

Legislative Council—No 118

As introduced and read a first time, 12 May 2021

South Australia

Gender Equality Bill 2021

A BILL FOR

An Act to establish the office of the Commissioner for Gender Equality, to require certain entities to promote gender equality in the development of programs and delivery of services, to provide that certain entities prepare and implement an action plan to achieve gender equality in the workplace, to make a related amendment to the *Fair Work Act 1994* and for other purposes.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Objects and principles
- 4 Interpretation
- 5 Meaning of *relevant entity*
- 6 Interaction with other Acts

Part 2—Commissioner for Gender Equality

Division 1—Commissioner for Gender Equality

- 7 Commissioner for Gender Equality
- 8 Appointment of Commissioner
- 9 Appointment of Acting Commissioner
- 10 Delegation
- 11 Staff

Division 2—Functions and powers

- 12 Functions of the Commissioner
- 13 Powers of the Commissioner
- 14 Gender equality guidelines

Part 3—Gender equality in developing programs and delivering services

- 15 Duty to promote gender equality
- 16 Requirement to undertake gender impact assessments
- 17 Duty does not give rise to liability etc

Part 4—Gender equality in the workplace

Division 1—Preliminary

- 18 Interpretation

Division 2—Gender equality audits

- 19 Gender equality audits

Division 3—Gender Equality Action Plans

- 20 Relevant entity must prepare Gender Equality Action Plan
- 21 Publication and submission of Gender Equality Action Plan
- 22 Commissioner to keep register of Gender Equality Action Plans
- 23 Gender Equality Action Plan may be amended

Division 4—Workplace gender equality indicators and targets

- 24 Workplace gender equality indicators
- 25 Relevant entity must establish gender equality targets to meet workplace gender equality indicators

Part 5—Progress reports

- 26 Relevant entity must prepare progress report

Part 6—Monitoring and compliance

- 27 Interpretation
- 28 Compliance notices
- 29 Form and content of compliance notice
- 30 Relevant entity may contest a compliance notice
- 31 Review by Tribunal of decision to confirm compliance notice
- 32 Actions to be taken if compliance notice not complied with
- 33 Enforceable undertakings

Part 7—Miscellaneous

- 34 State Gender Equality Action Plan
- 35 Annual report
- 36 Review of Act
- 37 Regulations

Schedule 1—Related amendment

Part 1—Amendment of *Fair Work Act 1994*

- 1 Insertion of section 19A
 - 19A SAET must consult Commissioner for Gender Equality in certain cases
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Gender Equality Act 2021*.

5 2—Commencement

This Act commences 3 months after the day on which it is assented to by the Governor.

3—Objects and principles

(1) The objects of this Act are as follows:

- 10 (a) to promote, encourage and facilitate the achievement of gender equality and improvement in the status of women;
- (b) to support the identification and elimination of systemic causes of gender inequality in policy, programs and delivery of services in workplaces and communities;
- 15 (c) to recognise that gender inequality may be compounded by other forms of disadvantage or discrimination that a person may experience on the basis of age, disability, ethnicity, gender identity, race, religion, sexual orientation, identification as an Aboriginal or Torres Strait Islander person and other attributes;

(d) to address disadvantage on the basis of stigma, stereotyping, prejudice and violence and to accommodate persons of different genders by way of structural change;

(e) to enhance economic and social participation by persons of different genders.

5 (2) The following principles must be taken into account in relation to the operation, administration and enforcement of this Act:

(a) all persons, regardless of gender, should live in a safe and equal society, have access to the same power, resources and opportunities and be treated with dignity, respect and fairness;

10 (b) gender equality benefits all persons regardless of their gender;

(c) gender equality is a human right and precondition to social justice;

(d) gender equality brings significant economic, social and health benefits to this State;

15 (e) gender equality is a precondition for the prevention of family violence and other forms of violence;

(f) advancing gender equality is a shared responsibility across the South Australian community;

20 (g) all human beings, regardless of gender, should be free to develop their personal abilities, pursue their professional careers and make choices about their lives without being limited by gender stereotypes, gender roles or prejudices;

25 (h) gender inequality may be compounded by other forms of disadvantage or discrimination that a person may experience on the basis age, disability, ethnicity, gender identity, race, religion, sexual orientation, identification as an Aboriginal or Torres Strait Islander person and other attributes;

(i) women have historically experienced discrimination and disadvantage on the basis of sex and gender;

(j) special measures may be necessary to achieve gender equality.

