

The Australian Centre for Leadership for Women
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EQUAL OPPORTUNITY FOR WOMEN IN THE WORKPLACE AMENDMENT BILL 2012

Australian Centre for Leadership for Women – Dr Diann Rodgers-Healey

Thank you for the opportunity to comment on the Equal Opportunity for Women in the Workplace Amendment Bill 2012.

I commend the commitment of the government to promote and improve gender equality in the workplace, with specific recognition of equal remuneration and family and caring responsibilities as issues central to the achievement of gender equality. I also commend the government in doing this by retaining and improving the *Equal Opportunity for Women in the Workplace Act 1999*.

It is good to see that the Bill aims to amend the name of the Act to the *Workplace Gender Equality Act 2012*, to emphasise the focus of the Act on gender equality, thereby improving outcomes for both women and men in the workplace. It is also good to see the change in name of the Equal Opportunity for Women in the Workplace Agency to the Workplace Gender Equality Agency, and the title of the Director of the Agency to the Director of Workplace Gender Equality, to reflect the new focus of the Act.

In the spirit to strengthen this initiative and the Amendment Bill, I offer this commentary as the Executive Director of the Australian Centre for Leadership for Women, a virtual Centre established in 2000 with a free national membership. I am also commenting from the perspective of an academic who researches gender equality in the workplace and in the community.

Specific Issues of Concern

1. Time Lag for Enforcement

I note that the Minister will set minimum standards in relation to gender equality indicators, relevant employers and reporting periods and that this will be phased in over the next two years to fully commence on 1 April 2014. It would be encouraging to see the ACT enforced in its fullest capacity sooner rather than later, that is to fully commence from April 2013 to counter the sluggish pace of gender equality in Australia. Compared with New Zealand, UK, Canada, US and South Africa, Australia has the lowest percentage of women on boards and in Executive Key Management Personnel (EOWA, 2010ⁱ). There is increasing global evidence (Council of Women Business Leaders, 2010ⁱⁱ) to show that there is a strong business case for women in leadership positions.

2. Ineffectiveness of Voluntary Compliance

It is clear that voluntary compliance within reporting mechanisms has not worked in Australia. The Workplace Gender Equality Agency needs to have the authority to demonstrate strong leadership in its regulatory role so that key stakeholders have to achieve the benchmarks for gender equality. This is an opportune time for this orientation to be included in the framing of this Bill. In the 2011 Global Gender Indexⁱⁱⁱ of the World Economic Forum, Australia ranked 18th in Economic Participation and Opportunity and 76th in wage equality for similar work. Setting quotas for the representation of women in business or the

compulsory appointment of women to 50% of roles at each level within an organisation can be achieved with the right policies and it needs to start sooner rather than later in Australia.

"Gender gaps close when countries recognize the economic and social imperatives. With the right policies, change can happen very quickly," Laura Tyson, S.K. and Angela Chan Professor of Global Management, Haas School of Business, University of California, Berkeley, USA^{iv}.

3. Lack of protection for employees voicing concerns

I note that from April 2012, a relevant employer must inform employees and employee organisations of the opportunity to comment on the report (section 16B). Although this transparency is good for the organisation and the employees, it would only be effective for those organisations already genuinely aligned to gender equality efforts. There are no protection mechanisms in place for employees who wish to voice their concerns against workplaces which either fail to meet gender equality indicators or which erroneously reflect their initiatives. The Bill needs to ensure that there are no repercussions for employees who wish to lodge a complaint to the Agency or within their organisation.

4. Emphasising collaboration not just as an indicator, but a process for change

The emphasis of the Bill is on informing employees of the report and an opportunity to comment on it. It would be more effective if this emphasis also included that should there be disagreement between employees and the organisation, that the two parties work in a collaborative framework to develop and monitor ongoing initiatives for gender equality. This could be part of the reporting mechanism through documenting a time line of internal stakeholder feedback for the report and any ensuing collaboration. As such, the Bill would set in motion a joint management approach within the organisation to use the reporting as a starting point for discussion and development of stronger gender equality outcomes. This removes the notion of a penalty and puts in place accountabilities for real change and collaboration within the watchful, but supportive eye of the Workplace Gender Equality Agency. Whilst collaboration is noted as a gender equality indicator, positioning it also within this context will present it as a positive strategic action to follow after problems have been uncovered.

