

**WORKPLACE GENDER EQUALITY LEGISLATION AMENDMENT**  
**INSTRUMENTS 2025**

**EXPLANATORY STATEMENT**

Issued by authority of the Minister for Women

under sections 13(3), 17B and 19 of the *Workplace Gender Equality Act 2012*

**ABBREVIATIONS USED IN THIS EXPLANATORY STATEMENT**

the Act	<i>Workplace Gender Equality Act 2012</i>
the Agency	Workplace Gender Equality Agency
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
DRE	Designated relevant employer
GEI	Gender equality indicators
GEI Instrument	Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2023
GES Instrument	Workplace Gender Equality (Gender Equality Standards) Instrument 2023
GET Instrument	Workplace Gender Equality (Gender Equality Targets) Instrument 2025
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
Minister	The Minister for Women
the Review	2021 Review of the <i>Workplace Gender Equality Act 2012</i>
2025 Act	<i>Workplace Gender Equality Amendment (Setting Gender Equality Targets) Act 2025</i>

## PURPOSE AND OPERATION OF THE INSTRUMENTS

The purpose of the amendments subject of this explanatory statement is to make a new Instrument, the Workplace Gender Equality (Gender Equality Targets) Instrument 2025 (GET Instrument), and to amend the Workplace Gender Equality (Gender Equality Standards) Instrument 2023 (GES Instrument) and the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2023 (GEI Instrument).

The GET Instrument acquits recommendation 3.1a of the 2021 *Workplace Gender Equality Act 2012* (the Act) Review (Review) published by the Department of the Prime Minister and Cabinet (PM&C) on 4 March 2022.

The amendments provide further detail on the operation of the gender equality targets scheme as set out in Division 2 of the Act. The GET Instrument is made to ensure requirements for the gender equality targets scheme are clear. There are also additional minor amendments to the GES and GEI Instruments to allow the legislative scheme to operate as intended.

The notes on clauses outlining amendments are set out in the **Attachments A, B and C**.

### GET Instrument

Section 17B of the Act requires the Minister, by legislative instrument, to set the targets and the rules for selection of these targets to implement the gender equality targets scheme.

The Act outlines that designated relevant employers (DREs), that is, employers with 500 or more employees, are required to select gender equality targets in their annual public reporting, under section 13(3)(3AA). The GET Instrument provides the rules set by the Minister on how employers select targets. This includes rules for employers on the number of targets to select, the category of target to select, and the targets themselves that employers can select.

As outlined in the addendum to the explanatory memorandum to the *Workplace Gender Equality Amendment (Setting Gender Equality Targets) Act 2025* (2025 Act), the inclusion of detailed rules in instruments allows for the appropriate flexibility to ensure that the gender equality targets scheme is current. It also ensures that the targets scheme remains responsive to the needs of organisations and up to date as the practice on gender equality evolves.

The list of targets is based on data that employers already report to the Agency. This allows the Agency to measure progress against a baseline for each employer. This list of targets is included

in Part 3 – *Gender Equality Targets* of the GET Instrument. The list of targets is also attached in a table format to this explanatory statement for ease of use (**Attachment D**).

A copy of the draft list of targets in a table format was included in the explanatory memorandum to the 2025 Act. The final list of targets, included in the GET Instrument and at **Attachment D**, has been updated to provide greater clarity for employers and some additional options that employers can select under the targets.

### **GES Instrument and GEI Instrument**

Minor and technical changes are made to the GES and GEI Instruments. These are changes separate to the implementation of the Review, and amend the instruments for consistency with the legislative framework.

Amendment to the GES Instrument is made to align the definition of designated relevant employer with the new gender equality targets scheme in the Act. Additionally, the reference to ‘Minimum Standard’ is replaced with ‘gender equality standard’ to reflect updated language in the Act when it changed in 2023.

Section 8(1)(a) of the GEI Instrument is amended so that employers have a choice in how they report remuneration data. This will allow employers to either provide the actual earnings or annualised earnings for part time and casual employees to the Agency and be compliant with their requirements.

### **CONSULTATION**

Under section 33A of the Act, 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 Agency has been consulted on the development, drafting and making of the instruments.

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*.

Several consultations were held between 2022 and 2024 on the implementation of the Review's recommendations including on gender equality targets. Consultation on the implementation of the Review was carried out by the Office for Women in the Department of the Prime Minister and Cabinet between August and September 2022. The consultation process was executed in two parts – a survey to relevant employers and targeted roundtables.

The Agency conducted stakeholder consultations from May to July 2023 to inform implementation of the remaining Review recommendations. Stakeholders included academics, private and public sector employers, unions, and industry peak bodies.

The Agency conducted further stakeholder consultations in April 2024 to inform implementation of the Review recommendations on gender equality targets. Stakeholders included industry, business groups and employers. To assist stakeholder understanding of the Bill, further consultation occurred in November and December 2024 ahead of and following its introduction. This consultation included unions, business, academics and the public to explain the functions of the Bill and the additional detail that would be included in the instruments.

## **REGULATION IMPACT STATEMENT**

An Impact Assessment has been completed for these amendments (**Attachment E**).

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

### **Workplace Gender Equality Legislation Amendment Instruments 2025**

This Disallowable 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 Disallowable Legislative Instrument**

The *Workplace Gender Equality Act 2012* (the Act) aims to promote and improve gender equality in employment (including equal remuneration between men and women), support employers to remove barriers to full and equal participation of women and promote the elimination of discrimination on the basis of gender in relation to employment matters. It establishes the Workplace Gender Equality Agency (the Agency) and confers it functions including advising and assisting employers in promoting and improving gender equality in the workplace and undertaking research and programs for the purpose of promoting improved gender equality in the workplace.

The Act requires employers of 100 or more employees to lodge yearly reports with the Agency containing information about Gender Equality Indicators (GEIs). In addition, the Act also places further reporting obligations on employers with 500 or more employees – or designated relevant employers (DREs). DREs are required to select, and achieve or make progress against three genuine, measurable targets in a three year period, and to have in place policies or strategies to support each of the GEIs. The reports lodged by employers are public, subject to some exceptions.

Amendments, subject of this statement of compatibility, include changes to the Workplace Gender Equality (Gender Equality Standards) Instrument 2023 (GES Instrument) and the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2023 (GEI Instrument) and the making of a new instrument, the Workplace Gender Equality (Gender Equality Targets) Instrument 2025 (GET Instrument).

The making of the GET Instrument will provide further detail on the selection of targets for DREs to meet their obligations under Division 2, the gender equality targets setting scheme in

the Act. This includes information about how employers select their targets in their reporting to the Agency, including the number and category of targets (numeric or action). The amendments also prescribe a menu of targets, a list from which DREs will select three gender equality targets. These targets will seek to improve gender equality in these employers' workplaces.

Minor amendments will be made to the GES Instrument to ensure reporting requirements are clear. The reference to 'Minimum Standard' in the GES Instrument will be replaced with references to 'gender equality standard' to better reflect updated language in the Act. For consistency with the Act, the definition of DRE is removed.

Changes to the GEI Instrument will be made to allow employers to report on earnings data either by actual earnings or annualised earnings for part time and casual employees by amending section 8(1)(a).

### **Human rights implications**

The Australian Government's international human rights and labour rights obligations relevant to the issue of gender equality in the workplace are set out in the following international instruments:

- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- The International Covenant on Civil and Political Rights (ICCPR)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The instruments establishes the list of targets that large employers, subject to the Act, would need to adhere to. This list of targets encourages positive actions by larger employers to enable systematic change over time. Employers will be able to select targets from this list, and these targets engage with various human rights obligations.

