

## REGULATION

### **on measures against victimisation, sexual harassment, gender-based harassment and violence in workplaces.**

#### SECTION I

#### **Scope, aims and definitions.**

##### Article 1

##### *Scope.*

This Regulation applies to measures against victimisation, sexual harassment, gender-based harassment and violence in workplaces to which Act No. 46/1980, on Working Environment, Health and Safety in the Workplace, with subsequent amendments, applies.

##### Article 2

##### *Aims.*

The aims of this Regulation are:

- a) to prevent victimisation, sexual harassment, gender-based harassment and violence in workplaces by means including precautionary measures,
- b) to promote mutual respect in workplaces, e.g. by raising awareness and understanding of the fact that victimisation, sexual harassment, gender-based harassment and violence constitute conduct that is not permitted in workplaces,
- c) that measures will be taken in accordance with a written schedule on safety and health in the workplace (see Section II) if a complaint or tip-off is received, or a reasonable suspicion arises, regarding victimisation, sexual harassment, gender-based harassment or violence in the workplace, and
- d) that measures will be taken in accordance with a written schedule on safety and health in the workplace (see Section II) if the employer becomes aware of victimisation, sexual harassment, gender-based harassment or violence in the workplace, or a dispute in dealings between employees which is likely to result in such conduct if no measures are taken.

##### Article 3

##### *Definitions.*

In this Regulation, the meanings of the following terms are as follows:

- a) *Risk assessment*: Identification of risk factors involved in a job and an assessment of the likelihood that the employee will be exposed to health damage or be involved in an accident in the workplace.
- b) *Victimisation*: Repeated conduct which is generally of such a nature as to cause discomfort in the person at whom it is directed, such as degrading, insulting, offending or threatening the person in question or causing him or her to be afraid. Differences of opinion or disputes arising from differences of interest do not come under this definition.
- c) *Gender-based harassment*: Conduct connected with the gender of the person who experiences it and has the purpose, or the effect, of offending the person's dignity and creating situations that are threatening, hostile, degrading, humiliating or insulting to the person.
- d) *Sexual harassment*: Sexual conduct of any type that has the purpose, or the effect, of offending the dignity of the person affected by it, particularly when the conduct leads to threatening, hostile, degrading, humiliating or insulting situations. The conduct may be verbal, symbolic and/or physical.
- e) *Violence*: Conduct of any type that leads to, or could lead to, physical or psychological injury or suffering on the part of the person who experiences it, and also the threat of such conduct, coercion or random deprivation of freedom.

- f) *Working conditions*: This term embraces all aspects of work, i.e. the working environment, the organisation of work and the way work is performed.
- g) *Workplace*: The environment, both indoor and outdoor, where the employee is located or through which he or she must pass in connection with the job.
- h) *Safety representative*: Representative on a safety committee; person who has been selected as a safety representative or appointed as a safety guard in accordance with Articles 4-6 of Chapter II of the Act on Working Environment, Health and Safety in Workplaces, No. 46/1980, with subsequent amendments; also other employees who have been specifically entrusted with looking after safety and health protection at the workplace in question.

## SECTION II

### **Written schedules on safety and health in the workplace.**

#### Article 4

##### *Risk assessment.*

When making a risk assessment as provided for in Article 65a of the Act on Working Environment, Health and Safety in Workplaces, No. 46/1980, with subsequent amendments (cf. also Article 27 of Regulation No. 920/2006 on the organisation and execution of activities to secure health and safety in the workplace), the employer shall, amongst other things, identify risk factors applying as regards victimisation, sexual harassment, gender-based harassment and violence in the workplace. This refers, amongst other things, to risk factors regarding conduct at the workplace in question, irrespective of whether the employer, managers and/or other employees may be involved. It also applies to risk factors regarding dealings between employees of the workplace in question and individuals who are not counted as employees of the workplace, these dealings taking place in connection with the activities pursued at the workplace.

