

2010-2011-2012

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Equal Opportunity for Women in the
Workplace Amendment Bill 2012**

No. , 2012

(Families, Housing, Community Services and Indigenous Affairs)

**A Bill for an Act to amend the *Equal Opportunity
for Women in the Workplace Act 1999*, and for
related purposes**

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1 **A Bill for an Act to amend the *Equal Opportunity***
2 ***for Women in the Workplace Act 1999*, and for**
3 **related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Equal Opportunity for Women in the*
7 *Workplace Amendment Act 2012*.

8 **2 Commencement**

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

13

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, items 1 to 74	The later of: (a) 1 April 2012; and (b) the day this Act receives the Royal Assent.	
3. Schedule 1, items 75 to 79	The day this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.

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

7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.
12

1

Schedule 1—Amendments

2

Part 1—Main amendments

3

Equal Opportunity for Women in the Workplace Act 1999

4

1 Title

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Omit “equal opportunity for women in employment, to establish the Equal Opportunity for Women in the Workplace Agency and the office of the Director of Equal Opportunity for Women in the Workplace”, substitute “gender equality in the workplace, to establish the Workplace Gender Equality Agency and the office of the Director of Workplace Gender Equality”.

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2 Section 1

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Omit “*Equal Opportunity for Women in the Workplace Act 1999*”, substitute “*Workplace Gender Equality Act 2012*”.

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Note: This item amends the short title of the Act. If another amendment of the Act is described by reference to the Act’s previous short title, that other amendment has effect after the commencement of this item as an amendment of the Act under its amended short title (see section 10 of the *Acts Interpretation Act 1901*).

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3 Section 2A

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Repeal the section, substitute:

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2A Objects of Act

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The principal objects of this Act are:

22

(a) to promote and improve gender equality (including equal remuneration between women and men) in employment and in the workplace; and

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(b) to support employers to remove barriers to the full and equal participation of women in the workforce, in recognition of the disadvantaged position of women in relation to employment matters; and

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(c) to promote, amongst employers, the elimination of discrimination on the basis of gender in relation to employment matters (including in relation to family and caring responsibilities); and

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- 1 (d) to foster workplace consultation between employers and
2 employees on issues concerning gender equality in
3 employment and in the workplace; and
4 (e) to improve the productivity and competitiveness of
5 Australian business through the advancement of gender
6 equality in employment and in the workplace.

7 **2B Simplified outline**

8 The following is a simplified outline of this Act:

- 9 • This Act requires various employers (*relevant employers*) to
10 lodge reports each year containing information relating to
11 various gender equality indicators (for example, equal
12 remuneration between women and men).
- 13 • Those reports are available to the public, subject to some
14 exceptions for information that is personal information,
15 information relating to remuneration and information of a kind
16 specified by the Minister.
- 17 • There is a Workplace Gender Equality Agency. Its functions
18 include advising and assisting employers in promoting and
19 improving gender equality in the workplace and undertaking
20 research and programs for the purpose of promoting and
21 improving gender equality in the workplace.
- 22 • There is a Director of Workplace Gender Equality, who
23 manages the Agency.
- 24 • The Agency may review a relevant employer's compliance
25 with this Act by seeking further information from the
26 employer.
- 27 • If a relevant employer fails to comply with this Act, the
28 Agency may name the employer in a report given to the
29 Minister or by electronic or other means (for example, on the
30 Agency's website or in a newspaper).

31 **4 Subsection 3(1) (definition of Agency)**

1 Omit “Equal Opportunity for Women in the Workplace Agency”,
2 substitute “Workplace Gender Equality Agency”.

3 **5 Subsection 3(1) (definition of *club*)**

4 Repeal the definition.

5 **6 Subsection 3(1) (definition of *confidential report*)**

6 Repeal the definition.

7 **7 Subsection 3(1) (definition of *Director*)**

8 Omit “Equal Opportunity for Women in the Workplace”, substitute
9 “Workplace Gender Equality”.

10 **8 Subsection 3(1)**

11 Insert:

12 *employee organisation* has the same meaning as in the *Fair Work*
13 *Act 2009*.