*The instruments engage the following human rights:*

### **Freedom from discrimination in employment**

The elimination of discrimination in employment engages Article 11 of CEDAW. Article 11 expressly obliges Australia to *'take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and*

*women, the same rights, in particular... the right to the same employment opportunities... the right to promotion...[and] equal remuneration.*<sup>1</sup>

The GET Instrument seeks to encourage employers to take action on the six GEIs and lists gender equality targets employers can select and subsequently achieve. The targets include a number of options that seek to improve the representation of the under-represented gender in leadership and decision making positions in organisations as well as closing the gender pay gap. Encouraging action in this way will ensure that employers are working towards equality in the workplace and promote equality in employment opportunities, promotions and in remuneration.

Requiring employers to improve the status of the ‘under-represented gender’ will ensure that equality is the primary goal for employers across the GEIs. This approach also acknowledges that while women are disproportionately represented, the underlying goal of the gender equality targets scheme is equality in workplaces.

The GET Instrument increases the transparency and accountability on the state of gender equality in a workplace. Employers are required to report to the Agency annually on the GEIs. These results are published publicly by entity level. The inclusion of a gender equality targets scheme provides potential employees more information about the commitment of employers at the start of a target cycle and their actions at the end of a target cycle.

### **Protection against discrimination on the ground of sex**

Article 26 of the ICCPR contains a positive obligation on states parties to take steps to protect against discrimination on the ground of sex. The GET Instrument contributes to this by setting targets relating to discrimination on the ground of sex in the workplace and employment.

Under GEI 6, the GET Instrument provides two action targets to specifically address the employer’s practices in monitoring and responding to discrimination on the ground of sex. These targets also provide support for employers to meet their legislative requirements for the positive duty under the *Sex Discrimination Act 1984*. In this way the GET Instrument enables the Agency to have information about what employers are doing in their workplaces to prevent and respond to sexual harassment and discrimination on the ground of sex. It also allows a

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<sup>1</sup> CEDAW, Article 11(1)(b), 11(1)(c) and 11(1)(d). Article 11(1)(c) provides ‘the right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining.’ Article 11(1)(d) provides ‘the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work.’

broader assessment of how employers might be engaging with their positive duty obligations, and those doing more. This will encourage more action by employers to protect against discrimination on the ground of sex in the workplace.

### **The right to fair wages and equal remuneration for work of equal value**

Article 7 of the ICESCR recognises the right of everyone to fair wages and equal remuneration for work of equal value ((a)(i)). The GET Instrument expressly addresses this through setting targets to support equal remuneration between women and men and the closure of the gender pay gap. Under GEI 1 (workforce composition) and GEI 3 (equal remuneration), the GET Instrument provides a number of action and numeric targets that seek to support equal remuneration.

Article 7 of the ICESCR also recognises the right to equal opportunity for everyone to be promoted in their employment, subject to no considerations other than those of seniority and competence ((c)). The GET Instrument includes targets to improve the representation of the under-represented gender in certain management positions.

### **Conclusion**

The Legislative Instruments are 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* because it promotes rights and to the extent that it may limit a human right, those limitations are reasonable, necessary and proportionate to a legitimate objective.

**Minister for Finance, Minister for Women, Minister for the Public Service,**

**Senator the Hon Katy Gallagher**



## NOTES ON CLAUSES

### Attachment A

#### **Workplace Gender Equality (Gender Equality Targets) Instrument 2025 (GET Instrument)**

##### **Part 1 – Preliminary**

###### **Section 1 – Name**

This section provides that the title of the instrument is the *Workplace Gender Equality (Gender Equality Targets) Instrument 2025*.

###### **Section 2 – Commencement**

This section provides that the whole of this instrument commences immediately after the commencement of the *Workplace Gender Equality Amendment (Setting Gender Equality Targets) Act 2025*.

###### **Section 3 – Authority**

This section states that the GET instrument is made under section 17B of the *Workplace Gender Equality Act 2012*.

###### **Section 4 – Definitions**

This section inserts definitions for key terminology used in the instrument.

The first inclusion is a note with a list of terms referred to in the instrument which have already been given meaning through the Act.

The remaining definitions are related to the gender equality targets scheme and provide further information about their interpretation. This includes definitions of; the Act; action target; adverse action; Agency Head; baseline; family and domestic violence; manager; non-manager and; numeric target.

## **Part 2 – Rules relating to gender equality targets**

### **Section 5 – Setting gender equality targets**

This section provides that the sections in Part 3 Divisions 1-6 of this instrument are the individual targets that employers will be able to select their gender equality targets from.

The targets relate to the Gender Equality Indicator referred to in the heading of the specific Division the target is listed under. For example, the targets under Division 1 relate to Gender Equality Indicator 1 – gender composition of the workforce.

This is the updated ‘list’ or ‘menu’ of targets as referred to in the explanatory memorandum to the *Workplace Gender Equality Amendment (Setting Gender Equality Targets) Act 2025*. Designated relevant employers (DREs) will be required to select their targets from Part 3 to meet their obligations.

### **Section 6 – Rules for the selection of targets by a designated relevant employer**

Section 6 outlines the rules for DREs in selecting their targets. Subsection (1) provides that these rules apply for the target cycle that begins after the commencement of this Instrument. This means that employers will be required to select their targets based on the rules the GET Instrument outlines immediately for the next reporting period if they are subject to the gender equality targets scheme as a DRE. This also means that any amendment to the instrument will not impact an employer that is already within a cycle, but will only apply for the next cycle.

Subsection (2) provides that at the start of a target cycle, DREs must select 3 different targets against the 6 GEIs and that at least 1 of these targets must be numeric. This means that employers are able to select 2 action and one numeric, but can also select multiple numeric targets as their 3 targets.

The instrument does not restrict employers from selecting multiple targets from the same GEI. For example, an employer may select multiple targets in GEI 4, with the requirement being that at least one of the 3 selected targets is a numeric target.

Employers are also able to select numeric targets in consecutive target cycles. This could be because they did not achieve the target, or want to set a new target. For example, if an employer selects to reduce their gender pay gap by 3 per cent in one target cycle under the target listed in section 12 of the GET Instrument, and would like to continue to work on this for the following target cycle, they are able to reselect this numeric target with a renewed commitment to reduce the gender pay gap based on their new baseline.

Subsection (3) outlines that, where a target is selected, and if it requires an employer to nominate or specify anything, then that specification must be made in the selection of the target and reporting of it to the Agency. For example if the employer selects a target to reduce the gender pay gap in either the manager or non-manager category, under the target listed in section 13 of the GET Instrument, when they select this target and report to the Agency, they must specify if they are selecting to reduce either the median or average, base salary or total remuneration and whether this is for the manager or non-managers. This will allow the assessment of achievement at the end of the target cycle.

Subsection (4) states that employers can only select a target when they are eligible to do so, and the target section itself will make this clear where there are eligibility requirements. This is included to ensure the selection of targets functions as intended. For example an employer cannot select a target to improve a policy by adding an entitlement that already existed before the start of the target cycle. This is because this will not allow for any improvement from the baseline.

Additionally, the aim of the gender equality targets scheme is to encourage and motivate action. Employers selecting targets that they have already achieved would undermine the intention. However, for some targets, where they may have only implemented part of the target prior to the start of the target cycle, employers may be eligible to select that target. This will still allow room for improvement from the baseline in certain circumstances. The sections in Part 3 provide the specific eligibility requirements for individual targets where applicable.

### **Part 3 – Gender equality targets**

The sections in Part 3 are the list of targets available for selection. Each individual section is one target. Targets are noted as either being ‘action’ or ‘numeric’ as employers have the obligation to have at least one numeric target selected at all times.

#### **Division 1 – Gender equality indicator 1— gender composition of the workforce**

Division 1 of Part 3 lists the target(s) that relate to GEI 1 of the Act.

##### **Section 7 – Gender equality target – increased representation (non-managers)**

The target under section 7 is a numeric target that seeks to increase the representation of the under-represented gender that are non-managers.

