



SADA IR UPDATE



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As indicated in the previous Member Update there will be several Industrial Relations changes due to the Federal Government amending the Fair Work Act 2009.

The next issue that came into effect was on the 6 March 2023, involves sexual harassment that is connected to the workplace. This now puts employers on notice to make sure they have policies, procedures and training to ensure their workplace is conversant with this requirement.

Part 3-5A of the Fair Work Act 2009 will apply to sexual harassment that occurs or commences in the workplace after the 6 March 2023. This enables the Commission to deal with sexual harassment disputes, to make orders to stop sexual harassment in connection with work. What is significant about this is that the employer may be found vicariously liable. That is, if an employee harasses or is harassed by a colleague or contractor, the employer may be subject to a claim for sexual harassment.

Sexual harassment can occur with a single act if found to be in connection with work and not only while at work. Sexual harassment disputes can deal with past and future conduct, and it must usually be brought within two years of the alleged harassment. As employers and principals can be vicariously liable for the action of their employees/agents, it is important that sexual harassment education in the workplace occurs. This can involve the introduction of policies and procedures, and training.

The new provisions are quite broad and include three types of applications as follows:

- an application for an Order to Stop sexual harassment or further sexual harassment.
- an application to deal with a dispute involving sexual harassment, and
- for both Orders to stop sexual harassment to deal with a sexual harassment dispute.

Further information is available at the Fair Work Commission www.fwc.gov.au in relation to sexual harassment at work, with an on-line module also available. The Fair Work Ombudsman has expanded its website to inform about these changes at [New workplace sexual harassment laws](#).

These changes need to be taken seriously. In a Respect at Work survey by the Australian Human Rights Commission in November 2022, it found that one in three workers continued to experience sexual harassment in the past five years, and in the last 12 months, one in five have been sexually harassed.

When compared by gender, it is estimated that women were more likely to have been sexually harassed in nearly all industries. Women were significantly more likely to be harassed in Agriculture, Forestry and Fishing with an estimate of 47 per cent of women compared to 17 per cent of men.

All employers are therefore encouraged to inform employees about the employees' obligations in the prevention of sexual harassment in the workplace.

If you have any queries, please don't hesitate to contact the SADA Office on 8293 2399 or email sada@sada.asn.au

SADA members are entitled to contact MERS for a free half hour consultation, per member per year.



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