



Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021

No. 104, 2021

**An Act to amend the *Fair Work Act 2009* and the
Sex Discrimination Act 1984, and for other purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
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Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021

No. 104, 2021

**An Act to amend the *Fair Work Act 2009* and the
Sex Discrimination Act 1984, and for other purposes**

[Assented to 10 September 2021]

The Parliament of Australia enacts:

1 Short title

This Act is the *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021*.

No. 104, 2021 *Sex Discrimination and Fair Work (Respect at Work) Amendment Act* 1
2021

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	11 September 2021

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments

Australian Human Rights Commission Act 1986

1 Subsection 3(1) (paragraph (e) of the definition of *unlawful discrimination*)

Omit “1975; or”, substitute “1975.”.

2 Subsection 3(1) (paragraph (f) of the definition of *unlawful discrimination*)

Repeal the paragraph.

3 Paragraph 46PH(1)(b)

Repeal the paragraph, substitute:

- (b) the complaint was lodged:
 - (i) in a case where the complaint relates to the *Sex Discrimination Act 1984*—more than 24 months after the alleged acts, omissions or practices took place; or
 - (ii) in any other case—more than 6 months after the alleged acts, omissions or practices took place;

Fair Work Act 2009

4 Subsection 9(5B)

After “bullied”, insert “or sexually harassed”.

5 Subsection 9(5B)

After “bullying”, insert “or sexual harassment”.

6 Section 12

Insert:

miscarriage means a spontaneous loss of an embryo or fetus before a period of gestation of 20 weeks.

sexually harass has the meaning given by section 28A of the *Sex Discrimination Act 1984*.

Note: Other parts of speech and grammatical forms of “sexually harass” (for example, “sexual harassment”) have a corresponding meaning (see section 18A of the *Acts Interpretation Act 1901*).

sexually harassed at work: see subsection 789FD(2A).

7 Section 104

Before “An employee”, insert “(1)”.

8 At the end of section 104

Add:

; or (c) the employee, or the employee’s spouse or de facto partner, has a miscarriage.

(2) Paragraph (1)(c) does not apply:

- (a) if the miscarriage results in a stillborn child; or
- (b) to a former spouse, or former de facto partner, of the employee.

Note: For the definition of a *stillborn* child, see subsection 77A(2).

9 At the end of subsection 105(1)

Add:

; or (c) after the employee, or the employee’s spouse or de facto partner, has the miscarriage referred to in section 104.

10 At the end of section 387

Add:

Note: For the purposes of paragraph (a), the following conduct can amount to a valid reason for the dismissal:

- (a) the person sexually harasses another person; and
- (b) the person does so in connection with the person’s employment.

11 Subsection 539(2) (table, subheading relating to Part 6-4B)

After “bullied”, insert “or sexually harassed”.

12 Paragraph 576(1)(q)

After “bullied”, insert “or sexually harassed”.

13 Paragraph 675(2)(j)

After “bullied”, insert “or sexually harassed”.

14 Subparagraph 712AA(1)(a)(v)

After “bullying”, insert “or sexual harassment”.

15 Part 6-4B (heading)

After “bullied”, insert “or sexually harassed”.

16 Section 789FA

After “bullied”, insert “or sexually harassed”.

17 Section 789FA

After “bullying”, insert “or sexual harassment”.

18 Division 2 of Part 6-4B (heading)

After “bullied”, insert “or sexually harassed”.

19 Section 789FC (heading)

After “bullying”, insert “or sexual harassment”.

20 Subsection 789FC(1)

After “bullied”, insert “or sexually harassed”.

21 Section 789FD (heading)

After “*work*”, insert “or *sexually harassed at work*”.

22 After subsection 789FD(2)

Insert:

- (2A) A worker is *sexually harassed at work* if, while the worker is at work in a constitutionally-covered business, one or more individuals sexually harasses the worker.

23 Section 789FF (heading)

After “bullying”, insert “or sexual harassment”.