If selected, employers must specify the under-represented gender, the non-manager category and the rate of improvement.

##### **Section 8 – Gender equality target – increased representation (managers)**

The target under section 8 is a numeric target that seeks to increase the representation of the under-represented gender in the manager category.

If selected, employers must specify the under-represented gender, the manager category and the rate of improvement.

##### **Section 9 – Gender equality target – increased representation (promotions to manager)**

The target under section 9 is a numeric target which seeks to increase the representation of the under-represented gender in promotions to manager in the workplace.

If selected, employers must specify the under-represented gender who were not managers at the start of target cycle and the rate of improvement.

The baseline percentage will be compared to the percentage in the third year of the targets cycle to assess compliance.

### **Section 10 – Gender equality target – increased representation (pay quartile)**

The target under section 10 is a numeric target that seeks to increase the representation of the under-represented gender in a pay quartile.

If selected, employers must specify the under-represented gender, the pay quartile and the rate of improvement.

### **Division 2 – Gender equality indicator 2—gender composition of governing bodies**

Division 2 of Part 3 lists the target(s) that relate to GEI 2 of the Act.

### **Section 11 – Gender equality target – composition of governing body**

The target under section 11 is a numeric target that seeks to increase gender diversity on the governing body.

If selected, employers must specify the under-represented gender on their governing board and the rate of improvement.

### **Division 3 – Gender equality indicator 3—equal remuneration between women and men**

Division 3 of Part 3 lists the target(s) that relate to GEI 3 of the Act.

### **Section 12 – Gender equality target – reducing the gender pay gap**

The target under section 12 is a numeric target that seeks to reduce the gender pay gap.

If selected, employers must specify which gender pay gap they are committing to reduce in the targets cycle. This could be either the mean of the base salary of employees, the median of the base salary of employees, the average of the total remuneration of the employees and the median of the total remuneration of the employees. Employers must also specify the target reduction.

### **Section 13 – Gender equality target – reducing the gender pay gap for managers or non-managers**

The target under section 13 is a numeric target that seeks to reduce the gender pay gap by manager or non-manager category.

If selected, employers must specify the gender pay gap and category they are targeting and by how much. For example an employer could select that they are choosing to reduce the average base salary gender pay gap for employees in the manager category by 5 percentage points.

### **Section 14 – Gender equality target – undertake gender pay gap analysis**

The target under section 14 is an action target that seeks to encourage accountability and transparency by committing employers to conduct a comprehensive gender pay gap analysis annually to better understand and respond to issues relating to gender equality in their workplace.

If selected, the employer must annually conduct a comprehensive gender pay gap analysis and report the results annually to the governing body during the target cycle.

An employer can only select this target if they have not conducted a comprehensive gender pay gap analysis in the 2 years prior to the selection of the target.

### **Section 15 – Gender equality target – equal remuneration and gender pay equity policies**

The target under section 15 is an action target that seeks to improve an employer's policies in relation to employee equal remuneration or gender pay equity. This aims to encourage greater pay equity for workplaces and ultimately reduce the gender pay gap.

If selected, employers must include 2 additional elements to their existing policies as listed in subsection (1)(a)-(c). The employer must specify which of the things they will add to their policies when they select their target and report back to the Agency.

An employer can only select this target if they do not already have 2 of the 3 things listed in subsection (1) in their policies.

### **Division 4 – 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.**

Division 4 of Part 3 lists the target(s) that relate to GEI 4 of the Act.

### **Section 16 – Gender equality target – introduce employer-funded parental leave**

The target under section 16 is an action target that requires employers to establish a paid parental leave scheme.

If selected, employers have 2 options in how they establish this entitlement to achieve this target. Employers can provide for an entitlement of employer-funded paid parental leave for primary carers or, an entitlement that offers employer-funded paid parental leave for employees without distinguishing between primary or secondary carers.

An employer is only eligible to select the first option of the target if they do not have an employer-funded paid parental scheme in their baseline report. The second option of the target can only be selected if the employer did not offer an employer-funded paid parental leave that did not distinguish between primary or secondary carers in their baseline report.

### **Section 17 – Gender equality target – increase the uptake of primary parental leave by the under-represented gender**

The target under section 17 is a numeric target that seeks to improve the uptake of employer-funded parental leave in workplaces by the under-represented gender.

If selected, employers must increase the representation of the under-represented gender in taking employer-funded parental leave annually. The final year of the target cycle will be assessed in comparison to the baseline.

Employers must also specify the percentage points by which they are proposing to increase the uptake.

## **Section 18 – Gender equality target – improve employer-funded parental leave**

The target under section 18 is an action target that seeks to improve the existing employer offerings of employer-funded paid parental leave scheme. There are two ways in which employers can implement this target.

Option 1 requires employers to select and implement 3 of the things listed in subsection (2)(a)-(h). Employers will need to specify which of the 3 options they will be implementing by the end of the target cycle. Employers are only eligible to select this option of the target if they have not implemented at least 3 of the options in the list in subsection (2)(a)-(h).

Option 2 allows employers who already have an employer paid parental leave scheme to increase the length of what they currently offer. Employers must increase their existing paid parental leave scheme offering and also select 2 of the things listed in subsection (2)(a)-(h).

Employers are only eligible to select this option of the target if they have not implemented at least 2 of the options in the list in subsection (2)(a)-(h) and have an existing paid parental leave scheme.

## **Section 19 – Gender equality target – improve facilities or support for employees with carer responsibilities**

The target under section 19 is an action target that seeks to improve the supports that employers provide to their employees with carer responsibilities.

If selected, employers must select and specify 2 of the things listed in subsection (1)(a)-(e). Employers are only eligible to select target if they have not implemented at least 2 of the options in the list in subsection (1)(a)-(e).

## **Section 20 – Gender equality target – improve flexible work offerings for employers**

The target under section 20 is an action target that seeks to improve the flexible work opportunities available employees. If selected there are 2 elements to this target.

Employers must firstly select 6 of the 7 things listed in subsection (1)(a)-(g). The 7 items are selected from the Agency questionnaire as the core flexible work offerings with gendered impact. At the start of the cycle, employers must to specify which of the 6 they will commit to offer by the end of the cycle.

Employers must also select 4 of the things in subsection (2)(a)-(j) to include to their existing offerings. At the start of the cycle, employers will need to specify which of the 4 they will commit to offer by the end of the cycle.

Employers are only eligible to select this target if there are at least 4 of the things listed in (2)(a)-(j) that they do not have in place.

## **Section 21 – Gender equality target – proportion of managers who are part-time**

The target under section 21 is a numeric target that seeks to increase the proportion of part-time managers in a workplace.

If selected, employers must specify the percentage points by which they are proposing to increase the uptake. The proportion of the final year of the target cycle will be assessed in comparison to the baseline.

### **Section 22 – Gender equality target – improve supports for employees experiencing family and domestic violence**

The target under section 22 is an action target that seeks to improve the supports offered by employers to their employees experiencing or at risk of family and domestic violence.

If selected employers must specify 4 of the things listed in subsection (1)(a)-(j) that they are committing to implement by the end of the target cycle.

Employers are only eligible to select this target if there are at least 4 of the things listed in (2)(a)-(i) that they do not have in place.

### **Division 5 – Gender equality indicator 5—consultation with employees on issues concerning gender equality in the workplace**

Division 5 of Part 3 lists the target(s) that relate to GEI 5 of the Act.

### **Section 23 – Gender equality target – employee consultation on gender equality issues**

The target under section 23 is an action target that seeks to improve mechanisms for employee consultation on gender equality issues in the workplace. If selected, there are 2 parts to this target.

