



NEW RULES ON SEXUAL HARASSMENT

14 APRIL 2023

Introduction

The Danish Parliament has recently adopted a new act amending the Danish Equal Treatment of Men and Women Act. The purpose of the amendment is to increase the efforts against harassment episodes in workplaces. Harassment episodes in work places has been a key focus area through the most recent years. With the amendments the regulator seeks to urge cultural changes and motivate companies to secure a healthy working environment. The amendments are planned to come into force on 1 July 2023.

The Obligations of the Employer

Employers are currently obliged to ensure a harassment-free working environment, including preventing sexual harassment at the workplace pursuant to the preparatory work in the Danish Equal Treatment of Men and Women Act (in Danish: “*Ligebehandlingsloven*”) in addition to the provisions in the Danish Working Environment Act (in Danish: “*Arbejds miljøloven*”).

The new act will not materially change the employer’s obligations to ensure a harassment-free working environment pursuant to Danish law. However, according to the amendments the obligation of the employer to ensure a harassment-free working environment is now explicitly stated in the provisions of the Danish Equal Treatment of Men and Women act. The purpose is to make the obligations of the employer transparent and clear. Further, the employer is imposed an obligation to react in case of incidents of harassment.

Compensations

In addition to the Act underlining the obligation of the employer to ensure a healthy working environment, the Act provides additional guidance for the measuring of compensations. Generally, an employee who has been subject to harassment may claim for a compensation from both the employer and the offender. According to current case law, the compensations are typically in the range of DKK 20,000-40,000. The amendments set the stage for an increase of these compensations with app. 1/3 in case of serious sexual harassment.

According to the amendment, criteria’s such as the level of rudeness and the circumstances should be taken into consideration. This includes the type of harassment, the duration and the relation between the employee and the offender.

It is expected that the employer will only be found liable for payment of compensation in case the offender is another employee and to the extent that the employer has not made sufficient measures to ensure a harassment-free working environment.

In the case of an episode of sexual harassment at the workplace, the employee who has been subject to the harassment can claim compensation from the employer through The Board of Equal Treatment (in Danish: “*Ligebehandlingsnævnet*”) and can with the new amendments – as something new to Danish law - also claim compensation from the offender through The

Board of Equal Treatment. The purpose is to introduce easier and faster access to compensation and justice.

Our Comments

As such, the amendments do not introduce new rules or obligations for employers. However, the amendments underline the responsibility of the employer to create and maintain a healthy working environment and react if inappropriate or unwarranted culture or behaviors occur.

An important step in creating and maintaining a healthy environment is to ensure that sufficient and appropriate policies are in place.

Such policies should at least set out tolerance towards harassment, procedures for handling incidents of harassment and consequences in case of a breach of the policies.

Policies will – in addition to allowing the employer to actively react – in case of harassment, also put on notice that the employer has a focus on the working environment and takes an active part in preventing harassment.

Need Help with Internal Policies on Sexual Harassment?

At Moalem Weitemeyer, we are experts in employment law, and we have set up teams ready to help any of our clients with drafting or amending any internal policies on sexual harassment.

If you have any questions or require further information regarding any of the above, please do not hesitate to contact us.



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