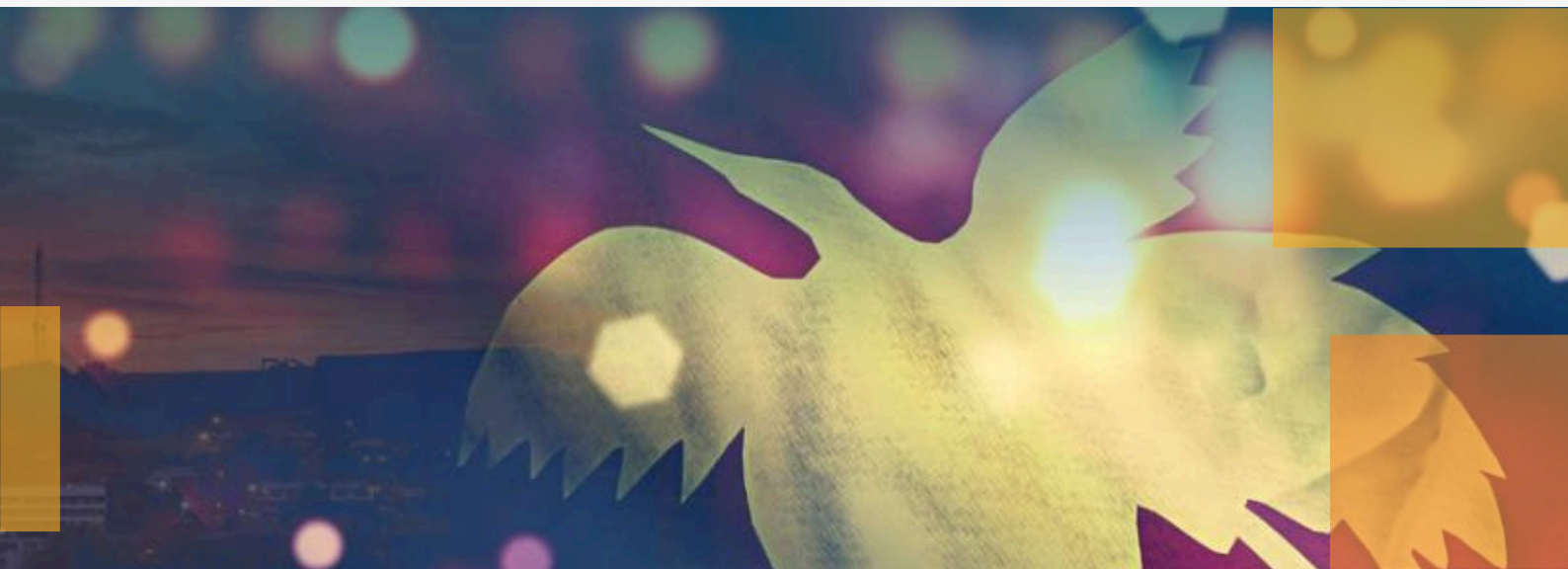




Sexual Harassment Provisions to include in PNG's Employment Act

Summary

- The ongoing Employment Act reform process presents an opportunity to progress on sexual harassment laws.
- We highlight **possible recommendations (to amending the Employment Act)**, including:
 - Add a clear **definition of sexual harassment**
 - Highlight straightforward **employer obligations** (e.g. requiring workplace notices etc).
 - Ensure suitable pathways/mechanisms exist to **report sexual harassment**.

Consideration 1: Definition for sexual harassment

Include a definition of sexual harassment, for example:

"Sexual harassment is any **unwanted or unwelcomed** conduct of a **sexual nature**, whether verbal, non-verbal, written, visual, gestural, or physical that is **offensive, humiliating, or threatening**. Sexual harassment can also occur in a sexually charged or **'hostile' work environment**, even if the conduct is not directed at a specific person."

Examples from other countries (definition of sexual harassment)

Malaysia (Employment Act)

The Anti-Sexual Harassment Bill 2021 introduced a new legal definition for 'Sexual Harassment', which is *"any unwanted conduct of a sexual nature, in any form, whether verbal, non-verbal, visual, gestural or physical, directed at a person which is reasonably offensive or humiliating or is a threat to his well-being."*

Australia (Sex Discrimination and Fair Work Amendment Act 2021)

'Any unwanted or unwelcome sexual behaviour where a reasonable person would have anticipated the possibility that the person harassed would feel offended, humiliated or intimidated' ([source](#)).

Sexual harassment can also occur in a sexually charged or 'hostile' work environment, even if the conduct is not directed at a specific person.

Examples of sexual harassment include:

- inappropriate physical contact
- unwelcome touching, hugging, cornering or kissing
- intrusive questions about a person's private life or physical appearance
- sexually suggestive comments or jokes that offend or intimidate actual or attempted rape or sexual assault.

Consideration 2: Employer's obligations to prohibit sexual harassment in the workplace

Recommend straight forward employer obligations, for example:

- Require employers to display clear and visible notices in all workplaces stating that sexual harassment is prohibited, along with procedures for reporting.

Examples from other countries (employer obligation)

India: Sexual Harassment of Women at Workplace Act 2013, included mandatory notices requiring employers to prominently display notices in the workplace outlining the prohibition of sexual harassment and details on how complaints can be filed.

Colombia: Law 2365 of 2024 mandates that employers are required to protect complainants and witnesses. This includes ensuring that complainants cannot be terminated within six months of filing a complaint, except under specific circumstances.

Malaysia: Employment (Amendment) Act 2022 introduced Section 81H, mandating employers to exhibit such notices to raise awareness.

- Addition of Section 81H: New requirement for employers to exhibit conspicuously a notice to raise awareness at the place of employment.
- Amendment of Section 81F: Penalty increased to RM50,000 from RM10,000 where an employer fails to inquire into complaints of sexual harassment or inform the complainant of a refusal to inquire and the reasons for the same.

The Philippines: Mandated the 'Safe Spaces Act' in 2018 which had an entire section dedicated to 'Duties of Employers' (Section 17).

Employers or other persons of authority, influence or moral ascendancy in a workplace shall have the duty to prevent, deter, or punish the performance of acts of gender-based sexual harassment in the workplace. Towards this end, the employer or person of authority, influence or moral ascendancy shall:

- (a) Disseminate or post in a conspicuous place a copy of this Act to all persons in the workplace
- (b) Provide measures to prevent gender-based sexual harassment in the workplace, such as the conduct of anti-sexual harassment seminars

Consideration 3: Ensure suitable pathways/mechanisms exist to report sexual harassment

- Enable suitable existing complaints mechanisms to receive complaints on sexual harassment eg. With the Department of Labour and Industrial Relations