Employers must first annually consult 1 of the groups listed in subsection (1)(a)(i)-(ii) on gender equality in the employer's workplace. Employers must specify which of the groups they consult at the start of the target cycle.

Employers will then also need to undertake annual consultation with all employees on gender equality using at least 2 of the methods listed in subsection (1)(b)(i)-(iii). Employers must specify at selection which of the methods they will implement.

Employers are only eligible to select this target if at least 1 of the consultations mentioned in subsection (1)(a) were not conducted in the baseline.

### **Division 6 – Gender equality indicator 6—sexual harassment, harassment on the ground of sex or discrimination**

Division 6 of Part 3 lists the target(s) that relate to GEI 6 of the Act.

### **Section 24 – Gender equality target – improve policies regarding preventing, reporting and responding to sexual harassment**

The target under section 24 is an action target that seeks to improve an employer's prevention, reporting and response to sexual harassment and harassment on the ground of sex or discrimination.

If selected employers must implement 4 of the additions to policy under subsection (1)(a)-(l). Employers will need to specify at selection which of the 4 additions they will implement.

Employers are only eligible to select this target if they do not have at least 4 of the things listed in subsection (1)(a)-(l) already in place.

**Section 25 – Gender equality target – mechanisms for reporting to employer’s CEO, key management personnel and governing body on sexual harassment**

The target under section 25 is an action target that seeks to improve the information an employer reports to the CEO, key management personnel and governing body on sexual harassment and harassment on the ground of sex.

If selected employers must choose 3 of the issues under subsection (1)(a)-(h) the CEO, key management personnel and governing body.

Employers must specify at the start of the cycle which of the 3 issues they will commit to commence reporting on.

Employers are only eligible to select this target if in the baseline they did not report on at least 3 of the things listed in subsection(1)(a)-(h) to the employer’s CEO, key management personnel and governing body.



## **Attachment B**

### **Workplace Gender Equality (Gender Equality Standards) Amendment Instrument 2025**

#### **Section 1 – Name**

This section provides that the title of the Instrument is the *Workplace Gender Equality (Gender Equality Standards) Amendment Instrument 2025*.

#### **Section 2 – Commencement**

This section provides that the whole of this instrument commences immediately after the commencement of the *Workplace Gender Equality Amendment (Setting Gender Equality Targets) Act 2025*.

#### **Section 3 – Authority**

This section states that the instrument is made under section 19 of the *Workplace Gender Equality Act 2012*.

#### **Section 4 – Schedules**

This section describes how amendments in the Schedules in the instrument take effect.

## **SCHEDULE 1 – Amendments**

### ***Workplace Gender Equality (Gender Equality Standards) Instrument 2023 (GES Instrument)***

#### **Item 1**

This item repeals the note to the heading under section 5 to update it to include terms which are now defined in the Act. Some of these terms were defined in the Act following the passage of the *Workplace Gender Equality Amendment (Setting Gender Equality Targets) Act 2025* (2025 Act) to introduce the gender equality targets scheme.

#### **Item 2**

Item 2 repeals the definition of designated relevant employer as the term is defined in the Act. The definition was included in the Act following the passage of the *Workplace Gender Equality Amendment (Setting Gender Equality Targets) Act 2025*.

#### **Item 3**

Item 3 repeals the heading ‘Part 2 – Minimum Standards’ and substitutes it with the heading ‘Part 2 – Gender equality standards’. This reflects the change in terminology from ‘minimum standards’ to ‘gender equality standards’ in the Act made by the *Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Act 2023* (2023 Amendment Act).

#### **Item 4**

Item 4 repeals the heading ‘Minimum standards’ in section 6 of the legislative instrument and substitutes it with ‘Gender equality standards’. This reflects the change in terminology from ‘minimum standards’ to ‘gender equality standards’ in the Act made by the 2023 Amendment Act.

#### **Item 5**

Item 5 omits the words from ‘the minimum’ in subsection 6(1) and instead substitutes ‘the gender equality standards set in subsection (3) of this section are set in relation to a designated relevant employer’. This reflects the change in terminology from ‘minimum standards’ to ‘gender equality standards’ in the Act made by the 2023 Amendment Act and the new definition of designated relevant employer flowing from the 2025 Act.

#### **Item 6**

Item 6 removes the reference to ‘minimum standards’ to replace them with ‘gender equality standards’ in subsections 6(2) and (3) so that the references are to standards rather than ‘minimum standards’.

#### **Item 7**

Item 7 inserts a provision to clarify the GES Instrument amendments subject of these changes will apply in relation to a reporting period that commences on a day after the day this instrument commences. This means the changes apply to the next reporting period following commencement.

## **Attachment C**

### **Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Amendment Instrument 2025**

#### **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 Instrument 2025*.

#### **Section 2 – Commencement**

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

#### **Section 3 – Authority**

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

#### **Section 4 – Schedules**

This section describes how amendments in the Schedules in the instrument take effect.

## **SCHEDULE 1—Amendments**

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

#### **Item 1**

This item inserts a reference to the Agency in the note to section 5 as an expression that is defined in the Act for completeness.

#### **Item 2**

Item 2 inserts the definition of ‘family and domestic violence’ and gives it the same meaning under the *Fair Work Act 2009*. This was not previously defined in the GEI Instrument and is referred to in section 9 in relation to Gender Equality Indicator 4 which has also been updated – see changes to Paragraphs 9(n) and (o) below at item 5.

#### **Item 3**

Item 3 repeals the definition of ‘non-manager’ to clarify that in relation to an employer this means any employer who is not a manager. The definition provides examples of the types of employees that may be non-managers. This is a non- exhaustive list.

#### **Item 4**

Item 4 repeals section 8(1)(a) of the GEI Instrument and substitutes a new subsection to make explicit the information that is collected by the Agency. The insertion of subparagraphs (i)-(v) clarifies that remuneration data is disaggregated by the gender composition of the workforce provided for in section 6(a) of the GEI Instrument. The insertion of these subparagraphs does not create new obligations on employers or change the way this section functions, but just clarifies in the legislation how the data is provided to the Agency..

Subparagraph (vi) is inserted to make it simpler for employers to provide the information necessary about their employees for the Agency to be able to determine employee’s annualised fulltime equivalent remuneration. This means that the employer can provide the Agency with their own calculation of annualised full-time equivalent remuneration figures or provide actual earnings and the number of hours worked by employees other than employees who work full-time hours so that the Agency can calculate the annualised equivalent remuneration figures.

#### **Item 5**

This item updates the reference to ‘family or domestic violence’ in paragraphs 9(n) and (o) to instead read ‘family and domestic violence’ to align with language with the *Fair Work Act 2009* – see item 2 above.

#### **Item 6**

Item 6 inserts a provision to clarify the application of the amendments under the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Amendment Instrument 2025* apply in relation to a reporting period that commences on a day after the day the GEI Instrument commences. This means the changes apply to the next reporting period following commencement.

## Attachment D: Gender Equality Targets

The following is the table format of the menu of targets from the Workplace Gender Equality (Gender Equality Targets) Instrument 2025.