24 Subsection 789FF(1)

Repeal the subsection, substitute:

- (1) If:
- (a) a worker has made an application under section 789FC; and
 - (b) either or both of the following apply:
 - (i) the FWC is satisfied that the worker has been bullied at work by an individual or a group of individuals, and the FWC is satisfied that there is a risk that the worker will continue to be bullied at work by the individual or group;
 - (ii) the FWC is satisfied that the worker has been sexually harassed at work by one or more individuals, and the FWC is satisfied that there is a risk that the worker will continue to be sexually harassed at work by the individual or individuals;

then the FWC may make any order it considers appropriate (other than an order requiring payment of a pecuniary amount) to:

- (c) if subparagraph (b)(i) applies—prevent the worker from being bullied at work by the individual or group; or
- (d) if subparagraph (b)(ii) applies—prevent the worker from being sexually harassed at work by the individual or individuals; or
- (e) if subparagraphs (b)(i) and (ii) apply:
 - (i) prevent the worker from being bullied at work by the individual or group; and
 - (ii) prevent the worker from being sexually harassed at work by the individual or individuals.

25 Section 789FG (heading)

After “**bullying**”, insert “**or sexual harassment**”.

26 Section 789FH (note)

After “bullied”, insert “or sexually harassed”.

27 Section 789FH (note)

After “bullying”, insert “or sexual harassment”.

28 In the appropriate position in Schedule 1

Insert:

**Part 11—Amendments made by the Sex
Discrimination and Fair Work (Respect at
Work) Amendment Act 2021**

49 Orders to stop bullying

Scope

- (1) This section applies to an order that was in force under subsection 789FF(1) immediately before the commencement of this section.

Transitional

- (2) Despite the repeal of that subsection by the *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021*, that subsection continues to apply, in relation to the order, as if that repeal had not happened.

49A Applications for orders to stop sexual harassment

The amendments of section 789FC made by the *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021* apply in relation to an application made under that section after the end of the 2-month period beginning at the commencement of this section.

50 Orders to stop sexual harassment

For the purposes of subparagraph 789FF(1)(b)(ii) (as amended by the *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021*), it is immaterial whether the worker has been sexually harassed at work before, at or after the commencement of this section.

Sex Discrimination Act 1984

29 Title

Omit “or involving sexual harassment”, substitute “, and relating to discrimination involving sexual harassment and discrimination involving harassment on the ground of sex”.

30 Paragraph 3(c)

After “discrimination involving sexual harassment”, insert “, and discrimination involving harassment on the ground of sex,”.

31 At the end of section 3

Add:
; and (e) to achieve, so far as practicable, equality of opportunity between men and women.

32 Subsection 4(1) (definition of *administrative office*)

Repeal the definition.

33 Subsection 4(1)

Insert:

Commonwealth administrative office means:

- (a) an office established by, or an appointment made under, a law of the Commonwealth; or
- (b) an office established by, or an appointment made under, a law of a Territory; or
- (c) an appointment made by the Governor-General or a Minister otherwise than under a law of the Commonwealth or of a Territory (including the Australian Capital Territory and the Northern Territory); or
- (d) an appointment as a director of an incorporated company that is a public authority of the Commonwealth;

but does not include:

- (e) an office of member of the Assembly, member of the Executive, or Minister within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*; or

- (f) an office of member of the Legislative Assembly, member of the Council or Minister of the Territory, within the meaning of the *Northern Territory (Self-Government) Act 1978*; or
- (g) an office or appointment in the Australian Public Service; or
- (h) an office of member of either House of the Parliament; or
- (i) an office of a person employed or engaged under the *Members of Parliament (Staff) Act 1984*; or
- (j) a Commonwealth judicial office.

Note: A person who holds an office or appointment mentioned in paragraph (g), (h), (i) or (j) is covered by the definition of *Commonwealth employee*.

34 Subsection 4(1) (paragraph (b) of the definition of *Commonwealth employee*)

Omit “an administrative office”, substitute “a Commonwealth administrative office”.

35 Subsection 4(1) (at the end of the definition of *Commonwealth employee*)

Add:

- ; or (g) is a member of either House of the Parliament; or
- (h) is a person employed or engaged under the *Members of Parliament (Staff) Act 1984*; or
- (i) is a person who holds a Commonwealth judicial office.

Note: See also section 108.

36 Subsection 4(1)

Insert:

Commonwealth judicial office means:

- (a) an office of a Justice of the High Court; or
- (b) an office of a judge or justice of a court created by the Parliament.