14 **9 Subsection 3(1) (paragraph (d) of the definition of**
15 ***employment matters*)**

16 After “organisation”, insert “, including flexible working
17 arrangements”.

18 **10 Subsection 3(1) (paragraph (e) of the definition of**
19 ***employment matters*)**

20 After “employees”, insert “, including equal remuneration between
21 women and men”.

22 **11 Subsection 3(1) (paragraph (f) of the definition of**
23 ***employment matters*)**

24 Omit “women”, substitute “employees”.

25 **12 Subsection 3(1) (at the end of the definition of**
26 ***employment matters*)**

27 Add:

28 ; (h) arrangements relating to employees with family or caring
29 responsibilities.

1 **13 Subsection 3(1) (definition of *equal opportunity for women***
2 ***in the workplace program*)**

3 Repeal the definition.

4 **14 Subsection 3(1)**

5 Insert:

6 *gender equality indicators* means the following:

- 7 (a) gender composition of the workforce;
- 8 (b) gender composition of governing bodies of relevant
- 9 employers;
- 10 (c) equal remuneration between women and men;
- 11 (d) availability and utility of employment terms, conditions and
- 12 practices relating to flexible working arrangements for
- 13 employees and to working arrangements supporting
- 14 employees with family or caring responsibilities;
- 15 (e) consultation with employees on issues concerning gender
- 16 equality in the workplace;
- 17 (f) any other matters specified in an instrument under
- 18 subsection (1A).

19 **15 Subsection 3(1)**

20 Insert:

21 *governing body* of a relevant employer means the board of

22 directors, trustees, committee of management, council or other

23 governing authority of the employer.

24 **16 Subsection 3(1)**

25 Insert:

26 *man* means a member of the male sex irrespective of age.

27 **17 Subsection 3(1)**

28 Insert:

29 *minimum standard* means a standard set by an instrument in force

30 under section 19.

31 **18 Subsection 3(1)**

1 Insert:

2 *personal information* has the same meaning as in the *Privacy Act*
3 1988.

4 **19 Subsection 3(1) (at the end of the definition of *relevant***
5 ***employer*)**

6 Add:

7 Note: See also subsection (2A).

8 **20 Subsection 3(1)**

9 Insert:

10 *reporting period* means a period referred to in subsection 13A(2).

11 **21 Subsection 3(1) (definition of *trade union*)**

12 Repeal the definition.

13 **22 Subsection 3(1) (definition of *workplace profile*)**

14 Repeal the definition.

15 **23 Subsection 3(1) (definition of *workplace program*)**

16 Repeal the definition.

17 **24 After subsection 3(1)**

18 Insert:

19 (1A) The Minister may, by legislative instrument, specify matters for the
20 purposes of paragraph (f) of the definition of *gender equality*
21 *indicators* in subsection (1).

22 Note: See also section 33A.

23 (1B) The matters specified in an instrument under subsection (1A) may
24 relate to employment matters.

25 (1C) Subsection (1B) does not limit subsection (1A).

26 (1D) An instrument under subsection (1A) has no effect in relation to a
27 reporting period unless it is made before the first day of that
28 period.

1 **25 After subsection 3(2)**

2 Insert:

- 3 (2A) If, at any time, an employer ceases to be a relevant employer
4 because the number of employees of the employer falls below 100,
5 this Act continues to apply to the employer as if the employer were
6 a relevant employer unless and until the number of employees falls
7 below 80.

8 **26 Subsection 3(5)**

9 Omit “trade union” (wherever occurring), substitute “employee
10 organisation”.

11 **27 Subsection 5(4)**

12 Repeal the subsection, substitute:

- 13 (4) By virtue of this subsection, this Act has the effect it would have to
14 the extent that this Act relates to the collection of statistics.

15 **28 Subsection 5(9)**

16 Repeal the subsection, substitute:

- 17 (9) By virtue of this subsection, this Act has the effect it would have to
18 the extent that this Act is appropriate to give effect to, or carry out
19 the purposes of:
- 20 (a) the Convention on the Elimination of all Forms of
21 Discrimination Against Women, done at New York on
22 18 December 1979 ([1983] ATS 9); or
 - 23 (b) the ILO Convention (No. 100) concerning Equal
24 Remuneration for Men and Women Workers for Work of
25 Equal Value, done at Geneva on 29 June 1951 ([1975] ATS
26 45); or
 - 27 (c) the ILO Convention (No. 111) concerning Discrimination in
28 respect of Employment and Occupation, done at Geneva on
29 25 June 1958 ([1974] ATS 12); or
 - 30 (d) the ILO Convention (No. 156) concerning Equal
31 Opportunities and Equal Treatment for Men and Women
32 Workers: Workers with Family Responsibilities, done at
33 Geneva on 23 June 1981 ([1991] ATS 7); or

1 (e) the International Covenant on Economic, Social and Cultural
2 Rights, done at New York on 16 December 1966 ([1976]
3 ATS 5); or

4 (f) the Convention on the Rights of the Child, done at New York
5 on 20 November 1989 ([1991] ATS 4).