Target	Type of target	Target operationalised in the WGEA public report
<b>GEI1: Gender Composition of the Workforce</b>		
1.1 Gender equality target—increased representation (non-managers)	Numeric	Representation of [under-represented gender] in [one non-manager category] increased by [pp] in 3 years.
1.2 Gender equality target—increased representation (managers)	Numeric	Representation of [under-represented gender] in [one manager category] increased by [pp] in 3 years.
1.3 Gender equality target—increased representation (promotions to manager)	Numeric	Representation of [under-represented gender] in promotions to manager increased by [pp] in 3 years.
1.4 Gender equality target—increased representation (pay quartile)	Numeric	Representation of [under-represented gender] in [quartile] increased by [pp] in 3 years.
<b>GEI2: Gender composition of the governing body</b>		
2.1 Gender equality target—composition of governing body	Numeric	Representation of [under-represented gender] on the governing body increased by [pp] in 3 years.
<b>GEI3: Equal Remuneration between women and men</b>		
3.1 Gender equality target—reducing the gender pay gap	Numeric	[Median or average], [base salary or total remuneration] gender pay gap reduced by [pp] in 3 years.
3.2 Gender equality target—reducing the gender pay gap for managers or non-managers	Numeric	[Median or average], [total remuneration] gender pay gap for [either managers or non-managers] reduced by [pp] in 3 years.
3.3 Gender equality target—undertake gender pay gap analysis	Action	<p><b>If gender pay gap analysis has not been completed in the past two years:</b></p> <ul style="list-style-type: none"> <li>undertake comprehensive gender pay gap analysis at least annually; and</li> </ul>

Target	Type of target	Target operationalised in the WGEA public report
		<ul style="list-style-type: none"> <li>report the results of the analysis to the governing body of the employer.</li> </ul>
3.4 Gender equality target—equal remuneration and gender pay equity policies	Action	<p><b>Add at least two of the following to existing policy:</b></p> <ul style="list-style-type: none"> <li>remuneration review processes without gender biases</li> <li>transparency about pay scales and salary bands</li> <li>managers being held accountable for gender pay equity outcomes.</li> </ul>
<b>GEI4: 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</b>		
4.1 Gender equality target—introduce employer-funded parental leave	Action	Create an entitlement for employer-funded [primary parental leave OR parental leave that does not distinguish between primary/secondary carers] of [_ weeks] within 3 years.
4.2 Gender equality target—increase the uptake of paid parental leave by the under-represented gender	Numeric	Representation of [under-represented gender] taking primary carers leave increased by [_pp] in 3 years.
4.3 Gender equality target—improve employer funded paid parental leave	Action	<p><b>Either:</b></p> <p>a) Extend the length of your existing employer-funded parental leave (either primary or parental leave that does not distinguish between primary and secondary carers) <b>AND</b> add 2 from the list (below) to your existing primary or, no distinction between primary or secondary carer, employer-funded parental leave:</p> <p><b><u>OR</u></b> do not extend the length and add 3 from the list (below)</p> <ul style="list-style-type: none"> <li>a) employer funded parental leave is available for employees of all genders without a distinction between primary carers and secondary carers</li> <li>b) the rate of pay for employer funded parental leave is full salary replacement (independent of any statutory entitlements to paid parental leave)</li> <li>c) employer funded parental leave can be taken at any time in the 24-month period that begins the day a child is born or adopted by an employee</li> </ul>

Target	Type of target	Target operationalised in the WGEA public report
		<ul style="list-style-type: none"> <li>d) employer funded parental leave is available in respect of still births, surrogacy and adoptions</li> <li>e) no minimum service period applies to employer funded parental leave entitlements</li> <li>f) the employer pays superannuation contributions while an employee is on employer funded parental leave</li> <li>g) the employer pays superannuation contributions while an employee is on unpaid parental leave</li> <li>h) an opt out requirement for employer funded parental leave, so that an employee who is taking employer funded parental leave is assumed to be taking the employee's full employer funded parental leave entitlement unless they specifically request otherwise.</li> </ul>
4.4 Gender equality target—improve facilities or support for employees with carer responsibilities	Action	<p><b>Add at least two of the following:</b></p> <ul style="list-style-type: none"> <li>• breastfeeding facilities</li> <li>• onsite childcare</li> <li>• employer subsidised childcare</li> <li>• internal support networks for employees who are parents or carers</li> <li>• access to priority places at local care centres to support employees with carer responsibilities.</li> </ul>
4.5 Gender equality target—improve flexible work offerings for employees	Action	<p><b>Ensure that at least six of the following are in place for all employees:</b></p> <ul style="list-style-type: none"> <li>a) flexible hours (including flexible start and finish times)</li> <li>b) reduced hours or part time work</li> <li>c) job-sharing arrangements</li> <li>d) compressed work weeks</li> <li>e) purchased leave</li> <li>f) time-in-lieu</li> </ul>

Target	Type of target	Target operationalised in the WGEA public report
		<p>g) remote work</p> <p><b>Additionally, add at least four of the following:</b></p> <ul style="list-style-type: none"> <li>a) training for managers on how to manage flexible work and remote and hybrid teams</li> <li>b) training for all employees on how to work with people with flexible work arrangements, and how to work in remote and hybrid teams</li> <li>c) a business case for flexible work arrangements endorsed at the executive level</li> <li>d) leaders to be held accountable for increasing take-up and approval of workplace flexibility</li> <li>e) all employees to be surveyed on whether they have sufficient flexibility</li> <li>f) the impact of flexibility to be measured and evaluated</li> <li>g) metrics on the use of, and the impact of, flexibility measures to be reported to key management personnel and the employer's governing body</li> <li>h) the ability to job share to be incorporated into job design and the advertising of new roles</li> <li>i) flexible work arrangements to be available to all employees, with a default bias towards approval</li> <li>j) all team meetings to be offered online.</li> </ul>
4.6 Gender equality target—proportion of managers who are part-time	Numeric	Proportion of managers working part-time increased by [_pp] in 3 years.
4.7 Gender equality target—improve supports for employees experiencing or at risk of family and domestic violence	Action	<p><b>Add at least four of the following:</b></p> <ul style="list-style-type: none"> <li>• protection for employees from adverse action or discrimination on the grounds that the employee disclosed family and domestic violence</li> <li>• access to unpaid family and domestic violence leave</li> </ul>



Target	Type of target	Target operationalised in the WGEA public report
		<ul style="list-style-type: none"> <li>• access to paid family and domestic violence leave in addition to that provided for by the National Employment Standards</li> <li>• emergency accommodation assistance to employees experiencing or at risk of family and domestic violence</li> <li>• mechanisms for employees experiencing or at risk of family and domestic violence to request to move to a different workplace location</li> <li>• financial support for employees experiencing or at risk of family or domestic violence</li> <li>• an employee assistance program for employees who are experiencing or at risk of family and domestic violence</li> <li>• training for key personnel in supporting employees experiencing or at risk of family and domestic violence</li> <li>• workplace safety planning to support employees experiencing or at risk of family and domestic violence</li> <li>• procedures for referring employees experiencing or at risk of family and domestic violence to support services</li> </ul>
<b>GEI5 – Consultation with employees on issues concerning gender equality</b>		
5.1 Gender equality indicator 5— employee consultation on gender equality issues	Action	<p><b>Consult one of the following bodies in the reporting period:</b></p> <ul style="list-style-type: none"> <li>a) a diversity committee or equivalent</li> <li>b) an employee representative group or network.</li> </ul> <p><b>AND</b> during the target cycle, undertake annual consultation of all staff on gender equality in the employer’s workplace using at least 2 of the following methods:</p> <ul style="list-style-type: none"> <li>a) employee experience survey</li> <li>b) employee focus groups</li> </ul>

Target	Type of target	Target operationalised in the WGEA public report
		c) exit interviews
<b>GEI6 – Sexual harassment, harassment on the ground of sex or discrimination</b>		
6.1 Gender equality indicator 6— improve policies regarding preventing, reporting and responding to sexual harassment, harassment on the ground of sex and discrimination	Action	<p><b>Add at least four of the following:</b></p> <ul style="list-style-type: none"> <li>a) leadership accountabilities and responsibilities for preventing and responding to sexual harassment</li> <li>b) training for managers and non-managers on respectful workplace conduct and preventing and responding to sexual harassment</li> <li>c) options for disclosing (internally and externally), and processes for investigating and managing sexual harassment</li> <li>d) processes for anonymously disclosing complaints of sexual harassment</li> <li>e) processes relating to the use of non-disclosure or confidentiality agreements in relation to sexual harassment</li> <li>f) requirements relating to the frequency and nature of reporting to the governing body and management on sexual harassment</li> <li>g) access to trained, trauma-informed support staff or contact officers</li> <li>h) access to confidential external counselling to support employees involved in and affected by sexual harassment</li> <li>i) protection for employees from adverse action or discrimination on the grounds that the employee disclosed sexual harassment or discrimination</li> <li>j) a system for monitoring outcomes of disclosures of sexual harassment, including employment outcomes for those affected and any respondents</li> <li>k) reasonable adjustments to work conditions to support employees involved in and affected by sexual harassment</li> </ul>

