

## Ireland - Sexual Harassment

**Harassment and sexual harassment.** (s.14A of the Employment Equality Act 1998 (as amended by s.8 of the Equality Act 2004)

14A.

—(1) For the purposes of this Act, where—

- (a) an employee (in this section referred to as ‘the victim’) is harassed or sexually harassed either at a place where the employee is employed (in this section referred to as ‘the workplace’) or otherwise in the course of his or her employment by a person who is—
  - (i) employed at that place or by the same employer,
  - (ii) the victim's employer, or
  - (iii) a client, customer or other business contact of the victim's employer and the circumstances of the harassment are such that the employer ought reasonably to have taken steps to prevent it,

or

- (b) without prejudice to the generality of paragraph (a)—
  - (i) such harassment has occurred, and
  - (ii) either—
    - (I) the victim is treated differently in the workplace or otherwise in the course of his or her employment by reason of rejecting or accepting the harassment, or
    - (II) it could reasonably be anticipated that he or she would be so treated,

the harassment or sexual harassment constitutes discrimination by the victim's employer in relation to the victim's conditions of employment.

(2) If harassment or sexual harassment of the victim by a person other than his or her employer would, but for this subsection, be regarded as discrimination by the employer under subsection (1), it is a defence for the employer to prove that the employer took such steps as are reasonably practicable—

- (a) in a case where subsection (1)(a) applies (whether or not subsection (1)(b) also applies), to prevent the person from harassing or sexually harassing the victim or any class of persons which includes the victim, and
- (b) in a case where subsection (1)(b) applies, to prevent the victim from being treated differently in the workplace or otherwise in the course of the victim's employment and, if and so far as any such treatment has occurred, to reverse its effects.

(3) A person's rejection of, or submission to, harassment or sexual harassment may not be used by an employer as a basis for a decision affecting that person.

(4) The reference in subsection (1)(a)(iii) to a client, customer or other business contact of the victim's employer includes a reference to any other person with whom the employer might reasonably expect the victim to come into contact in the workplace or otherwise in the course of his or her employment.

(5) In this section 'employee' includes an individual who is—

- (a) seeking or using any service provided by an employment agency, and
- (b) participating in any course or facility referred to in paragraphs (a) to (c) of section 12(1),

and accordingly any reference to the individual's employer includes a reference to the employment agency providing the service or, as the case may be, the person offering or providing the course or facility.

(6) Where subsection (5) applies in relation to a victim, subsection (1) shall have effect as if for 'in relation to the victim's conditions of employment' there were substituted 'contrary to section 11' or, as the case may be, section 12.

(7)

- (a) In this section—
  - (i) references to harassment are to any form of unwanted conduct related to any of the discriminatory grounds, and
  - (ii) references to sexual harassment are to any form of unwanted verbal, non-verbal or physical conduct of a sexual nature,

being conduct which in either case has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

- (b) Without prejudice to the generality of paragraph (a), such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material.

s.11 of the Equal Status Act 2000 (as amended by s.51 of the Equality Act 2004).<sup>7</sup>

### **Sexual and other harassment.**

11.

- –(1) A person shall not sexually harass or harass (within the meaning of subsection (4) or (5)) another person (“the victim”) where the victim—
  - (a) avails or seeks to avail himself or herself of any service provided by the person or purchases or seeks to purchase any goods being disposed of by the person,
  - (b) is the proposed or actual recipient from the person of any premises or of any accommodation or services or amenities related to accommodation, or
  - (c) is a student at, has applied for admission to or avails or seeks to avail himself or herself of any service offered by, any educational establishment (within the meaning of section 7) at which the person is in a position of authority.
- (2) A person (“the responsible person”) who is responsible for the operation of any place that is an educational establishment or at which goods, services or accommodation facilities are offered to the public shall not permit another person who has a right to be present in or to avail himself or herself of any facilities, goods or services provided at that place, to suffer sexual harassment or harassment at that place.
- (3) It shall be a defence for the responsible person to prove that he or she took such steps as are reasonably practicable to prevent the sexual harassment or harassment, as the case may be, of the other person referred to in subsection (2) or of a category of persons of which that other person is a member.
- (4) A person's rejection of, or submission to, sexual or other harassment may not be used by any other person as a basis for a decision affecting that person.
- (5)
  - (a) In this section—
    - (i) references to harassment are to any form of unwanted conduct related to any of the discriminatory grounds, and

- (ii) references to sexual harassment are to any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, being conduct which in either case has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.
  - (b) Without prejudice to the generality of paragraph (a), such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material.
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## Legal Source

Employment Equality Acts 1998-2011 and Equal Status Acts 2000-2012.

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## Observations

Sexual harassment is prohibited as a form of discrimination both in the field of employment under the Employment Equality Acts 1998-2011 and in the supply of and access to goods and services under the Equal Status Acts 2000-2012