

Submission to the Senate Education, Employment and the Workplace Relations Legislation Committee Inquiry into the Equal Opportunity for Women in the Workplace Amendment Bill

22 March 2012

The Equality Rights Alliance

ERA is Australia's largest network advocating for women's equality, women's leadership and recognition of women's diversity. We bring together 56 organisations with an interest in advancing women's equality. ERA is led by the YWCA Australia and is one of six National Women's Alliances funded by the Australian government's Office for Women.

The following submission was endorsed by a range of leading women's organisations and women's equality specialists.

Overview of our submission

We strongly support the overall scheme of the new Gender Equality Act set out in the Equal Opportunity for Women in the Workplace Amendment Bill (the bill). We congratulate the Government and the Minister on this legislation.

We believe that the focus on clear indicators and benchmarks, and the introduction of minimum standards, have the capacity to drive modest progress in workplace gender equality over time. In addition to the intrinsic value of increasing workforce gender equality, we believe that these measures will foster increased workforce participation by both women and men, and that this in turn will progressively increase our overall national productivity.

While we are broadly supportive of the model set out in the bill, we would like to raise some issues that we believe are only minor and should not change the proposed timetable of implementation. We want to see this legislation introduced as soon as possible and the proposed timetable implemented as is.

Recommendation

We commend the bill to the Committee together with the proposed implementation timetable, including the introduction of first round minimum standards, with the following minor change:

- that the bill be amended to specify that Gender Equality Indicators will build on a baseline of data items embodied in the existing workplace profile that already underpins most employer reports.

Issues

We welcome the proposed amendments to the name of the Act and Agency, and to its proposed role and functions.

We strongly endorse the new provisions intended to enhance the transparency of reporting. These are critical to cultural change: they will encourage employers to take reporting seriously and employees to understand and access workplace provisions to support gender equality. They may also help to put gender equality into agreements.

- ***Non-reporting organisations***

While some compliance mechanisms have been strengthened by the bill, we would like to see a mechanism in place to strengthen the Gender Equality Agency's capacity to draw non-reporters into reporting arrangements, given that approximately 30 – 35 per cent of large organisations do not at present report. We accept that such a mechanism, which is conditionally foreshadowed by the bill at item 55, may not be best placed in the bill itself, and that AusTender's centralised publication of Australian Government business opportunities and contracts may offer a suitable alternative mechanism. However, it is important that the matter continues to be pursued following the passage of the bill, or the full benefits of the new legislation will not be realised.

- ***Gender Equality Indicators***

We welcome the simplified reporting process and the use of Gender Equality Indicators (GEIs). We note that these indicators will constitute an important national dataset of developments in gender equality, and that since organizations will no longer be able to be waived from reporting, they will include better performing organizations. We also note that the GEI dataset will underpin benchmarking and minimum standards, which will in turn underpin much of the ongoing education, advisory and promotional work of the Agency. The dataset will further enable employers to benchmark their own achievements and their progress over time. Importantly, it will also underpin the two-yearly report to the Minister on the progress achieved in relation to the gender equality indicators.

If the proposed dataset is to serve all these critical purposes, it must remain not only 'rigorous and standardised' but also stable over time. Changes to ensure data items are both 'rigorous and standardised' may be required, and new 'employment matters' may be added, but the continuity of the underpinning dataset is critical to the whole scheme of the bill. The Explanatory Memorandum issued with the bill makes the same point, indicating (page 13) that "in setting matters under the gender equality indicators, the intention is to establish a long term data set to provide evidence-based insight at the workplace, occupational and industry level."

For this reason we have some reservations about the current mechanism which opens the dataset to amendment annually by legislative instrument. We acknowledge that, before making these instruments, the Minister of the day must consult with the Agency and have regard to its recommendations, and those of other relevant persons (including persons representing industry or business, employee organisations, higher education institutions and persons having special knowledge or interest in relation to gender equality in the workplace). As an organization having a special knowledge or interest in relation to gender equality in the workplace, we would seek involvement in consultation about any proposed changes to GEIs, and will look carefully at any instruments that are tabled.

At the same time, and in the interests of establishing "a long term data set to provide evidence-based insight at the workplace, occupational and industry level," we recommend that the bill be amended to

specify that GEIs will build on the baseline of data items established by the workplace profile that currently underpins most employer reports. This recommendation effectively strengthens the force of the Government's intention, set out in the explanatory memorandum, that the GEIs provided for in paragraph 13(a) should "build... upon the previous requirement that relevant employers provide a 'workplace profile' comprising numerical data concerning employment status and occupational characteristics, by gender."

- ***First Round Minimum Standards***

We strongly endorse the introduction of minimum standards into the compliance framework. These are crucial to a model that envisages actual progress towards gender equality in the Australian workforce. We are also strongly supportive of the current requirement in new subsection 19(1) that, before 1 April 2014, the Minister will, by legislative instrument, set minimum standards in relation to specified gender equality indicators, specified relevant employers and specified reporting periods.

We recognise that this timetable limits the Minister's capacity to draw on the GEI dataset for the purposes of identifying the first round of minimum standards. However, in our view if minimum standards can be set satisfactorily, the sooner they are set the better, and we believe that they can be satisfactorily set on the basis of existing data.

As the explanatory memorandum for the bill makes clear, minimum standards can be either 'quantitative outcomes or evidence of actions taken aimed at improving quantitative outcomes over time.' For first round minimum standards, 'evidence of actions taken' would offer a simple, effective and readily measured basis for judgement. These could include practices relating, for example, to gender equality indicators (d) and (f)—that is, practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities, or to 'other matters' such as sex-based harassment policies or training.

As the explanatory memorandum notes at page 28, minimum standards can draw on a range of evidence. Sufficient material is available about the practices underpinning gender equality to enable first round minimum standards (at the least) to be set (see References). The current EOWW Agency's industry verticals and survey data also provide useful information on the incidence of a range of 'actions taken' by employers to improve gender equality.

In later years it would be possible to start developing industry-specific standards that are responsive to outcome metrics established through reporting.

References

Workplace Research Centre

- Review of work-family reconciliation in Australia today
- Working Time

<http://sydney.edu.au/business/workplaceresearch/research>

Fair Work Australia

Work, Life and Flexibility: A Qualitative Study of Requests for Flexibility, being conducted by the Centre for Work + Life, University of South Australia

<http://www.fwa.gov.au/index.cfm?pagename=adminmgmreporting>

Centre for Work + Life, University of South Australia

A number of relevant reports

<http://www.unisa.edu.au/hawkeinstitute/cwl/publications.asp#reports>

Sara Charlesworth

<http://www.unisa.edu.au/hawkeinstitute/cwl/projects/gender-projects.asp>