Equal Employment Opportunity (Commonwealth Authorities) Bill 1987

Date introduced: 19 March 1987
Date: House of Representatives
Presented by: Hon. Ralph Willis, Minister for Employment and Industrial Relations

DIGEST OF BILL

Purpose
To promote equal employment opportunity in those areas of Australian Government employment that are not covered by the Affirmative Action (Equal Employment Opportunity for Women) Act 1986 or by section 22B of the Public Service Act 1922.

Background
The Public Service Reform Act 1984 inserted a new section 22B into the Public Service Act 1922 to provide for the commencement, development and implementation of equal employment opportunity (EEO) programs throughout the Australian Public Service. This section of the Act came into operation on 1 October 1984. Initially twenty-six departments and twenty-six authorities were required to develop EEO programs but, for reasons such as the creation of new departments, this number grew to 57 by the end of June 1986. In June 1986 an additional twenty-three authorities for which the Board has some statutory responsibility were brought by regulation within the scope of section 22B. Authorities with more than 100 members of staff were required to contact the Board about their programs by February 1988, and smaller authorities by July 1988.¹

Under the Public Service Act 1922 EEO programs must include examination of practices in relation to employment matters in the Department or authority to identify and eliminate any practices that unjustifiably discriminate against women or persons in designated groups. 'Designated groups' at this stage are Aboriginal people, people with disabilities and people whose first language is not English.

Other Commonwealth legislation in 1986, Affirmative Action (Equal Employment Opportunity for Women) Act 1986, provided for the development of equal employment opportunity programs to counter discrimination against women by higher education institutions which are employers and by persons, bodies or associations which employ 100 or more employees in Australia.
Some Commonwealth Authorities, including major enterprises such as Telecom Australia, Australia Post, Overseas Telecommunication Commission, the Reserve Bank, the Commonwealth Banking Corporation, Australian Airlines, QANTAS, the Australian Shipping Commission, National Railways Commission, the Commonwealth Serum Laboratories, Commonwealth Health Insurance Commission, Aboriginal Hostels Ltd. and the ACT Fire Brigade were not covered by either section 22B of the Public Service Act or by the Affirmative Action (Equal Employment Opportunity for Women) Act. This Bill seeks to widen the requirement for EEO programs to all Commonwealth authorities, including statutory authorities, employing 40 or more employees in Australian not at present covered by these two Acts. Four primary industry statutory marketing authorities are exempted from the provisions of this Bill but it is intended to amend their establishing legislation to provide a requirement for the development of EEO programs.

Main Provisions

For a detailed analysis of the clauses of the Bill refer to the Explanatory Memorandum.

Clause 3 provides definitions of terms used in the Bill

'Relevant authority' means an authority that employs 40 or more employees in Australia;

'Authority' means a Commonwealth authority as defined in paragraph (a), (b) or (c) of the definition of 'Commonwealth authority' in subsection 7(1) of the Public Service Act 1922, other than:

(a) a Commonwealth authority in relation to which section 22B of the Public Service Act 1922 applies;

(b) a relevant employer as defined in section 3 of the Affirmative Action (Equal Employment Opportunity for Women) Act 1986;

(c) the Australian Dairy Corporation;

(d) The Australian Meat and Live-stock Corporation;

(e) The Australian Wheat Board;

(f) The Australian Wool Corporation;

'Discrimination' means discrimination that is unlawful under the Racial Discrimination Act 1975 or the Sex Discrimination Act 1984; or discrimination by which a person with a physical or mental disability is, because of the disability, treated less favourably that a person without the disability.

'Designated group' has the same meaning as in the Public Service Act 1922;

'program', in relation to a relevant authority, means an equal employment opportunity program designed to ensure that appropriate action is taken by the authority to eliminate discrimination by it against women and persons in designated groups, and to promote equal opportunity for them, in employment matters.
Clause 4 provides that the Bill applies in the territories of Cocos (Keeling) Islands and Christmas Island.

Sub-clause 5(2) sets 1 July 1987 or such later day as is prescribed as the time for commencement by relevant authorities of the development and implementation of equal employment opportunity programs. In other cases, authorities are to commence the development and implementation of EEO programs when they become relevant authorities (i.e. have 40 or more employees). Though an authority may cease to be a relevant authority as the number of employees in Australia falls below 40, EEO programs are to continue until the number of employees falls below 30 (sub-clause 5(4)).

Clause 6 follows sub-section 22B(2) of the Public Service Act 1922 in providing for the contents of the EEO program. Minimum requirements for a program include informing employees of the program and results of monitoring and evaluation; appointing an officer of sufficient authority and status to be responsible for development and implementation of the program; consulting relevant trade unions and employees, particularly women and persons in designated groups; collecting and recording relevant statistics and information on employment by the authority, including numbers and types of jobs or classification, of male and female employees and persons in designated groups; identifying discriminatory policies and practices or patterns of lack of equality of opportunity in employment; setting objectives for the program and quantitative and other indicators against which the effectiveness of the program is to be assessed; and monitoring and evaluating the implementation of the program.

Clause 8 provides that the relevant authority may elect to lodge the required reports with either the responsible Minister or the Public Service Board. A failure to make an election will be deemed an election to lodge the reports with the Board.

Clause 9 provides that a report on the development and implementation of its program shall be lodged by the relevant authority within three months after the end of each period of 12 months dating from the commencement day of the program. Sub-clause 9(2) outlines the requirements for the report and sub-clause 9(4) provides that the program report may be included in a required annual report.

The Minister or the Board, depending on where the reports are submitted, will be able to request a special report on the development, implementation or review of an authority's EEO program. Such reports are to be tabled in each House of Parliament within 15 days of receipt (clause 10) if lodged with the Minister.

Clause 12 provides that the responsible Minister may give general directions to the authority regarding its program or may direct the authority to revise its corporate plan to give effect to its obligations under this Bill.

Clause 13 provides that the Public Service Board may issue guidelines for programs.
Clause 14 provides that the Public Service Board shall report to the Prime Minister on the operation of the provisions of this Bill to the extent that they relate to the Board.

Clause 15 provides that regulations required, permitted or necessary in terms of the Bill may be made by the Governor-General.

References


For further information, if required, contact the Education and Welfare Group or the Law and Government Group.

23 March 1987

Bills Digest Service

LEGISLATIVE RESEARCH SERVICE

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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