Target	Type of target	Target operationalised in the WGEA public report
		<ul style="list-style-type: none"> <li>l) a process for the development and review of the employer's policies relating to sexual harassment, which includes consultation with employees, unions or industry groups.</li> </ul>
6.2 Gender equality target—mechanisms for reporting to key management personnel and the governing body on sexual harassment, harassment on the ground of sex and discrimination	Action	<p>Expand annual reporting to key management personnel and the governing body by adding three of the following:</p> <ul style="list-style-type: none"> <li>a) identified risks of sexual harassment</li> <li>b) prevalence of sexual harassment</li> <li>c) the nature of sexual harassment</li> <li>d) analysis of trends in sexual harassment</li> <li>e) action taken by the organisation to prevent and respond to sexual harassment</li> <li>f) outcomes of reports of sexual harassment</li> <li>g) consequences for perpetrators of sexual harassment</li> <li>h) any use of non-disclosure agreements or confidentiality clauses as an outcome of disclosure of sexual harassment.</li> </ul>



# Addendum

Impact Analysis - Changes to the Workplace Gender Equality Act 2012  
and Associated Instruments





## Introduction

On 9 February 2023, the Department of the Prime Minister and Cabinet published an Impact Analysis (IA) regarding the changes to the *Workplace Gender Equality Act 2012* (WGE Act) and associated instruments. The IA discussed the regulatory impacts of implementation of a number of recommendations made in the *Review of the Workplace Gender Equality Act 2012* (the Review) conducted on December 2021. This IA addendum provides further information in regard to the implementation of additional recommendations of the Review.

This addendum focuses on recommendation 3.1.a of the Review. The implementation of this recommendation would require relevant employers with 500 or more employees to commit to, achieve and report on genuine, measurable targets that will improve gender equality in their workplace against three of the six gender equality indicators (GEIs) currently in the legislative scheme.

The Workplace Gender Equality Agency Review 2021 (Review) considered the regulatory reporting burden for employers a key factor in its report and recommendations. The implementation of the Review in full reflects this consideration.

### Policy options

As noted in the IA, there are three main elements to the problem with the current regulatory framework which governs Agency's reporting: gaps in the current data set, the burdensome nature of some reporting requirements and that current regulation is not ambitious enough to drive change in achieving gender equality. Reforms in 2023 address these issues in part, but further changes are needed to achieve the desired outcome of accelerating the rate of progress towards gender equality in Australia. The Review proposed reforms to address these elements based on consultation with stakeholders.

Three options will be considered in response to the problems identified in the IA.

**Option 1:** Maintain status quo;

**Option 2:** Accelerate the rate of change on gender equality through action by requiring designated relevant employers to set three targets from a select list of targets related to gender equality and achieve (or at minimum improve on) these targets in a three year period. This will implement Review Recommendation 3.1.a.

**Option 3:** Accelerate the rate of change on gender equality through action by requiring designated relevant employers to set at least three targets from a menu of targets and achieve



(or at minimum improve on) these targets in a three year period. This will implement Review Recommendation 3.1.a.

### Option 2 and 3: A list or menu of targets

The difference between option 2 and 3 lies in the way ‘targets’ are provided for employers. Under option 2 a select list refers to a narrow set of targets, which would be a target under each of the GEs for employers to achieve, mainly numeric targets. A ‘menu of targets’ provides a broader list of targets for employers to select from, offering multiple targets under the GEs where possible. See an example of the menu of targets at attachment A.

### **Why were these recommendations not implemented before?**

Although changes were made to the legislative scheme in 2023, further consultation was required to implement recommendation 3.1a in the most effective manner to achieve the policy outcomes. This allowed a collaboration with stakeholders to inform targets, rather than imposing potentially burdensome or ineffective measures on business.

The Workplace Gender Equality Agency (the Agency) developed a draft targets list during stakeholder consultations in 2023, and provided stakeholders with opportunities to provide feedback. This approach increases the likelihood targets are able to be implemented and supported by relevant employers. Making these changes now in the legislative scheme offers a more robust approach than would have been possible earlier without a clear list of targets, with stakeholder consultation. That is, the list can now be included in the legislation, and offers transparency and assurance to stakeholders that any material changes or updates are carefully considered as they would require legislative amendment. The list of targets will be authoritative because they are included in a disallowable legislative instrument and transparent, being available for employers and the public to view.

### **Who will be impacted?**

The implementation of Recommendation 3.1.a will introduce new requirements for large businesses/community organisations. These are organisations employing 500 or more employees, which are referred to as designated relevant employers as set out in section 6 of the Workplace Gender Equality (Gender Equality Standards) Instrument 2023 (GES Instrument). Designated relevant employers and their employees are the main stakeholders considered as part of this analysis.

As identified in the IA, designated relevant employers must currently achieve minimum standards in relation to gender equality. This includes the requirement to have policies or strategies in place to address only one of the GEs.



From 1 April 2023, designated relevant employers are required to have in place policies or strategies to support the six GEIs in the WGE Act. The GEIs are

- Gender composition of the workforce
- Gender composition of governing bodies
- Equal remuneration between women and men
- Availability and utility of employment terms, conditions and practices relating to flexible working arrangements for and to working arrangements supporting employees with family and caring responsibilities
- Consultation with employees on issues concerning gender equality in the workplace
- Sexual harassment, harassment on the ground of sex or discrimination.

The proposed implementation of 3.1.a will require designated relevant employers to set targets to achieve within the specified time period. Employers that do not achieve their target in the specified time period may demonstrate improvement against a target or provide a reasonable excuse for not showing improvement to the Agency to avoid non-compliance.

The Review found all designated relevant employers complied with the 2014 minimum standards and almost every company had a policy or strategy in place on sex-based harassment and discrimination. It is therefore likely designated relevant employers are well placed to take further action to support gender equality through the targets setting scheme.

### **Option 1: Maintain the status quo**

Maintaining the status quo will entail no changes to the current regulatory framework under the WGE Act, noting the recent partial implementation of the Review in 2023 which changed the regulatory burden. This is outlined in the IA.

Option 1 will not progress the efforts to address problems identified in the IA beyond the impacts of the earlier changes.

Maintaining the status quo will not accelerate the progress towards gender equality as it imposes no further requirements for stakeholders, and nor does it incentivise employers to set more ambitious targets. Designated relevant employers would only be required to continue to meet the minimum standards noted above and nothing further.

### **Option 2: Implementation of target setting (narrow list of targets)**

The IA outlines the impacts of implementing recommendation 3.1.a of the Review. This will require certain employers with obligations under the WGE Act to commit to genuine and measurable gender equality targets set against the GEIs. Following additional consultation, it is proposed that



employers will have three years to achieve selected targets.<sup>2</sup> Employers will need to report progress, through their public reporting, and set three more targets every three year period. This measure can address the problem that the current regulation is not ambitious enough to drive change in achieving gender equality.

A key finding of stakeholder consultation conducted for this recommendation was that targets have the potential to motivate action and drive change. Targets have the potential to embed intervention in real cultural change as they are linked to leadership behaviours and other actions.

