

EMPLOYMENT

The Protection from Harassment Act 17 of 2011

9 February 2018 2 min read

The Act provides simple procedures and remedies in addition to those available to employees in terms of other legislation (such as the LRA, [Employment Equity Act 55 of 1998](#), as amended, and [Unfair Discrimination Act 4 of 2000](#), as amended). The Act applies to harassment of both sexual and non-sexual variants.

Non-sexual harassment is conduct which a person knows or ought to know causes harm or inspires the reasonable belief that harm may be caused to the complainant or a related person. This includes following, watching or accosting the complainant or a related person, or loitering near the place where the complainant resides or works. Other forms include unreasonably engaging in communication (which may be verbal or electronic such as email) aimed at the complainant or related person.

If the complainant and harasser are in the same workplace then the employer may incur vicarious liability and have to pay damages. If the complainant obtains a protection order then the employer may be obliged to take measures to ensure that the harasser is able to comply with the protection order. A protection order would be a ground for disciplinary action against the harasser if the action impacts on the employment relationship. If, for example, the employer's email facilities were used to harass the complainant then the SAPS may request an employer to furnish information relating to emails and employees involved in the harassment. Failure to comply would be regarded as an offence on the part of the employer.

It is essential that employers establish mechanisms to prevent harassment (both non-sexual and sexual) in the workplace. This should include drawing up a harassment policy to inform employees of the serious consequences of breaching the Act.



@werksmans