

## **Due date for diversity fast approaching**

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Organisations with 100 or more employees are required to develop a workplace program aimed at eliminating discrimination and contributing to equal employment opportunity for women in the workplace. Each organisation is required to submit a report on their workplace program annually to the Equal Opportunity for Women in the Workplace Agency (**EOWA**).

The annual report for the 1 April 2010 to 31 March 2011 reporting period must be submitted to the EOWA by **Tuesday, 31 May 2011**.

In preparing the 2010/11 report for your organisation, you should consider measures which your organisation can take over the next 12 months to improve gender diversity. Organisations will need to start preparing to ensure they are ready for the new challenges which lie ahead under the proposed reform of the EOWA.

If you are unsure whether your organisation is required to submit a report to the EOWA or otherwise require any assistance in preparing your current report or in planning for the upcoming new reporting regime, please do not hesitate to contact us. Our Workplace Relations team is experienced in discrimination and diversity law.

### **What will change?**

A number of changes to the EOWA regime were announced by Kate Ellis, the Minister for the Status of Women, following the centenary of International Women's Day on 8 March 2011. The EOWA will be renamed the Workplace Gender Equality Agency (**Agency**) and the legislation will be renamed the *Workplace Gender Equality Act (Act)* to reflect the fact that gender equality is not limited to women. The new Act is designed to expand gender equity provisions to encompass both men and women in the workplace through pay equity and a focus on the family and caring responsibilities of both men and women.

A number of key changes are likely to include:

- a requirement for organisations to report on the actual figures of gender composition of their Boards and within their organisations; employment conditions; and whether flexible work practices are available for both men and women
- removing the need for organisations to develop workplace programs and instead requiring organisations to annually report against tangible outcomes
- the ability for the Agency to perform regular spot checks to ensure the accuracy of information in reports
- a requirement that both the CEO and an employee representative from the organisation sign off on the accuracy of reports
- making the report accessible to employees and shareholders
- removing the power of the Director of the Agency to exempt organisations from reporting.

The reformed Agency will be led by Helen Conway and will receive almost double the current amount of Government funding in order to implement these changes.

## **Why is this happening?**

The changes were announced following a review of the EOWA which was done in consultation with business, unions, academics and women's organisations. The consultation process highlighted key issues still affecting Australian women in the workforce today.

For example, despite the increased participation rates of women over time, pay equity continues to remain an issue. Research has shown that the prospective earnings of a 25 year old man are likely to exceed those of a 25 year old woman by almost \$1 million over their career lifetime. These calculations were made **after** accounting for the incidence of children and the impact of reduced working hours. The differences are therefore based on gender and employers' perceptions of capability.

Pay equity is one of the primary objects of the Act and organisations with 100 or more employees will be required to report against this performance indicator. These measures will complement the pay equity provisions contained in the *Fair Work Act 2009* (Cth). The reforms are also intended to address the promotion of women at all stages of their careers and foster their career enhancement.

## **What will happen to non-compliant organisations?**

In addition to the current 'naming and shaming' of non-compliant organisations in parliament and prohibitions on tendering for Government work, non-compliant organisations will **not** be eligible to receive Government-funded grants or assistance from industry programs. This is a significant development for businesses reliant on government grants and gives the previously 'toothless tiger' some bite.

Under the new system, investigative powers will allow the Agency to conduct organisational reviews and regular spot checks of organisations will also occur to ensure that information contained in reports is accurate and representative of what is actually happening in practice.

## **When are the changes happening?**

The Act is expected to be introduced to Parliament this year with the first reports under the new system due to start in 2013. The Act will also contain transitional provisions which will phase in employer obligations.

## **Can we help?**

**Gadens Lawyers** has specialist expertise in workplace relations and is experienced in assisting employers to develop a strategy to meet their obligations to EOWA.

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