who have resigned by gender, employment status and manager/non-manager.

7 Gender equality indicator 2—gender composition of governing bodies of relevant employers

For the purposes of subsection 13(3) of the Act, the following matters are specified in relation to the gender composition of governing bodies of relevant employers:

- (a) the existence of a governing body;
- (b) if a relevant employer has a governing body—the following:
 - (i) the composition of the governing body, including the number of members and chairs by gender;
 - (ii) the targets, if any, that have been set for the gender composition of the governing body;
 - (iii) the existence of, and information about, a policy or strategy to support gender equality in the composition of the governing body.

8 Gender equality indicator 3—equal remuneration between women and men

- (1) For the purposes of subsection 13(3) of the Act, the following matters are specified in relation to equal remuneration between women and men:
 - (a) disaggregated data regarding the remuneration profile of managers (other than key management personnel with a reporting distance above the Chief Executive Officer or equivalent) and non-managers by gender and by workplace profile categories, which includes the following:
 - (i) employment status;

Section 9

- (ii) number of hours worked by employees other than employees who work full-time hours;
- (iii) actual earnings;
- (b) the existence of, and information about, an equal remuneration policy or strategy;
- (c) whether any gender remuneration gap analysis has been undertaken and, if so, when;
- (d) the actions taken, if any, as a result of a gender remuneration pay analysis.

(2) In this section:

actual earnings includes the following:

- (a) base salary;
- (b) total remuneration, except for remuneration components paid on a non-pro-rata or fixed-amount basis;
- (c) a fixed total remuneration amount for remuneration components paid on a non-pro-rata or fixed-amount basis.

9 Gender equality indicator 4—availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities

For the purposes of subsection 13(3) of the Act, the following matters are specified in relation to the availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities:

- (a) the existence of employer-funded paid parental leave for primary carers, additional to any government-funded parental leave scheme for primary carers;
- (b) the existence of employer-funded paid parental leave for secondary carers, additional to any government-funded parental leave scheme for secondary carers;
- (c) disaggregated data by gender and manager/non-manager on the utilisation of parental leave;
- (d) the existence of employer-paid superannuation when an employee is on any kind of parental leave;
- (e) the method and quantum of employer-funded paid parental leave for primary carers;
- (f) the quantum of employer-funded paid parental leave for secondary carers;
- (g) the number of employees who have access to employer-funded paid parental leave for primary carers;
- (h) the number of employees who have access to employer-funded paid parental leave for secondary carers;
- (i) the number of employees, by gender and manager/non-manager, who:
 - (i) took a period of parental leave; and

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- (ii) ceased employment during, or at the end of, that period (including where the parental leave is taken continuously with any other leave type);
 - (j) disaggregated data by gender and manager/non-manager on the availability of employment terms, conditions and practices, including:
 - (i) flexible hours of work; and
 - (ii) compressed working weeks; and
 - (iii) time-in-lieu; and
 - (iv) work from home; and
 - (v) part-time work; and
 - (vi) job sharing; and
 - (vii) carer's leave; and
 - (viii) purchased leave; and
 - (ix) unpaid leave;
 - (k) the existence of, and information about, a flexible working arrangements policy or strategy;
 - (l) the existence of, and information about, a policy or strategy to support employees with family or caring responsibilities;
 - (m) the existence of any non-leave based measures to support employees with family or caring responsibilities;
 - (n) the existence of, and information about, a policy or strategy to support employees who have or are experiencing family or domestic violence;
 - (o) measures, if any, to support employees who have or are experiencing family or domestic violence.

10 Gender equality indicator 5—consultation with employees on issues concerning gender equality in the workplace

For the purposes of subsection 13(3) of the Act, the following matters are specified in relation to consultation with employees on issues concerning gender equality in the workplace:

- (a) the existence of, and information about, a policy or strategy to support consultation with employees on issues concerning gender equality in the workplace;
- (b) consultation, if any, with employees on workplace gender equality matters, including:
 - (i) the method of consultation with employees on workplace gender equality matters; and
 - (ii) the categories of employees consulted;
- (c) the date the relevant employer provided the public report relating to the previous reporting period to their employees and shareholders or members.

11 Gender equality indicator 6—sexual harassment, harassment on the ground of sex or discrimination

- (1) For the purposes of subsection 3(1A) of the Act, sexual harassment, harassment on the ground of sex or discrimination is specified for the purposes of

Section 11

paragraph (f) of the definition of *gender equality indicators* in subsection 3(1) of the Act.

- (2) For the purposes of subsection 13(3) of the Act, the following matters are specified in relation to sexual harassment, harassment on the ground of sex or discrimination:
- (a) the existence of, and information about, a policy or strategy to prevent and respond to sexual harassment, harassment on the ground of sex or discrimination, including information relating to:
 - (i) accountability and responsibility frameworks; and
 - (ii) a process to disclose and respond to any sexual harassment, harassment on the ground of sex or discrimination; and
 - (iii) training on respectful workplace conduct and sexual harassment prevention and response, including the frequency of the training; and
 - (iv) frameworks outlining the communication expectations from governing bodies and managers with respect to these matters;
 - (b) the existence of, and information about, a risk assessment and management policy or practice to prevent and respond to sexual harassment, harassment on the ground of sex or discrimination, including the following information:
 - (i) risk prevention, controls and response plans;
 - (ii) analysis of sexual harassment, harassment on the ground of sex or discrimination risks, incidents and actions;
 - (iii) risk reporting to governing bodies, Chief Executive Officer or equivalent, Agency Head or equivalent and key management personnel;
 - (c) information on any information or data collected by the relevant employer in relation to the prevalence of sexual harassment, harassment on the ground of sex or discrimination in the relevant employer's workplace, including information or data on the outcomes of any reported incidents;
 - (d) information on any measures in place to support employees who have experienced, or are at risk of experiencing, sexual harassment, harassment on the ground of sex or discrimination.

Part 3—Application, saving and transitional provisions

12 Application of *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)*

Despite the repeal of the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* (the **2013 instrument**) by this instrument, the 2013 instrument, as in force immediately before that repeal, continues to apply in relation to a public report in respect of a reporting period that commenced before the repeal of the 2013 instrument.

Schedule 1—Repeals

Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)

1 The whole of the instrument

Repeal the instrument.