4—Interpretation

30 In this Act, unless the contrary intention appears—

Commissioner means the Commissioner for Gender Equality appointed under section 7;

35 **employee**, of a relevant entity, means a person employed by the relevant entity on a full-time, part-time, casual or fixed term basis (including an apprentice or trainee) but does not include a contractor or subcontractor;

Gender Equality Action Plan, in relation to a relevant entity, means a Gender Equality Action Plan prepared by the entity under section 20;

gender equality audit, in relation to a relevant entity, means a gender equality audit undertaken in relation to the entity under section 19;

40 **gender equality guidelines**—see section 14;

gender equality targets, in relation to a relevant entity, means the gender equality targets established by the entity or prescribed by the regulations in accordance with section 25;

5 **gender impact assessment**, in relation to a relevant entity, means a gender impact assessment undertaken by the entity under section 16;

local council means a council constituted under the *Local Government Act 1999*;

progress report, in relation to a relevant entity, means a progress report prepared by the entity under section 26;

relevant entity—see section 5;

10 **workforce**, in relation to a relevant entity, means the employees of the entity;

workplace gender equality indicators means the workplace gender equality indicators set out in section 24.

5—Meaning of *relevant entity*

15 For the purposes of this Act, an entity is a **relevant entity** on a particular day if it is, on the most recent 30 June before that day—

- (a) a public sector agency within the meaning of the *Public Sector Act 2009*; or
- (b) the South Australian Courts Administration Authority; or
- (c) a local council; or
- (d) an entity prescribed by the regulations for the purposes of this paragraph.

20 6—Interaction with other Acts

This Act is in addition to, and does not derogate from, any other Act or law.

Part 2—Commissioner for Gender Equality

Division 1—Commissioner for Gender Equality

7—Commissioner for Gender Equality

- 25
- (1) There is to be a Commissioner for Gender Equality.
 - (2) The Commissioner is independent of direction or control by the Crown or any Minister or officer of the Crown.

8—Appointment of Commissioner

- 30
- (1) The Commissioner will be appointed by the Governor on conditions, and for a term (not exceeding 5 years), determined by the Governor and specified in the instrument of appointment.
 - (2) The Governor must not appoint a person as the Commissioner if the person is—
 - (a) a member of an Australian Parliament; or
 - (b) a member of a local council.

Gender Equality Bill 2021

Part 2—Commissioner for Gender Equality

Division 1—Commissioner for Gender Equality

- (3) A person appointed to be the Commissioner is, at the end of a term of appointment, eligible for reappointment but cannot hold office for terms (including any term as Acting Commissioner) that exceed 10 years in total.
- (4) The Governor may, by regulation, establish a scheme for the recruitment of the Commissioner (and recruitment of the Commissioner must comply with that scheme).
- (5) If the Commissioner was, immediately before their appointment, employed in the Public Service, the Commissioner retains existing and accruing rights in respect of leave.
- (6) The Commissioner must not, without the consent of the Minister, engage in any remunerated employment or activity apart from official duties.
- (7) The Governor may remove the Commissioner from office for—
- (a) contravention of a condition of appointment; or
 - (b) misconduct or conduct that may bring the office of the Commissioner into disrepute; or
 - (c) failure or incapacity to carry out official duties satisfactorily.
- (8) The office of Commissioner becomes vacant if the holder—
- (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Governor; or
 - (d) is nominated for election as a member of an Australian Parliament or a local council; or
 - (e) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or
 - (f) is convicted of—
 - (i) an indictable offence against the law of this State; or
 - (ii) an offence against the law of this State that is punishable by imprisonment for a term of at least 12 months; or
 - (iii) an offence against the law of another jurisdiction that, if committed in this State, would be an offence of a kind referred to in a preceding paragraph; or
 - (g) is sentenced to imprisonment for an offence (whether against a law of this State or another jurisdiction); or
 - (h) is removed from office by the Governor under this section.
- (9) Except as is provided by this section, the Commissioner may not be removed from office, nor will the office of the Commissioner become vacant.
- (10) The Commissioner is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

