

INDUSTRIAL RELATIONS (EQUAL REMUNERATION) AMENDMENT BILL 2011

Introduction and First Reading

Bill introduced, on motion by **Hon Alison Xamon**, and read a first time.

Second Reading

HON ALISON XAMON (East Metropolitan) [11.30 am]: I move —

That the bill be now read a second time.

This bill seeks to amend the Industrial Relations Act 1979 to allow for the Western Australian Industrial Relations Commission to hear pay equity cases and to make enforceable equal remuneration orders so that employees to whom the order will apply are able to receive equal remuneration for work of equal or comparable value.

The bill proposes the inclusion of provisions similar to those provided to employees covered under the federal industrial relations system, which allows for such cases to be heard. This will ensure that those workers who are covered under the WA system, rather than the federal system, have access to a similar mechanism to their counterparts who are under federal jurisdiction.

A strong legislative basis for pay equity is essential to reducing Australia's gender pay gap and to supporting female workforce participation and WA has, very slowly, been making progress towards this. Formal recognition of the principle of equal remuneration for work of equal value was introduced into the Industrial Relations Act 1979 in 2002 when amendments inserted a new principle object into the act "to promote equal remuneration for men and women for work of equal value." In 2006 the Labour Relations Legislation Amendment Act 2006 introduced section 50A, which enabled the Western Australian Industrial Relations Commission to determine minimum wages whilst having regard to a new set of specified criteria, including that wage orders "provide equal remuneration for men and women for work of equal or comparable value" That is section (3)(a)(vii). Following this, in 2008 an amendment was made to principle 10 of the state wage fixing principles, including specific reference to the fact that this principle can be used to vary wages above or below the award minimum conditions for matters including "equal remuneration for men and women for work of equal or comparable value".

However, the current legislative provisions remain inadequate. For example, although a greater proportion of women than men are paid the minimum wage and it is vitally important that consideration be given to equal remuneration when setting the minimum wage, the capacity for this mechanism to be used to address the issue of the gender pay gap more broadly is obviously limited. The authority of the Western Australian Industrial Relations Commission to hear pay equity cases also remains in question, which is the principal reason I am introducing this bill. The Industrial Relations (Equal Remuneration) Amendment Bill 2011 makes clear the authority of the commission to hear such cases.

The bill allows for a pay equity matter to be referred to the commission by an employer with a sufficient interest, a relevant organisation or association, the minister, an employee, or the Commissioner for Equal Opportunity. The broad term "remuneration" is used in the bill to provide the commission with the capacity to ensure there is equity not only in regards to rates of pay, but across the total remuneration package of an employee, including conditions of employment. This bill has been drafted to allow implementation of equal remuneration orders to be undertaken either immediately or progressively as provided in the order, similar to the provision provided in the federal legislation. This recognises that some employers and funding bodies may need to make quite significant changes in order to ensure pay equity and that these may take time to implement. The bill also provides that an equal remuneration order cannot allow for a reduction in an employee's rate of remuneration.

While the bill allows pay equity cases to be run, it does not anticipate the outcome. In making an equal remuneration order the commission must be satisfied that there is not already equal remuneration. If there is no case on which to base a claim that an employee is not receiving equal pay for work of equal or comparable value then I would expect that the case would not be successful. The bill provides a mechanism to allow for cases of this type to be heard in this jurisdiction.

I would like to provide a bit of background about the need for this bill. At over 28 per cent, WA has the largest gender pay gap in Australia. For every dollar earned by a man in WA, a woman will earn less than 72 cents. For each week of full-time, ordinary time work a woman will receive \$470.90 less than a man. When we consider the total weekly earnings—including overtime and other entitlements—the figure is even worse. The gender pay gap is over 31 per cent and the difference in earnings is \$554. These are appalling statistics. Of great concern to me is that, despite recognising the issue for decades, successive governments have failed to make any real

inroads into reducing WA's gender pay gap. While the national gender pay gap has remained relatively constant for the last two decades, the gap in WA has worsened.