Currently, there is no other country which requires businesses to commit to gender targets. Australia would be pioneering the path to accelerate gender equality through targets, and asking large Australian businesses to be global trend setters. In 2021, the Global Institute for Women's Leadership (GIWL) comparative research on gender pay gap reporting recommended that action plans are essential for change, finding that 'employers should be mandated to create time-bound targets to redress pay gaps, setting out clear and measurable goals'.<sup>3</sup>

Further, companion research by GIWL recommended that Australia introduce 'outcome-based' minimum standards.<sup>4</sup> In this research, targets act as the outcome based minimum standard which can hold business accountable for the data they report to the Agency. Despite the currently high level of transparency in reporting to the Agency, less than 68 per cent of organisations analyse their pay gap data, and overall, only 75 per cent of organisations took action to close the identified gap. Requiring organisations to set targets can drive real change, as employers will be accountable for improving their results. This would apply to figures that contribute to the gender pay gap, through targets that relate to the GEIs in the legislative scheme.

A scheme with a clear target under each gender equality indicator will prompt employers to take action. As identified in the IA, section 5.3.4, the current standard is out of step of community expectations. Targets will allow for a more ambitious scheme in line with community expectations and in line with the broader momentum towards gender equality in Australia.

Under this option, targets will be legislated to ensure the target scheme is mandatory for designated relevant employers and provide transparency about employer practices and

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<sup>2</sup> Note this position has moved from the thinking presented in the previous IA, which suggested variable times for achieving certain targets. The new approach requires employers to commit to, achieve and report against at least three targets within a three year period.

<sup>3</sup> Global Institute for Women's Leadership 'Bridging the Gap: An Analysis of Gender Pay Gap Reporting in Six Countries' (2021) <https://www.kcl.ac.uk/giwl/assets/bridging-the-gap-full-report.pdf>

<sup>4</sup> Global Institute for Women's Leadership 'Gender pay gap reporting in Australia Time for an upgrade' (2021) <https://giwl.anu.edu.au/sites/default/files/docs/2021/10/Gender%20pay%20gap%20reporting%20in%20Australia%20-%20time%20for%20an%20upgrade.pdf>





employee outcomes. Because employers would report to the Agency on the targets selected, employees can use information about employers' commitments to take specific actions to achieve gender equality to inform decisions about who they choose to work for and can see the aspirations of the organisations which they are working for.

### **Option 3: Implementation of target setting (menu of targets)**

Option 3 works to resolve the same problem as option 2, and will operate in a similar manner. The difference is the list of targets offered to employers. Under option 3, the Agency would provide organisations with a menu of targets that offers multiple targets under each gender equality indicator where appropriate. Employers would be able to select at least three targets to achieve within the given time frame. See Appendix A for the draft menu of targets.

Academics participating in consultations suggested that providing the broadest level of target setting protocols, policy and progress contexts to be key for engagement and that a highly prescriptive framework of targets could undermine employer adherence and the success of the policy. A broader set of targets would focus on quantifiable (numeric) targets related to gender pay gaps and composition, as well as extend metrics to action-oriented targets to provide opportunities to go beyond imbalances in representation or pay to influence employee experiences.

Under this option, while there is a broader list of targets to select, there would be reasonable parameters on the type of target selection to prevent employers committing only to the action-based targets that may be perceived as easier and quicker to accomplish. This is to support real change in workplaces, and minimise the risk of tokenistic goals being set by employers.

### **Net benefit of each option**

As per the IA, given the nature of the changes, it is appropriate to consider the economic and social impacts of the options. Additional calculations have not been conducted as the costs for recommendation 3.1 were included in the IA. There is a qualitative discussion of the implications of the implementation in some further detail of the options identified in this addendum.

### **Option 1: Maintaining the status quo**

Maintaining the status quo will not impact stakeholders beyond their already existing obligations. This will result in no greater economic and social costs and benefits than those identified in the IA. Maintaining the status quo will continue to close the gender pay gap and improve gender equality at the current pace. This will lead to benefits for individuals and large employers (refer to 7.1.1 – 7.1.2 of the IA).



The minimum standards in the legislation came into effect over ten years ago. These might have been appropriate at the time, but community expectations have moved forward from the initial thinking. In light of other reforms occurring across Australia to progress gender equality, no change may stall the momentum, thereby further distancing the overall legislative scheme from community expectation. In maintaining the status quo, there is an economic and social opportunity cost in not supporting momentum for change and more equal outcomes in the workplace in larger employers.

### **Options 2 and 3: Introducing target setting**

The target setting scheme will introduce additional requirements only for designated relevant employers, which are organisations employing 500 or more employees. These are relatively large employers who are likely to already have well developed internal systems for workforce planning. The IA noted that target setting only carried initial set up costs, related to an additional four hours per organisation to consider and implement targets. Further timing considerations to achieve selected targets would be variable and dependent on the target selected and the ambition of the target. The Agency will work with employers to support the setting of targets, which will offer employers assurance that targets are achievable in line with their circumstances and the level of maturity of their organisation. This will reduce undue burden on employers.

The Agency will assist employers in setting targets by developing tools and resources for target setting, providing accessible analyses of gender equality data, and providing practical guidance on the steps to take to achieve the targets. Over time, the Agency will work with employers to ensure they are on the right path and will take into consideration the specific circumstances of employers where there might be any difficulty in achieving any of the intended goals.

Option 2 and 3 provide employers flexibility. Where they are unable to achieve their selected targets within the targets cycle. The Agency will allow employers to demonstrate improvement against targets. This will ensure that employers are still compliant with the legislative requirements where they have made efforts against targets. This will encourage employers to be ambitious with targets.

Some additional costs will be placed on organisations in tracking and reporting on progress of targets in their annual reporting. The burden will depend on the targets selected and the way in which they can be measured. Administrative costs associated with setting new targets once existing committed targets are achieved present a relatively low burden. This is because all targets will be available in the legislation, where employers can consider their next set of targets well before committing to them.



## Benefits for employers, employees and government

Workplace target setting for gender equality is an evidence-based strategy which is proven to promote gender diversity and inclusion.<sup>5</sup> Gender equality benefits employees, but also employers with improved retention, productivity, safety, and enhanced reputation.<sup>6</sup>

Under the proposed implementation, targets are a mechanism for accountability, and will ensure a genuine attempt by larger employers to work towards workplace gender equality in Australia. This can also motivate better practices within organisations, in leadership behaviours and accelerate the pace of gender equality in a workplace. Targets are also a critical for managing organisational performance and can provide focus to employers. Genuine, time-bound, and realistic targets would therefore be an effective mechanism by which organisations can articulate the change that they want to see within their organisation and show their commitment to gender equality. Targets can effectively promote gender equal organisational culture and employee experience beyond direct impacts to improving the gender pay gap.

In implementing the scheme, it will ensure that the regulations are more ambitious in the drive to achieve gender equality and will motivate employers, to potentially improve their practices at an accelerated pace.

For Government, the target setting scheme aligns with the broader commitment to achieving gender equality, and the actions set under the *Working for Women: A Strategy for Gender Equality*. Additionally the Women's Economic Equality Taskforce supported the implementation of gender equality targets for employers and recommended it is implemented as an immediate action to ensure all Australian workplace practices support women's economic participation.<sup>7</sup>

## Difference between option 2 and 3

Under options 2 and 3, the cost and benefits for employees and government remain the same, however, option 3 is marginally less burdensome than option 2 as it offers greater flexibility for organisations to choose targets which are appropriate for them.

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<sup>5</sup> Dr Leonora Risse 'Target Setting for Gender Equality: A Review of the Literature' (2024) T [https://www.wgea.gov.au/sites/default/files/documents/Target-Setting-for-Gender-Equality\\_A-Review-of-the-Literature-Dr\\_Leonora\\_Risse\\_March-2024.pdf](https://www.wgea.gov.au/sites/default/files/documents/Target-Setting-for-Gender-Equality_A-Review-of-the-Literature-Dr_Leonora_Risse_March-2024.pdf).