9—Appointment of Acting Commissioner

- (1) The Governor may appoint a person (who may be a Public Service employee) to act as the Commissioner during any period for which—
 - (a) no person is for the time being appointed as the Commissioner; or
 - (b) the Commissioner is absent from, or unable to discharge, official duties.
- (2) The terms and conditions of appointment of the person appointed to act as the Commissioner will be determined by the Governor.
- (3) A person appointed to act as the Commissioner is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

10—Delegation

- (1) Subject to this section, the Commissioner may delegate to a person (including a person for the time being performing particular duties or holding or acting in a specified position) a function or power under this or any other Act (except a prescribed function or power).
- (2) A delegation under this section—
 - (a) must be in writing; and
 - (b) may be conditional or unconditional; and
 - (c) is revocable at will; and
 - (d) does not prevent the delegator from acting in any manner.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

11—Staff

- (1) The Commissioner may engage employees on terms and conditions determined by the Commissioner.
- (2) Employees engaged under subsection (1) are not Public Service employees but are to be taken to be public sector employees, employed by the Commissioner, for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* and section 74 of the *Public Sector Act 2009*.
- (3) The Commissioner may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

Division 2—Functions and powers

12—Functions of the Commissioner

The Commissioner has the following functions:

- (a) to promote and advance the objects of this Act;
- (b) to support relevant entities to comply with this Act;
- (c) to provide advice to relevant entities about the operation of this Act;

- (d) to establish and undertake information and education programs for relevant entities in order to encourage best practice and facilitate compliance;
- (e) to undertake research into any matter related to the operation and objects of this Act;
- 5 (f) to report to the Minister on any matter arising from the performance of the Commissioner's functions;
- (g) any other function conferred on the Commissioner under this or any other Act.

13—Powers of the Commissioner

10 The Commissioner has such powers as may be necessary or expedient for the purposes of performing a function under this Act.

14—Gender equality guidelines

- 15 (1) The Commissioner may issue guidelines (the *gender equality guidelines*) for the purpose of assisting relevant entities to meet the requirements of this Act in relation to the following:

- (a) complying with the duty to promote gender equality;
- (b) undertaking gender impact assessments;
- (c) causing a gender audit to be undertaken;
- (d) preparing and implementing Gender Equality Action Plans;
- 20 (e) establishing gender equality targets in respect of the workplace gender equality indicators;
- (f) setting gender equality targets for a relevant entity or a class of relevant entities;
- 25 (g) setting periods within which the gender equality targets must be met by a relevant entity or a class of relevant entities;
- (h) providing guidance as to what constitutes reasonable and material progress in relation to meeting gender equality targets;
- (i) preparing a progress report for the purposes of section 26.

- 30 (2) A current copy of any gender equality guidelines must be published on the Commissioner's website.

- (3) A relevant entity must have regard to any guidelines issued under subsection (1).

Part 3—Gender equality in developing programs and delivering services

15—Duty to promote gender equality

35 A relevant entity must consider, promote and take necessary and proportionate action towards gender equality consistent with the gender equality guidelines in—

- (a) developing and outworking policies and programs; and

- (b) delivering services that are to be provided to the public, or that have a direct and significant impact on the public.

16—Requirement to undertake gender impact assessments

- (1) A relevant entity must undertake a gender impact assessment when developing or reviewing any policy of, or program or service provided by, the entity that has a direct and significant impact on the public.
- (2) A gender impact assessment must—
- (a) assess the effects that a policy, program or service may have on persons of different genders; and
- (b) make a finding as to how the policy, program or service will be developed or varied in order to—
- (i) meet the needs of persons of different genders; and
- (ii) address gender inequality and promote gender equality.

17—Duty does not give rise to liability etc

- A breach of a duty by a relevant entity imposed under this Part—
- (a) does not give rise to any liability of the entity; and
- (b) does not affect the validity of, or provide grounds for review for, any judicial or administrative act or omission.