One of the reasons for the continuing failure to address the state's gender pay gap is a persistent and fundamental lack of awareness and understanding about the existence and nature of the gap. There is a common misconception that a significant amount of responsibility for the gap lies in the characteristics of our resources sector. Our appalling gender pay gap cannot be solely explained away by WA's strong resources sector and the relatively small numbers of women employed in that sector. The mining industry accounts for only around five per cent of employment in WA, and the gender pay gap in the WA mining industry of 25.5 per cent is less than the state average, so the mining industry is only a small part of the story.

A recent federal inquiry found that pay inequity is present at all skill and income levels across industries. That being said, some sectors have higher gender pay gaps than the average, such as the finance and retail sectors. This, again, is only a small part of the problem. Reasons for the gender pay gap are complex and multifaceted and include unsupportive working arrangements and over-representation of women in casual and non-career part-time employment. A significant portion of the gap is caused, not by pay differentials within industries, but by the highly segregated nature of Western Australia's workforce, and the fact that women and men tend to work in different industries. In 2010 nearly half of all employed women worked in the female-dominated industries of health care and social assistance, retail trade, or education and training.

Perhaps the most significant cause of the persistent lack of pay equity is the disparity that occurs between traditionally male or traditionally female jobs, and the devaluing of that work undertaken by women. This is clearly evident in the characteristics of our social and community services sector. There are around 83 per cent women and 17 per cent men employed in the sector. Workers in the sector earn on an average 30 per cent less than those performing the same work in the state public sector and local governments.

There is a raft of reasons why workers in the community sector earn so much less than others, even when their jobs require similar levels of expertise or training as workers in the public sector or other fields. But fundamentally it is about the cultural devaluation and poor industrial protection of work traditionally viewed as being "women's work". Women are in effect being penalised for caring for the most disadvantaged within our community; we need to remove this penalty. Recognition of the fact that employees in the social and community services sector have for too long been undervalued and underpaid was recently provided by the landmark finding by Fair Work Australia that for employees in this sector, "there is not equal remuneration for men and women workers for work of equal value by comparison with state and local government employment."

Although at the time of this second reading the final decision on the extent of the increase needed to deliver equity is still to come, in its finding Fair Work Australia opened the door at the federal level for real movement on entrenched gender inequity in the social and community services sector. Of great concern is that a significant number of workers within the community sector in WA run the risk of missing out on any remedy provided by Fair Work Australia because they come under the jurisdiction of our state industrial relations system. WA has the highest state industrial relations system coverage of all Australian states and territories. Although it is difficult to determine the precise coverage of our state system, it is likely to cover from 20 per cent to a third of Western Australian employees. There is no expectation of an automatic flow-on from the Fair Work decision to state awards and thus into WA workers' pay packets. Members will acknowledge the importance of state jurisdiction employees not being at a disadvantage to their federal counterparts, who might be doing the same jobs but under federal industrial relations jurisdiction. This would be an untenable situation for both employees and employers.

Western Australia is currently undergoing a major reform in the delivery of services, which centres on a move to extensively outsource publicly funded services to the not-for-profit sector. In anticipation of this shift, in May of this year the state government announced increased funding for the not-for-profit community sector of \$604 million over the next four years. This funding is intended to address the pay gap between the community and public sectors, and to build sustainability within the sector. While this was a very welcome investment, it was disappointing that there was no requirement for the funding to be used to increase wages. In not linking the increases to wages, I believe the government lost an important opportunity to address pay equity for this particular sector.

The failure to proactively link increases to wages reflects an overall lack of decisive political leadership in the area of pay equity. Government should be working to raise the profile of the pay equity issue and be campaigning across a range of areas to address the gender pay gap. Yet our state leaders have not only failed to address the pay equity issue, they have trouble even recognising and acknowledging its existence. In answer to questions, the Premier has refused to acknowledge that the pay gap has a gender basis and has not supported the Australian Services Union's campaign to address the pay gap. In addition, when acting in the Premier's role

earlier this year, the Minister for Health was reported as stating that he thought there were no pay equity problems within the public sector. This attitude makes it doubly important that we act to boost the legislative protection provided to Western Australian workers.