37 Subsection 4(1) (at the end of the definition of *employment*)

Add:

- ; and (d) work as a State employee of a State.

Schedule 1 Amendments

Part 1 Amendments

Note 1: Other parts of speech and grammatical forms of “employment” (for example, “employer” and “employee”) have a corresponding meaning (see section 18A of the *Acts Interpretation Act 1901*).

Note 2: See also sections 108 (Commonwealth employee) and 109 (State employee).

38 Subsection 4(1)

Insert:

harass on the ground of sex has the meaning given by section 28AA.

Note: Other parts of speech and grammatical forms of “harass on the ground of sex” (for example, “harassment on the ground of sex”) have a corresponding meaning (see section 18A of the *Acts Interpretation Act 1901*).

39 Subsection 4(1) (definition of *instrumentality of a State*)

Repeal the definition.

40 Subsection 4(1)

Insert:

Parliament of a State:

- (a) in a case where the State is the Australian Capital Territory—means the Legislative Assembly for the Australian Capital Territory; or
- (b) in a case where the State is the Northern Territory—means the Legislative Assembly of the Northern Territory.

person conducting a business or undertaking has the same meaning as in the *Work Health and Safety Act 2011*.

public authority of a State means:

- (a) a body that:
 - (i) is incorporated (whether before or after the commencement of this definition) for a public purpose by a law of the State; and
 - (ii) employs staff on its own behalf; or
- (b) an authority or body that:
 - (i) is not a body corporate; and

- (ii) is established (whether before or after the commencement of this definition) for a public purpose by, or in accordance with the provisions of, a law of the State; and
- (iii) employs staff on its own behalf; or
- (c) an incorporated company over which the State, or a body or authority referred to in paragraph (a) or (b), is in a position to exercise control.

sexually harass has the meaning given by section 28A.

Note: Other parts of speech and grammatical forms of “sexually harass” (for example, “sexual harassment”) have a corresponding meaning (see section 18A of the *Acts Interpretation Act 1901*).

State administrative office of a State means:

- (a) an office established by, or an appointment made under, a law of the State; or
- (b) an appointment made by:
 - (i) the Governor of the State; or
 - (ii) the Administrator of the State; or
 - (iii) a Minister of the State;otherwise than under a law of the State; or
- (c) an appointment as a director of an incorporated company that is a public authority of the State;

but does not include:

- (d) an office or appointment under a law of the State that corresponds to the *Public Service Act 1999*; or
- (e) an office of member of the Parliament of the State; or
- (f) an office of a member of the staff of a member of the Parliament of the State; or
- (g) a State judicial office of the State.

Note: A person who holds an office or appointment mentioned in paragraph (d), (e), (f) or (g) is covered by the definition of ***State employee***.

State employee of a State means a person who:

- (a) is appointed or engaged under a law of the State that corresponds to the *Public Service Act 1999*; or
- (b) holds a State administrative office of the State; or

- (c) is employed by a public authority of the State; or
- (d) is a member of the Parliament of the State; or
- (e) is a member of the staff of a member of the Parliament of the State; or
- (f) is a person who holds a State judicial office of the State.

Note: See also section 109.

State judicial office of a State means:

- (a) an office of a judge or justice of a court of the State; or
- (b) an office of a magistrate of a court of the State.

worker has the same meaning as in the *Work Health and Safety Act 2011*.

worker in a business or undertaking has the meaning given by section 28AB.

41 Section 8

Omit “or section 7A”, substitute “, section 7A or subsection 28AA(1)”.

42 Subsection 9(5)

Omit “, 16 and 28B”, substitute “and 16”.

43 Subsection 9(5)

Omit “, and sexual harassment of”.

44 After subsection 9(5)

Insert:

- (5A) Section 28B has effect in relation to sexual harassment, or harassment on the ground of sex, of:
 - (a) Commonwealth employees in connection with their employment as Commonwealth employees; and
 - (b) persons seeking to become Commonwealth employees.

45 Subsection 9(6)

Omit “Sections 18 and 28C”, substitute “Section 18”.