6 Note 1: In 2012, the text of an international agreement in the Australian Treaty
7 Series was accessible through the Australian Treaties Library on the
8 AustLII website (www.austlii.edu.au).

9 Note 2: For paragraphs (b), (c) and (d): ILO refers to the International Labour
10 Organization.

11 **29 Part II**

12 Repeal the Part.

13 **30 Part III (heading)**

14 Repeal the heading, substitute:

15 **Part III—Workplace Gender Equality Agency**

16 **31 Section 8A (heading)**

17 Repeal the heading, substitute:

18 **8A Workplace Gender Equality Agency**

19 **32 Subsection 8A(1)**

20 Omit “Equal Opportunity for Women in the Workplace Agency”,
21 substitute “Workplace Gender Equality Agency”.

22 **33 Subsection 8A(2)**

23 Omit “Equal Opportunity for Women in the Workplace”, substitute
24 “Workplace Gender Equality”.

25 **34 Subsection 9(1)**

26 Omit “Equal Opportunity for Women in the Workplace”, substitute
27 “Workplace Gender Equality”.

28 **35 Paragraph 10(1)(a)**

29 Repeal the paragraph, substitute:

- 1 (a) to advise and assist employers in promoting and improving
2 gender equality in the workplace; and
3 (aa) to develop, in consultation with relevant employers and
4 employee organisations, benchmarks in relation to gender
5 equality indicators; and

6 **36 At the end of paragraph 10(1)(b)**

7 Add “and”.

8 **37 Paragraphs 10(1)(c) and (d)**

9 Repeal the paragraphs, substitute:

- 10 (c) to review compliance with this Act by relevant employers, to
11 review public reports lodged by relevant employers and to
12 deal with those reports in accordance with this Act; and
13 (d) to collect and analyse information provided by relevant
14 employers under this Act to assist the Agency to advise the
15 Minister in relation to legislative instruments made under this
16 Act; and

17 **38 Paragraph 10(1)(e)**

18 Omit “promoting equal opportunity for women in the workplace;”,
19 substitute “promoting and improving gender equality in the workplace;
20 and”.

21 **39 Paragraph 10(1)(f)**

22 Repeal the paragraph, substitute:

- 23 (ea) to work with employers to maximise the effectiveness of the
24 administration of this Act, including by minimising the
25 regulatory burden on employers; and
26 (f) to promote and contribute to understanding and acceptance,
27 and public discussion, of gender equality in the workplace;
28 and

29 **40 Paragraph 10(1)(h)**

30 Omit “equal opportunity for women in the workplace”, substitute
31 “gender equality in the workplace”.

32 **41 At the end of subsection 10(1)**

33 Add:

1 Note: Paragraph (d): see also section 33A.

2 **42 After subsection 12(2)**

3 Insert:

4 (2A) The Agency must, as soon as practicable after the end of:

5 (a) the 2-year period ending on 31 May 2016; and

6 (b) each later 2-year period;

7 submit to the Minister a report on the progress achieved in relation
8 to the gender equality indicators in that period.

9 **43 Subsection 12(3)**

10 Omit “subsection (1) or (2)”, substitute “this section”.

11 **44 Section 13**

12 Repeal the section, substitute:

13 **13 Relevant employers to prepare reports relating to gender**
14 **equality indicators**

15 (1) In respect of each reporting period, a relevant employer must
16 prepare a public report in writing containing information relating to
17 the employer and to the gender equality indicators.

18 *Matters that must be included in the report*

19 (2) The public report in respect of a reporting period must contain
20 details of the matters specified in an instrument under
21 subsection (3).

22 (3) For the purposes of subsection (2), the Minister must, by legislative
23 instrument, specify matters in relation to each gender equality
24 indicator.

25 Note: See also section 33A.

26 *Timing of instrument*

27 (4) An instrument under subsection (3) has no effect in relation to a
28 reporting period unless it is made before the first day of that
29 period.

1 *Reports to be signed*

- 2 (5) The public report must be signed by the chief executive officer
3 (however described) of the relevant employer.