The risk assessment as provided for in the first paragraph shall be based on all available information and shall take account of, amongst other things, psychological and social factors in connection with working conditions in the workplace, such as:

- a) the number of employees,
- b) the employees' ages,
- c) the gender ratio among the employees,
- d) employees' dissimilar cultural backgrounds,
- e) difficulties that may arise among employees in connection with spoken and/or written language,
- f) the organisation of working time,
- g) workloads,
- h) the nature of the job/jobs at the workplace,
- j) where/how the work is done.

#### Article 5

##### *Health protection schedules.*

When health protection schedules are prepared in accordance with Article 66 of the Act on Working Environment, Health and Safety in Workplaces, No. 46/1980, with subsequent amendments (cf. also Article 28 of Regulation No. 920/2006 on the organisation and execution of activities to secure health and safety in the workplace), the employer shall compile a schedule of precautionary measures including measures to be taken in order to prevent victimisation, sexual harassment, gender-based harassment and violence in the workplace. In this connection, the employer shall take account of all available information, including the outcome of the risk assessment under Article 4 and the employer's duties according to Section III. This shall, among other things, include the following:

- a) how working conditions at the workplace are to be structured so as to reduce the risk that situations will develop that are likely to result in victimisation, sexual harassment, gender-based harassment or violence in the workplace,

- b) where employees can express complaints or give tip-offs concerning victimisation, sexual harassment, gender-based harassment or violence in the workplace, and
- c) what measures are to be taken following cases involving victimisation, sexual harassment, gender-based harassment or violence in the workplace with a view to preventing a repetition of such conduct in the workplace.

The employer shall furthermore state the measures that are to be taken in the event that a complaint or tip-off is received, or a reasonable suspicion arises, concerning victimisation, sexual harassment, gender-based harassment or violence in the workplace, or if the employer becomes aware of conduct of this type. The same shall apply if the employer becomes aware of conditions in the workplace that are likely to result in victimisation, sexual harassment, gender-based harassment or violence unless measures are taken. In this connection, the employer shall take account of all available information, including the outcome of the risk assessment under Article 4 and the employer's duties according to Section III.

This shall, among other things, include the following:

- a) how the situation is to be assessed in order to establish whether victimisation, sexual harassment, gender-based harassment or violence is occurring, or has occurred, in the workplace,
- b) the measures to be taken, whether or not an assessment of the circumstances reveals a reasonable suspicion that victimisation, sexual harassment, gender-based harassment or violence is occurring, or has occurred, in the workplace,
- c) the measures to be taken if a tip-off regarding victimisation, sexual harassment, gender-based harassment or violence in the workplace concerns dealings between one or more employees and one or more individuals who do not count as employees of the workplace, these dealings taking place in connection with the activities pursued at the workplace,
- d) how working conditions are to be structured while the matter is under examination,
- e) how information is to be given within the workplace, including to the employees involved and to the workplace's safety representatives,
- f) how the employer is to inform people in the workplace, including the employees involved and the workplace's safety representatives, that he or she considers the case closed as far as he or she is concerned,
- g) how information and materials with a bearing on the case are to be handled, this including a consideration of the Data Protection Act, and
- h) how to assess, on the one hand, the effectiveness of measures taken and, on the other, whether measures of a general nature are needed at the workplace following the case.

### SECTION III

#### **Obligations of the employer.**

##### Article 6

##### *General.*

Employers may not practice victimisation against any of their employees in the workplace. Nor may employers harass any of their employees sexually, or on the basis of their gender, or use violence in the workplace.

Employers shall structure working conditions in the workplace in accordance with a written schedule on safety and health in the workplace as provided for in Section II in such a way as to reduce the risk of situations developing that are likely to result in victimisation, sexual harassment, genderbased harassment or violence in the workplace.

Employers have an obligation not to allow victimisation, sexual harassment, gender-based harassment or violence to be tolerated in the workplace and shall impress clearly on their employees that such conduct is prohibited.

When handling cases, employers shall demonstrate caution and consideration in their actions, bearing in mind respect for the employees involved and their private interests; steps taken to do this shall include not giving information on these matters to persons whom they do not concern and ensuring that external persons who are involved in the handling of cases do the same.