Part 4—Gender equality in the workplace

20 Division 1—Preliminary

18—Interpretation

In this Part, unless the contrary intention appears—

reporting period means—

- (a) in the case of the first reporting period following the commencement of this Act—the period between the commencement of this Act and 30 June of the following year;
- (b) in the case of each subsequent reporting period—the period of 4 years ending on 30 June in the reporting year;

reporting year means—

- (a) the year following the year in which this Act commenced; and
- (b) each subsequent fourth year.

Division 2—Gender equality audits

19—Gender equality audits

- (1) A relevant entity must, as soon as practicable after 30 June in a reporting year, cause a gender equality audit, to be undertaken about the state and nature of gender equality in the entity's workplace during the relevant reporting period.

Gender Equality Bill 2021

Part 4—Gender equality in the workplace

Division 2—Gender equality audits

- (2) Without limiting subsection (1), a gender equality audit must address—
- (a) the gender equality targets established by the relevant entity, or prescribed by the regulations in relation to the entity, in respect of the workplace gender equality indicators for the relevant reporting periods; and
 - 5 (b) the action taken and progress made by the relevant entity towards meeting the gender equality targets, and the extent to which the entity met, or failed to meet, the targets; and
 - (c) the manner in which the relevant entity has carried out the duty to promote gender equality in accordance with section 15 for the relevant reporting
 - 10 periods.
- (3) A workplace gender audit must be based on the following data from the reporting period:
- (a) gender-disaggregated data;
 - 15 (b) if available, data about age, disability, ethnicity, gender identity, race, religion, sexual orientation and identification as an Aboriginal or Torres Strait Islander person.

Division 3—Gender Equality Action Plans

20—Relevant entity must prepare Gender Equality Action Plan

- (1) A relevant entity must, as soon as practicable after a gender equality audit is
- 20 completed in a reporting year, prepare a Gender Equality Action Plan that includes, but need not be limited to, the following matters in relation to the relevant reporting period:
- (a) the strategies and measures undertaken by the entity in promoting gender equality in the workplace in accordance with section 15; and
 - 25 (b) the workplace gender equality indicators in relation to the relevant entity as required under section 24;
 - (c) the gender equality targets established by the relevant entity as required under section 25;
 - 30 (d) the results of the gender equality audit undertaken by the relevant entity under section 19;
 - (e) the entity's proposed response to the results of the gender equality audit, including, but not limited to—
 - (i) the strategies and measures that the entity will put in place to improve gender equality in the workplace; and
 - 35 (ii) the gender equality targets the entity has established for the upcoming reporting period, or that are prescribed by the regulations in relation to the entity;
 - (f) any other matter prescribed by the regulations for the purposes of this paragraph.
- 40 (2) A Gender Equality Action Plan under subsection (1) must be in a form approved by the Commissioner.

- (3) In preparing a Gender Equality Action Plan, the relevant entity must consult with the governing body, the employees and employee representatives of the entity.
- (4) A relevant entity must ensure adequate resources are allocated to developing and implementing the Gender Equality Action Plan.

21—Publication and submission of Gender Equality Action Plan

- (1) A relevant entity must submit a Gender Equality Action Plan to the Commissioner on or before—
 - (a) 31 October of the reporting year; or
 - (b) such later date specified by the Commissioner under subsection (2).
- (2) The Commissioner may, at the request of the relevant entity, extend the time by which the entity must submit the Gender Equality Action Plan.
- (3) Within a reasonable time after submitting the Gender Equality Action Plan to the Commissioner, a relevant entity must—
 - (a) publish the completed Gender Equality Action Plan on the relevant entity's website; and
 - (b) notify the governing body, the employees and employee representatives of the entity of that publication.
- (4) A relevant entity must, before publication or submission to the Commissioner, remove any personal information from a Gender Equality Action Plan.

22—Commissioner to keep register of Gender Equality Action Plans

- (1) The Commissioner must keep a register of Gender Equality Action Plans submitted to the Commissioner under this Division.
- (2) The Commissioner may publish a Gender Equality Action Plan submitted to the Commissioner.