4 **45 At the end of subsection 13A(1)**

5 Add:

6 Note: Sections 137.1 and 137.2 of the *Criminal Code* create offences for
7 providing false or misleading information or documents.

8 **46 Sections 13C and 14**

9 Repeal the sections, substitute:

10 **13C Personal information**

- 11 (1) At the time of lodging a public report under section 13A, a relevant
12 employer must, in writing (either in the report or otherwise),
13 inform the Agency of the information included in the report that is
14 personal information.
- 15 (2) Subject to subsection (3), that personal information:
16 (a) must not be published under section 15; and
17 (b) must not be used in a report of the Agency under section 12.
- 18 (3) Particular personal information may be so published or used if the
19 individual to whom the information relates consents in writing to
20 the publication or use.

21 **14 Information relating to remuneration**

- 22 (1) Subject to this section, any information relating to remuneration
23 that is included in a public report lodged by a relevant employer
24 under section 13A:
25 (a) must not be published under section 15; and
26 (b) must not be used in a report of the Agency under section 12.
- 27 (2) Information referred to in subsection (1) (except personal
28 information) may be so published or used if the relevant employer
29 has, by written notice given to the Agency, agreed to that
30 information being so published or used.

31 Note: Section 13C deals with personal information.

- 1 (3) Information referred to in subsection (1) may be so published or
2 used if the information is in an aggregated form that does not
3 disclose, either directly or indirectly, information about a specific
4 relevant employer or another specific person.

5 **14A Information of a kind specified by the Minister**

- 6 (1) Subject to this section, information of a kind specified in an
7 instrument under subsection (2):
8 (a) must not be published under section 15; and
9 (b) must not be used in a report of the Agency under section 12.

- 10 (2) The Minister may, by legislative instrument, specify kinds of
11 information for the purposes of subsection (1).

12 Note: See also section 33A.

- 13 (3) Information referred to in subsection (1) may be so published or
14 used if the information is in an aggregated form that does not
15 disclose, either directly or indirectly, information about a specific
16 relevant employer or another specific person.

17 **47 Section 15 (heading)**

18 Repeal the heading, substitute:

19 **15 Agency's use of public report**

20 **48 Section 15**

21 Omit "A", substitute "(1) Subject to sections 13C, 14 and 14A, a".

22 **49 Paragraph 15(a)**

23 Repeal the paragraph, substitute:

- 24 (a) may be published by the Agency by electronic or other
25 means; and

26 **50 Paragraph 15(b)**

27 Omit "subsection 12(1) or (2)", substitute "section 12".

28 **51 At the end of section 15**

29 Add:

- 1 (2) If:
2 (a) a relevant employer lodges a public report under section 13A
3 in respect of a reporting period; and
4 (b) the report is lodged within the time allowed by section 13B
5 or 17;
6 then, during the period of 28 days beginning on the day the report
7 is lodged, subsection (1) of this section does not apply in relation
8 to the report.

9 **52 Section 16**

10 Repeal the section, substitute:

11 **16 Relevant employer to make public reports accessible to**
12 **employees and shareholders etc.**

- 13 (1) A relevant employer must, as soon as reasonably practicable after
14 lodging a public report under section 13A, inform:
15 (a) the employees of the employer; and
16 (b) any shareholders or members of the employer;
17 that the employer has lodged the report and of the way in which the
18 report may be accessed (whether electronic or otherwise).
- 19 (2) The relevant employer must, as soon as reasonably practicable
20 after that lodgement, provide those employees and shareholders or
21 members with access (whether electronic or otherwise) to the
22 public report (excluding information to which subsection (3)
23 applies).
- 24 (3) This subsection applies to the following information:
25 (a) personal information;
26 (b) information relating to remuneration that the relevant
27 employer considers should not be subject to the requirement
28 in subsection (2);
29 (c) information of a kind specified in an instrument under
30 section 14A.
- 31 (4) Paragraph (3)(a) does not apply in relation to particular
32 information if the individual to whom the information relates
33 consents in writing to the information being subject to the
34 requirement in subsection (2).

1 **16A Relevant employer to inform employee organisations of**
2 **lodgement of public report**

3 A relevant employer must, within 7 days after lodging a public
4 report under section 13A, take all reasonable steps to inform each
5 employee organisation, that has members who are employees of
6 the employer, that the employer has lodged the report.

