



Queensland

Work Health and Safety (Sexual Harassment) Amendment Regulation 2024

Subordinate Legislation 2024 No. 173

made under the

Work Health and Safety Act 2011

Contents

		Page
Part 1	Preliminary	
1	Short title	3
2	Commencement	3
3	Regulation amended	3
Part 2	Amendments commencing on 1 September 2024	
4	Amendment of s 38 (Review of control measures)	3
5	Insertion of new pt 3.2, div 11, sdiv 1, hdg	3
	Subdivision 1 Preliminary	
6	Insertion of new s 55BA	4
	55BA Meaning of sexual harassment and sex or gender-based harassment	4
7	Insertion of new pt 3.2, div 11, sdiv 2, hdg	4
	Subdivision 2 General	
8	Amendment of s 55C (Duty to manage psychosocial risks)	4
9	Amendment of s 55D (Determining control measures for psychosocial risks)	5
10	Insertion of new pt 3.2, div 11, sdiv 3	5
	Subdivision 3 Sexual harassment and sex or gender-based harassment	
	55E Application of subdivision	5
	55F Determining control measures	5

Contents

	55G	Review of control measures	7
11		Amendment of sch 19 (Dictionary)	7
Part 3		Amendments commencing on 1 March 2025	
12		Insertion of new s 55H	7
	55H	Duty to prepare prevention plan	7

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Work Health and Safety (Sexual Harassment) Amendment Regulation 2024*.

2 Commencement

- (1) Part 2 commences on 1 September 2024.
- (2) Part 3 commences on 1 March 2025.

3 Regulation amended

This regulation amends the *Work Health and Safety Regulation 2011*.

Part 2 Amendments commencing on 1 September 2024

4 Amendment of s 38 (Review of control measures)

Section 38(2)—

insert—

Note—

See also section 55G in relation to a review of control measures about sexual harassment and sex or gender-based harassment.

5 Insertion of new pt 3.2, div 11, sdiv 1, hdg

Before section 55A—

insert—

Subdivision 1 Preliminary

[s 6]

6 Insertion of new s 55BA

After section 55B—

insert—

55BA Meaning of *sexual harassment* and *sex or gender-based harassment*

- (1) *Sexual harassment* is sexual harassment that would contravene—
 - (a) the *Anti-Discrimination Act 1991*; or
 - (b) the *Sex Discrimination Act 1984* (Cwlth).
- (2) *Sex or gender-based harassment* has the meaning given by the *Industrial Relations Act 2016*, schedule 5.

7 Insertion of new pt 3.2, div 11, sdiv 2, hdg

Before section 55C—

insert—

Subdivision 2 General

8 Amendment of s 55C (Duty to manage psychosocial risks)

Section 55C—

insert—

- (2) Without limiting subsection (1), the person conducting the business or undertaking must manage the risk to the health or safety of a worker, or other person, from either of the following at work—
 - (a) sexual harassment;
 - (b) sex or gender-based harassment.

9 Amendment of s 55D (Determining control measures for psychosocial risks)

Section 55D(1)—

insert—

Note—

If a psychosocial risk is or includes a risk of sexual harassment or sex or gender-based harassment, see also subdivision 3.

10 Insertion of new pt 3.2, div 11, sdiv 3

After section 55D—

insert—

Subdivision 3 Sexual harassment and sex or gender-based harassment

55E Application of subdivision

This subdivision applies to a person conducting a business or undertaking who implements control measures, under part 3.1, to manage a psychosocial risk that is or includes a risk of either of the following—

- (a) sexual harassment;
- (b) sex or gender-based harassment.

55F Determining control measures

- (1) In determining the control measures to implement, the person conducting the business or undertaking must have regard to all relevant matters in relation to the risk of sexual harassment or sex or gender-based harassment, including—

[s 10]

- (a) matters relating to characteristics of the workers, such as the workers'—
- (i) age; or
 - (ii) gender; or
 - (iii) sex; or
 - (iv) sexual orientation; or
 - (v) disability; and

Example for paragraph (a)—

At a particular workplace, a younger worker's sex may be a relevant matter if the majority of other workers are all of a different sex and are a similar age to each other.