23—Gender Equality Action Plan may be amended

- (1) A relevant entity may amend its Gender Equality Action Plan at any time if the entity considers the amendment is necessary.
- (2) If a relevant entity amends its Gender Equality Action Plan, the entity must—
 - (a) submit the amended Gender Equality Action Plan to the Commissioner; and
 - (b) within a reasonable time after submitting the amended Gender Equality Action Plan to the Commissioner, publish the amended plan on its website, and notify the governing body, the employees and employee representatives of the relevant entity of that publication.

Division 4—Workplace gender equality indicators and targets

24—Workplace gender equality indicators

The workplace gender equality indicators are as follows:

- (a) the gender composition of all levels of the workforce within a relevant entity;
- (b) the gender composition of the governing body of a relevant entity;

Gender Equality Bill 2021

Part 4—Gender equality in the workplace

Division 4—Workplace gender equality indicators and targets

- (c) whether equal remuneration for work of equal or comparable value exists across all levels of a relevant entity's workforce, irrespective of gender;
- (d) whether equal recruitment and promotion practices exist across all levels of a relevant entity's workforce, irrespective of gender;
- 5 (e) the incidence of sexual harassment within a relevant entity;
- (f) the availability and utilisation of terms, conditions and practices relating to domestic or family violence leave and flexible working arrangements within a relevant entity;
- (g) the incidence of gender segregation within a relevant entity's workforce;
- 10 (h) any other matters prescribed by the regulations for the purposes of this paragraph.

25—Relevant entity must establish gender equality targets to meet workplace gender equality indicators

- 15 (1) A relevant entity must, at least 3 months before the commencement of a reporting period, submit to the Commissioner in a manner and form determined by the Commissioner, gender equality targets in relation to a relevant entity in respect of each of the workplace gender equality indicators for an upcoming reporting period for approval by the Commissioner.
- 20 (2) The Commissioner may either—
 - (a) approve the gender equality targets in relation to a relevant entity submitted under subsection (1); or
 - (b) require the relevant entity to vary the targets in a manner specified by the Commissioner before the commencement of the reporting period.
- 25 (3) A relevant entity must, in the reporting period, make reasonable and material progress towards meeting the gender equality targets established by the entity or prescribed by the regulations in relation to the entity.
- 30 (4) For the purposes of subsection (3), the following factors must be taken into account in determining whether a relevant entity has made reasonable and material progress towards meeting gender equality targets:
 - (a) the size of the entity, including the number of persons employed by the entity;
 - (b) the nature of the services provided by the entity, including any barriers that may exist to making progress on that basis;
 - (c) requirements that apply to the entity under any other Act or law;
 - (d) the entity's financial and other resources;
 - 35 (e) the entity's operational priorities or obligations and any competing priorities or obligations;
 - (f) the practicability and cost to the entity of making progress;
 - (g) genuine attempts made by the entity to make progress;
 - 40 (h) any other matter specified by the Commissioner in the gender equality guidelines.

- (5) The regulations may, for the purposes of this section—
- (a) prescribe gender equality targets for a relevant entity, or a class of relevant entities; and
 - (b) prescribe certain periods within which the gender equality targets must be met by the entity, or class of entities,
- 5 consistent with the objects of the Act and the gender equality guidelines.

Part 5—Progress reports

26—Relevant entity must prepare progress report

- 10 (1) A relevant entity must prepare a progress report and submit the report to the Commissioner on or before—
- (a) 31 October in every second year after submitting a Gender Equality Action Plan; or
 - (b) such later date as may be specified by the Commissioner under subsection (2).
- 15 (2) The Commissioner may, at the request of the relevant entity, extend the time by which the entity must submit a progress report.
- (3) The progress report must include, but need not be limited to, the following matters in relation to the period between the submission of the most recent Gender Equality Action Plan and the preparation of the progress report:
- 20 (a) in relation to each gender impact assessment undertaken by the relevant entity—
- (i) identify the policy, program or service that was the subject of the assessment; and
 - (ii) report on the actions taken in response to the findings under
- 25 (b) report on the relevant entity's progress in relation to the measures and strategies set out in the entity's Gender Equality Action Plan;
- (c) demonstrate the relevant entity's progress in relation to the gender equality targets in respect of the workplace gender equality indicators.