#### Article 7

##### *Measures taken by the employer.*

Employers shall respond as quickly as possible on receiving a complaint or tip-off regarding victimisation, sexual harassment, gender-based harassment or violence in the workplace, and also when they become aware of such conduct or of situations in the workplace that are likely to result in the possibility of such conduct if no measures are taken. In such cases, the employer shall assess the situation in collaboration with the workplace's safety representatives, as appropriate, and external persons where necessary. The employer shall also ensure that, when the assessment is made, the employees involved are given the opportunity to express their points of view and that, generally, the parties to the case are interviewed one at a time.

If the assessment of the situation as provided for in the first paragraph reveals a reasonable suspicion that victimisation, sexual harassment, gender-based harassment or violence is occurring, or has occurred, in the workplace, then the employer shall take measures in accordance with the written schedule on safety and health in the workplace (cf. Section II) in order to put an end to such conduct, and also to prevent it from being repeated in the workplace.

If the assessment of the situation as provided for in the first paragraph reveals that victimisation, sexual harassment, gender-based harassment or violence is not occurring, or has not occurred, in the workplace, the employer shall nevertheless take measures in accordance with the written schedule on safety and health in the workplace (cf. Section II) in order to put an end to the conditions that gave rise to the complaint or tip-off, if such conditions still obtain, and also in order to prevent such conditions from arising again in the workplace so that they cannot result in victimisation, sexual harassment, gender-based harassment or violence in the workplace.

Employers shall record everything relating to the handling of the case and keep the employees involved, and also the workplace's safety representatives, informed during the handling of the case, this including giving them access to all information and materials in the case, the provisions of the Data Protection Act being taken into account.

When the employer regards the case as being closed as far as he or she is concerned, he or she shall inform the employees involved, and also the workplace's safety representatives, of this. If the employees involved request a written confirmation that the case has been closed by the employer, the employer shall comply with such a request providing it is submitted within six months of the date on which he or she announced that it was closed as far as he or she was concerned.

#### SECTION IV

##### **Obligations of employees.**

#### Article 8

##### *General.*

Employees may not victimise one or more employees or the employer in the workplace. Nor may employees harass other employees or the employer, sexually or on the basis of gender, or practise violence against them, in the workplace.

#### Article 9

##### *Employees' notification obligation.*

An employee who considers that he or she has experienced victimisation, sexual harassment, gender-based harassment or violence in the workplace, or that he or she has a reasonable suspicion, or knowledge, of such conduct in the workplace, shall inform the employer or the workplace's safety representatives of this, providing no arrangement is made by which the employee in question is to inform some other person of it under the written schedule on safety and health in the workplace (cf. Section II).

The employee shall also be prepared to give a fuller account of the matter.

#### SECTION V

##### **Miscellaneous provisions.**

Article 10

*Monitoring.*

The Administration of Occupational Safety and Health shall monitor the application of this Regulation (cf. Article 82 of the Act on Working Environment, Health and Safety in Workplaces, No. 46/1980, with subsequent amendments).

Article 11

*Sanctions.*

Violations of this Regulation may be punishable under Article 99 of the Act on Working Environment, Health and Safety in Workplaces, No. 46/1980, with subsequent amendments.

Article 12

*Authorisation for appeals.*

Appeals may be lodged with the Ministry of Welfare against decisions taken by the Administration of Occupational Safety and Health within three months of the date on which the party to a case is informed of the decision (cf. Article 98 of the Act on Working Environment, Health and Safety in Workplaces, No. 46/1980, with subsequent amendments).

Article 13

*Commencement.*

This Regulation, which is issued under the authorisation of Articles 37, 38, 65, 65a and 66 of the Act on Working Environment, Health and Safety in Workplaces, No. 46/1980, with subsequent amendments, following submission of comments by the board of the Administration of Occupational Safety and Health, takes immediate effect. As of the same time, Regulation No. 1000/2004, on measures against victimisation in the workplace, stands repealed.

Ministry of Welfare, 4 November 2015.

Eygló Harðardóttir

Minister of Social Affairs and Housing