

SHAW PERSONNEL SERVICES

E-TOPIC

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SEX DISCRIMINATION

With effect from the 6th April, the Sex Discrimination Act 1975 (Amendment) Regulations 2008 will come into force.

Section 4A of the Act is amended very significantly with the additional words 'or that of another person'. This section now says "A person subjects a woman to harassment if, related to her sex of that of another person, he engages in unwanted conduct that has the purpose or effect of violating her dignity, or of creating an intimidating, hostile, degrading, humiliating or offensive environment for her."

As a result, a person making a complaint of sexual harassment is only required to show that the alleged conduct or treatment was associated or connected with sex and not because of the sex of the complainant.

A new liability is imposed on employers who fail to protect employees from harassment by third parties, for example, customers, clients or visitors. An employer who fails to take reasonably practicable steps to protect employees from third-party harassment where such harassment is known to have occurred on at least two other occasions will be vicariously liable for those acts.

Finally, for the moment, a woman who is pregnant will not have to compare her treatment with a woman who is not pregnant if she is claiming less favourable treatment on the grounds of maternity. It will be sufficient that she is pregnant.

There will be changes to the exceptions to claim discrimination in relation to terms and conditions of employment during maternity leave. These will come into effect only for women whose expected week of childbirth falls on or after 5th October 2008. These will bring the same entitlements to claim discrimination during Additional Maternity Leave as during Ordinary Maternity Leave. It will be discriminatory not to pay a discretionary bonus during the two week Compulsory Maternity Leave period.

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