30 Part 6—Monitoring and compliance

27—Interpretation

In this Part—

Tribunal means the South Australian Civil and Administrative Tribunal.

28—Compliance notices

- (1) Subject to subsection (3), the Commissioner may issue a compliance notice to a relevant entity if the Commissioner reasonably believes that the entity, without reasonable excuse, has failed to comply with this Act by—
- 5 (a) not undertaking a gender impact assessment in relation to a policy of, or program or service provided by, the entity; or
- (b) not causing a gender equality audit to be undertaken; or
- (c) not preparing a Gender Equality Action Plan, or submitting the Plan within the period required; or
- 10 (d) not making reasonable and material progress in relation to the gender equality targets in respect of the workplace gender equality indicators; or
- (e) not submitting a progress report.
- (2) A relevant entity must comply with a compliance notice.
- (3) Before issuing a compliance notice, the Commissioner must take reasonable steps to resolve the matter informally.
- 15 (4) A compliance notice may require the relevant entity take any action that is reasonably required to comply with this Act.

29—Form and content of compliance notice

- (1) A compliance notice issued to a relevant entity must—
- 20 (a) state the requirement of this Act with which the entity has failed to comply; and
- (b) state the basis for the Commissioner's belief that the entity has failed to comply with the requirement; and
- (c) state the action that the entity must take to comply with the requirement; and
- 25 (d) specify the date by which the entity must take the action; and
- (e) state the further action that the Commissioner may take if the entity does not comply with the notice; and
- (f) state that the entity may contest the compliance notice within 14 days after receiving the notice.
- 30 (2) For the purposes of subsection (1)(d), the date specified in the compliance notice must be—
- (a) if the compliance notice requires the relevant entity to submit a Gender Equality Action Plan or a progress report—not less than 60 days after the notice is issued; or
- 35 (b) in any other case—not less than 14 days after the notice is issued.
- (3) The Commissioner may, by further written notice, extend the time period specified in the compliance notice by up to 24 months.

30—Relevant entity may contest a compliance notice

- (1) If a relevant entity seeks to contest a compliance notice, the entity must, within 14 days after receiving the compliance notice, give a written response to the Commissioner outlining the entity's reasons for contesting the compliance notice.
- 5 (2) After considering a response under subsection (1), the Commissioner may, by notice in writing—
 - (a) withdraw the compliance notice; or
 - (b) vary the compliance notice; or
 - (c) confirm the compliance notice.
- 10 (3) If the compliance notice is confirmed or varied—
 - (a) the notice must specify a period within which the relevant entity must comply; and
 - (b) the relevant entity must comply with the confirmed or varied notice within that period.

15 31—Review by Tribunal of decision to confirm compliance notice

- (1) A relevant entity may apply to the Tribunal for review of the Commissioner's decision to confirm a compliance notice under section 30(2)(c).
- (2) An application for review must be made within 28 days after the relevant entity receives notice of the Commissioner's decision.

20 32—Actions to be taken if compliance notice not complied with

If a relevant entity does not comply with a compliance notice within the time period specified in the notice, the Commissioner may do 1 or more of the following:

- (a) accept a written undertaking from the entity under which the entity undertakes to take certain action to comply with the requirements of this Act;
- 25 (b) recommend that the Minister take any action that the Commissioner considers appropriate to ensure the entity's compliance with this Act;
- (c) publish on the Commissioner's website the name of the entity and the requirements of this Act with which the entity has failed to comply;
- 30 (d) apply to the Tribunal for an order directing the entity to comply with the notice.

33—Enforceable undertakings

- (1) This section applies if the Commissioner has accepted an undertaking given by a relevant entity under section 32(a).
- 35 (2) The relevant entity, with the consent of the Commissioner, may withdraw or vary the undertaking.
- (3) While an undertaking is in force, the Commissioner must not take any further action under section 32 or issue any further compliance notice with respect to the matter that is the subject of the undertaking.

