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AFFIRMATIVE ACTION (EQUAL EMPLOYMENT OPPORTUNITY
FOR WOMEN) AMENDMENT BILL 1989

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for
Industrial Relations, the Hon Peter Morris MP)

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Outline

The purpose of this Bill is twofold. Firstly the Bill seeks to achieve a uniform statutory reporting date of 1 January for affirmative action program reports by higher education institutions. At present, different dates apply under different provisions of the Affirmative Action (Equal Employment Opportunity for Women) Act 1986 (the Act):

- . 1 October for higher education institutions which became relevant employers on the commencement of the Act; and
- . 1 August for higher education institutions which became relevant employers after the commencement of the Act.

The Bill provides for transitional arrangements to preserve affirmative action program development and reporting requirements for higher education institutions on the changeover to the proposed 1 January reporting date.

Secondly the Bill seeks to ensure that where institutions amalgamate as a consequence of the Government's higher education policy the continuity of program development and reporting requirements will be preserved.

New South Wales and Western Australia, which are the only States with similar reporting requirements, have agreed to bring their statutory reporting dates into line with the 1 January reporting date proposed in this Bill.

Financial Impact Statement

No financial implications directly flow from this legislation.

Notes on Clauses

Clauses 1 and 2

The first two clauses of the Bill provide for the short title, the meaning of the term "Principal Act" to be the Affirmative Action (Equal Employment Opportunity for Women) Act 1986 and the commencement of the legislation from the date it receives the Royal Assent.

Clause 3 - Interpretation

This clause inserts into section 3 of the Principal Act a new definition of "amalgamated institution". The definition is required as a consequence of the proposed amalgamation of some higher education institutions.

Clause 4 - Timing for development, etc. of affirmative action program

Subsection 7(2) of the Act currently provides that higher education institutions that become relevant employers after the commencement of the Act are required to commence the development and implementation of affirmative action programs on 1 August in the calendar year following the calendar year during which they become a relevant employer.

Clause 4 replaces the current subsection 7(2) of the Principal Act with a new provision to:

- . preserve the present 1 August commencement date for higher education institutions that became relevant employers in 1986 and 1987;
- . require an amalgamated institution to commence the development and implementation of an affirmative action program from the day the institution is established; and
- . provide a new 1 January commencement date for higher education institutions that became relevant employers after the end of 1987. The commencement date for a higher education institution that became a relevant employer during 1988, for example, will be 1 January 1990.

This arrangement is necessary to align the commencement date for the development and implementation of affirmative action programs with the new reporting date proposed in clause 5:

- . the 1 February commencement date for relevant employers other than higher education institutions is preserved.

Clause 5 - Public Reports

Section 13 of the Principal Act currently provides for the preparation of a public report on the first 12 months from the initial development and implementation of the affirmative action program and during every subsequent period of 12 months. In the changeover to the proposed 1 January reporting date, some existing higher education institutions which are relevant employers will need to have reporting periods in excess of 12 months.

Also, those higher education institutions that amalgamate as a consequence of the Government's higher education policy will be required to maintain the momentum of affirmative action program development and reporting. An amalgamated institution is not treated as a new employer, with the consequential delays in program development and reporting that would entail.

This is to be achieved by providing for "first reports" and "subsequent reports", and varying the reporting period for first reports and some subsequent reports so that, by 31 December 1989, all relevant employers will have a statutory reporting date of 1 January.

Accordingly, paragraph 5(a) proposes the following amendments:

- . subsection 13(1) is omitted and new subsections (1), (1A), (1B), (1C), (1D), (1E), (1F), (1G), (1H) and (1J) are inserted;
- . proposed subsection (1) contains definitions of "first report" and "subsequent report";
- . proposed subsection 13(1A) creates a reporting period of 1 August 1988 to 31 December 1989 for higher education institutions that became relevant employers in 1987;
- . proposed subsection 13(1B) requires an amalgamated higher education institution, other than one which became or becomes a relevant employer on 1 January to prepare a first report on affirmative action program development from the date on which the institution became a relevant employer and ending on 31 December of the following calendar year;
- . proposed subsection 13(1C) requires other relevant employers to prepare a first report on the 12 months following the "operative date" for those employers. This preserves the existing requirements for those employers (other than those higher education institutions which are to have longer reporting periods on the changeover to a 1 January operative date).

- . proposed subsection 13(1D) prescribes a reporting period of 1 October 1988 to 31 December 1989 for higher education institutions that were relevant employers on the commencement of the Principal Act and requires that subsequent reports are prepared in respect of each subsequent calendar year beginning from 1 January 1990;
- . proposed subsection 13(1E) prescribes a reporting period of 1 August 1988 to 31 December 1989 for higher education institutions that became relevant employers in 1986 after the commencement of the Principal Act and these institutions are required to submit reports each calendar year from 1 January 1990;
- . proposed subsection 13(1F) requires higher education institutions that became relevant employers in 1987 to produce a subsequent report in respect of the year beginning 1 January 1990. Reports will then be required in respect of each subsequent calendar year.
- . proposed subsection 13(1G) requires an amalgamated institution to prepare subsequent reports in respect of each calendar year subsequent to the period covered by its first report. This complements proposed subsection 13(1D) and will result in a reporting date of 1 January;
- . proposed subsection 13(1H) provides for subsequent reports from relevant employers to which subsections (1D), (1E), (1F) and (1G) do not apply;
- . proposed subsection 13(1J) requires an amalgamated institution to prepare program reports for an institution which took part in the amalgamation and which, immediately before the amalgamation, was a relevant employer.

Paragraphs 5(b) and (c) make consequential amendments to subsections 13(2) and (3).