46 After subsection 9(6)

Insert:

- (6A) Section 28C has effect in relation to sexual harassment, or harassment on the ground of sex, by an authority or body in the exercise of a power under a Commonwealth law to confer, renew, extend, revoke or withdraw an authorisation or qualification.

47 Section 12

Repeal the section, substitute:

12 Crown to be bound

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

48 Section 13

Repeal the section.

49 Part II (at the end of the heading)

Add “etc.”.

50 Subsection 21(4)

Repeal the subsection.

51 Subsection 22(1)

Omit “(1)”.

52 Subsection 22(2)

Repeal the subsection.

53 Subsection 23(4)

Repeal the subsection.

54 Subsection 24(3)

Repeal the subsection.

55 Subsection 26(1)

Omit “(1)”.

56 Subsection 26(2)

Repeal the subsection.

57 Subsection 27(3)

Repeal the subsection.

58 Division 3 of Part II (heading)

Omit “**Sexual harassment**”, substitute “**Harassment etc.**”.

59 Subsection 28A(1)

Omit “For the purposes of this Division”, substitute “For the purposes of this Act”.

60 After section 28A

Insert:

28AA Meaning of *harassment on the ground of sex*

(1) For the purposes of this Act, a person harasses another person (the *person harassed*) on the ground of sex if:

(a) by reason of:

(i) the sex of the person harassed; or

(ii) a characteristic that appertains generally to persons of the sex of the person harassed; or

(iii) a characteristic that is generally imputed to persons of the sex of the person harassed;

the person engages in unwelcome conduct of a seriously demeaning nature in relation to the person harassed; and

(b) the person does so in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Note: See also section 8 (acts done for 2 or more reasons).

- (2) For the purposes of subsection (1), the circumstances to be taken into account include, but are not limited to, the following:
- (a) the sex, age, sexual orientation, gender identity, intersex status, marital or relationship status, religious belief, race, colour, or national or ethnic origin, of the person harassed;
 - (b) the relationship between the person harassed and the person who engaged in the conduct;
 - (c) any disability of the person harassed;
 - (d) any power imbalance in the relationship between the person harassed and the person who engaged in the conduct;
 - (e) the seriousness of the conduct;
 - (f) whether the conduct has been repeated;
 - (g) any other relevant circumstance.

- (3) In this section:

conduct includes making a statement to a person, or in the presence of a person, whether the statement is made orally or in writing.

28AB Meaning of *worker in a business or undertaking*

For the purposes of this Act, if a person (the **first person**) is a worker because the first person carries out work for a person conducting a business or undertaking, the first person is a worker in the business or undertaking.

61 Subsection 28B(1)

After “sexually harass”, insert “or harass on the ground of sex”.

62 Subsection 28B(2)

After “sexually harass”, insert “, or harass on the ground of sex,”.

63 Subsections 28B(3) to (7)

Repeal the subsections, substitute:

- (3) It is unlawful for a person conducting a business or undertaking to sexually harass, or harass on the ground of sex:
- (a) a worker in the business or undertaking; or

- (b) a person who is seeking to become a worker in the business or undertaking.
- (4) It is unlawful for a worker in a business or undertaking to sexually harass, or harass on the ground of sex:
- (a) a fellow worker; or
 - (b) a person who is seeking to become a worker in the business or undertaking.
- (5) It is unlawful for a person (the *first person*) who is:
- (a) a worker; or
 - (b) a person conducting a business or undertaking;
- to sexually harass, or harass on the ground of sex, a person if the harassment occurs in connection with the first person being:
- (c) a worker; or
 - (d) a person conducting a business or undertaking.
- (6) It is unlawful for a person to sexually harass, or harass on the ground of sex, a person (the *second person*) who is:
- (a) a worker; or
 - (b) a person conducting a business or undertaking;
- if the harassment occurs in connection with the second person being:
- (c) a worker; or
 - (d) a person conducting a business or undertaking.
- (7) It is unlawful for a person (the *first person*) who is:
- (a) an employee; or
 - (b) an employer;
- to sexually harass, or harass on the ground of sex, a person if the harassment occurs in connection with the first person being:
- (c) an employee; or
 - (d) an employer.
- (8) It is unlawful for a person to sexually harass, or harass on the ground of sex, a person (the *second person*) who is:
- (a) an employee; or
 - (b) an employer;
-

if the harassment occurs in connection with the second person being:

- (c) an employee; or
- (d) an employer.

