



## **Significant changes recommended to IR laws to close gender pay gap**

### **AMMA seeks member views on recommendations for changes to IR and anti-discrimination laws aimed at closing the gender pay gap, which could lead to increased auditing of employers and beefed up reporting obligations**

The House of Representatives *Standing Committee on Employment & Workplace Relations* is proposing significant changes to Australia's industrial relations system and gender equality legislation and mechanisms which could have significant consequences for employers in the resources industry.

The committee's [report](#), *Making it fair – Pay equity and associated issues related to increasing female participation in the workforce*, proposes amendments to the Fair Work Act, greater powers for the Sex Discrimination Commissioner to act on wage discrimination, and the establishment of a specialist Pay Equity Unit within Fair Work Australia (FWA) with substantial monitoring and auditing powers.

The Standing Committee has specifically recommended introducing a duty on organisations to implement equal pay, and an obligation for organisations to report regularly and openly on the gender pay gap.

Of particular significance is the change to the definition of equal remuneration under the Fair Work Act to the right to equal pay for work of not only 'equal' but 'comparable' value.

Committee chair and Western Australian ALP member Sharryn Jackson said Australia's gender pay gap was currently 17%, and as high as 31.9% in the finance and insurance industry and 35.7% in Western Australia.

According to the Report, a gender pay gap was experienced in all industries and by working women at all skill levels. There was even some evidence of professional women being paid less than their male counterparts for the same work at the same firm, it said.

Education campaigns promoting community and business awareness of pay equity without imposing legal obligations had failed for the past 10 years, Jackson said.

### **Establishing a pay equity unit within Fair Work Australia**

The committee has recommended:

- Introducing a *Pay Equity Act*, which would incorporate the *Equal Opportunity for Women in the Workplace Act*, and establish a specialist Pay Equity Unit within FWA as a central point for monitoring pay equity, developing pay equity audits, and providing specialist assistance to FWA in award modernisation;
- Assigning responsibility for pay equity to a Deputy President who would appoint an advisory board to the pay equity unit; and
- Requiring all organisations with 100 or more employees to report biennially to the unit on how they have implemented a diversity plan on pay equity.
- The Equal Opportunity for Women in the Workplace Agency recently revealed that around one-third of organisations covered by the *Equal Opportunity for Women in the Workplace Act* (those with more than 100 employees) are not reporting to government as required on what they are doing to improve equal opportunity in the workplace.

### **Recommended changes to the Fair Work Act**

Importantly, the *Fair Work Act* defines equal remuneration as the right to equal pay for work of not only 'equal' value but of 'comparable' value.



The committee's recommendations for changes to the *Fair Work Act* include:

- Requiring FWA to spell out an equal remuneration principle and state how it should be applied (which Deputy Prime Minister & Workplace Relations Minister Julia Gillard has recently asked FWA to do);
- Asking FWA to investigate the feasibility of advisory classification and remuneration benchmarks to give advice to employees and employers;
- Amending [s156\(4\)](#) of the *Fair Work Act*, which includes grounds on which awards can be varied for work value reasons. Currently, work value reasons are defined as those relating to the nature of the work, the level of skill or responsibility, and the conditions under which the work is done. The Committee recommends a new reason be added - where there is 'evidence that the work or conditions under which the work is done have been historically undervalued on a gender basis';
- Expanding the scope of varying and amending modern awards on work value grounds to explicitly include pay equity;
- Amending [s134](#) of the *Fair Work Act* to require awards to provide for the equal remuneration of men and women for work of 'equal or comparable value';
- Requiring the AIRC, prior to finalising awards this year, to report on how pay equity principles have been achieved;
- Requiring FWA not to approve enterprise agreements unless they achieve or implement pay equity; and
- Amending the National Employment [Standards](#) to allow requests for flexible working arrangements by all employees, including casuals regardless of length of service, and to broaden the examples of requests that can be made to include working at reduced hours, requesting part-time hours or job share, the flexibility to vary start and finish times, and the ability to work more hours over fewer days.

#### **Recommended changes to anti-discrimination laws**

The Committee recommended three changes to anti-discrimination laws:

- Enabling the Sex Discrimination Commissioner to commence self-initiated complaints for alleged breaches of the *Sex Discrimination Act*, including the ability to enter negotiations, reach settlements, agree to enforceable undertakings and issue compliance notices;
- Amending the *Sex Discrimination Act* to enable the Australian Human Rights Commission to commence legal action in the Federal Magistrates Court or Federal Court for breaches of the *Sex Discrimination Act*; and
- Amending the *Sex Discrimination Act* to make it mandatory for employers who repeatedly discriminate on the basis of pregnancy or carer's responsibilities to attend counselling or approved training courses.

#### **Monitoring procurement**

The Committee also recommended:

- Appointing a procurement co-ordinator to monitor how agencies were using the procurement guidelines to ensure firms that failed to comply with pay equity principles were not given Federal Government work;
- Mandating that the government only provide industry assistance to firms complying with pay equity principles; and
- Developing a national pay equity workforce survey which DEEWR would conduct every two years in partnership with FWA's pay equity unit.

#### **Feedback**

AMMA welcomes your comments on these issues.

Please contact senior workplace policy adviser Lisa Matthews on (02) 9211 3566 or 0400 332 070 or email [lisa.matthews@amma.org.au](mailto:lisa.matthews@amma.org.au).