

# Work Health and Safety (Sexual Harassment) Amendment Regulation 2024

## Human Rights Certificate

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, the Honourable Grace Grace MP, Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing, provide this human rights certificate with respect to the *Work Health and Safety (Sexual Harassment) Amendment Regulation 2024* (Amendment Regulation) made under the *Work Health and Safety Act 2011*.

In my opinion, the Amendment Regulation is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

## Overview of the Subordinate Legislation

The Amendment Regulation amends the *Work Health and Safety Regulation 2011* to introduce requirements for a person conducting a business or undertaking (PCBU) to manage the risk of sexual harassment and sex or gender-based harassment at work.

Sexual harassment and sex or gender-based harassment are workplace hazards known to cause psychological and physical harm. Sexual harassment is unwelcome conduct of a sexual nature which makes a person feel offended, humiliated, or intimidated, where that reaction is reasonable in the circumstances. Sex or gender-based harassment is any unwelcome conduct of an offensive or demeaning nature by reason of the person's gender, sex, or sexuality, in circumstances in which a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated, or intimidated.

The Amendment Regulation amends the *Work Health and Safety Regulation 2011* to require PCBUs to:

- manage the risk of sexual harassment and sex or gender-based harassment in accordance with the risk management process (e.g., identify the risk and implement, maintain, and review control measures);
- have regard to relevant matters when selecting control measures (e.g., personal or workplace characteristics that may increase the risk of sexual harassment and sex or gender-based harassment);
- review control measures if a report of sexual harassment or sex or gender-based harassment is made; and
- prepare and maintain a prevention plan.

The Amendment Regulation will protect workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work.

## Human Rights Issues

### Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

I have considered the rights protected by Part 2 of the HR Act. In my opinion, the human rights under the HR Act that are relevant to the Amendment Regulation are:

- right to recognition and equality before the law (section 15);
- right to life (section 16);
- right to protection from torture and cruel, inhuman or degrading treatment (section 17);
- right to take part in public life (section 23);
- right to protection of families and children (section 26);
- cultural rights – generally (section 27); and
- cultural rights—Aboriginal peoples and Torres Strait Islander people (section 28).

### Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

The Amendment Regulation does not limit human rights under the HR Act.

### Conclusion

I consider that the *Work Health and Safety (Sexual Harassment) Amendment Regulation 2024* is compatible with the HR Act because it does not limit human rights.

**GRACE GRACE MP**  
Minister for State Development and Infrastructure  
Minister for Industrial Relations and  
Minister for Racing