64 Subsection 28C(1)

After “sexually harass”, insert “, or harass on the ground of sex”.

65 Section 28D

After “sexually harass”, insert “, or harass on the ground of sex”.

66 Section 28E

After “sexually harass”, insert “, or harass on the ground of sex”.

67 Subsections 28F(1) and (2)

After “sexually harass”, insert “or harass on the ground of sex”.

68 Subsection 28F(2A)

After “sexually harass”, insert “, or harass on the ground of sex”.

69 Subsection 28F(2A)

After “sexual harassment”, insert “, or harassment on the ground of sex”.

70 Subsection 28F(2B)

After “sexually harass”, insert “or harass on the ground of sex”.

71 Subsection 28F(2B)

After “sexual harassment”, insert “, or harassment on the ground of sex”.

72 Subsections 28G(1) and (2)

After “sexually harass”, insert “, or harass on the ground of sex”.

73 Subsection 28H(1)

After “sexually harass”, insert “, or harass on the ground of sex”.

74 Section 28J

After “sexually harass”, insert “, or harass on the ground of sex,”.

75 Section 28K

After “sexually harass”, insert “, or harass on the ground of sex,”.

76 Section 28L

After “sexually harass”, insert “, or harass on the ground of sex,”.

77 At the end of Part II

Add:

Division 5—Victimisation

47A Victimisation

- (1) It is unlawful for a person to commit an act of victimisation against another person.

Note 1: See also section 94 (offence of victimisation).

Note 2: See also the definition of *unlawful discrimination* in the *Australian Human Rights Commission Act 1986*.

- (2) For the purposes of subsection (1), a person (the *first person*) commits an act of victimisation against another person if the first person subjects, or threatens to subject, the other person to any detriment on the ground that the other person:
- (a) has made, or proposes to make, a complaint under this Act or the *Australian Human Rights Commission Act 1986*; or
 - (b) has brought, or proposes to bring, proceedings under this Act or the *Australian Human Rights Commission Act 1986* against any person; or
 - (c) has given, or proposes to give, any information, or has produced, or proposes to produce, any documents to a person exercising or performing any power or function under this Act or the *Australian Human Rights Commission Act 1986*; or

- (d) has attended, or proposes to attend, a conference held under this Act or the *Australian Human Rights Commission Act 1986*; or
 - (e) has appeared, or proposes to appear, as a witness in a proceeding under this Act or the *Australian Human Rights Commission Act 1986*; or
 - (f) has reasonably asserted, or proposes to assert, any rights of the person or the rights of any other person under this Act or the *Australian Human Rights Commission Act 1986*; or
 - (g) has made an allegation that a person has done an act that is unlawful by reason of a provision of this Part (other than subsection (1));
- or on the ground that the first person believes that the other person has done, or proposes to do, an act or thing referred to in any of paragraphs (a) to (g), inclusive.
- (3) In a proceeding for a contravention of subsection (1) constituted by subjecting, or threatening to subject, a person to a detriment on the ground that the person has made an allegation that another person had done an act that was unlawful by reason of a provision of this Part (other than subsection (1)), it is a defence if it is proved that the allegation was false and was not made in good faith.

78 Paragraph 48(1)(g)

Omit “or to discrimination involving sexual harassment”.

79 After paragraph 48(1)(g)

Insert:

- (gaaa) on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to discrimination involving:
 - (i) sexual harassment; or
 - (ii) harassment on the ground of sex;

80 Paragraph 48(1)(ga)

Omit “and discrimination involving sexual harassment”.

81 After paragraph 48(1)(ga)

Insert:

- (gaa) to prepare, and to publish in such manner as the Commission considers appropriate, guidelines for the avoidance of discrimination involving:
 - (i) sexual harassment; or
 - (ii) harassment on the ground of sex;

82 Paragraph 48(1)(gb)

Omit “or discrimination involving sexual harassment”.

83 After paragraph 48(1)(gb)

Insert:

- (gc) where the Commission considers it appropriate to do so, with the leave of the court hearing the proceedings and subject to any conditions imposed by the court, to intervene in proceedings that involve issues of discrimination involving:
 - (i) sexual harassment; or
 - (ii) harassment on the ground of sex;

84 Subsection 94(1)

Omit “victimization”, substitute “victimisation”.