Our social and community services sector provides the backbone of vital caring services in our society, yet the sector is coming under increasing strain. The difficulties not-for-profit community groups face in attracting and retaining skilled staff in a competitive labour market are well known, as is the fact that salaries are a core driver of this problem. As the state government moves to increasingly outsource more services to the sector, while opening them up for competition, there is likely to be an even greater downward pressure on wages. This is clearly unsustainable, particularly given the increasing pressures on the sector from the effects of population and workforce ageing. This is a crucial period, and it is more important than ever that we work to ensure the continuity and sustainability of these vital services and that the issue of pay equity does not continue to directly impact on this.

While the social and community services sector has quite rightly been a central focus of recent campaigns in the area of pay equity, it is important to note that pay equity issues are not confined to the community sector. Significant gender pay gaps have also been identified in other sectors that potentially come under state industrial relations jurisdiction, including, importantly, within the public sector. The Industrial Relations (Equal Remuneration) Amendment Bill 2011 will allow employees in these sectors to also seek remedy.

I have heard the argument that the cost of addressing the gender pay gap is too great. I argue that we cannot afford not to do this. Adequately addressing the issue of pay equity is important, not only because as a civilised society we have a duty to ensure justice and equity for women, but also because there is a compelling economic argument that equal pay for women provides a strong incentive for more women to enter the workforce and thus boost the labour force. Increased female workforce participation has a positive impact on skills shortages, and increases productivity. A 2009 research report by Goldman Sachs JBWere Investment Research argued that proactive policies aimed at increasing female participation in the workforce will significantly boost Australia's economic growth and help to solve the looming fiscal burden of an ageing population. Pay equity is something we can no longer marginalise.

The flow-on effects of the persistent gender pay gap are grim. The decision in families as to who undertakes care is influenced by pay equity, limiting the choices and opportunities for both men and women. This occurs regardless of skill levels, preferences, or the needs of those requiring care. The effects also continue on to the experiences of women in their post-employment lives. Too many women are retiring with inadequate superannuation and other retirement savings, and are forced to rely on pensions, because of the great disparity in earnings between men and women. A recent Queensland paper found that by 2019, women will have on average only half the amount of superannuation that men will have. According to the Equal Opportunity for Women in the Workplace Agency, women are two and a half times more likely to live in poverty in their old age than men.

We need to remove the persistent barriers within our industrial relations system that prevent us addressing the issue of pay equity on a state level. Western Australia has the largest gender pay gap of any state or territory. We have a moral responsibility to ensure that those workers covered under the state industrial relations system are not being paid lower wages because of longstanding undervaluing of work traditionally viewed as "women's work". There have obviously been significant developments in Queensland and at the federal level. Western Australia is lagging behind. We should be leading in our efforts to address the issue because we are currently running last and have the most work to do.

Pay equity protection for Australian working women is a patchwork of commonwealth, state and territory laws and policy instruments in both the industrial relations and anti-discrimination arenas. I believe it is important that within the extremely complicated overlap of industrial systems, all Western Australian workers are afforded the same level of protection in regard to pay equity.

Western Australian women constitute a higher proportion of casual workers, and are more likely to be working under minimum employment conditions and be engaged in low-paid occupations and industries. They are under-represented in senior and decision-making roles across business, government and the community. Western Australian women continue to experience workplace discrimination on the basis of sex, pregnancy, potential pregnancy and family responsibilities. Women should not be paid less than men for doing work of similar value, and our laws should not allow the systemic undervaluing of women's work. We need to amend the Industrial Relations Act 1979 so that there is a remedy when this occurs.

I urge members to demonstrate their commitment to overcoming the gender wage inequalities that exist in Western Australia by supporting the Industrial Relations (Equal Remuneration) Amendment Bill 2011. I commend the bill to the house.

Debate adjourned, pursuant to standing orders.

