

MEDIA RELEASE

Changes to sex discrimination guidelines could catch employers unaware

Stricter rules on breastfeeding and sexual harassment underpin employer's concerns

22 August 2011 – Significant amendments to the *Sex Discrimination Act*, including broader implications surrounding breastfeeding at work, recognising discrimination due to family responsibility and broadening the definition of sexual harassment, could lead to increased legal ramifications for employers, according to Harmers Workplace Lawyers.

Shana Schreier-Joffe, Managing Partner of Harmers Workplace Lawyers, said the amendments now recognise breastfeeding as an entirely separate category of discrimination, rather than an instance of sex discrimination. Furthermore, the definition of sexual harassment has been broadened. Other than in the employment context, it also now applies not only to the recipients of the provision of goods and services but also to those that provide the goods and services.

According to Ms Schreier-Joffe, many business owners were unaware of their legal obligations prior to the amendments, and the latest round of changes mean employers cannot afford to be ignorant of increased employee and consumer protections.

“The amendments surrounding breastfeeding discrimination mean employers must ensure they provide adequate facilities for breastfeeding women, such as basic hygiene and privacy. Failure to do so would be considered direct discrimination,” Ms Schreier-Joffe said.

Ms Schreier-Joffe also noted the Act now specifically provides that sexual harassment can be committed by the use of new technologies such as mobile phones, cameras and social media.

Ms Schreier-Joffe said further changes to increase protection for employees on the grounds of family responsibilities could also have significant consequences for employers. Workplace requests related to family responsibilities now apply to all stages of the employment relationship, and equally to men and women, ensuring there is no gender discrimination.

“Workplaces are now quite dynamic, making it important to for employers to have the right policies in place to allow employees to fulfil their family responsibilities, which could include flexible working hours or requesting a period of leave,” she said.

“While the amendments provide more clarity around discrimination in the workplace, potential issues will arise if employers are caught unaware. I would urge business owners to review their policies and practices to ensure they are compliant and thereby avoid possible legal ramifications,” Ms Schreier-Joffe concluded.

Advice for employers:

- Review what facilities are in place, or could be made available, for breastfeeding women returning to work and whether these facilities meet reasonable standards of hygiene and privacy. In this context, it is important to remember that breastfeeding includes the act of expressing milk.
- Ensure there are no inflexible policies or practices preventing a breastfeeding employee from taking appropriate breaks during work.
- Ensure staff, including those on parental leave, are aware of what policies and practices are in place and what support is available within the workplace in respect to family responsibilities and breastfeeding.
- Update sexual harassment policies to reflect the relevant changes to the *Sex Discrimination Act* (including in respect to the provision of goods, services and facilities), and communicate these changes to staff.
- Review policies and practices relating to the accommodation of family responsibilities in the workplace, and how these policies and practices apply to both male and female workers.

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About Harmers Workplace Lawyers

Harmers Workplace Lawyers was established in 1996 as a boutique employment law firm. Since then it has become one of Australia's leading employment and industrial law firms, with offices in Sydney, Melbourne and Brisbane. The firm has been awarded Australasian Legal Business's 'employment specialist firm of the year' for the past six years running.

Issued by Sefiani Communications Group on behalf of Harmers Workplace Lawyers

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