



Australian Government

Department of Families,
Housing, Community Services
and Indigenous Affairs

THE NEW *WORKPLACE GENDER EQUALITY ACT 2012*

FREQUENTLY ASKED QUESTIONS

What is the Workplace Gender Equality Act?

Non-public sector organisations with 100 or more employees were first required to report on a seven step program to address equal opportunity for women under the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986*. In 1998 the Affirmative Action Act was reviewed and amended to the Equal Opportunity for Women in the Workplace Act, as a first step in moving away from a focus on process to a focus on actions. The Act was again reviewed in 2009–2010, and the *Workplace Gender Equality Act 2012* is the next progression to now more firmly focus on genuine gender equality outcomes.

Why is there a new Act ?

It has been well over a decade since the *Equal Opportunity for Women in the Workplace Act 1999* was reviewed, and the economic, social and legislative landscape has changed significantly since that time. A review of the Act found that improving gender equality was an essential component of maintaining the productivity and competitiveness of individual businesses, as well as the Australian economy more broadly. The review recommended that the Act be updated and modernised to be more fully effective in supporting and driving change in Australian workplaces.

What are the key changes introduced by the Workplace Gender Equality Act?

The amended legislation is aimed firmly at driving meaningful change in a way that is not burdensome on employers. Key changes include:

- A new focus on gender equality for women and men.
- Reporting has been made simpler and more transparent, and will be against a standard set of gender equality indicators.
- The requirement for a workplace program has been removed.
- Assistance to employers has been enhanced, including through the development of benchmarks.
- Compliance has been made fairer and more effective, including through the introduction of minimum standards.

When will the new framework come into effect?

As soon as the Act receives Royal Assent, the Equal Opportunity for Women in the Workplace agency will be re-named the Workplace Gender Equality Agency, and its new functions will come into effect. In terms of the reporting impact on employers, however, there will be ample time for adjustment to the new system. In 2013 employers will report only on their workplace profiles. Full reporting on the new system will occur in 2014, and minimum standards will come into effect the year after that (2015). The Government and the Agency will continue to work closely with employers, industry and employee representatives and other key stakeholders to ensure a smooth transition.

Will more organisations now be covered by the Act?

The reporting requirements of the Act will continue to apply to all non-public sector employers with 100 or more employees. It is estimated that currently about one third of employers who should be reporting are not fulfilling their obligations, and the Agency will now have more resources to ensure fairness in reporting, and that all employers who should be reporting have been identified. Although smaller employers do not need to report, it is now an explicit function of the Agency to provide education and advice to all employers – large and small.

How will reporting be simpler?

One of the primary aims of the reforms has been to simplify and streamline the processes around reporting, aimed squarely at making reporting more useful and more likely to achieve measurable progress. Businesses should find that once the new, simplified reporting processes are in place that the reporting requirements are less onerous than is currently the case. There has been a big investment made in the Agency's IT capacity so reporting can be done on-line. The requirement for organisations to develop prescriptive equal opportunity for women in the workplace programs will be removed. Instead, reporting will be against key gender equality indicators.

What are the gender equality indicators?

The gender equality indicators are specified in the legislation as:

- a) Gender composition of the workforce;
- b) Gender composition of governing bodies of relevant employers;
- c) Equal remuneration between women and men;
- d) 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;
- e) Consultation with employees on issues concerning gender equality in the workplace;
- f) Any other matters specified in an instrument.

The gender equality indicators form the framework for future reporting, from 2014. The Government will consult further with businesses, industry and employee organisations and other key stakeholders to develop the precise reporting matters which will fall under each gender equality indicator.

How will assistance to employers be enhanced?

The Government has almost doubled the Agency's funding to enhance its role in supporting and advising industry and business. Using the new standardised data set collected under the new reporting framework, the Agency will develop industry-level benchmarks and industry-specific strategies. The Agency will provide advice, resources and referrals, and targeted assistance, particularly to low performing organisations.

What are benchmarks?

Benchmarks are data-based information aimed at helping and supporting businesses to know how they compare to their peers. The Agency, in consultation with employer and employee organisations and other stakeholders, will use the data obtained through reports to develop benchmarks based on aggregated data. These benchmarks will be promoted among relevant employers to enable them to see where they need to focus attention to be more competitive with businesses in their industries. Benchmarks are not part of the compliance framework, and are very firmly part of the Agency's educative and assistance function.

What do businesses need to do to comply with the new Act?

Once all aspects of the Act come into effect, in order to comply with the Act, businesses will need to submit an accurate report with specific gender equality data; get CEO sign-off on the report; notify employees and relevant employee organisations that a report has been lodged and that comments can be made; provide access to a copy of the report to employees and shareholders; and, if they fail to meet a minimum standard, they need to be able to demonstrate that they have made efforts to improve their performance within a two year period.

What are minimum standards?

Minimum standards are intended as an evidence-based way to identify, and to focus intensive assistance on, a small but targeted number of employers who need it the most. Minimum standards will not come into effect until reporting in 2015, and will be developed in close consultation with employer and employee organisations and other stakeholders. Employers who fail to meet a minimum standard will need to take reasonable steps to improve their performance over the following two year period.

What are the penalties for failing to comply with the Act?

As is currently the case, organisations who do not comply with the Act may be named in Parliament. Also, the current policy precluding the Government from doing business with non-compliant organisation will continue, but has been referenced in the legislation and will be made more effective and applied more consistently.

How do I find out more information?

More information can be found at the Workplace Gender Equality Act Fact Sheet [insert hyperlink] and the Workplace Gender Equality Agency [insert hyperlink].

The Agency will also be contacting reporting organisations directly and regularly throughout the implementation period.