



Australia strengthens protections against sexual harassment, leave

By Fiona Webster and Stephanie Rosseau
15 Sep 2021

Australia's Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021, which increases protections against workplace sexual harassment and other types of workplace discrimination, received Royal Assent on 10 Sep 2021. The bill amends the Fair Work Act 2009, the Sex Discrimination Act 1984, and the Australian Human Rights Commission Act 1986 — and most of the measures are now effective. The bill follows the Australian Human Rights Commission's 2020 report, "Respect@Work," that made recommendations on improving protections against workplace sexual harassment.

Highlights

- Expansion of the Sex Discrimination Act to protect all paid and unpaid workers from sexual discrimination and sexual harassment
- Prohibition of sex-based harassment defined as conduct of a seriously demeaning nature involving the sex of the person, or characteristics associated with their sex that offends, humiliates or intimidates. The behavior does not have to be sexual in nature.
- Enactment of a new mechanism that will allow the Fair Work Commission to address a single complaint of sexual harassment and to make orders requiring enforcement by the employer
- Clarification that sexual harassment connected with a person's employment is a valid reason for their dismissal
- Expansion of the time period (24 months, up from six months) provided for complaints to be heard before they can be dismissed at the discretion of the President of the Australian Human Rights Commission
- New accessorial liability provisions that will apply if a person causes, instructs, induces, aids or permits sexual or sex-based harassment by another individual
- Implementation of two days of paid compassionate leave to be taken in circumstances where employees, or their spouses or partners, suffer a miscarriage. The leave is unpaid for casual workers.

Related resources

- [Sex Discrimination and Fair Work \(Respect at Work\) Amendment Bill 2021](#) (Parliament of Australia, 10 Sep 2021)
- [Respect@Work: Sexual Harassment National Inquiry Report \(2020\)](#) (Australian Human Rights Commission, 2020)

Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.