85 Subsection 94(2)

Omit “victimization”, substitute “victimisation”.

86 Section 105

Omit “or 2”, substitute “, 2 or 3”.

87 After section 108

Insert:

109 State taken to be employer

For the purposes of this Act, a State employee of a State is taken to be employed by the State.

Part 2—Application and transitional provisions

88 Application—pre-commencement acts of victimisation

For the purposes of subsection 47A(1) of the *Sex Discrimination Act 1984* (as amended by this Schedule):

- (a) it is immaterial whether the act was committed before, at or after the commencement of this item; and
- (b) so far as that subsection relates to an act committed before the commencement of this item, that subsection is modified by inserting “, and is taken to have been unlawful,” after “unlawful”.

89 Transitional—pre-commencement acts of victimisation

- (1) Despite the amendments of the definition of **unlawful discrimination** in subsection 3(1) of the *Australian Human Rights Commission Act 1986* made by this Schedule, paragraph (f) of that definition continues to apply, in relation to conduct that was engaged in before the commencement of this item, as if those amendments had not been made.
- (2) After the commencement of this item, a person is not entitled to lodge a complaint with the Australian Human Rights Commission under section 46P of the *Australian Human Rights Commission Act 1986* alleging that one or more acts committed before the commencement of this item are unlawful discrimination because they amount to conduct that is an offence under section 94 of the *Sex Discrimination Act 1984*.
- (3) If:
 - (a) before the commencement of this item, a person lodged a complaint with the Australian Human Rights Commission under section 46P of the *Australian Human Rights Commission Act 1986* alleging that one or more acts are unlawful discrimination because they amount to conduct that is an offence under section 94 of the *Sex Discrimination Act 1984*; and
 - (b) the complaint has not been terminated under section 46PH of the *Australian Human Rights Commission Act 1986*;

then:

- (c) the President of the Australian Human Rights Commission may, by writing, declare that the *Australian Human Rights Commission Act 1986* has effect, after the commencement of this item, as if the complaint had alleged that those acts are unlawful under section 47A of the *Sex Discrimination Act 1984* (as amended by this Schedule); and
 - (d) if such a declaration is made—the President:
 - (i) may amend the complaint for the purposes of giving effect to the declaration; and
 - (ii) must give a copy of the declaration to the person; and
 - (e) if the President amends the complaint—the President must give a copy of the amended complaint to the person.
- (4) A declaration under subitem (3) is not a legislative instrument.
 - (5) Subsections 19(2) and (2A) of the *Australian Human Rights Commission Act 1986* (which deal with delegation) have effect as if this item were a provision of Part IIB of that Act.

90 Transitional—pre-commencement sexual harassment

Despite the amendments of section 28B of the *Sex Discrimination Act 1984* made by this Schedule, that section continues to apply, in relation to conduct that was engaged in before the commencement of this item, as if those amendments had not been made.

91 Transitional—guidelines

Scope

- (1) This item applies if, immediately before the commencement of this item, guidelines relating to sexual harassment were in force under paragraph 48(1)(ga) of the *Sex Discrimination Act 1984*.

Transitional

- (2) The guidelines have effect, after the commencement of this item, as if they had been made under paragraph 48(1)(gaa) of the *Sex Discrimination Act 1984* (as amended by this Schedule).

92 Transitional—proceedings

Scope

- (1) This item applies if, before the commencement of this item, a court granted leave under paragraph 48(1)(gb) of the *Sex Discrimination Act 1984* for the Australian Human Rights Commission to intervene in proceedings involving issues relating to sexual harassment.

Transitional

- (2) Despite the amendment of paragraph 48(1)(gb) of the *Sex Discrimination Act 1984* made by this Schedule, that paragraph continues to apply, in relation to those proceedings, as if that amendment had not been made.

[*Minister's second reading speech made in—
Senate on 24 June 2021
House of Representatives on 2 September 2021*]

(89/21)

No. 104, 2021 *Sex Discrimination and Fair Work (Respect at Work) Amendment Act* 23
2021