7 **16B Relevant employer to inform employees and employee**
8 **organisations of the opportunity to comment**

9 A relevant employer must, when informing employees under
10 section 16 or an employee organisation under section 16A, advise
11 the employees or employee organisation that comments on the
12 report may be given to the employer or to the Agency.

13 **53 Subsection 17(1)**

14 Omit “or a confidential report”.

15 **54 Sections 18 and 19**

16 Repeal the sections.

17 **55 After Part IV**

18 Insert:

19 **Part IVA—Reviewing compliance with this Act and**
20 **consequences of non-compliance**
21

22 **18 Simplified outline**

23 The following is a simplified outline of this Part:

- 24
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- | |
|---|
| <ul style="list-style-type: none">• The Minister will set minimum standards in relation to gender equality indicators, relevant employers and reporting periods.• The Agency may review a relevant employer’s compliance with this Act by seeking further information from the employer. The Agency may do this on a random basis. |
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- If a relevant employer fails to comply with this Act, the Agency may name the employer in a report given to the Minister or by electronic or other means (for example, on the Agency's website or in a newspaper).
- Examples of a failure to comply with this Act are a failure by a relevant employer to lodge a public report on time or to give the Agency information under section 19A.
- If the Agency proposes to name a relevant employer, the Agency must give the employer notice in writing of the proposal and the reasons for the proposal.
- Relevant employers failing to comply with this Act may not be eligible to compete for contracts under the Commonwealth procurement framework and may not be eligible for Commonwealth grants or other financial assistance.

15 **19 Minister will set minimum standards in relation to gender**
16 **equality indicators**

17 (1) Before 1 April 2014, the Minister will, by legislative instrument,
18 set minimum standards in relation to specified gender equality
19 indicators, specified relevant employers and specified reporting
20 periods.

21 Note 1: See also section 33A of this Act.

22 Note 2: For specification by class, see subsection 13(3) of the *Legislative*
23 *Instruments Act 2003*.

24 Note 3: An instrument under subsection (1) may make different provision with
25 respect to different relevant employers and different reporting periods:
26 see subsection 33(3A) of the *Acts Interpretation Act 1901*.

27 (2) An instrument under subsection (1) has no effect in relation to a
28 reporting period unless it is made before the first day of that
29 reporting period.

30 **19A Agency may review compliance with Act**

31 (1) The Agency may, by written notice, require a relevant employer to
32 give the Agency information:

- 1 (a) that relates to the employer's compliance with this Act or to
2 the employer's performance against the minimum standards;
3 and
4 (b) that is specified in the notice.
- 5 (2) The notice must specify the period within which, and the manner in
6 which, the information must be given.
- 7 (3) A period specified in a notice under subsection (1) must be at least
8 14 days after the notice is given.
- 9 Note: Sections 137.1 and 137.2 of the *Criminal Code* create offences for
10 providing false or misleading information or documents.

11 **19B Relevant employer fails to comply with Act if employer gives**
12 **false or misleading information**

13 For the purposes of section 19D, a relevant employer is taken to
14 fail to comply with this Act if:

- 15 (a) the employer lodges a public report under section 13A and
16 any information included in the report is false or misleading;
17 or
18 (b) the employer gives the Agency information under
19 section 19A and the information is false or misleading.

20 Note: If the employer does not have a reasonable excuse for the failure, the
21 Agency may name the employer in a report given to the Minister or by
22 electronic or other means: see section 19D.

23 **19C Relevant employer fails to comply with Act if employer fails to**
24 **improve against minimum standard**

25 If:

- 26 (a) a relevant employer lodges a public report under section 13A
27 in respect of a reporting period (the *base period*); and
28 (b) in a case where a minimum standard (the *base standard*)
29 applies in relation to the employer and the base period—at
30 the end of the base period, the employer fails to meet that
31 standard; and
32 (c) the employer lodges a public report under section 13A in
33 respect of the second reporting period (the *comparison*
34 *period*) after the base period; and

1 (d) at the end of the comparison period, the employer's
2 performance against the base standard has failed to improve
3 from the employer's performance against that standard at the
4 end of the base period;

5 then the failure referred to in paragraph (d) is taken, for the
6 purposes of section 19D, to be a failure to comply with this Act.

7 Note: If the employer does not have a reasonable excuse for the failure
8 referred to in paragraph (d) of this section, the Agency may name the
9 employer in a report given to the Minister or by electronic or other
10 means: see section 19D.