5. Expanding the coverage of organisations

I note that only relevant employers (including higher education institutions that are employers and non-public sector organisations with 100 or more employees) are subject to the reporting requirements in the Bill. There is no justification given for why this Bill will continue to apply to organisations with 100 or more employees and not to organisations with employees fewer than 100. Given that in the 2007–08 reporting period, there were 1.2 million female employees covered by reports to EOWA and there was a total of 4,930,100 women^v employed in the Australian workforce in July 2009, it is clear that predominantly Australian women are employed by organisations who did not need to comply to reporting obligations. This situation is likely to be reflected in future trends diminishing the effectiveness of this Bill in terms of reach and scope.

6. Setting the tone for minimum gender standards

I note that from the reporting period commencing on 1 April 2013, a relevant employer must lodge a public report relating to the following gender equality indicators:

- (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 under subsection (1A).

These indicators reflect the changes to the coverage of the Act to include men, as well as women, and circumstances in relation to gender equality in Australian workplaces. It is also good to see that reporting against these indicators will enable the aggregation of data across and within industries and sectors. However, it is not clear how the minimum standards for each indicator will be determined in that will it be specific to the industry? Moreover, if the standards are to be quantitative, it would seem from the comment below that there is room for waiving criteria to apply, thus diluting the force of this Bill:

“Minimum standards represent the standard expected with respect to the achievement of a particular objective under a gender equality indicator, in terms of quantitative outcomes or evidence of actions taken aimed at improving quantitative outcomes over time” (Explanatory Memorandum, p.28)

Conclusion

On the whole, I commend the government for its legislative effort to promote and improve gender equality in the workplace and in recognising that equal remuneration, family and caring responsibilities are central to the achievement of gender equality. Whilst this Bill will effect much needed change, it would be good to see it implemented in its fullest capacity by April 2013 and with strong standards for equal representation of women in every organisational level and in all organisations, regardless of numbers of employees. This can be achieved with the right policy. It will enable Australia to be a leader in the Asia Pacific in gender equality. More importantly, it will demonstrate that Australia values women and men equally, their professional and personal roles, and their contribution to this great nation.

About the Australian Centre for Leadership for Women

Vision

Working in partnership to support leaders and emerging leaders.

Mission

- To assist women to establish their areas of expertise, their own style of leadership, and their knowledge of leadership theory and practice
- To explore approaches to overcome gender bias that impacts on women and their leadership
- To provide ongoing debate about women's leadership issues
- To lobby relevant public and private organisations to create pathways for women's leadership in an organisational and community context
- To research relevant issues and strategies to resolve systemic barriers against women

Membership and Affiliation with national Women's Organisations

The Australian Centre for Leadership for Women (CLW) is a community partner with the White Ribbon Foundation in Australia and supports the White Ribbon Campaign.

The Australian Centre for Leadership for Women (CLW) is a Member of the following National Women's Secretariat enabling CLW to have a national voice on women's affairs both independently and through its membership of Equality Rights Alliance (ERA). Equality Rights Alliance (formerly known as WomenSpeak) is Australia's largest network advocating for women's equality, women's leadership and recognition of women's diversity. We bring together over 50 organisations with an interest in advancing women's equality.

The Australian Centre for Leadership for Women (CLW) is also affiliated with the Australian Women's Coalition (AWC). Formed in 2002 and incorporated in 2004, AWC is today a coalition of eighteen national women's organisations with equal voting and participation rights. The AWC's mission is to work collaboratively to advance the status of women by: increasing communication within the women's sector; clearly identifying the needs of women represented by the partners of the coalition; initiating policies, programs and partnerships to address these needs; and advocating on women's issues to government and the community.

ⁱ Equal Opportunity for Women in the Workplace Agency (EOWA). 2010. *Australian Census of women in leadership 2010*. At http://www.eowa.gov.au/Australian_Women_In_Leadership_Census/2010_Australian_Women_In_Leadership_Census/Media_kit/2010_census.pdf

ⁱⁱ Council of Women World Leaders. 2010. *The Business Case for Women: Quantifying the Economic Value of Diversity – A Research Guide*. <http://www.cwwl.org/media/BusinessCaseforWomen.pdf>

ⁱⁱⁱ Hausmann, R., Tyson, L.D., & Zahidi, S. 2011. *Global Gender Gap Report*. World Economic Forum. <http://reports.weforum.org/global-gender-gap-2011/#=>

^{iv} Hausmann, R., Tyson, L.D., & Zahidi, S. 2011. *Global Gender Gap Report*. World Economic Forum.
<http://reports.weforum.org/global-gender-gap-2011/#=>

^v ABS (2009) Labour Force, Australia, cat. 6202.0, Table 03, Labour force status by Sex cited by
FACHSIA, 2009. Review of the *Equal Opportunity for Women in the Workplace Act 1999* Issues Paper
[http://www.fahcsia.gov.au/sa/women/pubs/general/equal_opp_review/Documents/eoww_review.p
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