

ARTICLE ON SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

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The Sexual Harassment of Women at Workplace Act came into force with effect from 9th Dec 2013. The act is applicable for Govt., corporate and NGO sectors. According to the act "sexual harassment" includes any one or more of the following. The rules for Sexual Harassment of Women at Workplace came in the year 2014.

- (i) unwelcome acts or behaviour (whether directly or by implication) namely—
Physical contact and advances;
- (ii) a demand or request for sexual favours; or making sexually coloured remarks; or showing pornography; or any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

Internal complaints committee

Each of the organisations will constitute an internal complaints committee which consists of

- (i) Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees;
- (ii) not less than two members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
- (iii) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment. At least one-half of the total members so nominated should be women.

The Presiding officer and every member of the Internal Committee shall hold office for a period, not exceeding three years, from the date of their nomination as may be specified by the employer. The member appointed from amongst the non-governmental organisations or associations shall be paid fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

Local Complaints Committee

Every District Officer shall constitute in the district concerned, a committee to be known as the "Local Complaints Committee" to receive complaints of sexual harassment from establishments where the Internal Complaints Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself. The

District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned local complaints committee within a period of seven days.

Complaints to the Committees

Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident.

Settlement of matter between aggrieved women & respondent through Conciliation

The Internal Committee / Local Committee, may, before initiating an inquiry at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation: (Provided that no monetary settlement shall be made as a basis of conciliation.). Where a settlement has been arrived, the Internal Committee /Local Committee shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation. The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded to the aggrieved woman and the respondent. Where a settlement is arrived, no further inquiry shall be conducted by the Internal Committee /Local Committee.

Procedure to be adopted for Inquiry

- The Internal Committee or the Local Committee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent.
- The parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.
- When the respondent is convicted of the offence, the court may order payment of sums as it may consider appropriate, to the aggrieved woman by the respondent.
- The inquiry shall be completed within a period of ninety days.

During the pendency of an inquiry the Internal Committee or the Local Committee may recommend to the employer to—

- (a) Transfer the aggrieved woman or the respondent to any other workplace; or

- (b) Grant leave to the aggrieved woman up to a period of three months; or
- (c) Grant such other relief to the aggrieved woman as may be prescribed.

The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled. The appropriate committee, on the completion of an inquiry has to provide a report of its findings to the employer within a period of ten days from the date of completion of the inquiry.

If committee concludes that the allegation against the respondent has been proved, it would recommend

- (i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;
- (ii) to deduct, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs.

The employer should act upon the recommendation within sixty days of its receipt by him.

In case if the committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against the woman or the person who has made the complaint, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed.

An appeal can be preferred within the period of 90 days from the date of the recommendations passed by the committee to the court or tribunal.

Statutory Duties prescribed for employer

Every employer shall—

- (a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- (b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting the Internal Committee;

(c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee;

(d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;

(e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee;

(f) make available information to the Internal Committee or the Local Committee, with regard to the complaint made;

(g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law;

(h) cause to initiate action, under the Indian Penal Code or any other law against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;

(i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;

(j) monitor the timely submission of reports by the Internal Committee.

Penalty for non-compliance

Penalty can be imposed where the employer fails to constitute an Internal Committee or take action and contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder, he shall be punishable with fine which may extend to fifty thousand rupees.

If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence:

Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment.

Noncompliance may lead to cancellation licence or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.

Every offence under this Act is non-cognizable.

Statutory Report: The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

**FOR DETAIL PLEASE REFER SEXUAL HARASSMENT OF WOMEN AT
WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT 1987**