11 **19D Consequences of non-compliance with Act**

12 (1) This section applies if a relevant employer, without reasonable
13 excuse, fails to comply with this Act.

14 Note: Examples of a failure to comply with this Act are:
15 (a) a relevant employer fails to lodge a public report on time (see
16 sections 13A, 13B and 17); and
17 (b) a relevant employer fails to inform employees, shareholders or
18 members of the employer that a public report has been lodged
19 (see section 16); and
20 (c) a relevant employer fails to inform employees and relevant
21 employee organisations as required by sections 16A and 16B;
22 and
23 (d) a relevant employer fails to give the Agency information under
24 section 19A.

25 *Naming employer in Agency report*

26 (2) The Agency may, in a report under subsection 12(1) or (2), name
27 the employer as having failed to comply with this Act and set out
28 details of the non-compliance.

29 *Naming employer in other ways*

30 (3) The Agency may, by electronic or other means, name the employer
31 as having failed to comply with this Act and set out details of the
32 non-compliance.

33 Note: For example, the Agency may do this on the Agency's website or in a
34 newspaper.

35 *Prior notice to employer*

36 (4) If the Agency proposes to:

- 1 (a) name an employer in a report under subsection 12(1) or (2);
2 or
3 (b) name an employer under subsection (3) of this section;
4 the Agency must:
5 (c) give the employer notice in writing of the proposal and the
6 reasons for the proposal; and
7 (d) invite the employer to make written representations to the
8 Agency about the proposal within the period of 28 days
9 beginning on the day the notice is given; and
10 (e) have regard to any written representations made by the
11 employer within that period.

- 12 (5) If:
13 (a) a relevant employer lodges a public report under section 13A
14 in respect of a reporting period; and
15 (b) the report is lodged within the time allowed by section 13B
16 or 17;
17 then, during the period of 28 days beginning on the day the report
18 is lodged, the Agency must not give the employer a notice under
19 subsection (4) of this section in relation to the lodgement of that
20 report.

21 **19E Agency to offer relevant employers advice and assistance if**
22 **employers fail to meet minimum standards**

- 23 If:
24 (a) a relevant employer lodges a public report under section 13A
25 in respect of a reporting period; and
26 (b) in a case where a minimum standard applies in relation to the
27 employer and that reporting period—the Agency becomes
28 aware that, at the end of that reporting period, the employer
29 fails to meet that standard;
30 the Agency must offer to provide the employer with advice and
31 assistance in relation to improving the employer’s performance
32 against that standard.

33 **56 Part V (heading)**

34 Repeal the heading, substitute:

1 **Part V—Director of Workplace Gender Equality**

2 **57 Subsection 31(1)**

3 Omit “workplace programs” substitute “gender equality in the
4 workplace.

5 **58 At the end of paragraph 31(3)(a)**

6 Add “or”.

7 **59 Paragraph 31(3)(b)**

8 Omit “trade unions;”, substitute “employee organisations; or”.

9 **60 At the end of paragraph 31(3)(c)**

10 Add “or”.

11 **61 Paragraph 31(3)(d)**

12 Repeal the paragraph.

13 **62 Paragraph 31(3)(e)**

14 Omit “workplace programs” substitute “gender equality in the
15 workplace.

16 **63 Paragraph 32(1)(a)**

17 Omit “information relating to a confidential report or”.

18 **64 Paragraph 32(1)(b)**

19 Omit “such report or”.

20 **65 Paragraph 32(1)(c)**

21 Omit “a confidential report or”.

22 **66 Subsection 32(1A)**

23 Repeal the subsection, substitute:

24 (1A) Subsection (1) does not apply to a person’s conduct if the person
25 is:

26 (a) performing a duty or function, or exercising a power, under,
27 or in connection with, this Act; or

1 (b) performing a function, or exercising a power, under an
2 arrangement in force under section 33.

3 Note: A defendant bears an evidential burden in relation to the matters in
4 subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

5 **67 Paragraph 32(2)(a)**

6 Omit “information relating to a confidential report or”.

7 **68 Paragraph 32(2)(b)**

8 Omit “a confidential report or”.

9 **69 Subsection 32(2)**

10 Omit “to the extent that the report or information was the subject of a
11 consent under subsection 16(2) or”.

12 **70 Subsection 33(5)**

13 Repeal the subsection.

14 **71 After section 33**

15 Insert:

16 **33A Minister to consult before making legislative instruments**

17 (1) Before making a legislative instrument under this Act, the Minister
18 must consult the Agency and have regard to any recommendations
19 of the Agency.

