

Sexual Harassment Act, 2013

Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Bill has been enacted to provide protection against sexual harassment of women at work place and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

Applicability: Extends to whole of India

“Aggrieved Woman”:

- (i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;
- (ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

“Employee”:

- I. Regular, temporary, ad hoc employees
- II. Directly/through an agent/contractor
- III. With or without remuneration/voluntary
- IV. Express/implied terms of employment
- V. Probationer/apprentice...

“Employer”:

- I. Head of a Government, Local Authority, related department, organisation, undertaking, establishment, office, branch or unit
- II. Person in any workplace other than I. mentioned above responsible for Management/ supervision and control
- III. Any person in I. and II. discharging contractual obligations with respect to the employees

Management includes: Person/Board/Committee responsible for formulation of policies

“Sexual Harassment”

It includes any one or more of:

- I. Physical contact and advances; or
- II. a demand or request for sexual favours; or
- III. making sexually coloured remarks; or
- IV. showing pornography; or
- V. any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

It may be noted that such actions and behaviours enumerated above may be direct or by implication. The following may also amount to sexual harassment:

- I. implied or explicit threat of detrimental treatment in her employment; or
- II. implied or explicit threat about her present or future employment status; or

- III. interferes with her work or creating an intimidating or offensive or hostile work environment for her; or
- IV. humiliating treatment likely to affect her health or safety

“Workplace”

Includes

- Government owned/controlled establishments
- Private / Public sector organisations
- Sports institutes, stadiums, training institutions
- Dwelling place in case of a domestic worker
- Vocational/ Educational Institutions
- Hospitals/ Nursing homes and
- Any place visited by the employee arising out of or during course of employment, including transportation provided by employer

Constitution of Internal Complaints Committee:

Every employer of a workplace who employs more than 10 employees shall constitute “Internal Complaints Committee” **ICC**. If more than one workplace is located in different places, then an “Internal Committee” shall be constituted at each work place.

Committee shall consist of the following members:

- I. Presiding Officer – Senior Woman Employee from the workplace/other admin units/office/organisations.
- II. 2 Employee Members – Committed to the cause of women/experience in social work/having legal knowledge
- III. One member from an NGO/other women’s organisation/familiar with issues relating to sexual harassment.

Atleast 50% of members of committee nominated shall be women.

Constitution of Local Complaints Committee:

Every District Officer shall constitute in the District concerned, "Local Complaints Committee" **LCC** to receive complaints on 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.

Committee shall consist of the following members:

- I. Chairperson – nominated amongst the eminent women in the field of social work and committed to cause for women.
- II. 1 Member – Women working in Block/ Taluk / District / Ward.
- III. 2 Members – atleast 1 should be a Woman from an NGO/ having legal knowledge.

- IV. Officer dealing with social welfare or women and child development in the District shall be *ex officio*.

Complaint / Conciliation and process of Inquiry:

- Any aggrieved woman may make a complaint in writing to ICC / LCC as the case may be within 3 months from the date of incident and in case of series of incidents within a period of 3 months from the date of last incident.
If required, Members of the committee can assist the woman in making the application in writing.
- Where an aggrieved woman is unable to make a complaint due to physical or mental incapability / death or otherwise, her legal heir may make a complaint.
- ICC / LCC as the case may be, upon the request of Aggrieved Woman take steps to settle the matter through conciliation and it shall be non-monetary. If any settlement arrived, forward the same to the Employer / District Officer and no further inquiry may be conducted.
- ICC / LCC will inquiry into complaint as per the provision of the service rules, and where both the parties are employees, 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.
- For the purpose of making enquiry ICC / LCC shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908.
- During the pendency of the enquiry, upon written request by the aggrieved employee an interim relief as below may be granted:
 - Transfer the Aggrieved Woman / respondent to any other workplace
 - Grant paid leave to the Aggrieved Woman up to a period of three months or such other relief as prescribed
- If ICC / LCC arrive at a conclusion that the allegation against the Respondent is malicious / false the committee will recommend the Employer / District Officer to take appropriate steps as per the service rules.
- Report to be submitted by the Employer / District Officer within 10 days of completion of Inquiry and made available to both the parties.
- If the allegation is not proved, report shall contain a recommendation for not taking action.
- If the allegation is proved, the Committee shall recommend to the Employer / District Officer on the action to be taken on the respondent and also on the compensation payable to Aggrieved Woman by the respondent.
- Employer / District Officer shall act on it within 60 days of receipt.

Information to be included in Annual Report of Employer

- ICC / LCC 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. District Officer shall forward a brief report on the annual reports to the State Government.

- 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.
- **In case of a Company, specific disclosure as to constitution of committee and complaints received, if any must be made in the Board's Report which is to be approved by the Board of Directors and presented to the shareholders.**

Duties of every employer

In addition to ensuring compliance with the other provisions stipulated, the Act casts certain obligations upon the employer. Some of the noteworthy duties imposed on him/her are to:

- Provide a safe working environment
- Display conspicuously at the workplace, the penal consequences of indulging in acts that may constitute sexual harassment and the composition of the Internal Complaints Committee
- Organise workshops and awareness programs at regular intervals for sensitizing employees on the issues and implications of workplace sexual harassment and organizing orientation programmes for members of the Internal Complaints Committee
- Treat sexual harassment as a misconduct under the service rules and initiate action for misconduct.
- Monitor the timely submission of reports by the ICC.

Punishment under the Act

- Where an employer is found to have not constituted an ICC or is found to have acted in derogation of any provisions of the Act, he is liable to be punished with a fine that may extend to up to Rs. 50,000/- for the first time and will be doubled in case of second instance.

Conclusion

This Act has upheld the safety of Women at Workplace and transferred the onus on Employer which insists to follow more duties and responsibilities mandatorily.

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