<sup>6</sup> Workplace Gender Equality Agency 'Workplace gender equality: the business case' (2018) <https://www.wgea.gov.au/publications/gender-equality-business-case>.

<sup>7</sup> Women's Economic Equality Taskforce 'A 10-Year Plan to Unleash the Full Capacity and Contribution of Women to the Australian Economy' (2023) <https://www.pmc.gov.au/sites/default/files/resource/download/womens-economic-equality-taskforce-final-report.pdf>.



Option 2 would list a target under each gender equality indicator, meaning that employers will have less of a selection to achieve targets under the indicators. Consultation findings noted the importance of having some parameters for targets, however, these should not be too prescriptive. Providing a menu of targets under option 3 offers employers the choice to select targets which are appropriate and achievable based on their organisations circumstances.

## Consultation

As noted in the IA, comprehensive stakeholder informed the development and implementation of the Review's recommendations. Broader public consultations occurred in October and November 2021. More detail on the process and methodology of the consultations is available in the IA. More targeted consultations were conducted for recommendations in mid-late 2023 and mid-2024 to address any potential limitations of the initial consultation process.

Each of the options noted in this addendum is informed by these consultations. Consultations for the proposed recommendations implemented under option 2 and 3 were led by the Agency. The Agency is responsible for the collection of the data from relevant employers and publishes this information annually. The Agency was best placed to carry out consultation having the relevant stakeholder relationships and the role as the regulator for the proposed changes following the Review.

## Purpose and objectives of consultation

The primary objective of consultation was to better gauge the views and preferences of key stakeholders in the implementation Review recommendations. Consultation for recommendation 3.1.a included randomly selected employers from the Agency's database. This selection was audited to ensure a spread of industry representation and appropriateness of participation (for example ensuring the selected list were not leading practice on targets). The purpose of the consultation was to test the approach to target setting and the most effective way to frame targets for a broad range of employers. Section 10 of the IA provides more detailed information on the broader approach to consultations.

## How consultations influenced the policy options

Draft targets were proposed for participants to react to. Emerging themes in the consultation highlighted some of the key challenges and risks the participants foresaw in the setting of targets for employers. This feedback was considered and applied to the final proposal for implementation of this recommendation.

Stakeholders criticised the current legislative framework for having standards that are too low, and only requiring data to demonstrate compliance without requiring employers to improve



gender equality in their workplaces. The implementation of the target setting scheme under both option 2 and 3 responds to this criticism.

Participants noted particular challenges of targets needing to cater to a wide range of businesses, with differences in the size of the business, and the level of maturity of a business and its readiness to commit to and achieve these goals. Another concern raised related to the backlash associated with certain types of targets that might be perceived as tokenistic, but acknowledged there would be opportunities to drive change on gender equality, given the compulsory nature of the targets. In response to these concerns, options 2 and 3 seek to set 'measureable, genuine, targets' that are achievable for businesses. Further option 3, includes a broader set of quantifiable and action-oriented targets from which employers can select. While employers may still select the 'easier' options, each target will promote the drive toward gender equality and once the 'easier' target is achieved, more aspirational targets will need to be set. In selecting and committing to targets, the Agency will work with employers to support setting of reasonable targets based on the circumstances of the employers, further encouraging up-take of achievable, yet progressive, targets.

Consultations raised potential circumstances in which progress towards targets may not be feasible for employers despite best efforts. This could include, for example, a merger or significant change in company structure. The provision for employers to provide a reasonable excuse under the current legislation will apply to employers for targets. This will mean that where employers provide a reasonable excuse, the Agency may choose not to name them on the non-compliance list.

One of the strongest themes from stakeholders was the need for the Agency's guidance and education for employers. Multiple participants expressed a desire to better understand what best practice looks like so they can set 'stretch' targets. Some stakeholders also indicated a desire for metrics to be clearly defined, especially the gender pay gap. A list of targets will provide guidance and the Agency will work to educate employers on what is expected before the commencement of any changes.

Participants and particularly experts in the field noted that targets should be time bound to ensure sustained action on gender equality. Both options 2 and 3 will require employers to achieve targets within a 3 year period. Experts suggested that by encouraging employers to adopt a progressive roadmap of targets to be achieved at different intervals, employers will be encouraged to embrace progressive improvement and iterative learning by doing.

Participants generally felt confident that choosing from a set menu of targets would provide flexibility to align targets with their own business priorities. Option 3 would best facilitate this, by



offering a broader menu of targets which offers multiple targets for employers to select under each gender equality indicator where possible.<sup>8</sup> This option was made distinct from option 2 based on the feedback about the menu of targets. It has been the policy intent to go forward with the menu of targets approach with the set objective of giving employers more opportunity to set and meet the targets, thereby allowing greater buy in to the list of targets. While the set menu provides greater options, a list also allows an efficient way for employers to choose targets, reducing the burden on employers to have to define their own targets in line with the requirements to set targets under the GEIs.

### Preferred option

Options 2 and 3 both work to address the problem identified in the IA. A target setting scheme will accelerate action towards gender equality as it will require large businesses to take a lead in progressing efforts. The preferred option is the setting of targets with a menu of targets (option 3) as it aligns most closely with consultation feedback of providing guidance for targets while offering some choice for employers to select targets which are achievable for them. This will cater for the broadest types of businesses, at varied levels of maturity and resourcing.

Overall, the target setting scheme seeks to return Australia to its status as a global leader in gender equality, and encourages more ambition within Australian business. Option 3 will enable designated relevant employers to select from a broad range of targets, offering flexibility for what is achievable in the stated time. As a result, there would be a greater up-take of a range of targets by employers depending on what is appropriate for their organisation without an extensive regulatory burden to have to achieve targets that are unrealistic within an organisation's context.

### Implementation risks

There are minimal implementation risks with the preferred option as employers would be offered a range of choices in the menu of targets. Each of the targets are drafted to drive change under the GEIs. These targets are ambitious as they require clear action, but are also achievable. There may be an initial risk employers select 'easier' targets, however, this will still require action to advance gender equality in the workplace. The Agency will work with employers to support the initial implementation requirements to further mitigate any risks of either failing to choose or to implement targets.

Noting that designated relevant employers currently comply with the minimum standards, there is a high likelihood that employers will meet their requirements to select targets and progress their achievement. The targets are varied enough to allow employers to select an option which

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<sup>8</sup> The Agency is responsible for drafting the menu of targets under each gender equality indicator. For some indicators, research resulted in only one target being appropriate to achieve. The full list of targets will be included legislation under both option 2 and 3. See also attachment A.



is appropriate and achievable for their particular organisation. Additionally, as Australia is pioneering these changes, it is likely that employers will see the opportunity they have to be global leaders and trend setters in complying with the requirements.

### Measuring success and future progress

Success for the implementation of recommendation 3.1a will see require designated relevant employers to select at least three targets in the first the Agency's reporting period after the changes are introduced. Longer term success will involve achievement of the initial targets and progressive commitment to more challenging, but still achievable, targets to drive change in their business. Successful implementation will see employers be more ambitious in the targets they select over time that drive gender equality in workplaces and better employment outcomes for all employees.

Progress towards achievement of targets will reported by employers in their annual public report to the Agency. This enables progress to be monitored and measured and could elevate the organisation's perception of what is achievable. Success will be measured through employer motivation to drive change in their organisations beyond setting targets, such as reflecting any leadership behaviours which indicate better gender equal practices. Annual employer reporting to the Agency could be used to identify broader trends in gender pay gap statistics.

A future review of the WGE Act could consider the successes and challenges of the target setting scheme and recommend improvements to the operation.