- (4) If the relevant entity complies with an undertaking, the Commissioner must not take any action under section 32 or issue any compliance notice with respect to the matter that is the subject of the undertaking.
- 5 (5) If the Commissioner considers that the relevant entity has failed to comply with an undertaking, the Commissioner may apply to the Tribunal for an order enforcing the undertaking.
- (6) If the Tribunal determines that the relevant entity has failed to comply with an undertaking, the Tribunal may—
- 10 (a) make an order directing the entity to comply with the undertaking; or
- (b) make an order directing the entity to take any specified action in order to comply with the undertaking; or
- (c) make any other order that the Tribunal considers appropriate.

Part 7—Miscellaneous

34—State Gender Equality Action Plan

- 15 (1) The Minister must cause a State Gender Equality Action Plan to be prepared every 4 years.
- (2) The State Gender Equality Action Plan must set out a framework for taking coordinated action in this State to build the attitudinal, behavioural, structural and normative change required to improve gender equality.
- 20 (3) The State Gender Equality Action Plan—
- (a) must be developed having regard to the principles of this Act; and
- (b) must include a framework for progress in relation to workplace gender equality and gender equality in the public sector's policies, programs and services.
- 25 (4) The Minister must cause a State Gender Equality Progress Report to be prepared every 2 years on or before 30 September about progress towards implementing the State Gender Equality Action Plan.
- (5) The State Gender Equality Progress Report must include an assessment of progress, on an aggregated state-wide basis, made by relevant entities in the previous 2 years in relation to—
- 30 (a) Gender Equality Action Plans; and
- (b) gender equality targets established by relevant entities, or prescribed by the regulations in relation to the entity, in respect to the workplace gender equality indicators and the extent to which the targets are being met; and
- 35 (c) progress reports.
- (6) The Minister must cause the State Gender Equality Progress Report to be tabled in each House of the Parliament within 12 sitting days of the report's completion.

35—Annual report

- (1) The Commissioner must, on or before 30 September in each year, report to the Minister on the performance of the Commissioner's functions during the preceding financial year.
- 5 (2) A report under subsection (1) may contain information or examples of best practice outcomes achieved by relevant entities in the financial year to which the report relates.
- (3) The Minister must, within 6 sitting days after receiving a report from the Commissioner, have copies of the report laid before both Houses of Parliament.

36—Review of Act

- 10 (1) The Minister must cause a review of the operation of this Act to be conducted after the fifth, but before the sixth, anniversary of the commencement of this Act.
- (2) The Minister must cause a report of the review to be laid before both Houses of Parliament within 12 sitting days after receiving the report.

37—Regulations

- 15 (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may provide for—
 - 20 (a) matters to be included in a gender impact assessment, a workplace gender audit, a Gender Equality Action Plan or a progress report; and
 - (b) the process for undertaking a gender impact assessment, a workplace gender audit, a Gender Equality Action Plan or a progress report; and
 - (c) the content and form of a gender impact assessment, a workplace gender audit, a Gender Equality Action Plan or a progress report and the manner in which they must be undertaken.
- 25 (3) The regulations may—
 - (a) be of general or limited application; and
 - (b) make different provision according to the matters or circumstances to which they are expressed to apply; and
 - 30 (c) make provisions of a saving or transitional nature consequent on the enactment of this Act or on the commencement of specified provisions of this Act or on the making of regulations under this Act; and
 - (d) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Commissioner or another person.

Schedule 1—Related amendment

Part 1—Amendment of *Fair Work Act 1994*

1—Insertion of section 19A

After section 19 insert:

5 **19A—SAET must consult Commissioner for Gender Equality in certain cases**

- 10 (1) If an industrial dispute between parties, one of which is a relevant entity, relates to a systemic gender equality issue, SAET must, before exercising its powers in relation to the industrial dispute, consult with the Commissioner for Gender Equality in relation to the dispute.

- 15 (2) In this section—

Commissioner for Gender Equality means the Commissioner for Gender Equality appointed under the *Gender Equality Act 2021*;

relevant entity has the same meaning as in the *Gender Equality Act 2021*;

systemic gender equality issue means an issue of a systemic nature within a relevant entity that—

- 20 (a) relates to one or more of the workplace gender equality indicators set out in section 24 of the *Gender Equality Act 2021*; and
- (b) adversely affects a class or group of employees within that entity.