20 (2) The Minister must also consult such persons mentioned in
21 subsection 31(3) as the Minister considers appropriate.

22 Note: For consultation requirements generally, see Part 3 of the *Legislative*
23 *Instruments Act 2003*.

24 **72 Transitional—change of name of Agency and Director**

25 For the purposes of section 25B of the *Acts Interpretation Act 1901*:

26 (a) the amendment made by item 32 is taken to be an amendment
27 altering the name of the Equal Opportunity for Women in the
28 Workplace Agency; and

29 (b) the amendment made by item 34 is taken to be an amendment
30 altering the name of the office of Director of Equal
31 Opportunity for Women in the Workplace.

1 **73 Application, saving and transitional—reports and**
2 **compliance**

3 (1) Subject to subitem (2), the amendments made by this Part, to the extent
4 to which they relate to:

5 (a) the preparation and lodgement of public reports by relevant
6 employers; and

7 (b) compliance with the *Workplace Gender Equality Act 2012* by
8 relevant employers;

9 apply in respect of the reporting period commencing on 1 April 2013
10 and all later reporting periods.

11 (2) Sections 16, 16A, 16B, 19A, 19B and 19D of the *Workplace Gender*
12 *Equality Act 2012*, as inserted by this Part, also apply in relation to the
13 reporting period commencing on 1 April 2012. However, subsections
14 16(3) and (4) of that Act do not apply in relation to that period.

15 (3) Subject to subitems (4) and (5), despite the amendments and repeals
16 made by this Part, the *Equal Opportunity for Women in the Workplace*
17 *Act 1999*, as in force immediately before the commencement of this
18 item, to the extent to which it relates to:

19 (a) the preparation and lodgement of reports by relevant
20 employers; and

21 (b) compliance with that Act by relevant employers;

22 continues to apply on and after that commencement in relation to the
23 reporting period commencing on 1 April 2012 and all earlier reporting
24 periods. For this purpose, a reference in a provision of that Act to the
25 Agency is taken to be a reference to the Workplace Gender Equality
26 Agency.

27 (4) Sections 13, 14 and 16 of the *Equal Opportunity for Women in the*
28 *Workplace Act 1999*, as in force immediately before the commencement
29 of this item, do not apply in relation to the reporting period
30 commencing on 1 April 2012. Instead, Part IV of that Act is taken to
31 require a relevant employer to prepare, in respect of that reporting
32 period, a public report in writing that sets out the employer's workplace
33 profile.

34 (5) Sections 18 and 19 of the *Equal Opportunity for Women in the*
35 *Workplace Act 1999*, as in force immediately before the commencement
36 of this item, do not apply in relation to the reporting period
37 commencing on 1 April 2012.

1

2 **Part 2—Other amendments**

3 ***Equal Employment Opportunity (Commonwealth***
4 ***Authorities) Act 1987***

5 **74 Subsection 3(1) (definition of *authority*)**

6 Omit “*Equal Opportunity for Women in the Workplace Act 1999*”,
7 substitute “*Workplace Gender Equality Act 2012*”.

8 ***Equal Opportunity for Women in the Workplace Act 1999***

9 **75 Subsection 3(1) (paragraph (a) of the definition of**
10 ***authority*)**

11 Omit “higher education institution”, substitute “registered higher
12 education provider”.

13 **76 Subsection 3(1) (definition of *higher education institution*)**

14 Repeal the definition.

15 **77 Subsection 3(1)**

16 Insert:

17 ***registered higher education provider*** means a person or body that
18 is a registered higher education provider for the purposes of the
19 *Tertiary Education Quality and Standards Agency Act 2011*.

20 Note: This definition includes bodies taken to be registered higher education
21 providers for the purposes of that Act by Schedule 3 to the *Tertiary*
22 *Education Quality and Standards Agency (Consequential Amendments*
23 *and Transitional Provisions) Act 2011*.

24 **78 Subsection 3(1) (paragraph (a) of the definition of *relevant***
25 ***employer*)**

26 Omit “higher education institution”, substitute “registered higher
27 education provider”.

28 **79 Paragraph 31(3)(c)**

Schedule 1 Amendments
Part 2 Other amendments

- 1 Omit “higher education institutions”, substitute “registered higher
2 education providers”.