- (b) matters relating to characteristics of the workplace or work environment, such as—
- (i) a work environment that may give rise to a workplace culture, or system of work, in which unacceptable or inappropriate behaviour is, or may be, permitted; and
 - (ii) a lack of diversity in the workplace generally or in particular decision-making positions; and
 - (iii) other matters about the workplace or work environment that may affect a person's behaviour in relation to a worker.

Examples for subparagraph (iii)—

- A workplace being a hotel may be a relevant matter if patrons at the hotel may be affected by drugs or alcohol.
- A worker's status as a casual or part-time worker may be a relevant matter if other workers are permanent staff and have a supervisory role in relation to the worker.

(2) This section does not limit section 55D.

55G Review of control measures

Without limiting section 38, the person conducting the business or undertaking must review and, as necessary, revise the control measures if a person reports sexual harassment or sex or gender-based harassment at work.

11 Amendment of sch 19 (Dictionary)

Schedule 19—

insert—

report, in relation to sexual harassment or sex or gender-based harassment at work, means a complaint or other disclosure about the harassment made to the person conducting the business or undertaking.

sex or gender-based harassment see section 55BA.

sexual harassment see section 55BA.

Part 3 Amendments commencing on 1 March 2025

12 Insertion of new s 55H

After section 55G, as inserted by this regulation—

insert—

55H Duty to prepare prevention plan

(1) The person conducting the business or undertaking must prepare a plan (a ***prevention plan***) in compliance with subsection (2), to manage an identified risk to the health or safety of

[s 12]

workers, or other persons, from either of the following at work—

- (a) sexual harassment;
- (b) sex or gender-based harassment.

Maximum penalty—60 penalty units.

- (2) The prevention plan must—
 - (a) be in writing; and
 - (b) state each identified risk; and
 - (c) identify the control measures implemented, or to be implemented, to manage each identified risk; and
 - (d) identify the matters considered by the person conducting the business or undertaking in determining the control measures mentioned in paragraph (c), including—
 - (i) the relevant matters considered under section 55F(1); and
 - (ii) any other matter mentioned in section 55D(2) that is relevant to the determination; and
 - (e) describe the consultation undertaken by the person conducting the business or undertaking under part 5, divisions 1 and 2 of the Act; and
 - (f) set out the procedure for dealing with reports of sexual harassment or sex or gender-based harassment at work, including—
 - (i) how a person may make a report; and
 - (ii) how the report will be investigated; and

- (iii) that the person who made the report may be represented by a representative; and
 - (iv) how the person who made the report and other parties will be informed of the results of the investigation; and
 - (v) that the person who made the report may also use the issue resolution procedures and the dispute resolution process in part 5, divisions 5 and 7A of the Act; and
 - (g) be set out and expressed in a way that is readily accessible and understandable to workers.
 - (3) The person conducting the business or undertaking must implement the prevention plan.
Maximum penalty—60 penalty units.
 - (4) The person conducting the business or undertaking must—
 - (a) take reasonable steps to ensure workers are made aware of the prevention plan and know how to access it; and
 - (b) review the plan—
 - (i) if a report of sexual harassment or sex or gender-based harassment at work is made—as soon as practicable after the report is made; or
 - (ii) if a health and safety committee for the workplace or a worker’s health and safety representative requests a review of the plan—as soon as practicable after the request is made; or
 - (iii) otherwise—every 3 years.
- Maximum penalty—60 penalty units.

[s 12]

(5) In this section—

representative, in relation to a person other than a worker, means someone else who the person authorises to represent them.

Note—

See section 45A of the Act in relation to who is a representative of a worker.

ENDNOTES

- 1 Made by the Governor in Council on 29 August 2024.
- 2 Notified on the Queensland legislation website on 30 August 2024.
- 3 The administering agency is the Department of State Development and Infrastructure.

© State of Queensland 2024